Opinion No. 281, answered by letter
(Clyde Burch)

August 24, 1962

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Mr. June R. Rose
Chairman, Industrial Commission
of Missouri
State Office Building
Jefferson City, Missouri

Dear Mr. Rose:

This is in response to your letters of July 16th and July 23rd, in which you inquire as to the applicability of the Prevailing Wage Law (Sections 290.210 through 290.310) to the Rolla School of Mines at Rolla, Missouri.

On March 16, 1962, you made an inquiry of this office as to whether this same act was applicable to the University of Missouri. The Rolla School of Mines is a division of the University of Missouri and we believe our answer to that inquiry dated April 18, 1962, covers the question now presented.

The question you present involves an interpretation of the Prevailing Wage Law and its application in light of Article IX, Sec. 9(a) of the 1945 Missouri Constitution.

Article IX, Sec. 9 (a) reads as follows:

> "The government of the State University shall be vested in a board of curators consisting of nine members appointed by the governor, by and with the advice and consent of the senate."

We know of no court case ruling on the application of the Prevailing Wage Law to the University of Missouri or its division at Rolla in light of the above quoted constitutional

provision. However, the Supreme Court of Missouri, en Banc, in the case of State v. McReynolds, 193 S.W. 2d 611, at page 613 states:

> "The broad powers historically exercised by the curators without specific legislative authority or appropriations present a different situation from an ordinary municipal corporation depending entirely upon taxation for its support and with powers rigidly limited by statute or charter."

We have considered the broad general language of the above quoted constitutional provision and the liberal interpretation given this provision by the appellate courts of this state. In addition earlier opinions by this office, construing the word "government" as found in this constitutional provision, have adopted a broad interpretation.

In the opinion of January 29, 1934 to Orville M. Barnett, Attorney General McKittrick considered the applicability of the State Purchasing Agent Act (now Sec. 34.010 et seq.) to the University of Missouri in light of the language in the Missouri Constitution now contained in Article IX, Sec. 9(a). The ruling was that said constitutional provision prevented the Purchasing Agent Act from applying to the University of Missouri. In the opinion of December 19, 1955 to DeVere Joslin, Attorney General Dalton considered the same constitutional provision in connection with the investment of funds by the Board of Curators of the University.

The Prevailing Wage Law was enacted in 1957 and we understand that the University has been involved in substantial construction projects continuously since that date. In view of what appears to be a long continued acquiescence by your agency in permitting the University to operate without the application of this law and, particularly, in view of the broad interpretation given this constitutional provision by the available authority we feel constrained to suggest that you interpret this law as not applying to the University of Missouri or its division at Rolla.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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