

OPINION REQUEST NO. 140
answered by letter
(Baumann)

FILED
140

April 1, 1963

Honorable Paul Boone
Prosecuting Attorney
Ozark County
Gainesville, Missouri

Dear Mr. Boone:

This refers to your letter of March 15, 1963, concerning the authority of a county court to grant an easement for a private or public road across "sixteenth section land."

The title to school land of the kind to which you refer and the powers of a county court with respect thereto are discussed in *Bonsor v. Madison County*, 204 Mo. 84, 102 SW 494, 497, and, while that is a rather old case, there does not appear to have been any subsequent change in the statutes which would affect your problem.

As stated in that case, title to such school land has not been conveyed to the counties and, instead, remains in the State of Missouri until it is patented by the state to purchasers thereof. As also there stated, the county courts, by statutory provisions now found in Chapter 166, RSMo 1959, are made trustees to sell the land under a procedure there set forth, with patents being issued by the state after such sales. However, it seems clear that these statutory provisions do not authorize county courts to grant easements such as are mentioned by you; and we do not know of any other provisions which grant such authority.

You undoubtedly carefully investigated this matter before writing to us and, if you believe that there are other statutory provisions which might have a bearing upon it, we will be glad for you to bring them to our attention. While it does not relate directly to your problem, we are enclosing a copy of an opinion furnished by this office to John Hosmer on May 15, 1959, concerning the sale of "sixteenth section land."

Yours very truly,

THOMAS F. EAGLETON
Attorney General

JCB:MW
enclosure