



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Lotus Hamrick
County Auditor
Hopkins County
Sulphur Springs, Texas

Dear Sir:

Opinion No. O-4342

Re: Is constable who is compensated on fee basis entitled to deduct automobile expenses from excess fees?

Your recent request for the opinion of this department upon the above stated question has been received.

We are enclosing herewith a copy of our opinion No. O-1866, written upon a similar question and which holds that a constable compensated on a fee basis is entitled to deduct from excess fees, necessary traveling expenses, including the expense of gas, oil and a reasonable amount of "upkeep" incurred by the constable in the discharge of his official duties.

There is also enclosed herewith for your information copies of opinions Nos. O-3194, O-1284 and O-1304, written upon related questions, and each holding, in effect, that a sheriff who is compensated on a fee basis is entitled to deduct from his excess fees the expense of maintenance, depreciation and operation of an automobile owned by him and used in the execution of the duties of his office, provided such expense be "necessary expense of office".

Trusting that the opinions enclosed herewith satisfactorily dispose of your inquiry, we remain

Yours very truly

APPROVED FEB. 4, 1942

(Signed) GROVER SELLERS
First Assistant Attorney General

Enclosures
DHD:FS
WJF

ATTORNEY GENERAL OF TEXAS

By (Signed) D. Burle Daviss
Assistant

APPROVED OPINION COMMITTEE
By E.W.B. Chairman