



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Albert J. Hutson  
County Attorney  
Trinity County  
Groveton, Texas

Dear Sir:

Opinion No. O-3959

Re: Can the Commissioners' Court  
of Trinity County purchase  
U. S. Defense Bonds with the  
permanent school fund of the  
county?

Your recent request for an opinion of this Department upon the above stated question has been received.

We quote from your letter as follows:

"Are there legal inhibitions to prevent the Commissioners' Court of Trinity County to purchase U. S. Defense Bonds with the Permanent School Fund of the County?"

"Since the interest on U. S. Defense Bonds cannot be collected annually, it is my opinion that the last clause in Art. 2824, R.C.S., which reads as follows, '. . . only the interest thereon to be used and expended annually', may prohibit the court from purchasing these bonds."

The permanent school fund is provided for in Sections 2 and 6 of Article VIII of the Constitution of Texas. Section 2, Article VIII, reads as follows:

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"All funds, lands and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made or that may hereafter be made to railroads or to other corporations of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public school fund."

Section 6 of Article VIII reads in part as follows:

"All lands heretofore, or hereafter granted to the several counties of this State for educational purposes, are of right the property of said counties respectively, to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the commissioners' court of the county. . . said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said State, or in such other securities, and under such restrictions as may be prescribed by law; and the county shall be responsible for all investments; the interest thereon, and other revenue, except the principal shall be available funds."

We think the language of Section 6, Article VIII, is plain and unambiguous. It says that the proceeds from the sale of school lands, which is permanent school fund money, are "to be invested in bonds of the United States, . . . under such restrictions as may be prescribed by law."

That language clearly means that a county may invest its permanent school fund in bonds of the United States, unless (as stated in the case of *Boydston v. Rockwall County*, 24 S. W. 272) the Legislature has thrown restrictions around the investment. The only language that we can find in the statutes wherein the Legislature has said how and where this money shall be invested is Article 2824, Vernon's Annotated Civil Statutes, which reads as follows:

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"Each county may sell or dispose of lands granted to it for educational purposes in such manner as may be provided by the commissioners' court of such county, and the proceeds of any such sale shall be invested in bonds of the United States, the State of Texas, the bonds of counties of the State, and the independent or common school districts, road precincts, drainage, irrigation, navigation and levee districts in this State and the bonds of incorporated cities, and held by each county alone as trusts for the benefit of public free schools therein, only the interest thereon to be used and expended annually."

This section reiterates that this money shall be invested in certain bonds, including bonds of the United States. We do not think that this is any restriction or limitation as to what United States bonds may be bought. We do not think that the last clause of Article 2824, supra, mentioned in your letter, is any limitation or restriction as to the type of United States bonds that may be bought. Apparently it was the intention of the Legislature that the permanent school fund, itself, could not be expended, but only interest thereon could be used and expended. Therefore, it is our opinion that the commissioners' court may in its discretion, legally purchase U. S. Defense Bonds with the permanent school fund of the county.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams  
Assistant

AW:AMM

APPROVED SEP 23, 1941

*Gerald B. Nunn*

ATTORNEY GENERAL OF TEXAS

