

Honorable R. S. Wyche
County Auditor
Gregg County
Longview, Texas

Dear Sir:

Opinion No. 0-6611
Re: Compensation of the
County Treasurer of
Gregg County.

In your letter of May 23, 1945, referring to our
Opinion No. 0-6575, you stated as follows:

"In this opinion you used the following language, 'The county treasurer is mentioned in said Section 13, and the law authorized a maximum compensation of more than \$3600.00 for the county treasurer for the fiscal year of 1944. This being true, said S. B. No. 123 is not applicable to the county treasurer of Gregg County.'

"The county treasurer has been paid under and by virtue of Article 3943 as amended Acts 1937, 40th Legislature and Acts 1941, 47th Legislature. According to this Article 4943 the treasurer of this county may receive a salary of \$2700.00 annually.

"The population of Gregg County is 58,027 and the last assessed tax valuation is more than one hundred and three million.

"Question: What should the treasurer of this county receive as compensating?"

Section 13 of Article 3912e, Vernon's Annotated Civil Statutes, is in part as follows:

"The Commissioners' Court in counties having a population of twenty thousand (20,000) inhabitants or more, and less than one hundred and ninety thousand (190,000) inhabitants according to the last preceding Federal Census, is hereby authorized, and it shall be its duty to fix the salaries of all the following named officers, to-wit: sheriff, assessor and collector of taxes, county judge, county attorney, including criminal district attorneys and county attorneys who perform the duties of district attorneys, district clerk, county clerk, treasurer, hide and animal inspector. Each of said officers shall be paid in money an annual salary in twelve (12) equal installments of not

less than the total sum earned as compensation by him in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935; provided that in counties having a population of twenty thousand (20,000) and less than thirty-seven thousand five hundred (37,500) according to the last preceding Federal Census, and having an assessed valuation in excess of Fifteen Million (\$15,000,000.00) Dollars, according to the last approved preceding tax roll of such county the maximum amount allowed such officers as salaries may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional part thereof, in excess of said Fifteen Million (\$15,000,000.00) Dollars valuation over and above the maximum amount allowed such officers under laws existing on August 24, 1935; and provided that in counties having a population of thirty-seven thousand five hundred (37,500) and less than sixty thousand (60,000) according to the last preceding Federal Census, and having an assessed valuation in excess of Twenty Million (\$20,000,000.00) Dollars, according to the last preceding approved tax roll of such county, the maximum amount allowed such officers as salaries, may be increased one (1%) per cent for each One Million (\$1,000,000.00) Dollars valuation or fractional part thereof, in excess of said Twenty Million (\$20,000,000.00) Dollars valuation over and above the maximum amount allowed such officer under laws existing on August 24, 1935."

Gregg County had a population of 15,778 inhabitants according to the 1930 Federal Census. Said County has a population of 58,027 inhabitants according to the 1940 Federal Census. Section 13 of Article 3912e is applicable to those counties having a population of 20,000 inhabitants or more, and less than 190,000 inhabitants according to the last preceding Federal Census. Said Section 13 is applicable to Gregg County.

As Gregg County had a population of 15,778 inhabitants according to the 1930 Federal Census, the maximum amount of compensation which the county treasurer could retain under laws existing on August 24, 1935, was the sum of \$2,000.00 per annum, unless the assessed tax value of said county was \$100,000,000.00 or more, as shown by the preceding assessment roll. If the assessed value of the property of said county was \$100,000,000.00 or more, as shown by the preceding assessment roll, the county treasurer

could have legally retained the sum of \$2700.00 for the year 1935 under laws existing on August 24, 1935.

Since the population of Gregg County is 58,027 inhabitants according to the 1940 Federal Census, the provisions of Article 3912e, Section 13, with reference to a 1% increase salary for each Million Dollars valuation in excess of twenty million dollars apply to said county. There being 83 million dollars valuation in excess of 20 million dollars valuation in Gregg County, the county treasurer can be allowed, if the Commissioners' Court so decides, a salary increase of 83% on the sum of \$2,000.00 - provided the compensation of the county treasurer for the year 1935 was \$2,000.00 - which amounts to the sum of \$3,660.00. If the compensation allowed the county treasurer for the year 1935 was the sum of \$2,700.00, the county treasurer could be allowed, if the Commissioners' Court deems proper, a salary increase of 83% on the sum of \$2,700.00, which amounts to the sum of \$4,941.00.

Articles 3941, 3942, and 3943, V. A. C. S., pertain to the compensation of county treasurers in counties where the county officials are compensated on a fee basis. As the county officials of Gregg County are compensated on a salary basis, the foregoing statutes would not be applicable regarding the compensation of the county treasurer of Gregg County. The compensation of the county treasurer of said county would be controlled by Section 13 of Article 3912e.

In connection with what has been said with reference to the compensation of the county treasurer, we direct your attention to our Opinion No. 0-6580, addressed to you, wherein it is stated, "we wish to point out that where the annual salaries of county officials operating under the Officers' Salary Law have been set, same may not be increased or decreased during the year but may be increased or decreased the following year within the limitations prescribed by Law."

When the Commissioners' Court fixes the salary of the county treasurer, said court is authorized to fix the compensation of the county treasurer at a sum not less than the total sum earned as compensation in his official capacity for the fiscal year 1935, and not more than the maximum amount allowed such officer under laws existing on August 24, 1935. As Gregg County has a population of 58,027 and an assessed valuation of 103 million dollars according to the last preceding approved tax roll of said county, the maximum amount allowed the county treasurer as compensation may be increased 1% for each one million dollars valuation

Honorable R. S. Wyche, page 4

or fractional part thereof in excess of said 20 million dollars valuation over and above the maximum amount allowed such officer under laws existing on August 24, 1935.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

Ardell Williams(S)
Assistant

AW:LJ:bg

APPROVED MAY 28, 1945
Carlos C. Ashley (S)
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED OPINION COMMITTEE
By BWB chairman