



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable B.T. Walters
County Auditor
Smith County
Tyler, Texas

Dear Sir:

Opinion No. 0-2926
Re: Commissioners' court - Authority
to build dwelling on county farm
property.

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"Please advise if the Commissioners' Court of Smith County may legally expend County funds to build a dwelling on a farm owned by the county; said dwelling to be used by hired hand or hands on the farm. Our convict labor is used about two thirds of the time on county roads, therefore the farm is operated principally by hired labor."

Article 794, Vernon's Annotated Texas Code of Criminal Procedure, reads in part as follows:

"Where the punishment assessed in a conviction for misdemeanor is confinement in jail for more than one day, or where in such conviction the punishment is assessed only at a pecuniary fine and the party so convicted is unable to pay the fine and costs adjudged against him those so convicted shall be required to do manual labor in accordance with the provisions of this article under the following rules and regulations:

"1. Each commissioners court may provide for the erection of a workhouse and the establishment of a county farm in connection therewith for the purpose of utilizing the labor of said par-

Honorable B.T. Walters, Page 2

ties so convicted.

"2. Such farms and workhouses shall be under the control and management of the commissioners court, and said court may adopt such rules and regulations not inconsistent with the laws as they deem necessary for the successful management and operation of said institutions and for effectively utilizing said labor.

"3. Such overseers and guards may be employed under the authority of the commissioners court as may be necessary to prevent escapes and to enforce such labor, and they shall be paid out of the county treasury such compensation as said court may prescribe.

"4. Those so convicted shall be so guarded while at work as to prevent escape.

"5. They shall be put to labor upon the public roads, bridges or other public works of the county when their labor cannot be utilized in the county workhouse or county farm."

Section 1 of the above statute authorizes the commissioners' courts of this State to erect workhouses and establish county farms. Section 2 of the above statute places the control and management of such workhouses and county farms in the commissioners' courts and also authorizes the commissioners' courts to adopt such rules and regulations not inconsistent with the laws as they deem necessary for the successful management and operation of said institutions and for effectively utilizing such labor. Section 3 provides for the employment of guards and overseers. Section 5 provides that the convicts shall be put to labor on the roads and public works when their labor cannot be utilized on the county farm or county workhouse.

The above statute authorizes the establishment of a county farm. Buildings necessary for the successful operation of the county farm, such as, housing for convicts, guards and overseers, barns, etc. may be built by the commissioners' court. Although Section 5 of the above quoted article contemplates the use of convict labor on the county farm, we think

Honorable B.T. Walters, Page 3

that if there were not sufficient convict labor on hand to successfully operate the county farm the commissioners' court would clearly have authority to hire outside labor to make or gather crops, etc. on the county farm necessary for the successful operation of the farm.

You are respectfully advised that it is the opinion of this department that if the commissioners' court determines that the building of the proposed dwelling on the county farm is necessary for the successful management and operation of the county farm, including the utilization of convict labor, they may lawfully expend county funds for such purpose.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Fanning

Wm. J. Fanning
Assistant

WJF:AW

APPROVED DEC 16, 1940

George B. Mann

ATTORNEY GENERAL OF TEXAS

