

10-1-63

SCHOOLS: (1) When a vacancy occurs on the board
SCHOOL DISTRICTS: of a six-director school board, a quorum
QUORUM: of at least four members is necessary to
SCHOOL BOARDS: fill the vacancy.
VACANCIES: (2) When two members of the board ab-
sented themselves for the purpose of
preventing a quorum during the course
of the meeting, the vacancy was legally
filled by three members who remained.

October 14, 1963

OPINION NO. 284

Honorable Lawrence F. Gepford
Prosecuting Attorney
Jackson County
415 East Twelfth Street
Kansas City 6, Missouri



Dear Mr. Gepford:

This is in answer to your letter of July 1, 1963, in which you request an opinion of this office, and which letter reads in part as follows:

"The facts presented to this office are as follows: Prior to April 24, 1963, the Board of Education of the Center School District No. 58 consisted of six members namely Messrs. Kenneth C. West, President, James I. Lanoue, Vice President and George M. Ryder, George W. Lehman, John J. McGovern and Faivel Dunn, Members. Under date of April 17, 1963 a notice was sent to all board Members of a special meeting on Wednesday, April 24th. Under date of April 22, 1963, an additional notice was sent out advising that in addition to the agenda mentioned in the previous notice, the board will consider filling a vacancy on the board and the selection of a new vice president. On Wednesday, April 24, 1963, all six members of the Board of Education were present for the special meeting. Each member of the board was provided with an agenda with Item No. 4 on the agenda being Vacancy - Board. A. Appointment, B. Oath of Office, C. Election of Vice President. All items of business were taken care of at the meeting as appear on the agenda, down to Item 4. When this item was reached, the minutes indicate that James I. Lanoue submitted his resignation and on motion duly made and seconded the resignation was

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accepted. The chair then declared in order suggestions for a replacement. A motion was made submitting the name of Arnold Shamberg as a replacement for James I. Lanoue. This motion was seconded. Thereupon Messrs. McGovern and Dunn advised that they were not in a position to vote on the replacement at this particular meeting and promptly left the meeting. After these two had gone the three remaining members, Messrs. West, Ryder and Lehman voted affirmatively for Mr. Shamberg and following this he was sworn in as a member of the board. A question has been raised by Messrs. McGovern and Dunn as to the legality of the proceedings.

"We are advised that you have been presented with a memorandum brief by Mr. Clarence Dicus, Attorney for the School Board. We enclose herewith a legal memorandum prepared by ourselves together with copies of the notices that were sent and a copy of the agenda for the meeting, and also the administrative handbook published by the Board of Education of Center School District and we call your attention particularly to Page 24 under the hearing Procedure. The basic question of course is, 1. Whether the three members who voted in favor of Mr. Shamberg as a replacement constituted a quorum for the conduct of business and, 2. Whether the withdrawal from the meeting by Messrs. McGovern and Dunn reduced the quorum previously existing. We would appreciate your opinion and advice in this matter at the earliest possible date."

We first point out that the problem involved does not deal with the number necessary to constitute a majority vote. It is evident that upon the resignation of one member of a six-director school board there are five remaining members and a majority of the five remaining members would be three. Section 1.050, RSMo 1959, is authority for a vote by this majority of three of the five remaining members to constitute valid action, provided a quorum was present. Therefore we

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are not concerned with the number of votes necessary. Rather, our problem is limited to the question of what constitutes a quorum, and our opinion is directed to the questions as you have phrased them, as follows:

1. Whether the three members who voted in favor of Mr. Shanberg as a replacement constituted a quorum for the conduct of business; and
2. Whether the withdrawal from the meeting by Messrs. McGovern and Dunn reduced the quorum previously existing.

In determining the number necessary to constitute a quorum, we first refer to the following statutes:

Section 165.317, RSMo 1959, provides as follows:

"The government and control of such town or city school district shall be vested in a board of education of six members, who shall hold their office for three years and until their successors are duly elected and qualified, and any vacancy occurring in said board shall be filled in the same manner and with like effect as vacancies occurring in boards of other school districts are required to be filled, and the person appointed shall hold office till the next annual meeting, when a director shall be elected for the unexpired term."

