



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

00-5-984
GROVER SELLERS

ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion O-5984

Re: Whether sheriffs' fees
for serving subpoenas in
anti-trust cases may be
paid out of judiciary ap-
propriation.

Your request for advice is as follows:

"I am enclosing an account of Sheriff of Leon County in the amount of \$5.70 representing his fees for serving subpoenas in an anti-trust suit.

"I will thank you to advise this department whether or not we may issue warrant against our Judiciary appropriation for the payment of fees to Sheriff in felony cases in payment of this claim."

You attach the sheriff's certificate showing the subpoena was issued by the district clerk of Falls County and approved by the Honorable Terry Dickens, District Judge of that county.

Article 7439a, one of the statutes forming the anti-trust laws of the state, makes provision for the enforced attendance of out-of-county witnesses in prosecutions under those laws. The article provides that "in case the State is the party requesting the personal attendance of such witnesses, such expenses shall be paid in the same manner as costs in felony cases."

It follows, therefore, and you are so advised, that you are authorized by law to pay the sheriff's costs

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in question out of the judiciary appropriation set aside for the payment of sheriffs' costs in felony cases.

We return herewith the sheriff's certificate.



Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Elbert Hooper*
Elbert Hooper
Assistant

KH:db

Enclosure

APR 5, 1944

E. P. Shackleton
ATTORNEY GENERAL OF TEXAS