

MONTHLY REPORT
OF THE
ATTORNEY GENERAL
OF THE
STATE OF TEXAS



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GERALD C. MANN
ATTORNEY GENERAL

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OPINIONS RENDERED

March 1, 1940

To

March 31, 1940



GERALD C. MANN
ATTORNEY GENERAL

VOLUME 2, NUMBER 3

MARCH, 1940

PRESS OF VON BOECKMANN-JONES CO., AUSTIN, TEXAS

0- 376 To: George W. Cox, State Health Officer
Date: March 28, 1940

The State Health Officer may organize and maintain a division of merit system within the Department of Health, if it is deemed necessary for the efficient conduct of the work of the Department, and if the organization and maintenance of such division is approved by the Board of Health. When such division is so approved and established, the State Health Officer may appoint a director for the division without the confirmation or approval of the Board of Health. Arts. 4418d, 4418e, V. A. C. S.

0- 897 To: L. A. Woods, State Superintendent of Public Instruction
Date: March 18, 1940

The State Superintendent and the Joint Legislative Advisory Committee do not have authority under H. B. 933, Acts 46th Leg., to direct applicants for rural aid under such act to omit receipts from the state per capita apportionment which they would receive for pupils transferred into the school district from a district ineligible to receive aid under Sec. 6 of the act, in showing the budgeted receipts of the receiving district under Sec. 13. Opinion 0-1944; Secs. 4, 5, H. B. 933, Acts 46th Leg.

0-1168 To: O. J. S. Ellingson, General Manager, Texas Prison System
Date: March 22, 1940

The items of expense incurred by the Texas Prison System in the employment of authorized persons to inspect the boilers may legally be paid out of the general support and maintenance or contingent item of appropriation to the system. Acts 1937, 45th Leg., Ch. 436, p. 893; H. B. 419, S. B. 427, Acts 46th Leg.; Art. 5221c, V. A. C. S.

0-1249 To: George H. Sheppard, Comptroller of Public Accounts
Date: August 11, 1939

The per diem appropriation to the Board of Education may not be used to defray traveling expenses incurred by members of the board. Art. VIII, Sec. 6, Constitution; S. B. 427, Acts 46th Leg.; *Lightfoot v. Lane*, 140 S. W. 89; *Linden v. Findley*, 49 S. W. 578.

0-1318 To: Roy Loventhal, Chairman, Livestock Sanitary
Commission of Texas
Date: March 20, 1940

The \$25.00 annual dues of the Livestock Sanitary Commission of Texas for membership in the United States Livestock Sanitary Association may be legally paid out of the commission's contingent expense appropriation. Art. 1525b, Secs. 1, 22, P. C.; S. B. 427, Acts 46th Leg.; Opinion 0-906-A.

0-1540 To: B. M. Whitacre, County Auditor, Grayson
County
Date: March 23, 1940

The county cannot recover on the official bond of the tax assessor-collector for such officer's lack of due diligence in the collection of delinquent taxes. Arts. 7247, 7249, V. A. C. S.; 34 Tex. Jur., 570, 571; 40 Tex. Jur., 321, 322.

0-1629 To: D. Leon Harp, Securities Commissioner, Sec-
retary of State Office
Date: March 12, 1940

As the object of the conference of the various state securities commissioners in Chicago February 19 and 20, 1940, is clearly a state purpose, and as such conference is not a "convention" as that word is used in the departmental appropriation bill, the traveling expenses of the Securities Commissioner of the Secretary of State Office may legally be paid out of State moneys. S. B. 427, Acts 46th Leg.

0-1640 To: Bert Ford, Administrator, Texas Liquor Con-
trol Board
Date: March 8, 1940

The Liquor Control Board may not legally deny a married woman a permit to retail wine and beer solely on the ground that her husband has been convicted of a felony and is not entitled to such permit and would profit from her business under the community property law. *J. B. Hirshfeld & Co. v. Evans, et ux.*, 56 S. W. (2d) 683, 93 S. W. (2d) 143; *Dickson v. Strickland*, 265 S. W. 1012; 23 Tex. Jur., Sec. 266.

0-1672-A To: George H. Sheppard, Comptroller of Public
Accounts
Date: March 18, 1940

The Limitation of Payments Board has authority and jurisdiction to authorize expenditures out of an actual surplus upon

a showing of necessity therefor even though such expenditures may operate to supplement an item for which a specific and definitely ascertainable amount was provided by the legislature. S. B. 427, Acts 46th Leg., Opinion 0-1672 overruled and withdrawn.

0-1699 To: L. A. Woods, State Superintendent of Public Instruction
Date: March 28, 1940

The extension of the municipal boundaries of the City of San Antonio would automatically extend the boundaries of the San Antonio Independent School District co-extensive with the boundaries of said city pursuant to the annexation unless an election is held within the city and it is voted that the annexed territory shall not become a part of said San Antonio Independent School District. Art. XI, Sec. 10, Constitution of Texas; Art. 2804, R. C. S.; Acts 1917, 35th Leg., S. B. 234, Ch. 49; *Staffel v. San Antonio School Board of Education*, 201 S. W. 413.

Such an extension would call for a rearrangement of the debt structure of the district from which the territory is annexed, and it would, therefore, be necessary for the proportionate part of the indebtedness to be assumed. Art. 2805, R. C. S.; *Tod v. City of Houston*, 276 S. W. 419.

0-1729 To: T. B. Hill, Member, Industrial Accident Board
Date: March 16, 1940

The Southwest Arkansas Electric Cooperative Corporation, which sends three or more of its Arkansas employees into the State of Texas to service its short line running into Texas, may elect to come under the Texas Workmen's Compensation Law; however, if said corporation does not choose to come under such law, those employees who are injured in Texas under the rule of *lex loci delecti* may pursue their claims for damages under the laws of the State of Texas. Arts. 8306, Sec. 2; 8309, Sec. 1, R. C. S.; *Curtis v. Campbell*, 76 F. (2) 84; *Cameron et al. v. Vandegriff*, 128 S. W. 1165. (See opinion for citation of additional authorities.)

0-1760 To: John E. Taylor, Chief Supervisor, Oil and Gas Division, Railroad Commission of Texas
Date: March 13, 1940

"Casinghead gas" is a form of "natural gas." Arts. 10, Sec. 1; 6008, Sec. 2, Subsec. (h), V. A. C. S.

