

State Lands—Improvements—Institutions—Funds—Forfeitures.

Improvements not removed from state lands which become forfeited to the state should belong to the institution for whose benefit the grant was made and proceeds from the sale of the same should be credited to the income fund of that institution.

I. M. Brandjord, Esq.,
Register of State Lands,
Helena, Montana.

July 14, 1925.

My dear Mr. Brandjord:

You have submitted for my opinion the question whether forfeitures made by reason of the failure of former tenants to remove improvements placed on land belong to the state or to the particular land grant fund.

Chapter 134, laws of 1925, amending section 1898, R. C. M. 1921, provides:

"All lessees having improvements on state lands, and who do not wish to release the same, may dispose of or remove such improvements as are capable of removal without damage to the land, at any time within ninety days from the expiration of such lease, after which period all such improvements that have not been removed shall become the property of the state."

This provision designates the state as the owner of such improvements as have not been removed from the land during the ninety days following the expiration of the lease. All lands held under the various land grants for particular state purposes are referred to as state lands, but the state merely holds the title to such lands in trust for the particular institutions or purposes intended to be benefitted by the grant.

It is, therefore, my opinion that the legislature intended, by designating the state as the owner of such improvements, that it should own them in trust for the particular institution for which the lands were granted, and that the state merely holds the title to such improvements in trust for the various institutions owning the land upon which the improvements are situated, and that when disposed of the proceeds should be credited to the income fund for the institution to which the particular land belonged.

Very truly yours,

L. A. FOOT,
Attorney General.