A STUDY OF THE LAWS GOVERNING THE ACQUISITION,
CONSTRUCTION, AND USE OF SCHOOL
PROPERTY IN TEXAS

APPROVED:

[Signatures]

Major Professor

Minor Professor

Director of the Department of Education

Dean of the Graduate Division
A STUDY OF THE LAWS GOVERNING THE ACQUISITION, CONSTRUCTION, AND USE OF SCHOOL PROPERTY IN TEXAS

THESIS

Presented to the Graduate Council of the North Texas State Teachers College in Partial Fulfillment of the Requirements

For the Degree of

MASTER OF SCIENCE

By

131969
Gabe Edward Massey, B. S.

Seagraves, Texas

August, 1945
**TABLE OF CONTENTS**

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>II. ACQUISITION, TITLE, USE AND SALE OF SCHOOL LAND</td>
<td>4</td>
</tr>
<tr>
<td>III. CONSTRUCTION OF BUILDINGS ON SCHOOL PROPERTY</td>
<td>19</td>
</tr>
<tr>
<td>IV. EQUIPMENT OF SCHOOL BUILDINGS</td>
<td>47</td>
</tr>
<tr>
<td>V. CONTROL AND USE OF PUBLIC SCHOOL BUILDINGS</td>
<td>53</td>
</tr>
<tr>
<td>VI. CONCLUSION</td>
<td>60</td>
</tr>
</tbody>
</table>

**BIBLIOGRAPHY** | 65 |
CHAPTER I

INTRODUCTION

Public school buildings are obviously a matter of concern to the student, the patron, and the public school administrator. The attractiveness of the building will create a working atmosphere for those who attend. Dr. Strayer, in his survey of the Beaumont Schools, says:

The school plant with its equipment is a most important factor in providing a modern educational program for present-day youth. For him the school building should be, first, an efficient workshop, suited to his needs; safety, and comfort. Second, it is his school home where he spends six or more hours a day, and as such it should develop him aesthetically with whatever pleasant and beautiful surroundings the community may afford.¹

The parents and school authorities are concerned because a large portion of the income derived from taxation is spent in constructing and equipping public school buildings. No other institution affects the entire community as much as does the public schools. The community that possesses a beautiful and well constructed and equipped building points with pride to its achievements.

Few administrators have had special training in

acquiring property and constructing school plants. The erection of a school building is so infrequent as to leave those who have the responsibility for its construction without the benefit of practical experience. The task of constructing a modern school building that is satisfactory to the needs of the community is both complex and difficult. The complexity and difficulty in erecting a building are brought about by the long period of service and many uses which may rightly be expected of structures involving such a vast expenditure of public money.

Purpose

The primary purpose of this study is to gather and organize facts that will be beneficial to those who have the responsibility of directing the affairs of the community in the interest of public education. Superintendents of schools and boards of education will secure a better solution to their problems by studying the laws and the interpretations of law given by the courts. This study has been made in order that this information might be made more available to the interest of school people.

Procedure

In making this study, the writer attempts to analyze the statutes pertaining to the acquisition, construction, and use of school buildings. Then in order to get the
interpretations of the courts, related cases were studied. From the statutes and the interpretations of the courts, one may determine the regulations governing school property.
CHAPTER II

ACQUISITION, TITLE, USE, AND SALE
OF SCHOOL LAND

The men who wrote the Constitution of Texas recognized the need for a public free school system. In order to meet this need a provision was written into the Constitution authorizing the establishment of a public educational system. Under this Constitution, it became the duty of the Legislature to make suitable provisions for the support and maintenance of an efficient system of public free schools.\textsuperscript{1}

In performing this duty, the Legislature has designated certain school officials to administer its policies. Chief among these are the State Superintendent of Public Instruction, State Board of Education, County Superintendent, County Board of Trustees, and the local District Trustees. The State Superintendent has the over-all supervision of the schools within the state, whereas the County Superintendent supervises the common schools within his county. Each independent school district is under the control of the local trustees whose actions are guided by the Legislature,

\textsuperscript{1}Texas Constitution, art. 7, sec. 3.
State Superintendent, and the State Board of Education. Common school districts are under the control of the district trustees who work with the County Trustees and County Superintendent in carrying out the regulations of the state officials.

The Legislature has placed in the hands of the local trustees the responsibility for the control and management of the schools within their district. These duties extend to the acquisition and control of school buildings and grounds, maintenance of school plants, opening and closing of schools, and the use of any other school property.²

The Legislature has divided the State of Texas into seven different kinds of school districts. These include the common school district, the independent school district, consolidated common school district, consolidated independent school district, county line school district, consolidated county line school district, rural high school district, and incorporated or city school district. The Legislature is acting within the authority of the Constitution in controlling school districts by special laws as well as by general law.

The increase and shifts in population have made it necessary to change the boundary line of many school

²Vernon's Texas Statutes (1936), 2749, 585.
districts. The original plan in setting up a school district, though later changed, provided that the Commissioners Court should subdivide unorganized counties into common school districts, and then they may reduce the area of any common school district, create additional districts, or consolidate any two or more districts when the needs of the school children so required. The Legislature provided that common school districts must contain at least nine square miles of territory. The power to change common school districts was later conferred upon the County Board of Trustees by legislative enactment. The courts of Texas have held that the County Board of Trustees may annex a common school district to an independent school district in order to form a rural high school district.

When a common school district is changed to an independent school district, it becomes subject to all laws governing independent school districts. The County Board does not have the authority to change an independent school district to a common school district without a vote of the electors of the district. The County Trustees should notify the trustees of a school district if they contemplate

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3Ibid., 2742, 577. 4Ibid., 2681, 555.


making a change in the boundaries of the school district. However, if the county board fails to notify the local trustees, such failure does not invalidate the transaction. The bonded indebtedness of the districts must be considered when the County Board attempts to make changes in district lines. If the district has outstanding bonded indebtedness, the County Board has the authority to order the trustees of the receiving district to call an election for the issuance of such refunding bonds as may be necessary to meet the obligations of the territory acquired. After the election, if it is approved by the electors, the trustees must issue and sell the bonds. If possible, the new bonds should be exchanged for the old ones. If such an exchange is impossible, then a special tax must be levied and a sinking fund provided to make the payments on the principal and the interest of the new bonds. In case the bond issue is voted down by the taxpayers, it becomes the duty of the trustees to certify the fact and also the territory affected by the change to the Commissioners Court. Under these circumstances it becomes the duty of the Commissioners Court to levy and collect an annual tax from the taxpayers of the district as it existed prior to the change. The amount of the tax levied and collected must

be sufficient to meet the payments of the interest and principal as they become due. If a school district is changed or created illegally it may later be validated by an act of the Legislature, but if the change is made by an act which is later declared unconstitutional, the act cannot be validated. 9

City school districts operate under a different law than do common and independent school districts. The city may incorporate and control the affairs of the school as prescribed by its charter. However, such schools are under the regulations of the State Department of Education, as are other districts. The people who live outside the boundaries of the city may incorporate with the people in the city for school purposes only. 10 The taxpayers of the added territory must take their pro rata share of the existing indebtedness of the district. 11

The boundaries of independent school districts may be changed by consolidation. Two or more independent districts may be consolidated by a vote of the qualified electors within the district; but persons who are not legal residents of the county are not entitled to vote in elections in regard to consolidations of school districts. 12

8Vernon's Texas Statutes, 2742a, 577.
10Vernon's Texas Statutes, 2783, 594.
11Kuhn v. City of Yoakum 257 S.W. 337.
Boundaries of independent school districts may also be changed by legislative enactment. School districts are governmental agents under the control of the Legislature, and may be enlarged, diminished, or eliminated by it.\textsuperscript{13} Thus the boundaries may be changed from an old school district to a new one, but provisions must be made to meet the outstanding debts of the old district if such change in territory will hinder the payment of the obligations.\textsuperscript{14} However, an act of the Legislature that detaches territory from one district while it has outstanding bonded indebtedness would not be invalid where there was sufficient property left to pay the indebtedness by legal tax levy.\textsuperscript{15}

Oftentimes two or more school districts are grouped to form rural high schools. The grouping of common school districts may be done by the County Board.\textsuperscript{16} Common school districts that are annexed for rural high school purposes may retain their identity and maintain elementary schools within their respective districts.

