



0-33

OFFICE OF THE ATTORNEY GENERAL  
AUSTIN

JOHN MCKAY  
ROBERT W. MCKISSICK  
WILLIAM McHILLAN  
M. C. MARTIN  
HENRY S. MOORE  
T. F. (TED) MORROW  
JAMES N. NEFF  
PAT M. NEFF, JR.  
PHIL OVERTON  
J. W. PEAVY  
HARRY S. POLLARD  
W. S. POPE  
RUSSELL RENTFRO  
TOM D. ROWELL  
CHARLES RUTTA  
ALFRED M. SCOTT  
JOE SHARP  
DICK STOUT  
EARL STREET  
MARVIN TREVATHAN  
FRED C. VARNER, JR.  
EFFIE WILSON-WALDRON  
ALBERT WALKER  
CHARLES S. WALKER  
W. L. WILLIFORD

January 9, 1933

Mr. Guy Turner  
County Auditor  
Denton, Texas

Dear Sir:

Opinion No. 0-33  
Re: Notary Public - Two Offices

Your request for an opinion on the ques-  
tion:

"Can the Tax Assessor-Collector  
or his deputies legally qualify as a  
Notary Public?"

has been received by this office.

Article 16, Section 40, Constitution of  
Texas, as amended, adopted election November 8, 1932,  
is as follows:

"No person shall hold or exercise,  
at the same time, more than one Civil  
Office of emolument, except that of  
Justice of Peace, County Commissioner,  
Notary Public and Postmaster, Officer  
of the National Guard, the National  
Guard Reserve, and the Officers Reserve  
Corps of the United States and enlisted  
men of the National Guard, the National  
Guard Reserve, and the Organized Re-  
serves of the United States, and retired  
officers of the United States Army, Navy,  
and Marine Corps, unless otherwise spe-  
cially provided herein. Provided, that  
nothing in this Constitution shall be  
construed to prohibit an officer or en-  
listed man of the National Guard, and  
the National Guard Reserve, or an offi-

2  
Mr. Guy Turner, January 9, 1939, Page 2

cer in the Officers Reserve Corps of the United States, or an enlisted man in the Organized Reserves of the United States; or retired officers of the United States Army, Navy, and Marine Corps, and retired warrant officers, and retired enlisted men of the United States Army, Navy, and Marine Corps, from holding in conjunction with such office any other office or position of honor, trust or profit, under this state or the United States, or from voting at any Election; General, Special or Primary, in this State when otherwise qualified. (Sec. 40, Art. 16, adopted election Nov. 8, 1932.)

holds: In the case of Gaal vs. Townsend, 14 SW, 205,

"Any of the offices named in the exception may be held with any other office whether named in the exception or not."

holds: The case of Figures vs. State, 99 SW, 4112,

"County Attorney may be a Notary Public also."

On June 1, 1927, this department held, in an opinion written by Hon. H. Grady Chandler, Assistant Attorney General, that a County Judge is not disqualified from holding the offices of County Judge and Notary Public at the same time.

On April 27, 1931, this department held, in an opinion by Hon. Everett F. Johnson, Assistant Attorney General, that the office of County Clerk is incompatible with the office of Notary Public and that a person holding the office of County Clerk could not at the same time hold office of Notary Public.

On February 12, 1935, this department held, in the opinion by Hon. Joe J. Alsop, Assistant Attorney General, that the offices of Notary Public and Tax

Mr. Guy Turner, January 9, 1959, Page 3

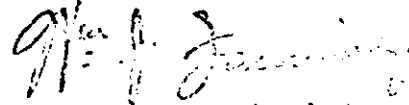
Collector were not incompatible. A copy of this opinion is enclosed. This department concurs with this opinion.

Therefore, 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.

Yours respectfully

ATTORNEY GENERAL OF TEXAS

By



Assistant

WJF:AW

ENCLOSURE

APPROVED:

  
ATTORNEY GENERAL OF TEXAS