



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

July 27, 1962

Adm. H. R. Nieman, Jr.  
Executive Director  
State Building Commission  
Austin, Texas

Opinion No. WW-1405

Re: Whether line item 20, to the Building Commission, in the General Appropriation bill is available to be used in refinishing certain furniture for the Third Court of Civil Appeals.

Dear Admiral Nieman:

You have asked for the opinion of this office as to whether line item 20, to the Building Commission, in the General Appropriation Bill of the 57th Legislature is available to be used in refinishing certain furniture for the Third Court of Civil Appeals in Austin.

Under the heading - BUILDING COMMISSION - line item 20 in the General Appropriation Bill of the 57th Legislature reads as follows:

"For purchase of furniture and equipment for the Third Court of Civil Appeals in Austin, Texas

For the Years Ending

August 31, 1962

August 31, 1963

\$10,000.00

U.B."

It is the understanding of this office that, acting under color of authorization from the above appropriation, certain valuable pieces of furniture from the Third Court of Civil Appeals were refinished, rather than replaced by new furniture. The cost of such refinishing was \$799.50. The present opinion request was necessitated by the refusal of the Comptroller of Public Accounts to issue a warrant in payment of the cost of such refinishing.

The Legislature, in making appropriations for the years 1962 and 1963, recognized that the Third Court of Civil Appeals was in need of funds with which to provide furniture and equipment more in keeping with the honor and dignity of the judicial branch of our State government.

The general rule regarding interpretation of appropriation line items is stated in previous opinions by the Attorney General's office. See Opinions O-4172 (1941) and S-80 (1953). As stated in the cited opinions, the general rule is that money appropriated by the Legislature cannot be spent for any purpose other than that for which it is appropriated. The validity of this rule of law cannot be challenged.

In granting authority for the purchase of furniture for the Third Court of Civil Appeals, the Legislature also granted the authority to bargain for such furniture. Halff v. O'Connor, 37 S.W. 238, 241 (Civ.App. 1896, writ denied). And if, in the conduct of such bargaining it became clear that the State would be better and more economically served by stopping short of a full-fledged purchase of new furniture, this office certainly cannot hold such action improper. The literal words of the appropriation would authorize the purchase of used furniture, and its refinishing could be included within the original purchase terms. Can we say that it was the intent of the Legislature to forbid the Court to retain and preserve the valuable, antique-quality furniture it now has? Certainly not. And if the present furniture can be retained, there is no need for a full purchase of new furniture. If the Comptroller's interpretation were to be followed, the Court would be forced to discard its present furniture and purchase totally new furniture. This is tantamount to saying that the Legislature is, in these particular circumstances, insensitive to the cause of economy in government and unaware of the value of many of the fine pieces of furniture now in the possession of the Third Court of Civil Appeals.

In view of the foregoing, it is the opinion of this office that, in the particular fact situation presented, it was the intent of the Legislature that "refinishing of furniture presently on hand" be included within the subject line item appropriation for purchase of furniture and equipment.

#### SUMMARY

In the particular fact situation presented, a bill for refinishing certain furniture belonging to the Third Court of Civil Appeals in Austin is payable out of a line item appropriation which provides

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funds for "Purchase of furniture and equipment for  
the Third Court of Civil Appeals in Austin, Texas."

Yours very truly,

WILL WILSON  
Attorney General of Texas

By   
Malcolm L. Quick  
Assistant

MLQ:wb

APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman  
Pat Bailey  
Vernon Teofan  
Charles Lind

REVIEWED FOR THE ATTORNEY GENERAL

BY: Leonard Passmore