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MONTHLY REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF TEXAS

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GROVER SELLERS
ATTORNEY GENERAL

VOLUME 6, NO. 10

OCTOBER, 1944

MONTHLY REPORT
OF THE
ATTORNEY GENERAL
OF THE
STATE OF TEXAS

OPINIONS RENDERED

OCTOBER 1, 1944

To

OCTOBER 30, 1944



GROVER SELLERS
ATTORNEY GENERAL

0-5467 To: John H. Winters, Executive Director, Department
of Public Welfare
Date: October 24, 1944

This opinion concerns an interpretation of S. B. 250, Acts 1943, 48th Leg., R. S., concerning the destruction of certain obsolete records. Art. III, Sec. 35, Constitution of Texas.

0-5758 To: T. M. Trimble, First Assistant State Superin-
tendent of Public Instruction
Date: October 27, 1944

This opinion concerns the dissolution of a county line consolidated school district. Art. 2815, R. C. S., as amended; *County School Trustees of Runnels County et al., v. State et al.*, 95 S. W.; (2d) 1001.

0-5873 To: J. P. Gibbs, Casualty Insurance Commissioner,
Board of Insurance Commissioners
Date: October 4, 1944

This opinion concerns control by the Board of Insurance Commissioners over workmens' compensation rates. Acts 1913, 33rd Leg., ch. 179; Acts 1917, 35th Leg., ch. 103; Arts. 4907-4918, 4682, 8306, 8307, 8308, Secs. 2, 10, 13, 16, 17, 18a, 20, 21, 8309, V. A. C. S.; Arts. 578, 580, P. C.; Letter Opinions to J. J. Timmons, 12/18/26; W. S. Pope, 2/23/32; R. G. Waters, 6/24/35; R. G. Waters, 9/28/38; R. G. Waters, 12/16/38.

0-5953 To: Marion McGee, County Auditor, Hays County
Date: October 28, 1944

The county judge or a justice of the peace, in the absence of the county attorney or his disability to act, may appoint a county attorney pro tem to perform the services of the county attorney, and he is entitled to the same compensation as that to which the county attorney would ordinarily be entitled for the performance of such duties. Arts. 326K-3, 326L, 331, 3902, V. A. C. S.; Art. 31, V. A. C. C. P.; Opinions 0-3448, 0-4979, 0-5414, 0-5605.

0-5963 To: Bascom Giles, Commissioner, General Land Office
Date: October 4, 1944

A foreign corporation without a permit to do business in Texas cannot execute an oil and gas lease as agent of the State upon unpatented mineral reserved school land. Art. 4287, R. C. S.;

1895; Art. 5432, R. C. S., 1911; Arts. 1533, 1534, 5306, 5367-6382, R. C. S., 1925; *Lufkin Land and Lumber Company v. Terrell*, 100 S. W. 134; Letter Opinions of September 3, 1909, January 19, 1910, May 23, 1911, January 18, 1912, February 26, 1913, July 19, 1920.

0-5965 To: Gibb Gilchrist, President, Agricultural and Mechanical College of Texas

Date: October 24, 1944

The minor in question whose parents live outside this State but who has been legally adopted by residents of Texas, is entitled to register in the Agricultural and Mechanical College of Texas as a resident student. Art. 46, Sec. 9, Art. 2654c, V. A. C. S.

0-6013 To: George H. Sheppard, Comptroller of Public Accounts

Date: October 27, 1944

This opinion concerns the distribution of money collected at a tax sale in excess of the taxes, penalty, interest and cost due on the property sold. Arts. 7328, 7345b, Secs. 8, 13. (See opinion for citation of additional authorities.)

0-6029 To: William J. Tucker, Executive Secretary, Game, Fish and Oyster Commission

Date: October 2, 1944

This opinion concerns the criminal liability of railroad and express companies or their agents for having in their possession fish of an illegal size, where they accepted the fish solely for the purpose of shipment from seller to purchaser. Arts. 900-904, V. A. C. S.; Arts 929, 941, Sec. 1e, P. C.; Opinion 0-2689. (See opinion for citation of additional authorities.)

0-6034 To: George H. Sheppard, Comptroller of Public Accounts

Date: October 27, 1944

A shipment of cement ordered from a Texas manufacturer by rail carrier for ultimate delivery to itself outside of Texas is not subject to the occupation tax levied by Subdiv. 41, Art. 7047, V. A. C. S.; Opinion 0-5843.

