

C O P Y

Honorable P. W. Minter
County Attorney
Jim Hogg County
Hebbronville, Texas

Dear Sir:

Opinion No. C-3359-A
Re: Construction of Arts. 1449,
Penal Code, et seq. relat-
ing to butchers slaughters.

We are in receipt of your letter of May 6, wherein you submit to us questions supplemental to those answered in our Opinion No. C-3359, addressed to you. Your recent letter sets out the following statement of facts:

"A. B. owns and operates a retail grocery store, and in connection therewith a retail 'meat market'. He does not comply with the Arts. 6904 or 6908, RCS, nor with Arts. 1447 to 1454, PC, for the reasons that he does not butcher or slaughter animals himself, except as hereinafter stated. Because he is not a competent judge of an animal on foot for beef purposes, he hires C. D., who is a competent judge thereof, and has C. D. to file the Butcher's Bond required by, and instructs him to comply with all of the Articles above cited, which C. D. does.

"At times, A. B. even furnishes C. D. the money with which to purchase such animals on foot; and at other times A. B. makes a trade with E. F., who owes him an account, to credit E. F.'s account for a certain sum of money upon E. F.'s delivery of an animal on foot to C. D. for butchering purposes.

"But in either instance, all that C. D. does is to purchase the animal on foot, (either with the cash furnished him by A. B., or with

the credit arranged for between A. B. & E. F.), butcher and slaughter the same, and deliver the dressed carcass to A. B. to be cut up and sold by him in his retail 'meat market'.

"For C. D.'s services, A. B. pays him either in cash, or a commission, or by parts of the butchered animal which A. B. cannot use in his business, such as the head, hide, etc; but in addition to this C. D. is obligated to report the purchase and slaughter of such animal in compliance with his Butcher's Bond, and the Articles above cited."

Based upon this statement of facts, you ask the following questions:

"1. Under any construction of the above Statement of Facts, would A. B. be guilty of violating the provisions of the Articles cited?"

"2. Suppose under the above Statement of Facts that A. B. takes an animal in on account from E. F., and has C. D. to butcher same and deliver the dressed carcass to him; but C. D. fails to make the record and report required by the above Articles; should both A. B. and C. D. be prosecuted therefor, or should C. D. alone be prosecuted therefor."

In our Opinion No. O-3359, we advised you that under the facts presented in your letter of March 27, the man whom you described as A. B. was not required to make a bond or to make regular reports of animals slaughtered to the county commissioners' court as prescribed by Article 6904, et seq., Revised Civil Statutes, and Articles 1447, et seq., Penal Code of Texas. You have now presented a different fact situation in which A. B. may be construed to be acting as principal, and C. D. merely his employee or agent in the slaughtering of animals. If A. B. is in fact acting as principal, then he must comply with all the above mentioned statutes relating to slaughtering, and he may be prosecuted for failing to do so. Whether A. B. in fact acted as principal in the slaughtering of the animal under the circumstances enumerated in your second letter is a question of fact which this department is not authorized to pass upon.

Yours very truly

WRK:RS

APPROVED JUNE 5,
1941

ATTORNEY GENERAL OF TEXAS

By: S. Walter R. Koch, Assistant

BY S. GROVER SELLERS

FIRST ASSISTANT ATTORNEY GENERAL

APPROVED OPINION COMMITTEE

BY: S. BWE, CHAIRMAN