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OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

February 23, 1939

GERALD C. MANN
ATTORNEY GENERAL

Hon. G. J. Wilde
County Auditor
Nueces County
Corpus Christi, Texas

Overruled by 4954

Dear Sir:

Opinion No. O-253
Re: Performancy of duties in
county treasurer's office -
temporary absence.

We beg to acknowledge receipt of your letter of February 3rd, in the second paragraph of which you ask the following question:

"In the event that a County Treasurer might become ill and unable to take care of the duties of the office or should the Treasurer be granted a leave of absence by the Court for any period of time, to whom should the authority be given to sign the warrants and register same?"

We presume and, no doubt, you have reference to the duties specified under Article 2554, Revised Civil Statutes, 1925, as amended, which statute reads in part as follows:

"It shall be the duty of the county treasurer upon the presentation to him of any warrant, check, voucher, or order drawn by the proper authority, if there be funds sufficient for the payment thereof on deposit in the account against which such warrant is drawn, to endorse upon the face of such instrument his order to pay the same to the payee named therein and to charge the same on his books to the fund upon which it is drawn.....All checks or warrants issued or drawn by any officer under the provisions of this Act, shall be

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subject to all the laws and regulations providing for auditing and countersigning and all such laws and regulations are hereby continued in full force and effect."

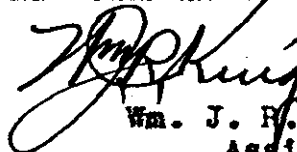
We are unable to find any statutory authority for any person other than the duly elected and appointed treasurer performing the duties of that office. The statutes only appear to take care of such situations which approach and are similar to the one you outlined in your letter, by authorizing the Commissioners' Court to fill vacancies, and this is provided for in one instance where the vacancy has been declared under Article 5972, Revised Civil Statutes, 1925. We appreciate, however, the problem confronting you no doubt in the situation mentioned and the inconvenience likely resulting.

We are, however, constrained to hold and it is the opinion of this Department that unless a vacancy is properly declared in the office of county treasurer, only such person duly occupying that office is authorized to perform the duties connected with and pertaining to same.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By



Wm. J. R. King
Assistant

WmK:AW

APPROVED:



Gerald B. Mason

ATTORNEY GENERAL OF TEXAS