



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Affirmed by 0-7483

Honorable H. W. Allen
District Attorney
Hamilton, Texas

Opinion No. 0-2276

Re: Power of a commissioners' court
to call an election for the purpose
of voting bonds for the purchase of
land to be donated to A & M College
for an experiment station as provided
in Article 149 (e), Vernon's Annotated
Statutes.

Dear Sir:

This will acknowledge receipt of your letter of April
24, in which you request our opinion on the following question:

"Whether the commissioners' court has the
power to call an election for the purpose of
voting bonds for the purchase of land to be
donated under Article 149 (e), Revised Civil
Statutes, 1925."

Section 1 of this Act authorizes and empowers the
Board of Directors of the Agricultural & Mechanical College
of Texas to establish and maintain a horticultural experiment
station at some point within the limits of Brown, Callahan,
Comanche, Eastland, Erath or any other county in the West
Texas Cross Timber Section of Texas, for the purpose of making
scientific investigations and experiments in the production
of fruits and berries, grapes, nuts and farm crops, and for
the fertilization and conservation of soils in the West Texas
Cross Timberland area, and for conducting scientific
experiments in poultry raising, dairying and bee culture, and
for the purpose of studying the other impending horticultural
and agricultural problems of that section.

Section 2 authorizes the Board of Directors to
accept donations of land for the establishment of such station.

Section 4 provides that said station shall not be estab-
lished unless there be contributed to the use and benefit
of said college money or other property or lands suitable for
said station. There is no power conferred in this article
which would authorize the issuance of bonds by a county for
the purpose of purchasing such lands. Therefore, we must
look elsewhere in the laws for this authority if any exists.

Article 718 of Chapter 2, Title 22, of Vernon's Annotated Statutes, enumerates the purposes for which the bonds of a county may lawfully be issued, such purposes being as follows:

1. To erect the county courthouse and jail, or either;
2. To purchase suitable sites within the county and construct buildings thereon to provide homes or schools for dependent and delinquent boys and girls, or for either;
3. To establish county poorhouses on farms in the county;
4. To purchase and construct bridges for public purposes within the county or across a stream that constitutes the boundary line of a county;
5. To improve and maintain the public roads in the county.

It is manifest that the purpose for which Comanche County seeks to issue bonds is not contained within the foregoing enumerations.

The power to issue bonds is not inherent in the county, nor is such power to be implied. The established doctrine in this State from early times is to the effect that the authority to issue negotiable securities or bonds does not exist unless expressly conferred by law. See *Lasater vs. Lopez*, 217 S.W. 373, *Robertson vs. Breedlove*, 61 Tex. 316, *San Patricio County vs. McClane*, 44 Tex. 392. It is likewise settled law that a commissioners' court has only such powers as are conferred by law.

You are, therefore, advised that in our opinion the Commissioners' Court of Comanche County is without power to call an election for the purpose of voting upon bonds of the nature sought to be issued.

Having reached the conclusion that such bonds cannot lawfully be issued for the purpose stated, we do not consider it necessary that we pass upon the validity of a donation

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of public property as contemplated by your question.

Trusting that the foregoing satisfactorily answers
your inquiry, we are

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By /s/ Clarence E. Crowe
Clarence E. Crowe
Assistant

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APPROVED MAY 10, 1940

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

APPROVED
OPINION
COMMITTEE

By BWB
Chairman