

COUNTY SUPERINTENDENT OF SCHOOLS:

It is the duty of the county superintendent of schools to investigate school loans; said investigation being for the purpose of ascertaining if the county court complies with the statutes in loaning school moneys.

2-19
February 18, 1936.



Honorable John J. Wolfe
Associate Prosecuting Attorney
St. Louis County
Clayton, Missouri

Dear Mr. Wolfe:

This is to acknowledge your letter, which in part reads as follows:

"I would appreciate for the guidance of the Grand Jury an opinion from you relative to Section 9458, regarding the County Superintendent of Schools, * * * *.

* * * * *

"We would like to know if under this statute the county superintendent of schools is required to examine the school loans, that is, the notes and mortgages given to the county court for the school money loaned."

Section 9456, R. S. Mo. 1929, provides that the county superintendent of schools, before entering upon the duties of his office, must take and subscribe to an oath to discharge the duties of his office faithfully and impartially.

Section 9458, R. S. Mo. 1929, referred to in your letter, places a duty upon the county superintendent as follows:

"* * * He shall examine the records of the county, so far as they relate

to school funds and school moneys, see that the law is strictly observed, and shall be present at the August Term of the county court, to give such information as may be of importance to said court in the transaction of all business pertaining to the school interests of the county. * * * *."

The county court has imposed upon it the duty of collecting, preserving and investing school funds and school moneys. Sections 9243 to 9255, inclusive, R. S. Mo. 1929.

The above statutes require the county court to do certain mandatory things relating to school loans, namely: charge a minimum amount of interest; and obtain security of a certain nature and character. The county court may also exact personal security and demand additional security. Provision is also made as to the procedure necessary for collection or foreclosure.

The county superintendent has nothing to do with the loaning of school moneys. However, by virtue of Section 9458, supra, it is his duty to ascertain by investigation or examination if the county court is loaning school funds or school moneys according to the statutes. It would not be, in our opinion, the superintendent's duty to pass upon the solvency of the security. However, it would be his duty to ascertain if security was given, that is, as to whether or not the county court required security for the loans. We believe the intention of the Legislature was to have someone responsible for inquiring into the manner and method the county court was making loans and to have a check on the county court, in the event such loaned school moneys other than as provided by statute. If the county court was loaning money at an interest less than four per cent the county superintendent should call said fact to the attention of the court, and if the county court was loaning money on security other than that provided by statute, then said fact would be revealed by an examination of the records by the superintendent. However, the county superintendent would not be

required to examine into the solvency or insolvency of notes and mortgages. But, if he has information to the effect that notes are insolvent, he should advise the county court of his investigation, so that additional security could be exacted.

From the above it is our opinion that it is the duty of the county superintendent of schools to examine the records of the county court, concerning school loans, for the purpose of ascertaining if the county court is complying with the statutes relating thereto.

It is our further opinion that it is the duty of the superintendent to ascertain whether or not notes and mortgages were given, but the solvency or insolvency, adequacy or inadequacy, of said notes and mortgages would not be a matter for his determination. However, if he has information that certain notes are insolvent or inadequate he should, at least, when present at the August Term of the County Court, give them that information. However, as stated, it is not his duty to personally investigate every note or mortgage for solvency or otherwise, in our opinion.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

JLH:EG