

STATE TEACHERS
COLLEGE:

RE: The money derived from the sale of a car belonging to the Southwest Missouri State Teachers College by the State Purchasing Agent should go into the Southwest Missouri State Teachers College Fund.

*State Teachers
College
New Union
Sec. 15, Art. IV*

1946

January 3, 1946

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Dr. Roy Ellis, President
Southwest Missouri State Teachers College
Springfield, Missouri

Dear Dr. Ellis:

This will acknowledge receipt of your letter of recent date regarding the disposition of the proceeds of the sale of an automobile, used by the Southwest Missouri State Teachers College, by the State Purchasing Agent. You request an opinion of this department as follows:

"We are requesting that the proceeds from the sale of this car be placed in the State Treasury to the credit of 'the Southwest Missouri State Teachers College fund'. Are we within our rights in making this request?"

Section 15 of Article IV, Constitution of Missouri, 1945, reads, in part, as follows:

"* * *Immediately on receipt thereof the state treasurer shall deposit all moneys in the state treasury to the credit of the state in banking institutions selected by him and approved by the governor and state auditor, and he shall hold them for the benefit of the respective funds to which they belong and disburse them as provided by law.* * *" (Underscoring ours.)

Section 13051, R. S. Mo. 1939, reads as follows:

"All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, shall, by the official authorized to receive same, and at stated intervals, be placed in the state treasury to the credit of the particular purpose or fund

for which collected, and shall be subject to appropriation by the General Assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the Constitution of this State), shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. Any official or other person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; Provided, that in the case of state educational institutions there is excepted herefrom, gifts or trust funds from whatever source; appropriations, gifts or grants from the Federal Government, private organizations and individuals; funds for or from student activities, farm or housing activities, and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same, and hospital fees; all of which excepted funds shall be reported in detail quarterly to the Governor and biennially to the General Assembly. Laws 1933, p. 414, Sec. 1."

The above provisions of the statute and the new Constitution of Missouri require that state money be placed to the credit of the fund for which it was collected. Neither of these provisions, however, sets out or provides any method by which one can determine for what particular fund a sum of money has been collected.

Therefore, the determination which we are required to make in this opinion is whether or not there is any authorization for

depositing the money here in question to the credit of the Southwest Missouri State Teachers College Fund.

We find no indication in a decided case as to what fund or funds the money realized from the sale of property by the State Purchasing Agent should be credited. Neither do we find any cases indicating into which fund money realized through the sale of property owned by a State Teachers College or other educational institution should be deposited.

Section 9363, R. S. Mo. 1939, reads, in part, as follows:

"There are hereby established and created in the treasury department of this state the following named funds: * * * 'State Teachers College, fourth district,' (Southwest Missouri State Teachers College) 'State Teachers College, fifth district,' and 'Lincoln University.' Whenever any moneys are paid into the state treasury under the provisions of this article, they shall be receipted for by the state treasurer and placed to the credit of the fund to which they respectively belong, so that money derived from each institution may be placed to the credit of the fund herein provided for that institution. R. S. 1929, Sec. 8666."
(Bracket insert ours.)

The above section sets up a separate fund in the State Treasury for the Southwest Missouri State Teachers College. The last part of the section requires that money "derived" from the institution shall be credited to the fund set up for that institution. Therefore, if the word "derived" is broad enough to include the proceeds from a sale of a car used by the Southwest Missouri State Teachers College, the proceeds from this sale should be placed in the Southwest Missouri State Teachers College fund. If the word is not this broad in its meaning, Section 9363, supra, provides no authorization for depositing this money to the credit of the Southwest Missouri State Teachers College fund.

Webster's International Dictionary defines the word derived as follows: "formed or developed out of something else; derivative; not primary;" The word derive is defined as follows: "3. To cause to come; turn (to or into) bring down (upon);" "4. To receive, as from a source or origin; to obtain by descent or by transmission; to draw;" "5. To trace the origin, descent, or derivation of; to recognize transmission of; to assert or show to proceed (from);"

It will be noted that, under the above definition, money derived from an institution would have to proceed from the institution or arise out of the functions of said institution. In other words, the institution must be the primary source out of which these funds arise or are developed from. It is our opinion that the proceeds of a sale of an automobile which was purchased out of moneys which were formerly a part of the Southwest Missouri State Teachers College fund would be derived from the institution within the meaning of the term as used in Section 9363, supra. We believe this to be true for the following reasons. The moneys which go into the Southwest Missouri State Teachers College fund are moneys which are collected by the officers of the institution in performance of their various functions in operations carried on by the institution. Such moneys come from various fees or charges which the institution is authorized to levy. Arising, as they do, directly out of the functions of the institution, they are "derived" from the institution and, therefore, must be placed to the credit of the institution's fund in the State Treasury. The automobile here in question was purchased out of the Southwest Missouri State Teachers College fund, i.e., a fund which was derived from the institution. It follows that the automobile was derived from the institution and, therefore, that the proceeds from the sale of such automobile are also derived from the institution.

It is, therefore, our opinion that Section 9363, R. S. Mo. 1939, governs the instant question and authorizes the crediting of the proceeds of the sale of the automobile herein involved to the Southwest Missouri State Teachers College.

CONCLUSION

It is, therefore, the opinion of this department that you are within your rights in requesting that the proceeds from the sale of a car used by the Southwest Missouri State Teachers College and purchased out of the Southwest Missouri State Teachers College fund be placed in the State Treasury to the credit of the Southwest Missouri State Teachers College fund.

Respectfully submitted,

SMITH N. CROWE, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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