

MONTHLY REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF TEXAS

OPINIONS RENDERED

SEPTEMBER 1, 1944

To

SEPTEMBER 30, 1944



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GROVER SELLERS
ATTORNEY GENERAL

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ATTORNEY GENERAL

0-5915 To: William J. Tucker, Game, Fish and Oyster Commission
Date: September 21, 1944

The act of the Commissioner of the General Land Office in awarding Green Lake to Elmer Yates in 1918 is void and of no force or legal effect. Neither was such sale validated by the subsequent enactment of the "Small Bill." Acts 1911, 32nd Leg., Ch. 68; Arts. 1591, 3980, R. C. S. 1911; Arts. 5414a, Secs. 1, 2, 5329, Subsec. 4, V. A. C. S.; *Welder v. State*, 196 S. W. 868. (See opinion for citation of additional authorities.)

0-5960-B To: Sidney Latham, Secretary of State, Austin
Date: September 19, 1944

This opinion concerns the authority of the Secretary of State to issue a charter to a corporation whose purpose clause is too indefinite and vague to permit the Secretary of State to safely infer that such purpose clause comes entirely within any particular and single section of the purpose statute. Art. 1302, Secs. 53, 83, V. A. C. S.; *Johnston v. Townsend*, 124 S. W. 417, 103 Tex. 122; Opinion 0-5960-A.

0-5975 To: Luther Robertson, County Auditor, Matagorda County
Date: September 22, 1944

This opinion concerns whether the surplus funds accumulated prior to October, 1935, under Ch. 48, Acts 1923, 38th Leg., 1st, 2nd and 3rd C. S., belong to the Matagorda Conservation and Reclamation District No. 1 or to the State of Texas. Acts 1935, 44th Leg., 1st C. S., Ch. 402; *City of Austin v. Cahill*, 88 S. W. 542; *Moore v. Coffman*, 200 S. W. 374.

0-5996 To: O. P. Lockhart, Chairman, Board of Insurance Commissioners
Date: September 26, 1944

This opinion concerns the right of mutual assessment associations to levy annual assessments in advance against the policies of their members, with provision that the amount of the annual assessment may be paid in periodic installments, and that at the death of the insured, the unpaid installments of the annual premium will be deducted from the face amount of the policy. Arts. 4784-4799, 4859f, Secs. 1, 9, 11, 12, 13, 4860a-18, 4875a-1-4875a-31, 5068-1, Secs. 9, 11, 13, 15, 17, V. A. C. S.

0-6030 To: C. H. Cavness, State Auditor, Austin
Date: September 21, 1944

It is the duty of the Teacher Retirement System to accept the State's general revenue warrants in payment of contributions to the retirement fund on behalf of eligible employees of state schools, institutions and departments who are paid in whole or in part from appropriations from the general revenue fund, even though such warrants are not collectible at par. Art. 2922-1, V. A. C. S.; Opinion 0-5492, modified.

0-6046 To: D. C. Greer, State Highway Engineer, Highway
Department
Date: September 8, 1944

Motor buses which, while operating from an incorporated town to an army camp, pass through another incorporated town must have regular bus licenses. Motor buses which do not pass between or through two or more incorporated cities, towns, or villages within the State should be equipped with passenger car licenses. Arts. 6675a-1, Secs. a, b, j, m, n, 6675a-2, V. A. C. S.

0-6048-A To: C. H. Cavness, State Auditor
Date: September 27, 1944

Members of the State Board of Registration for Professional Engineers, with the exception of the Secretary, may receive per diem compensation for duties performed apart from the meetings of the Board, provided such duties are performed at the direction of the Board. Art. 3271a, Secs. 12, 14, 22, V. A. C. S.; Opinion 0-6048 overruled in part.

0-6068 To: George H. Sheppard, Comptroller of Public Ac-
counts
Date: September 22, 1944

Under the facts submitted, the agent of the oil company in question is a "motor carrier" or "contract carrier" and, therefore, subject to the gross receipts tax provided in Art. 7066b, R. C. S. Sec. 911b, R. C. S.; *Trimmier v. Carlton* (Supreme Court) 296 S. W. 1070.

