



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**GROVER SELLERS
~~XXXXXXXXXX~~
ATTORNEY GENERAL**

Hon. Joe Beaty
County Auditor
Stephens County
Breckenridge, Texas

Dear Sir:

Opinion No. 0-6240

Re: Is office of county commissioner vacated because such commissioner also accepts private employment?

Your original opinion request and also your letter supplying additional information have been received in this office. The question submitted by you is, in substance, as follows:

Can county commissioner hold office and receive compensation from county while also being privately employed for services without the scope of his official duty on job requiring approximately eight hours of his time per day, and drawing a regular salary for such private employment? "In other words, can he legally hold two jobs at the same time?"

We believe the sole question raised by your communication is whether such county commissioner vacated his office by reason of his employment in private business. There is not presented thereby the question of simultaneous tenure of more than one "civil office of emolument" for the primary reason that there is only one "public office" involved. For the same reason, the question of "incompatibility of offices" is not presented. The other employment of such commissioner is of a private nature only and does not constitute holding "office". See "Public Officers", 34 Texas Jurisprudence.

Under well settled principles of law, we must presume, in the absence of facts to the contrary, that the county commissioner in question is discharging the duties of the office of county commissioner in a lawful manner.

Therefore, from the facts submitted, we believe that the private employment of a county commissioner would not of itself constitute abandonment of his office so as to create a

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vacancy thereof. Our specific answer to your question, restricted to the facts stated and assumed, is in the affirmative.

Trusting the foregoing fully answers your question we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Robert L. Lattimore, Jr.
Robert L. Lattimore, Jr.
Assistant

RLL:rt:wc

APPROVED NOV 8, 1944
s/Grover Sellers
ATTORNEY GENERAL OF TEXAS

Approve Opinion Committee By s/EWB Chairman