

**OPINION
42-92**

July 29, 1942(OPINION)

SCHOOL BUILDINGS

RE: Use of for other purposes

I have your letter of July 25th, requesting an opinion as to whether a school board would have authority to lease vacant school buildings for grain storage purposes.

Chapter 241 of the 1931 Session Laws provides for the use of school buildings for certain purposes other than school purposes. That a chapter reads as follows:

"When School Buildings May Be Used For Other Purposes.) School Boards and Boards of Education having charge of any school buildings may permit the use thereof, when not occupied for school purposes, under careful restrictions, for any proper purpose, giving equal rights and privilege to all religious denominations and political parties, provided that such use shall not be at any cost to the district, and provided that furniture fastened to the building shall no be removed or unfastened. Public School or High School auditoriums and gymnasiums may be let for individual meetings, entertainments, or conventions of any kind, subject to such restrictions as the governing board of such districts shall prescribe, provided that such letting shall not interfere with the operation of the school or with school activities, and provided that a charge shall be made for such use, at least sufficient to cover any cost to the district for light, heat, janitor service, or other incidental expense connected therewith." (Section 1 of chapter 251)

In my opinion, the use of a school building for the storage of grain would be an improper use of such building, and unlawful. A careful reading of the above statute clearly shows that the Legislative Assembly intended that school buildings should be used for purposes other than school purposes which would not interfere with the use of the building for school purposes. The use of the terms "under careful restrictions", and "furniture fastened to the building shall not be removed or unfastened", clearly indicates that the Legislature never intended that such buildings be used for such purposes as the storing of grain.

No school board shall lease such school building at this time, even if we held that they could legally lease the building for this purpose. Under the provisions of our statute, any school which has been closed shall be reopened upon demand in writing by the parents or guardians of six or more children of compulsory school age, living within two and one-half miles of such school,, which demand is made before the opening of the term. Thus, some of the schools which were closed last year, may have to be opened for the next term, even though the school board has not as yet received such petition.

At any rate, it is my opinion that the use of school buildings for the purpose of storing grain would be so utterly foreign to the purposes allowed by statute, that such use would be clearly illegal.

This opinion, of course, would not apply to an old school building, which is no longer fit for school purposes, and where the school board has erected a new building without disposing of the old school.

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