0-6071 To: George H. Sheppard, Comptroller of Public Ac-
counts
Date: September 27, 1944

This opinion concerns the authority of the Comptroller of Public Accounts to issue warrants in payment of claims made against fees appropriated under H. B. 20, Acts 1943, 48th Leg.,

R. S., which has been declared invalid by the Court of Criminal Appeals. Arts. 1807, 4512, a-1-a-18, V. A. C. S.; Art. 849, V. A. C. C. P.; Opinion 0-4715. (See opinion for citation of additional authorities.)

0-6074 To: John H. Winters, Executive Director, Department of Public Welfare
Date: September 13, 1944

This opinion concerns an interpretation of "residence" requirements for employees of the Department of Public Welfare under H. B. 611, Sec. 4 (7), Acts 1941, 47th Leg., R. S., which provides that all employees of the Department shall have been residents of the State of Texas for a period of at least four years next preceding their appointment. (See opinion for citation of authorities.)

0-6082 To: Lloyd G. Bouldin, County Attorney, Palo Pinto County
Date: September 21, 1944

The county tax collector is the only person who has the authority to give written consent, in behalf of the State, for the sale of property under tax judgments for less than the adjudged value, or the amount of the judgment. Arts. 7345b, Sec. 9, 7345d, V. A. C. S.; *Wichita Electric Co. v. Hinckley*, 131 S. W. 1192.

0-6092 To: O. P. Lockhart, Chairman, Board of Insurance Commissioners
Date: September 23, 1944

A Fraternal Benefit Society operating under Chapter 8, Title 78, V. A. C. S. is not authorized to issue health and accident policies to persons not members of the society. The term "members" may include a juvenile of any age eligible under the laws of the society.

The minimum membership requirement of four hundred persons as mentioned in Art. 4838, Sec. 4 and Art. 4852, V. A. C. S., means four hundred members holding death benefit certificates to the exclusion of any other person. Arts. 4820, 4822, 4824, 4825, 4834, 4838, V. A. C. S. (See opinion for citation of additional authorities.)

0-6098 To: Clifford B. Jones, President, Texas Technological College
Date: September 11, 1944

Texas Technological College does not have the authority to execute a marketing contract and thus become a member of the Texas Certified Seed Grower's Association. Arts. 2629, 2631, V. A. C. S. (See opinion for citation of additional authorities.)

0-6101 To: O. P. Lockhart, Chairman, Board of Insurance Commissioners
Date: September 19, 1944

The contract in question for personal medical services is an insurance contract and the issuance of it is subject to the supervision of the Board of Insurance Commissioners. Acts 1939, 46th Leg., R. S., H. B. 626; Acts 1941, 47th Leg., R. S., H. B. 996; Arts. 4716, 4859f, V. A. C. S. (See Opinion for citation of additional authorities.)

0-6115 To: Honorable Pat Edwards, District Attorney, Dallas, Texas
Date: September 27, 1944

This opinion concerns the following relative to property sold by the State for delinquent taxes subsequent to the two year redemption period: (1) distribution of money received at sale in excess of amount of judgment, interests, and costs of suit; (2) the manner in which the tax collector should receipt the sheriff for the amount turned over to him as proceeds from a tax sale; (3) whether or not state and county taxes become delinquent for years subsequent to the years covered by a judgment in favor of the state and purchased by the state but prior to a second sale by the state after the period of redemption has expired. Arts. 7345b, 7345b, Sec. 9, *Booty, et al., v. State*, 149 S. W. (2d) 216; Opinions 0-3729, 0-5506, 0-5668, 0-6000.

0-6119 To: Frank D. Quinn, Executive Secretary, State Parks Board
Date: September 7, 1944

Money derived by the State Parks Board from the sale of some Longhorn calves must be deposited in the General Revenue Fund. Art. 666, V. A. C. S.

