

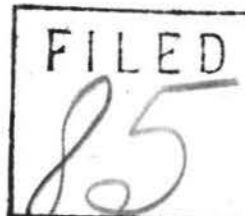
BOARD OF PERMANENT SEAT OF GOVERNMENT:

May hang in the Capitol plaster cast models of Victor Holm's Missouri Monument in the Vicksburg National Park, one panel showing the Union Army in battle and one showing the Confederate Army in battle, if said panels harmonize with the uses, style and construction of the State Capitol.

May 25, 1937

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Honorable Lloyd C. Stark
Governor of the State of Missouri
Jefferson City, Missouri



Dear Governor Stark:

In reply to your letter of April 28, wherein you enclose a letter from Dr. A. C. Burrill, Curator, Missouri Resources Museum, I assume the opinion requested is relative to what officer or board is vested with the authority to determine if certain Plaster Paris Cast models of Victor Holm's Missouri Monument in the Vicksburg National Park, one panel of the Union Army in battle and the other of the Confederate Army in battle, should be placed in the Capitol Building at Jefferson City, Missouri, and if this be decided in the affirmative, where shall they be placed.

The 49th General Assembly created what is known as the Capitol Decoration Committee found in the laws of 1917, pp. 424 and 425 and 426, whose duty was to provide plans for suitable decoration of the new Capitol Building by means of painting and sculpture, historical, scenic, or allegorical, illustrative of the history and resources of the state, and the genius of its people. This Committee continued to function until 1928, when it made its final report.

Section 9135, Revised Statutes Missouri 1929, gives full authority and supervision of all property of the State of Missouri at the seat of government in Jefferson City, Missouri, to the Board of Permanent Seat of Government. This same section further provides that the Board of Permanent Seat of Government shall appoint a Commissioner of the Permanent Seat of Government, who shall in all things he is given control of, hold such power subject to the direction of the Board of Permanent Seat of Government.

"There is hereby created a board to be known as the Board of Permanent Seat of Government, to consist of the governor, secretary of state, state auditor, state treasurer and attorney-general, which shall have general supervision and charge of the public property of the state at the seat of government. This board shall have power to appoint a commissioner of the permanent seat of government, who shall hold his office, at the pleasure of the board, and shall receive twenty-five hundred dollars per annum which shall be in full for all services rendered the state. Said commissioner shall in all things where he is in this chapter given charge or control, hold such power subject to the direction of the board of permanent seat of government."

Section 14316, Laws of 1933, p. 410, places the Missouri Resources Museum, the Missouri Soldiers' and Sailors' Memorial Hall and the Conservational and Historical Museum under the management and control of the Board of Permanent Seat of Government. Said section reads:

"The 'Missouri Resources Museum,' the 'Missouri Soldiers' and Sailors' Memorial hall' and the conservational and historical museum created and designated by this article shall be under the management and control of the board of Permanent seat of government, as now or hereafter constituted by law. Where the word 'commission' is used in this article it shall be construed to mean the board of permanent seat of government."

In State v. Ehr, 204 N. W. 867, l. c. 870, the court, in defining the word "control," said:

"In general to have 'control' of a place is to have the authority to manage, direct, superintend, restrict or regulate."

Section 14318, Revised Statutes Missouri 1929, provides that products of the state shall be included in the exhibits, and even go so far as to place the duty upon the Commissioner of designing and installing necessary cases, racks, tables and other equipment desirable to the purposes of said exhibit.

"It shall be the duty of the commission to collect and display an exhibit of such products of the mines, mills, fields and forests of the state of Missouri and such other articles and products which it may deem appropriate, as will display the natural resources of the state of Missouri and their utilization. The commission shall also be charged with the duty of designing and installing necessary cases, racks, tables and other equipment desirable to the purpose of said exhibit."

Section 14317, Revised Statutes Missouri 1929, designates where exhibits shall be assembled, and also the place same shall be located in the Capitol Building.

