



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

COPY

GERALD C. MANN
ATTORNEY GENERAL

Honorable W. P. Sexton
County Attorney
Orange, Texas

Dear Sir:

Opinion No. O-3728

Re: Whether county treasurer is entitled to receive commission for the collection and disbursement of Road District Funds in addition to the maximum compensation of \$2,000.00 per year.

In your letter of June 29, 1941, you request our opinion in response to the following question:

"Is the County Treasurer of a county having a population of 15,545, according to the last Federal Census and a valuation of \$12,183,570.00, according to the last approved tax roll, authorized to deduct a commission for the collection and disbursement of Road District Funds, in addition to the maximum compensation of \$2,000.00 per annum, provided for in Article 3943, R.C.S.?"

Article 3941, Revised Civil Statutes, reads as follows:

"The county treasurer shall receive commissions on the moneys received and paid out by him, said commissions to be fixed by order of the commissioners court as follows: For receiving all moneys, other than school funds, for the county, not exceeding two and one-half per cent, and not exceeding two and one-half per cent for paying out the same; provided, that he shall receive no commissions for receiving money from his predecessor nor for paying over money to his successor in office."

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By Article 3943, Revised Civil Statutes, as amended, the commissions allowed to the county treasurer of Orange County are limited to a maximum of \$2,000.00 per year, none of the exceptions to that amount provided in said Article 3943 and in Articles 3943a and 3943b, Vernon's Annotated Civil Statutes, being applicable. While the county treasurer is made the custodian of the funds of road districts by Article 7520, Vernon's Annotated Civil Statutes, the provisions of Article 3941, as limited by Article 3943, are nowhere added to nor changed in any respect, the road district statutes containing no provision for additional compensation for the county treasurer. In our opinion No. 0-1450, a copy of which is enclosed herewith, we held that the county treasurer of San Saba County could not retain commissions out of the proceeds of the sale of road bonds after he had received the \$2,000.00 maximum provided by Article 3943. We refer also to the cases of Red River County v. Graves, 288 S. W. 544, and Harris County v. Charlton, 243 S. W. 450. In our opinion your question should be answered in the negative.

Kindly permit us to thank you for the comprehensive brief accompanying your request.

Yours very truly

APPROVED JUL 23, 1941

ATTORNEY GENERAL OF TEXAS

/s/ Grover Sellers

By

Glenn R. Lewis
Assistant

FIRST ASSISTANT
ATTORNEY GENERAL

GRL:IM

APPROVED OPINION COMMITTEE BY BWB CHAIRMAN

ENCLOSURE