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OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

March 27, 1939

Honorable Pat Beadle  
County Attorney  
Red River County  
Clarksville, Texas

Dear Sir:

Opinion No. 0-554

Re: Whether a person otherwise  
qualified can vote in a city  
election, without paying city  
poll tax which the city levies  
and assesses

We are in receipt of your telegram of this date reading as follows:

"ACCOUNT URGENCY OF QUESTION NECESSARY THAT I  
WIRE. CAN INHABITANTS WHO HAVE PAID STATE AND  
COUNTY POLL TAX VOTE IN CITY ELECTION WITHOUT  
PAYMENT OF CITY POLL TAX WHERE SAME WAS LEVIED  
AND ASSESSED BY CITY. ATTORNEY GENERALS OPIN-  
ION NO. 2876 BOOK 42 PAGE 145 AND OPINION NO.  
2172 WRITTEN NINETEEN TWENTY BY GURETON IN CON-  
FLICT. ART TEN THIRTY, 2955, 2957 CONSTITUTION  
SECTIONS TWO AND THREE ART. SIX PERTINENT. WIRE  
ANSWER COLLECT."

Article VI, Section 2, Constitution of Texas, reads in part as follows:

"Every person subject to none of the fore-  
going disqualifications, who shall have attained  
the age of twenty-one years and who shall be a  
citizen of the United States and who shall have  
resided in this State one year next preceding an  
election and the last six months within the dis-  
trict or county in which such person offers to  
vote, shall be deemed a qualified elector; pro-  
vided, that electors living in any unorganized  
county may vote at any election precinct in the  
county to which such county is attached for ju-  
dicial purposes; and provided further, that any

voter who is subject to pay a poll tax under the laws of the State of Texas shall have paid said tax before offering to vote at any election in this State and hold a receipt showing that said poll tax was paid before the first day of February next preceding such election."

Article VI, Section 3, Constitution of Texas, reads as follows:

"All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election, within the limits of any city or corporate town, shall have the right to vote for Mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; provided, that no poll tax for the payment of debts thus incurred, shall be levied upon the persons debarred from voting in relation thereto."

Article 1030, Revised Civil Statutes, reads as follows:

"The City Council shall have power to levy and collect an annual poll tax, not to exceed One (\$1.00) Dollar of every inhabitant of said city over the age of twenty-one (21) and under sixty (60) years, those persons exempt by law from paying the State Poll Tax excepted, who is a resident thereof at the time of such annual assessment."

Article 2933, Civil Statutes, provides, in part:

"Every person subject to none of the foregoing disqualifications who shall have attained the age of twenty-one years and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he or she offers to vote, shall be deemed a qualified elector. The electors living in an unorganized county may vote at an election precinct in the county to which such county is attached for judicial purposes; provided that any voter who is subject to pay a poll tax under the laws of this State or ordinances of any



Honorable Pat Beadle, March 27, 1939, Page 3

city of town in this State, shall have paid said tax before offering to vote at any election in this State and holds a receipt showing that said poll tax was paid before the first day of February next preceding such election; \* \* \* "

As Article 1030 existed at the time of Attorney General Cureton's opinion No. 2172 on January 15, 1920, and at the time of Attorney General Pollard's opinion No. 2676, on March 29, 1927, the same authorized the City Council to levy and collect an annual poll tax not exceeding \$1.00 of every male inhabitant of said city. In the Cureton opinion it was held that a woman could not vote without paying any poll tax so levied. In the Pollard opinion it was held that since the poll tax was not levied on women, its attempted levy on men was discriminatory, and that even a man could vote without having paid the same. The conflict between the two opinions is not any longer material, for in 1931 the statute was amended leaving out the word "male", so that, as already noted, Article 1030 now authorizes collection from both male and female inhabitants, thus removing the reason given by Attorney General Pollard for holding that failure to pay such a poll tax would not deprive a man of the right to vote in a city election.

We answer your question in the negative, assuming that the city ordinance is in proper form, and was duly and regularly passed.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*  
Glenn R. Lewis  
Assistant

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APPROVED:

FIRST ASSISTANT ATTORNEY GENERAL