

SCHOOLS - RAILROAD, tax money in county treasury, when county court can distribute.

1-101-67 R S March 9 1933

April 3, 1933.

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Hon. Thomas A. Mathews
Prosecuting Attorney
St. Francois County
Farmington, Missouri

Dear Mr. Mathews:

Answering your letter of March 27, 1933, relative to the money collected last September 8th from the railroads, as to whether the county court has the right at this time to distribute or pay over to the school districts their proportionate part of this money now or to hold same until after the following September 1st.

In reply will state, that Section 10028, R. S. No. 1929, provides that,

"The county court * * * shall * * * ascertain and levy the taxes for state, county, municipal township, city, incorporated town and village and school purposes. * * *"

Section 10029, R. S. No. 1929, provides the way and means by which school taxes shall be levied, stating that,

"* * * county courts shall ascertain from the returns in the office of the county clerk the average rate of taxation levied for school purposes, * * * (and after receiving from the state auditor the amount for the state) the county court shall apportion the said taxes for the erection of public buildings, or for other purposes so levied and collected, among the several school districts levying such taxes, in proportion to the amount of such taxes so levied in each of said districts: * * * * *"

Section 10030, R. S. No. 1929, says,

"Within ten days after the county court shall have levied the taxes on railroad property, as prescribed in the two preceding sections, the county clerk of

such county shall extend the same * * * * * ."

Section 10033, R. S. No. 1929, says,

"All taxes of whatever description, charged against any railroad company, according to the provisions of this article, due to any county, and all taxes due the state * * * and * * * school districts in such county, shall be due and payable to the county collector of such county on the first day of September of the year for which the same may be levied and charged as herein provided."

Section 10041, R. S. No. 1929, states,

"It shall be the duty of the collector to keep separate accounts of the railroad taxes collected by him, and render monthly statements thereof to the county clerk as in other cases. * * * He shall also pay into the county treasury monthly all other taxes on railroad property collected by him in such county, to be disbursed according to law."

Under the foregoing we trace the money into the county treasury, as stated in your letter in this case, took place September 8th, 1932.

Then, under Section 13162, R. S. No. 1929,

"The county court shall have power to audit, adjust, and settle all accounts to which the county shall be a party; to order the payment out of the county treasury of any sum of money found due by the county on such accounts; * * * * *"

Under Section 13161, R. S. No. 1929, the county clerk has,

"* * * to keep just accounts between the county and all persons, bodies politic and corporate, chargeable with monies payable into the county treasury, * * *"

It is our opinion from the foregoing sections that when this money in due course reaches the treasurer's office, during any current year, the county court can immediately issue warrants

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on same, or turn them over to the proper places, as in this instance, to the school districts to be used as may be necessary under the law.

Yours very truly,

Geob. Strother
GEO. B. STROTHER
Assistant Attorney-General.

APPROVED: _____
ROY McKITTRICK
Attorney-General.

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