

NO. 3062

Funds appropriated by H. B. No. 336, Regular Session, 46th Legislature, may not be used to pay claims, compensation or damages for cotton destroyed under terms of Article 73, Revised Civil Statutes, 1925.

OFFICE OF THE ATTORNEY GENERAL

June 17, 1939

Honorable Charles E. Baughman
Chief Clerk
Department of Agriculture
Austin, Texas

Dear Sir:

Opinion No. O-927
Re: Payment of damages for cotton destroyed under Art. 73, R. C. S. 1925, out of funds appropriated by H. B. No. 336, 46th Legislature, Regular Session.

We are in receipt of your letter of June 2, 1939, in which you request the opinion of this department as to whether claims or damages arising out of the destruction of cotton under the provisions of Article 73, Revised Civil Statutes, 1925, may be paid from funds appropriated by House Bill No. 336, Acts Regular Session 26th Legislature.

Chapter 3, Title 4, Revised Statutes, 1925, authorized the Commissioner of Agriculture to destroy cotton which is infested or contaminated with pink bollworm upon compliance with the provisions of the Act. Chapter 3, Title 4 also provides for the presentation and adjudication of claims by affected persons arising out of the enforcement of the provisions herein contained.

The Title and Section 1 of House Bill No. 336, 46th Legislature, Acts 1939, Regular Session, provide as follows:

"AN ACT making an emergency appropriation to supplement an appropriation made by the Regular Session of the Forty-fifth Legislature for the fiscal year ending August 31, 1939, found on page 1368, Acts of the Regular Session of the forty-fifth Legislature; said appropriation is to pay the salaries and other expenses of the inspection work incident to the eradication of the pink bollworm, under the provisions of Chapter 3, Title 4, Revised Civil Statutes of Texas, 1939, known as the Pink Bollworm Law, and amendment thereto, and declaring an emergency."

"Section 1. That the sum of Eleven Thousand Dollars (\$11,000), or so much thereof as may be necessary, is hereby appropriated out of any moneys in the General Revenue not heretofore appropriated; said money is to be appropriated in compliance with the Statutes governing the expenditures of the Agricultural Department in accordance with the appropriation made by the Regular session of the Fifty-fifth Legislature and the same is hereby appropriated for the following purposes: To pay salaries and other expenses of the inspection work incident to the eradication of the pink bollworm and the administration of Chapter 3, Title 4, Revised Civil Statutes of the State of Texas, 1939, known as the Pink Bollworm Law, and amendments thereto, no salary to exceed the sum of One thousand, Four Hundred and Fifty Dollars (\$1,450) per year."

The appropriation found on page 1368, Acts of the Forty-fifth Legislature, to which this emergency appropriation is supplemental, provides in part as follows:

"AGRICULTURAL DEPARTMENT

For the years ending

August 1st 1938	August 1st 1939
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"12. Salary and other expenses in inspection and administration of Chapter 3, Title 4, Revised Civil Statutes, 1925, known as the Pink Bollworm Law, no salary to exceed \$1800 per year	\$15,000.00	\$15,000.00"
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That there is a clear distinction between the appropriation of moneys for the payment of claims and damages arising out of the enforcement of the provisions of Chapter 3, Title 4, and the payment of salaries and other administrative expenses, we think is manifest. Without referring at length to the various former departmental appropriation bills, we note that the Legislature has regularly appropriated in the general departmental appropriation bills, moneys in substantially the same amounts, and for substantially the same purposes, as those recited in that portion of the Act of the Forty-fifth Legislature quoted above. From time to time it has also been necessary to make emergency appropriations in substantially the same amount and for like purposes as that contained in House Bill No. 336, Acts Forty-sixth Legislature.

Article 81, Revised Civil Statutes, 1925, provides as follows:

"All claims for damages and claims for compensation arising from the enforcement of the provisions of this law shall be paid on certified statement by the Chairman of the Compensation Claim Board, or upon certified copy of the final judgment of the

court of competent jurisdiction, by warrants drawn by the Comptroller upon the State Treasurer, and

all salaries and other expenses incurred in the administration of this law shall be paid in the usual way upon a certified statement of the Commissioner of Agriculture."

Chapter 3, Title 4, Revised Civil Statutes, 1925, as originally enacted contained an appropriation of \$125,000.00, "One Hundred Thousand (\$100,000) Dollars of which may be used in payment of compensation and damages which may become due under the provisions of this Act, and the remaining Twenty-five Thousand (\$25,000) Dollars of which may be used in the payment of expenses incurred in the administration of this Act, which shall include salaries, expenses, printing, postage, telegraph, tele- phones, express, etc., needed in the enforcement of this Act." Acts 1921, 37th Leg., 1st. C. S., Ch. 41, S. B. No. 15, Sec. 14, p. 127.

Again in 1933 the Legislature made an appropriation in the sum of \$500,000.00 for the payment of claims accumulated for the years 1929 through 1932, arising out of the enforcement of the Act. Acts, 43rd Leg., 1st C. S., Ch. 67, S. B. No. 52, p. 184.

In providing that the money appropriated by Houst Bill No. 336, 46th Legislature, should be used "to pay salaries and other expenses of the inspection work incident to the ~~in~~ di- cation of the pink bollworm and the administration of Chapter 3, Title 4", the general clause, "and the administration of Chapter 3, Title 4," is limited in meaning to expenses of a general administrative character, as that term is generally understood, necessary or incident to the enforcement of the provisions of the act. For a partial list of such items see that portion of S. B. No. 15, 37th Legislature, quoted above. The title of House Bill No. 336, clearly does not include the payment of damages or claims but contemplates inspection and enforcement of the pink bollworm law.

It is our opinion that House Bill No. 336, Acts Regular Session, 46th Legislature, does not authorize payment of claims, compensation or damages, out of the funds therein appropriated, for cotton which has been destroyed by virtue of the terms of Article 73, Revised Civil Statutes, 1925.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By (signed) Cecil C. Cammack

Cecil C. Cammack
Assistant

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This opinion has been considered in conference, approved, and hereby ordered recorded.

(signed) GERALD C. MANN
Gerald C. Mann
Attorney General of Texas