

STATE TREASURER:

Right to make sales of real and
personal property in view of
State Purchasing Act.

8-22
August 21, 1933

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Honorables Richard R. Macy
State Treasurer
Jefferson City, Missouri

Dear Mr. Macy:

This Department acknowledges receipt of your
letter dated August 10, 1933, as follows:

"Under the law to protect an account,
the State Treasurer, in case of ne-
cessity, is permitted to buy in real
estate where real estate notes have
been taken as collateral to secure a
deposit, the title being taken in the
name of the State Treasurer, for the
State. Likewise the State Treasurer
is authorized to sell property acquired
as above.

Will you be kind enough to advise
whether this practice must be discon-
tinued, under what is known as the
Purchasing Bill, the Purchasing Agent
making the transactions; or will the
State Treasurer continue to buy and
sell land, as outlined above?"

Section 1, Laws 1931, page 356, provides:

"The state treasurer shall have the
duty to preserve and protect the
state's lien and all rights that the
state may have in any real estate
which is security for notes and deeds
of trust which are held by the state
as collateral for state deposits and
which have been taken over by the
state as a result of the failure of
such state depository."

Section 2 of the same act reads in part:

"The state treasurer shall have the authority and power to bid upon such real estate at any public sale whether such sale is held for the payment of taxes or for the payment of any indebtedness upon such property. * * * * * If the state is the successful bidder, title shall be taken in the name of the state treasurer and he shall hold the title to said lands, control and manage the same until sold,* * * * *. The state treasurer is hereby empowered on the sale of said land to convey same to the purchaser by proper deed**."

Section 11469 Laws 1931, page 378, after making provision for the depositing of certain bonds to secure and insure the repayment of state deposits in selected depositories, provides:

"* * * In the event that such bank or banks or banking institution of deposit shall fail to pay such deposits, or any part thereof, on the check or checks of the state treasurer, then it shall be the duty of the state treasurer to forthwith convert such bonds into money and disburse the same according to law, upon the warrants drawn by the state auditor upon the funds for which said bonds are security* * * * *."

The office of state purchasing agent was created by an act found in Laws 1933, page 411. Section 2 of the act provides as follows:

"The Purchasing Agent shall purchase all supplies except printing, binding and paper, as provided for in Chap. 115, R. S. 1929, for all departments of the State, except as in this Act otherwise provided. He shall negotiate all leases and purchase all lands, except for such departments as derive their power to acquire lands from the Constitution of the State."

Section 11 of the Act establishing the office of state purchasing agent, defining the word "supplies" as used in the Act, reads as follows:

"The term 'supplies' used in this Act shall be deemed to mean supplies, materials, equipment, contractual services and any and all articles or things, except as in this Act otherwise provided. Contractual services shall include all telephone, telegraph, postal, electric light and power service, and water, towel and soap service. The term 'department' as used in this Act shall be deemed to mean department, office, board, commission, bureau, institution, or any other agency of the State."

Reading the State Purchasing Act in its entirety the conclusion can not be escaped that the central thought in the minds of the legislators was to put the purchasing of the supplies used by the various state institutions under the control and supervision of one head. Such supplies being the equipment and materials and articles customarily and ordinarily used in the conduct or management of any state institution. It is true that Section 2 of the Act authorizes the state purchasing agent to purchase all lands but the Act does not provide that the state purchasing agent may take title to lands in his name, so that we think the purchase of land as referred to in said Section 2 has reference to the negotiations for the outright purchase of any lands purchased for the use of the state or any of its institutions, and we think the Legislature did not intend to nor does the state purchasing act take away or repeal the right of the state treasurer to make sales of personal property or real estate as the same is provided for in the sections above set out.

We are of the opinion that the right of the state treasurer to make sales of real and personal property, where the

Honorable Richard R. Macy

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same stand as security for state deposits and to purchase and take title to same, was not impaired by the passage of the state purchasing agent act.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General,

GL:LC