

APPROPRIATIONS: Construction of Appropriation Act, Laws of
Missouri 1937, page 52. *

December 30, 1938

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



Dear Colonel:

We hasten to acknowledge your request for an opinion under date of December 29th, as follows:

"With reference to the enclosed correspondence I would like to ask if, in the opinion of your office, the Purchasing Agent upon advice of the Eleemosynary Board would be within his legal right to purchase the two pieces of property adjoining State Hospital #2, St. Joseph from the appropriation of our own funds of \$92,450.00 as shown on page 52 of the 1937 Laws.

"The institution is in great need of these properties and they are optioned to the State at an unusual bargain, and we would like to acquire them if it is within our rights to do so through the Purchasing Agent. If it is possible to get a favorable opinion from your office, the State would be many thousands of dollars ahead and the opportunity will probably not present itself again."

The Appropriation Act to which you refer in your letter provides:

"B. and C. Additions, Repairs and Replacements:

Building equipment, operative equipment and structures other than buildings, and labor, material and supplies for repairing or replacing buildings and construction or installation thereof 92,450.00"

No mention is made of land and although the word "Additions" might be construed to include the same (Neblett vs. R. S. Sterling Investment Company Tex. Civil App. 233 S. W. 604, l.c. 609) yet the Legislature by specifically enumerating the character of additions intended to come within the terms of the Act, it is readily apparent that land was not intended to be included.

It is a familiar rule of statutory construction that the legislative intent must, if possible, be obtained from all available sources, (Kling vs. Kansas City 61 S. W. (2nd) 411, 227 Mo. App. 1248) and evidence of such intention is found on page 51 of the same Act relating to funds for State Hospital No. 1, wherein the purchase of land is specifically authorized:

"B. and C. Additions, Repairs and Replacements:

Building equipment, purchase of lands, operative equipment and structures, other than buildings and labor, material and supplies for repairing or replacing buildings and construction or installation thereof . . 25,065.00."

We appreciate the fact that the state might be "many thousands of dollars ahead", and that the opportunity to

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purchase the land desired may "not present itself again", but we must construe the Act as written without regard to the results (State ex rel Gorman vs. Offutt 26 S. W. (2nd) 830, 223 Mo. App. 1172).

From the foregoing, it is our opinion that land may not be purchased out of funds appropriated by the Legislature to State Hospital No. 2 under Additions, Repairs and Replacements, as same appears in Laws of Missouri 1937, page 52.

Respectfully submitted,

MAX WASSERMAN
Assistant Attorney General

APPROVED:

ROY MCKITTERICK
Attorney General
MW:RT