



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**CRAWFORD C. MARTIN  
ATTORNEY GENERAL**

May 16, 1967

Hon. William W. Day  
County Attorney  
Calhoun County  
Port Lavaca, Texas

Opinion No. M-75

Re: Whether Calhoun County is inhibited by law from withdrawing funds from the county depository, upon which the depository refuses to pay interest, for the purpose of purchasing interest-bearing United States Government Bonds.

Dear Mr. Day:

By letter, and accompanying brief, you have requested an opinion from our office. We quote from your letter as follows:

"The question we are asking is: 'Is Calhoun County inhibited by any law from withdrawing surplus funds from the county depository upon which the depository refuses to pay interest for the purpose of purchasing interest-bearing United States Government Bonds?' The reason that this request is imperative is because our local depository takes the position that, having accepted their bid, we are inhibited by our advertisement and contract from purchasing United States Government Bonds on a 90-day basis because their contract provides that they will only pay us interest on time deposits in the amount of \$10,000 or over which remains on deposit for a 90-day period. . . .

"Today, because of the unexpected necessity of providing jury fees in a pending criminal case for some 100 veniremen, our allotted funds have become exhausted and we have had to cash in and lose interest on one \$10,000 certificate owned by the jury fund, and the bank, on request, has refused to pay interest on the unneeded excess in less than

Hon. William W. Day, page 2, (M-75)

\$10,000 units and there are no other funds available for a 90-day period which we could employ for re-investment in another \$10,000 time deposit. We have no recourse other than our former procedure, the purchase of United States Government Bonds if we desire to save the lost interest. It would meet our obligation to keep our funds invested for interest."

In addition to your letter and brief, you have enclosed a copy of the notice to take bids, and the bid by two different banks, and some additional information for our consideration.

We have analyzed the information submitted, and conclude that the agreement between Calhoun County and the depository does not prevent the county from withdrawing "time deposit" money for any use authorized by law.

We note the agreement incorporates Article 2547, Vernon's Civil Statutes, as part of the agreement. Article 2547 is quoted, in part, as follows:

"The condition of the personal bond or bonds, or contract for securities pledged, of the depository bank shall be conditioned . . . for the payment upon presentation of . . . all checks drawn upon any 'time deposit' account, upon presentation, after the expiration of the period of notice required in the case of 'time deposits' . . ." (Emphasis added.)

It is clear that "time deposit" money may be withdrawn by a county from the depository, if the depository is given the required notice of the forthcoming withdrawal. The withdrawal can be made for any lawful and authorized purpose.

Article 1269j-3, Vernon's Civil Statutes, authorizes all political subdivisions of the state to invest year-end balances in U.S. Bonds and Securities. This article applies to counties. Attorney General's Opinions No. O-5278 (1943), and No. V-1182 (1951).

Based upon an analysis of the facts as submitted, and the above quoted article, it is our opinion that Calhoun

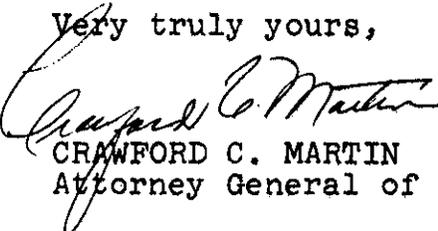
Hon. William W. Day, page 3, (M-75)

County may withdraw "time deposit" money after giving the required notice, and invest such surplus money in United States Government Bonds as provided by Article 1269j-3, Vernon's Civil Statutes.

S U M M A R Y

Calhoun County is not prohibited by law from withdrawing surplus funds from the county depository and investing such withdrawn funds in U.S. Government Bonds and Securities as authorized by Article 1269j-3, Vernon's Civil Statutes.

Very truly yours,



CRAWFORD C. MARTIN  
Attorney General of Texas

Prepared by James C. McCoy  
Assistant Attorney General  
JCMcC:sck

APPROVED:  
OPINION COMMITTEE

Hawthorne Phillips, Chairman  
W. V. Geppert, Co-Chairman

John Reeves  
Alan Minter  
Dyer Moore  
Gordon Cass

STAFF LEGAL ASSISTANT  
A. J. Carubbi, Jr.