

SCHOOL BUILDING AND EQUIPMENT: (1) The word equipment as used in Section 13, (S.B. 307) Laws Mo. 1947, Vol. 2, page 376 means whatever is necessary to equip a new central school building or any addition to a present building owned by the re-organized district for its use as an educational establishment. (2). School busses and school playground equipment would not be included in the definition of equipment because the same does not relate to the use of a school building or its efficient function. (3). Said Act does not contemplate leasing of a building for use as an educational establishment and therefore would not apply to the purchase of equipment for use in a leased school building.

June 21, 1950



Honorable Homer F. Williams
Prosecuting Attorney
Marble Hill, Missouri

Dear Sir:

I.

This will acknowledge receipt of your recent request for an official opinion of this office upon the following questions in reference to Section 13, S.B. No. 307, Laws Mo. 1949, Vol. 2, page 370-377:

"The county superintendent of schools of this county would like an opinion on the following matter:

"Reference to Section 13, Senate Bill #307, Vol. 2, Mo. Laws 1947, at page 376.

"1) Is the word equipment to be interpreted as equipment of the building of school equipment, or re-organized district equipment?

"2) Would school busses and school playground equipment be included or excluded?

"3) Could equipment such as "School dest and other movable property" be used in the buildings leased but not owned by the District?

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"a) Could the state apply aid on such equipment intended for such use?

"(Equipment that might become a part of the building, such as blackboard is not referred to here)."

Section 13, of S.B. 307, Laws Mo. 1947, Vol. 2, pages 370-377, provides as follows:

"In all school districts enlarged under the provisions of this act, in which the erection of a new central school building or any addition to present building so selected by reason of consolidation is a part of the approved plan, state aid shall be provided in the amount of one-half of the cost of said building and equipment but the total state aid for this purpose shall not exceed twenty-five thousand dollars (\$25,000) for any enlarged district. All building plans shall be approved by the State Board of Education."

The Legislature did not define what is meant by the term "school building" and therefore a question of what sort of a building would be necessary or useful for the purpose of conducting public education is left to the determination of the school board of the enlarged school district.

In *Young v. Lindwood School District*, 97 S.W.2d. 627, the Supreme Court of Arkansas defined school house as a building which is appropriated for the use of a school or schools or as a place in which to give instruction, and said as follows:

"School, a place for instruction in any branch or branches of knowledge. * * *"

The court in this case had the question of the power of the school district to build a gymnasium to provide for the physical culture of the pupils and also to provide rooms in the building for home economics and vocational agriculture, shower baths, dressing rooms and indoor toilets with concrete walks around said building connecting said building with buildings now belonging to and in use by said district. The Arkansas statute provides:

"* * *'All school districts are authorized to borrow money and issue negotiable coupon bonds for the repayment thereof from school funds, for the building and equipment of school buildings,

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making additions and repairs thereto, purchasing sites therefor, and for funding any indebtedness created for any purpose and outstanding at the time of the passage of this Act, as provided in this act.' * * *

The court further held:

"* * *We think this language confers specific power and authority on school districts to construct buildings such as the one involved in this litigation. A gymnasium may be said to be an indoor playground or an indoor athletic field or an indoor stadium. Webster defines a 'stadium' in one definition to be: 'A similar modern structure, with its enclosure, used for athletic games, etc.' Moreover, the language at the conclusion of the above sentence, 'other necessary uses incidental to the maintenance of schools and the welfare of teachers and pupils,' is broad enough to include the power here as- sorted. Moreoever, a part of the purpose of the proposed building is to provide rooms therein for Home Economics, and Vocational Agriculture. These are subjects which are taught in many schools and are so authorized in section 189 of the same act(page 580)."

* * * * *

"We cannot agree with appellant that the words 'school buildings' as used in section 59 of said act, especially in view of the other provisions of the act, should be re- stricted to such buildings as are used ex- clusively for mental training or for the teaching of such subjects as are ordinarily taught in the public schools. We think it just as important that children should be developed physically and morally as it is that they should be developed mentally. Our conclusion is that the directors and the district had the power and authority to accomplish the purpose undertaken in this case."

In Farm and Home Savings and Loan Association of Missouri vs. Empire Furniture Company, 87 S.W.2d. 1111, l.c. 1112; the Texas court said:

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"* * * 'Equipment' has been defined as 'whatever is used in equipping; the collective designation for the articles comprising an outfit.' The equipment of an apartment house may, in a broad sense, be held to include the furniture. * * *"

In line with the Texas case it is our opinion that the term equipment as used in said Section 13 includes school furniture, school desks, black boards and other articles of an enduring and permanent quality.