Gas produced from a well producing oil at a gas-oil ratio of 100,000 cubic feet of gas or less per barrel of oil and which contains more than $1\frac{1}{2}$ grains of hydrogen sulphide per 100 cubic feet, is "casinghead gas" and is not "sour gas." Art. 6008, Sec. 2, Subsecs. (d), (e), (g), (h), and (i); Sec. 7, Subsec (2), V. A. C. S.; *Humble Oil & Refining Co. v. Poe*, 29 S. W. (2d) 1019. (See opinion for citation of additional authorities.)

The Railroad Commission of Texas does not have authority to limit the use of "casinghead gas" to the purposes provided for "sour gas." Art. 6008, Sec. 7, Subsecs. (1), (2), (3), V. A. C. S.

Gas produced from a well producing oil at a gas-oil ratio of in excess of 100,000 cubic feet of gas per barrel of oil and which contains more than $1\frac{1}{2}$ grains of hydrogen sulphide per 100 cubic feet of gas is "sour gas" and is not "casinghead gas." Art. 6008, Sec. 2, Subsecs. (d), (g), V. A. C. S.

The Railroad Commission of Texas does not have authority to permit the use of "sweet gas" in the manufacture of carbon black, except where it is used as gas lift under the provisions of Art. 6008, Sec. 7, Subsec. (4), V. A. C. S.; Art. 6008, Sec. 3, Subsec. (j), V. A. C. S.; *Danciger Oil & Refining Co. v. Railroad Commission*, 49 S. W. (2d) 837.

0-1765 To: Orville S. Carpenter, Chairman and Executive Director, Texas Unemployment Compensation Commission

Date: March 7, 1940

Prior to the amendment of the Texas Unemployment Compensation Act it was necessary to file claims for refund of contributions erroneously collected within one year after the date on which the contributions became due. Sec. (j), Art. 5221b-12, V. A. C. S., amends said act and extends such period of limitation to four years. However, as such amendment does not operate retroactively, claims for refunds that were cut off prior to the amendment may not now be paid. *Hester and Roberts v. Donna Irr. Dist.*, 239 S. W. 993; *American Surety Company v. Axtell Co.*, 36 S. W. (2d) 720; Opinion 0-459.

0-1846 To: F. A. Taylor, County Auditor, Brazoria County
Date: March 21, 1940

Taxes that were not properly assessed and levied for bond purposes in drainage districts, which taxes are now delinquent, should be collected even though there is now sufficient money in the sinking fund to retire said bonds. Art. VIII, Sec. 1,

Constitution of Texas; Arts. 8136, 8140, 8141, 8144, R. C. S.; *Weatherly Independent School District et al. v. Hughes et al.*, 41 S. W. (2d) 445; *Norris v. City of Waco*, 57 Tex. 685; Opinion 0-218.

0-1884 To: Julian Montgomery, State Highway Engineer
Date: March 26, 1940

The Highway Department does not have authority to pay the workmen's compensation insurance benefits provided for by Art. 6674s, V. A. C. S., to employees of the department injured prior to January 1, 1938, the effective date of such law. Acts 1937, 45th Leg., R. S., H. B. 420; H. B. 1047, H. B. 1051, Acts 46th Leg.; *Southwestern Surety Insurance Co. v. Curtis, et al.*, 200 S. W. 1162 (writ of error refused); 16 C. J. S., Par. 141, p. 415; 39 Tex. Jur., Par. 88, p. 161.

0-1885 To: Joe Kunschik, Commissioner, Bureau of Labor
Statistics
Date: March 20, 1940

The \$25.00 dues for the year 1940 for membership in the National Boxing Association may legally be paid out of the contingent expense appropriation for the boxing and wrestling division of the Bureau of Labor Statistics. Art. 614, Secs. 1 (a), 17 (c), V. A. P. C.; Acts 1939, 46th Leg., R. S., S. B. 427.

0-1890 To: Thomas A. Wheat, County Attorney, Liberty
County
Date: March 7, 1940

A county commissioner is an "officer" within the meaning of Subdiv. 1, Art. 1147, V. A. C. S., defining aggravated assault. Art. V, Sec. 18, Constitution of Texas; *Sanner v. State*, 2 Crim. Rep. 458; *Commissioners' Court of Limestone County et al. v. Garrett*, 236 S. W. 970.

0-1902 To: George H. Sheppard, Comptroller of Public
Accounts
Date: March 30, 1940

Under the facts submitted to this department, the tax levied by Art. 7047f, V. A. C. S., is due upon awards made by R. E. Griffith Theaters, Inc., at the drawings known as "Weekly Cash Night." Opinion 0-1237.

0-1924 To: Orville S. Carpenter, Chairman and Executive Director, Texas Unemployment Compensation Commission
Date: March 12, 1940

Under the facts submitted to this department, the individuals doing the logging work in question for the Kirby Lumber Corporation prior to April 1, 1939, were individual contractors, and there is no liability on said lumber corporation for taxes based upon amounts paid to those persons. Art. 5221-b, Secs. 17 (g) 1, 19 (g) 5 (A), (B), (C), V. A. C. S.; *Lone Star Gas Company v. Kelly*, 46 S. W. (2d) 656; *Record Pub. Co. v. Ernest*, 91 Pac. (2d) 718; *Crosby Lumber Mfg. Co. v. Durham*, 179 So. 285; *Restatement of the Law of Agency*, Vol. 1, Subsec. 220, pp. 483-485.

0-1927 To: John A. Hamilton, District Attorney, Matador
Date: March 18, 1940

Under the facts submitted to this department, the instrument acknowledging the bonded indebtedness of the railway company in question is not such a renewal or extension of the original indebtedness and lien referred to therein as to be subject to the excise stamp tax levied by Subdiv. (a), Art. 7047e, V. A. C. S. *Campbell River Timber Co. et al. vs. Spraggins*, 30 S. W. (2d) 858; *National Bank of Commerce v. Kenny*, 98 Tex. 293. (See opinion for citation of additional authorities.)

0-1936 To: Marvin H. Brown, Jr., Criminal District Attorney, Fort Worth
Date: March 5, 1940

The trial court does not have the power after a suspended term has ended to revoke a suspended sentence and sentence the defendant to serve the sentence in the penitentiary. Therefore, where a defendant was convicted of a felony in a state court and was given a sentence of two years which was suspended, and more than a year thereafter was convicted in a federal court of certain charges and was sentenced and served 13 months in the federal penitentiary, the state court cannot now revoke the suspended sentence and sentence the defendant to serve time in the state penitentiary. *Clare v. State*, 54 S. W. (2d) 127; *State v. O'Connor*, 73 S. W. 1041.

