



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

January 29th, 1939

Hon. I. Predecki, County Auditor
Galveston, Texas

Dear Mr. Predecki:

Opinion No. 0-133
Re: Salaries of Precinct
Officers on fee basis

Your request for an opinion on the following question:

"In a county where the District and County Officials are on a monthly salary and the precinct officers are on a fee basis, may a bill rendered for subpoenaing two witnesses residing in the said county for a trial in another county be properly paid by the other county to the constable?"

has been received by this office.

Hon. Geo. H. Sheppard, Comptroller of Public Accounts, presented almost the identical question to this department on February 12th, 1936, and the Hon. Joe J. Alsop, Assistant Attorney General, rendered an opinion holding that a constable in an over county, who remains on a fee basis and who receives a subpoena from another county, to be served within his precinct, should, upon the receipt of the proper certificate from the foreign county, be paid out of the Officers' Salary Fund of his native County, to which opinion the writer entirely concurs.

Your attention is directed to Senate Bill No. 5, Acts Second Called Session, 44th Legislature, Section 17b, which reads in part as follows:

"In counties wherein the County officers named in this Act are compensated on the basis of an annual salary, the State of Texas shall

not be charged with and shall not pay any fee or commission to any precinct officer for any services by him performed, but said officer shall be paid by the County out of the Officers' Salary Fund such fees and commissions as would otherwise be paid him by the State for such services."

In view of this last quoted article, it is apparent that all fees heretofore paid to the State of Texas for services rendered by precinct officers shall hereafter be paid by the county out of the Officers' Salary Fund.

In view of the foregoing authority, the writer is of the opinion and you are respectfully advised that a constable in an over county, who remains on a fee basis and who receives a subpoena from another county, to be served in his precinct, should, upon the receipt of the proper certificate from the foreign county, be paid out of the Officers' Salary Fund of his native county.

You are further advised that Galveston County should pay the constable mentioned in your inquiry out of the salary fund of Galveston County.

Trusting that the foregoing answers your inquiry, I remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Assistant

AW:OMB

APPROVED

ATTORNEY GENERAL OF TEXAS