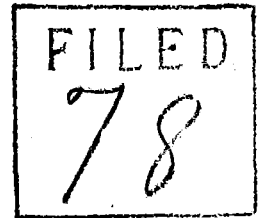


SCHOOLS: Construing Section 10463, p. 889, Laws Mo. 1943.

January 25, 1946.

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Honorable Roy Scantlin,
State Superintendent of Schools,
Jefferson City, Missouri.

Dear Sir:

This will acknowledge receipt of your letter of December 5, 1945, requesting an opinion from this department, which reads as follows:

"This Department is confronted with the question of the proper interpretation of the laws of this state applicable to the apportionment of building aid to a consolidated school district as provided in Section 10463, Laws of 1939 (Amended 1943, House Bill 56 -- amendment does not apply to the question involved).

"The Couch Consolidated School District of Oregon County filed with this Department on November 20, 1945, an application for \$2000.00 building aid because of the abandonment of two elementary schools within the consolidated district. The Couch District of Oregon County has been a consolidated district for a number of years, made up originally of the Couch District together with seven outlying rural schools. In 1937-1938 this district erected a new central elementary building in accordance with plans approved by this Department, and because of the new building, abandoned the seven outlying schools within the consolidated district. The state apportioned to this district \$1000.00 for each abandoned school, or a total of \$7000.00 in 1938-29. In 1944 two additional rural schools joined the Couch consolidated district, in accordance with the provisions of the laws of this state on annexation and change of bounday lines. The board of education soon thereafter abandoned the two schools and provided transportation for all pupils to the central elementary building which was erec-

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ted in 1937-38. The abandonment of these two schools is the basis of the board's request and application for \$2000.00 additional abandonment aid.

"Section 10463, R. S. 1939, provides for the apportionment of building aid to a consolidated school district in which a new central elementary building has been erected in accordance with the plans approved by the State Superintendent of Schools the sum of \$1000.00 for each rural school building abandoned on account of such new building. The new building in the Couch Consolidated School District was erected in 1937-38 prior to the time the two additional rural schools became annexed to the district. However, the new building was large enough to accommodate additional pupils or anticipated expansion. Because of the new building, the board of education found it possible to abandon the two additional schools annexed to the original consolidated district.

"I shall appreciate your advice and official opinion in answer to the following question:

"Has the State Superintendent of Schools authority under the provisions of Section 10463, Laws of Missouri, to apportion additional abandonment building aid at the rate of \$1000.00 for each school abandoned when a consolidated district annexes additional rural schools and abandons them because of a new central elementary building erected prior to the annexation of such schools?"

Your request involves the construction of Section 10463, p. 889, Laws Missouri, 1943, which reads:

"There shall be paid to any consolidated or enlarged school district in which a new central elementary building has been erected in accordance with plans approved for such aid by the

state superintendent of schools, the sum of one thousand dollars (\$1,000.00) for each rural school building abandoned on account of such new building. This amount shall be paid in the same manner as other state apportionment aid and at the time of the next annual apportionment, following the opening of school in the new building and the abandonment of the school building or buildings: Provided, however, that any consolidated district receiving building aid under the provisions of this section shall not at the same time or on the same building program received building aid under the provisions of Section 10499: Provided also, that a common school district formed in accordance with the provisions of section 10410, Revised Statutes of Missouri, 1939, shall constitute an enlarged district and be eligible for building aid as provided in this section, if the formation of such district results in the abandonment of two or more school buildings, and if the plan for its formation had the written approval of the state superintendent of schools and the county superintendent or superintendents of the county or counties in which the territory of the new district is located."

One of the primary rules of statutory construction is to ascertain and give effect to the legislative intent. See Wallace v. Wood 102 S. W. (2d) 91, l.c. 95, 340 Mo. 452.

We think there is no question as to the purpose in enacting Section 10463, supra, it was to aid the consolidated or enlarged school district in the building of the new central elementary building. The plan for constructing said building must even first be approved by the State Superintendent of Schools before such funds can be allowed the said district. While it is true the state aid that the school district receives under said provision is not paid to the district prior to the completion of said elementary building, it is forthcoming soon thereafter and said fund goes into the building fund of the school district. There can be no question but that such money is taken into consideration by said school district and used for the purpose of defraying the cost of said construction.

