



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

July 14, 1971

Honorable Murray Jordan  
District Attorney  
193 Judicial District  
McCulloch County Courthouse  
Brady, Texas

Opinion No. M-903

Re: Option to use jury  
commissioners under  
Senate Bill 369, 62nd  
Legislature, R.S., 1971,  
and related questions.

Dear Mr. Jordan:

You have inquired as to the applicability of the following provision of Senate Bill 369, 62nd Legislature, Regular Session, 1971 (and related questions):

"Sec. 17. For all counties under 10,000 population not presently using the jury wheel system for selection of jurors, the district judge of the county or of the judicial district of which the county is a part, may determine whether the county should come under the provisions of this law or may choose to adopt the jury commissioners system for selection of jurors in that county. If the district judge should determine to adopt the jury commissioners system for selection of jurors in a particular county, he must do so by July 15, 1971, otherwise, the county will come under the provisions of this Act. If, pursuant to the passage of this Act, this section is held to be unconstitutional by a court of this State or of the United States, then the jury wheel system for selection of jurors as provided by this Act shall be applicable to all counties of the State."

We need not reach the question of whether or not Section 17 (supra) violates the constitutional prohibition against delegation of legislative powers to a member of the judiciary.

We would like to point out the fact that S.B. 369 (supra) specifically repeals the following numbered Articles of the Revised Civil Statutes of Texas:

- |         |           |
|---------|-----------|
| 1. 2104 | 9. 2112   |
| 2. 2105 | 10. 2113  |
| 3. 2106 | 11. 2114  |
| 4. 2107 | 12. 2115  |
| 5. 2108 | 13. 2116  |
| 6. 2109 | 14. 2116c |
| 7. 2110 | 15. 2116e |
| 8. 2111 |           |

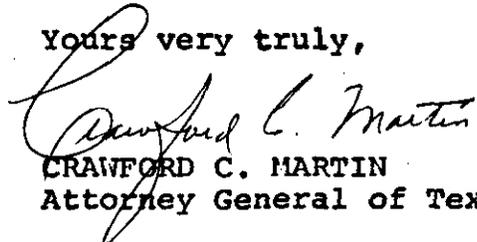
which constitute all of the Articles establishing procedures for the use of Jury Commissioners.

It is, therefore, the opinion of this office that Sec. 17 of Senate Bill 369, 62nd Legislature, Regular Session, 1971, cannot become operative because all procedures for the use of Jury Commissioners have been repealed, and that all counties must comply with the Jury Wheel Law.

SUMMARY

Senate Bill 369, 62nd Legislature, R.S., 1971, terminates all jury commissioner systems and all counties must use a jury wheel.

Yours very truly,

  
CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by Howard M. Fender  
Assistant Attorney General

APPROVED:  
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