



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Mr. Charles R. Martin
County Auditor
Harrison County
Marshall, Texas

0-6908
for so far as it conflicts

Dear Sir:

Opinion No. 0-6712

Re: Interpretation of House
Bill No. 80 as to penal
offense.

In your recent letter requesting an opinion of this department, you submitted the following question:

"Would it be unlawful and in violation of the provisions set out in House Bill No. 80 for a county commissioner or any county employee or other person designated in said Act to build and construct what is known as a side bridge or culvert which is located on the county or state right of way, for the purpose of private entrance to private property, using county material and county labor or other labor as designated in said Article set out in House Bill No. 80?"

House Bill No. 80 to which you refer makes it a penal offense for any officer of this State or of any county to knowingly use or permit to be used for private profit to himself other than to the State, county or municipality any property, supplies, equipment or other thing of value belonging to such State or county or knowingly use or knowingly permit to be used for private profit to himself the labor or service of any person whose labor or service is paid for by such county. Such bill likewise makes it a penal offense for any person appointed or employed by any officer of any county or by the commissioners' court of any county or by any person engaged in performing any business of any county however employed to knowingly use or knowingly permit to be used for private profit to himself any property, supplies, equipment and other things of value belonging to such county and likewise the labor or service of any person whose labor or service is paid for by such county.

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Articles 2351, 6727, 6728, 6746, 6747, 6751, 6753, 6766, 6771, 6772, and 8161, of Vernon's Annotated Civil Statutes of Texas provide in substance that the county commissioners shall lay out and establish, change and discontinue public roads and highways, build bridges and keep them in repair.

The passage of the above penal law did not alter, change or affect the powers and duties of the commissioners' court as fixed by the Constitution and Statutes.

It is the opinion of this department that your question should be and is hereby answered in the negative.

APPROVED OCT 3, 1945

Wm. Bell
ATTORNEY GENERAL OF TEXAS

JMcC/JCP/LJ

Yours very truly,

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ATTORNEY GENERAL OF TEXAS

Joe McCasland
BY
Joe McCasland
Assistant

