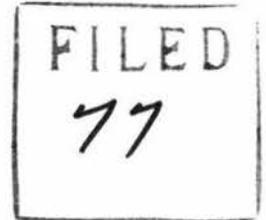


LIBRARY ADVISORY BOARD:  
STATE LIBRARY:

Money received in trust for films  
not state money.

February 9, 1949



Mrs. George A. Rozier  
President  
State Library Advisory Board  
Jefferson City, Missouri

Dear Mrs. Rozier:

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

"On May 20, 1948, the Board of Trustees of the Carnegie Corporation of New York adopted the following resolution:

"RESOLVED, That, from the balance available for appropriation, the sum of fifteen thousand dollars (15,000), payable \$7,500 in 1947-1948; \$5,000 in 1948-49; \$2,500 in 1949-50, be, and it hereby is, appropriated to the Missouri State Library, for support of a demonstration of film distribution and use.'

"Is the money received under the above appropriation 'state money' so that it must be deposited in the state treasury and be appropriated out by law?"

Section 36, Article III, Constitution of Missouri, 1945, provides, in part, as follows:

"All revenue collected and money received by the state shall go into the treasury and the general assembly shall have no power to divert the same or to permit the withdrawal of money from the treasury, except in pursuance of appropriations made by law. \* \* \*."

Under the above constitutional provision all money received by the state must go into the state treasury and cannot be withdrawn except by an appropriation. However, the question in your request is, whether the money received from the Carnegie Corporation is money "received by the state" within the meaning of the terms of Section 36, Article III, supra.

Section 14732, Laws of Missouri, 1945, page 1132, provides that the state library "may receive gifts of money, books or other property which may be used or held in trust for the purpose or purposes given."

In order to determine the purpose for which the money was appropriated by the Carnegie Corporation we must look to the proposal submitted by the state librarian to the Carnegie Corporation, which proposal sets forth the conditions under which the grant would be spent, and which proposal was accepted by the Carnegie Corporation when the appropriation was made. The files of the state librarian discloses that Kathryn P. Mier, the then State Librarian, on April 21, 1948, submitted a proposal to the Carnegie Corporation of New York, which proposal, in part, provides as follows:

"The Carnegie Corporation would supply \$7500 for the purchase of approximately one hundred and fifty films for the State Library. \* \* \*

\* \* \* \* \*

"\* \* \* The one hundred and fifty films purchased by the Corporation would go to start a reservoir film collection in the State Library which could be loaned individually at any time by any library in the state.

"The second year the Corporation would buy one hundred new films, the members put up another \$250 and receive fifteen new films each two months. The third year the Corporation would buy only fifty films, which, with those purchased with member contributions, would permit the films to be circulating on the circuit. \* \* \* ."

(Underscoring ours.)

The underscored portions of the proposal disclose that the Carnegie Corporation purchases the films. It would appear from the conditions of the grant that the money was given to the State Library as trustees for the Carnegie Corporation with the power and authority to purchase films for the Corporation and after the films were purchased to turn them over to the state as its property. This intent has been verified in a conference with a representative of the Carnegie Corporation. Under the conditions of the grant, no money was ever received by the state, and, therefore, it was not state money within the meaning of the constitutional provision.

#### CONCLUSION

It is, therefore, the opinion of this department that money appropriated by the Carnegie Corporation to the Missouri State Library for the support of a demonstration of film distribution and use, is not "money received by the state" within the meaning of Section 36, Article III of the Constitution of Missouri, 1945, so as to require such money to be deposited in the state treasury and be appropriated out by law, but rather, such money was appropriated to the State Library as trustees for the Carnegie Corporation for the purpose of purchasing films for the Corporation, which films when purchased were to become the property of the State of Missouri.

Respectfully submitted,

ARTHUR M. O'KEEFE  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General