



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

March 7, 1939

ERALD C. MANN  
ATTORNEY GENERAL

Mr. A. J. Bryan, Jr.  
Criminal District Attorney  
Hill County  
Hillsboro, Texas

Dear Sir:

Opinion No. 0-397  
Re: Priority of payment of warrants  
on General Fund.

Your request for an opinion upon the following question:

"Is a warrant drawn on an overdrawn General Fund and payable to the Officers' Salary Fund entitled to be paid from first money paid into General Fund?"

has been received by this Department.

Article 1625, Revised Civil Statutes of Texas, provides as follows:

"Each county treasurer shall keep a well-bound book in which he shall register all claims against his county in the order of presentation, and if more than one is presented at the same time he shall register them in the order of their date. He shall pay no such claim or any part thereof, nor shall the same, or any part thereof, be received by any officer in payment of any indebtedness to the county, until has been duly registered in accordance with the provisions of this title. All claims in each class shall be paid in the order in which they are registered."

Article 1626, Revised Civil Statutes of Texas, provides as follows:

"Claims against a county shall be registered in three classes, as follows:

"1. All jury script and script issued for feeding jurors.

"2. All script issued under the provisions of the road law or for work done on roads and bridges.

"3. All the general indebtedness of the county, including feeding and guarding prisoners, and paupers' claims."

Article 1627, Revised Civil Statutes of Texas, reads as follows:

"Said treasurer shall enter each claim in the register, stating the class to which it belongs, the name of the payee, the amount, the date of the claim, the date of registration, the number of such claim, by what authority issued, and for what service the same was issued, and shall write on the face of the claim its registration number, the word 'registered', the date of such registration, and shall sign his name officially thereto."

Clakke & Courts vs. San Jacinto, 45 SW 315, held that warrants on General Fund should be paid in order according to their respective registered numbers.

In the case of White vs. Calaway (Tex. Civ. App.) 282 SW 842, writ refused, appellant White brought suit against certain officers of Montague county seeking a writ of mandamus compelling them to "immediately pay" to applicant a certain judgment in his favor against Montague county, in the sum of \$500.00, with interest and cost." The lower court refused applicant the relief sought and he appealed. Judge Connor of the Fort Worth Court of Civil Appeals in passing upon said case, after quoting from other authorities, said:

"The statement there made (Kaufman County vs. Gaston (Tex. Civ. App.) 273 SW 273) is supported by authorities, and we think there can be no doubt under the circumstances of this case but that the appellant was entitled to have the commissioners' Court direct the clerk to issue a warrant for the payment of his claim. That claim consisted of the judgment, its interest, and costs, adjudged in his favor. Upon this issuance of the warrant and its presentation to the treasurer, the appellant was

entitled to have the warrant registered and have the same paid in the order in which it was registered, as provided by article 1625 above. See *Clarke & Courts vs. San Jacinto County*, 45 SW 315, 18 Tex. Civ. App. 204. The right to secure such payment is not affected, we think, by the fact pleaded in defense and upon evidence in behalf of appellee county that there was not sufficient money in the general fund of the county to pay the debt and to meet other necessary running expenses of the county." *Underwood vs. Howard* (Tex. Civ. App.) 1 SW (2d) 730.

The case of *Wilkinson vs. Franklin County et al*, 94 SW (2nd) 1190, held that an order of the Commissioners' Court requiring the county treasurer to pay current warrants drawn against the county General Fund in preference to warrants of prior years drawn against General Fund was void, so that warrants issued during prior year which bore preferential registration numbers to current year warrants were payable out of General Fund for current year in preference to current year warrants.

Therefore, you are respectfully advised that it is the opinion of this Department that Article 1625 of the Revised Civil Statutes of Texas clearly denotes the order in which warrants drawn against the county treasury are to be paid, and amounts to an appropriation of the funds in the county treasury to the payment of all warrants legally drawn against the several classes of funds in the order of their registration.

You are respectfully advised that it is the opinion of this Department that a warrant drawn on an over-drawn General Fund and payable to the Officers' Salary Fund is not entitled to be paid from the first money paid into the General Fund. It is the further opinion of this Department that such warrant should be paid according to its number and registration as provided in Article 1625 of the Revised Civil Statutes of Texas.

Mr. A. J. Bryan, Jr., March 7, 1939, Page 4

Trusting that the foregoing answers your inquiry, we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

BY

*Wm. J. Fanning*

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Assistant

WJF:AW

APPROVED:

*Gerald B. Mann*  
ATTORNEY GENERAL OF TEXAS