0-1939 To: E. G. Moseley, Civil District Attorney, Dallas
Date: March 26, 1940

The State of Texas may during the two year period of redemption assign or sell its right and the right of the other

taxing units in property bought by the State at a tax sale. Such assignment or sale should be by quitclaim deed, and the Attorney General is the proper person to execute and deliver such instrument. Arts. 4401, 4402, 4403, 7345b, Sec. 9, V. A. C. S.; Opinion 0-950.

In redeeming property from the State in a case where the State has purchased property at a tax foreclosure sale under the authority of Secs. 8 and 9 of Art. 7345b, V. A. C. S., Sec. 12 of said article would apply, and the person seeking to redeem the property would have to pay the penalties of redemption provided in said section. The same would be true if the redemption were made from an assignee or vendee of the State in such a case. Art. 7345b, Sec. 13, V. A. C. S.

0-1941 To: E. P. Jennings, County Auditor, Hardin County
Date: March 20, 1940

This opinion deals with the manner of calculating State participation under the Road Bond Assumption Act (H. B. 688, Acts 46th Leg.), and prior laws pertinent thereto. Letter Opinion Jan. 18, 1937.

0-1953 To: W. R. Horrell, County Attorney, San Jacinto County
Date: March 5, 1940

Under the facts submitted to this department, where a complaint charging a defendant with a misdemeanor was originally filed in the county court, and by that court transferred to a justice court, it would be proper to dismiss the case in both courts and file a new complaint in either the county or the justice court as the county attorney may determine. Article 923d, P. C.; Art. 64, C. C. P.; *Bragg v. State*, 6 S. W. 365; *Epps v. State*, 94 S. W. (2d) 441; 12 Tex. Jur., pp. 401-402, 402-404, 418.

0-1956 To: James E. Kilday, Director, Motor Transportation Division, Railroad Commission of Texas
Date: March 21, 1940

The Railroad Commission has authority to divide an interstate special commodity permit authorizing the transportation of household goods, farm machinery, and oil field equipment into two separate permits in lieu thereof, one for the transportation of household goods and the other for the transportation of farm machinery and oil field equipment. Art. 911b, Sec. 6(d), V. A. C. S.

0-1961 To: Dan W. Jackson, Civil District Attorney, Houston
Date: March 12, 1940

Extension agreements which extend secured debts executed prior to the enactment of the stamp tax statute are subject to the tax levied by said statute. Art. 7047e, Subdiv. (a), V. A. C. S.; *Belcher Land Mortgage Co. v. Taylor et al.*, 212 S.W. 647.

0-1965 To: Ernest Guinn, County Attorney, El Paso County
Date: March 15, 1940

As Art. VIII, Sec. 13, Constitution of Texas applies only to summary sales, and as Art. 7340 and Sec. 12, Art. 7345b, R. C. S., expressly apply only to redemption of property pursuant to foreclosure sales made subsequent to a judgment of a court of competent jurisdiction, there is no conflict in the period of redemption set out in such statutes and in such constitutional provision. *City of San Antonio v. Berry*, 92 Tex. 319; *Hinkson v. Lorenzo Independent School District*, 109 S. W. (2d) 1008; *Mexia Independent School District v. City of Mexia*, 133 S. W. (2d) 118.

In redeeming property purchased from a city in a case where such city has purchased the property at a tax foreclosure sale under the authority of Secs. 8 and 9, Art. 7345b, R. C. S., the person seeking to redeem the property would have to pay the penalties of redemption provided in Sec. 12 of said article. Art. 7345b, Secs. 1, 13, R. C. S.

0-1966 To: H. D. Crawford, County Attorney, Burnet County
Date: March 21, 1940

Where an incorrect precinct number is placed on a poll tax receipt, the tax assessor-collector should correct the error. Such correction can be made both on the original receipt and the duplicate copy by drawing a line through the incorrect number and inserting the correct number thereon. Arts. 2936, 2975, V. A. C. S.

0-1968 To: Julian Montgomery, State Highway Engineer
Date: March 8, 1940

The employees of the Highway Department may not legally avail themselves of group life insurance. Art. 4764a, R. C. S.

In any event the Comptroller of Public Accounts is unauthorized to issue warrants to the insurance company as contemplated in the proposed plan of group insurance submitted to this department. Arts. 4358, 4359, V. A. C. S.; S. B. 427, Acts 46th Leg.

0-1974 To: Henry C. Kyle, County Attorney, Hays County
Date: March 5, 1940

Record books for the office of the county clerk cannot legally be paid for out of the permanent improvement fund. Art. VIII, Sec. 9, Constitution of Texas; Arts. 2352, 6593, R. C. S.; *Carroll v. Williams*, 202 S. W. 504; *Henderson County v. Burke*, 262 S. W. 94; Opinion 0-1810.

Automobile registration fees cannot legally be transferred from the road and bridge fund to the general fund. Art. 6675a, Sec. 10, R. C. S.; Opinion 0-1161.

0-1975 To: R. C. Wilson, County Auditor, Gray County
Date: March 12, 1940

As the payment of premiums for insurance on a courthouse is an expenditure for a general purpose of the county, such expenditure should be paid out of the general fund and not the permanent improvement fund. Art. VIII, Sec. 9, Constitution of Texas; *Henderson County v. Burke*, 262 S. W. 94; *Carroll v. Williams*, 202 S. W. 504; *Ault v. Hale County*, 116 S. W. 359; Opinions 0-37, 0-93, 0-629, 0-1069, 0-1082, 0-1647, 0-1810.

0-1977 To: Bascom Giles, Commissioner, General Land
Office
Date: March 28, 1940

The special trust fund provided for in H. B. 9, Acts 46th Leg. (consisting of deposits made by an applicant to cover the costs of the work which may be necessary in order to comply with a vacancy applicant's request for a survey and hearing), is not required to be paid over to or handled by the State Treasurer in any manner. The manner in which the funds are now being handled (deposited in a special bank account designated as "Bascom Giles, Trustee," etc.) is proper. Art. 4388, R. C. S., as amended.

0-1982 To: Forrester Hancock, Criminal District Attorney,
Waxahachie
Date: March 9, 1940

Where a criminal case in a district court is passed by agreement to a subsequent term of the court, a witness in such case

is entitled to traveling expenses both to and from the court for both terms. Art. 1036, C. C. P.; Letter Opinion, Feb. 21, 1935.

