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OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Hon. Bert Ford, Administrator
Texas Liquor Control Board
Austin, Texas

Dear Sir:

Opinion No. O-1406
Re: Refunds of taxes and license fees which accrue under Art. 1, Sections 15b and 45d, and Art. 2, Sections 18 and 23g, of the Texas Liquor Control Act, may not be paid if accruing after August 31, 1939, the date of the close of the biennium for which appropriations were made for said refunds.

Your letter of the 8th instant received, in which, after quoting Article 1, Sections 15b and 45d, and Article 2, Sections 18 and 23g of the Texas Liquor Control Act, you ask whether the refunds referred to in the sections quoted may be made.

Our attention has not been called to any specific appropriations made by the 46th Legislature. In the absence of any specific appropriation for this purpose, the statutes referred to do not authorize the payment of such refunds during this biennium.

Section 6 of Article VIII of the Constitution provides:

> "No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years."

In Pickle vs. Finley, 91 Tex. 484, the Supreme Court of this State disposes of a similar question in the following language:

> "The members of the Legislature are sworn to support the Constitution, and the courts will

not presume that they have intended to violate it when the language of the law will reasonably admit of another construction. Section 6 of article 8 of the Constitution (previously quoted) not only requires an appropriation before any money can be paid out of the treasury, but also limits every appropriation to a term of two years. If article 1018 of the Revised Statutes makes an appropriation for the payment of the salaries of the stenographers of the courts of civil appeals it is an unlimited appropriation. There is not a word to indicate that it was the purpose to restrict its operation to the term of two years. Therefore to presume that the Legislature intended by that provision not only to fix the salary of the office but also to make an appropriation for its payment is to presume that their purpose was to do that which the Constitution forbids. This cannot be presumed, unless the language be so clear as to admit of no other construction. If they had made an appropriation in unmistakable terms which was to continue for all time, it might be held valid for two years, and inoperative thereafter. But this has not been done. Here we have to deal with the question of construction and since no appropriation is clearly and expressly made we must hold that none was intended."

Yours very truly

ATTORNEY GENERAL OF TEXAS

(Signed) A. S. Rollins
A. S. Rollins
Assistant

ASR:pbp

APPROVED: SEPT. 22, 1939
(Signed) Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED:
Opinion Committee
By B. W. C.
Chairman