



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPHERD
ATTORNEY GENERAL

June 17, 1953

Hon. W. P. Herms, Jr.
County Auditor
Waller County
Hempstead, Texas

Opinion No. S-53

Re: Legality of renting a
truck owned by an hourly
employee of the County
Road and Bridge Department
for use in that depart-
ment's operations.

Dear Sir:

You have asked the following question:

"Can the County, through its Commis-
sioners' Court, rent a truck owned by an
employee of its road and bridge department,
the truck to be used by the County in its
road and bridge department's operations?"

Article 373, Vernon's Penal Code, makes it
a violation of the law for an officer of a county to
become pecuniarily interested in a contract made by such
county.

There is a distinction between an employee
and an officer of a county. Commissioners' Court of
Limestone County v. Garrett, 236 S.W. 970 (Tex.Comm.
App. 1922).

You have informed us that the employee is re-
gularly employed by the county on an hourly basis.

We agree with the conclusion of your County
Attorney that the employee involved is not an officer,
and Article 373, Vernon's Penal Code, does not apply
to him. Therefore, the county may rent a truck owned
by the employee to be used by the county in its road
and bridge department's operations.

Hon. W. P. Herms, Jr., page 2 (S-53)

SUMMARY

Waller County's Commissioners' Court may rent a truck owned by an employee of the county for the use in its road and bridge department's operations.

Yours very truly,

APPROVED:

JOHN BEN SHEPPERD
Attorney General

J. C. Davis, Jr.
County Affairs Division

Willis E. Gresham
Reviewer

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