



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Chas. A. Tosch,
County Auditor
Records Building
Dallas, Texas

Dear Mr. Tosch:

Opinion No. O-5377

Re: Can expenses of County Judge and County Commissioner of Dallas County in making a trip to Washington to appear before the War Production Board in connection with the construction of State Highway No. 183 be paid by Dallas County?

Your letter of February 18th has been received, which reads in part as follows:

"The Commissioners' Court at a recent meeting delegated County Judge Al Templeton and Commissioner Lynn Lawther to appear before the War Production Board in Washington, D. C., in the interest of the completion of State Highway No. 183, which is also known as the North Ft. Worth Road. This project has been held up by the War Production Board -- after the contract was let by the State Highway Commission -- and considerable amount of work had already been done.

"I would like an opinion from your department as to whether or not the expense of this trip can be paid by Dallas County, and if so, out of which fund."

Honorable Chas. A. Tosch - page 2

Article 6873 of the Revised Civil Statutes authorizes the State Highway Commission of Texas to take over and maintain the various State highways in Texas. The first sentence of said Article reads:

"The Commission is authorized to take over and maintain the various State highways in Texas, and the counties through which said highway passes shall be free from any cost, expense or supervision of such highways."

In *Iverson v. Dallas County*, 110 S. W. (2) 255, the court in construing the above Article and the other statutes relative to the powers and organization of the State Highway Commission, held that when the State Highway Department took over the control, management and maintenance of a State highway, the county lost control thereof insofar as its maintenance and upkeep are concerned.

It appears from your letter that the State Highway Commission has taken charge of the road project in question, and has let the contract for the building thereof. We presume that said highway is now a part of the State highway system. If we are correct in this assumption, then the maintenance and upkeep thereof is not county business.

Based upon the above assumption, it is our opinion that the expenses of the County Judge and County Commissioner in going to Washington for the purpose named cannot be paid out of the Road and Bridge Fund, or any other fund, of Dallas County.

Since Dallas County is not required to build or maintain the road in question, the proposed trip to Washington would not be in furtherance of county road business.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Geo. W. Barcus
Assistant

APPR
CER