



OPINION REQUEST NO. 219
ANSWERED BY LETTER

May 24, 1963

Honorable Granvil B. Vaughan
State Representative
Howell County
State Capitol
Jefferson City, Missouri

Dear Mr. Vaughan:

This refers to your letter of May 21, 1963, requesting an opinion in regard to the constitutionality of House Bill No. 334, which was introduced by you and which you have previously discussed with us.

House Bill No. 334 would make it unlawful for a third or fourth class county to own for a period of more than two years any real estate in any other county which it does not adjoin and would provide for the sale of such real estate by the sheriff of the county in which it is located if it is held more than two years.

From our study of this bill, we know of no reason why the bill would be unconstitutional. Since the objections of those who have questioned the constitutionality of the bill are not clear to us, there is little purpose in our undertaking a detailed discussion of this matter. However, if the objections are based upon constitutional provisions relating to depriving a person of his property without due process of law, to the taking of private property for public use without just compensation, or to the taking of private property for private use, with or without compensation (Article I, Sections 10, 26, and 28, Constitution of Missouri), our answer is that these provisions have no application in this instance because the bill relates to property owned by counties.

Honorable Granvil B. Vaughan

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As we have mentioned in prior discussions, a sale of real estate pursuant to this bill could not affect rights acquired by private persons in such real estate by lease or contract executed prior to the enactment of the bill and the sale would be subject to such rights; but this does not have any bearing on the constitutionality of the bill.

We also again call attention to the fact that the word "first" in line 6 of the bill apparently should be changed to "last".

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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