The Legislature has designated the County School Board to assist in subdividing the territory within counties to

\textsuperscript{13}Shipley v. Floydada Independent School District 250 S.W. 159.

\textsuperscript{14}Dilly County Line Independent School District v. Burns 290 S.W. 279.


\textsuperscript{16}County School Board of Angelina County v. Homer Common School District 291 S.W. 268.
meet the changing needs. Territories are transferred from one district to another and others grouped together to provide for a more efficient system of public education. The desire of the Legislature, the State Department of Education, the county school officials, and the local trustees is to provide an opportunity whereby each child within the State of Texas will be enabled to secure the best possible high school education.

The trustees, by legislative authority, have been placed in control of the school district and all school property therein. Thus acting as the controlling agents of the district, the trustees are empowered to purchase property and accept donations for school purposes. The title for school property acquired by the district is vested in the local trustees under such rules as the Legislature may prescribe. All the property for independent or common school districts is vested in the trustees for the school district or their successors in office. The courts have ruled that property deeded to other agents of the school for school purposes would be under the control of the trustees because the government has authorized the trustees to act as its official agents in holding this property.17

The payment for purchased school property comes from the local maintenance tax. The money from this tax may be

17Land v. Victoria County 131 S.W. 821.
used for the purchase of grounds, buildings, or other enterprises necessary for the maintenance of an efficient school system. The statutes provide that a school must operate for eight consecutive months, before the school district will have the authority to use money from the available fund for the purpose of property. The board of trustees cannot resort to spending money from the available school fund for the purchase of improvements or school property in order to avoid payment of teachers' salaries. The maintenance fund may be acquired through rentals or leases on property, or from a tax voted upon the district by the electors therein. If more money is needed to purchase land, build and equip school buildings, or other local needs, it may be borrowed. School districts borrow money for a long period of time by issuing bonds bearing specified rates of interest and maturing on a given date. The taxpaying voters of the district may authorize the local trustees to issue these bonds. The payment of these bonds comes from the local maintenance tax. In order to meet the payments on small notes, the trustees or a board of equalization may raise the valuation on property within the district and retain the old tax levy. Larger obligations are met by allowing the trustees to levy a tax upon the

\[1^\text{E} \text{Vernon's Texas Statutes, 2827, 621.}\]

\[1^\text{G} \text{Powell v. Matthews 280 S.W. 903.}\]
district sufficient to meet the payments of both the principal and the interest of the bonds as they become due. The Legislature has prescribed certain limits for school taxation, and the electors of the district may designate the amount of tax within the legislative limitations. As long as the trustees are acting within the prescribed limits of the Legislature and the district electors, they have the power to assess and collect taxes for school purposes.\(^{20}\)

Besides the territory designated for school districts by the agents of government, real property may be either purchased or donated for school purposes. Donations may be made in either restricted or unrestricted titles. Restricted titles refer to those wherein the donors wish to designate their donations for a specific purpose or for a definite period of time. Property may be donated to a school to increase the value of adjacent property. If the school is established and the grantor sells the adjacent property, the school does not violate the contract when it discontinues to operate.\(^{21}\) If a district accepts the title of property for school purposes only, the successors must continue to use such property so long as they assert a title to the land. However, if the district uses the property in

\(^{20}\text{State v. Bemon 38 S.W. 116.}\)

\(^{21}\text{Maddox v. Adams 66 S.W. 811.}\)
good faith, and as it seems best for school purposes, there is no abandonment.22 It is true that the trustees are the controlling agents of the school districts, but if a grantor names the County Judge and his successors as beneficiaries to property designated for school purposes, the title is sufficient in trust for the conveyance of a fee simple title for the school district.23 Grantors who desire that their property revert to the estate when the school is abandoned, must provide such a clause in the title. The purpose of the grant is not sufficient evidence that the grantor intended that the property would revert even though the school were discontinued.24 However, if a deed contains a reversion clause in case the school house is removed, and the district sells the school to another, such an act amounts to a removal of the school house, although the building remain on the grounds.25 Unless certain specifications are written into the title, the property may be disposed of as the trustees see fit. Unrestricted donations refer to those made by donors who wish to contribute property to the public school permanently without any reservation.

23Wilson v. County Trustees of Eastland County 229 S.W. 669.
25Stewart v. Blain 159 S.W. 928.
All property, whether purchased or donated, becomes the legal property of the school district, and is subject to the control of the trustees. School property is held in trust by the district to be used for the benefit of school children therein, and the Legislature is without power to grant it to any other beneficiary other than school children.\textsuperscript{26} The primary purpose of school land and property is for the educational training of the children living in the district. The well-being of all the children must be taken into consideration by the trustees. A regulation that would add danger to children’s entering and leaving school would be an abuse of the controlling power of the trustees, and those who claimed the abuse have the right of action against the trustees.\textsuperscript{27} However, the trustees have the authority to deny the use of all school property to children who are not willing to abide by the health regulations of the trustees if these regulations are for the protection of the general health of the students enrolled.\textsuperscript{28}

School land may be used as a source of revenue through rentals, leases, or sales. The community may use the grounds as a center of activities during the summer months.

\textsuperscript{26}Love v. City of Dallas 4S.W. (2nd) 20.

\textsuperscript{27}Nacogdoches Independent School District v. Adams 36 S.W. 567.

Private use of school land is permissible if such use does not conflict with school purposes. Hence, the board of trustees may allow a baseball club to use a part of the school property during the summer vacation. The control that the trustees have over school property does not consist entirely of the use of vacant land or land that might be used for physical education and recreational purposes. Such control extends to the location of buildings and the uses of the buildings on school property. Naturally, the land may be used for the erection of buildings suitable for educational instruction. Education includes more than mere academic training; it extends to the physical development of the child. Thus the trustees may control the construction of gymnasiums and stadia, and the uses made of these buildings. In many instances over the state, the trustees have used part of the school property for the construction of teachers' homes. The power to construct teachers' homes is not an implied power, but has been granted by the Legislature.