This section refers us to Section 165.217, which originally applied only to common school districts composed of three members, and which reads as follows:

"If a vacancy occur in the office of director, by death, resignation, refusal to serve, repeated neglect of duty or removal from the district, the remaining directors shall, before transacting any official business, appoint some suitable person to fill such vacancy; but should they be unable to agree, or should there be more than one vacancy at any one time, the county superintendent of public schools shall,

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upon notice of such vacancy or vacancies being filed with him in writing, immediately fill the same by appointment, and notify said person or persons in writing of such appointment; and the person or persons appointed under the provisions of this section shall comply with the requirements of section 165.210, and shall serve until the next annual school meeting."

With regard to a quorum for the transaction of business in a six-director district, Section 165.320 reads in part as follows:

" . . . A majority of the board shall constitute a quorum for the transaction of business, but no contract shall be let, teacher employed, bill approved or warrant ordered unless a majority of the whole board shall vote therefor. . . ."

From the phraseology of Section 165.217, which states that "the remaining directors shall, before transacting any official business, appoint some suitable person to fill such vacancy," it could be argued that the filling of a vacancy does not constitute the transaction of any official business and it could be argued that all five of the remaining directors must be present at a meeting in order for the remaining directors to validly make an appointment to fill a vacancy. Such a construction was placed on similar language in Pennsylvania, as shown by the case of Commonwealth vs. Kaiserman, 199 A. 143, 330 Pa. 196, where the court, at 1, c. 199 A. 144, said:

"Section 214 provides that, where there is a vacancy, the remaining members of the board shall, by majority vote thereof, fill such vacancy. 'Remaining members' means all members in office when the vacancies occur, and action by less than that number is not the action of the remaining members. * * *"

However, the Pennsylvania court applied a strict construction to the Pennsylvania statute in question. We do not believe such a strict construction should be applied to the Missouri statutes under consideration, for the Missouri courts in the case of State ex inf. v. Bird, 296 Mo. 344, at 1, c. 352, said:

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"This court has held, however, in construing the intent and purpose of school laws that they were designed as a workable method to be employed by plain, honest and worthy citizens, not especially learned in the law; and that no strict and technical construction should be given to them."

We must, therefore, construe and interpret the Missouri statutes under consideration to determine their intent and purpose in the light of the language of the Missouri Supreme Court in the case of State vs. Bird.

You enclosed with your opinion request a copy of the Administrative Handbook published by the Board of Education of Center School District No. 58. On page 24 of the handbook the following appears:

"II. PROCEDURE

A. Quorum and Majority

1. A quorum shall consist of four members of the board meeting at the designated time and place.
2. 'No contract shall be let, teacher employed, bill approved, or warrant ordered unless a majority of the whole board shall vote therefor.' Sec. 165.320, Missouri School Laws, 1960, p. 115."

This excerpt from the Administrative Handbook shows that the Board of Directors of the Center School District have interpreted a quorum to be four members of the board. Such an interpretation is a "workable method * * * employed by plain, honest and worthy citizens" and should be given consideration in determining the number necessary to constitute a quorum.

Likewise, the State Department of Education has recognized that the number necessary to constitute a quorum should be four members of a six-director district, as indicated by the annotations following Section 165.320, which appear in the 1960 edition of the Missouri School Laws compiled and published by the State Department of Education. This shows a construction and interpretation of long standing of the statutes under

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consideration here requiring that four members of the board of a six-director school district be present to constitute a quorum.

An opinion of this office was issued on September 27, 1934, to Honorable Charles A. Lee, State Superintendent, Department of Public Schools, Jefferson City, Missouri, and an opinion of this office was issued on January 4, 1937, to Honorable Donald B. Dawson, Prosecuting Attorney, Bates County, Missouri. Both of these opinions held that in a six-director school district it was necessary to have four members present to constitute a quorum. Again this shows an interpretation of long standing of the statutes under consideration and requires that four members of the board must be present to constitute a quorum.

It may be that the confusion concerning the number necessary to constitute a quorum has arisen from the necessity of applying Section 165.217 (which was originally intended to apply only to three-director school districts) to six-director districts. In determining the intention of the Legislature it is well to point out that Section 165.217 requires that should there be more than one vacancy at any one time, the county superintendent of schools is to make the appointment and fill the vacancy. If there were more than one vacancy in a three-director district there would not be a majority of the directors remaining and it is therefore reasonable to say that the Legislature intended that a majority of the whole board is necessary to fill a vacancy. When this proposition is then applied to a six-director district the conclusion would follow that the Legislature intended that at least four members, or a majority of the whole board, in a six-director district be present to fill a vacancy on the board of directors.

