



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. O. J. S. Ellingson
General Manager
Texas Prison System
Huntsville, Texas

Dear Sir:

Opinion No. O-1516

Re: Right of Prison Board to permit Board members and one prison official to use a State car to go to the American Prison Congress in New York City the latter part of October.

Your letter of September 27, 1939, requesting an opinion upon the foregoing question, reads as follows:

"At the last meeting of the Texas Prison Board, it was decided to send several of the Board Members and one prison official to the American Prison Congress in New York City the latter part of October. Their expenses, however, are not to be paid from any State fund.

"Does the Prison Board have the right to permit the men they instruct to go on this trip to use a State car without securing permission from your department? If it is necessary to secure permission, this letter is a request for permission for these officials to use a State owned car on this trip without expense to the State."

The rider appended to Senate Bill 427, Acts of the 46th Legislature, Regular Session, provides in part as follows:

"No moneys herein appropriated shall ever be spent to pay the traveling expenses of any

Hon. O. J. S. Ellingson, Page 2.

State employee to any type of convention within the State or without the State."

"(j) Except as otherwise specifically exempted, the provisions of this Act shall apply also to department heads and members of commissions."

There is no exemption from the provisions of the rider of members of the Texas Prison Board.

The rider further provides:

"It is hereby further declared unlawful for any person authorized to use a State-owned automobile in connection with any business of the State, to use such automobile in connection with any campaign in which such department is directly interested, or in behalf of the campaign for reelection of the head of any department, and/or in any other manner, time or place than when such automobile is being used in the interest of and for the purpose of carrying out departmental State business. Any person violating this Section shall upon final conviction be subject to a fine of not less than \$50.00, nor more than \$200.00. In the event such use of such automobile is being made with the knowledge of the head of the department, having charge of such automobile, then such department head shall also be liable to punishment in a fine of not more than \$200.00. Any court of competent jurisdiction in the county where this law is violated shall have jurisdiction to try such cause."

In our opinion, these provisions of the rider, construed together, reflect the legislative intent, not only that State officials and employees shall not receive reimbursement for such items of traveling expense as meals, lodging, etc., incurred in traveling to a convention of any kind, within or without the State, but also that such State officials or State employees shall not be permitted to use State-owned automobiles for the purpose of conveying themselves to such conventions, though they may pay

Hon. O. J. S. Ellingson, Page 3.

other expenses incurred on trip personally. The use of an automobile purchased by the State involves an expenditure of State funds, in that every use of such State-owned automobile of necessity results in a depreciation of the value of such car.

You are, therefore, advised that the Prison Board may not permit its members or officials of the Prison to use a State-owned automobile to convey these men to the American Prison Congress in New York City, though their expenses, aside from the use of the car, are not to be paid from any State funds.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild

R. W. Fairchild
Assistant

APPROVED OCT 6, 1939

RWF:pbp

[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

