

NOTARIES PUBLIC: Clerical position not within the intent of
the words "an office of profit under the U.S."

1-22
January 8, 1934.



United States Dep't. of Justice,
Bureau of Investigation,
Suite L - Federal Building,
Kansas City, Missouri.

Gentlemen:

Attention: Mr. E.E. Conroy,
Special Agent in Charge

This department is in receipt of your letter of
December 11 requesting an opinion from this office as to
the following state of facts:

"I am interested in having Mr. J.H.
Hinds, clerk-typist at this office,
secure a commission as Notary Public
in the State of Missouri, which would
greatly facilitate the work of this office.

It is noted that the Notary Public form
of application, copy of which I am trans-
mitting herewith, sets forth, 'I am not
holding an office of profit under the
United States.' The question as to whether
this statement would bar Mr. Hinds from
securing the commission was presented to
the office of the Secretary of State at
Jefferson City, who has suggested that the
matter be submitted to your office for ruling.

I recall that when I was in charge of the
office of this division located in North Caro-
lina, I was confronted with a similar situation,
when making arrangements to have a stenographer
in that office secure a commission as Notary
Public. At that time the officials at the State
Capitol at Raleigh, North Carolina, rendered
a decision to the effect that the word 'office'
referred to a position in the Federal Government,
subject to appointment by the President with
the consent and approval of the United States
Senate. As Mr. Hinds holds only a clerical posi-
tion, it appears possible that your office might
render a similar decision."

Jan. 8, 1934.

Sec. 11274, R.S. Mo. 1929 provides:

"When required, he shall give his opinion, in writing, without fee, to the general assembly, or to either house, and to the Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Schools, Warehouse Commissioner, Superintendent of Insurance, the State Finance Commissioner, and the head of any state department, or any circuit or prosecuting attorney upon any question of law relative to their respective offices or the discharge of their duties."

Under this statute we are required to render opinions to the officers enumerated above. At the present time we have so many requests for opinions from these officers that it is impossible for us to render opinions to others tho ordinarily it would be a great pleasure.

However, for your information, we wish to state, unofficially, that we agree with the officials of North Carolina that the word "office" as used in the application refers to a position in the Federal Government subject to appointment by the President with the consent and approval of the United States Senate. A mere clerical position would not seem to come within the intent of the words "an office of profit under the United States."

Regretting our inability to furnish you a complete opinion at this time, we remain

Very truly yours,

JOHN W. HOFFMAN, Jr.,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.