

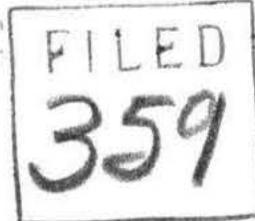
RIVER BEDS:  
COUNTY LANDS:

Abandoned river bed lands belonging to a county of this state may be sold at public or private sale and without a survey.

September 22, 1965

OPINION NO. 359

Honorable John B. Mitchell ✓  
Prosecuting Attorney  
Buchanan County Court House  
St. Joseph, Missouri



Dear Mr. Mitchell:

You make the following inquiry to this office:

"May the County Court sell abandoned river bed land at a private sale without a survey?"

Chapter 241, RSMo 1959, controls here.

Concerning sale of the land without a survey, we regard the case of *Sexton v. Dunklin County*, 296 Mo. 682, 246 S.W. 195, as being completely dispositive. There it was stated ". . . we find no legislative enactment requiring a survey of [such] lands to be made prior to the power of the county to convey title thereto." Although that decision of the Supreme Court of Missouri was rendered in 1922, there is still no statutory requirement that a survey be made prior to sale of abandoned river bed lands. See *Hamburg Realty v. Woods*, 327 S.W. 2d 138.

With respect to sale of the lands at private vendue, two statutory provisions control and require some explanation.

In 1850, Congress granted all of the river beds, islands, overflow and swamp lands to the states (Title 43, § 982, United States Code). In the laws of 1851, our Legislature, in turn, granted the swamp and overflow lands to the counties and provided that they could be sold for the benefit of the schools.

The manner of conducting the sale of those lands was set out in what has come to be Section 241.160, RSMo 1959, which provided that they could be sold either

Honorable John B. Mitchell

at public auction after certain notice or, if deemed advisable in the judgment of the county court, at private sale.

The provisions for the sale of emerging islands and abandoned river beds did not come into our laws until 1895, at which time the Legislature, in what is now Section 241.310, RSMo 1959, provided that such lands could be sold ". . . in the same manner that [sic] the swamp lands acquired under the act of Congress of September 28, 1850 . . . ."

Thus, there appears to be no question that the Legislature contemplated authorizing the sale of such lands at either public auction or private treaty.

#### CONCLUSION

Abandoned river bed lands belonging to a county of this state may be sold at public or private sale and without a survey.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Howard L. McFadden.

Very truly yours,

  
NORMAN H. ANDERSON  
Attorney General