



**THE ATTORNEY GENERAL  
OF TEXAS**

**GROVER SELLERS**

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ATTORNEY GENERAL

**AUSTIN 11, TEXAS**

State Board of Education of Texas  
Austin, Texas

Opinion No. 0-5879

Re: Are the Polk County 4% Road and  
Bridge Refunding Bonds of 1936  
callable under the provisions of  
Articles 720 and 725 of the Re-  
vised Statutes of 1925.

Gentlemen:

Your letter of June 12, 1944, is as follows:

"At its meeting on June 5th the State Board of Educa-  
tion was advised that the County Treasurer of Polk County had  
issued a Notice of Call, in accordance with the provisions of  
Article 725, Revised Statutes of Texas, 1925, of the following  
described bonds now held for the account of the State Perma-  
nent School Fund:

"POLK COUNTY 4% ROAD AND BRIDGE REFUNDING  
BONDS, dated October 10, 1936, bearing interest at the rate of  
4% per annum, original amount of issue \$114,000, balance out-  
standing \$84,000, maturing \$5,000 in each of the years October  
10, 1944 to 1955, both inclusive, and \$6,000 in each of the years  
October 10, 1956 to 1959, both inclusive.

"Following the instruction of the Board, I desire to re-  
quest your opinion on the following question:

"Are the above-described POLK COUNTY 4% ROAD  
AND BRIDGE REFUNDING BONDS callable under the provisions  
of Article 725, Revised Statutes of Texas, 1925?"

Investigation of the record on file with the Comptroller of  
Public Accounts discloses that the October 10, 1936 Polk County Road and  
Bridge Refunding Bonds, described in your letter, were issued by Polk  
County for the purpose of refunding \$114,000 then outstanding of an issue  
of road and bridge bonds bearing 5½% interest, issued by the county under  
date of July 1, 1929, under the authority of Article 718, Revised Statutes  
of Texas, 1925. The original bonds of 1929 expressly retained an option  
of redemption five (5) years after their date. The refunding bonds of 1936  
were issued under the authority of Article 725 of the Revised Statutes of  
1925, but these bonds did not contain an express contractual provision where-  
under they might be redeemed before maturity.

Article 720 of the Revised Statutes of Texas, 1925, reads as  
follows:

"All bonds issued under this chapter shall run not exceeding forty years, and may be redeemable at the pleasure of the county at any time after five years after the issuance of the bonds, or after any period not exceeding ten years, which may be fixed by the commissioners court."

This Article is contained in the same Chapter of the Statutes as is Article 718, under which the original bonds of 1929 were issued, and Article 725, under which the 1936 refunding bonds were issued. The Supreme Court has construed this Article as being applicable to bonds issued under Article 725 so as to make such refunding bonds redeemable after five years from date in the event no express contractual provision for redemption before maturity of such bonds is provided for by the commissioners' court at the time such bonds are issued. *Bexar County v. Grover Sellers, Attorney General, et al*, 178 S.W. (2d) 505. This decision controls the question submitted and you, therefore, are advised that the Polk County Refunding Bonds described in your letter are subject to call at this time upon reasonable notice, pursuant to the provisions of Articles 720 and 725 of the Revised Statutes of Texas, 1925.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Gaynor Kendall  
Gaynor Kendall  
Assistant

GK:EP/cm

APPROVED JUN 22, 1944

/s/ Geo. G. Blackburn

Acting ATTORNEY GENERAL OF TEXAS

APPROVED  
Opinion Committee

By /s/ BWB  
Chairman