The Legislature has not only authorized the trustees to purchase property, but it has authorized them to sell such property. The money from such sales may be used for

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30Vernon's Texas Statutes, 2797, 604.
the repairing of school houses, the purchase of grounds, or
the erection of buildings. It may be deposited to the cred-
it of the available school fund of the district.\textsuperscript{31} Trustees
must secure the approval of the County Board when attempt-
ing to sell property belonging to common school districts.
Independent school districts are not required to seek the
approval of the County Board of Trustees in order to com-
plete the sale of property, but may consummate the trans-
action when a majority of the board feel that such sale is
for the best interest of the district.\textsuperscript{32} Funds from the
sale of the property of independent school districts may
be used as are those of the common school districts.

Property may be used by the school district as a source
of revenue. Income from such property may be in the form
of rentals, leases, and/or sales. Money derived from these
sources may be used as a local maintenance fund which might
be applied on the reduction of outstanding indebtedness,
the erection of buildings, or the purchasing of additional
grounds.

Under the Constitution, one half of the public domain
owned by the State of Texas in 1875 was given to the public
schools. The land that was owned by the state and county
for school purposes could be sold and the money deposited

\textsuperscript{31}Ibid., 2753, 586.

\textsuperscript{32}R. E. Spencer \textit{v.} Brown 198 S.W. 1179.
in the state and county available school fund. A part of the mineral rights were reserved by the state and county. If the minerals were reserved, the higher courts of Texas have ruled that the owner of the land has the power to lease or sell the mineral rights to any person or company to drill or dig for these minerals. If minerals are found, the state or county may receive the portion of the income as designated in the deed.

Since the Legislature and the County Board have the authority to create and revise school districts, the creating of these districts may involve the abolishing of other districts. When a school district is abolished, and a new district formed, the trustees of the original district may dispose of the property therein. The school house of an original school district cannot be moved by the trustees of the consolidated school district without the consent of the trustees of the original school district. However, the trustees may lend the property to the consolidated district if they have reasonable assurance that the property will be returned when needed by the original school district. Common school districts that have an average daily attendance of twenty or more cannot be abolished without the consent of the taxpayers.33 The County Board does not have the authority to abolish a school district that

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does not lie wholly within the county without the consent of the taxpayers and the approval of the county board of the adjoining county.34 When a school district, that has a bonded indebtedness, is dissolved by a vote of the people, the County Board has the authority to levy and collect a tax sufficient to meet the debt requirements.

34 School Trustees of Runnels County v. State 95 S.W. (2nd) 1001.
CHAPTER III

CONSTRUCTION OF BUILDINGS ON SCHOOL PROPERTY

Buildings located on school property may be constructed for all purposes which help to fulfill the requirements of the community in establishing a more efficient system of education. One would hardly question the need of a building in which academic work was conducted. The construction of such buildings is not the extent of the power that lies within the hands of the trustees. The Legislature and the courts of Texas have extended the power of the local trustees to construct gymnasiums, stadia, shops, and other types of physical and vocational education buildings. Teachers' homes and dormitories may also be constructed if necessary for the proper maintenance of an efficient school system.1

The courts of Texas have extended the control of the trustees to purchase land, locate sites, build and equip school buildings in accordance with plans and specifications as in their judgment is best suited for the needs of the community.2

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1Adams v. Miles 300 S.W. 211.
The trustees of independent school districts have the power to locate sites for school buildings within their school district, but common school district trustees may locate sites for elementary schools only. The trustees and the County Board of Education have the power to locate school buildings within school districts formed by the grouping of common school districts to form rural high school districts. However, the County Board of Education does not have original jurisdiction in locating school buildings in such cases. The County Board may exercise judgment in disputes which arise as to the location of buildings after an appeal has been made to the said board. School sites should be located for the best interest of all concerned. The trustees are without power to make promises as to the location of school building sites in order to get certain individuals included in the district. If controversies arise as to the location of school sites, an appeal may be made to the proper authorities such as the County Board, the State Superintendent, and the State Board of Education. Rulings of the County Board become final unless an

Woodson v. Stanley 201 S.W. 659.


appeal is made to higher authorities and its decision is reversed. When the County Board or higher authorities render a decision as to the location of a school building, the trustees must construct the building on the place so designated. However, disputes that remain unsettled after a ruling of the State Board of Education may be appealed to the judicial branch of the state.

The Legislature has laid down certain plans, specifications, and regulations for the building of school buildings. The trustees of each school district, for example, must secure a permit to erect a school building if the cost is to exceed four hundred ($400.00) dollars. Applications for this permit must include plans and specifications for the heating, lighting, ventilation, and fire protection of the proposed building. Applications must be made in writing to the proper authorities. Common school districts make application to the County Superintendent of the county in which the building is to be located. Independent school districts make application to the superintendent of the independent school district, whereas incorporated school districts make application to the superintendent of the incorporated school district. If permits are granted by these officers, they in turn must make a report to the State.

6Bever v. Winfrey 260 S.W. 627.
Department of Education. A contract for the purchase of a building for school purposes would be held invalid if it did not conform to state laws regulating the heating, lighting, ventilation, and safety. Contracts for buildings not susceptible to changes to meet such requirements would be held invalid.

The purpose of this law is to regulate the building program in Texas so as to prevent, as much as possible, wasteful spending on unnecessary and unhygienic school buildings. The county and local superintendent were authorized to receive these applications and grant such permits because the superintendents were conveniently located and could be easily reached when needed. Local authorities would be in a better position, if needed, to make recommendations and adjust plans to meet the requirements of the state officials.

The courts of Texas have ruled that the contracts between trustees of city schools and contractors may be invalid if they have failed to secure the necessary permits, but the contractor's sureties may be held liable for the payment of the material and labor used in the construction.

7Vernon's Texas Statutes, 2281, 641.
9State Department of Education, Bulletin No. 148, p. 11.
of the building. This decision was rendered on the grounds that the charter, under which the city operated, authorized the Board of Education to erect and make all necessary repairs for school buildings. Even if the contract may be technically illegal, those who furnish labor and material had the right of action for payments due them.\textsuperscript{10} Neither may a school district avoid paying an architect his fee on the grounds that a permit for the erection of the building had not been obtained from the superintendent.\textsuperscript{11}

School buildings are paid for out of a local maintenance tax. This tax, when needed to supplement the state available school fund, is placed upon the district by a majority vote of the qualified property taxpaying voters. Mr. Justice Jinkins once ruled that "A tax paying voter who is otherwise qualified, does not mean that his property must have been assessed, but only that he is liable for the payments of such taxes."\textsuperscript{12} However, the statutes have since been changed and a property taxpayer is now one who has been assessed for property within the school district.

Before an election is held to raise the maintenance

\begin{itemize}
\item \textsuperscript{10}U. S. Fidelity and Guaranty Co. v. Burton Lumber Co. 221 S.W. 699.
\item \textsuperscript{11}Eldorado Independent School District v. Becker 120 S.W. (2nd) 476.
\item \textsuperscript{12}Winters v. Independent School District of Event 208 S.W. 574.
\end{itemize}
tax within the district, the board of trustees for an independent district or the County Judge for a common school district must be presented with a petition asking that such an election be held. This petition must be signed by at least twenty (20) or a majority of the qualified voters within the district.

