



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

December 8, 1958

Mr. E. B. Germany, Chairman
Texas Industrial Commission
Austin, Texas

Opinion No. WW-534

Re: Whether Section 56, Article
XVI of the Texas Constitu-
tion prohibits expenditures
by the Texas Industrial Com-
mission of donated funds.

Dear Mr. Germany:

Your request for an opinion concerns the question of whether Section 56 of Article XVI of the Texas Constitution prohibits expenditures by the Texas Industrial Commission of donated funds for the purpose of planning, organizing and operating a program for attracting and locating new industries in this State.

Section 56 of Article XVI of the Texas Constitution, prior to its amendment at the General Election in 1958, provided:

"The Legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a Bureau of Immigration, or for any purpose of bringing immigrants to this State."

Article 5190 $\frac{1}{2}$ of Vernon's Civil Statutes provides:

"In addition to its other duties, the State Industrial Commission is hereby authorized to plan, organize and operate a program for attracting and locating new industries in the State of Texas; provided, however, that no state funds shall be used for this purpose. The Commission may accept

contributions for such purpose, all of which shall be deposited in the State Treasury in a special fund to be known as the 'State Industrial Commission Fund,' and such sums are hereby appropriated to the Commission for the purposes of this article."

In our opinion when the Commission accepts any private contributions for this purpose and deposits them in the State Treasury and in a special fund known as the "State Industrial Commission Fund" such funds become public money, notwithstanding that these funds come from donations. Section 6, Article VIII, Constitution of Texas. However, Article 5190½ of Vernon's Civil Statutes provides for an appropriation of these funds for the purpose of such action.

Section 56 of Article XVI of the Constitution of Texas strictly prohibits the Legislature from appropriating any of the public money for the establishment and maintenance of a Bureau of Immigration and continues by saying "or for any purpose of bringing immigrants to this State."

While it cannot be denied that if the Texas Industrial Commission carries out its additional assignment "to plan, organize, and operate a program for attracting and locating new industries in the State of Texas", these new industries may bring or attract new individuals into the State, but these new individuals are certainly not immigrants in the true sense of the word. The primary functions of the Commission will be the attracting of industries to move into the State, not immigrants.

According to the interpretative commentary found below Section 56 of Article XVI of the Constitution of Texas, it states that prior to the Constitution of 1869, there was an immigration bureau which was supported by the State. Its functions were that of an advertising agency to disseminate reliable information about the resources of the State to other states and to Europe. This practice was discontinued by Section 56 of Article XVI of the Constitution of Texas.

It must be remembered that in 1869, and before, the greater portion of the area of Texas was but a wilderness

and that those in government and outside of government realized that in order for the State to function and grow, immigrants would be needed. Obviously, there was little or no industry that could be attracted. What Section 56 of Article XVI of the Constitution of Texas prohibited was the expenditure of State money to attract these immigrants from Europe and perhaps those who temporarily settled in the eastern states.

In our opinion the function of the Texas Industrial Commission would, under Article 5190 $\frac{1}{2}$, Vernon's Civil Statutes, provide for a different type of activity than is prohibited by the Constitution. We are sustained in this conclusion in view of the fact that the voters of Texas adopted an amendment to Section 56 of Article XVI of the Constitution of Texas at the general election in 1958, which reads in part as follows:

"The Legislature of the State of Texas shall have the power to appropriate money and establish the procedure necessary to expend such money for the purpose of developing information about the historical, natural, agricultural, industrial, educational, marketing, recreational and living resources of Texas, and for the purpose of informing persons and corporations of other states through advertising in periodicals having national circulation, and the dissemination of factual information about the advantages and economic resources offered by the State of Texas; . . ."

In Webster's International Dictionary, 2nd Edition, "immigrant" is defined as "one who immigrates; one who comes into a country for the purpose of permanent residence." Webster's further defines the word "immigrate" -- "to come to dwell or settle; to come into a country of which one is not a native, for the purpose of permanent residence."

It is our opinion that advertising which would attract new industries to Texas could not be given the same meaning as attracting immigrants to the State.

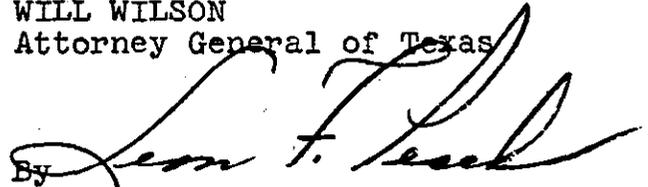
Mr. E. B. Germany, page 4. (WW-534)

SUMMARY

Section 56 of Article XVI of the Constitution of Texas, as amended at the general election in 1958, is not being violated by the expenditure of funds under the provisions of Article 5190 $\frac{1}{2}$, Vernon's Civil Statutes.

Yours very truly,

WILL WILSON
Attorney General of Texas



By Leon F. Pesek
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APPROVED:

OPINION COMMITTEE

Geo. P. Blackburn, Chairman

REVIEWED FOR THE ATTORNEY GENERAL

BY:

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