0-6045 To: Sidney Latham, Secretary of State
Date: October 4, 1944

The application of the Indiana Farm Bureau Co-operative Association, Inc., a marketing association, to do business in this State should be approved and such association should be required to pay the franchise tax levied by this State. Said association may not, however, engage in the oil business or in any other purpose not specifically mentioned in Art. 5740, V. A. C. S. Acts 1943, 48th Leg., R. S., H. B. 295; Arts. 1529, 1532, 5740, 5742, 5744, 5763, 5764, 7084, 7094, V. A. C. S.

0-6052 To: Ernest Guinn, County Attorney, El Paso County
Date: October 4, 1944

The Governor, upon the favorable recommendation of the Board of Pardons and Paroles, has power to restore the right to operate a motor vehicle upon the public highways to a person who has been convicted for the offense of driving while intoxicated. Art. 6687a, Sec. 16(a), V. A. C. S.; Arts. 802, 802b, 802c, V. A. P. C. (See opinion for citation of additional authorities.)

0-6065 To: Sidney Latham, Secretary of State
Date: October 10, 1944

The Securities Division of the Office of Secretary of State is not authorized to issue a real estate salesman's license to any applicant who fails to show that he is to be employed by a licensed real estate dealer. Art. 6573a, Secs. 2, 3, V. A. C. S.

0-6072-A To: George H. Sheppard, Comptroller of Public
Accounts
Date: October 23, 1944

This opinion concerns the expenses of a district judge in the county of his residence for telephone rental and long distance telephone calls in a district comprising two or more counties. Art. 6820, R. C. S.; *American Indemnity Company v. City of Austin*; 246 S. W. 1619, *Hamilton v. Rathbone* (U. S.) 44 Law Ed. 219.

0-6075 To: J. C. Hamilton, County Auditor, Ector County
Date: October 27, 1944

Under the provisions of H. B. 336, Acts 1943, 48th Leg., R. S., the commissioners' court is authorized to expend surplus funds

remaining in the Road Bond Sinking Fund after all of the bonds and interest thereon have been paid for the purpose of construction, maintenance, and operation of macadamized, graveled or paved roads and turnpikes or in aid thereof. Where all of the bonds and interest thereon have not been paid but the total obligations (total bonds and interest still outstanding against said sinking fund) are less than the assets of said sinking fund (total amount of cash and investments combined), the funds cannot be used for any purpose except to pay the interest on outstanding bonds or for redeeming same, or for the investment in securities as provided by law. Arts. 752(a), 839, V. A. C. S.

0-6081 To: John R. Shook, Criminal District Attorney, Bexar County

Date: October 10, 1944

This opinion concerns the maximum compensation that may be paid for the installation of block books and maps or a tax or plat system and the maximum compensation that may be paid attorneys for the collection of delinquent taxes. Arts. 7264a, 7335, 7335a, 7344, V. A. C. S. (See opinion for citation of additional authorities.)

0-6093 To: D. Richard Voges, County Attorney, Wilson County

Date: October 23, 1944

A county clerk is not entitled to any fees or compensation whatsoever where the defendant was acquitted in the trial of a criminal case in county court. Art. 3930, V. A. C. S.; Art. 1064, V. A. C. C. P.

0-6104 To: Royall R. Watkins, President, Board of Education

Date: October 16, 1944

The transfer or agreement in question whereby the white and colored students of the Walnut Creek Common School District No. 10 were transferred to the Athens Independent School District, which was to receive the state and county available funds and all local maintenance funds of the Walnut Creek District, is invalid since it was not approved by either the county superintendent or the state superintendent. Art. VIII, Sec. 6, Constitution of Texas; Acts 1941, 47th Leg., R. S., H. B. 284, Art. 8, Sec. 2; *McCorkel v. District Trustees*, (Civ. App.) 121 S. W. (2) 1048, 1052; Opinion 0-5413.

0-6130 To: Phil Ford, Chief, Weights and Measures Division, Department of Agriculture
Date: October 11, 1944

The Texas Flour Package Law and the Texas Net Container Law are not applicable to packages destined for interstate or foreign shipment. Art. 1042b, V. A. P. C.

0-6131 To: A. T. Pribble, County Attorney, Mills County
Date: October 23, 1944

This opinion concerns the salaries or compensation of the County Commissioners of Mills County, which has an assessed valuation of over \$4,500,000. Art. 2350, V. A. C. S.