0-1984 To: Ralph L. Buell, Chief, Certificate of Title Division, Department of Public Safety
Date: March 18, 1940

When the bill of sale of the officer selling a motor vehicle at a foreclosure sale is furnished the Department of Public Safety, said department is authorized to issue a certificate of title in the name of the purchaser at such sale without noting thereon any of the liens which were second to the lien which was foreclosed in the court action. Art. 1436-1, V. A. P. C.; *Sabine Motor Company v. W. C. English Auto Company*, 291 S. W. 1088.

Where a mortgagee repossesses a motor vehicle and sells the same at a private sale, which procedure is in accordance with the terms of the mortgage, the Department of Public Safety is authorized to issue a certificate of title in the name of the purchaser at such sale on which certificate need not be noted the second or inferior liens which existed against said motor vehicle prior to the time of repossession and foreclosure of the prior lien. Art. 1436-1, V. A. P. C. (See opinion for citation of additional authorities.)

0-1987 To: H. A. Glass, Director, Textbook Division, Department of Education
Date: March 26, 1940

The Board of Education has authority to pay out of the Textbook Fund all necessary expenses incurred in the distribution of free textbooks. S. B. 427, Acts 46th Leg.; Sutherland on Statutory Construction, Sec. 223, p. 297; Conference Opinion 3091; Opinion 0-1837.

0-1988 To: Charley Lockhart, State Treasurer
March 18, 1940

Warrants drawn on the Confederate pension fund must be presented for payment within two years of the close of the fiscal year in which such warrants were issued before the State Treasurer would be authorized to pay such warrants. Arts. 4371, 4344, 6204, 6205, R. C. S.; Opinion 0-1309.

0-1990 To: George H. Sheppard, Comptroller of Public
Accounts

Date: March 18, 1940

The membership dues of the Comptroller's Department in the National Tobacco Conference may be paid out of the appropriation to said department for "postage, telephone, telegraph, express, supplies, stationery, printing, and contingent." Art. 7047c-1, V. A. C. S.; S. B. 427, Acts 46th Leg.

The membership dues of the Game, Fish and Oyster Commission in the International Association of Game, Fish and Conservation Commissioners may be paid out of the appropriation to said commission for "books, periodicals, dues, and subscriptions." S. B. 427, Acts 46th Leg.

0-1991 To: Murphy Cole, County Auditor, Liberty County
Date: March 15, 1940

An automobile license receipt cannot be legally issued at any place other than the county seat. Arts. 6675a, Sec. 3; 7255; 7256, R. C. S.

0-1994 To: Sam A. Hough, Jr., County Attorney, Edwards
County
Date: March 15, 1940

Acts 1939, 46th Leg., R. S., H. B. 1114, providing for special fish laws in certain named counties, repeals by implication Acts 1937, 45th Leg., R. S., H. B. 33, Ch. 16, p. 17, and any other former acts of the legislature bearing on the same subject as far as the counties named in H. B. 1114 are concerned. 39 Tex. Jur. 137, et seq.

0-1995 To: Dan W. Jackson, District Attorney, Houston
Date: March 18, 1940

The terms of office of the trustees of an independent school district created and incorporated in 1938 under the provisions of Art. 2757, R. C. S. (providing for the incorporation of a common school district into an independent school district), are governed by Art. 2758, R. C. S., and are therefore for two years. Art. VII, Sec. 16, Constitution of Texas; Art. 2774a, V. A. C. S.

0-1998 To: Bert Ford, Administrator, Texas Liquor Control Board
Date: March 15, 1940

If beer is transported to points outside of Texas and evidence of a satisfactory nature is furnished to the Liquor Control Board of such fact, then the manufacturer of such beer is not liable for the tax. Art. 667-23, Sec. (a), P. C.; Opinion 0-1774 overruled in part.

Tax records of the states to which the beer is transported, which records are furnished by the manufacturer, are satisfactory evidence that the beer was actually transported to points outside of Texas. *Shriver v. Union Stock Yards National Bank*, 232 Pac. 1062; *Hyndshaw v. Mills*, 187 N. W. 780.

0-2001 To: Bert Ford, Administrator, Texas Liquor Control Board
Date: March 20, 1940

As the Brook Hollow Golf Club and the Dallas Country Club do not hold themselves out as willing to provide accommodations to all those of the public who choose to visit them, said clubs are not "bona fide hotels," and therefore, cannot hold both a package store permit and a wine and beer permit. Arts. 666-17(1), 666-23a(5), P. C.; 32 C. J., 527, 531. (See opinion for citation of additional authorities.)

0-2002 To: George H. Sheppard, Comptroller of Public Accounts
Date: March 28, 1940

The Comptroller of Public Accounts is without authority to issue a duplicate warrant to the true owner of an original warrant where such original has been neither lost nor destroyed. Art. 4365, V. A. C. S.; 34 Tex. Jur. 636; Opinion 0-385.

0-2003 To: James W. Strawn, County Attorney, Willacy County
Date: March 7, 1940

Any officer who is entitled to half costs under Art. 1055, C. C. P., is entitled to such costs regardless of whether the case is tried in the county court or the justice court. Art. 3742, R. C. S.; *Fears v. Ellis County*, 49 S. W. 139.

A constable has the same legal power and authority to execute a commitment or release as a sheriff when the release or com-

mitment is directed or addressed to the sheriff of the county and to the constable of the precinct; therefore, the officer executing the commitment or release is entitled to the fee provided by law for executing such commitment or release. Art. 6885, V. A. C. S.; Arts. 783, 787, 788, 789, 795, 796, 797, C. C. P.; 38 Tex. Jur., pp. 431, 432, 433.

0-2004 To: George H. Sheppard, Comptroller of Public
Accounts
Date: March 20, 1940

Within the two year period of redemption the taxing unit which has purchased property at a tax foreclosure sale may sell such property for an amount at least equal to the adjudged value of the property or the amount of the judgment, whichever is lower, or for an amount less than such adjudged value or amount of judgment by obtaining written consent of the other taxing units which were awarded judgment in such suit. Art. 7345b, Sec. 9, V. A. C. S.; Opinion 0-950.

0-2005 To: Lee Brady, Commissioner, Department of
Banking
Date: March 8, 1940

This opinion deals with the authority of the Banking Commissioner in charge of an insolvent bank for liquidation to make expenditures or agreements for the conservation of assets without an order of the district court. Arts. 347, 370, 371, 453, 454, R. C. S.

