

COUNTY COURTS: The County Court is not required to
SPECIAL ROAD DISTRICT: deliver road machinery to a special road
district unless the territory was in a
pre-existing road district.

Opinion No. 104 (1966)
Opinion No. 481 (1965)

March 8, 1966

Honorable Harold W. Barrick
Prosecuting Attorney of Ralls County
P.O. Box 278
New London, Missouri



Dear Mr. Barrick:

You have requested an opinion from this office as follows:

"1. If a special road district is formed under Sections 233.170 to 233.315, R.S. Mo. 1959 from territory which had not previously been in a road district, what is the obligation of the County Court under Section 233.190 subsection 1 as to delivery of tools and machinery to the commissioners of the newly incorporated district where all tools and machinery were purchased by the County Court and not by any previous existing road district?"

Ralls County is not a township organization county and special road districts may be formed therein as provided for under Sections 233.170 to 233.315, VAMS.

Section 233.190, VAMS, provides in part:

"1. The county court shall, upon the organization of such commissioners, cause all tools and machinery used for working roads belonging to the districts formerly existing and composed of territory embraced within the incorporated district to be delivered to said commissioners, for which such commissioners shall give a receipt, and such commissioners shall keep and use such tools and machinery for constructing and improving public roads and bridges."

Sections 231.010 to 231.140, VAMS, provide that the county courts in all counties of the state shall divide each county into road districts of convenient size, road mileage and taxable property to be considered and each district to be numbered. They also provide for the county court to appoint a road overseer for

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each road district who shall execute a bond for the safe keeping and use of all tools, road machinery, records and papers that belong to the county or district.

You have informed us that the Ralls County Court has never complied with such statutory provisions and that Ralls County has never been divided into road districts by such County Court.

In considering the provisions of Section 233.190, supra, it is a basic rule of statutory construction to seek the intention of the lawmakers from the words used, if that is possible, and in doing so give to such words their plain and ordinary meanings so as to promote the object and manifest purpose of the statute. Baker vs. Brown's Estate, 294 S.W.2d 22, 365 Mo. 1159.

You state that the territory included in a newly formed special road district mentioned herein was not in any prior existing road district. Section 233.190, supra, provides that all tools and machinery used for working roads belonging to the districts formerly existing and composed of territories embraced within the new district shall be delivered by the county court to the commissioner of the special road district. Since there were no pre-existing districts, there would not be any road machinery used for working roads belonging to them. The intent and purpose of this statute is to require the county courts to turn over to special road districts the machinery used for working roads belonging to pre-existing districts whose territory was included in the special district. It was not intended for the county court to deliver road machinery of the county to a special road district when the territory incorporated in the special road district was not in any pre-existing road district.

Under the facts submitted herein it is our opinion that the County Court of Ralls County is not required to deliver any road machinery to the newly formed special road district because that district does not include any territory that was in a pre-existing road district.

CONCLUSION

It is the opinion of this office that under Section 233.190, VAMS, a special road district is not entitled to receive tools and road machinery from the county court unless the machinery was used for working roads belonging to pre-existing road districts that were incorporated in the special road district.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Very truly yours,



NORMAN H. ANDERSON
Attorney General