

SCHOOL : May sell school buildings if no-
DISTRICTS : longer required and new building
: is provided.

January 20, 1944



Mr. Frank L. Hodge
Superintendent of Schools, Maries County
Vienna, Missouri

Dear Mr. Hodge:

This will acknowledge the receipt of your letter of January 6, 1944, in which you request an opinion from this department. Omitting the caption and signature, the full text of your letter is as follows:

"About nine years ago, Crismon District #28 and Salem District # ?, were combined for school purposes. Since that time school has been held at Brinktown #56 in Maries County, Missouri. The school is under the control of a board of directors, but the school is held in a building belonging to the Catholic Church.

"The question is: Can the board of directors sell the two school houses which have been abandoned, and what procedure must be taken?

"Thanking you in advance for an early reply, I am,"

While not specifically stated in your letter, we are assuming for the purposes of this discussion that the consolidation mentioned was in strict compliance with Section 10487 R. S. Mo., 1939, and governed by Art. V of Chapter 72, of R. S. Mo., 1939. We deem it unnecessary to quote these sections and do no more than cite them for convenience.

Under the provisions of the statutes, title to property of the School District is held by the Directors. No school house or school site shall be abandoned or sold until another site or schoolhouse is provided for in such District. We refer to Section 10403, R. S. Mo. 1939, which in part reads:

"The title of all schoolhouse sites and other school property shall be vested in the district in which the same may be located; and all property leased or rented for school purposes shall be wholly under the control of the board of directors during such time; but no board shall lease or rent any building for school purposes while the district schoolhouse is unoccupied, and no schoolhouse or school site shall be abandoned or sold until another site and house are provided for such school district. R. S. 1929, Sec. 9269."

From your letter we conclude that by reason of the consolidation the two schools are no longer needed and adequate provision has already been made for pupils of the district. Having complied with that portion of the statute the Directors may dispose of the property no longer needed.

Section 10471, R. S. Missouri, 1939, reads in part as follows:

"When the demands of the district require more than one public school building therein, the board shall, as soon as sufficient funds have been provided therefor, establish an adequate number of primary or ward schools, corresponding in grade to those of other public school districts, and for this purpose the board shall divide the school district into school wards and fix the boundaries thereof, and the board shall select and procure a site in each newly formed ward and erect a suitable school building thereon and furnish the same; and the board may also establish schools of a higher grade, in which studies not enumerated in section 10627 may be pursued; * * *"

Under the provisions of the statutes the Board is authorized to proceed with the sale of school property, if said property is not now required by the district and provision for carrying on the educational program has been made.

The decisions in the state in cases involving sale of school property are consistent in holding that the Board in its discretion may discontinue to use any property owned by the district and sell same. Other decisions go further and say that the site of a school may be changed without a vote of taxpayers of the district. Sustaining this thought are:

Gladstone v. Gibson, 208 Mo. A, 70
283 S. W. 271

Corley v. Montgomery, 226 Mo. A, 795
46 S. W. (2d) 283.

Crow v. Consolidated Dist, No. 7, 36 S. W. (2d)
676.

Further examination of the statutes show that power is given the voters within the district to direct the sale of property no longer required for the use thereof. The portion of this section, useful for our purposes, reads as follows: Section 10419, R. S. Mo. 1939.

"The qualified voters assembled at the annual meeting, when not otherwise provided, shall have power by a majority of the votes cast: * * *

" To direct the sale of any property belonging to the district but no longer required for the use thereof, to determine the disposition of the same and the application of the proceeds. * * *"

C O N C L U S I O N .

From the above and foregoing, this department is of the opinion that the Board of Directors of a School District is authorized, under the statute, to sell property of the district, not now required by the dis-

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trict for school purposes. That the provision for carrying on the educational program of the district requires the board to arrange school accommodations for pupils of the district before sale of the property. That the sale may be made by the district board or the voters at the annual school election, may, by majority, vote direct that property no longer needed by the district be sold.

Respectfully submitted,

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APPROVED:

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