



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

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

Dear Sir:

Opinion No. 0-2669  
Re: Authority of Limitation of  
Payments Board to authorize  
purchase of automobiles.

This will acknowledge receipt of your letter of August 22, 1940, in which you advise that a grant of the Limitation of Payments Board gave the Railroad Commission authority to expend surplus funds for the purchase of a number of automobiles; that a bill has been drawn against this grant for the payment of an automobile and presented to you for payment. You point out that in Opinions Nos. 0-1294, 0-1321, and 0-2404, this department has held that the Limitation of Payments Board has no authority to grant a department additional traveling expenses. You also advise that for many years the Comptroller's Department has held that, in the absence of a specific appropriation, the purchase of automobiles, plus maintenance costs, were traveling expense items and properly chargeable against traveling expense appropriation.

You ask the following questions:

1. Should the purchase of an automobile in the absence of a specific appropriation for the purchase of such be charged against a traveling expense appropriation?
2. Is the grant of the Board a valid grant?

In the general rider appended to Senate Bill 427, Acts of the 46th Legislature, paragraph (1), under the heading "Traveling Expenses", reads as follows:

"No monies herein appropriated shall be spent for the purchase of a passenger car in

Hon. George H. Sheppard, page 2.

excess of \$750.00, including the trade-in value of a used car, and this limited price shall cover a car equipped with bumpers and extra rim or wheel but not an extra casing and tube."

It is clear that the Legislature thus regarded the purchase of an automobile as an item of "Traveling Expenses". Your first question is therefore answered in the affirmative. In the absence of such a provision in the general rider, the question would be more difficult, but even in that event, it is not clear that the purchase of an automobile should not be regarded as an item of "Traveling Expenses", and we would therefore be inclined to adopt the construction placed by your department upon the term "Traveling Expenses" as used in the Departmental Appropriation Bills over a long period of years.

Since the purchase of automobiles is an expenditure for "Traveling Expenses", under the Departmental Appropriation Bill and the construction given the term "Traveling Expenses" by your department over a number of years, it is apparent that the Limitation of Payments Board, in granting the Railroad Commission authority to expend surplus funds for the purchase of automobiles, has supplemented the item appropriated to the Railroad Commission for traveling expenses, and made available to the Railroad Commission a larger sum of money than was specifically provided for that purpose by the Legislature. Since, as we have held in the opinions cited above, the Limitation of Payments Board has no authority to grant permission to expend surplus funds for traveling expenses, it follows that the grant of the Limitation of Payments Board, insofar as it conferred authority upon the Railroad Commission to expend surplus funds for the purchase of automobiles, is an excess of the authority conferred by the Legislature upon the Limitation of Payments Board, and is therefore invalid.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED AUG 26, 1940

*Ernest A. Walker*

DEPUTY ASSISTANT  
ATTORNEY GENERAL

By

*Richard W. Fairchild*

Richard W. Fairchild  
Assistant

RWF: jm

