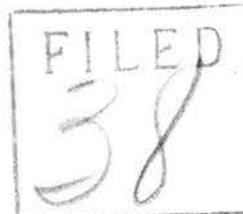SCHOOLS AND SCHOOL) Money derived from sale of scho
     DISTRICTS:) or easement goes into "building fund",
               and can be used for "building fund" purposes
               only.

9-19

September 18, 1935.

FILED
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Honorable James Haw
Prosecuting Attorney
Mississippi County
Charleston, Missouri

Dear Mr. Haw:

     This is to acknowledge receipt of your letter
of September 4, 1935, including a statement of facts
relative to the questions submitted therein. Your ques-
tions, which we glean from your letter, are:

     (1) To what fund does the money received from
the United States Government by the common school districts
of Mississippi County, by reason of the condemnation of
lands belonging to said school districts, or in the event
of a friendly settlement with the government by certain
school districts of your county, belong? (2) And for
what purposes could said money be expended by the board of
directors of said school districts? (3) Also, whether or
not the money thus received is a trust fund to be held for
purposes of repairing any prospective damages that might
arise from the flooding of the school property by the
Mississippi River.

     From your letter we assume that the school districts
in question are "common school districts" of that county.

     Section 9312, R. S. Mo. 1929, provides for the
division of the moneys coming to the school district into
three separate funds, namely, "teachers' fund," "incidental
fund" and "building fund." Said section provides in part
as follows:

"* * * All money derived from taxation
for building purposes, from the sale
of school site, schoolhouse or school
furniture, from insurance, from the
sale of bonds, from sinking fund and
interest, shall be placed to the
credit of the "building fund;" * * *"

The money derived by reason of the condemnation
suit or settlement with the government by the school
districts for the easement which the government secures for
the purpose of erecting certain set-back levees and a con-
sequent flooding of the school property, would be construed
to be a sale of a certain interest of the school site.
Therefore, the money derived therefrom would, in our opinion,
go into the "building fund."

Section 9311, R. S. Mo. 1929, provides that the
board, in the payment of any obligations of the school
district, shall order the warrants to be drawn in favor of
any party to whom the district has become legally indebted,
and should be drawn on the appropriate fund, namely, "teachers'
fund," "incidental fund" or "building fund."

Our first premise, then, is that the money should
go into the "building fund" and when said money is lodged in
the "building fund" it is subject to all purposes for which
said fund may be legally used by the board. The statutes
only provide for three funds and we do not find that said
funds may be further subdivided into other funds, as suggested
in your letter; and when the board of directors legally
issues a warrant on a particular fund for a legal purpose,
the treasurer is bound to honor such warrant if he has money
in that particular fund.

We do not think that this money becomes a trust
fund in the hands of the treasurer for the purpose of repair-
ing the school building only in the event of damage caused

by the flood waters of the Mississippi River, but may be used for
any purpose for which "building fund money" may be used. We do
not find that the district would be authorized under the law to
use the money in question for the constructing of a Negro school
building; neither do we think that said money may be used for
paying back teachers' wages for the reason that there is no
provision in the law for the transfer of money from the building
fund into the teachers' fund.

It is, therefore, our opinion that the money received
under the aforesaid circumstances from the government would go
into the "building fund" and may be used by the board for any
legal purpose authorized for which funds from the building fund
may be used.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney-General.

CRH:EG