



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable F. T. Graham
County Attorney
Cameron County
Brownsville, Texas

Dear Sir:

Opinion No. 0-5362

Re: May a county judge, deputy county clerk, deputy district clerk and deputy assessor-collector of taxes qualify as notaries public within their county and hold both offices at the same time?

We have your letter of June 1, 1943, requesting the opinion of this department on the following questions:

"(a) May a duly elected County Judge qualify as Notary Public without vacating his office as County Judge?

"(b) May a duly qualified Deputy County Clerk qualify as Notary Public without vacating his office as Deputy County Clerk?

"(c) May a duly qualified Deputy District Clerk qualify as Notary Public without vacating his office as Deputy District Clerk?

"(d) May a duly qualified Deputy Tax Assessor-Collector qualify as Notary Public without vacating his office as Deputy Tax Assessor-Collector?"

We answer your first and fourth questions in the affirmative. Your second and third questions are answered in the negative.

On June 1, 1927, this department held, in an opinion written by Honorable H. Grady Chandler, Assistant Attorney

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General, that a county judge is not disqualified from holding the offices of county judge and notary public at the same time. That opinion further states:

"In opinion No. 178, rendered by this Department on January 10, 1913, it was held that the offices of district clerk and county clerk and notary public are incompatible; and, therefore, no one person could hold both at the same time. The opinion does not state any reason why these offices are incompatible. . . ."

"It is stated in Texas Jurisprudence, Volume 31, page 345, 'under the constitutional inhibition against the holding of two incompatible offices by one person, a notary is disqualified upon accepting the office of a county clerk, although it has been held that a county attorney may be a notary also.'"

This department has repeatedly held that the offices of county clerk, deputy county clerk, district clerk and deputy district clerk are incompatible with the office of notary public and that a person holding one of said offices cannot at the same time hold the office of notary public.

In Opinion No. 0-33 this department held:

". . . you are respectfully advised that it is the opinion of this department that the Tax Assessor-Collector and his deputies are not prohibited by law from holding the office of Notary Public while holding their offices of Tax Assessor-Collector or as deputies of such office."

We enclose herewith copies of Opinion Nos. 0-33 and 0-4228.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

AW:db

Enclosures

APPROVED JUN 11, 1943
Gerald C. Mann

ATTORNEY GENERAL OF TEXAS



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