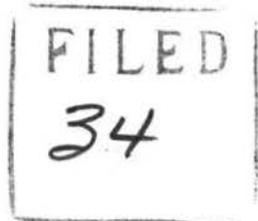


February 23, 1976

OPINION LETTER NO. 34
Answer by Letter - Klaffenbach

Honorable Emory Melton
Missouri Senator, District 29
Room 331A, Capitol Building
Jefferson City, Missouri 65101



Dear Senator Melton:

This letter is in response to your opinion request asking as follows:

"A special road district organized and existing under MRS Sections 233.170 to 233.315 is adjacent to a city of the 4th class. The special road district and the city have a common boundary. The city then annexes a portion of the territory which lies within the special road district. Which of these two political subdivisions has control or jurisdiction over the streets and roads in the annexed territory after the annexation is completed and that territory becomes a part of the city?"

In our Opinion No. 97 dated June 28, 1961, to Wilson, which was withdrawn for other reasons, this office concluded that the annexation of a special road district by a city was not an authorized form of dissolution and that the district remained in existence within its present boundaries until dissolved by one of the statutory methods.

Under subsection 3 of Section 88.670, RSMo, however, a fourth class city has control of the streets within such city. Further, in Opinion No. 309 dated August 28, 1969, to Nevins, copy enclosed,

Honorable Emory Melton

this office concluded that the commissioners of a special road district organized under the provisions of Section 233.170, RSMo, and located within a fourth class county do not have the authority to make street improvements on roads within an incorporated city of the fourth class.

We therefore conclude that while annexation of a part of the district does not cause a partial dissolution of the district the city into which the land is annexed assumes control of the road district lands so annexed. The road district commissioners thereafter have no authority to spend road district funds for the improvement or maintaining of such annexed roads.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 309
8-28-69, Nevins