



GERALD C. MANN

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PRICE DANIEL
ATTORNEY GENERAL

OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS

Honorable J. M. Williams
County Auditor
Tarrant County
Fort Worth, Texas

Dear Sir:

Opinion Number 0-5691
Re: Under the given facts,
are the Tarrant County
Road and Bridge bonds
in question subject to
being refunded?

We are in receipt of your letter of recent date,
which we quote as follows:

"In 1912 Tarrant County issued \$1,600,000 Road and Bridge bonds and bearing interest at the rate of 5%. In 1922 the Commissioners Court of Tarrant County refunded a part of these bonds at 4-3/4%. There are now outstanding \$360,000 of these Refunding Bonds and the District and County Road Bond Committee, through Mr. Joe Nelson has called upon the Commissioners Court of this County to refund these bonds claiming they fall under the ruling in the Cochran County decision of the Supreme Court. Of course the Bond brokers are opposed to having these bonds called and advise that there will be litigation if this County attempts to refund these bonds. Among other contentions they make, is the contention that the rule announced in the Cochran County case would not apply to refunding bonds, but only to the original issue. In order that you may know what the order of the Commissioners Court was at the time of the issuance of the refunding bonds, with respect to maturities, I enclose a copy of that portion of the Court's order dealing with maturities.

"I should like to have your opinion as to whether these bonds are now subject to being refunded,

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and whether you could and would approve such re-funding bonds as the law would require you to do in order to render them valid obligations of this County.

"If we can legally refund these bonds, we feel we must do so under the demand of the County and District Road Bond Assumption Committee."

Replying to the foregoing question, you are advised that the opinion in the Cochran County case seems to include all bonds issued under authority of Chapter 1, Title 21, Revised Statutes 1911, now Chapter 2, Title 22, Revised Statutes 1925. Article 725 is included in Chapter 2, Title 22, and reads as follows:

"Where bonds have been legally issued, or may be hereafter issued for any purpose authorized in this chapter, new bonds in lieu thereof bearing the same or a lower rate of interest may be issued, in conformity with existing law, and the commissioners court may issue such bonds to mature serially or otherwise, not to exceed forty years from their date. Acts 1901, p. 16; Acts 1893, p. 112; G.L. Vol. 10, p. 542."

It is our opinion that the Supreme Court would hold that the refunding bonds are optional, and we are therefore approving such bonds.

Very truly yours,

ATTORNEY GENERAL OF TEXAS

BY /s/ C. F. Gibson.

C. F. Gibson
Assistant

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APPROVED NOV. 4, 1943

/s/ Grover Sellers

FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED BY THE OPINION COMMITTEE
By BMB, Chairman.