

*Escheat*

ASSIGNMENT OF LAND TO THE STATE:

Relating to manner in which  
it may be disposed of.

June 19, 1934

*6-25*



Honorable Will H. Hargus  
Prosecuting Attorney  
Cass County  
Harrisonville, Missouri

Dear Mr. Hargus:

This Department is in receipt of your letter  
and enclosure of April 6.

Your letter states in part as follows:

"Re: Walker Land.

Relative to the above mentioned 102  
acre farm in Cass County which I  
talked to you about several days ago  
when I was in Jefferson City, I en-  
close statement of facts. I have had  
this matter up with the state auditor,  
state treasurer and Gov. Park."

Your enclosure states as follows:

"Re: Walker Land.

STATEMENT OF FACTS

About 1918 E.J. Walker, resident of  
Cass County, died intestate and ap-  
parently with no living heirs.  
Litigation to which the State of  
Missouri was a party was brought  
by parties claiming to be heirs  
in the form of a quiet title suit.  
There was an action brought by the  
then acting prosecuting attorney  
of Cass County under the provisions  
of Article I, Chapter 3. This case

was taken on change of venue to Jackson County and tried, the parties claiming to be heirs attempting to establish that fact. Trial resulted in a hung jury.

After the trial of the case the suit was settled in the following manner, to-wit: A decree was entered vesting title solely in the plaintiffs (those claiming heirship) and after the decree and the vesting of title these parties conveyed the 102 acres in question by warranty deed to the State of Missouri, subject to the life estate of a Mrs. Berry. You will note by this that title to this land did not come to the State of Missouri by escheat but by deed. In December some three or four months ago Mrs. Berry died and the land is now property of the state.

Questions to answer are these:

- (1) What department should have charge of this Land?
- (2) What does the party in charge desire to do with it?
- (3) In what manner can it be conveyed?
- (4) Do they desire to rent or sell it?  
I have had parties approach me on both propositions"

Laws of Missouri, 1915, Section 1, at page 409, provided that a commission be created to accept devises, bequests, donations, gifts, etc., made to the State and which read as follows:

"Whenever any devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real, personal, or mixed, shall be made or offered to be made

to this state, the governor, attorney-general and state treasurer, constituting a commission for that purpose, shall be and are hereby authorized to receive and accept the same on such terms, conditions and limitations as may be agreed upon between the grantor, donor, or assignor of said property and said officials constituting said commission, so that the right and title to shall pass to and vest in this state; and all such property so vested in this state and the proceeds thereof when collected, may be appropriated for educational purposes, or for such other purposes as the legislature may direct."

The above section has been amended abolishing the Commission and transferring their duties to the State Board of Education.

Laws of Missouri 1933 Article II, Section 643, at page 252 provides that the State Board of Education is to accept devises, bequests, donations, gifts and assignments made to the State and reads as follows:

"Whenever any devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real, personal or mixed, shall be made or offered to be made to this state, the State Board of Education, as constituted by law, shall be and are hereby authorized to receive and accept the same on such terms, conditions and limitations as may be agreed upon between the grantor, donor, or assignor of said property and said officials constituting said Board, so that the right and title shall pass to and vest in this State; and all such property so vested in this State and the proceeds thereof when collected, may be appropriated for educational purposes, or for such other purposes as the legislature may direct. The intention of this act is to abolish the commission heretofore created to ac-

cept devises, bequests, donations, gifts or assignments of money, bonds or choses in action, or of any property, real, personal or mixed, and to transfer such duties to the state board of education."

Article I, Section 639, R. S. Mo. 1929, provides that whenever any real estate shall have escheated and title thereto taken in the State, the court may order a sale, and reads as follows:

"Whenever any real estate shall have escheated and the title thereto vested in the state, the circuit court of the county in which such estate is situate shall, upon the application of the prosecuting attorney of said county, order and direct said real estate to be sold; which sale shall be made by the sheriff of said county and shall be advertised and conducted in the same manner as shall by law be provided for the sale of real estate under execution."

As set out in the statement of facts, the conveyance of the land in question by warranty deed, subject to the life estate of a Mrs. Berry, has upon her death passed title to the State of Missouri.

At the time of settlement in question Laws of Missouri, 1915, supra, were in effect and particularly Section 1 thereof which provides in part that "whenever any \*\*\*assignment\*\*\*\* of any property, real, personal or mixed, shall be made\*\*\*\* to this State\*\*\*\* a commission for that purpose, shall be and are hereby authorized to receive and accept the same on such terms, conditions and limitations as may be agreed upon between the\*\*\*\*, assignor of said property and said officials constituting said commission, so that the right and title to shall pass to and vest in this state; and all such property so vested in this state and the proceeds thereof when collected, may be appropriated for educational purposes, or for such other purposes as the Legislature may direct."

