

Opinion No. 373.**Livestock Commission—Bounties—
Affidavit, Requirements Of.**

HELD: The affidavits of the two resident taxpayers on livestock, required by Section 3417.6, R. C. M. 1935, must be sworn to or affirmed before some officer who has authority to administer an oath, and such officer must sign the acknowledgment.

November 28, 1936.

Mr. Paul Raftery
Secretary, Montana Livestock
Commission
The Capitol

Section 3417.6, R. C. M. 1935, provides in part: "Each sheriff, under-sheriff and deputy sheriff, to prevent fraud, shall * * * require affidavits from two resident taxpayers residing in the vicinity in which such animal or animals were killed, setting forth that they are resident taxpayers on livestock, giving their postoffice addresses and stating that they are personally acquainted with the person presenting the skin or skins, and to their knowledge, information, and belief, said person did kill or cause to be killed the animal or animals from which the skin or skins were taken within thirty days preceding the offering of such skin for a bounty to the sheriff, under-sheriff or deputy sheriff to which the same is presented; * * * ." You have requested my opinion whether the affidavits must be acknowledged.

Affidavit is defined by Section 10632, R. C. M. 1935, as follows: "An affidavit is a written declaration under oath, made without notice to the adverse party."

An affidavit is one method of taking an oath; an affidavit is a statement or declaration reduced to writing and sworn or affirmed to before

some officer who had authority to administer an oath. (*Metcalf v. Prescott*, 10 Mont. 283; *Davidson v. Bordeaux*, 15 Mont. 245, 251; see also *Webster's New International Dictionary*; 2 C. J. 317; 2 C. J. S. 992.)

A paper intended as an affidavit but not signed by an officer authorized to administer an oath is insufficient on the face of it. (*Continental Oil Co. v. Jameson*, 53 Mont. 466.)

It is my opinion that the affidavits of the two resident taxpayers on livestock, required by Section 3417.6, R. C. M. 1935, must be sworn to or affirmed before some officer who has authority to administer an oath, and that such officer must sign the acknowledgment.

The bounty claim, which was attached to your letter, is returned herewith. Since the purported "affidavits" were not made under oath, they are insufficient and the claim does not comply with the statute.