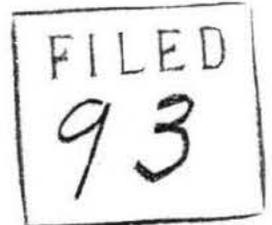


LINCOLN UNIVERSITY: The State Treasurer should not transfer the  
STATE TREASURER: balance in the Lincoln University Fund to  
the General Revenue Fund.

Opinion No. 93

March 11, 1964



Honorable Milton Carpenter  
Treasurer of the State of Missouri  
State Capitol  
Jefferson City, Missouri

Dear Mr. Carpenter:

This is in answer to a request for an opinion of this office  
of February 10, 1964, which reads as follows:

"Should the State Treasurer transfer the balance  
in the Lincoln University Fund to the General  
Revenue Fund in accordance with Missouri Statute  
33.080."

Section 33.080, RSMo 1959:

"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 of not more than thirty  
days 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

Honorable Milton Carpenter

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 all such money received by the curators of the University of Missouri except those funds required by law or by instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom, and in the case of other 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 the above excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly." (Emphasis added)

Section 175.040, RSMo 1959:

"It is hereby provided that the board of curators of the Lincoln University shall organize after the manner of the board of curators of the state University of Missouri; and it is further provided, that the powers, authority, responsibilities, privileges, immunities, liabilities and compensation of the board of curators of the Lincoln University shall be the same as those prescribed by statute for the board of curators of the state University of Missouri, except as stated in this chapter."

From the above, it would appear to be plain that it was the intent of the framers of Section 175.040 that the board of curators of Lincoln University should be in precisely the same situation as the board of curators of the University of Missouri. It seems clear that the intention of the General Assembly was that all statutory provisions with respect to the curators of the

University of Missouri would automatically apply to the curators of Lincoln University unless otherwise provided in Chapter 175, RSMo.

The words of Section 175.040 "except as stated in this chapter." are an interpretative aid; and, in this respect, we direct attention to 50 Am. Jr. §220, which reads:

"\* \* \* where a rule of construction is contained in the statute itself, that rule should be applied if it is necessary to use any rules of construction in determining the meaning of the law."

We find no provision in Chapter 175 RSMo making the exception in Section 33.080 inapplicable to Lincoln University. Therefore, such exception in Section 33.080 applicable to the University of Missouri applies also to Lincoln University.

#### CONCLUSION

Therefore, it is our opinion that the State Treasurer should not transfer the balance in the Lincoln University Fund to the General Revenue Fund.

The foregoing opinion which I hereby approve, was prepared by my assistant, Thomas E. Eichhorst.

Yours very truly,

  
THOMAS F. EAGLETON  
Attorney General