



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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ATTORNEY GENERAL**

May 22, 1953

Hon. J. F. Gray, Chairman
House Contingent Expense Committee
Fifty-third Legislature
Austin, Texas

Letter Opinion No. MS-40.

Re: Validity of House Simple
Resolution No. 289, au-
thorizing the expenditure
of contingent funds to pur-
chase a framed copy of the
panel picture of the House
membership for each mem-
ber.

Dear Sir:

House Simple Resolution No. 289 states that each member of the House should have a copy of the customary panel picture of this session of the Legislature, since heretofore such copies have become the proud and valuable possessions of the membership of former sessions. The resolution then provides:

"RESOLVED, By the members of the House of Representatives, that the chairman of the Contingent Expense Committee be and is hereby authorized to order a framed copy of the panel picture of the House membership for each member of the House of Representatives and that such copy be provided for each member to be charged to each member's contingent expense account."

You have asked whether or not the expenditure directed by this resolution is a proper expenditure of State funds under the Constitution.

It is our opinion that the expenditure attempted to be authorized in House Simple Resolution No. 289 is not a lawful use of funds appropriated to the House Contingent Expense Account.

You are respectfully advised that this office has consistently taken the view that funds appropriated to contingent expense of the Legislature may be used only when the expenditure may be reasonably construed to be expended for a public purpose with respect to one or more duties imposed by law upon the Legislature. For example, in Opinion No. V-211 (1947) we held that payment from such funds of newspaper subscriptions for House

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members during periods between sessions could not be construed as being for a public purpose with respect to any legislative duty of the members. See also Opinion No. O-4350 (1942) where it was said:

"We think it is obvious that photographing the personnel of the State Board of Architectural Examiners contributes in no degree whatsoever to the enforcement of the laws intrusted to that Board for administration. You are therefore advised that the account for this purpose may not be paid from the appropriations made to the Board of Architectural Examiners."

In view of our conclusion that this expenditure would not be for a public purpose related to the duties imposed by law upon the members of the House, such payments are clearly prohibited by the Constitution. Tex. Const. Art. III, Sec. 24; Walker v. Baker, 145 Tex. 121, 196 S.W.2d 324, 329 (1946) ("This per diem, multiplied by the number of days the Legislature remains in regular or called session, is the entire compensation a member is entitled to receive, and for it he must attend the legislative sessions and perform all the other duties of his office each biennium.") Cf. Tex. Const. Art. III, Sec. 22.

Yours very truly,

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By

Phillip Robinson
Assistant

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