



**THE ATTORNEY GENERAL
OF TEXAS**

GROVER SELLERS
~~JOHN BEN SHEPHERD~~
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable G. D. Minick
County Attorney
Wood County
Quitman, Texas

Dear Sir:

Opinion No. O-6348

Re: The duty of the County Auditor
to examine and certify monthly
reports of the Tax Assessor-
Collector.

Your letter of December 22, 1944, requests the opinion of this office as to whether it is the duty of the county clerk or the county auditor to examine and certify the monthly reports of the Tax Assessor-Collector of Wood County, Texas. Your letter making this request, omitting the formal parts, is here set out:

"Enclosed please find our form of monthly report of taxes collected in use in this county since time immemorial, having heretofore been executed by the County Clerk, but which the County Clerk declines now to execute and, since we recently have acquired a County Auditor, determines it should be executed henceforth by the County Auditor. Without going into the facts you are simply reminded of the traditional functions of the County Clerk and of the functions of the County Auditor. It being stated the County Clerk, prior to this time, having at all times executed this form without any check-up, without any information as to its correctness, without any facility, time or deputy to be spared or a deputy qualified to examine these records, simply relying upon the tax collector's responsibility to duty. For this service the clerk receives no compensation. At no time does the County Clerk ever examine or inspect the Tax Collector's records. At all times does the County Auditor examine and inspect these records, such being of course part and parcel of his functions of office for which he is paid. And may I state there is no disinclination on the County Auditor's part to perform this function if he should, as he is lead to understand his duty; nor is there any friction between any of these officials or among them. They all three simply desire the duty

performed in the right way by the proper official.

"Therefore, we propound to you that under the setup in Wood County, under the law, please advise us what official, the County Clerk or the County Auditor, should execute the form No. 117 of monthly report of State and County Taxes collected enclosed, the certificate involved being marked off with a bracket in ink? Your prompt opinion will be much appreciated.

"May I add, due to some six or seven oil fields in Wood County, recently developed, our tax assessment is enlarged some six times its former bulk in items and in valuation, thus indicating the onerous burden to examine all these records, as well as to note the weight of responsibility and liability for it."

For answer to your question we refer you to Article 7260, Vernon's Annotated Civil Statutes, the revelant provisions of which are here set out as follows:

"At the end of each month the Tax Collector shall, on forms to be furnished by the Comptroller make an itemized report under oath to the Comptroller, showing each and every item of ad valorem, poll and occupation taxes collected by him during said month, accompanied by a summarized statement showing full disposition of all State taxes collected, provided that said itemized reports for the months of December and January of each year may not be made for twenty-five (25) days after the end of such months if same cannot be completed by the end of such respective months.

"He shall present such report, together with the tax receipt stubs to the County Clerk, who shall within two (2) days compare said report with said stubs, and if same agree in every particular as regards names, dates and amounts, he shall certify to its correctness, for which examination and certificate said Clerk shall be paid by the Commissioners Court twenty-five (25) cents for each certificate and twenty-five (25) cents for each two hundred (200) taxpayers on said report; provided that in counties having a County Auditor the work mentioned in this paragraph shall be done by the County Auditor rather than the County Clerk." (Emphasis ours)

Similar provisions relating to the report of collections made for the county are found in Article 7261, Vernon's Annotated Civil Statutes.

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In accordance with these provisions of the law, you are advised, that in our opinion the examination and certification about which you inquire should be made by the County Auditor.

Very truly yours

Attorney General of Texas

s/ Robert F. Cherry

By

Robert F. Cherry
Assistant

RFC:zd/cg

APPROVED FEB. 8, 1945
s/ Grover Sellers
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE:
By BWB, Chairman