When this petition is presented to the proper authorities, the Sheriff, for common school districts, or the secretary of the school board for independent school districts, must place election notices in three places in the district for ten days prior to the election. The petition, election order, and notice of election must specify either the rate of tax to be voted or that the rate shall not exceed a certain designated amount. A maximum tax for a school district is authorized by the Legislature. The time and place for holding the election must be specified on the election notices. The ballot sheet must have written thereon "For School Tax" or "Against School Tax" as prescribed by law in a clear way so that the voter may easily understand the meaning of the ballot and cast his vote as he desires. The purpose of the tax must be specified in the election notice.13

The purpose for an election notice may cover more

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13*Vernon's Texas Statutes*, 2785, 598.
than one item. For example, an election may be called for the purpose of raising money to build and equip a school building. If the election is called for more than one purpose, the money may be used for each purpose designated in the election call. Thus, if money is left over in the building fund, it may be used in buying furniture and equipment and still remain within the legal bounds of the bond issue.

Bond elections follow the same procedure and requirements as do general elections except that a qualified voter must also own and have rendered taxable property within the county and district. However, it has been ruled by the courts of Texas that:

Statutes regulating the manners of holding an election are directory, and a departure from their provisions will not ordinarily invalidate an election, unless such departure or such irregularities have affected or changed the results of the election.\(^1\)

The electors, when they vote in favor of the issuance of bonds, authorize the trustees to proceed with the issuance and sale of bonds, and with the construction of the building for which the election was called. Once the will of the voters has been expressed by an election, in favor of the issuance of the bonds, the trustees, even with the aid of a petition signed by a majority of the voters, do not have the

\(^1\)Hill v. Smithville Independent School District 251 S.W. 209.
power to recall it. The power to vote for and against a bond election is expressly granted by the statutes, but the statutes do not grant the power to rescind it after it has been regularly authorized. The fact that conditions have changes has no effect on determining the board's order.\textsuperscript{15}

In the event any portion of the school bonds voted on or authorized by any common or independent school district remain unsold, the Commissioners Court for common school districts or the board of trustees for independent school districts may, upon its own motion, or upon a petition of not less than twenty (20) or a majority of the property-taxpaying voters thereof, call an election to determine whether or not such bonds shall be revoked or canceled.

The results of such an election shall be recorded in the Commissioners Court for common school districts. The secretary of the board of trustees shall make a record of such elections for independent school districts. If the district shall vote in favor of cancellation and revocation of such unsold bonds, the Commissioners Court for common school districts or the board of trustees for independent school districts shall cancel and burn all such bonds and forward to the State Comptroller a certified copy of the minutes of such destruction, and the State Comptroller shall cancel the registration of such bonds in his office.

\textsuperscript{15}Orr v. Marrs 47 S.W. (2nd) 440.
When the bonds have been destroyed, the Commissioners Court or the board of trustees may readjust the tax levy within the district in order to meet the changed tax need of the district. The electors of the district have the legal right to say whether they want to have a bonded indebtedness, and the courts do not have the authority to determine the necessity of the election to the community. It becomes the obligation of the trustees to order the bonds issued once the electors of the district have indicated their approval by a duly called bond election. Bonds must never be issued for more than the amount specified in the election. A school district can issue bonds only in proportion to the amount of the tax it can legally levy. Bonds that are issued within the district must be paid off in serial annual installments bearing not more than five per cent per annum. However, it is not necessary to issue bonds at the maximum rate of interest authorized by the election.

Bonds may be issued for a maximum period of forty years. If the building is to be of wood, the maximum

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16State Board of Education, Public School Law of Texas, 1941, No. 413, 96.
19Vernon's Texas Statutes, 2786, 598.
period is twenty years. Even though the law now specifies serial bonds to be issued, bonds that are to mature on a specific date are not invalid, and a sinking fund must be provided to meet the necessary payments. In order to meet the payments of an indebted school district, the trustees have the power to regulate the tax valuation for school purposes of the property within the district. Thus if the valuation of property is raised, more tax money will be paid into the district. The increase or decrease of tax money may vary in direct proportion to the property valuation if the tax rate remains the same. If the valuation of the district increases, the trustees may lower the tax. However, the trustees may not lower the taxes to the extent that funds will be insufficient to meet the payments on the indebtedness.

After the school has ordered the issuance of bonds, they must be approved by the Attorney General. The Attorney General's approval is not necessary for the issuance of bonds or for the levying and collecting of taxes for their payment, but his approval must be secured before they are offered for sale.\textsuperscript{21} When the Attorney General does examine and approve the bonds, their validity is unimpeachable.\textsuperscript{22}

\textsuperscript{21}Love v. Rockwall Independent School District 238 S.W. 642.

\textsuperscript{22}Walling v. Malone Independent School District 195 S.W. 671.
The trustees are not obligated to issue bonds for the entire amount authorized by the electors. They may issue a part of the bonds for a part of the intended use. If a district wishes to put on an extensive building program, and the electors approve the entire program, the trustees may order the bonds to be issued for the construction of one building at a time. The unissued or potential bonds remain in the district as unissued and unapproved bonds. The Attorney General must approve the bonds and the State Comptroller must register them in his office before they are ready for sale.

If a bond election was called and the purpose of the project was written in general terms, the voters should understand that in case the bonds were authorized, the board of trustees would exercise sound judgment in expending the funds so derived. When the bonds are issued for specific purposes, the governing board must not alter those purposes. If the trustees passed a resolution designating the use of the funds derived from the sale of these bonds after absentee voting began, it would not be a binding contract between the electors and the trustees. If a bond election was voted upon and failed to pass by a majority of the electors within the district, the election could not be called again to be voted upon within a year from the date

of the election.

It would seem most impractical to order an election without providing some way to investigate the election proceedings to determine whether the law was enforced preceding and during the election. An elector has the right to contest a bond election the same as any other election, provided the notice to contest the election is given within thirty days after declaration date of the election. Declaration date is the date on which the official return of the election is announced. If the contestor of an election wishes to protest the election returns, he must make a written statement of the grounds on which he is protesting and deliver such statements in writing to the members of the school board. Failing the protest will not meet the delivery requirements.\textsuperscript{24} In the election contest, the burden rests upon the contestor to prove that the returns of the election would have been changed by counting or not counting certain votes or by other irregularities in the election which would make it impossible to determine the true will of the voters.\textsuperscript{25} An election contest may not be maintained to determine the validity of bonds voted upon to erect school buildings within school districts where no notice of intentions to contest the election returns and

\textsuperscript{24}Bahn v. Savage 120 S.W. (2nd) 644.

\textsuperscript{25}Mark v. Jackson 130 S.W. (2nd) 925.
statement of grounds were filed within the thirty-day limit prescribed by law.

Bonds that are ready for sale must be sold to the highest bidder for not less than their par value and accrued interest. The State Board of Education has an option of ten (10) days for the purchase of these bonds, provided they pay as much as the highest bona fide bidder offered. If the State Board does not agree to purchase the bonds within the prescribed time, then the school district may sell the bonds to any other bona fide bidder. The State Board may not purchase the bonds from any other source, but must buy directly from the school district, and the purchase must be made within the ten days' option. The proceeds from the sale of these bonds must be deposited in the county or district depository to the credit of the district issuing the bonds before any contract can be made which is to be paid out of the bond fund.26 After the bonds have been sold and the money deposited to the credit of the district, warrants may be issued against the deposits. The funds from the sale of these bonds must be paid out for the purposes designated by them. The County Superintendent must approve all warrants for common school districts, whereas the warrants must be signed by the president and secretary

26 Boone v. Black 174 S.W. 971.
of the school board for independent districts.  

Those who are intrusted with the responsibility of handling state or local tax money are under strict supervision. It is necessary to guide those in charge of state and local funds in order that unwise and unnecessary spending of the taxpayers' money may be prevented. In supervising the spending of tax money, the Legislature prevents the trustees from making contracts before the money is available in order to prevent binding obligations from being made upon the district when no money would be available with which to meet the obligations.

