

Opinion No. 46**Notaries Public—Bonds—Filing Fees—
Secretary of State.**

HELD: Section 145, R. C. M. 1921, requires the Secretary of State to charge a fee of five dollars for receiving and registering all surety bonds for notaries public, including bonds filed to replace the bond of an insolvent surety.

January 26, 1933.

You request my opinion on the right or power of the office of Secretary of State to charge for receiving and registering a surety bond for a Notary Public where the original bond has become worthless on account of the insolvency of the surety company on such original bond.

The matters to be considered in determining your duty in regard to charging for the second or any additional bond may readily be determined by considering the following facts:

1. A Notary Public is a public officer. 46 C. J. 501;

2. Section 394, R. C. M. 1921, provides in part:

"Each Notary Public must give an official bond in the sum of one thousand dollars, which bond must be approved by the Secretary of State
* * * .";

3. Paragraph 13 of section 145, R. C. M. 1921, governing the fees to be charged for various duties performed by the Secretary of State is as follows:

"For receiving and recording each official bond \$5.00."

Therefore, for each bond filed for any Notary Public the statute imposes upon you the duty to collect \$5.00 for its receipt and recordation.

The provisions of the statute appear to have worked something of a hardship in this instance but the selection of a surety company was entirely in the power of the Notary Public and the Secretary of State has no choice except to handle the matter according to the provisions of section 145, referred to above.