



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

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

Dear Mr. Sheppard:

Opinion No. 9-5688

Re: The exact amount authorized and appropriated to each Court of Civil Appeals for each fiscal year of the ensuing biennium for the purchase of law books.

We have given careful consideration to the question above stated, as contained in your letter of August 30, 1943.

We have also read with interest and considered the letters written by Chief Justice Atwood McDonald of Fort Worth, Chief Justice Edwin W. Smith of San Antonio, and Chief Justice James W. McClendon of Austin, in connection therewith.

Article 1838a, Section 1-a, of the Revised Statutes, passed in 1935, does not make any specific appropriation. If said Act should be construed as an appropriation, then, under Article 9, Section 6, of the Constitution, the appropriation could not have been for more than two years. Said Article, however, only authorizes the Clerks of the Courts of Civil Appeals to purchase additional law books out of the fees collected;

"Such expenditures shall not exceed annually the specific amounts of such fees additionally authorized for such purpose in the General Appropriation Act of the Legislature made biennially for the support and maintenance of the Judiciary Department of the State Government."

Honorable Geo. H. Sheppard - page 2

As appears from the Appropriation Bill passed by the last Legislature, there is appropriated for each of the eleven Courts of Civil Appeals the following items:

"(6) Equipment, maintenance and contingent expenses.....\$ 500.00

"(7) Books for library.. \$50.00 transferable, for each of the biennial years.

Section 2 of the Act, making appropriations for the Judiciary, which is under the head of general provisions, reads:

"All amounts appropriated in this Act for law books, or expended therefor under authority of this Act, shall be paid out of the General Fund."

Section 4(a) of the Judiciary Appropriation Bill reads:

"Appropriations made in this Act are intended to be, and shall be, construed as being the maximum sums, respectively, which may be used in any way for the purpose or object named in the Act, and obligations shall not be incurred in any case, which, when the amount thereof added to expenditures actually made, will exceed such maximum sum; and no surplus shall be diverted from one appropriation to another, except transfers or adjustments may be made as between appropriated accounts for books, equipment, maintenance and contingent items."

It therefore appears to us, and we so hold, that any one of the Courts of Civil Appeals can expend for books for its library during each of the next two biennial years the sum of \$500.00, together with any portion of the \$500.00 appropriated for "equipment, maintenance and contingent items" not used for said purposes.

Honorable Sec. H. Sheppard - page 3

Trusting that what we have said fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Geo. W. Barcus*
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Assistant

GVB-ER

APPROVED SEP 8 1943
Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

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SPRING
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BY *BWB*
CHAIRMAN