



November 25, 1963

Honorable James T. Riley
Prosecuting Attorney
Cole County
Jefferson City, Missouri

Dear Mr. Riley:

This letter is in response to your recent request for an opinion of this office which reads as follows:

"I am attaching a Petition to Abate Tax Assessment which has been filed in this county on behalf of the trustees of the Missouri Bar.

"I will appreciate it if you will furnish me your opinion on whether or not the Missouri Bar property is exempt from taxation under the provisions of Section 137.100, V.A.M.S."

The Missouri Constitution of 1945, Article X, Section 6, exempts from taxation:

"All property, real and personal, of the state, counties and other political subdivisions, and non-profit cemeteries, shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies may be exempted from taxation by general law. All laws exempting from taxation property other than the property enumerated in this article, shall be void."

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The statute to which you refer, Section 137.100, RSMo 1959, states in part:

"The following subjects are exempt from taxation for state, county or local purposes:

(1) Lands and other property belonging to this state;"

This office has conferred with representatives of the Missouri Bar, to ascertain further facts. The bar believes that the property is exempt under the Constitution and subsection (1) of Section 137.100, supra, as "Lands and property belonging to the state," because it is a state agency, an arm of the Supreme Court, and as such, its land property is exempt as state property.

If the bar is a state agency then the property belonging to it is exempt. The Missouri Supreme Court in School District of Berkeley v. Evans, 363 Mo. 208, 250 SW2d 499, declared that the test for exemption of state property is ownership and not use. At 250 SW2d 499, 500, the Court stated:

" * * * The test to be applied to property held by the state and its political subdivisions is ownership while the test as to other exemptions which may be granted by general law is whether the property is being used for the purposes enumerated * * * " [Emphasis ours]

There is no question as to ownership in this case. The Missouri Bar owns the property against which the assessment has been made. The bar acquired the property under authority of Supreme Court Rule 7.10 (as amended November 20, 1961) in January, 1962. The question then is:

"Is the Missouri Bar a state agency?"

There are no decisions by the Missouri courts nor is there any legislative fiat declaring the Missouri Bar to be a state agency. In order to determine if the Missouri Bar is a state agency it is necessary to examine the nature and function of the Missouri Bar and to examine the decisions of courts of other states.

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The Missouri Bar was established by Supreme Court Rule 7. It is an integrated bar, i.e., a compulsory association composed of all the lawyers of the state, membership in which is a prerequisite to the practice of law in the state. Thus the Missouri Bar is composed of all the officers of the court.

In the preamble to Supreme Court Rule 7, the purpose of the integrated bar is stated as follows:

"Rule 4 states that it is the 'responsibility of the members of the Bar of this Court and of all lawyers who practice in the State of Missouri' to 'strive at all times to uphold the honor and maintain the dignity of the profession and to improve not only the law but the administration of justice.' In recognition of that public obligation owed by the legal profession, the Court hereby promulgates this rule for the purpose of aiding the lawyers of Missouri in the perfection of a means of organization that will best aid them in the discharge of their recognized public duty."

Rule 7.10, Rules of the Supreme Court, expressly authorized the bar to acquire land and construct and maintain a headquarters building and granted numerous powers with respect thereto and required annual reports and accounting to the Supreme Court. It is clear from Rule 7 as a whole that the Missouri Bar is an arm or agency of the Supreme Court and subject to its authority and control, and its general purpose is to aid the Court and its officers to best carry out their public responsibilities.

In other states where the bar has been integrated, the courts have declared the bar to be a state agency. In *State Bar of Michigan v. City of Lansing*, 361 Mich. 185, 105 NW2d 131, the Supreme Court of Michigan held that the property of the State Bar of Michigan was exempt from taxation as "Public property belonging to the State of Michigan." The Court had the question of whether the bar was a state agency or invalid as a corporation created by a special act of the legislature. The Court resolved the question in favor of the bar being a state agency.

In *Board of Commissioners Mississippi State Bar v. Collins*,

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59 So. 2d 351, the Mississippi Supreme Court, which had the same question as the Michigan Supreme Court as to whether the bar was a state agency or a corporation created by special act of the legislature, held, at page 355:

"In view of its membership, its functions and the purposes of its creation, the State Bar, created by the act, possesses none of the attributes of a private corporation. And the State Bar act is in no sense a local or private act. It is general in its application and applies to all lawyers in the state who are actively engaged in the practice of law. The State Bar is in reality an agency of the State created . . . for the purpose of regulating more effectively the practice of law and for the purpose of encouraging the study of improved methods of procedure and practice in the courts." [Emphasis added]

It is to be noted that the Bars of Michigan and Mississippi were created by an act of the legislature and not by Supreme Court Rule as was the Missouri Bar, but this office cannot see how this factor would distinguish the Missouri Bar from the Michigan and Mississippi Bars with respect to its being a state agency.

Indeed the legislature may establish an integrated bar as well as provide legislation to aid the judicial arm of the state, but this legislative power is not exclusive. The judiciary has the inherent power to regulate and define the membership in the bar of the state and thereby to create a State Bar. See *In re Integration of State Bar of Oklahoma*, 185 Okla. 505, 95 P. 2d 113.

Since an integrated bar can be established either by action of the legislature or by the Supreme Court, it is in either instance a state agency.

This conclusion is supported by an annotation at 114 A.L.R. 161, entitled "State bar created by act of legislature or rules of court; integrated bar," which states:

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"While the statutes or court rules under which they have been organized differ to some extent, integrated bars have the common characteristics of being organized by the state or under the direction of the state, and of being under its direct control, and in effect they are governmental bodies."

Therefore, this office is of the opinion that the State Bar is a state agency and the land they have acquired and the building which they are constructing and the equipment to be placed therein under authority of Supreme Court Rule 7.10 (as amended November 20, 1961) is exempt under Section 137.100(1), supra.

CONCLUSION

It is the opinion of this office that the Missouri Bar is a state agency and that lands and property belonging to the Missouri Bar are exempt from taxation for state, county or local purposes, under Section 137.100, RSMo 1959.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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