0-6142 To: Homer Garrison, Jr., Director, Department of Public Safety
Date: October 27, 1944

The Governor does not have the authority, through his pardoning power, to restore a driver's license where suspension was not an incident of a conviction for a criminal offense. Art. 6687b, Secs. 22, 24; *State v. Hazzard*, 247 Pac. 957; 47 A. L. R. 538; *Ex parte Green*, 295 S. W. 910; *Baldi v. Gilchrist*, 198 N. Y. Supp. 493; Opinion 0-6052.

0-6149 To: R. H. Jones, County Attorney, Polk County
Date: October 24, 1944

Exclusive venue over a juvenile delinquent who is apprehended for stealing property, which he carried through several counties, lies in either the county of the juvenile's actual residence or the county wherein the theft was committed. Acts 1943. 48th Leg., R. S., S. B. 44; Art. 2338-1, Secs. 3(a), 3(b), 3(c), 7(a), V. A. C. S.; Art. 197, C. C. P.; Arts 1410, 1421, 1422, P. C.; Opinions 0-5066, 0-5479, 0-5786.

0-6163 To: John Leaky, Director, Cotton Research Committee, College Station
Date: October 4, 1944

The Cotton Research Committee does not have the authority to re-allocate or make necessary transfers among the divisions of its total appropriation under S. B. 403, 47th Leg., R. S.

0-6178 To: Tom R. Mears, County Attorney, Coryell County
Date: October 4, 1944

The State Superintendent of Public Instruction must approve the bus route of the Evant Independent School District before transportation aid can be allowed. Acts 1943, 48th Leg., R. S., H. B. 176, Art. 5.

0-6182 To: C. C. Randle, County Attorney, Ellis County
Date: October 13, 1944

The use of a school bus for extracurricular activities is but the performance of a governmental function and in the absence of an abuse of discretion on the part of the trustees, they are not personally liable for the operation of the bus. The regular statutory bond executed by the driver would apply under these circumstances, provided the driver's contract obligates him to drive the bus on such occasions. The school board could not legally buy from public funds liability and property damage insurance protecting the school board and the bus drivers against liability arising from such outside activities. Art. 2687a, V. A. C. S.; *State Line School District v. Farwell School District*, 48 S. W. (2) 616; *Robinson v. Draper*, 133 Tex. 280, 127 S. W. (2) 181; Opinion 0-1418.

0-6187 To: A. E. Sutton, County Auditor, Anderson County
Date: October 2, 1944

The three pipelines running through Anderson County Levee Improvement District Number One are subject to taxation by said district and the county tax collector, acting for and under the guidance of the commissioners' court, may assess and collect such taxes. Acts 1915, 34th Leg., ch. 146; Acts 1925, 39th Leg., ch. 21; Arts. 8039, 8040, 8194, 8197, V. A. C. S.; *Dallas County Levee District No. 2 v. Looney*, 109 Tex. 326, 207 S. W. 310; 27 Tex. Jur. 451.

0-6195 To: George H. Sheppard, Comptroller of Public Accounts
Date: October 9, 1944

Claims for tax returns on motor fuel exported or lost by fire or other accident are subject to the six months limitation period for filing; however, in cases of loss by fire or other accident, said six months period begins on the date of the accidental loss rather than the date of delivery of the fuel.

The comptroller is authorized to deduct from a current claim

filed by an exporter the amount of a former claim filed after said six months period and paid in error by said department.

Arts. 4350, 7065b, Secs. 13, 13d, 23, V. A. C. S.; Opinion 0-2765.

0-6196 To: D. W. Stakes, General Manager, Texas Prison System

Date: October 26, 1944

The Texas Prison System is unauthorized to purchase from its appropriation for factory and shop materials a quantity of tool-and-heat resisting steel. Art. VIII, Sec. 6, Constitution of Texas; Acts 1943, 48th Leg., R. S., S. B. 332, ch. 400, Sec. 2, Subsec. 15.

0-6198 To: J. B. Stevenson, Assistant County Attorney, Kimble County

Date: October 2, 1944

An independent school district with less than 150 scholastics does not lose its status as an independent district. Art. 2763, V. A. C. S.

The Democratic Executive Committee has the authority to certify the name of a candidate for the general election who was elected by a write-in vote at a primary election where he served as clerk. Art. 2940, V. A. C. S.; 218 P. C.; *Gayle v. Alexander*, 75 S. W. (2) 706.