0-6120 To: Weaver H. Baker, Chairman, Board of Control
Date: September 13, 1944

The repeal of Arts. 138, 158, and 159, Complete Texas Statutes, 1920, by the Legislature did not and could not ex-

tinguish the liabilities theretofore owing the State by non-indigent public patients by reason of their support and maintenance while in the lunatic asylum. Art. III, Sec. 55, Art. XVI, Sec. 54, Constitution of Texas; Acts 1925, 39th Leg., H. B. 249, Ch. 174. (See opinion for citation of additional authorities.)

0-6127 To: W. A. Davis, State Registrar, Board of Health
Date: September 13, 1944

A judge of a district court, with the consent of all parties, would have the authority to order the issuance of certified copies of birth certificates of illegitimate children during vacation. Arts. 1915, 4477, Rule 47a, Sec. 25, V. A. C. S. (See opinion for citation of additional authorities.)

In the issuance of such an order, the jurisdiction of the district judge is not limited to the county in which the petition originates or in which the birth occurred.

0-6128 To: George H. Sheppard, Comptroller of Public Accounts
Date: September 27, 1944

Where the same person or concern is both producer of gas and operator of a recycling plant, the tax should be based upon the market value of $\frac{3}{5}$ of the condensate or distillate extracted, separated and saved from such gas and not upon the market value of the refined finished product. Arts. III, Sec. 35, VIII, Secs. 1, 2, Constitution of Texas; Arts. 7047b, 7057a, V. A. C. S.; Opinion 0-5868.

Where the producer and the operator of a recycling plant are not the same, the contract between the producer and the operator of the cycling plant will set the unit value of the product on which the tax is to be based. *W. R. Davis, Inc. v. State*, 180 S. W. (2d) 429; Opinion 0-3817 overruled in part.

Where the concern is both producer and operator of the recycling plant and it is found that such concern has failed to remit the proper tax, the audit fee provided in Sec. 5, Art. 7047b, V. A. C. S., may be charged.

0-6133 To: Bayne Satterfield, Firemen's Pension Commissioner
Date: September 7, 1944

The local Firemen's Pension Board does not have the authority to refuse further membership and participation in the disability and retirement system to a fireman who has previously suffered a physical incapacity. Art. 6243e, Secs. 6, 7, 8, 19, 26, V. A. C. S. (See opinion for citation of additional authorities.)

0-6135 To: Board of Regents, State Teachers Colleges of
Texas
Date: September 22, 1944

A member of the Board of Regents for the Texas State Teachers Colleges, who is now serving in the Armed Forces, is entitled to receive five dollars per day for the time spent attending the meetings of the Board and the amount of his traveling expenses from his legal residence to Austin and return, but is not entitled to expenses incurred while traveling from the naval base where he is now stationed to Austin and return. Art. XVI, Sec. 14, Constitution of Texas; Art. 2647, Sec. 6, V. A. C. S.

0-6138 To: George H. Sheppard, Comptroller of Public Accounts
Date: September 11, 1944

Under the facts stated, the State Tax Board may certify intangible assessment found on carriers engaged in business as common carriers on January 1. Acts 1941, 47th Leg., R. S., H. B. 8; Art. 7105, V. A. C. S.; *Cadena v. State*, 185 S. W. 367; *Masterson v. Hedley*, 265 S. W. 406; 61 C. J. 564; Opinions 0-3546, 0-4441.

0-6138-A To: George H. Sheppard, Comptroller Public Accounts
Date: September 11, 1944

The State Tax Board has the authority to certify intangible assessments found on carriers engaged in business as common carriers that should have been certified in previous years, but which were inadvertently omitted from assessment. Acts 1941, 47th Leg., R. S., H. B. 8; Arts. 7105, 7110, 7113, V. A. C. S. Opinion 0-6138. (See opinion for citation of additional authorities.)

0-6141 To: W. B. King, Accountant, Joint Legislative Committee
Date: September 27, 1944

Since the President and Secretary of the Board of Trustees of the Midway Independent School District did not submit a proper application for rural aid prior to October 1, the Legislative Accountant does not have the authority to approve said application. Acts. 1943, 48th Leg., R. S., H. B. 176, Art. 2, Secs. 1, 2; 39 Tex. Jur., 119; Opinion 0-5423.

