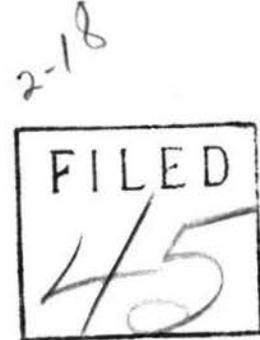


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ELEEMOSYNARY INSTITUTIONS: Appropriation for Mt. Vernon Sanatorium
: for personal services only for those
APPROPRIATIONS : specifically mentioned.

February 14, 1938

Mr. W. Ed Jameson
President, Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri



Dear Sir:

This department is in receipt of your request for an opinion which reads as follows:

"Please refer to the appropriation for Personal Service in the four mental hospitals, which reads as follows: 'For salaries of superintendent, assistant physicians, dentist, steward, and other employees.'"

"Also refer to the appropriation for Personal Service to the Missouri State Sanatorium, Mt. Vernon, which reads as follows: 'For salaries of superintendent, assistant physicians, dentist and steward.'"

"I think the wording 'for other employees' for the Sanatorium was inadvertently left out.

"I am writing to ask if there could not be a construction placed on this appropriation to include other employees."

In Laws of 1937, pages 50 to 55, the appropriations for the eleemosynary institutions of the state are set forth. For Hospital No. 1, Hospital No. 2, Hospital No. 3 and

Hospital No. 4, there are separate appropriations for personal services, but all provide as follows:

"For salaries of the superintendent, assistant physicians, dentist, steward, and other employees."

However, on page 55, the appropriation for personal services for the Missouri State Sanatorium at Mt. Vernon reads as follows:

"Salaries, wages and per diem of the superintendent, assistant physicians, dentist and steward."

The question presented is whether in view of the first four appropriations for personal services which include the words "and other employees" that these words may be included in the appropriation for personal services for the Missouri State Sanatorium at Mt. Vernon. 59 C.J. 262 states:

"The appropriation law is to be construed under and by the same rules as other legislation. Where the intention of the legislature is plain and obvious, there is no room for judicial construction of an appropriation." State ex rel. McKinley Pub. Co. v. Hackmann, 314 Mo. 83, 282 S.W. 1007."

In Dworkin v. Caledonian Insurance Co., 285 Mo. 342, 226 S.W. 846, the court said:

"The legislative purpose in passing a law is not to be conjectured, but must be ascertained from the act itself. The agreements the legislators meant to strike at must be determined by what they said, and is not to be surmised, as a probable intention. The courts cannot supply words which, they feel sure, were intended to be included, but by oversight were omitted."

In State ex rel. Cobb v. Thompson, 319 Mo. 492, 5 S.W. 2nd 57, the court en banc through Judge Gantt said:

"Even though we suspect the Legislature intended to create a permanent commission (which we do not), we would not be authorized to so hold contrary to the meaning of the language of the act, which is free from ambiguity and doubt."

In view of the above authorities, since the wording of the appropriation for the Missouri State Sanatorium at Mt. Vernon is plain and unambiguous, we cannot supply the words "and other employees", although it is probable that the legislature meant to include such persons and inadvertently omitted them.

CONCLUSION

It is, therefore, the opinion of this department that out of the appropriation of \$48,900.00 for personal services at the Missouri State Sanatorium at Mt. Vernon, found at page 55 of the Laws of Missouri, 1937, only those persons specifically mentioned therein may be paid, to-wit, the superintendent, assistant physicians, dentist and steward.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED BY:

J.E. TAYLOR
(Acting) Attorney General

AO'K:VAL