That such was the intent of the Legislature is indicated by Senate Bill No. 3, which was passed by the 72nd General Assembly and which will become effective on July 1, 1965. Senate Bill No. 3 is a revision of all of the school laws. Section 165.217 is carried forward in the revision by Section 3-80 of Senate Bill No. 3 without any substantial change. However, in its application to six-director districts the revision of the school laws has made a significant change in Section 3-26 of Senate Bill No. 3 of the 72nd General Assembly. That section reads as follows:

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"The government and control of a six-director school district, other than an urban district, is vested in a board of education of six members, who hold their office for three years, except as provided in section 3-24, and until their successors are duly elected and qualified. Any vacancy occurring in the board shall be filled by the remaining members of the board; except that if there are more than two vacancies at any one time, the county superintendent of public schools, upon receiving written notice of the vacancies, shall fill the vacancies by appointment. The person appointed by either the board or the county superintendent shall hold office until the next annual election, when a director shall be elected for the unexpired term."

The significant change is that, as applied to six-director districts, if there are more than two vacancies at any one time the county superintendent of schools will then fill the vacancies. This shows the legislative intent that at least four members of a six-director school district should be present to fill a vacancy on the board.

From all of the foregoing we conclude that it was the intention of the Legislature under a reasonable interpretation of the statutes involved to require that a quorum of four members of a six-director school district be present at the filling of a vacancy on the board.

The common law is in conformity with the foregoing statutory interpretation. If, however, the statutes do not specifically designate the number necessary for a quorum under the circumstances present in this case, then the common-law rule would apply.

In Section 1.010, RSMo 1959, it is provided that the common law of England is the rule of action and decision in this state. In the case of State ex rel. Otto vs. Kansas City, 276 S.W. 389, 1.c. 404, it is stated:

"The fundamental law authorizing the creation of such a body did not define a quorum or delegate the power to such body. We must look then to the common

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law as to what in such case would constitute a quorum, and the rule here clearly applicable is thus stated in 29 Cyc. 1688:

"Where a quorum is not fixed by the Constitution or statute creating a deliberative body, consisting of a definite number, the general rule is that a quorum is a majority of all the members of the body."

"The rule announced has been invoked in *Seiler v. O'Malley*, 190 Ky. 190, 227 S.W. 141, loc. cit. 142, and in *Heiskell v. City of Baltimore*, 65 Md. 125, 4 A. 116, loc. cit. 119, 57 Am. Rep. 308. The principle is recognized as a part of the common law of England in *Blacket v. Blizard et al.*, decided by the court of King's Bench in 1829, and reported in 9 Barnwell & Cresswell's Reports, 851."

In the case of *Blacket v. Blizard*, cited in the above quotation, at pages 862 and 863, Parke, J., said:

"The same rule of construction ought to prevail in a statute whereby the king, with the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled, grants certain powers of a public nature to a definite number of persons, as in a charter whereby the king by virtue of his prerogative alone grants similar powers to a definite body. It was clearly established in *Rex v. Bellringer (a)*, as a rule of construction applicable to charters, that where the king grants that the mayor and common clerk for the time being, and the common council for the time being, or the major part of them, shall elect (the common council being a definite body consisting of thirty-six) a majority of the whole number of thirty-six must meet to form an elective assembly, and that if the corporation were so reduced that so many did not remain, no election could be had at all. * * * The only question

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in this case will be, whether there is any thing in this act of parliament to control the general rule of construction which has been applied to similar words where they occur in the king's charters. Now the act certainly provides that a rate for building or enlarging a church must be made with the concurrence of four fifths in number of the persons constituting the select vestry. That provision applies to one case only; as to all others the act is silent. I think, therefore, that in all other cases the general rule of construction, applied to charters whereby the king has committed to a definite body the care of executing a public trust, ought to prevail. Here the trust to be executed is one in which the public have an interest. Unless we were to hold that a majority of the number required to constitute the select vestry should be present, it is possible that they might be reduced to a number so small as to be unfit to manage the affairs of the parish. That never could have been the intention of the legislature. * * *"

The case of *Blacket v. Blizard*, supra, refers to the case of *Rex v. Bellringer*, 4 T.R. 810, and in that case Lord Kenyon, Chief Justice, delivered the unanimous opinion of the court wherein, at 4 T.R. 823, he said:

" * * * But the cases which were cited in the argument of this case are all one way, that there must be a major part of the whole number, constituted by the charter, in order to make the elections, and to do the several other acts under it. In *R. v. Varlo (b)*, Lord Mansfield observed upon the distinction, which is extremely well founded, between corporations consisting of a definite and an indefinite number; that in the latter a major part of those who are existing at the time is competent to do the act; but that where the body is definite (as it is in this case) there must be a major part of the whole number.