0-6143 To: O. P. Lockhart, Chairman, Board of Insurance
Commissioners
Date: September 8, 1944

The purpose clause of the charter of the General Insurance Corporation of Fort Worth is insufficient to authorize the writing of Workman's Compensation Insurance. Arts. 4969, 4989, Subdivs. 1-11, 8306-8309, V. A. C. S.

0-6148 To: O. P. Lockhart, Chairman, Board of Insurance
Commissioners
Date: September 8, 1944

The Union Reserve Life Insurance Company has the legal authority to issue and sell the debentures in question, which are mere evidences of the money borrowed by said company. Arts. 4716-4764a, V. A. C. S.; Opinions 0-1814, 0-5546.

0-6150 To: Maco Stewart, Vice-President, Board for Vocational Education
Date: September 21, 1944

The purchase of prosthetic appliances for patients of the Vocational Rehabilitation Division need not be made through the Board of Control. Acts 1935, 44th Leg., R. S., S. B. 502; Opinion 0-2771.

0-6152 To: G. A. Neal, County Auditor, Ellis County
Date: September 23, 1944

The salary of the stenographer in the county attorney's office cannot be increased from the General Fund, even after taking over the added duties of assistant to the delinquent tax collector. Arts. 1312 (e), Secs. 4, 6 (b), 3902, V. A. C. S.

0-6158 To: George H. Sheppard, Comptroller of Public Accounts
Date: September 13, 1944

This opinion concerns the form of deed to be executed by a sheriff to the State where his predecessor in office failed to execute the deed in a delinquent tax sale. Art 7330, V. A. C. S.

0-6159 To: George H. Sheppard, Comptroller of Public Accounts
Date: September 18, 1944

The subsidy now being paid by the Federal Government to producers of oil from stripper wells in the State of Texas is

subject to the tax levied by the State upon the occupation of producing oil under the provisions of Sec. 2, Art. 7057a, V. A. C. S. (See opinion for citation of authorities.)

0-6162 To: Karl L. Lovelady, Chairman of the Committee
on Education in the Senate
Date: September 27, 1944

The supplemental per capita apportionment of \$4.00, which was granted by the State Board of Education for the scholastic year of 1943-44, must be listed as receipts in the budget.

School districts eligible to receive salary aid as now provided by law cannot disregard the salary schedule and length of term provisions of Sec. 2, Art. 3, H. B. 176, Acts 1943, 48th Leg. Art. VII, Sec. 5, Constitution of Texas; Opinions 0-6105.

0-6164 To: James W. Simpson Sr., County Attorney, Concho
County
Date: September 21, 1944

This opinion concerns the following: (1) the amount that the sheriff in a fee county may charge for automobile and traveling expenses; (2) whether the publication of the delinquent tax record is discretionary or mandatory upon the commissioners court. Arts. 3889(a), 7346, 7347, 7349, R. C. S.; Opinion 0-3194.

0-6169 To: Sam H. Davidson, County Attorney, Hockley
County
Date: September 23, 1944

When a former tax collector of an independent school district failed to credit upon the tax rolls certain school taxes paid, his successor, when so authorized by the school board, may make entries showing such taxes paid upon presentation of tax receipts. In such instance, no liability would be assumed by the present tax collector for performing such authorized ministerial acts. Arts. 7257, 7258, R. C. S.

0-6170 To: O. P. Lockhart, Chairman, Board of Insurance
Commissioners
Date: September 8, 1944

Mutual assessment, health and accident companies or associations operating under Chapter 6, Title 78, V. A. C. S., cannot legally amend their by-laws to permit proxy voting by the mem-

bers of such companies or associations. Arts. 4718, 4789, 4803, 4860a-18, 5068-1, Secs. 1, 18, 25. (See opinion for citation of additional authorities.)

0-6171 To: William F. Jackson, County Attorney, Waller County

Date: September 27, 1944

It is the legal duty of the commissioners' court of Waller County to call a county-wide stock law election upon the written petition of one hundred or more freeholders of said county. Arts. 6954, 6964, V. A. C. S.

