



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. 0-3838
Re: Constitutionality
of appropriation made
by Forty-seventh Legis-
lature to pay claim of
the American National Bank,
Austin, Texas

We have for acknowledgment your letter of July 30, 1941, wherein you ask the opinion of this department upon the legality of the appropriation made in S.B. No. 115, Acts of the Regular Session of the Forty-seventh Legislature, in the amount of \$5,541.62, to pay the claim of the American National Bank of Austin, Texas.

In our Opinion No. 0-1750, addressed to you under date of December 12, 1940, copy of which opinion is enclosed herewith, we held that under the Constitution of the State of Texas the Legislature was denied the authority to appropriate any funds in payment of this claim of the American National Bank, Austin, Texas. This opinion discusses fully the questions involved. In the last paragraph thereof we said:

"Since the appropriation providing for the payment of this claim is condemned by the Constitution, and therefore void, it follows that no appropriation is available for the payment of the claim of the American National Bank, for, clearly, an appropriation is not to be considered as available in law unless that appropriation is validly made."

Honorable George H. Sheppard, page 2

We adhere to the conclusions expressed in our Opinion No. O-1750. You are therefore advised that the appropriation sought to be made in S. B. No. 115, Acts of the Regular Session of the Forty-seventh Legislature, to pay this claim of the American National Bank, Austin, Texas, in the opinion of this department is unconstitutional and therefore void.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ R. W. Fairchild
Richard W. Fairchild
Assistant

RWF:FS

APPROVED AUG. 5, 1941
/s/ Grover Sellers
FIRST ASSISTANT ATTORNEY GENERAL

APPROVED OPINION COMMITTEE
BY E. W. B. CHAIRMAN