



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**GERALD C. MANN**  
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**ATTORNEY GENERAL**

Honorable W. Lee O'Daniel  
Governor of Texas  
Austin, Texas

Attention: Honorable Tom L. Beauchamp, Jr.

Dear Governor O'Daniel:

Opinion No. 0-3095

Re: Sale of a part of Texas  
Agricultural Experiment  
Station, Substation No. 2.

We have your letter January 17, 1941, in which our opinion is requested on the questions therein presented. Your letter is:

"Governor O'Daniel has received a request from A. B. Conner, Director of the Texas Agricultural Experiment Station, for the execution of a deed which he enclosed to certain lands held by that agency. The deed, together with the request, and also a letter to Mr. Conner from the Acting Secretary of the Board of Directors of A & M College requesting preparation of the deed are attached hereto. The Governor respectfully requests your approval as to form of this instrument and your opinion as to the legal propriety of his executing the same."

We assume from your request that you desire to know whether or not you have the legal authority to execute the deed in question upon the showing made to you by the Directors of the Agricultural and Mechanical College. We further assume that the instruments mentioned in your letter and forwarded for our consideration constitute the full record before you.

Articles 137 and 138, Revised Civil Statutes of Texas, vest in the Board of Directors of the Agricultural and Mechanical College broad authority and powers relative to the establishment, supervision and control over experiment stations. Article 139 of the Revised Civil Statutes provides:

The Board shall have power:

"1. To establish sub-experiment stations at

such places in this State as it shall deem proper, in addition to those now in operation.

"2. To abandon or discontinue any sub-station which may become undesirable for experiment purposes, and if deemed necessary to establish others in their stead at such other places in the same county as it shall deem advisable.

"3. To sell any land or other State property used in the operation of an experiment station when so abandoned, and to apply the proceeds of such sale in the purchase of other land and property for the establishment of experiment stations."  
(Underscoring ours)

These provisions expressly confer upon the Board of Directors of the Agricultural and Mechanical College the power and authority to sell any land or other State property used in the operation of an experiment station. This right and authority to sell and dispose of such State property is limited to and does not become existent, however, until there has been an abandonment of that sought to be sold. The power to abandon such land is predicated upon a determination by the Board of Directors that such property has "become undesirable for experiment purposes." Whether the land sought to be sold has been "abandoned" for reason of having become "undesirable for experiment purposes" does not affirmatively appear in the record before us.

Whether or not the land sought to be conveyed to the Federal Government has become "undesirable for experiment purposes" which will warrant an abandonment thereof is a fact question left to the determination of the Board of Directors of the College. If in the exercise of their discretion they determine that such land is no longer desirable for the purpose for which it was acquired and used, they should pass a resolution to that effect and likewise expressly abandon the same making such resolution a part of the minutes of the Board. A copy thereof should be furnished you.

The deed submitted recites a consideration of "one (\$1.00) dollar and other good and valuable considerations" paid by the United States. In this connection we desire to point out that the power to abandon and sell property given the Board by the Legislature does not imply a right to give such property away nor to dispose of the same for any but an adequate cash consideration. The law contemplates that the proceeds received from such sales will be used by the Board to purchase other property for use in connection with experi-

ment purposes. If the "other good and valuable considerations" recited in the deed is the understanding that the Federal Government will build a building on the land sought to be conveyed, such consideration is not within the contemplation of the statutes as clearly it could not be used "in the purchase of other land and property for the establishment of experiment stations." You should therefore determine whether or not the cash consideration recited in the deed is adequate as being the reasonable cash market value of that sought to be conveyed.

We trust that the above discussion of the law involved will aid you in the performance of your duty.

All instruments submitted with your request are respectfully returned.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Lloyd Armstrong  
Lloyd Armstrong  
Assistant

LA:db:wc

APPROVED MAR 19, 1941  
s/Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS