



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MANN
~~XXXXXXXXXXXX~~
ATTORNEY GENERAL

*Superseded by
art 29d. V.C.S.*

Honorable Robert D. Penn
County Attorney
Reeves County
Pecos, Texas

Dear Sir:

Opinion No. 0-2982
Re: 1940 Census of Reeves County

We have your letter of December 17, 1940, which reads in part as follows:

"Reeves county has had one person for County and District Clerk by reason of the fact that the census report for 1930 showed the population to be less than 8000, as provided by Art. V, Sec. 20; Art. 1903, R.C.S.

"On June 11th the County Judge of Reeves County received a certificate from the Supervisor of Census that the population of Reeves County was 7,981. After this date several newspapers of general circulation published the official census of Reeves County as 8,187. The County Clerk then wrote the newspapers and supervisor for a correct statement of the census and in about two weeks several of the newspapers published the official census as 7,981 (others did not correct their original statements). The supervisor then wrote the County Clerk that the official census that he had sent into Washington was 8,003.

"Under these circumstances we were at a loss to know how to print the General Election Ballot. In the democratic primary Mr. W.E. Reeder was nominated for the County and District Clerk. We knew that if the census showed a population over 8000 the office would be divided as per your opinion No. 0-2561 To: K.D. Hall, County Attorney, Refugio County, Dated July 25, 1940 and citations thereunder.

"Knowing the foregoing and that the census had been published two ways the County Judge was

advised to have the office of District Clerk printed on the ballot, which was done and Mrs. Vannie Hester Ingle was elected to that office. The County Judge was also advised to print upon the ballot the office of County and District Clerk which was done and W. E. Reeder was elected to that office.

"As I see the matter at this time we are faced with several questions. First, which census report will control? I have no case or statutory authority to present upon this question as I have been unable to find any. If the last report of the supervisor may be taken as official then the office is divided. If this report is not official then which newspaper report is official or should we consider official the report of the supervisor to the County Judge on June 11, 1940.

"Secondly, if the official report is over 8000 then who is elected District Clerk as both candidates were elected, one for District Clerk and the other for County and District Clerk."

We have made an independent investigation of the Federal Census Bureau reports and find that the most recent published report by the Bureau as of this date is a printed, so-called preliminary report dated September 9, 1940, which shows Reeves County to have a population of 7,981. As this report, though not final, constituted the only official published report of the Federal Census Bureau giving the population of Reeves County as of the date of the general election, we are of the opinion that it must be controlling as regards your question. Consequently, under the authorities cited in our opinions No. 0-2561, No. 0-2337 and No. 0-2591, copies of which are enclosed herewith, we believe that since the population of Reeves County is less than 8,000 there exists only the one office of county and district clerk for the term 1941-42, to which, according to your letter, W. E. Reeder has been duly elected.

Yours very truly

ATTORNEY GENERAL OF TEXAS

WRK:LM:wc
ENCLOSURES

APPROVED DEC 21, 1940
s/Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

By s/Walter R. Koch
Walter R. Koch
Assistant