

**Trinity County Attorney**  
**Joe Warner Bell**

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Opinion Committee

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RQ-0032

FILE # ML-40700-99 Wednesday, February 24, 1999

I.D. # 40700

Re: Application of Local Government Code Section 171.004  
and Opinion DM-279 to individual purchases

Dear Sir,

In Opinion DM-279, you authorized the county to purchase from a business entity in which a commissioner had a substantial interest, if that commissioner filed a disclosure affidavit and refrained from voting to approve the purchase.

This presents a corollary question.

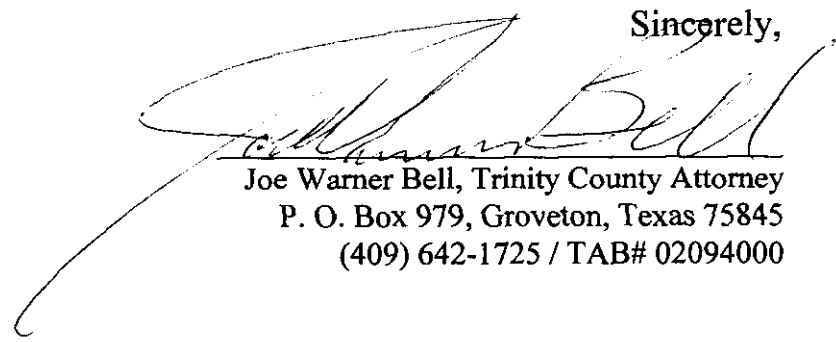
In Trinity County, the Commissioners are *ex officio* road superintendent for the road maintenance crews in their respective precincts. From time to time a member of a precinct road crew, or the commissioner himself, will purchase a vehicle part from a local auto parts store. Subsequently, the individual commissioner, as road superintendent, reviews and approves the requisition for the item bought. The auditor reviews the purchases and they are ultimately submitted to the Commissioners Court for Audit and Approval.

The question now is: may a commissioner or one of his employees purchase auto parts in the manner described above from a corporation in which he owns a substantial interest as defined by statute.

The operative provision is “before a vote or decision on any matter . . . abstain from further participation in the matter.” The law clearly contemplated, at the most, a contract with the entire county government in which they acted as a body, not individual purchases.

This is analogous to the sheriff and his deputies buying small amounts of ammunition from the sheriff’s hardware store. Or the treasurer occasionally buying office supplies from his wife’s stationery store. The filing of the disclosure affidavit alone is insufficient. If the commissioner either makes the purchase, directs the purchase or subsequently approves the purchase, either individually or as a member of the Court approving the monthly accounts, he has not *abstained from further participation*. In fact, to abstain on the administrative level would require the commissioner to abdicate his oversight of his department and to abstain at the court level would abdicate his responsibilities to review the county finances.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Joe Warner Bell". The signature is written over a horizontal line and extends significantly to the left and right.

Joe Warner Bell, Trinity County Attorney  
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