



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS

PRICE DANIEL
Gerald C. Smith
XXXXXXXXXXXX

Hon. T. K. Wilkinson
County Auditor
Hill County
Hillsboro, Texas

Opinion No. O-4677
Re: What is a proper and legal in-
scription to be placed on United
States War Bonds purchased for
the permanent school fund?

Dear Sir:

Your letter requesting the opinion of this depart-
ment on the above stated question reads as follows:

"Recently the Commissioners Court of Hill
County authorized and ordered a portion of the
Hill County Permanent School Fund to be invest-
ed in United States War Bonds. In compliance
with this order application for said bonds was
duly filed with the Federal Reserve Bank.

"As it is necessary to inscribe the bonds
in order to properly identify them as belonging
to a certain fund, I submit for your approval
and request your advice as to which of the two
following inscriptions would be proper and legal:

- "(1) 'Treasurer of the County of Hill,
Permanent School Fund
Hillsboro, Texas.'
- "(2) 'County of Hill, Texas, Trustee for
the Permanent School Fund under
Article 2824, Vernon's Annotated
Texas Statutes.'

"An early opinion will be greatly apprecia-
ted."

In your letter of June 23, 1942, supplementing the
letter quoted above, you inform us that the Federal Reserve
Bank requires the second inscription as quoted above to be
placed on United States War Bonds purchased with money out of
the permanent school fund.

Article 2824, Vernon's Annotated Civil Statutes, pro-
vides:

"Each county may sell or dispose of the
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 the counties of the State, and the independent or common school districts, road precinct, drainage, irrigation, navigation and levee districts in this State and the bonds of incorporated cities and towns, and held by such county alone as a trust for the benefit of public free schools therein, only the interest thereon to be used and expended annually."

Section 6 of Article 7 of the State Constitution reads in part as follows:

" . . . 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 counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal shall be available fund."

We quote from Texas Jurisprudence, Volume 37, pages 859 and 860 as follows:

" . . . A county is vested with the title to lands which have been granted to it for educational purposes. It may sell or dispose of them in whole or in part, in the manner to be provided by the commissioners' court. The lands and 'the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein'; that is, the gross proceeds - the entire purchase money - must be preserved as a trust for the schools of the county. The counties are, however, mere trustees, and the public free schools are the beneficiaries. . . ."

We quote from the case of Potter County v. C. C. Slaughter Cattle Co., (Com. of App. of Texas, Sec. B) 294 S.W. 775:

"The counties are granted power by the Constitution 'to sell or dispose of its lands.' The

schools are the institutions of the state established in the counties, and, as a part of the state's governmental policy, maintained in part from taxes and other fund directly furnished by the state, and in part from interest on the funds realized from the lands intrusted by the state to the management of the commissioners' courts of the counties as instrumentalities in executing said policy. The counties are thus trustees for the benefit of the state schools. . . . As such trustees their powers must be strictly construed. They may neither divest themselves of the powers conferred nor assume powers not conferred. Commissioners' courts shall 'exercise such powers and jurisdiction over all county business as is conferred by this Constitution and the laws of the state or as may be hereafter prescribed.' . . ."

In view of the foregoing it is our opinion that the counties are trustees for the benefit of the state public free schools and the following inscription: "County of Hill, Texas, Trustee for the Permanent School Fund under Article 2824, Vernon's Annotated Texas Statutes" required to be placed on United States War Bonds purchased by money out of the permanent school fund is the proper and legal inscription to be placed on said bonds.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Ardell Williams

AW:GO:rb

Ardell Williams, Assistant

APPROVED JUL 1, 1942
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

APPROVED OPINION COMMITTEE

By DMB Chairman