0-2006 To: Lee Brady, Commissioner, Department of
Banking
Date: March 8, 1940

Art. 502, R. C. S., providing for the conversion of a state bank or bank and trust company "into any other system of banking" has no reference whatever to the conversion of such bank or bank and trust company into a national association. *Texas Bank & Trust Company v. Austin, Banking Commissioner*, 280 S. W. 161; *First State Bank et al. v. Collier*, 23 S. W. (2d) 716; Letter Opinion, Feb. 8, 1937.

The retiring state bank (which has ineffectually undertaken conversion under the provisions of Art. 502, R. C. S., supra) by transferring its assets and affairs to a proposed or newly organized, or even an existing national association, does not lose its corporate existence or its legal entity, but the bank must thereafter be liquidated, either through the process of voluntary liquidation under Arts. 539 and 540, R. C. S., or through the process of taking over by the Banking Commissioner.

0-2009 To: Mortimer Brown, Executive Secretary, Teacher Retirement System of Texas
Date: March 20, 1940

Under the facts submitted to this department, where a member of the Teacher Retirement System who dies had designated a minor as beneficiary to receive the return of the accumulated contributions of said member, and such minor dies intestate before the money is paid to him and no legal representative has been appointed, all his property, including the right to the contributions, passes to the heirs of the minor under the statutes of descent and distribution. Arts. 2922-1, 4112a, V. A. C. S.; Title 48, V. A. C. S.; 39 Tex. Jur. 160; *Modern Woodmen of American v. Yanowsky*, 187 S. W. 728; *Central Texas Mutual Life Assn. v. Beaty et al.*, 20 S. W. (2d) 836.

0-2010 To: O Kennedy, County Attorney, Bee County
Date: March 8, 1940

It is not a violation of the nepotism laws of this State for the commissioners' court to employ an architect who will probably employ the son of the county judge if the employment of the county judge's son by the architect is not the result of an agreement, express or implied, between said architect and court to employ the son of the county judge, or if in fact there is no subterfuge to do indirectly what cannot be done directly. Arts. 432, 433, 434, P. C.; *Ferguson v. Houston Press Co.*, 1 S. W. (2d) 337, 12 S. W. (2d) 125.

0-2011 To: Albert J. Hutson, Jr., County Attorney, Trinity County
Date: March 12, 1940

Acts 1937, 45th Leg., R. S., H. B. 451, which provides for the payment of office and traveling expenses for the county superintendent of public instruction for certain counties, and Acts 1935, 44th Leg., R. S., H. B. 730, which provides for the payment of expenses of the county board of trustees of certain counties in the administration of the scholastic affairs of the county, are special or local laws in contravention of Art. III, Sec. 56, Constitution of Texas, and are therefore unconstitutional and void. Arts. 2687, 2700, 2700d-12, V. A. C. S.; *Smith v. State*, 49 S. W. (2d) 739; *Bexar County v. Tynan et al.*, 97 S. W. (2d) 467.

0-2013 To: Tom A. Craven, County Auditor, McLennan County
Date: March 12, 1940

The commissioners' court is without authority to participate in the United States Government plan of surplus commodities

distribution, known as the Food Stamp Plan; however, said court may legally lease or rent space for the Food Stamp Plan Offices. Art. 2372e-2, Sec. 1, V. A. C. S.; *Commissioners' Court v. Wallace*, 15 S. W. (2d) 535; 11 Tex. Jur., pp. 564, 565.

0-2015 To: Gordon C. Cass, County Attorney, Lampasas County
Date: March 21, 1940

The hauling of farm machinery from the Allis-Chalmers Company's factory branch office in Dallas, Texas, to a dealer in Lampasas, Texas, by a special commodity carrier does not constitute hauling from dealer to dealer within the order of the Railroad Commission prohibiting hauling from dealer to dealer, assuming that said company manufactures and sells farm machinery as distinguished from buying and selling said machinery. Art. 911b, Sec. 6(d), V. A. C. S.; *State v. San Patricio Canning Co.*, 17 S. W. (2d) 160; Opinion 0-1270.

0-2017 To: M. O. Flowers, Secretary of State
Date: March 9, 1940

The proposed charter of "United American Clubs of Bexar County, Texas" is not an educational undertaking within the purview of Subdiv. 2, Art. 1302, R. C. S. Opinions 0-1028, 0-1032, 0-1171.

0-2019 To: R. E. McLaughlin, County Attorney, Moore County
Date: March 18, 1940

Where a petition for a bond election for \$160,000 was filed for the purpose of constructing and improving highways, and later a second petition was presented for \$96,000 for the purpose of constructing exactly the same mileage with the exception of seven miles called for in the first petition, the proper procedure is for the commissioners' court to call an election on the first petition. If this election fails by the required two-thirds majority, then the court can call an election on the second petition. Art. 752b, R. C. S.; *Huggins v. Vaden*, 253 S. W. 877; *Moore v. Coffman*, 200 S. W. 374.

The commissioners' court may upon an agreement with the civic authority expend county road bond funds in improving road within a town or city where the road forms a link in a county highway. 21 Tex. Jur., 668; *Hughes v. Harris County*, 35 S. W. (2d) 818; *City of Breckenridge v. Stephens County*, 40 S. W. (2d) 43.

0-2020 To: H. E. Wassell, Board of Insurance Commissioners
March 18, 1940

Agents of fraternal benefit societies lawfully doing business in Texas are not required to obtain licenses to operate as life insurance agents under Art. 5068b, Sec. 1, V. A. C. S., and therefore are not subject to the penalty provided by Art. 570a, Sec. 6, P. C. Arts. 4820-4859d, R. C. S.; Arts. 570a, Sec. 6, 581-585, P. C.; *Grand etc. Sons of Hermann v. Prater*, 2 S. W. (2d) 500; *Sovereign Camp W. O. W. v. Downer*, 241 S. W. 228; *Wirtz v. Sovereign Camp W. O. W.*, 268 S. W. 438; 6 Tex. Jur., 390-391.

0-2022 To: W. R. McClain, Criminal District Attorney,
Georgetown
Date: March 9, 1940

Under Art. 5679, V. A. C. S., a public cotton classer must first obtain a license to classify cotton from the federal government. U. S. C. A., Title 7, Ch. 2.

A public cotton classer who has received a federal license must file the bond and pay the registration fee required by Secs. 3 and 6, Art. 5679a, supra.

0-2023 To: Walker Carson, County Attorney, Hudspeth
County
Date: March 12, 1940

A trustee of a common school district is disqualified from acting as county chairman of the Democratic Executive Committee. Art. 2940, V. A. C. S.; *Chestnut v. Wells*, 278 S. W. 465.

