

icating liquors as a beverage, and abolishes the constitutional mandate that the legislature shall enact laws to effectuate such prohibition."

It is my opinion that the foregoing proposed amendment is correct as to form and I therefore, as Attorney General of Ohio, pursuant to the provisions of Section 4785-176, General Code, have executed my certificate to that effect thereon.

It is further my opinion that the foregoing synopsis is a fair and truthful summary of the contents and purposes of the proposed amendment and I have similarly executed my certificate to that effect thereon.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3040.

APPROVAL, BOND FOR FAITHFUL PERFORMANCE OF HIS DUTIES
AS RESIDENT DISTRICT DEPUTY DIRECTOR—A. P. COOPER.

COLUMBUS, OHIO, March 11, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted a bond in the penal sum of \$5,000.00, with surety as indicated, to cover the faithful performance of the duties of the official as hereinafter named:

A. P. Cooper, Resident District Deputy Director, Brown County,—
United States Fidelity and Guaranty Company.

Finding said bond to have been properly executed, I have accordingly approved the same as to form, and return it herewith.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3041.

NOTARY PUBLIC—SURETY COMPANY BEING LIQUIDATED—COM-
MISSION MAY BE REVOKED IF NEW BOND NOT GIVEN—INCUM-
BENT OF OFFICE NOT AUTOMATICALLY DISQUALIFIED FROM
EXERCISING DUTIES OF OFFICE.

SYLLABUS:

1. *Form for supplemental bonds of notaries public approved.*
2. *Insolvency or liquidation of a surety company on a bond of a notary public does not automatically disqualify the incumbent of said office from exercising the duties and privileges of his office, but the insolvency or liquidation of*

such surety company is sufficient grounds for the revocation of the commission of a notary public unless a new bond with sureties thereon approved by the governor is filed upon demand therefor.

COLUMBUS, OHIO, March 12, 1931.

HON. GEORGE WHITE, *Governor of Ohio, Columbus, Ohio.*

MY DEAR GOVERNOR:—This acknowledges receipt of your recent communication, enclosing copy of supplemental bond, which reads as follows:

“Recently notices have been received at this office advising that the Equitable Casualty Insurance Company of New York is in the process of liquidation, and that the Pennsylvania Surety Corporation is in a like situation.

These companies bonded some fifteen hundred notaries public in Ohio. In accordance with the notices received these bonding companies are no longer responsible on the bonds executed.

I have had prepared in my office a sample supplemental bond for use in such cases, which sample is attached hereto. Is this form of bond sufficient if properly administered and returned to my office at once by each notary? What is the status of these officials at the present time and since the date of liquidation of the surety on their bonds?

I will appreciate this information at your convenience.”

The face of the supplemental bond as to the validity of which you ask my opinion, reads as follows:

“SUPPLEMENTAL BOND

KNOW ALL MEN BY THESE PRESENTS, that we,.....
, principal, and,
 and, sureties, of the County of
 and State of Ohio, are held and firmly bound
 unto the State of Ohio in the penal sum of FIFTEEN HUNDRED DOL-
 LARS, for the payment of which well and truly to be made, we hereby
 bind ourselves, our heirs, executors, administrators firmly by these pres-
 ents. Sealed with our seals and dated this day of.....,
 A. D., 19.....

The condition of the above obligation is such, THAT WHEREAS,
 the said, has been appointed by the Gover-
 nor of Ohio to the office of Notary Public for the county of
 in said State.

Now if the said faithfully
 discharge the duties of said office of said Notary Public according to law,
 then this obligation to be void, otherwise to remain in full force and
 effect.

Applicant (Seal)
 Surety or Surety Company (Seal)
 Surety (Seal)

I CERTIFY that the security of the above bond is, in my opinion,

sufficient for the amount specified and that the signatures thereto are genuine.

.....
.....
(Official capacity of person making certification)

..... 19....

For three years commencing....., 19.....

.....
(Governor)"

Section 122, General Code, so far as pertinent to this question, provides as follows:

"* * * * Before entering upon the duties of his office, he shall give bond to the state in the sum of fifteen hundred dollars with sureties approved by the governor, conditioned for the faithful discharge of the duties of his office. * * * *"

I find no statute which requires the approval of the sureties by any other official than the governor. However, for your information, I see no objection to providing for the approval of such surety or sureties by an official, resident in the locality of the notary public who gives the bond.

I assume that this bond is to cover the balance of the terms of the notaries public subsequent to the date of cancellation of the bonds furnished by the insolvent companies. I therefore suggest that in substitution for the words appearing in the lower left hand corner of the bond reading "For three years commencing 19....." there be inserted the words "Surety Company (or sureties) approved for balance of term, commencing,, 193..... and ending,, 193....."

Passing to your second question concerning the status of the notaries public whose bonds have been canceled by reason of the liquidation of the surety thereon, I am aware of no statute that automatically revokes their commissions upon the failure of the surety companies on their respective bonds. Section 119, General Code, provides in part:

"* * * * The governor may revoke a commission issued to a notary public upon presentation of satisfactory evidence of official misconduct or incapacity."

A reasonable construction of this provision would seem to imply that the failure of the bond conditioned for the faithful discharge of the duties of the office as notary public, would amount to an official incapacity of the incumbent. Under such circumstances, you would be authorized to revoke the commission issued to a notary public unless a new bond with sufficient surety thereon to meet your approval should be given.

In view of the foregoing and in specific answer to your second question, I am of the opinion that the insolvency or liquidation of a surety company on a bond of a notary public does not automatically disqualify the incumbent of said office from exercising the duties and privileges of his office, but the insolvency or liquidation of such surety company is sufficient grounds for the revocation of the commission of a notary public unless a new bond with sureties thereon approved by the governor is filed upon demand therefor.

Respectfully,

GILBERT BETTMAN,

Attorney General.