



**THE ATTORNEY GENERAL
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January 6, 1970

Honorable John W. Warner
County Attorney
Gray County
P. O. Box 635
Pampa, Texas 79065

Opinion No. M-547

Re: The meaning of the phrase
"the substance only of
depositions shall be
recorded" as employed in
Section 15 of the Texas
Probate Code.

Dear Mr. Warner:

Section 15 of the Texas Probate Code reads in part as follows:
"The County Clerk shall keep a record book styled 'Probate
Minutes' and shall enter therein in full all orders, judgments,
decrees, and the proceedings of the court, together with the
following... (c) All wills and the testimony upon which the same
are admitted to probate, provided that the substance only of
depositions shall be recorded."

You have requested our opinion to the meaning of "substance
only of depositions...".

Black's Law Dictionary, 4th Edition, defines substance as
the material or essential part of a thing, as distinguished from
"form"; an intelligible abstract or synopsis of its material
or substantial elements.

Bouvier's Law Dictionary, 3rd Revision, defines substance
as that which is essential.

Under a constitutional requirement that the substance of a
proposed act be published, "substance" is the essential and
material parts and essence of the proposed law, or an abstract or
compendium thereof, as would give people affected fair information
of what the law is. State v. Allen, 123 So. 36, 37, (Ala. Sup. Ct.
1929). "Substance of proposed law" means an intelligent abstract
or synopsis of its material and substantial elements; the
substance of the act may be sufficiently stated without stating

the details which are subsidiary to the stated elements. Ex Parte Bowdoin, 141 So. 911 (Ala.Ct.App. 1932).

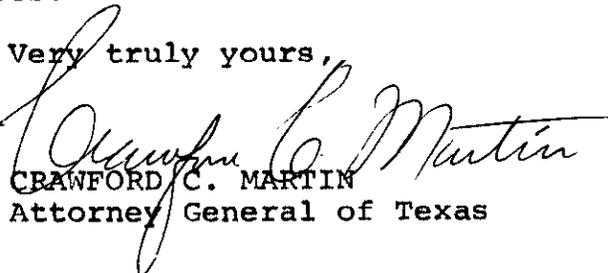
In Rose v. Osborne, 1 A.2d 225 (Maine Sup.Jud.Ct. 1938), the Court held that "substance" is that which is essential. While the ordinary meaning of the word "substance," when used in respect to a contract, is its important parts, the word is susceptible of different significations according to the circumstances. Lincoln National Bank v. John Peirce Co., 164 N.Y.S. 421 (N.Y.Sup. Ct. 1917).

The material or essential parts of the deposition (including exhibits) must be recorded. Ordinarily, a narrative synopsis or abstract of the relevant facts should be recorded. However, under some circumstances it might be necessary to quote from the deposition or to record an exhibit if that is necessary to show the material facts.

S U M M A R Y

"Substance only of depositions," as used in Section 15(c) of the Texas Probate Code, means a synopsis or an abstract of the material or essential facts, unless under the circumstances it is necessary to quote portions of the depositions or exhibits to show such facts.

Very truly yours,


CRAWFORD C. MARTIN
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Prepared by Jack Sparks
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