



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

HERALD C. MANN  
ATTORNEY GENERAL

Honorable Ben F. Thorpe  
County Attorney  
Scurry County  
Snyder, Texas

Dear Sir:

Opinion 8-5554  
Re: Under the facts stated, w  
would the Commissioners'  
Court of Scurry County  
be authorized to approve  
bond of R. L Terry as  
Public Weigher of Precinct  
No. 1, of Scurry County?

Your request for an opinion on the above matter has been carefully considered. We quote from said request as follows:

"Your opinion on the following statement of facts will be very much appreciated.

"R. L. Terry was the duly elected Public Weigher for Precinct No. 1, of Scurry County, Texas, for the term which ended December 31, 1942.

"Walter G. Holmes was elected Public Weigher for Precinct No. 1 of Scurry County, Texas, for the term beginning January 1, 1943, which term will end December 31, 1944, and has duly qualified as such by taking oath and making bond as required by statute.

"The people of Precinct No. 1, of Scurry County have never abolished the office of Public Weigher in the manner provided by Art. 5686, Vernon's Ann. St.

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"Snyder is the only town in Precinct No. 1, of Scurry County and it does not handle a sufficient quantity of any of the commodities itemized in Art. 5681, Vernon's Ann. St. to authorize Governor to appoint Public Weighers.

"R. L. Terry is manager of a warehouse, located in Precinct No. 1, of Scurry, said warehouse being privately owned, where commodities, especially cotton, is warehoused by the general public and a fee charged therefor.

"R. L. Terry is attempting to qualify as a 'Certified Public Weigher' under Art. 5704, Vernon's Ann. St., and he has presented his bond to the Commissioners' Court of Scurry County for its approval, notwithstanding the fact that said Article provides among other things, that 'In places where there are no public weighers appointed or elected, any person who shall weigh cotton, etc., for compensation shall be required before weighing such produce to enter a bond'. In the case of Precinct No. 1, of Scurry County there is an elected and qualified Public Weigher for said Precinct.

"For your assistance I call attention to the holding of The Amarillo Court of Civil Appeals in the case of Martin et al., vs Foy, 234 S. W. 698, in which it held 'that any person had the right to pursue the occupation of weigher for the public and that the bond required of such weigher is the bond provided for in Art. 7834, Com. Texas Statutes 1920. (Art. 5704, Revised Civil Statutes of 1925.'

"Under the above holding it clearly appears that any one might enter into the business enterprise of weigher for public hire by making a good and sufficient bond, regardless of the fact that there is a duly elected Public Weigher, duly qualified, for the same Precinct, and it would be the duty of the Commissioners' Court of said County to approve the bond of such person if the same were found to be sufficient under the law."

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This Department has written several opinions relative to the right of an individual to qualify as a weigher for the public under Article 5704, V. A. C. S., among such opinions being O-51 and C-1423, copies of which are herewith enclosed.

It was held in said opinions that any person may qualify as a weigher for the public for hire under said Article 5704, and weigh for the public for compensation irrespective of whether or not there are regularly elected or appointed public weighers in the same precinct. It is our opinion, therefore, that the Commissioners' Court of Scurry County is authorized to approve the bond of R. L. Terry as public weigher of precinct No. 1 of Scurry County, Texas, under the facts stated by you and as authorized in said Article 5704, said bond being otherwise sufficient.

Trusting that this satisfactorily answers your inquiry, we are

Very truly yours

APPROVED SEP 8, 1943

ATTORNEY GENERAL OF TEXAS

*Gerald C. Mann*  
ATTORNEY GENERAL OF TEXAS

BY

*Jas. W. Bassett*  
Jas. W. Bassett  
Assistant

JWB:ncd  
encl.

APPROVED  
OPINION  
COMMITTEE  
R. M.