0-6172 To: John C. Marburger, County Attorney, Fayette County

Date: September 7, 1944

The assessor's fees for assessing taxes for the general fund, jury fund, and road and bridge fund should be charged proportionately to the respective funds. Art. 3912e, Secs. 1, 5; Opinion 0-2499.

0-6175 To: H. L. Roberson, County Attorney, Winkler County

Date: September 8, 1944

All persons who have paid a poll tax and who own taxable property, either real or personal, are qualified to vote in a county bond election whereby a lien is created on the real estate of said county. Art. VI, Sec. 3a, Constitution of Texas; Arts. 2955a, 2955b, R. C. S.

A county does not have the authority to purchase merely the surface right to a tract of land to be used as a park. Acts 1941, 47th Leg., R. S., Ch. 270; Art. 6078, V. A. C. S.

0-6176 To: Ben L. King, County Attorney, Burnet County

Date: September 13, 1944

Under the provisions of Art. 948, V. A. P. C., a game warden has the legal right to destroy seines found in the lakes or river of Burnet County when said seines are over twenty feet in length with mesh less than three inches square.

0-6177 To: J. C. Roberts, Chief, Bureau of Records and Identification, *Texas Prison System*

Date: September 21, 1944

This opinion concerns the procedure to be followed when a jailer refuses to deliver a properly sentenced prisoner to the

Prison System Transfer Agent. Art. 6166r, R. C. S.; Art. 767, C. C. P. (See opinion for citation of additional authorities.)

0-6180 To: Tom Seay, County Attorney, Potter County
Date: September 8, 1944

The commissioners' court does not have the authority to allow a county commissioner compensation for operating a grader in addition to his regular compensation as a county commissioner. Art. III, Sec. 44, Constitution of Texas; Arts. 1928, 2340, 2350, 2351, V. A. C. S. (See opinion for citation of additional authorities.)

0-6181 To: D. W. Burkhalter, County Attorney, Throckmorton County.
Date: September 7, 1944

In the prosecution of a case for the unlawful transportation of intoxicating liquor in a dry area, it is unnecessary to charge in the complaint, information, or indictment that the liquor was transported for the purpose of sale. Neither is it necessary in such a case that the judge instruct the jury that the transportation must be for the purpose of sale to be unlawful. The fact that said liquor does not belong to the person transporting it cannot legally affect his guilt or innocence or enable him to escape the penal consequences for such transportation. Arts. 666-4(b), Sec. 41, 666-23a, Subdiv. 1, V. A. P. C. (See opinion for citation of additional authorities.)

0-6183 To: G. A. Neal, County Auditor, Ellis County
Date: September 22, 1944

A county does not have the authority to recover excess salaries paid to the county attorney under a mutual mistake of law. (See opinion for citation of authorities.)

0-6184 To: Wayne Lefevre, County Auditor, Clay County
Date: September 21, 1944

The State has no claim on the balance at the end of the year of the funds of a rural school which has received no state aid, and such balance may be invested in government bonds. Opinion 0-5785.

It is necessary for such school to make out a budget for each year. Art. 689a-18, V. A. C. S.

0-6186 To: H. A. Jamison, Commissioner of Banking
Date: September 14, 1944

This opinion concerns whether or not the Banking Commission may make its approval of the application for a new bank conditional. Acts 1943, 48th Leg., H. B. 79 (Ch. 97), Ch. 3, Arts. 3, 5.

0-6188 To: Lee Curtis, County Attorney, Bell County
Date: September 21, 1944

The life income bequest in question is an "annuity," and is taxable under the inheritance tax laws. Arts. 7117, 7123, V. A. C. S. (See opinion for citation of additional authorities.)

0-6189 To: C. J. Wilde, County Auditor, Nueces County
Date: September 13, 1944

Nueces County can pay for constructing a sewer line to drain excess water from the grounds of the city-county hospital out of the proceeds of bonds voted to defray the expense of establishing, erecting, and equipping said city-county hospital. *Moore v. Coffman*, 200 S. W. 374; *Black v. Strength*, 246 S. W. 79; *Aransas County v. Coleman Fulton Pasture Company*, 191 S. W. 556.