At the present time, (Laws of Missouri 1933 Article II, Section 643, supra) the above section has been amended abolishing the Commission, and transferring their duties to the State

Board of Education. However, such an amendment has no particular bearing on the questions presented before us in that the present Section 643, Laws of Missouri 1933, supra, still provides as it did at the time the settlement was made that "\*\*\*\* all such property so vested in this State and the proceeds thereof, when collected, may be appropriated for educational purposes or for such other purposes as the Legislature may direct."

No question is raised or issue made as to whether at the time of settlement, the commission authorized to receive and accept the same did so in fact, and we assume that they did receive and accept same.

Section 639 R. S. Mo. 1929, dealing with escheats provides that the court may order the sale of any real estate which has escheated and the title thereto vested in the State. Section 643 of the Laws of Missouri 1933, supra, merely states in part, that "\*\*\*\* all such property so vested in this State and the proceeds thereof when collected\*\*\*\*" and nothing is stated as to how the proceeds are to be collected. In determining what the Legislature meant, it is necessary for us to construe that phrase with the general purport of the whole statute in order to carry out the object which the law-givers sought to reach.

In the case of Dahlin v. Missouri Commission for the Blind, 262 S. W. 420, 1. c. 424, the Court said:

"Where certain terms of a statute are ambiguous, resort may be had to its title as a clue or a guide to its meaning. \*\*\*\*"

In the case of Glaser v. Rothschild 120 S. W. 1, 1. c. 11, 221 Mo. 180, our Supreme Court said:

"The law is well settled that doubtful words of a statute may be enlarged or restricted in their meaning to conform to the intent of the law-makers when manifested by the aid of sound principles of interpretation.\*\*\*\* The authorities hold that a statute should not be construed as if it stood solitary and alone, complete and perfect in itself, and isolated from all other laws. It is not to be expected that a statute which takes its place in a general system of jurisprudence shall

be so perfect as to require no support from the rules and statutes of the system of which it becomes a part, or so clear in all its terms as to finish in itself all the light needed for its construction. \*\*\*\*

"Under that rule, where the language of a statute leads to a manifest contradiction of the apparent purpose of the enactment, a construction may be placed upon it which will modify the literal meaning of the words thereof.\*\*\*\*

"We might also add in this connection that under the provisions of our Constitution the title of a statute is necessarily a part thereof, and in construing the statute we should take the title into consideration, also."

#### CONCLUSION.

In the light of the foregoing cases and sections, we are of the opinion that whenever any land is assigned to this state and is received and accepted on the terms as agreed upon by the assignor and authorized Board (now Laws of Mo. 1933, Section 643, supra) and the title passes to and vests in this State then, \*\*\*\* the circuit court of such county in which such estate is situate shall, upon the application of the prosecuting attorney of said county, order and direct said real estate to be sold; which sale shall be made by the sheriff of said county and shall be advertised and conducted in the same manner as shall by law be provided for the sale of real estate under execution. (Section 639, R. S. Mo. 1929, supra.)

It is true that Article I, Section 639 R. S. Mo. 1929, supra, stated "whenever any real estate shall have escheated and the title thereto vested in the State \*\*\*\*", but we are of the opinion that the remainder of the above section applies as well to Article II, Section 643, Laws of Missouri 1933, supra, which states that "\*\*\*\* all such property so vested in this state and the proceeds thereof when collected may be appropriated for educational purposes, or for such other purpose as the Legislature may direct.\*\*\*\*"

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We find nothing in Article II, Section 643, supra, stating how the property is disposed of, how the proceeds are to be collected, etc., and therefore in order to clear up this ambiguity, we must look to the title of the act, and not to the section as it stands alone.

As held in the case of Glaser v. Rothschild, supra, "\*\*\*\* the authorities hold that a statute should not be construed as if it stood solitary and alone, complete and perfect and isolated from all other laws,\*\*\*\*. The title of a statute is necessarily a part thereof and in construing the statute, we should take the title into consideration also\*\*\*\*". As stated previously, the title of Chapter III, is not limited merely to escheats but also includes devises and bequests and further research is shown to also include donations, assignments, etc.

We are of the opinion that all four questions, as set out in the statement of facts, may be answered by complying with that portion of Section 639, R. S. Mo. 1929, which is applicable. The Circuit Court of the county in which such estate is situate should upon the application of the Prosecuting Attorney of said county, order and direct the real estate to be sold and the proceeds when collected held in the State treasury to be appropriated for educational purposes or for such other purposes as the Legislature may direct.

Respectfully submitted,

COVELL R. HEWITT  
Assistant Attorney General,

APPROVED:

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ROY McKITTRICK  
Attorney General.

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