

December 16, 1969

OPINION LETTER NO. 270

Honorable Ray Lee Caskey
Prosecuting Attorney
P.O. Box 278
Alton, Missouri 65606



Dear Mr. Caskey:

This letter is in response to your opinion request in which you ask whether or not an elected member of a county board of education is a county official within the meaning of Section 182.050, RSMo 1959, which section excludes county officials from membership on the county library board of trustees.

Section 182.050 states in part as follows:

"For the purpose of carrying into effect sections 182.010 to 182.120 in case a county library district is established and a free county library authorized as provided in Section 182.010, within sixty days after the establishment of the county library district, there shall be created a county library board of trustees, which shall consist of the county superintendent of schools, and four other members, none of whom shall be elected county officials. . . ."

The county to which you refer is a county of the third class. Section 162.111, RSMo Supp. 1967, created in each second, third and fourth class county a county board of education consisting of six members to be elected at the annual school election held on the first Tuesday in April in each year.

Although the county board of education is legally designated as the "county" board, nevertheless it is clear that the boundaries of the board's jurisdiction are not coterminous with the county lines. The expenses of the county board members are paid by the

Honorable Ray Lee Caskey

state comptroller out of the state school moneys fund, Section 162.151, RSMo Supp. 1967, and the duties of the county board of education, Sections 162.161, RSMo Supp. 1967, although official in character are nevertheless not limited to the county itself.

We are enclosing Opinion No. 263 rendered May 2, 1968, to Maurice B. Graham which holds that the prosecuting attorney is required to represent the county board of education.

We believe it is unnecessary to determine whether members of the county board of education are county officers for all purposes because it is clear that in interpreting statutes, it is the legislative intent that is important and not the strict letter of the terms used by the legislature. That is to say, it is noteworthy that in Section 182.050, the legislature apparently intended to exclude from membership on the county library board of trustees any person who is elected to a county-wide office by the county electorate with the exception of the county school superintendent. The legislature did not exclude appointed officers of the county.

It is our view that it was the apparent legislative intent to exclude from membership on the county library district board of trustees, with the exception of the county superintendent of schools, officials who exercise authority generally coterminous with the boundaries of the county although not necessarily confined to such boundaries and whose position, as in the case of the members of the county board of education, is largely dependent upon the vote of such county electorate.

We, therefore, conclude that members of the county board of education are "elected county officials" within the meaning of Section 182.050 and are not eligible for appointment to the county library board of trustees.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enc: Opinion No. 263, Graham, 5/2/68