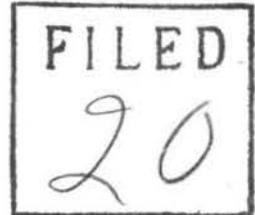


SCHOOLS: School property may be disposed of if no longer required for school purposes.

November 27, 1942.

2 King

11-30



Hon. Marshall Craig
Prosecuting Attorney
Mississippi County
Charleston, Missouri

Dear Mr. Craig:

The Attorney-General wishes to acknowledge receipt of your letter of November 24th in which you requested an opinion of this Office. This request, omitting caption and signature, is as follows:

"A small country school in this County has 2 acres of ground, most of which has been permitted to grow up in weeds and waste. The Church in that community desires to purchase $1\frac{1}{2}$ acres for Church purposes. Both the School District and the Church would like to make the transaction.

"I would like to know whether or not the school district has authority to sell a portion of their property where it is not essential for school purposes."

There seem to be two statutes that will govern your request as to whether a school district may dispose of a portion of its property where it is not essential for school uses. I will first cite you to Section 10403, R. S. Mo., 1939, which reads as follows:

166.010

"The title of all schoolhouse sites and other school property shall be vested in the district in which the same may be located; and all property leased or rented

for school purposes shall be wholly under the control of the board of directors during such time; but no board shall lease or rent any building for school purposes while the district schoolhouse is unoccupied, and no schoolhouse or school site shall be abandoned or sold until another site and house are provided for such school district."

It will be seen from a study of this section that no property used for a schoolhouse or school site shall be abandoned or sold until another site or schoolhouse is provided for such school district. Apparently this statute is complied with in your matter since the district does not contemplate selling or doing away with the schoolhouse itself or with one-half acre of the ground adjacent thereto.

In view of that section I will next cite you to Section 10419, R. S. Mo. 1939. This section has to do with the powers of the voters at the annual school meeting and is rather lengthy, and in view of the fact that there is only one sub-section that will apply in this matter, I will cite you to said sub-section:

"The qualified voters assembled at the annual meeting, when not otherwise provided, shall have power by a majority of the votes cast:

* * * * *

"Seventh--To direct the sale of any property belonging to the district but no longer required for the use thereof, to determine the disposition of the same and the application of the proceeds.

* * * * *

"

It can be seen from the last cited section of the statute that the voters in the school district have the right

165203

to dispose of property owned by the school district which is of no value to such district. Your letter states that " a small country school in this County has 2 acres of ground, most of which has been permitted to grow up in weeds and waste." Apparently this one and one-half acres which the church desires to purchase, is of no value to the school district in view of the fact that it is allowed to grow up in weeds. Of course, that is a matter of fact which this Department cannot pass upon.

CONCLUSION.

Therefore, it is the conclusion of this Department that if the property of the school district, which the Church contemplates purchasing, is no longer required for the use of said school district, the voters in such district, at the annual meeting, shall have the power by a majority of the votes cast to sell such property.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

JSP:EG