

INDEX TO OPINIONS

	Page
ANTI-NEPOTISM—	
See Nepotism.	
ATTORNEY GENERAL—	
The Attorney General does not have authority to take action in cases where the County Attorney refuses to file informations charging offenses and insists upon presenting the matter to the Grand Jury-----	26
BANKS—	
Article 554, Penal Code, R. C. S., 1925—the Bank Loan Limit Statute—prohibits state bank from lending more than 25 % of its capital stock actually paid in and surplus to any individual, corporation, company or firm-----	108
The word “corporation” as used in Art. 554 is not limited to mere private corporations, but includes any corporation—private or municipal—capable of borrowing money, suing or being sued. Consequently, a state bank may not loan money to or allow a municipal corporation to become indebted to it in a sum exceeding 25 % of its capital stock actually paid in and surplus-----	108
Counties and subdivisions thereof with corporate powers are corporations within the meaning of Art. 554-----	108
The intention of the Legislature controls and all other rules of construction are secondary, including the rule that the words of a statute are to receive their usual and ordinary meaning -----	108
BEER—	
Stamps -----	41
BENCH WARRANT, FEES FOR—	
See Fees of Office.	
BOARD OF EDUCATION—	
Bonds issued by a Junior College District are eligible for purchase by the State Permanent School Fund-----	152
BOARD OF PARDONS AND PAROLES—	
A lengthy opinion on credits on sentences of convicts and over time hours-----	116
Same Question-----	135
BOARD OF REGISTRATION FOR ENGINEERS—	
See Engineers.	
BONDS—	
See Teacher’s Retirement Fund.	
BOND ASSUMPTION LAW—	
See Road Bonds.	

	Page
CHIEF CLERK, TREASURY DEPARTMENT—	
The Chief Clerk of the Treasury Department is not holding a civil office as that term is used in Article III, Section 18 of the Constitution, and a member of the Legislature is not prohibited from appointment of that position-----	83
CIGARETTES—	
Stamps -----	41
COMMISSIONERS' COURT—	
Under the terms of Senate Bill No. 5, Acts Second Called Session, Forty-fourth Legislature, a Commissioners' Court is unauthorized to set, reduce or change the salary of any county official except at a regular meeting of the Commissioners' Court in January. It does not alter the situation because there is a mistake of fact or law in setting the salary of county officials. The Commissioners' Court may reduce, alter or change the salary of county officials at a regular meeting of said Court provided it does not reduce the salary so as to deny the officer the minimum allowed by law or to increase said salary so as to exceed the maximum provided by law-----	16
CONSTABLE FEE, BENCH WARRANT—	
See Fees of Office.	
CONSTITUTIONAL LAW—	
Pre-existing Law-----	171
When one Section of the Constitution expresses a general intention to do a particular thing and another Section expresses a particular intention incompatible with the general intention, the particular is to be considered in the nature of an exception to the general provision-----	76
H. J. R. No. 24 which provides in general terms that the Legislature may fix the compensation of all district, county and precinct officers can in no wise affect the provisions of Section 24, Article III which provides specifically for the compensation of members of the Legislature-----	76
CONSTRUCTION OF CONSTITUTION AND STATUTES—	
Constitution:	
Art. 3, Sec. 8-----	38
Art. 3, Sec. 18-----	83
Art. 3, Sec. 44-----	171
Art. 3, Sec. 50-----	38
Penal Code:	
Art. 554-----	108
Art. 827a-----	56
Code of Criminal Procedure:	
Art. 1029-----	123
Revised Civil Statutes and Vernon's Statutes:	
Art. 2603c-----	161
Art. 2669-----	152
Art. 2879-----	127
Art. 2887-----	127
Art. 2888-----	127
Art. 2891a-----	127
Art. 3159-----	183
Art. 6166v-----	116
Art. 6166x-----	135
Art. 6674q-----	153-168
Art. 6675d-----	43
Art. 7065a-----	102

CONVICTS—

See Board of Pardons and Paroles.

CORPORATIONS—

See Liquor.

COUNTY AND DISTRICT ATTORNEYS—

The County and District Attorneys have the authority and responsibility of representing the State in criminal proceedings in the District, County, and Justice Courts----- 26

EDUCATION DEPARTMENT—

Opinion holding Subsection "C" of Senate Bill No. 138, Regular Session, 45th Legislature, as amended, is directory----- 112

Fees collected on issuance of Teachers' Certificates by State Board of Examiners payable into general revenue fund of the State Treasury----- 127

Fees collected on accreditation of institutions as junior colleges payable into general revenue fund of the State Treasury.... 127

Fees collected on revival and continuance in force of Teachers' Certificates payable into general revenue fund of the State Treasury ----- 127

EDUCATIONAL INSTITUTIONS—

Board of Regents of State Educational Institutions have authority to make compulsory payment of certain fees for the use of buildings constructed by federal loans in order to repay said loans----- 161

ELECTIONS—

Under the provisions of Article 3159, an independent candidate must file an application for a place on the ballot within thirty (30) days of the primary, whether first or second primary, at which a candidate for the office which the independent candidate seeks is nominated----- 183

ENGINEERS—

An opinion construing what constitutes practice of engineering and architecture and powers of the board----- 165

Part of Act held inoperative----- 133

FEDERAL LOAN—

See Educational Institutions.