As was stated in the preceding chapter, the State Department of Education has certain specifications which must be included in the building plans. Briefly these specifications include:

I. Lighting

A. The room must be so arranged as to prevent the pupils from facing the light while at study.

B. Windows must be at least three and one-half feet from the floor and at least six inches from the top of the room.

C. The window area shall be at least one sixth of the floor space.

27Vernon's Texas Statutes, 2786, 598.
D. The class room floor space must not be wider than twice the height of the windows except where skylights are provided.

II. Heating

A. All direct heating must be jacketed so as to insure a more uniform heat throughout the room.

B. An automatic control must be on each stove.

C. Rooms must be ventilated so that impure air may escape and fresh air may pass over the rooms.

D. Ventilation should be so arranged as to prevent a draft on anyone.

III. Wood work

A. Wood work should be plain to prevent the catching of dust.

B. Floors should be treated with hot paraffin or other similar substances after they are laid.

IV. Fire escapes

A. All buildings of two or more stories should have adequate fire escapes.

B. Stairways should be wide with no winding treads.
V. Rest rooms

A. Rest rooms must be kept clean at all times.\textsuperscript{28} All plans and specifications are examined by the Attorney General and by the county or local superintendent to make sure these specifications are included in the building plan.

In constructing a school building, several things must be taken into consideration. Some of them are mentioned as guides for planning. The first consideration would be the location. Schools should be located in the center or near the center of the populated districts. In towns and cities it is well, if possible, to locate the campus on a street that is easily reached, yet one which has as little traffic as possible. School buildings that are located on designated highways or streets of heavy traffic create a serious problem. Though the children may be rigidly supervised, many unthinking children are seriously injured in traffic accidents. The school building should be so located that it provides ample play room to meet both the present and growing needs of the community.

It is difficult to foresee the needs of a community and plan a school building accordingly. Many school houses have been planned to meet the present need, without considering the growth of the town. Thus, in a few years

overcrowded conditions are existing in the classrooms. Classrooms should be planned to accommodate about forty students, including ample space for lockers, work space, teaching aids, and storage room. Care should be taken to plan each room for certain age groups and certain subject matter to be taught. The equipment, arrangement, and need of each age group and class differ greatly.

A modern school building would be incomplete without an assembly room. This room must provide not only seating capacity for the needs of the school and community, but also ample space for programs to be presented by the student body. Other rooms which might add to a well-planned school building include play rooms, lunch rooms, office rooms, and ample supply and storage rooms.

Since the soil differs so greatly in different localities, it is unnecessary to speak of the foundation of the building other than to say that it must be strong enough to support and meet the needs of the structure.

As the school room is the workshop for the children, and is their home for the greater part of the day, care should be taken to make and keep the building as attractive as possible. The attractiveness and neatness of both the classrooms and the campus will make a lasting impression upon the child. A beautiful and attractively arranged school building and campus breeds contentment within the
child, and contentment is conducive to more efficient work. A well-kept room is conducive to more efficient teaching. It has been proved many times that a wholesome and attractive environment has instilled much pride and ambition in children of all school ages, who perhaps would not have had any other opportunity to have received this inspiration. This pleasant environment promotes good citizenship, and creates a happy medium in the classroom. The school is one of the most important institutions in the community because more lives are affected by the schools of Texas than by any other institution; therefore, schools should be well planned.

The power to contract for the construction of a school building lies within the duties of the trustees. The trustees may employ the services of an architect and expend bond money, but no binding contract can be authorized without the previous voting of the bonds and the money being available.29 Contracts that have been made before the money was available have been ruled unenforceable by the courts of Texas.30 The trustees have authority to award the contract to the contractor whom they believe the best equipped for the job, and will construct the building in the most satisfactory manner. Naturally, those in charge


30 Board of Trustees of Alpine Independent School District v. Jacob 170 S.W. 597.
of tax money desire to secure the best available contractors for the least amount of money. In the interest of sound economy, the trustees are not required to accept the lowest contract bidder for the construction project. A majority of the school board must sit in session prepared to transact business before a contract can legally be awarded. If one or two members of the school board, who are authorized by the board, make an agreement with a contractor to perform certain duties, the school board is not liable for the promises of such trustees. Neither are the trustees liable for an architect's plan which they do not accept. Thus the school board acting as a body must ratify agreements made by individuals before these agreements become effective.

Trustees, upon awarding a contract for the construction of a school building or buildings, have the right to require the contractor to make the usual penal bond. This requirement was made to protect the laborer and materialmen, and to insure prompt payment to those who furnish either labor or material for the construction of the building. This bond was required because a mechanic's lien, or

31Stapleton v. Tressell 196 S.W. 269.


to retain as much as twenty (20) per cent of the contract price from the contractor for a period of thirty days in order to take care of any claims which might be made against the surety. 38 The responsibility for completing the work sometimes falls upon the surety when the contractor abandons his work or defaults his obligation. When the surety assumes the responsibility of completing the work for the contractor, the money retained by the district for the construction of the building may be paid to the surety. 39 Laborers who may have been hired by the contractor and continue working after the surety assumes control are entitled to their pay under the new management. 40 The law does not compel a surety to enter into a contract, but it may fix the liabilities of one who voluntarily enters into the agreement.

Supervision of the construction of school buildings is within the authority of the trustees. The architect's plans by which the building is to be constructed must be carried out, although the actual supervision of the construction rests upon the trustees. The responsibility of supervision may be done either collectively or through

38 Larkin v. Pruett Lumber Co. 209 S.W. 443.


40 Southern Surety Co. v. Eoff 22 S.E. (2nd) 964.
a committee. Any expense incurred by the school board for supervision must be met by the local board as the contractor may not be held responsible for the trustees' supervision. The authority and limitations of the supervisor are created by the board of trustees.

