

STATE TREASURER: Payment to State of Missouri by U. S. Treasurer under provisions of 26 Stat. L., 417, 418, and 49 Stat. L., 436, 439, should be deposited in Seminary Fund.

August 4, 1945



Honorable Robert W. Winn
State Treasurer
Jefferson City, Missouri

Attention: Mr. Albert F. Smith, Assistant Cashier

Dear Sir:

Reference is made to your letter dated July 28, 1945, requesting an official opinion of this office, and reading as follows:

"This office is in receipt of a U. S. Check in the sum of \$63,194.22 payable to State Treasurer. Accompanying this check is the following notation 'Act of Congress approved August 30, 1890, (26 Stat. L., 417, 418) to receive the funds authorized by Title II, Section 22 of the act of Congress approved June 29, 1935 (49 Stat. L., 436, 439), for the more complete endowment and support of colleges of agriculture and mechanic arts (landgrant colleges):'

"Being unfamiliar with this particular U. S. Statute, we are not sure to what fund this money belongs. We presume it should be placed in the Seminary Fund, but want to be sure.

"Kindly advise us at once where to place this money, so that we may give the proper fund credit."

August 4, 1945

The Federal statutes referred to in your letter are to the following effect:

The original so-called "Morrill Act" is found in 26 Statutes at Large 417, and its purpose is set out in the title, reading as follows:

"An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two."

This act makes the appropriation to the various States that have established the land-grant colleges, all of such appropriation arising from the sale of public domain. With respect to the immediate subject of your inquiry, your attention is directed to a portion of Section 2 of the act, reading, in part, as follows:

"That the sums hereby appropriated to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of July of each year, * * * to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, * * *"

The other Federal statute, found in 49 Statutes at Large 436, is merely supplementary to the above quoted law, providing additional appropriations. The portion thereof which affects the allotment just received by your office is found under Title II, Section 22, and reads as follows:

August 4, 1945

"In order to provide for the more complete endowment and support of the colleges in the several States and the Territory of Hawaii entitled to the benefits of the Act entitled 'An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts', approved July 2, 1862, as amended and supplemented (U. S. C., title 7, secs. 301-328; Supp. VII, sec. 304), there are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated,
* * *

" * * * The provisions of law applicable to the use and payment of sums under the Act entitled 'An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an Act of Congress approved July second, eighteen hundred and sixty-two', approved August 30, 1890, as amended and supplemented, shall apply to the use and payment of sums appropriated in pursuance of this section."

From the foregoing, it is apparent that all of the allotment received by your office from the United States Treasury has been derived from proceeds of the sale of the public lands as originally donated to the various States and Territories under the Act approved July 2, 1862, and amendatory and supplementary statutes enacted subsequent thereto.

Having so ascertained the source of such funds, we believe that your question as to which fund is the proper one in which to deposit such allotment is answered by the provisions of Section 10276, R. S. Mo., 1939, reading, in part, as follows:

"There is hereby created and especially established a fund for the support of the university of the state of Missouri, the

Honorable Robert W. Winn -4-

August 4, 1945

college of agriculture and the school of mines and metallurgy, to be denominated the seminary fund, which shall consist of: * * * Third, the proceeds of the sale of the lands donated to the state of Missouri by the United States for the support of the college of agriculture and the school of mines and metallurgy, by act of congress, approved July 2, 1862, * * *."

CONCLUSION

In the premises, it is the opinion of this department that the allotment received by the State Treasurer should be deposited in the Seminary Fund.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:HR