

## Opinion No. 31-291

October 8, 1931

**BY:** E. K. Neumann, Attorney General

**TO:** Mr. J. F. Hinkle, Commissioner of Public Lands, Santa Fe, New Mexico.

{\*111} Your letter of October 7th, 1931, as explained by Mr. John Hinkle, calls for an opinion upon the constitutionality of Section 132-161 of the 1929 Code. With reference to this question my attention is directed to Section 32 of Article 4 and Section 2 of Article 13 of the Constitution of the State of New Mexico.

In so far as I am able to determine, this particular question has never been passed upon by this office. In an opinion of a former Attorney General under date of April 9, 1917, it was stated with respect to Section 4 of Chapter 52, Laws of 1917 (Section 132-161, 1929 Code) that "if the holder of a contract issued under the old statute elected to do so, he could surrender the same and have a contract under the provisions of the new act issued to him." However, the question of whether or not this statute was constitutional was apparently not considered.

It is my opinion that if Section 2 of Article 13 applies to cases of the kind mentioned in your letter at all, it is limited in its application by Section 32 of Article 4.

When a contract has been entered into for the purchase of public lands of the state, by which the purchaser agrees to pay certain annual installments, such contract becomes an "obligation or liability . . . owing to the state." The effect of Section 132-161, 1929 Code is to postpone said obligation or liability. In this respect it offends Section 32 of Article 4 of the State Constitution. It is therefore my opinion that in so far as Section 132-161 of the 1929 Code attempts to postpone any obligation of the State of New Mexico it is unconstitutional and void.

By Quincy D. Adams,

Asst. Attorney General