



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Weaver Baker, Chairman  
State Board of Control  
Austin, Texas

Dear Judge Baker:

Opinion No. O-6865

Re: Construction of H. B. No. 301,  
49th Legislature with respect  
to the location of the pro-  
posed State Courts Building.

House Bill No. 301 of the 49th Legislature authorizes the construction of two buildings, one of which it is provided shall be known as the State Courts Building, and the other as the State Office Building. The same bill also authorizes the purchase of what is known as the Tribune Building in the City of Austin. The Tribune Building itself is an office building, and since its tentative purchase by the Board and the Legislative and Business Council set up by the act to assist the Board of Control, it is contemplated that the State Office Building authorized by the bill will not be built, and the question has arisen whether or not the Board and the Council are authorized to construct the State Courts Building of the bill on the vacant lot belonging to the State lying west of Congress Avenue, if in the judgment of the Board and Council, for any good reason, that course should be pursued. I have been requested to give you an opinion upon this phase of the situation.

Section 4 of the bill declares:

"One of said buildings shall be designed to accommodate the Supreme Court of Texas and its Commission of Appeals; the Court of Criminal Appeals of Texas and its Commission of Appeals; the State's Attorney before the Court of Criminal Appeals; the Court of Civil Appeals, Third District; the Attorney General of Texas, and such other offices as space therein will permit. This building shall be known as the State Courts Building."

Section 5 declares:

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"The other of said buildings shall be designed and constructed for office space only, except the ground floor which shall be designed to care for tenants engaged in such businesses as will best accommodate the needs of State officers and employees; especially the drug, cafe and barber business. The name of this building shall be the 'State Office Building.'"

Section 6 is as follows:

"That the State Courts Building shall be located on the lot of land now occupied by the Walton Building. Said lot more particularly described as follows: The West half of the North one-half (1/2) of Block 123, as shown on the original plot of the city of Austin."

Section 7 is:

"That the State Office Building shall be placed on the lot described as follows: North one-half (1/2) of Block 124, as shown by the original plot of the city of Austin. Said one-half (1/2) block is bounded on the west by Colorado Street, on the north by 11th Street, on the east by Congress Avenue."

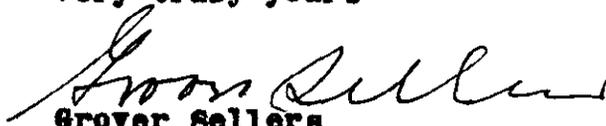
House Bill No. 301 carries an appropriation, but it is not solely an appropriation bill; it is more -- it is a legislative act providing for the construction of two State office buildings. The appropriation is an incident to the major purpose of the construction of the two buildings. The Legislature having specifically provided that the State Courts Building shall be located on the land now occupied by the Walton Building, and having specifically described the ground upon which the same should be located, such location becomes an integral part of the act, which is binding. It cannot be ignored or violated upon any reasons of convenience, economy or otherwise.

The appropriation providing for the construction of such building is, of course, predicated upon the law essential to the appropriation, which law, as has been pointed out, re-

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quires the building to be on the site of the Walton Building east of Congress Avenue, and not on the vacant property of the State west of Congress Avenue. There is, therefore, no "pre-existing law" for an appropriation for the building anywhere other than on the Walton site.

Very truly yours

  
Grover Sellers  
ATTORNEY GENERAL OF TEXAS

GS-MR

APPROVED OCT 17, 1945