FEES OF OFFICE—

In counties where three thousand or more votes ere cast at the preceding Presidential election the sheriffs and constables are entitled to receive fees for executing bench warrant for removing prisoners from penitentiary or county jail of another county to the district court in his county to be tried on a felony charge, as provided in Subdivision 4 of Article 1029, C. C. P.----- 123

GAS—

See Natural Gas.

HIGHWAY DEPARTMENT—

In the issuance of special permits provided for in Article §27-a, Penal Code, the Highway Department is allowed to exercise its discretion in determining the shortest practicable route. A permit of the State Highway Department authorizing the hauling of an overweight or oversize or overlength commodity entitles the operator to transport such commodity over the highway designated in such permit without regard to the highway designated in his certificate of Public Convenience and Necessity----- 56

INDEPENDENT CANDIDATE—

See Elections.

INSURANCE—

A lengthy opinion pertaining to the taxation of reciprocals---- 58

INSURANCE CORPORATIONS—

The omission of a significant word or provision from a re-enactment indicates an intention to exclude the object theretofore accomplished by the words omitted----- 9

Apparent inaccuracies and mistakes in the mere verbiage or phraseology will be overlooked to give effect to the spirit of the law----- 9

The caption or marginal note appearing in a code as adopted by the legislature is to be regarded as a part of the article to which it relates----- 9

Capital stock domestic fire insurance companies may not divide capital structure into classes of stock, part of which are composed of voting shares and part of nonvoting shares----- 9

The holder of each share of domestic capital stock fire insurance companies is entitled to vote each share of stock that he holds at all stockholders' meeting----- 9

This decision is not in conflict with the case of St. Regis Candies vs. Hovas, 3 S. W. (2nd) 430, which treats with ordinary corporations only----- 9

INTERSTATE COMMERCE—

See Natural Gas.

JUNIOR COLLEGE DISTRICT BONDS—

Bonds issued by a junior college district are eligible for purchase by the State Permanent School Fund----- 152

LEGAL PUBLICATIONS—

See Newspapers.

LEGISLATORS—

Qualifications, See Primary Elections.

LEGISLATURE—

See Primary Elections.

	Page
LIQUOR—	
Corporations may procure permits under the present Texas Liquor Control Act, and the mere fact that a given person may own stock in several corporations does not prohibit each of the corporations in which he owns such stock from procuring the five (5) package store permits to which each corporation is entitled.....	84
A stockholder in a corporation does not own an interest in the assets of a going corporation, and therefore, a stockholder does not own an interest in the package store, the business thereof, the package store permits or any other of the assets of the corporation in which the person is a stockholder	84
Stamps	41
Prosecution of violations of Liquor Laws.....	26
LIQUOR TAX STAMPS—	
Liquor stamps are to be affixed at the time and in the manner prescribed by rule and regulation of the Texas Liquor Control Board.....	89
The Board, by rule and regulation, must fix the method affixing liquor stamps to the containers in that the Texas Liquor Control Act makes no provision for the method of such affixation, leaving that matter to be determined entirely by rule and regulation of the Board.....	89
MOTOR FUEL TAXES—	
Construing House Bill No. 247, Chapter 44, Acts Regular Session, 43rd Legislature, as amended by House Bill No. 749, Chapter 240, Acts Regular Session, 44th Legislature of the State of Texas, being Article 7065a, Revised Civil Statutes of Texas.....	102
A municipal corporation of Texas importing motor fuel from another state and using same in motor vehicles owned and operated by it for public purposes upon the highways, streets, and roads of the State of Texas is a distributor of motor fuel within the intendment of Section I (c) of the above cited Act, and as such is liable to the State of Texas for the excise tax levied by Section 2(a) of said Act of four cents (4c) on each gallon of motor fuel so imported and used.....	102
MOTOR VEHICLES—	
Where legal title, legal right of possession, and legal right of control of a vehicle subsist in the same person, then such vehicle must be registered in the county of such person's residence	43
Where the legal right of possession of a motor vehicle is severed from the legal title thereof, such vehicle must be registered in the county of the residence of the person having the legal right of possession thereof.....	43
Where the legal right of control of a motor vehicle has been severed from the legal title thereof, and the legal right of possession thereof, then such vehicle must be registered in the county of the residence of the person having the legal right of control thereof.....	43
Motor vehicles must be registered in the name of the true legal owner rather than in the name of the special owner as specially defined in the Motor Vehicle Registration Act	43

MUNICIPAL CORPORATIONS—

See Motor Fuel Taxes.