0-2024 To: Bert Ford, Administrator, Texas Liquor Control Board
Date: March 15, 1940

A display beer sign furnished a beer dealer by a beer manufacturer may legally be used in the manner described to this department. Art. 667-24 (1), (c), P. C.

0-2027 To: T. M. Trimble, Department of Education
Date: March 9, 1940

Children of civilian employees working on the Fort Sam Houston Military Reservation but residing in the Los Angeles

Heights School District are resident scholastics of said district, and are not entitled to free tuition in the San Antonio Independent School District, which includes said military reservation. Art. 2756b, V. A. C. S.

0-2028 To: Homer Garrison, Jr., Director, Department of
Public Safety
Date: March 15, 1940

The Department of Public Safety does not have authority under the Certificate of Title Act, Art. 1436, Sec. 60, V. A. P. C., to issue a certificate of title either on a motor vehicle registered in another state and not registered in Texas, or on a motor vehicle owned and operated in Texas but not required to be registered in Texas. Acts 1939, 46th Leg., R. S., H. B. 407.

0-2030 To: J. H. O'Neill, County Attorney, Swisher
County
Date: March 12, 1940

Swisher County is not exempt from the provisions of Art. 6972, R. C. S., et seq., commonly known as the "Inspection of Hides and Animals Law." Art. 7005, R. C. S.

0-2032 To: Leo Presnell, County Attorney, Upshur County
Date: March 15, 1940

In order to render a penny marble machine which is not of the "pay off" variety subject to seizure and condemnation in accordance with provisions of Arts. 636-638, P. C., inclusive, proof that such machine was used for gambling is essential. It follows that upon such proof the operator of such machine could be prosecuted under Art. 619, P. C. Arts. 620, 624, 627, 628, 630, P. C.; *Stearnes v. State*, 21 Tex. 692; *Mills v. Browning*, 59 S. W. (2d) 219. (See opinion for citation of additional authorities.)

Upon such proof an injunction would lie to abate the nuisance. Art. 4667, V. A. C. S., 20 Tex. Jur. 675.

0-2033 To: M. F. Kieke, County Attorney, Lee County
Date: March 9, 1940

The residence of a minor is that of his father, and assuming from the facts submitted to this department that the father has changed the residence of his family to the school district in question, his minor children should be enumerated in such district. Art. 2816, R. C. S.; *Gulf, C. & S. F. Ry. Co. v. Lemons*, 109 Tex. 244, 206 S. W. 75, 4 A. L. R. 943; *Deterly v. Wells*, 53 S. W. (2d) 847; 9 R. C. L. 547.

0-2034 To: K. D. Hall, County Attorney, Refugio County
Date: March 12, 1940

The commissioners' court has no authority to lease grading equipment to a contractor to construct roads within the county. Art. 2372, Secs. 3, 4, V. A. C. S.; *Commissioners' Court v. Wallace*, 15 S. W. (2d) 535; Tex. Jur., V. 11, pp. 564 and 565; Letter Opinion, August 10, 1934.

0-2037 To: George H. Sheppard, Comptroller of Public
Accounts
Date: March 28, 1940

The Lower Colorado River Authority is a "political subdivision" of the State of Texas within Art. 7150, Sec. 4, V. A. C. S., and property owned by it is "public property used for public purposes" and is therefore exempt from State and county ad valorem taxes. Art. VIII, Sec. 2; Art. XVI, Sec. 59a, Constitution of Texas; Art. 8194, V. A. C. S.; *Bexar-Medina-Atascosa Counties Water Improvement District No. 1 v. State*, 21 S. W. (2d) 747; *Lower Colorado River Authority v. McCraw*, 83 S. W. (2d) 629; *Lower Colorado River Authority et al. v. Gulf Coast Water Company*, 107 S. W. (2d) 1101.

0-2038 To: M. O. Flowers, Secretary of State
Date: March 30, 1940

The filing fee for the renewal of a railroad company charter is \$200 plus fifty cents for each \$1,000 capital stock or fractional part thereof over and above the first \$100,000. Arts. 1315 (a), 1315 (b), 3914, R. C. S.

0-2039 To: M. O. Flowers, Secretary of State
Date: March 13, 1940

The purpose clause of the proposed charter of "Latin Sons of Texas" is not an educational undertaking within the purview of Art. 1302, Sec. 2, R. C. S. Opinions 0-1028, 0-1032; 0-1171.

0-2041 To: Julian Montgomery, State Highway Engineer
Date: March 26, 1940

The motor buses of All American Bus Lines, Incorporated, should be registered in Dallas County, the principal place of business of said lines, unless some of such buses are in the legal possession or legal control of an individual who resides in another county, and in such case said buses could be registered in such other county. Opinions 0-2050, 0-2105.

0-2042 To: W. Lee O'Daniel, Governor of Texas
Date: March 15, 1940

The Legislature of the State of Texas is the constituted governmental agency of the State to accept, by appropriate act, the lands ceded by the Congress of the United States to the State of Texas for the limited purposes enumerated to this department. Arts. 5331-5336, 5413, R. C. S.; Acts 1929, 41st Leg., R. S., S. R. 51.

0-2043 To: R. S. Wyche, County Auditor, Gregg County
Date: March 18, 1940

The compensation of court reporters serving in the 124th Judicial District Court and the Special District Court of Gregg County is governed by the provisions of Art. 2326b, V. A. C. S. Acts 1935, 44th Leg., R. S., H. B. 226; Art. 199, Sec. 124, R. C. S.

0-2045 To: George H. Sheppard, Comptroller of Public
Accounts
Date: March 20, 1940

The Comptroller of Public Accounts does not have authority to issue warrants against the \$25,000.00 contingent expense appropriation to the Board of Education for the payment of the premiums on fire insurance covering textbooks in storage belonging to the State of Texas. S. B. 427, Acts 46th Leg.; Opinions 0-201, 0-842, 0-1100, 0-1762.

0-2046 To: F. J. Moss, County Auditor, Montague County
Date: March 15, 1940

The commissioners' court has no authority to allow traveling and postage expenses of the county judge to be paid out of the general fund of the county when said officer is compensated on a fee basis. Art. 3899, V. A. C. S.

0-2047 To: W. K. McClain, Criminal District Attorney
Georgetown
Date: March 20, 1940

Where a highway patrolman arrests a person for speeding and this person appears before a justice court and pleads guilty and is fined \$1.00, the constable is not entitled to a release fee where he performs no services. The proper amount of fine and costs under such circumstances would be as follows: one dollar

for fine, five dollars for the county attorney, and four dollars for trial fee. Art. 1011, C. C. P.; Opinions 0-693, 0-768, 0-901, 0-963, 0-1189.