0-6190 To: T. M. Trimble First Assistant State Superintendent of Public Instruction
Date: September 21, 1944

A common school district would not be prevented from becoming an independent school district simply because it has less than one hundred fifty scholastics. In the event said school district becomes an independent district, it may have its own assessor and collector of taxes. Art. 2742j, Sec. 1; *Avery v. Cooper*, 107 Texas 483; 180 S. W. 734.

0-6191 To: C. J. Wilde, County Auditor, Nueces County
Date: September 15, 1944

The maximum compensation of the Veteran's County Service Officer cannot legally exceed \$100.00 per month and the maximum compensation of any Assistant Veterans County Service Officer cannot legally exceed \$50.00 per month. Acts 1943, 48th Leg., R. S., H. B. 368 (Art. 5798A-1, V. A. C. S.); 34 Tex. Jur., pp. 511, 524.

0-6192 To: C. J. Wilde, County Auditor, Nueces County
Date: September 13, 1944

This opinion concerns the expenditure of county funds in connection with primary elections, Arts. 2340, 2956, 2996, V. A. C. S.; 16 Tex. Jur. 81, Sec. 65; *Waples v. Marrast*, 108 Tex. 5, L. R. A. 1917A, 253, 184 S. W. 180; *Beene v. Waples*, 108 Tex. 140, 187 S. W. 191.

0-6194 To: W. P. Herms, Jr., County Auditor, Waller County
Date: September 21, 1944

The collection of delinquent taxes on Road District and School Districts is barred by limitation after ten years; however, it is necessary for the delinquent taxpayer to properly plead any limitation to which he may deem himself entitled. Acts 1931, 42nd Leg., Ch. 252; Arts. 5540, 7298, V. A. C. S.

0-6197 To: John C. Bianchi, County Auditor, Victoria County
Date: September 23, 1944

The buildings and grounds of Yucca Heights Reservation, the title of which is in the name of the War Department, are not taxable for school, state or county purposes. Acts 1943, 48th Leg., R. S., H. B. 520; Art. 7150, V. A. C. S.

0-6199 To: Weaver H. Baker, Chairman, Board of Control
Date: September 27, 1944

When a prisoner, who after having been duly delivered to the penitentiary officials by authority of the judgment of a district court, and a *capias* issued thereunder, becomes insane, the county court of Walker County is the only county court having jurisdiction in such lunacy proceedings. After such a trial, the County Judge of Walker County has the authority to commit the insane convict to a state hospital for the insane. Art. 3186a, V. A. C. S.; Arts. 921, 922, 928, C. C. P.; Art. 34, P. C.; *Mc Kibben v. State*, 140 Tex. Cr. R. 1, 148 S. W. (2d) 423; Opinion 0-5392.

0-6200 To: Murrell L. Buckner, Chairman, Game, Fish and Oyster Commission
Date: September 23, 1944

A game warden would not have to resign his position in order to be a candidate for a county office. Art. 1, Secs. 2, 3, 19, Art V, Sec. 23, Art. XVI, Sec. 30, Constitution of Texas; Acts 1943, 48th Leg., R. S., H. B. 393 (Ch. 251); Arts. 2927,

2929a, 6685, V. A. C. S.; Art. 978m, P. C.; 9 Tex. Jur., Sec. 116, p. 552; 34 Tex. Jur., Sec. 14, p. 341-342; *Burroughs et al, v. Lyles, County Chairman, et al*, 181 S. W. (2d) 570.

0-6203 To: Sidney Latham, Secretary of State
Date: September 21, 1944

The federal war ballots of each county cannot all be legally tabulated in one precinct of said county but must be tabulated in the precinct where the voter has his legal residence and is entitled to vote. Arts. 2936, 2956, V. A. C. S. Acts 78th Congress, Public Law 277.

0-6204 To: Sidney Latham, Secretary of State
Date: September 25, 1944

This opinion concerns the procedure of the Republican Party to have its candidates appear on the general election ballot. Arts 3154-3158, V. A. C. S.; *Morris v. Mims*, 224 S. W. 587; *Sterling v. Ferguson*, 55 S. W. 2d, 753; Opinion 0-2188.

