



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN
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ATTORNEY GENERAL

AUSTIN 11, TEXAS

March 1, 1939

Hon. Chas. R. Martin
County Auditor
Harrison County
Marshall, Texas

Dear Sir:

Opinion No. 0-236

Re: Will publication of information
called for in exhibit "b" comply
with requirements of Article 1636,
Revised Civil Statutes, 1925?

Your request for an opinion on the above stated question has been received by this office.

We have the forms of affidavit of Commissioners' Court as to county finances and order approving county treasurer's report, submitted by you, marked exhibit "a" in red pencil; also, another form marked exhibit "b" in red pencil which you want to publish in lieu of the affidavit marked exhibit "a" in order to reduce expenditures in the publication of the county treasurer's quarterly report in a newspaper under and be virtue of Article 1656 of the Revised Civil Statutes of Texas.

You state in your letter that in the past the affidavit of the Commissioners' Court as to county finances and the order approving county treasurer's report have both been published in a newspaper.

Article 1636, Revised Civil Statutes of Texas, provides as follows:

"When the commissioners court has compared and examined the quarterly report of the treasurer, and found the same correct, it shall cause an order to be entered upon the minutes of the court, stating the approval thereof, and reciting separately the amount received and paid out of each fund by the treasurer since the preceding treasurer's quarterly report, and the balance of such fund, if any, remaining in the treasurer's hands and the court shall cause the proper credit to be made in the accounts of the treasurer, in accordance with said order. Said court shall

actually inspect and count all the actual cash and assets in the hands of the treasurer belonging to the county at the time of the examination of his said report. Prior to the adjournment of each regular term of the court, the county judge and each commissioner shall make affidavit that the requirements of this article have been in all things fully complied with by them at said term of said court, and that the cash and other assets mentioned in said county treasurer's quarterly report made by said treasurer to said court, and held by him for the county, have been fully inspected and counted by them giving the amount of said money and other assets in his hands. Such affidavits shall be filed with the county clerk and recorded in the minutes of said court the term at which the same were filed; and the same shall be published in some newspaper published in the county if there be a newspaper published in the county, for one time."

We understand from your letter that it is the intention of the Commissioners' Court to continue to use the forms marked exhibit "a", to be filed and entered upon the minutes of the Commissioners' Court and the form marked exhibit "b" is to be published in lieu of the form of affidavit marked exhibit "a" which will be the form actually used and entered upon the minutes of the Commissioners' Court.

Article 1636, supra, provides that:

"Such affidavits shall be filed with the county clerk and recorded in the minutes of said court the term at which the same were filed; and the same shall be published in some newspaper published in the county if there be a newspaper published in the county, for one time."

You are respectfully advised that it is the opinion of this Department that the form marked exhibit "b" does not comply with Article 1636 and that the affidavit of the Commissioners' Court as to county finances which is filed and entered upon the minutes of the court must be published in a newspaper and no other affidavit may be published in lieu of the affidavit actually on file and entered upon the minutes of the court.

You are further advised that it is not necessary to publish the order approving the county treasurer's report in that Article 1636 requires only the affidavit of the Commissioners' Court as to county finances to be published.

Hon. Chas. R. Martin, March 1, 1939, page 3

0-236

Trusting that the foregoing answers your inquiry, we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

By s/Ardell Williams
Ardell Williams
Assistant

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APPROVED:
s/Gerald C. Mann
ATTORNEY GENERAL OF TEXAS