In the case of State ex rel. Building Commission vs. Smith, 81 S.W. 2d. 613, 336 Mo. 810, the Supreme Court of Missouri was asked to construe the following section:

"* * * All improvements, repairs or additions which may be made to any of the state eleemosynary or penal institutions under this act, shall be of fireproof construction throughout, and shall be provided with proper heating, lighting and ventilating facilities and with the most modern approved sanitary arrangements and equipment.' (Italics ours.) Laws of Missouri, Extra Session, 1933-34, pp. 109, 110 (Mo. St. Ann. Sec. 13748g, p. 6521). * * *"

The relators in the case contended that the word equipment in said Act embraced such items as (1) steel chairs, bedside tables, wheel chairs; (2) knives, forks and spoons (3) electric irons, canvas baskets (4) Colonic irrigation outfits; (5) forge, hand drill. At l.c. 614 and 615, the court said:

"* * * The term "equipment" clearly modifies "sanitary arrangements" and we submit that what the Legislature had in mind was sanitary equipment, and not equipment as the term is generally defined when standing alone.' Obviously the question tendered by the parties is one of statutory construction."

* * * * *

"* * * Were we to hold that the term 'equipment,' as used in the statute, is to be construed in its usual and ordinary sense, it would admittedly include the items in question, and our alternative writ would have to be made permanent, if decided on the statute.

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But if a proper construction of the restrictions placed upon the purposes by the constitutional amendment excludes equipment in its general and ordinary sense, an entirely different result would necessarily follow.* * *

* * * * *

"In our search, we found a case decided by the United States Circuit Court of Appeals for the Eighth Circuit, Midland Special School District v. Central Trust Co., 1 F(2d) 124, 127, which, upon a cursory examination, seemed to at least give color to the claim that the proceeds of a bond issue for the purpose of 'erection, alteration or improvement of (school) buildings' might be expended, in part, in purchasing equipment. In that case the court said: 'In determining what is "equipment" we should have clearly in mind the subject which is being equipped. In this case it was a schoolhouse, and we think a schoolhouse would be in modern times incomplete without many of these things commonly termed "equipment." In our opinion the expression "the erection, alteration or improvement of such buildings" (school buildings), would fairly include many things which are commonly called "equipment."'. (Italics ours.) But upon an analysis of the case, it is perfectly clear that it is no authority for the proposition with which we are confronted."

* * * * *

"There is a well-settled rule applicable to a grant of power to a corporation, municipal or otherwise, recognized in this state, and elsewhere, that if any doubt arises out of the use of words employed, it is to be resolved in favor of the public and in limiting the expenditures of the appropriation to the express terms for which it was made. Meyer v. Kansas City, supra. But can it be said to be doubtful as to whether equipment of the character hereinbefore described comes within the purposes of a bond issue to 'repair, remodel or rebuild public buildings devoted to eleemosynary and penal purposes, and for building additions thereto, and additional buildings where necessary?' We think not."

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There is nothing in the language used to indicate an intention on the part of the voters to authorize the expenditure of the bond money for the purposes in question and we accordingly hold that equipment of the character mentioned does not come within the terms of the constitutional amendment. Our alternative writ, having been improvidently issued, should be quashed. It is so ordered."

It is also our opinion that the term equipment in the phrase building and equipment as used in said Section 13 clearly modifies "building" and that the Legislature had in mind the use of the word equipment in its general and ordinary sense as relating to school buildings and the use of such school buildings. A school building without heating equipment; plumbing equipment, electrical equipment and ventilating equipment would be of no use for educational purposes.

Said Section 13 provides state aid for the erection of a new central school building or any addition to a present building for the purpose of encouraging and aiding the construction of building that will be needed by such enlarged districts. It does not contemplate or provide for the leasing of buildings to be used for school purposes.

The court said in 223 S.W.(2d) 448, State v. Pretended Consolidated School District #1 of Montgomery County.

"The meaning of statutes and particularly the meaning of school statutes may not be found in a single sentence, but in all their parts and their relation to the end in view or the general purpose. * * *"

You will notice that said Section 13 of said S.B. 307 uses the word "erection" of a new central school building or any addition to the present building. Webster's New International Dictionary, 1940 Edition, defines the word erect to be as follows: "To raise, as a building; build; to construct." Also in 21 C.J., page 820, we find this paragraph:

"ERECTION. The term, as used with reference to building, means the putting together of the materials that are used therein; putting together the necessary material and raising it; the putting together of the brick and mortar, wood, and other materials making the construction; construction. It may imply some structure superimposed on the land."

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It is our opinion that a definition of the word "erection" (of a new central school building or any addition to present building) would not include the leasing of an existing building for use as a school house.

The general purpose of said S.B. 307 was to provide for enlarged school districts in order that better educational programs and facilities may be furnished to the students. You will note that Section 13 of said Act provides in the last line "all building plans shall be approved by the State Board of Education." The Act also provides that the state aid shall be in the amount of one-half of the cost of said building and equipment but not to exceed \$25,000. It does not contemplate the leasing of a building for use as a school house or building.

CONCLUSION

(1) It is the conclusion of this department that the word equipment as used in Section 13, (S.B. 307) Laws Mo. 1947, Vol. 2, page 376, means whatever is necessary to equip a new central school building or any addition to a present building owned by the reorganized district for its use as an educational establishment.

(2) School busses and school playground equipment would not be included in the definition of equipment because the same does not relate to the use of a school building or its essential function.

(3) The Act referred to above does not contemplate the leasing of a building for use as an educational establishment and therefore would not apply to the purchase of equipment for use in a leased school building.

Respectfully submitted,

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APPROVED:

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