In construing statutes, it is a well established rule that meaning should be given to every word in the statute, if possible.

In Section 10463, supra, it provides that there shall be paid to any consolidated school district, in which a new central elementary building has been erected, the sum of One Thousand Dollars (\$1,000.00) for each rural school building abandoned on account of such new building. This amount shall be paid in the same manner as other state apportionment aid, and at the time of the next annual apportionment, following the opening of school in the new building and the abandonment of the school building or buildings.

The courts have construed such words as "on account of" to mean "for", "because of" or "by reason of". In *McKeen v. Brooks*, 178 Pac. 745-746, 55 Mont. 483, the court, in construing a lease, held that the words "on account of" should be construed as "by reason of", and in so holding, said:

"The single question for decision is: Under what circumstances did the lessor agree to become liable to the lessees for the original cost of their improvements?

"It is clear that a sale of the premises of itself did not render him liable; neither did the fact that the lessees were disturbed in their possession. To fasten responsibility upon him, it required a sale before the expiration of the lease and a disturbance of the lessees' possession 'for or on account of said sale.' In the connection in which it is used, the word 'for' cannot be given any meaning whatever, but the phrase 'on account of said sale' furnishes the key to the solution of the question. As here used, it means 'by reason of' (6 Words and Phrases, 4968; *Brown v. German-American T. & T. Co.*, 174 Pa. 443, 34 Atl. 335), or 'as the direct and proximate result of' (1 Words and Phrases, Second Series, 546; *Houston & Tex. C. R. R. Co. v. Anglin*, 45 Tex. Civ. App. 41, 99 S.W. 897)."

In *Blackwell v. Memphis Street Railway Co.* 137 S.W. 486, 1.c. 487, 124 Tenn. 516, the court, in construing a statute of limitation, held that the word "for" as used therein meant "on account of" or "because of", and in so holding the court said:

"* * * Eliminating all irrelevant matter, in so far as this suit is concerned, and the legislation accomplished by sections 2769 and 2772 of the Code of 1858 was as follows:

"All civil actions for injury to the person shall be commenced within one year after cause of action accrued."

"The word 'for,' above used in connection with and preceding the words 'injury to the person,' can have no other meaning than on account of or because of injury to the person, and in this well-known meaning, the word 'for' is the connecting link which binds the statute, giving the parent

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a right to sue to the one-year statute
of limitations.* * *"

In Evans Marble Co. v. International Trust Co., 60 Atl. 667-672, 101 Md. 210, the court, quoting from Webster's Dictionary, held that the word "about" means "with regard to," "on account of," "touching". In so holding, the court said:

"* * *Among the meanings of the word 'about,' as given in Webster, are 'concerning; with regard to; on account of; touching.'"

Therefore, by use of the words "abandoned on account of such new building" in Section 10463, supra, the Legislative intent must have been that such words should be construed to mean for or because of the construction of such new building. That said rural school building would not have been abandoned had such new elementary school building not been constructed.

Construing Section 10463, supra, without taking into consideration that provision as to when said money shall be paid, we would be inclined to hold that said money could be paid to the consolidated school district whenever a rural school in said school district was abandoned. But by using the following words:

"* * *This amount shall be paid in the same manner as other state apportionment aid and at the time of the next annual apportionment, following the opening of school in the new building and the abandonment of the school building or buildings. * * *"

we are convinced that the Legislature fully intended that such money should be paid to the consolidated school district at the time of the next annual apportionment following the opening of the new elementary school building. If it had been the legislative intent to authorize such payment at any time in the future it would have been an easy matter for that body to have included in the Act words to that effect in clear and unambiguous language.

CONCLUSION

Therefore, it is the opinion of this department that the consolidated school district is not entitled to \$1,000.00 for each of

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the two abandoned rural schools recently joining said consolidated school district.

Respectfully submitted,

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APPROVED:

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