OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Mr. R. L. Armstrong
County Auditor
Tom Green County
San Angelo, Texas

Dear Mr. Armstrong:

Opinion No. O-3555
Re: Matter of liability of a county for the negligence of its agents, officers or representatives.

We acknowledge receipt of your letter of inquiry of date May 16, 1941, as follows to-wit:

"* * * In order to settle the above questions with respect to the county's liability, I wish to certify the following questions:

"1. Is the county liable for damage to livestock incurred through such stock falling in a defective cattle guard constructed across a county lateral road?

"2. Is the county liable for damages sustained to a motor vehicle through a collision caused by the negligence of a county employee?

"3. Is the county liable for a motor vehicle damaged by the defective condition of a bridge on the county lateral road system?

"4. Is the county liable for damages to a county employee for injuries sustained by such employee while working for the county? * * *"

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Each of your questions should be answered in the negative.

We have from time to time rendered opinions touching the liability of counties for the torts of its officers, agents and representatives covering a variety of situations. Noticeably among these opinions are the following: O-779, O-208, O-353, O-2136, O-2473, and O-2779, being the opinions referred to by you in your letter of inquiry.

No useful purpose could be subserved in further elucidating the principles establishing the non-liability of a county for such torts.

Those principles are briefly stated, first, the non-liability of the State (including counties as the State's political subdivision exercising the powers of sovereignty), in the absence of a statute creating such liability; and, second, the express provision of the Constitution (Article III, Sections 51, 52 and 53). Those constitutional provisions have been discussed, and the court opinions construing them have been cited specially in our Opinion No. O-2135, a copy of which you already have in your possession.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED MAY 23, 1941

Grover Sellers

FIRST ASSISTANT
ATTORNEY GENERAL

By Ocie Speer

Ocie Speer
Assistant

OS:EP

APPROVED
OPINION
COMMITTEE
BY BWB
CHAIRMAN

ok
gwb