"The west central corridor or wing on the first floor of the state capitol building is hereby designated and known as the 'Missouri resources museum.' The east central corridor or wing on the first floor of the state

capitol building is hereby designated and known as the 'Missouri soldiers' and sailors' memorial hall.' The second floor galleries of these two corridors shall be developed in accordance with the desire of the original capitol commission respectively as conservational and historical museums, and such other unoccupied wall and corridor space as may be necessary for said museums, which may be in harmony with the uses, style, and construction of the State Capitol building. These museums, galleries, and wall space are hereby designated for short as the 'Missouri state museum.' In this connection, it shall be the duty of the adjutant general to collect and compile all war matter and records of Missouri soldiers, sailors and marines serving in the war against Germany and in all other wars, including such inscriptions and tablets as may be necessary, and it shall be the duty of the commission to observe the policies of the original appropriation act in Laws of 1919, p. 80, of the 50th General Assembly."

We especially call your attention to the part underlined in the above section which leads us to believe the Legislature concluded that more appropriate space would be required, and therefore this provision was included.

Said section also requires the Commission, now the Board of Permanent Seat of Government, to observe the policies of the original Appropriation Act in Laws of 1919, p. 80, of the 50th General Assembly, and further provides that the Adjutant General is required to collect and compile certain records and matters

pertaining to wars where Missouri soldiers, sailors and marines served and participated in any war. It will be noted that this provision previous to being amended required the Adjutant General to do more than collect and compile this material.

Section 4 of the Appropriation Act by the 50th General Assembly referred to, required the Adjutant General to equip and arrange such Memorial Hall in the manner necessary and appropriate to carry out the purpose of this Section.

"The east wing or corridor on the first floor of the state capitol building designated and known as the historical museum, including the gallery thereof on the second floor, shall be hereafter designated as the Missouri soldiers' and sailors' memorial hall, and the same shall be set apart and dedicated to the purpose of preserving and displaying the flags, banners and standards carried by Missouri troops in all wars in which the citizen-soldiers of this state have participated, and all war relics, trophies, pictures and records of Missouri soldiers, sailors and marines serving in the war against Germany and in all other wars. The adjutant general shall have charge of such memorial hall and it shall be his duty to collect and compile such records, to arrange for the preserving, repair, casing and display of such flags, pictures, trophies and relics, including such inscriptions and tablets as may be necessary, and generally to equip and arrange such memorial hall in the manner necessary and appropriate to carry out the purposes of this section."

Webster's International Dictionary defines "war" as follows:

"The state or fact of exerting violence or force against another, now only against a state or other politically organized body; esp., a contest by force between two or more nations or states; carried on for any purpose; armed conflict of sovereign powers; declared and open hostilities. * * When between a state and a part of it in rebellion it is a civil war."

Under the above definition a conflict between the states would be classed as a war.

There are many provisions in the present law giving the Board of Permanent Seat of Government and the Commissioners appointed by the Board, full and complete power to superintend and control the property of the state located in Jefferson City, Missouri.

Section 9139 provides the Commissioner shall have charge and control of the Capitol.

Section 9139 further provides the Commissioner shall superintend all repairs.

On the walls in the Soldiers' and Sailors' Museum may now be found lunettes portraying the Battle of Wilson Creek and the Battle of Westport, which show the conflict between the states, and tend to lead us to believe that it was part of the plan of the old Decoration Committee to include such conflicts between the states along with other matter pertaining to wars in which our soldiers, sailors and marines participated.

Therefore, it is the opinion of this department that the Board of Permanent Seat of Government has full

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control and supervision of all state property located at the State Capitol; also, that it is the duty of the Adjutant General of this state to collect and compile all war matter and records of Missouri soldiers, sailors and marines serving in any war; furthermore, the duty that was formerly that of the Adjutant General to equip and arrange the museum hall was transferred to the Missouri Resources Museum Commission, and, when the Legislature abolished this Commission, the duty of equipping and arranging memorial hall was placed in the Board of Permanent Seat of Government.

In conclusion, it is our opinion that the Board of Permanent Seat of Government may hang these models within the State Capitol, provided they can harmonize them with the uses, style and construction of the building, as required in Section 14317, supra, and the Board should always keep in mind and observe the policies of the original appropriation act, Laws of 1919, page 80, of the 50th General Assembly.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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