Payments on the contract may be made at certain stated times as provided in the contract. The contractor may ask for payments at other times and such request may be granted if the board of trustees sees fit. The final payment of the contract may be withheld until the contractor produces sufficient evidence that all bills have been paid in full. The surety may demand that the final payment be withheld. When the building has been completed, accepted, and the final payments made to the contractor, the surety is no longer responsible for any defect that may arise.\textsuperscript{41}

School buildings may sometimes be in such a condition that further use would be unsafe; such buildings should be condemned. The Legislature has made special provisions for condemning of school districts that already have an outstanding bonded indebtedness in excess of six per cent of the assessed valuation. The legislative act which is provided to meet such an emergency provides that a school district may levy a special school tax for the purchase, construction, or repair of a school building. This tax must

\textsuperscript{41}Metropolitan Casualty Co. v. Medina Rural High School 53 S.W. (2nd) 1026.
not exceed seventy ($0.70) cents on the hundred dollar valuation, and the total tax for the district must not exceed one and twenty-five hundredths ($1.25) dollars on the hundred dollar valuation. The electors of the district have the same right to cast their ballot in this election as in any other bond election. The same procedure is used in holding this election as in any other tax election and the qualifications for voting are the same as for any other election.\footnote{\textit{Vernon's Texas Statutes}, 1942, 2802c-3, 260.}

Bond sales for the construction of school buildings are planned for these districts which did not have sufficient local maintenance money to construct buildings within the district. If the district has sufficient funds to pay for the construction out of the present tax, the trustees have the power to award the contract and proceed with the construction.\footnote{\textit{madeley v. Trustees of Conroe Independent School District} 103 S.W. (2nd) 929.}

Many school districts have seen the need for providing a home within the district for teachers. The authority to provide such homes has been given by the Legislature. Teachers' homes, as well as buildings for classrooms, are paid for out of the local maintenance tax. The trustees control the use of teacherages just as they do any other school property. For those districts which do not have
sufficient funds to build teacherages, an election may be called, and serial coupon bonds issued for the construction of a home for teachers. The election, issuance, sale of bonds, and construction of the building may be carried on in the same manner as any other bond election. The Legislature has made provision for the issuance of bonds for teachers' homes by requiring that no bonds shall be issued for this purpose with fewer than two teachers in a single school. The present housing condition in many districts has made it difficult for teachers to secure desirable housing facilities, and the districts that own teachers' homes have had an advantage over other districts.

The physical development of the child is one of the functions of a well-rounded school program. The need for the development in this phase of the curriculum is more definitely realized than was true before the outbreak of World War II, as a large per cent of the enlisted men of the United States have been refused by the Selective Service Board because of physical disabilities. This deficiency, in part, was due to the lack of a strong physical and health program in the schools. In order to meet this need, adequate buildings and equipment must be provided.

The Legislature realized the need for building facilities for this kind of school program, and made special

\[44\text{Vernon's Texas Statutes, 1939, 2797, 458.}\]
provisions for the construction of stadia and gymnasia. Since these buildings are a vital part of the school program, the question might easily arise as to why any special legislation was necessary for the construction of these buildings. In order to get a better understanding of the purpose of construction of these plants and the need of a special provision, a glance at the existing circumstances will greatly help.

In normal times, the working day is shorter, thus allowing more time for rest and recreation. Since the school can play a vital part in providing communities with recreational activities, adequate provisions must be made for recreational facilities. The American people are willing to pay for their recreational hours, hence the buildings housing these activities can be self-supporting. If the recreational buildings are self-supporting, a tax burden will be lifted from the shoulders of the taxpayers. A plan whereby adequate facilities for physical education and community activities may be provided with little tax burden would lead to a more satisfied community. There is another aspect toward the construction of these buildings by taxation. Many people, though believers in education, look upon physical education as play, and look upon play as a waste of time. Therefore these people would not be in favor of voting taxes upon themselves for the construction of
buildings which, to their way of thinking, would encourage the waste of time. Then, there are those people, and groups of people or corporations, who feel that the most of the tax burden would fall upon their shoulders, and they are already carrying too much of the tax load; therefore this group would not be in favor of the increased taxes. One has but to reason to see the difficulties that might arise in getting a tax program of this type passed by the community. If the voters of the community did not see fit to vote in favor of the tax, the boys and girls of the community would miss, in part, the value of a well-planned physical education program. If a school district can provide some of the school equipment without direct taxes, then the money from direct taxes may be used for the building and equipping of better school buildings for other phases of the curriculum.

The control of the school and school equipment has been placed in the hands of the trustees by the Legislature; therefore the Legislature has seen fit to allow school districts to construct stadia and gymnasias without a vote of the electors of the district. Even without this vote, the building would remain under the supervision and control of the school authorities.

Stadia and gymnasias may be constructed as are other school buildings by calling an election of the district
electors for the purpose of levying an extra tax on the district for constructing the proposed building. This election must be conducted, the bonds issued and sold, the contract awarded, the construction supervised, and payments made as provided for any public school building. If the building is constructed through taxation, the trustees are not forced to issue lien of any kind against the building or land upon which it stands.

The Legislature has empowered the trustees of independent districts, cities and towns who have taken over the control of the schools within the prescribed districts, to build, or purchase, buildings and grounds, either within or without the district or city, for the purpose of constructing or repairing gymnasias, stadia, or other recreational facilities. Bonds may be issued and sold for the construction of these buildings. The payment of such indebtedness would come from any rent, tolls, fees, and other forms of revenue. To insure payment of these bonds the trustees may mortgage these buildings, and the mortgage holder may foreclose and buy the property if payments are not made. If foreclosure procedure is used, and the mortgage holder sells the property, the person or firm making the purchase may be granted a franchise to operate the purchased property for not more than ten years. The debt, however, must never become an obligation of the district or
city, nor must it be considered in determining the power of such a district or city to issue bonds for building purposes. These bonds may be authorized by a majority vote of the school board. If they are issued for the repair of and enlarging of any stadium or gymnasium, both the old and the new parts of the building may be mortgaged, and the revenue from the entire structure may be used to meet the payments of the indebtedness. Every bond executed under the above provisions must contain the provision that, "The holder hereof shall never have the right to demand payment of this obligation from any funds raised or to be raised by taxation."45

Thus by this provision, school districts may construct the needed physical education and recreational buildings and allow them to be self-supporting. The supervision of construction, control and use of the property would lie in the hands of the trustees. The income derived from the use of this property, after the payments have been made, could be used in the local budget as designated by the trustees of the district.

45Vernon's Texas Statutes, 1942, 2602s-1, 256.
CHAPTER IV

EQUIPMENT OF SCHOOL BUILDINGS

The State Legislature, working under the authority granted by the Constitution, has placed the control and supervision of all property, buildings, and equipment in the hands of the local trustees of each district. The power of the trustees to build and equip school buildings within the district goes beyond statutory provision and relies upon authority granted by the Constitution of Texas. Modern school buildings would be of little value for educational purposes unless sufficient supplies and equipment were provided. If the trustees were empowered with the responsibility to provide adequate housing facilities, they should also have the responsibility to see that the building is so equipped as to meet the needs of a well-rounded educational program. The payment for the equipment would come under the same provision as the construction of the building.

The procedure for the construction of a school building has been outlined in the preceding chapter. Bonds that

1Texas Constitution, art. 7, sec. 3.
have been authorized for the construction of a school building may also provide for equipping of the building. Equipping a school building would include the purchasing of furniture, technical and vocational appliances, teaching aids, and the supplies necessary to maintain a school plant in an efficient, orderly, and workable condition.

