OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Travis Co.

Honorable Geo. H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Mr. Sheppard:

Opinion No. O-2603

Re: Authority of the Comptroller to issue warrants in payment of machinery purchased through contract of Texas Prison System rather than through the Board of Control.

Your request for a legal opinion is as follows:

"I am attaching Texas Prison System Audit No. 4971 and requesting your opinion as to whether this department is authorized to issue warrant in payment of same.

"You will notice this claim is drawn by the New Braunfels Textile Mills, of New Braunfels, Texas, by Walter Dillard, Vice-President. Walter Dillard, as you know, is a member of the Texas Prison Board."

Audit No. 4971 is based upon the following invoice:

"NEW BRAUNFELS TEXTILE MILLS
New Braunfels, Texas

Date June 28, 1940

SOLD TO TEXAS PRISON SYSTEM,
HUNTSVILLE, TEXAS

YOUR ORDER # PS-14958
YOUR REQ. # PS-963R

Terms: NET

NO COMMUNICATION IS TO BE CONSTRUED AS A DEPARTMENTAL OPINION UNLESS APPROVED BY THE ATTORNEY GENERAL OR FIRST ASSISTANT

"THE FOLLOWING SECOND-HAND MACHINERY:

"1 ONLY DRAPER WARPER, COMPLETE WITH CREEL, CREEL TO HANDLE 480 ENDS, AND SKEWERS -	$100.00
"12 ONLY SECTION BEAMS, 54", WITH 24" DIAMETER HEAD	48.00
"2000 ONLY WOODHEAD SPOOLS, 4x5	62.00
	$210.00"

You are respectfully advised it is your duty to decline to issue warrants in payment of the audit mentioned, because such purchase should have been by the Board of Control and not by the Texas Prison System.

Our reasons are fully set forth in our recent Opinion No. O-2595, involving the identical question of law, which opinion you have received or will receive along with this one.

APPROVED AUG 14, 1940

Gross Sellers

FIRST ASSISTANT
ATTORNEY GENERAL

Very truly yours

ATTORNEY GENERAL OF TEXAS

By Ocie Speer

Ocie Speer
Assistant

OS-MR

Enclosure

APPROVED
OPINION
COMMITTEE
BY NEK
CHAIRMAN

ask
Gwyo