

WAYS AND MEANS COMMITTEE

Minutes of Meeting
March 24, 1961

Meeting was called to order at 10:00 A.M. by the Chairman, Senator Lauterbach, with all members present except Senator Farmer.

Senator Ralph L. Davison, Chairman of the Senate Committee on Claims and Accounts was present, and gave a resume of House Bill #458.

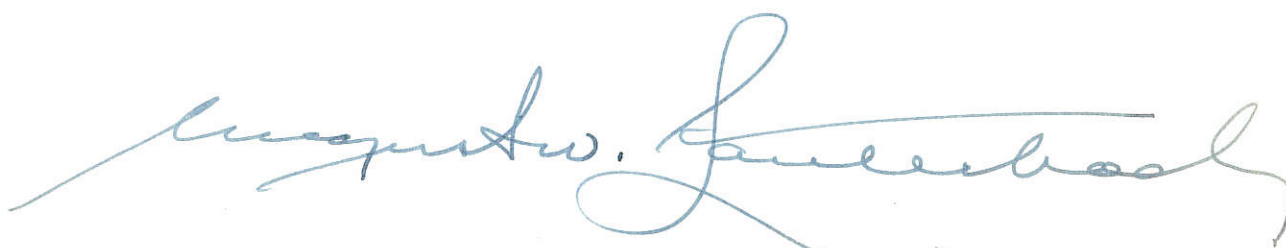
Senator Glades moved to disallow Claim #44 - and to renumber the remaining items in House Bill #458. Motion seconded by Senator Ward, carried.

Senator Glades moved to recommend House Bill #458, as amended, for passage. Motion seconded by Senator Ward, carried.

Senator Warren submitted the Attorney General's Opinion re the disposition of the books ~~xxx~~ remaining in the School Book Department as of July 1, 1961, also, as to the ownership of the building. See copy of opinion attached.

Senator Warren also presented a copy of an opinion from the Attorney General re disposal of books by the State Librarian. See copy of opinion attached.

Meeting adjourned 11:00 A.M.



August W. Lauterbach,
Chairman.



William M. Ferguson
Attorney General

State of Kansas
Office of the Attorney General
Topeka, Kansas

March 23, 1961

Honorable Joe Warren
Senate Chamber
Topeka, Kansas

Dear Senator Warren:

Answering your question of yesterday with regard to disposal of books in the State library, aside from those statutes authorizing distribution of statutes and Supreme Court reports, we find nothing pertinent except G.S. 1949, 75-2513. This section provides that the librarian, under the direction of the Directors of the State library, "shall exchange or sell duplicate volumes or sets of works, and apply the proceeds to the purchase of other books."

By Sec. 75-2501, it is provided that the Justices of the Supreme Court, by virtue of their office, shall be the Directors of the State library. Sec. 75-2502 authorizes the Directors to make such rules and regulations "not inconsistent with this act" as may be necessary for the proper care and management of the library.

It would seem that the sale or exchange of books belonging to the library is limited to such as are duplicates, and then only as authorized by the library Directors.

Very truly yours,

WILLIAM M. FERGUSON
Attorney General

AKS:m



State of Kansas
Office of the Attorney General
Topeka, Kansas

William M. Ferguson
Attorney General

March 23, 1961

Opinion No.: 61 _____

ATTORNEY GENERAL'S OPINION

Re: Schools - Textbooks - State Board of Education

Request by: Senator Joe Warren, Twenty-fifth District

- Questions:
- (1) Who has title to the building where state-owned school textbooks are stored?
 - (2) Is any legislation providing for disposition of the building indicated?
 - (3) Who has authority to sell the state-owned books on hand?
 - (4) If sold, what is the liability of the Commission as to its contract with the publishing house?

Answer: No additional legislation is necessary.

In order to complete the abolishment of the former program of the State to publish and sell school textbooks, you have requested the opinion of this office concerning any necessary action on the part of the legislature which might be indicated.

In response to your first and second inquiries, please be advised that the title to the building where the supply of textbooks on hand is stored, which is physically located to the rear of the state printing plant, is in the State of Kansas. This building is connected on the second and third floors with the state

printing plant and is currently being used in part by the state printing plant. No legislation would be necessary to effect the transfer of the use of the Commission's premises to the state printing plant or other state agency. Primarily the legislature has power to designate what use is to be made of the property; but in the absence of specific action by the legislature, control of the building and its use is lodged in the Executive Council by G. S. 1949, Sec. 75-2104.

The remaining books on hand could be sold by the State Board of Education under the authority of G. S. 1959 Supp., 72-4108. In view of the fact that some or all of these books are at the present time surplus, the purchasing division of the State Department of Administration would be authorized to sell the same pursuant to the provisions of G. S. 1959 Supp., 75-3738, which provides in pertinent part:

" . . . The director of purchases, under the supervision of the executive director and in accordance with rules and regulations established as provided in section 6 (75-3706) of this act, shall:

(7) Have power to transfer to or between the state agencies or to sell or trade in supplies, materials and equipment of state agencies which are surplus, obsolete or unused; the comptroller shall make proper adjustments in the accounts of the state agency or agencies concerned."

It would therefore be our view that no additional legislation would be necessary at this time to complete the liquidation of the former state program of publication, distribution and sale of school textbooks.

Whether these books be sold in one way or another, the publishing companies would be entitled to the royalties stipulated in the contracts. Paragraph III of the sample contract submitted contains a definite obligation on the part of the State to pay the specified royalties on all of the particular books "sold in the State of Kansas" and that it will not print from said positives for sale outside the state of Kansas.

Inquiry discloses that these publishers often consent to modification of the provisions of such contracts because of changed circumstances. Before any sale of these surplus books is made, we would suggest that the question of these royalty payments should be taken

up with the publishers. The sample contract left at our office yesterday is returned herewith.

WILLIAM M. FEROUSON
Attorney General

REP:mh

encl.