The payment for the supplies and equipment for a school building comes as does the building program from the local maintenance tax. This tax is authorized by the local taxpayers who have qualified themselves as electors within the district. Once the electors have authorized the assessing and collecting of a school tax, the exercise of this power by the trustees could not be restrained in absence of fraud. If a school district has authorized the trustees to levy and collect a maintenance tax, not to exceed a stated limit, the trustees may collect the tax even though a surplus arise in the fund. If a surplus does arise, it may be used for the construction of a new building when the trustees deem the construction necessary. The electors voted to support a certain tax levy, and the trustees have the authority to control the expenditure of the funds so derived. In the case Madley v. Trustees of Conroe Independent School District, the authority to use and expend surplus money to establish and maintain a school within the school district was upheld. If the trustees were not permitted to use

\[2\text{Madley v. Trustees of Conroe Independent School District 130 S.W. (2nd) 929.}\]
surplus money, the taxpayer would be able to avoid payment of his school taxes. The taxpayer could allow his taxes to go delinquent until the bonds were paid off, then the trustees would have no need for tax money. Thus the taxpayer would be released from the tax burden. Such an unequal or unwise tax regulation would be unfair to the community, and would create a difficult problem in collecting the needed taxes for public schools.

Some of the older statutes pertaining to the purchasing of school furniture allowed the trustees to obligate the district for a period not to exceed five years. This obligation could be made for the purchase of equipment and supplies, and payment could be arranged and money set aside out of each year's maintenance fund to meet the obligation, which the trustees had imposed on the future funds of the school district. However, if the company which held the warrants that have been issued failed to present them at the proper time, or allowed the funds appropriated for that purpose to be used in some other manner, the trustees could not be compelled to appropriate other funds to meet the obligations.\(^3\)

Many complications might arise from allowing the trustees to obligate the money for the ensuing school year to make payments on merchandise purchased the previous year.

\(^3\)Stephenson v. Union Seating Co. 62 S.W. 126.
The Legislature, in making some provisions for the control of school funds, provided that "the trustees in making contracts with teachers shall not create deficiency debts against the school district."4 Thus teachers could not be employed for a longer period of time than the available fund would provide for the current school year. Mr. Justice Alexander, in rendering an opinion concerning the purchasing of school equipment, referred to Mr. Justice Gill in the Stephenson v. Union Seating Company case, who said:

While the article applies alone to contracts, teachers' salaries, we think the construction placed upon it by the supreme court applies with equal form to the articles controlling the purchase of school furniture.5

Thus, if the district does not have the funds within the district for that scholastic year necessary to meet the obligations, the trustees are without the authority to incur the debt.

The payment of the obligations of an independent school district is made by warrants issued by the president and secretary of the school board against the local maintenance fund. A common school district may issue warrants against the local maintenance fund which must be approved by the County Superintendent. The County Superintendent

4Vernon's Texas Statutes, 1936, 2749, 585.

has the power to act as an auditor for the county school fund, and he may refuse to sign a voucher which he thinks is invalid. If he exercises his judgment in refusing to sign a voucher, an appeal must be made to the higher school authorities before the courts will pass judgment upon the case. The courts will not assume primary jurisdiction in matters concerning claims against a school district until the statutory procedure for the settlement of such controversies is followed and exhausted.

Part of the equipment for the physical education department may often be purchased by the athletic fund. If the athletic fund makes arrangements for the purchase of supplies, the school board is not liable for the debts incurred, provided the board informed the company that the school district would not be responsible for the purchase of the material. The trustees may make payments on debts incurred by the athletic association and yet not obligate the school board.

A school district may contract for the purchase of merchandise which carries a guarantee for satisfactory performance. The company may furnish a man to install the merchandise

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for a stated fee to be paid by the district; but the fact that the installation was imperfect does not render the merchandise entirely worthless, and such guarantee would not cover the installation.\footnote{C. A. Bryant v. Hamlin Independent School District 274 S.W. 266.}

The trustees by constitutional and statutory rights, and by interpretation of the courts of Texas, are empowered with the authority to furnish equipment for school buildings in Texas. The payment must be taken from the current school year's maintenance fund.
CHAPTER V

CONTROL AND USE OF PUBLIC SCHOOL BUILDINGS

The trustees of a school district have been granted the power to control all school property within the school district. The controlling power was a grant by the Legislature and provides that "all school houses erected, grounds purchased or leased for school districts and all property belonging thereto, shall be under the control of the district trustees of such district."\(^1\) Thus, not only the buildings and the grounds of the district are under the control of the trustees, but also all the school property belonging to the school district.

Many schools within the State of Texas are established under the provisions of a city charter. The Legislature in granting the city authority to draw up a charter and include the public school system, intended for the city to control the school system therein. The exclusive control refers to the exclusion of control by county and state officials as intended for other types of school districts.

\(^1\)Vernon's Texas Statutes, 1936, 2754, 586.
such as common school districts and independent school districts. It does not mean that incorporated schools are excluded from any form of legislative control, but that they are subject to all general or special school laws applicable to them. 2

Public school buildings which are operating under a city charter are under the control of the board of trustees of the school district and not under the superintendent. The superintendent of the school may act as a representative of the trustees in supervising the erection of a school building and the control of other school property. The controlling power of the superintendent is authorized by the board of trustees, subject to any change or limitation of power which this body may see fit to delegate. 3

The control of school buildings in independent school districts, consolidated school districts, and common school districts is vested in the board of trustees. The courts of Texas have ruled that the local school board has the power to manage and regulate the schools of their respective districts, and to formulate such policies and administer the affairs in such a manner as in their best judgment accomplishes the object of public education. The trustees of common school districts have the control of schools within

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3 Hamilton v. Bower 146 S.W. 626.
the common school districts; however, the county board and the county superintendent may make some regulations pertaining to the control of the schools within common school districts.

The courts have been reluctant to interfere with controversies arising within the school districts. In order to keep as many controversies as possible out of the courts, provisions have been made whereby these controversies may be settled outside of the courts by school authorities. The courts will not accept cases which should go through the channels provided for school problems until an appeal has been made to the designated authorities and these remedies have been exhausted. Neither will the courts be willing to pass upon a case unless it is clearly shown that an abuse of power has been practiced or that a party has been injured because of the policies prescribed by the school authorities.

The trustees of the school district are not only the controlling agents, but they are also the policy forming agents of the local school district. These policies drawn up by the local trustees of independent school districts must conform to the policies prescribed by the Legislature, the State Board of Education, and the State Superintendent. Common school districts must conform to the policies of
the state officials, the County Board of Education, and the County Superintendent. The County Board and the County Superintendent are vested with the power to use their own discretion in exercising the authority conferred by the statutes. Ordinarily, the courts will not interfere with the execution of these powers nor will the county officials interfere with the execution of the power conferred upon the local district trustees. In performing the policies of the local district, the local school administration may make recommendations to the school board of trustees which they may accept or reject.

The trustees of the school district control the use of school buildings. This power of control is granted by the Legislature.

The Legislature has conferred upon the trustees the power to use their discretion in authorizing the use of school buildings for civic, social, recreational, and community gatherings. Thus, they may be used as needed by the community with the consent of the local trustees. In some communities school buildings have been used by religious groups as a place of worship. The Legislature stipulates the provision for the use of school buildings,

6 Vernon's Texas Statutes, 1936, 2738, 568.
that the organization using the building should leave the building in as clean condition after use as it was when permission was granted to use the building.

