



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

March 18, 1939

Mr. Fred Norris  
County Auditor  
Polk County  
Livingston, Texas

Dear Sir:

Opinion No. 0-505  
Re: Authority of County Commissioners'  
Court to pay interest on General  
Fund Scrip.

Your request for an opinion as to the legality of the acts of the Commissioners' Court which attempted to contract with a local merchant to cash on General Fund Scrip at par value and upon which the county agrees to pay interest every three months, the interest being figured on the average amount held daily has been received by this office.

A County General Fund warrant, commonly called General Fund Scrip, is not a negotiable instrument. Article 5932, Section 1, Revised Civil Statutes of Texas. It is only evidence of indebtedness showing that the claim has been presented and allowed. It is not a contract to pay on demand. The scrip is an order to the County Treasurer to issue a voucher to the payee for the amount thereof. 55 Tex. 49, Aske vs. Harris County.

We have been unable to find any decisions directly in point on this question but this Department has on two occasions previously held that the Commissioners' Court is without authority to allow or pay interest on ordinary county warrants or scrip issued in payment of current expenses. We concur in these opinions. Such a contract, as is outlined above, is for that reason

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unenforcible for the reason that the county has no interest in the subject matter of the purported contract and it is without consideration.

We, therefore, hold that a County Commissioners' Court cannot allow or pay interest on ordinary county warrants or scrip issued for the payment of current expenses. We further hold that a Commissioners' Court cannot contract with a party to cash on county scrip and agree to pay interest thereon.

Very truly yours

ATTORNEY GENERAL OF TEXAS

*HQB*

By

*Richard H. Cooke*

Richard H. Cooke  
Assistant

RHG:AW

APPROVED:

*George B. Mann*

ATTORNEY GENERAL OF TEXAS