



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

April 12, 1949

Hon. Pearce Johnson, Chairman
Committee on State Affairs
House of Representatives
51st Legislature
Austin, Texas

Opinion No. V-809.

Re: Constitutionality
of House Bill 57,
51st Legislature.

Dear Sir:

We refer to your request for an opinion concerning the constitutionality of House Bill No. 57 now pending before the committee on State Affairs of the House of Representatives which reads:

"SECTION 1. The Chapter 562 of the Acts of the 47th Legislature 1941, Page 914 be and the same is hereby amended by adding thereto the following section.

" 'Sub-Section 16 (a) All persons between the ages of twenty-one (21) to sixty-five years who are not blind and who are the victims of Spastic or epileptic attacks shall be entitled to all of the benefits of this Act as herein provided.' "

Section 51 of Article III of the Constitution of Texas reads in part:

"The Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever;..."

The only pertinent exceptions to the prohibitions contained in Section 51 of Article III are contained in Section 51a of the article; they read:

"The Legislature shall have the power, by general laws to provide, subject to limitations and restrictions herein con-

tained, and such other limitations, restrictions and regulations as may by the Legislature be deemed expedient for assistance to, and for the payment of assistance to:

"(1) Needy aged persons who are actual bona fide citizens of Texas and who are over the age of sixty-five (65) years....

"(2) Needy blind persons who are actual bona fide citizens of Texas and are over the age of twenty-one (21) years....

"(3) Needy children who are actual bona fide citizens of Texas and are under the age of sixteen (16) years...."

Section 51a, therefore, provides for assistance to three and only three types of persons: (1) Needy persons over sixty-five (65); (2) Needy blind persons over twenty-one (21); and (3) Needy children under sixteen (16). The persons about whom you wrote are doubtless in need of assistance. But they do not fall within any of the above three exceptions to the constitutional provision which prohibit the granting of public money to individuals.

The general rule expressed by Section 51 of Article III is that the Legislature shall have no power to make any grant of public money to any individual. The only relevant exceptions are contained in Section 51a above. The Legislature is therefore bound by the constitutional provisions of Section 51 and may not make any grant of public moneys to the persons listed in House Bill 57, since such persons are not within the exceptions listed in Section 51a.

SUMMARY

Since Section 51a of Article III of the Texas Constitution provides for public assistance only to (1) needy persons over sixty-five (65), (2) needy blind persons over twenty-one (21), and (3) needy children under sixteen (16), the Legislature may not constitutionally make a grant of public money to victims of spastic or epileptic fits who are between twenty-one (21) and


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sixty-five (65) and are not blind. The reason is that the Constitution otherwise provides that "The Legislature shall have no power to make...any grant of public moneys to any individual..." Article III, Section 51.

Very truly yours,

ATTORNEY GENERAL OF TEXAS

By


W. T. Williams
Assistant

WTW:v:mw

APPROVED:



FIRST ASSISTANT
ATTORNEY GENERAL