



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Swain Burkett  
County Attorney  
Castro County  
Dimmitt, Texas

Dear Sir:

Opinion No. O-2234  
Re: Construction of order allowing  
pay to county treasurer.

This will acknowledge receipt of your letter of April 11, 1940, in which you seek an opinion of this department on the question therein presented. The pertinent parts of your letter are:

"I desire your opinion as to what a county treasurer can collect as compensation under an order passed by the commissioners court which reads as follows:

" $3/4$  of 1 per cent of all moneys collected, expended or paid out, not to exceed \$600 per annum. That he present bills each month showing his earnings and that said \$600 be paid to him at the rate of \$50 per month."

"He once drew straight commission of  $1/2$  of 1% but failed to earn \$600 per annum which the court intended that he should earn. It was then fixed as above stated by agreement so as to assure him of that compensation and provision was made that he be paid monthly for his convenience.

"Now assuming that under the above order his commissions would run \$800 or \$1000, could he demand and receive the additional earnings above the \$600?"

Your letter constitutes a request that this department construe the above quoted order passed by the commissioners' court.

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Article 3941 of the Revised Civil Statutes of Texas, 1925, provides that the commissioners' court may fix a rate of compensation for a county treasurer on moneys received by him of "....not exceeding two and one-half per cent, and not exceeding two and one-half per cent for paying out the same ....". Article 3943, Revised Civil Statutes of Texas establishes a maximum that may be paid him.

The above quoted order must be construed as meaning that the compensation provided for therein is to be calculated at the rate of three-fourths of one per cent on all money received, or paid out with an established maximum of Six Hundred (\$600) Dollars per year. The last sentence of such order reading:

"That he present bills each month showing his earnings and that said \$600 be paid to him at the rate of \$50 per month."

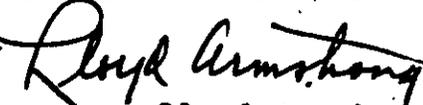
is necessarily made contingent upon the proposition that three-fourths of one per cent of the money handled will earn the monthly payment.

The words, "not to exceed \$600 per annum" appearing in the first sentence of the order are necessarily words of limitation upon the treasurer's earning power and he would be limited to such amount even though three-fourths of one per cent of the money handled might far exceed such Six Hundred (\$600) Dollars.

Trusting that we have satisfactorily answered your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By   
Lloyd Armstrong  
Assistant

LA:AW

APPROVED APR 23, 1940

ATTORNEY GENERAL OF TEXAS

*Handwritten initials*