



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

May 10, 1957.

Honorable Zollie Steakley
Secretary of State
Capitol Station
Austin, Texas

Opinion No. WW-127

Re: Does the presence of provisions in an oath of office, appearing on a notary bond form, which are in addition to those set forth in Section 1 of Article XVI of the Constitution of Texas, render the oath of office appearing on the form invalid?

Dear Mr. Steakley:

This is in response to your letter of May 7, 1957, in which you request our opinion on the validity of a Notary Public's oath of office which appears on the form of a particular bond of Notary Public. The oath of office as it appears on the bond in question is as follows:

"I, the undersigned, do solemnly swear (or affirm) that I am over 21 years of age, that I will faithfully execute the duties of the office of Notary Public in and for _____ County, State of Texas, and will to the best of my ability preserve, protect and defend the constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed nor promised to contribute any money or valuable thing, or promised any public office or employment as a reward to secure my appointment or the confirmation thereof. So help me God."

Section 1 of Article XVI of the Constitution of Texas, as amended, reads in part as follows:

"I, _____, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of _____ of the State of Texas, and will to the best of my ability pre-

serve, protect, and defend the Constitution and laws of the United States and of this State; and I furthermore solemnly swear (or affirm), that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward to secure my appointment or the confirmation thereof. So help me God."

From a comparison of the above oaths of office it would appear that the only variation in these oaths is the inclusion in the oath appearing on the bond of the three following phrases:

(a) "the undersigned"

(b) "that I am over 21 years of age"

(c) "Notary Public in and for _____ County,
State of Texas."

The phrases designated as (a) and (c) above are inserted in portions of the oath, as required by Section 1 of Article XVI of the Constitution of Texas, which are represented by blank spaces. Though the phrase "Notary Public in and for _____ County, State of Texas" results in a minute variation of the phrase "of the State of Texas", as it appears in the required form; it is our opinion that this variation is not significant.

The phrase "that I am over 21 years of age" represents an additional oath or affirmation from that required by Section 1, Article XVI of the Constitution of Texas. However, it is to be noted that Paragraph 2 of Article 5949, Vernon's Civil Statutes (Notary Public Act of 1943), requires that the applicant for the office of Notary Public be 21 years of age, and that Paragraph 3 of the same Article requires that he satisfy the County Clerk of his county of residence that he is 21 years of age. It is thus a statutory requirement that any applicant for the office of Notary Public be 21 years of age and be able to establish this fact. For this reason the inclusion of the oath or affirmation in no way places an additional burden on the applicant, nor does it add a requirement for his qualification. Therefore, the inclusion of the phrase may properly be considered as mere surplusage and is in our opinion insignificant.

For the above reasons, it is our opinion that the oath

of office, which is the subject of your inquiry, is valid and is in substantial compliance with the requirements of Section 1, Article XVI, Constitution of Texas.

SUMMARY

The oath of office of a Notary Public, as submitted, is valid and in substantial compliance with the requirements of Section 1 of Article XVI of the Constitution of Texas, even though the oath contains the additional provision "that I am over 21 years of age".

Yours very truly,

WILL WILSON
Attorney General

By 
Wayland C. Rivers, Jr.
Assistant

WCR:jl:rh

APPROVED:

OPINION COMMITTEE:

H. Grady Chandler
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REVIEWED FOR THE ATTORNEY GENERAL

BY:

Geo. P. Blackburn