



**THE ATTORNEY GENERAL
OF TEXAS**

**WFOOD C. MARTIN
TORNEY GENKRAL**

AUSTIN, TEXAS 78711

March 11, 1971

Honorable Thomas Bartlett, Jr.
County Attorney
Falls County Courthouse
Marlin, Texas 76661

Opinion No. M-807

Re: Authority of County
Commissioners' Court
to sell unmatured U. S.
Government bonds belong-
ing to the Permanent
School Fund of the County
for the present market
value of such bonds, assum-
ing such market value to
be less than their par
value but in excess of
their cost price.

Dear Mr. Bartlett:

In your recent letter you request this office to render an opinion on the following question:

"Does the Commissioners' Court have authority to sell unmatured United States Government bonds belonging to the Permanent School Fund of the County for the present market value of such bonds, if the market value is now in excess of the price paid for such bonds, yet less than their par value?"

The responsibility for administering the permanent school fund of a County is vested in the Commissioners' Court of the county. Tex. Const. Art. VII, Sec. 6 and Tex. Ed. Code, Sec. 17.81 and Sec. 17.82. These constitutional and statutory provisions prescribe the type of investments the Commissioners' Court can make and provide that such investments "shall be held by the county in trust for the benefit of its public free schools."

It has been held by this office that Section 6 of Article VII of the Constitution of Texas prohibited the selling of U. S. Government bonds belonging to the permanent school fund of the county at a discount when such procedure would result in diminishing the permanent school fund of the county. Attorney General's Opinion No. V-1089. However, when bonds

are sold for a price greater than the amount of money of the permanent school fund invested in them, there would be no diminishing of the permanent school fund, no violation of Section 6 of Article VII of the Texas Constitution and Attorney General's Opinion No. V-1089 would not be applicable.

Finding no other authority which might be construed to prohibit the Commissioners' Court from selling bonds belonging to the permanent school fund at less than par value, it is the opinion of this office that the Commission Court does have authority to sell unmatured United States Government bonds belonging to the permanent school fund of the county at a discount, provided the discount price of the bonds is not less than the amount of permanent school funds invested in said bonds.

S U M M A R Y

The Commissioners' Court does have authority to sell unmatured United States Government bonds belonging to the permanent school fund of the county for the present market value of such bonds, if the market value is now in excess of the price paid for such bonds, yet less than their par value.

Very truly yours,

CRAWFORD C. MARTIN
Attorney General of Texas

By: 
NOLA WHITE
First Assistant

Prepared by Ed Esquivel
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W. E. Allen, Co-Chairman

Pat Bailey
Houghton Brownlee

Honorable Thomas Bartlett, Jr., page 3, (M-807)

Jack Goodman
John Reeves

MEADE F. GRIFFIN
Staff Legal Assistant

ALFRED WALKER
Executive Assistant