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His Lordship's words are, 'Upon the words of the charter alone, I myself have no doubt about the construction of it. In this corporation there are an indefinite number of freemen; and it is a corporation in which honorary freemen may be made. It is in the nature of all corporations to do corporate acts; and where the power of doing them is not specially delegated to a particular number, the general mode is for the members to meet on the charter-days, and the major part who are present do the act. But where there is a select body, it is a different thing, for there it is a special appointment. All the reasoning therefore is different.' It appears to me therefore that it was his opinion, and that of the Court, that where there is a definite body, there must exist at the time when the act is done a major part of that definite body; it is not necessary indeed that they should all concur in the election, or other act done; but they must be present; and the election at such meeting is in point of law an election by the whole. In the case of R. v. Monday (a), Lord Mansfield asked this question, 'Is there any case where the charter has directed the election to be by the majority of the body, in which it has been held that a less number than a majority of the whole corporate body can elect? For instance, suppose the corporate body consisted of twelve, and two were dead; is there any instance where the charter has said that the election shall be by a majority of the body, in which it has been held that six, which are a majority of the remaining ten, were sufficient to elect?' This question was immediately answered by Aston, J. who said, that 'In R. v. Reese and R. v. Newsham, it was clearly understood that if the major part of the corporation had been dead, it would have been in fact dissolved, or at least those who survived could not have assembled for the purpose of an election.'

* * *

It is clear from these authorities that the common-law rule concerning the filling of a vacancy on a body which is

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definite in number is that there must be a majority of the total authorized membership of the board present in order to constitute a quorum.

Applying this common-law rule to the present circumstances, it is clear that since there are six authorized members of the school board there must be at least four members present to fill the vacancy on the board.

In addition to the statutory interpretation and the common-law rule, the reported cases in Missouri are in accord with the conclusion reached in this opinion. The case of *State ex rel. Thurlo v. Harper*, 80 S.W.2d 849, was a quo warranto proceeding dealing with the purported appointment of school directors to fill vacancies in a six-director district. In that case the Supreme Court of Missouri, en Banc, said, l.c. 852:

" * * * Even if the three persons named were at the time legally qualified members of the board, the purported appointment would not have been valid as the presence of a quorum of the board was necessary to make a valid appointment and a quorum was not present at the time of the purported appointment. * * *"

Therefore, on the basis of a reasonable interpretation of the statutes, the application of the common-law rule, and on the basis of the decided Missouri cases, we are of the opinion that a quorum of four members is necessary to make a valid appointment to fill a vacancy on the board of a six-director school district.

In the memoranda presented to us and mentioned in your opinion request, it is suggested that three directors should be a sufficient quorum to fill a vacancy because a minority of two members could absent themselves from a meeting and thereby defeat a quorum and defeat any action by the remaining members to fill a vacancy. We do not believe this reason is applicable to a school district in Missouri in view of Section 165.217. That section provides that a vacancy may occur in the office of director by "repeated neglect of duty." If any director of the school district repeatedly refuses to attend a meeting without reasonable cause, such conduct would constitute a repeated neglect of duty within the meaning of Section 165.217. Upon such occurrence a vacancy would occur

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in the office of the director who had repeatedly refused to attend the meeting, and under the terms of Section 165.217 the county superintendent of schools could be notified of such vacancy and the county superintendent of schools could fill the same by appointment. Section 165.217 provides an effective statutory remedy to prevent a stalemate or deadlock in the circumstances under consideration. We believe that the Missouri statutes preclude the possibility of a stalemate or prolonged deadlock by a minority on a school board, and therefore the reason for the rule advanced is not applicable in Missouri.

Our conclusion that four directors are necessary to constitute a quorum in a six-director district in the matter of filling a vacancy on the board then requires an answer to your second question, which is, whether the withdrawal from the meeting by Messrs. McGovern and Dunn reduced the quorum previously existing.

