

APPROPRIATIONS: Cannot expend for purposes not reasonably definitely designated.

August 10, 1935.



Mr. J. D. Elliff, President
Mr. V. H. Collins, Secretary
Board of Curators
Lincoln University
Jefferson City, Missouri

Gentlemen:

This will acknowledge receipt of your two letters, the latter one of which, covering the subject matter of the first, is as follows:

"The 58th General Assembly of Missouri made an appropriation to the Negro Vocational School at Dalton. This school is under the direct control of the Board of Curators of Lincoln University.

"For your further information it might be stated that adjoining the state property at Dalton is a twelve-acre plot of ground, privately owned, on which are several buildings used at the present time by the Dalton School for school purposes.

"In attempting to administer the affairs of the Negro Vocational School at Dalton and to carry out the provisions of House Bill No. 413 as they pertain to said school, the Board of Curators of Lincoln University finds itself in need of the following information:

"1. Under the provisions of House Bill No. 413 of the 58th General Assembly of Missouri is the Board of Curators of Lincoln University authorized to use any of the money appropriated for the use of the Negro Vocational School at Dalton to purchase the land mentioned in the foregoing statement and use it for school purposes?

"2. If such land cannot be purchased from the above mentioned appropriation is the Board of Curators of Lincoln University authorized to lease the land in question and use it and the buildings for school purposes?

"3. In case the land and the buildings can be leased by the Board of Curators of Lincoln University is said Board authorized to use money appropriated in House Bill No. 413 of the 58th General Assembly to repair buildings on this land and use said buildings for the Negro Vocational School?

"4. Finally, is the Board of Curators of Lincoln University authorized to take an option on the land mentioned in the foregoing sections of this letter with a view of purchasing it at a later date and paying for this option out of funds appropriated by House Bill No. 413?"

Replying thereto, we find that in 1933 the Legislature, Laws of 1933, page 410, created the State Purchasing Agent. Section 2 of that Act provides as follows:

"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."

We find no provision in the Constitution authorizing Lincoln University or the Board of Curators thereof to purchase real estate. It would, therefore, follow that the 1933 Act of the Legislature, to the extent that the Board of Curators of Lincoln University theretofore had authority to purchase real estate, has been repealed, and that such purchase of real estate when made shall be through the State Purchasing Agent on behalf of said institution.

Section 3 of House Bill No. 413 passed by the 58th General Assembly, as altered by the Governor before signing the same, appropriated out of the State Treasury, chargeable to the State revenue fund for the years 1935

and 1936, the sum of \$11,000.00 for the use of the Board of Managers of Lincoln University, for the administration of the demonstration farm and vocational school at Dalton, for the negro race, \$5,000.00 of which is for salaries; \$3,750.00 of which is for buildings, building equipment, operative equipment, educational and recreational equipment, laboratory, scientific and testing equipment, other and miscellaneous equipment; \$1,450.00 of which is for labor, material and supplies for repairing and replacing buildings, building equipment, operative equipment, and structures other than buildings; and \$800.00 of which is for general expense, including communication, printing, binding, student labor, transportation of things, travel, other general expense, educational, scientific and recreational supplies, grounds, and roadways material and supplies, light, heat, power and water supplies, stationery and office supplies.

Your inquiry raises the question as to what may be legally purchased or bought with money appropriated by the Legislature.

Section 19 of Article 10 of the Constitution of Missouri, is as follows:

"No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object."

4 C. J., page 1460, states the following:

"An appropriation of funds is an authority from the legislature, given at the proper time and in legal form, to the proper officers to apply sums of money out of that

which may be in the treasury in a given year to specified objects or demands against the state; the act of the legislature in setting apart or assigning to a particular use a certain sum of money to be used in the payment of debts or dues from the state to its creditors; a setting apart from the public revenue of a certain sum of money for a specified object in such manner that the executive officers of the government are authorized to use that money, and no more, for that object, and for no other."

Said cited reference further declares with reference to appropriation bills, the following:

"Annual statutes by which the legislative branch of the government regulates the manner in which the public money voted at each session is to be applied to the various objects of expenditure."

In the case of *Ristine v. State*, 20 Ind. 328, 339, speaking of appropriations, is the following statement:

"An appropriation of the money to a specified object would be an authority to the proper officer to pay the money, because the auditor is authorized to draw his warrant upon an appropriation, and the treasurer is authorized to pay such warrant if he has appropriated money in the treasury."

We think that a controlling idea running through the discussion of the meaning of an appropriation is that the Legislature is required to define with reasonable accuracy the object for which the appropriation is made, and if they fail to so reasonably accurately define, then the appropriation does not measure up to the constitutional requirements, and if it does so define and does measure up to those requirements, then the money must be spent for the purpose as in said appropriation act specified.

Mr. J. D. Elliff

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With these observations in mind, to your first inquiry our reply is that the Board of Curators of Lincoln University is not authorized to use any of the money appropriated for the use of the Negro Vocational School at Dalton to purchase land mentioned in your inquiry and for use for school purposes, but the State Purchasing Agent takes over the duties said board formerly exercised with respect to the purchase or lease of lands.

Replying to your second inquiry, we do not find any expression of the legislative intent in the words that are used in the appropriation act in terms authorizing the expenditure of the appropriated money for the purpose of leasing land, except and unless it be an Subdivision D of said act, which appears to be an appropriation of \$800.00 for the purposes therein mentioned, among which is "grounds". We think a fair interpretation of that subdivision is that part of said \$800.00 appropriation may be expended for the purchase of grounds which will be used in the operation of said school. However, as said Subdivision D contemplates that at least a part of said \$800.00 appropriation shall be expended for other purposes therein enumerated, it would appear that not all of the \$800.00 was intended to be used for the purchase of real estate. We think that under this subdivision lands may be leased for the use and operation of said school.

Replying to your third inquiry, an appropriation act should be construed strictly when there is a question as to whether a right exists or does not, and we do not think you would be justified in using any of said appropriation for the purpose of repairing buildings on this leased land which is owned by others.

Replying to your fourth inquiry, we do not think said appropriation can be used for the purpose of buying options on land. To do so would be beyond the purview and intent of the Legislature.

Yours very truly

APPROVED:

DRAKE WATSON
Assistant Attorney General.

ROY McKITTRICK
Attorney General.

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