A. G. File No.

OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN 11

GROVER SELLERS
ATTORNEY GENERAL

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

Dear Sir:

Opinion No. O-6624

Re: Should the County Auditor of Gregg County approve the warrant for payment of a person employed by the Commissioners' Court to take an inventory of county property?

We have received your request for an opinion on the above subject. We also received from you a copy of an opinion written by the Honorable Mike Anglin, District Attorney of Gregg County, which holds, in substance, that the Commissioners' Court has the authority to employ an individual to take and maintain an inventory of county property and to keep such individual employed so long as in their discretion they deem it necessary. We are inclined to agree with Mr. Anglin's opinion in this respect and, in support thereof, we cite Opinion No. O-6463 from this department holding, in substance, that the salary of an assistant custodian and inventory clerk must be paid from the General Fund of the county. We enclose herewith a copy of said Opinion No. O-6463.

In your request you further ask the following question:

> "If the Court is authorized to employ a person to take and maintain such inventory and such person performs entirely different duties or no official duties pertaining to an inventory - what is the duty, if any, of a county auditor with respect to approval of warrant for payment of such employee?"

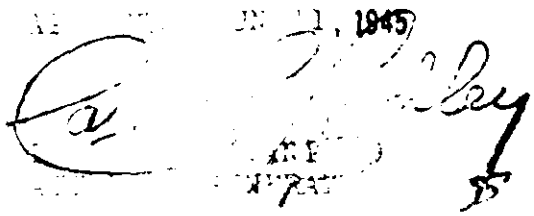
NO COMMUNICATION IS TO BE CONSTRUED AS A DEPARTMENTAL OPINION UNLESS APPROVED BY THE ATTORNEY GENERAL OR FIRST ASSISTANT

Article 1651, Revised Civil Statutes of Texas, makes it your duty to "see to the strict enforcement of the law governing county finances". Generally speaking, your duty in such situations would be to satisfy yourself, first, that the person so employed is engaged in performing certain duties as authorized by his contract of employment with the Commissioners' Court, and, second, that such duties are in the discharge of "county business". In this respect we point out that the term "county business" should be given a broad and liberal construction so as not to defeat the purpose of the law. And it is held that the Commissioners' Court has implied authority to do what may be necessary in the exercise of the duties or powers conferred upon them. (City National Bank v. Presidio County, 26 S. W. 775; Glenn v. Dallas County Bois d' Arc Island Levee District, 275 S. W. 137). However, in regard to the particular situation in question, we have ruled that such type of employment as contracted for is authorized by law; therefore, your duty in this respect is as follows: As Article 1661, Revised Civil Statutes of Texas, provides that all warrants on the county treasurer, except warrants for jury service, must be countersigned by the county auditor, your remedy, in the event you determined that such employee is not discharging the duties for which he is employed to perform as per your question, would be for you to refuse to countersign warrants on the county treasurer issued to such employee.

Trusting the foregoing fully answers your question, we are

Yours very truly,

ATTORNEY GENERAL OF TEXAS

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

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Enclosure-1