



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann

AUSTIN 11, TEXAS

~~W. P. WILSON~~
ATTORNEY GENERAL

Honorable Campbell K. Ford
County Attorney
San Saba County
San Saba, Texas

Dear Sir:

Opinion No. 0-4396

Re: Does a Justice of the Peace
in Precinct No. 1 have the au-
thority to go into Precinct
No. 2 where there is an active
Justice of the Peace and hold
an inquest and receive a fee
therefor under the facts stated?

Your letter of February 5, 1942, requesting the opinion of this de-
partment on the above stated question reads as follows:

"The Commissioners' Court of this county have instructed me
to ask you the following question:

"Does 'A' as Justice of the Peace for Pre. 1 of this county have
the authority to go into Pre. 2 where there is an active Justice of the
Peace to hold an inquest?

"My opinion to them quoted Article 968 CCP as follows: 'Any
justice of the peace shall authorized, and it shall be his duty, to hold
inquest without a jury within his county, ****.

"If 'A' does have this authority is he entitled to the fee for hold-
ing the inquest?

"My opinion quoted Articles 1053 and 1054 CCP as follows:

"Art. 1053: A justice of the peace shall be entitled, for an in-
quest on a dead body, ****, the sum of five dollars, to be paid by the
county.

"Art. 1054: Any officer claiming pay for services mentioned
in the preceding article shall present to the commissioners court of
the county, at a regular term of such court, an account therefor,
verified by affidavit of such claimant. If such account be found cor-
rect, the court shall order a draft to issue upon the county treasurer
in favor of such claimant for the amount due him. ***

"I would appreciate an immediate reply as to whether or not the above is correct."

Article 968, Vernon's Annotated Code of Criminal Procedure, provides:

"Any justice of the peace shall be authorized, and it shall be his duty, to hold inquests without a jury within his county, in the following cases:

"1. When a person dies in prison.

"2. When any person is killed, or from any cause dies an unnatural death, except under sentence of the law, or in the absence of one or more good witnesses.

"3. When the body of a human being is found, and the circumstances of his death are unknown.

"4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means."

Article 1053, Vernon's Annotated Code of Criminal Procedure, provides:

"A justice of the peace shall be entitled, for an inquest on a dead body, including certifying and returning the proceeding to the proper court, the sum of five dollars, to be paid by the county. When an inquest is held over the dead body of a State penitentiary convict, the State shall pay the inquest fees allowed by law of all officers, upon the approval of the account therefor by the commissioners court of the county in which the inquest may be held and the superintendent of penitentiaries."

Article 1054, Vernon's Annotated Code of Criminal Procedure, provides:

"Any officer claiming pay for services mentioned in the preceding article shall present to the commissioners court of the county, at a regular term of such court, an account therefor, verified by the affidavit of such claimant. If such account be found correct, the court shall order a draft to issue upon the county treasurer in favor of such

claimant for the amount due him. Such account shall be filed and kept in the office of the county clerk."

It is stated in Texas Jurisprudence, Volume 26, page 797:

"A justice is authorized and it is his duty in certain enumerated circumstances to hold inquests into the death of any person within his county. He thus has the authority, and is charged with the duty, of a coroner at common law. . . ."

In view of the foregoing authorities, we respectfully answer the above stated question in the affirmative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams
Assistant

APPROVED FEB 17 1942

George D. Williams

FIRST ASSISTANT
ATTORNEY GENERAL

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APPROVED
OPINION
COMMITTEE
By *Burt B.*
Chairman