0-2049 To: R. G. Waters, Commissioner, Board of Insurance Commissioners

Date: March 27, 1940

The Board of Insurance Commissioners may not legally approve the plan of operation and endorsement as requested by the American General Insurance Company requiring that the endorsement be attached to policies for risks of given size or greater and may not be attached to risks of less than the given size. Arts. 4907, 4908, 4911, 4913, 4914, 4916, V. A. C. S.; Letter Opinion Dec. 18, 1926; Letter Opinion Dec. 16, 1938, expressly overruled.

0-2050 To: Julian Montgomery, State Highway Engineer
Date: March 18, 1940

A motor vehicle must be registered in the county of the owner's residence. (The owner may be a person who has either legal title, legal possession, or legal control.) Arts. 6675a-1, 6675-2, V. A. C. S.; Opinion 0-1950.

For motor vehicle registration purposes the residence of an individual is his legal residence or, in other words, his place of domicile or permanent abode; the residence of a corporation is the situs of its principal place of business; the residence of a partnership is that of the individuals comprising the partnership. Art. 6675a-2, V. A. C. S.

The county of residence of a foreign corporation which has been made a "resident" of Texas for registration purposes by the operation of Art. 827b, Sec. 1, P. C., by operating in Texas for more than 120 days a year is the county of its principal place of business in this State. The county of residence of a non-resident individual who has been made a "resident" in the above mentioned manner is the county of the principal place of his business or occupation or his principal place of abode.

If a passenger car complies with the provisions of Art. 6675a-6a, V. A. C. S., the owner of said car would be eligible to receive a "farm vehicle" license under the reduced rate provided in said article. Art. 6675a-1, Sec. i, V. A. C. S.

The county tax assessor-collector is unauthorized to accept scrip or other medium of exchange other than money in the payment of license fees. Opinion 0-774.

The Highway Department is the proper authority to determine disputed classifications of vehicles. Arts. 6675a, 6675a-3aa, 6675a-12, 6675a-13, V. A. C. S.

The Highway Department is without authority to refuse to furnish forms and license plates to a county based on a supposition that the county tax assessor-collector will violate the provisions of the Motor Vehicle Registration Law.

(See opinion for discussion of "ownership" of motor vehicles and for citation of additional authorities.)

0-2052 To: George H. Sheppard, Comptroller of Public Accounts
Date: March 28, 1940

A sheriff is entitled to no mileage fee for unsuccessful trips made in search of a person charged with a felony when such person is finally arrested. 35 Cyc. 1592; 57 C. J. 1112; Letter Opinion, June 28, 1927.

Where a sheriff agrees to pay a city marshal a certain sum to locate and deliver a prisoner to the jail in the county of the sheriff's residence, the sheriff is entitled to no mileage fee. Arts. 1029, 1030, 1031, C. C. P.; 34 Tex. Jur. 456; *McCalla v. City of Rockdale*, 46 S. W. 654.

0-2053 To: D. Richard Voges, County Attorney, Wilson County
Date: March 28, 1940

A sheriff is not entitled to compensation where he was not in attendance of the county court. However, a sheriff is entitled to compensation for each day he attends the county court while the court is actually in session if such attendance is necessary or required; in the absence of abuse of discretion, the county judge's decision as to whether or not such attendance is necessary would be controlling. Art. 3933, R. C. S.; Letter Opinion, Sept. 28, 1937; Opinion 0-966.

0-2054 To: A. N. Steinle, County Attorney, Atascosa County
Date: March 18, 1940

A newspaper which has not yet been organized for twelve months is not prohibited by Art. 212 (a), V. A. P. C., from accepting political advertisements from more than one candidate for public office, under the facts submitted to this department. Acts 1939, 46th Leg., R. S., H. B. 700, ch. 20, p. 251.

0-2059 To: Joe Kunschik, Commissioner, Bureau of Labor
Statistics

Date: March 23, 1940

As the construction of a lawn sprinkler system for the improvement of a highway is a "public work" within the meaning of Art. 5159a, V. A. C. S., it is the duty of the Highway Commission under the provisions of said article to ascertain the general prevailing wage rates in the county where the construction is to be done and to specify the same for each craft or type of workman or mechanic in its call for bids (conditioned by its power under Art. 6674p, V. A. C. S.), and the findings of the commission as to the prevailing wage rates are final. Arts. 6663, 6674k, V. A. C. S.; *Nairn v. Dees*, 121 Tex. 355, 48 S. W. (2d) 584; *Sherman v. Gage*, 279 S. W. 508; *Southern Prison Co. v. Rennels*, 110 S. W. (2d) 606; *Employers Casualty Co. v. Stuart Abstract Co.* (Com. App.), 1929.

0-2060 To: E. Y. Cunningham, County Auditor, Navarro
County

Date: March 28, 1940

A constable on a fee basis is entitled to the mileage fees of .07½c per mile allowed by Art. 1065, C. C. P., for travel in making an arrest in a misdemeanor case only when such travel is necessary and a conviction of the violator is obtained. *McCalla v. City of Rockdale*, 46 S. W. 654; 34 Tex. Jur. 456.

A constable on a fee basis is authorized to deduct the necessary expenses incurred in performing the duties of his office, including traveling expenses, out of his excess fees of office, provided he complies with Arts. 3891 and 3899a, V. A. C. S. Art. 3883, V. A. C. S.; Opinion 0-1866.

0-2062 To: Bert Ford, Administrator, Texas Liquor Control Board

Date: March 19, 1940

The term "front door," as used in Art. I, Sec. 25(a), p. 26, Texas Liquor Control Act, in regard to the sale of alcoholic beverages within three hundred feet of a public building, means any outside door facing or fronting a public street; therefore, under the facts submitted to this department the west door of the chapel in question is a front door within the meaning of the act. Art. 666-25a, V. A. P. C.; *Des Moines v. Dorr*, 31 Iowa 89, 93; *Re: Dinnick*, 3 Ont. W. N. 1061; 27 C. J. 910, Note 4(a); *Waters v. Collins*, 70 Atl. 984.

