



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable David Cole  
County Auditor  
Stephens County  
Breckenridge, Texas

Dear Sir:

Opinion No. 0-4227  
Re: Article 1649, V. A. T. C. S.,  
is constitutional and manda-  
tory.

Your request for opinion upon the constitutionality of Article 1649, Vernon's Annotated Texas Civil Statutes, has been received and carefully considered by this department. You also request our opinion as to whether said article, if constitutional, is mandatory.

Article 1649, Vernon's Annotated Texas Civil Statutes, reads as follows:

"The auditor shall, within twenty days of his appointment, and before he enters upon the duties of his office, make a bond with two or more good and sufficient sureties, in the sum of five thousand dollars, payable to the county judge, conditioned for the faithful performance of his duties, to be approved by the commissioners court. He shall also take the official oath and an additional one in writing, stating that he is in every way qualified under the provisions and requirements of this title, and giving fully the positions of private or public trust he has heretofore held, and the length of service under each. He shall further include in his oath that he will not personally be interested in any contract with the county."

This article was Section 4 of Senate Bill 258 of the 29th Legislature of Texas, Regular Session 1905, and was clearly within the caption of the act. Besides the same was codified as Article 1649, Revised Civil Statutes, in the revision of the statutes in 1925. It has not been amended since.

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The case of American Indemnity Company v. Red River National Bank, 132 S. W. (2d) 473, holds that Article 1649, Revised Civil Statutes, requires the county auditor to take the regular oath and a special oath. This case also holds that the purpose of Article 1648, Revised Civil Statutes (which prescribes the qualifications of the county auditor), was to protect the interests of the county.

We do not find that any of the provisions of our State Constitution have been violated by this article.

It is our opinion that the article is constitutional and mandatory.

Very truly yours

ATTORNEY GENERAL OF TEXAS

APPROVED DEC 11, 1941

*David Cole*  
FIRST ASSISTANT  
ATTORNEY GENERAL

By

*Wm. J. Fanning*  
Wm. J. Fanning  
Assistant

WJF:GO