0-6202 To: W. J. Elliott, Chief, Texas Highway Patrol

Date: October 13, 1944

A one and one-half ton Ford truck with a corn sheller and grinder attached thereon, used over the highways for the purpose of grinding and shelling corn on a commercial basis for various people other than the owner, should be classified as a "commercial motor vehicle" and registered under the terms and provisions of Art. 6675a-6, V. A. C. S. Arts. 6675a-1, 6675a-2, 6675a-6, 6675a-6a, V. A. C. S.

0-6213 To: Dave McNeill, Jr., County Attorney, Shelby County

Date: October 6, 1944

Beer may be lawfully brought into a camp for prisoners of war either by common carrier or government vehicles, even though said camp is located in a dry county. The alcoholic content of the beer makes no difference unless regulated by an act of Congress. *Johnson v. Yellow Cab Transit Company*, 88 Law Ed. 553; Opinion 0-4438.

0-6215 To: F. L. Massie, County Auditor, Wilbarger County
Date: October 2, 1944

This opinion concerns the date upon which a taxpayer must pay his taxes on personal property in order to vote in an election called for the abolishment of the municipality. Arts. 1043, 1045, 1046, 1243, 7209, V. A. C. S.

0-6216 To: D. W. Burkhalter, Acting County Attorney,
Throckmorton County
Date: October 10, 1944

This opinion concerns the proper disposition of liquor seized by a sheriff in a dry area, under the provisions of the Texas Liquor Control Act. Arts. 666-3a, 666-29, 666-30, 666-42, V. A. P. C.; *Simpson v. St. John*, 93 N. Y., 363.

0-6220 To: W. P. Herms, Jr., County Auditor, Waller County
Date: October 9, 1944

The commissioners' court is the sole agency having the discretionary power to determine the existence of such facts as would constitute an emergency justifying a budget amendment. However, if said court acts fraudulently or arbitrarily declares the existence of an emergency when none exists, the county auditor should refuse to audit or approve claims filed under the attempted amendment and refuse to countersign warrants on the county treasurer against funds unlawfully set aside for that purpose. Arts. 689a-11, 1651, 1660, 1661, V. A. C. S.; Opinion 0-1022.

0-6223 To: E. L. Hinson, Jr., County Auditor, Polk County
Date: October 23, 1944

Salaries of county officials compensated under the officers' salary law may be raised by the commissioners' court to any amount which does not exceed the maximum amount allowed such officer under laws existing on Aug. 24, 1935. However, once they have been set, they cannot be changed during that year but may be changed for the following year. Opinions 0-1595, 0-4226, 0-5746.

The county commissioners have the authority to make changes within the objects covered by the budget after it has been set and approved, but the county officer for whose offices the budget was made do not have such authority. Arts. 689a-9, 689a-11, 689a-20, V. A. C. S.; *Southland Ice Copmany v. City of Temple*, 100 Fed. (2) 825.

The county auditor can require the sheriff to make a report showing the actual mileage incurred by him on county business

each month before allowing him pay for such mileage. Art. 3899b, V. A. C. S.

0-6224 To: Wm. Yelderman, Assistant County Attorney,
Travis County
Date: October 4, 1944

The county surveyor does not have the authority to enter upon private property, without permission, in order to re-establish obliterated corners of State-owned land. Art. XVI, Sec. 44, Constitution of Texas; Arts. 5287-5291, 7380, V. A. C. S.; 41 Tex. Jur., 412.

0-6225 To: L. A. Van Slyke, County Attorney, Fort Bend
County
Date: Oct. 10, 1944

It is mandatory under Art. 1158, R. C. S., for the county judge to call for the election of a mayor and two commissioners at the same election held to determine whether or not an unincorporated town shall be incorporated under the commission form of government. Art. 1158, V. A. C. S.; 34 Tex. Jur., 444.

0-6228 To: C. C. Randle, County Attorney, Ellis County
Date: October 4, 1944

The county Board of School Trustees does not have the authority to determine the number of scholastic pupils necessary to operate a school in a common school district nor the right to change the classification of an elementary school already classified to a school of no classification. Arts. 2678a, 2749, V. A. C. S.

0-6229 To: Henry Sebesta, County Attorney, Bastrop County
Date: October 4, 1944

If more than one figure or character is used in a brand, the figures or characters used should be on the same portion of the animal's body. Therefore, such a brand as C on the right hip and X on the right shoulder would be considered two separate brands. Art. 6890, V. A. C. S.; Arts. 1484, 1486 P. C.; Opinion 0-5678.