We have been unable to find any Missouri case directly in point, and we must therefore base our conclusion on decisions in other jurisdictions on analogous situations.

School districts in Missouri may be classed as municipalities or municipal corporations. Such a conclusion is based upon the case of *Russell v. Frank*, 348 Mo. 533, 154 S.W.2d 63, in which it is stated, l.c. 67, that:

" * * * The tax in this case was levied not by the state but by the school district, which is and was a municipal corporation as we have defined that term in *Laret Investment Co. v. Dickmann*, 345 Mo. 449, 134 S.W.2d 65. The very purpose for which such municipal corporation is created is that of the maintenance of a school system. * * *"

To this same effect are the cases of *St. Louis Housing Authority v. City of St. Louis*, 239 S.W.2d 289, and *Harrison v. Hartford Fire Insurance Company of Hartford, Connecticut*, 55 Fed. Supp. 241. We have also examined cases dealing with corporations.

In the memoranda submitted to us reference is made to the cases of *Hexter v. Columbia Baking Co., Del.*, 145 A. 115, *Commonwealth v. Vandegrift, Pa.*, 81 A. 153, and *Atterbury v. Consolidated Coppermines Corp., Del.*, 20 A. 2d 743. These

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cases are to the effect that the withdrawal of stockholders from a meeting to reduce the attending number below the quorum point will not be permitted.

The case of *Textron, Inc. v. American Woolen Co.*, 122 Fed. Supp. 305, was decided by the United States District Court in Massachusetts in 1954, and dealt with the number necessary to constitute a quorum at a stockholders meeting. In that case the court said, l.c. 311-312:

"The defendant says that once present at a meeting, stock is always present for quorum purposes at subsequent adjournments. It cites some lower court cases which hold that once a quorum has been established at a stockholders' meeting the meeting can continue irrespective of the number of subsequent withdrawals. *Hexter v. Columbia Baking Co.*, 16 Del. Ch. 263, 145 A. 115; *Commonwealth v. Vandegrift*, 232 Pa. 53, 81 A. 153, 36 L.R.A., N.S., 45. I have grave doubts as to the soundness of those decisions. * * *"

We have also examined cases which deal with the effect on a quorum when a number of members leave a meeting after the meeting has been in progress for some time.

In the case of *Gaskins v. Jones*, 198 S.C. 508, 18 S.E. 2d 454, the meeting of the governing board had been in session almost an entire day, resulting in a consistent tie on every ballot for the election of county manager. Shortly after five o'clock in the afternoon a motion to adjourn resulted in a tie vote and thereafter three members withdrew from the meeting and the remaining three members unanimously voted for a county manager. In that case the three members who withdrew actually left the courthouse where the meeting was taking place, and the trial court found that the three members were neither actually or constructively present. At page 457 of the case the court said:

"The situation is different from that which prevailed in the Indiana case of *State ex rel. Walden v. Vanosdal*, 131 Ind. 388, 31 N.E. 79, 15 L.R.A. 832. In that case a regular meeting of six school trustees was held for the purpose of electing a County School Superintendent.

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The meeting convened at midday and continued in session until around midnight. After a number of ballots were taken, not resulting in an election, three of the members refused to act longer or take further part in the proceedings. There were a number of bystanders looking on and listening to the proceedings. These three members withdrew from the place where the balloting was being held into the crowd of spectators, but did not leave the room. The Court held that a quorum was not broken under these circumstances although three of the members refused to vote. It was further held that where the three remaining trustees cast their ballots for a person, such a person was duly elected and the other trustees would be treated as present and not voting. The Court said: 'The three trustees stepped from the part of the room occupied by them among the bystanders. They could not change from trustees to mere spectators in the same room when they still had an opportunity to act and vote with the others, and thus prevent an election. Being present, it was their duty to act. They were in fact present.' The Court, however, made this pertinent observation: 'If the facts showed that the three trustees had in fact withdrawn from the meeting, and gone from the room, so as to have in fact left but three trustees in session, it would present an entirely different question.'

At page 456 of the Gaskins case, the court reviewed the common-law rule respecting a quorum, and at pages 457 and 458 the court said:

" * * * The learned Circuit Judge made the following finding of fact: 'The meeting had gone on all day without the slightest evidence that a continuation of the voting would produce any different result, and hence I am of the opinion that those withdrawing from the

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meeting were well justified in doing so, and that their action cannot be considered arbitrary, capricious or in any wise unreasonable.'

