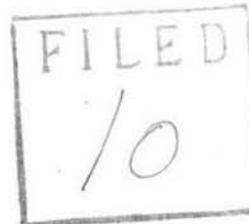


SCHOOLS;- TOWN, CITY or CONSOLIDATED District can dissolve if
two-thirds of the RESIDENT VOTERS and TAXPAYERS,
PRESENT and VOTING shall so vote.

9331 10-10-31
May 19, 1933.



Hon. Herbert M. Braden
Prosecuting Attorney
Livingston County
Chillicothe, Missouri

Dear Mr. Braden:

Your letter of May 6, 1933, received, wherein you requested an opinion regarding the following:

"I would be pleased to have an opinion construing Section 9331, Missouri Revised Statutes for 1929, as amended by Session Acts of 1931, at page 351.

The part that I should like to have an opinion on is that provision which provides that 'if two-thirds of the resident voters and tax payers of such school district present and voting, shall vote to dissolve such town, city, or consolidated school district, then from and after that date the said town, city or consolidated school district shall be dissolved.' That is, whether to dissolve a consolidated district shall require two thirds of all of the voters and tax payers of said district, or whether two-thirds of those attending said meeting are all that is required to dissolve the district."

Section 9331, R. S. 1929, before being amended, created a great deal of strife and even bitterness among neighbors and friends in Clay County in an effort to dissolve the consolidated school district. The court even said:

"It is to be deplored that considerable feeling and factional differences appear to have been aroused in the consolidated district and possibly to have controlled the result of the meeting. Those matters are truly most unfortunate and tend to cripple seriously the cause of education. But they are not

matters which affect the merits of this case in any way. They concern only the parties and those living in the consolidated district. The question of who is right and who is wrong has no bearing in the decision of the case before us. Right or wrong, two-thirds of the resident voters and taxpayers of any consolidated school district have the unquestioned power, under due and orderly statutory procedure, to disorganize such district. * * * * * Two-thirds of the resident voters and taxpayers of the district have spoken for disorganization. It becomes the duty of this court to hold that the will of such majority, as thus expressed, must prevail."

State ex rel. Clements, 305 Mo. 297 l. c. 307, 308.

The people in the community had gone to an expensive trial or hearing and 273 people had taken the witness stand etc., to say nothing of the bitterness and ill feeling that had been engendered by having to go into and investigate under the OLD LAW (Sec. 9331 R. S. 1929). So as to obviate and avoid such lengthy and expensive proceedings the Legislature in 1931 inserted three words in the section, to-wit, "PRESENT AND VOTING".

"If such had been the intent it could have been easily and plainly expressed by saying that the result should be determined by a majority of those PRESENT AND VOTING at such meeting."

State ex rel. Sheridan Consolidated School District, 310 Mo. 258 l. c. 265, 266.

So that, the statute as amended and simplified by the suggestion in the last cited case, now reads as follows:

"Any town, city or consolidated school district heretofore organized under the laws of this state, or which may be hereafter organized, shall be privileged to disorganize or abolish such organization by a vote of the resident voters and taxpayers of such school district, first giving fifteen days' notice, which notice shall be signed by at least ten qualified resident voters and taxpayers of such town, city or consolidated school district; and there shall be five notices put up in five public places in said school district. Such notices shall recite therein that there will be a public meeting of the resident voters and taxpayers of said school district at the school house in said school district and at said meeting, if two-thirds of the resident voters

and taxpayers of such school district PRESENT AND VOTING, shall vote to dissolve such town, city or consolidated school district, then FROM AND AFTER THAT DATE the said town, city or consolidated school district shall be dissolved, and the same territory included in said school district may be organized into a common school district under article 3 of this chapter."

Answering your question as to "whether to dissolve a consolidated district shall require two-thirds of all of the voters and tax payers of said district, or whether two-thirds of those attending said meeting (and voting)", will say that it is our opinion that, "if two-thirds of the resident voters and taxpayers of such school district PRESENT AND VOTING, shall vote to dissolve such town, city or consolidated school district, THEN FROM AND AFTER THAT DATE the said town, city or consolidated school district shall be dissolved."

Very respectfully,


GEO. B. STROTHER
Assistant Attorney-General.

APPROVED: _____
ROY McKITTRICK
Attorney-General.

GBS:EG