

SCHOOLS: State Board of Education retains custody of United States Savings Bonds purchased out of State School Funds.

January 21, 1942

Honorable Lloyd W. King  
State Superintendent  
Department of Public Schools  
Jefferson City, Missouri



Dear Mr. King:

We are in receipt of your letter of January 17th wherein you state as follows:

"Pursuant to an order of the State Board of Education at its meeting on November 10, 1941, authorizing and directing the President of the State Board of Education to purchase \$8,000 United States Savings Bonds, Defense Series "G", for the account of the State Seminary Fund, I made application for and had delivered to me bonds of said description.

"The State Board of Education has instructed me as President of the State Board of Education to seek the advice of the Attorney General as to what disposition should be made of the bonds now that they have been purchased and are in the possession of the President of the State Board of Education. Should they be turned over to the State Treasurer as custodian of state funds or should they be retained by the State Board of Education?"

In an opinion rendered by this Department to Honorable Forrest C. Donnell, under date of July 11, 1941, we held that under the Constitution and statutes of this State the authority to invest the State School Fund in United States government securities is in the State Board of Education and not in the State Board of Fund Commissioners.

In said opinion we considered the following sections of the Revised Statutes of Missouri, 1939.

Section 10874:

"Whenever there shall be in the treasury or elsewhere, subject to the order of the treasurer, any money belonging to the capital of the public school funds, the state auditor shall make reports thereof to the state board of education, who shall direct the investment of the same in bonds of the United States, bonds of the state of Missouri, or state certificates of indebtedness. That portion of the income and revenue to be distributed for the support of the public schools shall be payable on the warrant of the auditor, in favor of the treasurers of the several counties, in each year, immediately after the apportionment of such moneys shall have been made and filed: Provided, that such portion of said income and revenue as falls to the share of the city of St. Louis shall be made payable to the secretary and treasurer of the school board of the city of St. Louis."

Section 10884:

"The treasurer shall be the custodian of the certificates of indebtedness

of the state to the 'public school fund' and of the certificates of indebtedness of the state to the 'seminary fund,' and of all renewals thereof, and of all registered county, municipal or school district bonds of this state in which the 'public school fund' or the 'seminary fund' shall be invested, and also of all money belonging to either of said funds, and no money shall be paid out of said funds by the state treasurer except upon warrants drawn by the state auditor, in accordance with requisitions made by the board of fund commissioners, as hereinbefore provided."

The same Legislature that in 1909 enacted Section 10884, supra, authorizing the State Treasurer to be custodian of certain bonds, (Laws of Mo. 1909, Sec. 58, p. 896), also reenacted Section 10874, supra, placing the investment in bonds of the United States in the State Board of Education (Laws of Mo. 1909, Sec. 76, p. 801).

The Legislature by failing to enumerate bonds of the United States in Section 10884, supra, obviously intended that such bonds would not be among the class of bonds of which the State Treasurer would be custodian.

This conclusion is supported by the rule of statutory construction that the expression of one thing in a statute is the exclusion of another, State ex rel. Kansas City Power and Light Company v. Smith, 342 Mo. 75, 111 S. W. (2d) 513, and the other rule that the reviewing court must assume that the Legislature was familiar with other statutory provisions covering similar subject matter, Smith v. Pettis County, 345 Mo. 39, 136 S. W. (2d) 282, l. c. 287.

The Legislature having placed the authority of purchasing United States bonds in the State Board of Education and having failed to designate any other board or

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officer to retain custody of the same, we are of the opinion that the custody of the United States Savings Bonds, Defense Series "G", should be retained by the State Board of Education.

Respectfully submitted,

MAX WASSERMAN  
Assistant Attorney-General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney-General

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