0-6205 To: Sidney Latham, Secretary of State
Date: September 15, 1944

A person nominated in the first democratic primary for the office of state senator, who wishes to decline his nomination, should file his declination with the county clerks of the counties comprising his senatorial district rather than with the Secretary of State. Arts. 3118, 3138, 3165, V. A. C. S.

Upon the death of a democratic nominee for the position of district judge, the nomination for such a position must be made by the district executive committee of the judicial district involved. Art. 3165, V. A. C. S.

0-6206 To: Sidney Latham, Secretary of State
Date: September 18, 1944

Where a district judge resigns after the primary election at which there was no nomination for such position, there appears to be no way that a person may get his name placed upon the ballot as a candidate for district judge. "Write-in" votes are valid generally and a candidate may be elected in this manner. Art. IV, Sec. 12, Art. V, Sec. 28, Art. XVI, Sec. 27, Constitution of Texas; Arts. 19, 2953-A, 3112, 3165, V. A. C. S.

0-6207 To: T. M. Trimble, First Assistant State Superintendent of Public Instruction
Date: September 22, 1944

The commissions that the tax assessor-collector receives for assessing and collecting taxes for common school districts must be deposited in the Officers' Salary Fund. Arts. 2795, 3912e, Secs. 3, 5, V. A. C. S.

0-6208 To: D. H. Utley, County Auditor, Clay County
Date: September 27, 1944

Where a taxpayer gave his personal check (which was returned unpaid by the bank) to the tax collector in payment of taxes and was given a receipt, the owners of the land are liable for the taxes, penalty and interest because of non-payment and the county and state have the legal right to enforce its tax lien by reason of the non-payment of the taxes before delinquency. (See opinion for citation of authorities.)

0-6212 To: E. Y. Cunningham, County Auditor, Navarro County.
Date: September 23, 1944

It is the duty and responsibility of Navarro County to furnish the election supplies necessary to hold the special election for State Senator, which was called by the Governor. Opinions 0-610, 0-4872.

0-6214 To: Paul H. Stanford, Criminal District Attorney
Canton
Date: September 27, 1944

When a vacancy occurs in the Board of Trustees of an incorporated district having fewer than one hundred and fifty scholars, it should be filled for the unexpired term by the members of the board remaining after the vacancy. Arts. 2745, 2763, 2777, R. C. S.

0-6217 To: L. C. Heard, County Auditor, Bell County
Date: September 27, 1944

The sheriff of Bell County is entitled to compensation from the county for transporting an insane person from said county to the hospital at Wichita Falls, even though the committing judge should have committed the patient to the Austin rather than the Wichita Falls institution. Arts. 3188, 3194, R. C. S.

0-6221 To: John C. Marburger, County Attorney, Fayette
County

Date: September 23, 1944

A county tax assessor-collector may not legally appoint as his deputy his first cousin. He may, however, appoint as his deputy a brother-in-law of one of the members of the commissioners' court. Art. 3902, V. A. C. S.; Art. 432, P. C.; Opinion 0-1954.

0-6222 To: Mrs. Ella Mae Murphy, Member, State Board of
Hairdressers and Cosmetologists

Date: September 27, 1944

The State Board of Hairdressers and Cosmetologists has the authority to require applicants for licenses to file their applications fifteen days prior to the first day of the examination, but it can not require a student to complete 1000 hours in not less than six months, nor take a final examination, graduate, and be issued a diploma from a recognized beauty school before making application to the board for examination. Art. 734b, Secs. 4(b), 9, 11(a), 15(a), V. A. C. S.

0-6227 To: Temple Shell, County Attorney, Wichita County
Date: September 27, 1944

The County Judge of Wichita County does not have the legal authority to appoint a court reporter for the County Court of said county. Acts 1933, 43rd Leg., R. S., Ch. 65; Arts. 1970-153, 1970-166, 1970-166a, 1970-329, 2321, 2326c, 2327, 2327a-1, 2327b, 2327b-1, V. A. C. S.

I N D E X

CONSTITUTION AND STATUTES CITED AND CONSTRUED

CONSTITUTION OF TEXAS

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