

SCHOOLS: County Court may not accept Government Bonds in payment of school loan and retain the bond as investment.

4.28
April 26, 1934



Mr. O. H. Gramling
Clerk of Sullivan County Court
Milan, Missouri

Dear Sir:

This is to acknowledge your letter dated April 12, 1934 as follows:

"Will you kindly advise if the County Court can except Government bonds in payment of school fund loans, provided they can cash them at the bank. Thanking you in advance for this information I am, "

Your letter is a bit ambiguous, however, we believe that what you really wish to know is whether one can pay his school loan with Government Bonds and the county retain and keep such bonds as an investment.

Section 9245 R. S. 1929 provides in part as follows:

"It is hereby made the duty of the several county courts of this state to diligently collect, preserve and securely invest at the highest rate of interest that can be obtained, * * * on unencumbered real estate security, worth at all times at least double the sum loaned, * * *."

You will note that the above provision makes it mandatory upon the county court to invest all moneys on unencumbered real estate

security. Consequently, if the county court has moneys belonging to the school fund in investments other than unencumbered real estate it would constitute an investment not authorized by statute.

Therefore, it is our opinion that the county court may not accept Government Bonds in payment of a school loan and retain the bonds. If they accept bonds and immediately convert them into cash, then in effect it would be a receiving of money in payment of the indebtedness.

If we have not answered the question that you had in mind, kindly so advise and we will supplement this ruling.

We are also attaching a copy of an opinion rendered by this department to Honorable J. B. McGuffin, dated December 8, 1933, which concerns this fund.

Yours very truly,

JAMES L. HOENBOSTEL
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

JLH:SW