

SCHOOLS: A school district situated in two or more counties or townships shall deposit bonds voted with the county or township in which schoolhouse is situated.

4-22
April 15, 1937



Honorable F. C. Bollow
Prosecuting Attorney
Shelby County
Shelbina, Missouri

Dear Sir:

This Department is in receipt of your letter of February 3, 1937, requesting an opinion on the following:

"In accordance with the provisions of Section 9198 of the Revised Statutes of 1929 a district commonly known as the Moreman School District has voted bonds to rebuild a school building destroyed by fire. This section provides, among other things, that 'said bonds shall not be negotiated by said board until said bonds have been deposited with the county or township in which said district shall be situated'. This district lies both in Shelby and Monroe Counties. The area lying in both counties is about equal, with probably the greater valuation in Shelby County. The portion lying in Shelby County has been known as District No. 64, and that in Monroe County as District No. 75. The school house was located in Shelby County and the new building is to be erected on the site of the old. I would appreciate your opinion as to which county the bond or bonds should be registered in to meet the requirements of Section 9198."

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This is a question without precedent in this state or in other states which have similar statutes to ours. Therefore we must, if possible, reason this matter to a conclusion that will permit the bonds voted by the school district to be deposited either in the one or the other county, or in both, so that said bonds may be negotiated to provide the means to erect the school building. Yet we must reach a conclusion that will not be contrary to other school laws of this state, and that will conform, if possible, to Section 9198 R.S. 1929.

Assuming and considering Districts 64 and 75, known as the Moreman School District, to be one district, and further assuming that said district could legally vote a valid bond issue to erect a school building within the confines of the district. The question then arises: Where are the bonds voted to be deposited in order to comply with the provisions of Section 9198 R.S. 1929? This Section is in part as follows:

"When bonds are voted under this section for the erection of one or more school-houses, to be erected on the same or different sites in common school districts, said bonds shall not be negotiated by said board until said bonds have been deposited with the county or township in which said district should be situated, and upon the order of said board, and the payment to the county or township treasurer of the amount agreed to be received for the same by said board from the person or persons loaning said money upon said bonds. The county or township treasurer shall countersign said bonds and deliver the same to the person or persons named by said board of directors."

The Legislature when it enacted Section 9198 R.S. 1929, failed to provide, in express language, the place in which those school districts lying in two or more

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counties should deposit bonds voted, so that the bonds could be negotiated, and the courts by interpretation have not pointed the way.

To meet the requirements of Section 9198 R.S. 1929, heretofore quoted, the bonds must be deposited in the county or township in which the district is situated until the payment, by the purchaser of the bonds, of the agreed price, is made to the county or township treasurer. It would therefore be an impossibility for the bonds to be deposited in both counties or townships since they must remain on deposit until the money borrowed is paid into the county or township treasury. Therefore the bonds must be deposited in either the one or the other of the counties or townships in which the district is situated. The contemporaneous construction that has for a long period of time been given Section 9198 R.S. 1929 is that the bonds voted by a school district situated in two or more counties or townships shall be deposited in the county or township in which the school site is to be situated.

In State ex rel Chick v. Davis, 201 S.W.529, 1.c.530, the court in construing an ambiguous statute, said:

"Though the statute be not clear, its ambiguity opens the way for the rule that the actual construction given for a long period by those charged with its administration, the supervising courts and the Legislature acquiescing therein, is regarded as strong evidence of its true meaning."

Therefore we conclude that the bonds voted by the district should be deposited in the county or township in which the schoolhouse is to be situated, in order to give force and effect to the statute and the contemporaneous construction of said statute.

APPROVED:

Respectfully submitted,

J. E. TAYLOR
(Acting) Attorney General

Oliver W. Holen
Assistant Attorney-General