



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable D. W. Stakes, General Manager
Texas Prison System
Mantelville, Texas

Dear Mr. Stakes:

Opinion No. 0-5141

Re: Whether or not the Texas
Prison Board has authority
to furnish its employees
with Prison-produced food
products.

You ask whether or not the Texas Prison Board had the authority to furnish its employees with Prison-produced food products.

We beg to advise that it is the opinion of this department that the Texas Prison Board does not have authority to furnish its employees with Prison-produced food products.

Article 352 of the Penal Code declares:

"Any officer, agent or employee in any capacity connected with the Prison System, * * * who shall be financially interested in any other transaction connected with the Prison System, shall be confined in the penitentiary not less than two nor more than five years."

Article 870 of the Penal Code declares:

"No officer or employee of the state penitentiary shall be permitted to purchase any goods or merchandise or other property from the State or Penitentiary System, except such surplus foods, vegetables, ice, water, steam and lights as may be produced or manufactured on the premises of the penitentiary, or to appropriate to his private

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use or employment the labor, services, or use of any State penitentiary convict, or of any animal, vehicle, or other personal property belonging to the State, unless it be by the express consent of the Penitentiary Board had by an order to that effect entered of record on the minutes of said Board, providing for the amount to be paid by such officer or employee, for the use, employment and services of such convict or convicts for the use of any personal property belonging to the State; * * *. Any such officer or employee who shall violate any provision of this Article shall be punished by dismissal from his office or employment and by a fine of not less than twenty-five dollars nor more than two hundred dollars, and if the conviction be for accepting or receiving any salary or compensation from a hirer or employer of the State convicts, the party so convicted shall, in addition to the penalty above described, be confined in jail not less than one month nor more than one year. * * *.

An interpretation of these statutes impels us to the conclusion above announced.

Of course, this opinion would not apply to a case of specific legislative appropriation of such products as part of the compensation to such an employee, nor does it apply to sales of the products of the penitentiary to employees, as specially provided in Article 370 of the Penal Code above quoted.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Ocie Speer
Ocie Speer
Assistant

[Signature]
ATTORNEY GENERAL

OS-MR

