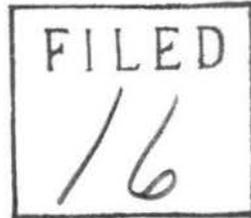


SCHOOLS: Applicability of Section 7, Article IX, of the new Constitution of Missouri to outstanding county school fund loans.

March 19, 1945



Honorable G. R. Chamberlin  
Prosecuting Attorney  
Harrisonville, Missouri

Dear Sir:

Reference is made to your letter under date of March 7, 1945, requesting an official opinion of this office, and reading as follows:

"I would like to have the benefit of your advice on Section 7, Article 10, Page 56, of the pamphlet on the new Constitution.

"This section apparently provides that the outstanding County Loans be liquidated without extension of time, and I would like to have your opinion just how to advise the County Court as to when they should begin liquidating these loans.

"I have already checked over the report of the County and have furnished the County Court with all of the older loans, one having run out - being made in 1924, and several others were made in 1925 and should be taken in at once irrespective of the new constitution. There are a number of others where the interest has lagged back and obviously the property is not very valuable, and I have suggested to the County Court to close those out at once, but since it will be quite a turnover in liquidating all of these, I presume you will recommend some standard of procedure in this behalf."

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Apparently through a typographical error, you have mentioned Section 7 of Article X of the new Constitution; however, we find that the only portion of the new Constitution referring to the matters about which you inquire is Section 7 of Article IX.

With respect to the question suggested by the second paragraph of your letter, we direct your attention to the following portion of Section 7, Article IX, of the new Constitution of Missouri:

"All real estate, loans and investments now belonging to the various county and township school funds, except those invested as hereinafter provided, shall be liquidated without extension of time, and the proceeds thereof and the money on hand now belonging to said school funds of the several counties and the city of St. Louis, shall be reinvested in registered bonds of the United States, or in bonds of the state or in approved bonds of any city or school district thereof, or in bonds or other securities the payment of which are fully guaranteed by the United States, and sacredly preserved as a county school fund.  
\* \* \* "

Because of the lack of judicial construction of this section, we necessarily are constrained to construe it in accordance with general rules.

It is our thought that the quoted portion of the section should read as though the following words were interpolated following the underscored portion quoted above: "beyond the time when such principal shall become due according to the tenor of the instrument evidencing the loan, subsequent to the effective date of this Constitution."

In view of the fact that the present statutes relating to the lending of school funds by the various county courts are in conflict with Section 7, Article IX, of the new Constitution of Missouri, such statutes will remain in full force and effect until July 1, 1946, unless sooner re-

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pealed or amended to conform with the new Constitution, as provided by Section 2 of the Schedule attached to the new Constitution.

With respect to the question suggested in the third paragraph of your letter, your attention is directed to the above statement in regard to the time at which the present statutes relating to these loans will become inoperative. In the interim, your county court will necessarily be guided by the provisions of the present statutes with respect to the collection of interest and principal, foreclosure of outstanding loans, and all other matters incident to the lending, collection and preservation of the money belonging to the county school funds.

#### CONCLUSION

In the premises, we are of the opinion that Section 7, Article IX, of the new Constitution of Missouri does not require the immediate liquidation of outstanding county school fund loans, and that such action will necessarily be taken only when such loans become due subsequent to the effective date of this portion of the new Constitution; and we are further of the opinion that all matters relating to the collection and preservation of present county school fund loans will be governed by the existing statutes relating thereto until July 1, 1946, unless such statutes be sooner repealed or amended by act of the Legislature.

Respectfully submitted

WILL F. BERRY, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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