



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

March 17, 1939

Hon. George G. Roane
County Attorney
Fort Bend County
Richmond, Texas

Dear Sir:

Opinion No. 0-419.
Re: Reporting of fees by official
as registrar of vital statistics.
Article 4477, Rule 33a, Revised
Civil Statutes.

With further reference to your letter of February 28, we wish to advise that we have fully considered the question upon which you desire an opinion from this Department as to whether a Justice of the Peace in Fort Bend County, which precinct officer the Commissioners' Court has permitted to remain on a fee basis, has to report fees earned by him as the local registrar of vital statistics. In this connection also, we express our appreciation for the able brief submitted by you which has commanded our attention and received consideration along with the former opinions of this Department.

We have carefully studied the opinion rendered heretofore by this Department to Mr. Tamm G. King, State Auditor, under date of August 11, 1938, and conclude that same is correct as applicable to the above question and pertaining to your county. It is very doubtful that we could improve on said opinion by adding any further reasoning, other than to say that since 1932 this Department has consistently held that such fees are accountable by the officer by reason of the duty imposed on his office under Article 4477, Rule 33a and collections made by virtue of his office of Justice of the Peace. It appears to be a general rule

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of construction that unless fees are specifically excepted they are to be considered to be "fees of office".

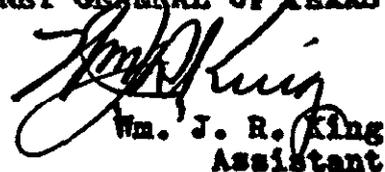
You will kindly ignore the copy of an opinion mailed to you under date of February 13th, formerly rendered to Mr. R. S. Wyche, County Auditor, Longview, Texas, under date of February 18, 1936, as it clearly does not purport to apply to the question submitted by you and same was not so intended by this Department. We are attaching herewith a copy of the opinion written by Hon. Jas. A. Neff, Assistant Attorney General and addressed to Mr. Tom C. King, State Auditor, under date of August 11, 1938, as above referred to.

It is, therefore, the opinion of this Department that where Justices of the Peace act as local registrar of vital statistics, and are compensated for the fiscal year on the basis of fees earned by them in the performance of their official duties, such fees collected as registrar of vital statistics under Rule 53a, Article 4477, as amended by Acts of 1929, 41st Legislature, First Called Session, Chapter 4, are to be reported and included in the maximum compensation allowed such officer.

Very truly yours

ATTORNEY GENERAL OF TEXAS

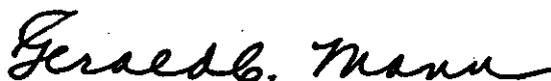
By


Wm. J. R. King
Assistant

WmK:AW

ENCLOSURE

APPROVED:


ATTORNEY GENERAL OF TEXAS

WmK