"We are not called upon to pass upon a situation where during the course of a meeting some of the members arbitrarily or without good reason withdrew leaving less than a quorum present."

We must pass on just such a situation in the present instance. Since the minutes of the meeting of April 24, 1963, were approved by all concerned, we look to them for the pertinent facts. Copies of the minutes have been supplied to us and the crucial events are chronicled in the minutes as follows:

"Motion by McGovern, seconded by Lehman, that the resignation of Mr. Lanoue be accepted as of April 24, 1963. Motion carried.

"Mr. West stated that due to the resignation there was now a vacancy on the Board, an appointment was necessary, and the 'Chair' was now open for suggestions.

"Mr. McGovern stated that he was in no position to make any at this time, Mr. Ryder moved to nominate Mr. Arnold Shanberg, seconded by Mr. Lehman. Mr. Dunn said that he could not act at this time as he had not had time to think about it, and could neither vote for or against any man at this time. Whereupon Mr. McGovern and Mr. Dunn left the meeting."

From the statement appearing in the minutes of the following meeting on April 29, 1963, it is evident that the purpose of the withdrawal of Mr. McGovern and Mr. Dunn was to defeat a quorum.

Under Section 165.217, RSMo 1959, when a vacancy occurs on the board of directors it becomes the duty of the five remaining directors, before transacting any official business, to appoint some suitable person to fill such vacancy. It was therefore legal and proper to immediately consider the filling

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of the vacancy. The nomination of Mr. Shanberg was entirely in order, notwithstanding any protest made by Mr. McGovern or Mr. Dunn. See *Mullins v. Eveland*, 234 S.W.2d 639, 642.

In the case of *Bonsack & Pearce v. School Dist. of Marceline, Mo.*, 49 S.W.2d 1085, 1.c. 1088, it is said:

"Five of the six members of the school board were present and by their presence constituted a quorum, and it became and was the duty of each and every member to vote for or against any proposition which was presented to them. * * *"

In accordance with the language of this case, we hold that Mr. McGovern and Mr. Dunn had a duty to remain at the meeting and vote on the proposition which was presented to them.

The action of Mr. McGovern and Mr. Dunn in withdrawing from the meeting must be considered to be arbitrary because it is an attempt by a minority (two members) to prevent a quorum and thus to thwart the action of a majority (three members). Since each and every member has a duty to vote for or against any proposition which is presented to them (*Bonsack & Pearce v. School Dist. of Marceline, supra*), there can be no good reason for the precipitous withdrawal of Mr. McGovern and Mr. Dunn after the motion was made and seconded and before a vote was called thereon. Unlike the *Gaskins* case, *supra*, no vote had been taken before Mr. McGovern and Mr. Dunn withdrew. Their action cannot be justified when it is for the sole purpose of defeating a quorum. Under these specific facts Mr. McGovern and Mr. Dunn must be considered to be present for the determination of the existence of a quorum at the vote on the proposition which was submitted to them, even though they had actually left the room at the time the vote was taken.

There are Missouri cases which hold that when a member of a school board sits silently by when given an opportunity to vote he is regarded in law as voting with the majority. *Mullins v. Eveland*, 234 S.W.2d 639, 641. But it is unnecessary for us to make a determination of how Mr. McGovern and Mr. Dunn are to be considered as voting. This is because the three affirmative votes were a majority of the remaining five members of the board and such votes were sufficient to carry the proposition and effect the appointment of Mr. Shanberg even if Mr. McGovern and Mr. Dunn are regarded as voting against it.

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Under the facts in this case we are of the opinion that Mr. Shanberg was validly appointed to fill the vacancy created by the resignation of Mr. Lanoue.

CONCLUSION

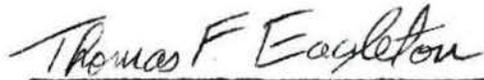
It is therefore the opinion of this office as follows:

1. When a vacancy occurs on the board of a six-director school district, a quorum of at least four members is necessary to fill such vacancy.

2. Under the facts in this case Mr. Shanberg was validly appointed to fill the vacancy on the board of the Center School District.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Wayne W. Waldo.

Very truly yours,



THOMAS F. EAGLETON
Attorney General

WW:JGS:ml