



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. O-2624

Re: Interpretation of Sec. 2  
of H. B. No. 257, 46th  
Legislature, Regular  
Session, 1930, with re-  
spect to the appropria-  
tion for lawbooks for  
the Courts of Civil Ap-  
peals.

You request an opinion from this department with respect to the matter suggested by Mr. J. I. Driscoll, Clerk of the Court of Civil Appeals for the Eighth Supreme Judicial District, whose letter is as follows:

"Dear Mr. Sheppard:

"By your letter to me of August 16th in the matter of the appropriation for the Judiciary of the last Legislature, being Section 2 of the Act, you quoted that Section as your authority for limitation of our appropriation for books to \$1000. I wrote the Attorney General for his opinion on your construction, and by his letter of August 22nd, signed by Mr. Casen, he informed me that he was prohibited from answering my question, and suggested that you, as Comptroller, submit the same to him.

"That you may have this matter before you clearly, I am here copying my letter to Attorney General Mann, and respectfully ask you to submit the question to him for his decision, if there be no objection on your part. The letter follows:

"Your opinion is respectfully requested upon the construction of Section 2 of the Judiciary Ap-

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appropriation, Special Laws of the 46th Legislature, Vol. 2, page 464.

"In addition to the regular appropriation for books for library of this court in the sum of \$500, in Section 2, at page 464, appears the following language:

"provided therefore, and in accordance with said law that any of said Courts of Civil Appeals receiving a specific appropriation of less than Seven Hundred (\$700) Dollars per year for library books shall not expend from said local receipts more than the said specific amount herein appropriated."

"Honorable Geo. H. Sheppard, our Comptroller, has ruled that this Court for the current fiscal year has an appropriation of only \$1000 for books. There seems to me to be confusion, and I propose, for your consideration, that this Court has the sum of \$1200 for the purchase of law books.

"To say the least, the language of Section 2 is very confusing, and by reason of the fact that our library is already handicapped seriously by the small appropriation allowed, I am hoping that your opinion will enable us to receive \$1200."

Section 2 of H. B. 257 -- the Judiciary Appropriation Bill -- is as follows:

"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 and the special accounts in the General Revenue Fund as hereinafter provided. In accordance with the provisions of Chapter 104 of the printed General Laws of the Regular Session of the Forty-fourth Legislature, the several Courts of Civil Appeals are hereby authorized to purchase additional law books out of their

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local receipts, and there is hereby appropriated to each of said Courts for such purposes for each of the fiscal years ending August 31, 1940, and August 31, 1941, the sum of Seven Hundred Dollars (\$700) out of their local receipts in addition to the specific amounts herein appropriated for library books for said Courts; provided further, and in accordance with said law that any of said Courts of Civil Appeals receiving a specific appropriation of less than Seven Hundred Dollars (\$700) per year for library books shall not expend from said local receipts more than the said specific amount herein appropriated."

Chapter 104, H. B. 424, referred to in the above section of the Appropriation Bill, provides:

"The Clerks of the Courts of Civil Appeals shall be and are hereby authorized to purchase additional law books for the use of said Courts out of the fees collected by said Courts; such expenditures shall not exceed annually the specific amounts of such fees additionally authorized for such purpose in the General Appropriation Acts of the Legislature made biennially for the support and maintenance of the Judiciary Department of the State Government. Provided, however, that all such fees collected by any clerk or other officer of any Court of Civil Appeals within this State shall be deposited in the State Treasury to the credit of the court so collecting and depositing same, and the expenditures out of said fund for the foregoing purposes shall be upon a warrant drawn upon the State Treasury by the State Comptroller, as may be provided for in the General Appropriation Bill for the Judiciary of this State."

Construing, as we must, the general statute and the above-quoted rider to the Appropriation Bill together, it is our conclusion that the interpretation suggested by

you -- that is, that the current fiscal year's appropriation for law books to the Court of Civil Appeals for the Eighth Supreme Judicial District is only \$1000.00 -- clearly is the correct one. The proviso in the rider to the effect that no Court of Civil Appeals shall expend from its local receipts more than the specific amount appropriated by the Legislature to that court for law books is conclusive of the matter, since the specific appropriation to the Court of Civil Appeals for the Eighth District for law books is \$500.00.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Ocie Spier*  
Ocie Spier  
Assistant

OS-MR

RECEIVED SEP 9, 1940

*Gerald W. Mann*  
ATTORNEY GENERAL OF TEXAS