Policies which are determined by the trustees may include rules or regulations affecting the pupil's health. Thus the trustees may prohibit students' attending school who have not been vaccinated or who may have a contagious disease. In the interest of the health program, the trustees may establish a cafeteria in the school building and prohibit the children from taking lunch anywhere else except in the cafeteria or at home.7

The trustees have the authority to inaugurate a school cafeteria and sell supplies to the school children, but the school does not have the right to set up such rigid rules as to create a monopoly of school supplies.8 School supplies may be sold by the school provided no agent of textbooks is making the distribution. "The State is not interested in the supplies bought with cafeteria funds and sold through the cafeteria."9

Disputes which arise as to the use of school buildings must follow the same procedure as do other school controversies. The courts cannot acquire jurisdiction of disputes

8Haley v. Brooks 191 S.W. 781.
except after the State Superintendent has passed upon the
matters in controversy. The rulings of the higher off-

ficials are final and must be observed unless the courts
reverse the decision handed down by these officials. How-

ever, the courts may be influenced by the rulings of the
school officials in rendering decisions which come under
their jurisdiction.

A school building may be built by two or more organi-
zations, and the organizations which assist in the construc-
tion of the building may jointly control its use. The
courts have ruled that even though aid is given in the con-
struction of the building, the part designated for school
purposes must remain under the supervision of the school
trustees as long as the building stands.

It is not compulsory for the trustees to allow elec-
tions to be held in the school building. Elections may be
held in the school building if the trustees permit, but
even in general elections, if the trustees feel that the
use of the building would hinder the children in their
school work, they may refuse to allow the election to be
held within the school building.

10 South San Antonio Independent School District v.
Martine 275 S.W. 265.

11 Rhodes v. Meret 112 S.W. 433.

12 Cleburne Independent School District v. Johnson
52 S.W. (2nd) 71.
Within the last few years the Texas Defense Guard was organized. The Legislature provided that the school buildings may be used by the Texas Defense Guard provided the funds for this organization are raised from some outside source.\textsuperscript{13}

\textsuperscript{13}\textit{Vernon's Texas Statutes}, 1942, 5891a-4.
CHAPTER VI

CONCLUSION

The study of the laws and interpretation of the laws concerning school property has been most interesting. It was found that a part of the original plan for public education has remained constant, while new ideas are developing in other phases of the educational program.

It was the intention of those who wrote the Constitution that Texas have an adequate school system, and provisions were made whereby this goal might materialize.

The control of public property for school purposes has been authorized by the Constitution, and legislative enactments have delegated powers to the local trustees, thus establishing the framework of our educational program on sound and democratic principles. The Legislature, in granting powers of control to the trustees, placed local needs in the hands of local authorities. Self-government is one principle upon which our government was founded.

It is inconceivable to think of setting up any government which would not be flexible enough to meet the changing needs in an ever-changing world. The framers of the Constitution provided for this need in allowing the
Legislature to pass new laws, and if necessary, to repeal old laws in order to develop an efficient educational system.

A part of the original plan set forth by the pioneers of education has remained in practice. The Constitution provided for three branches of state government, and the school system works on the same principle. The judiciary control has remained more constant, perhaps, than other branches. It was intended that many of the problems facing the school, in which some authority must render a decision, be decided outside the court system. Problems relating to school property are first decided outside the court system in order to develop an efficient system of public education. Many believed that problems could be decided justly by men and designated boards who are vitally interested in schools and bear the responsibility for shaping the policies of the public schools. Even when problems were reviewed by the courts, the rulings of the school officials might have a very definite bearing on the decisions rendered by the courts.

The title of the property has also been subjected to few changes. The trustees of school districts act as managers of public property. The title of public property must be vested in some body that is willing to look after public interests. Since the community selects the persons
upon whom they wish to place this responsibility in a democratic manner, the Legislature has placed further confidence in them and added to the duties of trusteeship the title, control, and management of all property belonging to the district.

It has been most interesting to notice some of the present trends in our educational system, and the relationship these trends have toward school property. The first of these trends the writer wishes to mention in the present discussion is consolidation. The original plan for school programs was that the Commissioners Court should have the authority to draw the lines for school districts within each county, and to make adjustments in territory designated as school districts. Then by an act of the Legislature, the County Board of Trustees was created and the authority to make changes in district lines was transferred from the Commissioners Court to the created County Board of Trustees. The power to change district boundaries by the County Board of Trustees has been restricted primarily more to the common school districts. The County Board of Education has the authority to group common school districts together to form rural high schools and to classify schools within the county as to the number of teachers to be used and the number of grades to be taught in the school. We see by consolidation of school districts that fewer districts are made and the
property of the common school districts which were grouped together to form one school became merged under the control of one body of trustees. In many of our counties, the county unit system is being used and district lines are becoming more or less extinct. With the rise in power and control of the County Board of Trustees over common school districts comes the decline in power and control of the local trustees of the common school district.

If Texas is to have an efficient system of education in which children of the remote areas will have equal opportunities for a high school education, taxes or some form of revenue must be raised to meet the financial needs of public education. Since the main source of revenue for school purposes comes through property taxation, the Legislature has tried to provide for the increased expenditures of the district by raising the limits of property taxation for school purposes within the district.

More stress is being placed upon the type of school building provided for the children. Modern school buildings with vocational equipment and modern teaching aids are replacing the old buildings in which little thought was given to the equipment. Trustees realize that it is wise to purchase as much equipment for the school as the district can afford. Those who have the control and management of school expenditure within their hands realize
that well-planned, well-equipped, and attractive schools contribute to a better educational program. If buildings are to be well-equipped, more money is needed to carry on the work, and the Legislature and taxpayers have indicated their approval by allowing more taxes to be assessed and collected in order that children of school age might reap the benefits of a more efficient system of public education.

It is only within recent years that the Legislature has allowed buildings to be constructed with the intention that they be self-supporting. The construction of gymnasiums, stadia, and other types of physical education and recreational buildings on a self-supporting basis enables the school to provide more adequate facilities for planning a well-rounded school program.

One may conclude from making this study that the people of Texas are vitally interested in meeting the needs of an adequate and efficient system of public education. Not only are the people of Texas interested in making these provisions, but they are willing to make more lenient appropriations in order that this goal might be reached.
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Bever v. Winfrey 260 S.W. 627.


Board of Trustees of Alpine Independent School District v. Jacobs 170 S.W. 597.

Boone v. Black 174 S.W. 971.


C. A. Bryant v. Hamlin Independent School District 274 S.W. 266.


Cain v. Lunsden 204 S.W. 115.

Carter v. White 260 S.W. 276.


County Board of Angelina County v. Homer Common School District 291 S.W. 268.

Couch v. Posey 69 S.W. 1001.


Hamilton v. Bower 146 S.W. 626.


Kerbow v. Woolridge 184 S.W. 746.

Kuhn v. City of Yoakum 257 S.W. 337.

Lander v. Victoria County 131 S.W. 821.

Larkin v. Pruett Lumber Company 209 S.W. 443.


Maddox v. Adams 66 S.W. 811.


Powell v. Matthews 280 S.W. 903.


Rhodes v. Meret 112 S.W. 433.


School Trustees of Runnels County v. State 95 S.W. (2nd) 1001.


Shipley v. Floydada Independent School District 250 S.W. 159.


Stepleton v. Trussell 196 S.W. 269.


Stephenson v. Union Seating Company 62 S.W. 128.

Stewart v. Blair 159 S.W. 928.


Wilson v. County Trustees of Eastland County 229 S.W. 669.


Woodon v. Stanley 201 S.W. 659.