

SCHOOLS - Outside use of school property discussed under Secs. 9284 and 9205 R.S. 1929 construed herein. Special meeting duly called may prohibit, but not authorize such use. ✓

9284-25-R.S. 9205 1929

February 2, 1933.



Hon. Ted Frossard  
Prosecuting Attorney Barry County  
Cassville, Missouri

Dear Sir:

Your letter of January 27, 1933 asks our opinion as follows:

"The school house of a local district has been open to church services and other functions for a number of years. The directors decided to close the doors on the ground that the congregation of a certain religious sect had been making the school unfit to have school in by spitting on the floors, etc. After the doors were closed a petition was circulated to call a special meeting under Sec. 9238 R.S. 1929, for the purpose of voting on whether the doors were to be open or closed.

I would like to have your opinion as to whether the school can be voted open at a special meeting. In Sec. 9284, No. 5, it is provided as a power of an annual meeting to determine whether or not the school may be used during the ensuing year for religious or other purposes. Sec. 9238 provides that "Special school meeting for the transaction of business authorized by this chapter, and not restricted to the annual meeting or otherwise provided for shall etc." Does the mention of No. 5 under the section naming the powers of the annual restrict that power to the annual school meeting? If not, is this power, then, under any other statute, restricted to the annual school meeting? Sec. 9205 provides that the school house at any annual or special meeting may be voted closed, but says nothing about voting it open.

The petition was signed by a probable majority of the districts voters and the clerks record shows that a meeting was held and the notices of the meeting ordered published by the school

board. Two of the directors now deny that any such meeting was ever held or any such order given. Would this in itself invalidate the election, or rather the special meeting? The meeting was held, the school house was voted open, but the directors, acting on the advice of the then prosecuting attorney of this county refused to open the doors on the ground that no authority existed to call a special meeting for this purpose and that such meeting was invalid. Since that time, about two months ago, locks have continuously from time to time been torn off the doors and the building used as a church house both on Sunday and during the week. Three men were arrested and at present are charged in circuit court with breaking into a school house. The directors want to continue to make arrests but before preceeding further I would like to have your advice on the matter.

If this special meeting was legally called and held could these men be convicted on this charge, admitting that they did break off the locks?

The directors and the teacher now complain that at these gatherings the people spit tobacco juice on the floor, tear boards off the building and in many other ways damage and destroy and deface the premises. If the building has been legally voted open is there any way by which the directors could again legally lock up the school house or prevent it from being used by this sect?"

We enclose you copy of an opinion of this Department under date of September 9, 1932, to Hubert E. Lay, Prosecuting Attorney of Texas County, Houston, Missouri, which opinion covers your case in a general way and is hereby approved by the present administration.

As heretofore cited by this Department, the annual meeting has under the fifth subdivision of Sec. 9284, R.S.1929, the right to determine the district's policy as to outside uses of the school house for the ensuing year, and, while the board of directors is also given a like power under Sec. 9205, in exercising such power it is limited in our opinion by the mandate of the voters, if any, at the annual meeting, and also

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in any case such outside uses are limited by Sec. 9205 to such "purposes as will not interfere with the prime purpose to which such houses, buildings and grounds are devoted."

We are further of the opinion that a special school meeting, if properly called under Sec. 9228, may prohibit outside use of school property, by virtue of the first proviso in Section 9205, until the next annual meeting, but that a special meeting cannot under the law authorize outside uses, as the latter is for annual meetings to determine, or the board, or both.

Sec. 9232 R.S. 1929, applies to persons injuring school property as you have no doubt noted.

Trusting we have fully answered your inquiries, we are,

Respectfully yours,

Denton Dunn.  
Assistant Attorney General.

DD:SW  
Enc.

APPROVED

Roy McKittrick.  
Attorney General.