0-6230 To: Gibb Gilchrist, President, Agricultural and Me-
chanical College of Texas
Date: October 4, 1944

This opinion concerns the effect, meaning, and application of certain provisions of a contract between the United States of America and the Agricultural and Mechanical College of Texas. Art. III, Sec. 48, Art. VII, Secs. 13, 16, Constitution of Texas; Acts 1871, 12th Leg., Ch. XLIV; 50 U. S. C. A., App. Sec. 1191.

0-6232 To: Wm. M. Whyburn, President, Texas Technological College
Date: October 2, 1944

The President of Texas Technological College may not be paid by the State for such position as long as he holds the place of Chief, Operations Analysis Section, under the Federal Government, a position for which he is paid on the basis of \$25.00 for each day on which actual service is rendered, even though his State salary for such days be deducted from his regular salary. Art. XVI, Secs. 33, 40, Constitution of Texas; Opinions 0-58, 0-1421, 0-2388-A, 0-2607, 0-2701, 0-2769, 0-2991, 0-3045, 0-3061, 0-3335, 0-3542, 0-3693, 0-3788, 0-4343, 0-4433, 0-4562, 0-4902, 0-4908, 0-5107, 0-5123, 0-5157, 0-5232, 0-5281, 0-5317, 0-5349, 0-5525, 0-5608.

0-6233 To: Bascom Giles, Commissioner, General Land Office
Date: October 31, 1944

It is the duty of the Commissioner of the General Land Office to examine and approve, before filing, leases on lands subject to provisions of the Relinquishment Act. The leases in question are contrary to the provisions of said Relinquishment Act and should not be approved nor filed. Acts 1939, 46th Leg., R. S., H. B. 9, Sec. 4a; Arts. 5367, 5368, 5421c-2, V. A. C. S.; *Burroughs v. Lyles*, 181 S. W. (2) 570; *Greene v. Robison*, 8 S. W. (2) 655; *State v. Magnolia*, 173 S. W. (2), 186 (writ refused); *Garcia v. King*, 164 S. W. (2) 509; *Empire Gas and Fuel Company v. State*, 47 S. W. (2).

0-6234 To: John C. Marburger, County Attorney, Fayette County
Date: October 10, 1944

When the district judge does not fix a definite salary for the county auditor, it follows that not more than the maximum, which is fixed by Art. 1645, V. A. C. S., as it existed on Jan. 1, 1940, was intended. Therefore, the salary of the county auditor of Fayette County for the year 1944 is \$2,000.00 and for the year 1945 is \$2,125.00. Acts 1941, 47th Leg., R. S., S. B. 119, H. B. 409; Opinion 0-4851.

0-6235 To: T. M. Trimble, First Assistant State Superintendent of Public Instruction
Date: October 10, 1944

Under the given facts, the Amarillo Independent School District has sufficient grounds for bringing legal action against the

shareholders of the American State Bank for the taxes assessed against the said shareholders on the shares owned by them on Jan. 1, 1936. Arts. 7145, 7147, 7151, 7166, V. A. C. S. (See opinion for citation of additional authorities.)

0-6237 To: Marion McGee, County Auditor, Hays County
Date: October 26, 1944

Under the given facts, the actions of the San Marcos Independent School District Trustees, the Hays County Westover Common School District Trustees, and the Hays County School Trustees did not effect a legal annexation of the Westover C. S. D. No. 3 to the San Macos I. S. D. Arts. 2922a, 2678, 2803, V. A. C. S.

0-6238 To: Homer D. Eck, County Auditor, Fayette County
Date: October 6, 1944

Fayette County is legally authorized to pay the claim for \$25.00 presented by the Warden of the Texas Prison System for the execution of a prisoner who was found guilty of a capital felony and executed in compliance with the judgment of the District Court of Fayette County. Acts 1923, 38th Leg., 2nd C. S., S. B. 63; Art. 810, C. C. P.

0-6241 To: O. P. Lockhart, Chairman, Board of Insurance
Commissioners
Date: October 23, 1944

Re-insurance policies or contracts will not qualify as "bona fide applications for insurance" as used in Art 4860a-7(a), R. C. S.

The term "premium" as used in Art. 4860a 7(d), which provides for the collection of a premium in advance, does not necessarily mean an annual premium. The premium for a policy based upon a bona fide application to be written on a six-months basis and within valid regulation of the Board will meet the requirements of the statute.

