



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable J. S. McDonald, Commissioner
Department of Agriculture
Austin, Texas

Attention: Mr. Charles E. Baughman, Chief Clerk

Dear Sir:

Opinion No. 4742
Re: Authority of the Commissioner
of Agriculture of the State of
Texas to make contributions
toward the support of the South-
ern Commissioners of Agriculture
Association out of the contin-
gent fund provided for the use
of the State Department of
Agriculture.

You have requested the opinion of this Department
on the question above stated, and submitted with your request
the following explanation of the uses to which the contribu-
tion so made would be put:

"At Washington, D. C., the Southern Commis-
sioners of Agriculture maintain a headquarters
with a paid secretary in charge, whose duties are
to observe the legislative trend there at Washing-
ton and in the States represented in the Associa-
tion, and to report to each of the Commissioner
members on such matters.

"The Association is working to better the
industry of agriculture, and more especially the
industry in the Southern States."

"The Secretary observes the activities of
the members of Congress as touching upon all mat-
ters relating to agriculture generally, and spe-
cifically, of the administration generally, and
specifically, of members of cabinets generally
and specifically, note legislation affecting tar-
iffs, reductions or additions. Trade Agreements

as may deal with agricultural commodities, movements, exports, imports, foreign production increase and/or declines.

"The Secretary compiles the information gathered in the form of a report and furnishes the Commissioner members with copies of these.

"Under sub-sections 5 and 10 of Article 51, R C S, the information furnished the Commissioner of Agriculture of Texas by the Secretary of the Association of Southern Commissioners of Agriculture, would be most appropriate and moreover very valuable. In a way the information enables the Commissioner to have his finger on the pulse of the entire agricultural situation, and information thus derived may be properly passed on to the agricultural interests of the State.

"It occurs to the writer, and it is the view of the State Department of Agriculture, that since the Department has no Statistical Division, no special appropriations for the gathering of statistical matters, yet being charged with such duties, the information, statistical and otherwise, is needed by the Department."

The general appropriation bill under which the State Department of Agriculture is now operating is Senate Bill No. 423, Chap. 571, Acts Forty-seventh Legislature, Regular Session. This bill contains the following appropriation to the Department of Agriculture under the heading "Maintenance and Miscellaneous":

	"For the Years Ending August 31, 1942	August 31, 1943
"Furniture, fixtures, postage, printing, express, telephone, telegraph and contingent. .	\$10,000.00	\$10,000.00"

There are other appropriations to the Department of Agriculture for contingencies, but each of them is directed

to some specific use which has no connection with the matter inquired about, and so we presume that this is the contingent fund to which you refer.

The moneys of a contingent fund are to be used for purposes the legislature could not foresee and anticipate. No part of it can be used for supplementing the definite sums appropriated for specific items, nor can any part of it be lawfully used for any purpose for which the Legislature would not have been authorized to make a definite appropriation.

Article 51, V. R. C. S. 1925, prescribes the duties of the Commissioner of Agriculture. Section 5 of said Article 51, cited by you, provides:

"5. He shall investigate and report upon the question of broadening the market and of increasing the demand for cotton goods and all other agricultural and horticultural products, both in the United States, and in foreign countries. He shall compile the statistics showing from abroad the number of bales of cotton consumed by the spinners, and demands for our cotton, the methods and course that sales to foreign countries now take, showing the purchasers, brokers, etc., through whose hands the cotton largely passes after leaving the producers, likewise showing in what countries an increased trade could be worked up, and thereby giving a better outlet for the trade and the best method to bring consumer and purchaser together, and all other information beneficial to farmers."

It appears from your statement of the activities of The Southern Commissioners of Agriculture Association, and the use to which the information received from said Association is put, that the sole function of the dues paid by you to the association is to enable you to more effectively carry out the duties imposed upon you by said section 5 of Article 51. Certainly the Legislature is authorized to appropriate monies to your department for the specific purpose of enabling you to carry out those duties, yet we find no such specific appropriation.

It is therefore our opinion that you are authorized to make, out of the contingent fund appropriation above referred

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to, contributions toward the support of The Southern Commissioners Association, for the purposes above quoted.

Yours very truly

APPROVED OCT 14, 1942

ATTORNEY GENERAL OF TEXAS

W. R. Allen
By
FIRST ASSISTANT
ATTORNEY GENERAL

W. R. Allen

W. R. Allen
Assistant

WRA:mp