0-2063 To: Fred T. Porter, County Attorney, Kaufman
County
Date: March 18, 1940

A scheme whereby in substance a theatre pays \$25.00 to a person who files his application card with the theatre and whose card number is thereafter called by members of the audience is a violation of the lottery laws of this State. Art. III, Sec. 47, Constitution of Texas; Art. 654, P. C.; *City of Wink v. Griffith Amusement Company*, 100 S. W. (2d) 695; *Cole v. State*, 112 S. W. (2d) 725; *Smith v. State*, 127 S. W. (2d) 297; Opinion 0-1819. (See opinion for additional authorities.)

0-2064 To: George H. Sheppard, Comptroller of Public
Accounts
Date: March 20, 1940

The admissions charged for the theatrical performance sponsored by the City of San Antonio in connection with La Villita project (restoration and conversion of certain old houses into a training school to be conducted by said city) are exempt from the admission tax levied by Art. 7047a-19, V. A. C. S.

0-2066 To: Homer L. Moss, County Attorney, Wheeler
County
Date: March 18, 1940

The voters of an independent school district (as distinguished from common and consolidated independent school districts) are not entitled to vote for a county school trustee at large. Art. 2676, R. C. S.; Art. 2742-a, Sec. 8, V. A. C. S.; Acts 1932, 42nd Leg., 2nd C. S., Ch. 28, p. 108; Letter Opinion, Feb. 9, 1935.

A county school trustee at large is not required to reside in a common or consolidated independent school district, but may be a resident of an independent school district in the county from which he is elected. Art. 2677, R. C. S.

0-2068 To: Bert Ford, Administrator, Texas Liquor Con-
trol Board
Date: March 18, 1940

Art. II, Sec. 24 (1) (a) of the Texas Liquor Control Act prohibits the president and majority stockholder of a corporation holding a general beer distributor's license from leasing his individual real estate to a retail beer dealer. Art. 667-24, P. C.

0-2069 To: Julian Montgomery, State Highway Engineer
Date: March 23, 1940

The Highway Department does not have authority under Art. 827a, Sec. 11, P. C., to post signs indicating a safe speed in excess of the maximum legal speed of 45 miles per hour. Art. 827a, Sec. 8, P. C.

0-2071 To: Earl B. Stimson, County Attorney, Rockwall
County
Date: March 28, 1940

The County Attorney of Rockwall County may legally deduct the sum of one hundred and fifty (\$150.00) dollars paid as compensation to the assistant county attorney in determining said county attorney's maximum compensation as allowed by the provisions of Arts. 3883 and 3891, V. A. C. S. Arts. 331, 3902, V. A. C. S.; *Meek v. Wheeler County*, 125 S. W. (2d) 331, 39 Tex. Jur., Sec. 77, p. 145.

0-2074 To: Bert Ford, Administrator, Texas Liquor Control Board
Date: March 18, 1940

A sale of the corporate stock of a wine bottling corporation to the holder of a package store permit and for the purchase of corporate stock of such bottling corporation by the holder of a package store permit, are unlawful and against the public policy of this State. Art. 666-17, V. A. P. C.

0-2078 To: F. B. Caudle, County Attorney, Franklin
County
Date: March 23, 1940

If an official shorthand reporter is absent during a term of the district court for any of the reasons named in Art. 2323, V. A. C. S., and a substitute reporter is used under the direction of the court, the county is liable both to the official reporter for his official salary and fees and also to the substitute reporter for the same amount.

0-2079 To: George H. Sheppard, Comptroller of Public
Accounts
Date: March 28, 1940

The Comptroller of Public Accounts is not authorized to credit chain store taxes now owed by a corporation with the money erroneously paid in prior years by said corporation as chain

store taxes. Art. 1111d, V. A. P. C.; Art. 7057a, V. A. C. S.; *Hurt v. Cooper*, 130 Tex. 433, 110 S. W. (2d) 896; *Austin National Bank v. Sheppard*, 123 Tex. 272, 71 S. W. (2d) 424; *Manion v. Lockhart*, 131 Tex. 175, 114 S. W. (2d) 216; *State, use of Winston County, v. Tingle, Tax Collector*, 196 Ala. 505, 71 South. 991. (See opinion for additional citations.)

0-2082 To: George H. Sheppard, Comptroller of Public
Accounts

Date: March 22, 1940

The sum of \$3,000 is the maximum amount that the Sheriff-Tax Assessor-Collector of Crane County is allowed to retain for the year 1939. Art. VIII, Sec. 16, Constitution of Texas; Arts. 3883, 3895, 3934, 7246, R. C. S.; *Tarrant County v. Smith*, 81 S. W. (2d) 537; Letter Opinion, June 29, 1936; Conference Opinion 1713.

0-2085 To: H. A. Hodges, County Attorney, Williamson
County

Date: March 26, 1940

The division of the Road and Bridge Fund and the automobile license fees among the various county commissioners' precincts may be made either at a regular term or a special term of the county commissioners' court. Arts. 2348, 2354, 6675a, 6740, V. A. C. S.; Opinion 0-1091.

0-2087 To: J. P. Bryant, County Attorney, Brazoria
County

Date: March 28, 1940

The term "physical plant" as used in Art. 212a, P. C., regulating political advertisements in newspapers was intended by the Legislature to include the physical equipment necessary in the publication of a particular newspaper. Acts 1939, 46th Leg., H. B. 700, Secs. 1, 3.

0-2101 To: Julian Montgomery, State Highway Engineer
Date: March 22, 1940

Since the Highway Department has determined that the buses of All American Bus Lines should be registered in Dallas County, it is the duty of said department to supply the Tax Collector of Dallas County with license plates for the registration of such buses, and said department would be unauthorized to send such plates to the other county in question requesting them. Opinion 0-2050.

0-2105 To: Julian Montgomery, State Highway Engineer
Date: March 22, 1940

The terms "legal right of possession" and "legal right of control" as used in the motor vehicle registration statute means possession or control with a degree of permanency throughout the registration year. Such terms preclude a person who has only the physical possession or physical control, but include a person who has all rights in the motor vehicle as to its control and operation, use, and management, but who does not have legal title. Arts. 6675a-1, 6675a-2, V. A. C. S.; *Williams v. State*, 75 N. E. 875; *Quist v. Hill*, 99 Pac. 204; *Baughman v. Milstone*, 125 Atl. 69; Words & Phrases (5th Series), Ch. 3, p. 947; Opinion 0-2050.

0-2240 To: Homer Garrison, Jr., Director, Department of
Public Safety
Date: March 22, 1940

The Department of Public Safety has authority to pay for the services of experts to prepare courses of study and teach in a police training school at Camp Mabry out of its maintenance and miscellaneous appropriation. S. B. 427, Acts 46th Leg.; Art. 4413 (17), R. C. S.

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