Page

NATURAL GAS—

Interstate importation of natural gas by corporation partly through its own pipe lines and partly through those of affiliated corporation transporting same for hire, and first sale within the State at wholesale to local distributing company for resale to consumers, constitutes interstate commerce not subject to gross receipts tax levied by State----- 20

Sale of interstate gas by importer, not to distributing company, but direct to consumer either through rural or urban domestic, commercial or industrial taps, constitutes intrastate commerce, the gross proceeds of which are subject to the tax levied by Article 6060----- 20

The transportation of natural gas for hire between points, and by pipe lines, wholly within the State of Texas, even though imported from another State, constitutes intrastate commerce, the gross proceeds of which are subject to the tax levied by Article 6060----- 20

Gross receipts realized by public utility from distribution direct to retail consumers, of natural gas imported from another state through company's own pipe lines, are amenable to tax imposed by amended Article 6060----- 27

Where pipe line company imports natural gas into Texas and sells at city gate to affiliated distribution company, tax levied by Article 6060, after its amendment in 1931, should be paid by pipe line company on receipts from gate sale, and not by distribution company on receipts from burner tip sales. Prior to the 1931 amendment of Article 6060 the pipe line should have paid such tax on the gate sales, and the distribution company should have paid the tax on its burner tip sales----- 27

Interstate importation of natural gas by El Paso Natural Gas Company from Lea County, New Mexico field into Texas partly through its own pipe lines and partly through those of affiliated corporation transporting same for hire, and sale under long term industrial contracts to five named industrial consumers in Texas held to be interstate commerce not subject to gross receipts tax levied by State. Previous Conference Opinion No. 2993 of this Department dated November 16, 1936 amended to extent herein indicated ----- 48

NEPOTISM LAW—

The appointment of an uncle of one of the members of the Commissioners' Court as Assistant District Attorney does not violate Anti-Nepotism Law----- 24

NEWSPAPER—

A newspaper with the editorial and business office in Cherokee County, and having a mailing permit issued from a Post Office in Cherokee County, and which is mailed from Cherokee County is a legal publication in Cherokee County even though the paper is printed in Anderson County----- 24

NOTES—

Stamps ----- 41

	Page
PACKAGE STORE PERMITS—	
See Liquor.	
PRE-EXISTING LAW—	
Payment of claims by State-----	171
PRIMARY ELECTIONS—	
The Legislature is without jurisdiction under Article 3, Section 8 of the State Constitution to try a contested primary election. The procedure for contesting such election is specifically set out by law and such procedure must be followed, and the Legislature does not have authority to go behind the general election in determining the qualification and election of its members-----	38
RECIPROCALs—	
See Insurance.	
ROAD BONDS—	
So-called "surplus" of funds on hand in County and Road District Highway Fund may be absorbed in current and future years by reason of a different method of allocation of such funds by the Board of County and District Road Indebtedness -----	153-168
RURAL AID LAW—	
A lengthy opinion construing Senate Bill No. 185, Acts of the 45th Legislature-----	92
Supplemented opinion-----	100
Non-consolidated school district containing area less than one hundred square miles is entitled to receive transportation aid of \$1.00 per month per pupil for transporting pupils within district, provided such pupils reside more than 2½ miles from school-----	158
It is not the purpose of the Rural Aid Law to balance the budget of the respective school districts over the State, and aid should be granted under the terms of the Rural Aid Law in such amount as the school district is able to claim under the provisions of said law-----	79
SALARY BILL—	
See Commissioners' Court.	
SCHOOLS—	
See Rural Aid Law.	
SHERIFF FEE, BENCH WARRANT—	
See Fees of Office.	
SPECIAL PERMITS—	
See Highway Department.	
STAMP TAX—	
Note Stamp Tax, required by Chapter 495, Acts 44th Legislature, 3rd Called Session, is required on lien instruments recorded after the effective date of such Act irrespective of the date of execution of such instruments-----	151

INDEX

647

	Page
STATE TREASURER—	
Sale of stamps on liquor, beer, cigarettes and notes-----	41
TAXATION—	
See Motor Fuel Taxes.	
See Natural Gas.	
See Stamp Tax.	
See Liquor Tax Stamps.	
Reciprocals -----	58
TEACHER CERTIFICATE FEES—	
See Education Department.	
TEACHERS RETIREMENT FUND—	
Retirement funds, received by the Treasury of the State from contributions of teachers and employers as provided by Senate Bill No. 47, Acts of the 45th Legislature, may be invested in bonds of the Harris County Ship Channel District -----	149
TEXAS MEMORIAL MUSEUM—	
Senate Concurrent Resolution No. 54 passed April 9th in the Regular Session of the 45th Legislature cannot operate so as to disturb certain existing and enforceable legal rights secured to the Texas Centennial Committee of the American Legion, Inc. by virtue of Section 9 of a contract executed November 14th, A.D. 1935 by and between said Committee and the Board of Directors of the Texas Memorial Museum-----	73
TRANSPORTATION—	
Overweight and oversize commodities-----	56
UNIVERSITY OF TEXAS—	
See Texas Memorial Museum.	