

Opinion No. 19-2433

November 25, 1919

BY: O. O. ASKREN, Attorney General

TO: Mr. N. A. Field, Commissioner of Public Lands, Santa Fe, N.M.

Act Creating and Prescribing Duties Assistant Commissioner Public Lands
Unconstitutional.

OPINION

In reply to your letter of November 24th, requesting my opinion concerning the constitutionality of section 1, Chapter 48, 1919 Session Laws, concerning the appointment and powers of the Assistant Commissioner, I advise that such is in conflict with the constitution of New Mexico, wherein it authorizes the Assistant Commissioner, in the absence of the Commissioner from the State Capital or in the event of a vacancy in the office of the Commissioner, to have authority to exercise all of the duties and powers by law incumbent upon or vested in the Commissioner of Public Lands, that is to say, the Assistant Commissioner, as provided for in said act, may not lawfully exercise any discretionary powers vested in the Commissioner by the constitution.

We are not able to advise you what specific duties may be performed by the Assistant Commissioner until the particular question involving such duty is presented to us for determination.