Before a mutual insurance company organized under ch. 9, Title 78, V. A. C. S., may be issued a permit to write both fire and casualty insurance, it must have a surplus in cash or invested assets of not less than seventy thousand dollars. Arts. 4860a-7(a), (b), (c), (d), 4860a-16, 4993, 5017, 5026, V. A. C. S.

0-6244 To: O. P. Lockhart, Chairman, Board of Insurance
Commissioners
Date: October 28, 1944

This opinion concerns whether or not the "death benefit certificates" mentioned in Opinion 0-6092 must be the type required under Section 4, Article 4838, V. A. C. S., for qualifying members in the organization of a Fraternal Benefit Society. Art. 4852, R. C. S., 1913.

0-6246 To: George H. Sheppard, Comptroller of Public Accounts
Date: October 27, 1944

The Board of Regents of the University of Texas has the authority to enter into a five year contract with a fire insurance company for the purpose of insuring the law building and its contents against loss by fire and to pay for the entire premium out of the current appropriation. Art. III, Sec. 49, Art. VIII, Sec. 6, Constitution of Texas; Acts 1921, 37th Leg., 2nd C. S., S. C. R. 3. (See opinion for citation of additional authorities.)

0-6249 To: James M. Simpson, Sr., County Attorney, Concho County
Date: October 16, 1944

The weight of ice hauled for the preservation of a perishable load is not exempted in a computation of the actual gross weight of a commercial motor vehicle. Art. 827a, Sec. 5, V. A. C. S.

0-6250 To: F. C. Bolton, Vice President and Dean, Agricultural and Mechanical College of Texas
Date: October 23, 1944

The Board of Directors of A. & M. College or its authorized representatives have the authority to refuse to allow persons having no legitimate business with students, faculty or personnel to enter the campus and to eject undesirable persons from the campus upon their refusal to leave peaceably upon request. Arts. 2610, 2613, Subdiv. 6, R. C. S.; Arts. 859-868, 925, 1348, 1377, P. C. (See opinion for citation of additional authorities.)

0-6251 To: Fred L. Blundell, District Attorney, Lockhart
Date: October 10, 1944

In a write-in campaign the voter may not paste a sticker with a candidate's name thereon on the ballot instead of writing in the

name of the candidate. Arts. 2978, 2979, 2981, 3009, V. A. C. S. Letter Opinions of the Attorney General, Vol. 372, P. 518, dated July 2, 1936.

0-6252 To: Horace B. Sessions, Securities Commissioner, Office of Secretary of State
Date: October 10, 1944

The Administrator of the Securities Division of the Office of Secretary of State is not authorized or permitted under Art. 6573a, R. C. S. to require applicants for licenses as real estate dealers or salesmen to take an examination in order to determine the competency of such applicant. Art. 6573a, Secs. 8, 9, R. C. S.; 37 Corpus Juris., P. 238.

0-6253 To: J. N. Baldwin, County Attorney, Johnson County
Date: October 10, 1944

A person who receives a pension from the United States Postal Department as a retired railway mail clerk may serve as State Representative and receive payment thereof from the State Treasury. Art. XVI, Sec. 33, Constitution of Texas.

0-6258 To: A. C. Winburn, District Attorney, Houston
Date: October 16, 1944

Under S. B. 130, Acts 1943, 48th Leg., R. S., a member of the Armed Forces named in the bill, who is discharged before cessation of hostilities, is entitled to pay his delinquent taxes accruing subsequent to his entry into such service free of penalties and interest at any time before the expiration of six months from the cessation of hostilities. Opinions 0-5463, 0-5566, 0-5651, 0-6067.

0-6260 To: Homer D. Eck, County Auditor, Fayette County
Date: October 23, 1944

The county auditor is required to examine and verify all of the books, accounts, reports, vouchers, and other records of the county superintendent which relate to the county and district school funds. The details for such examination and manner in which it is worked out is within the discretion of the auditor. The county auditor is not required, however, to approve school vouchers drawn upon the various school funds where such vouchers have been approved by the required number of trustees and the county superintendent. Arts. 1651, 1652, 1653, 1656, 2690, 2693, R. C. S.; Opinions 0-2734, 0-2734-A.

0-6261 To: V. L. Pitman, County Attorney, Anderson County
Date: October 11, 1944

The name of a candidate for the place of State Senator in a special election may be placed upon the ballot without his filing an oath of allegiance, since such an oath is required for the general election only. Art. III, Sec. 13, Art. IV., Sec. 12, Constitution of Texas; Arts. 19, 2978a, V. A. C. S.; Opinions 0-4525, 0-6055.

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