

BOARDS: Board of Trustees of
Confederate Home cannot
compromise litigation.

April 12th, 1939.

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Hon. Roy D. Williams,
Vice-President,
Board of Trustees For Confederate Home,
Boonville, Missouri.

Dear Judge:

We have your letter of recent date which
reads as follows:

"As a member of the Board of
Trustees of the Confederate
Home, I desire to submit to you
the following question:

Has the Board a right to compro-
mise law suits in which the Con-
federate Home is interested?

The reason for this letter is that
a Mr. Bowler left property to the
Confederate Home. There is a
contest of the will; many debts,
and the attorneys for the respec-
tive interests are urging a com-
promise and have agreed, subject to
the approval of the Board of Trus-
tees of the Confederate Home.

By reason of the fact that we are
unable to determine our legal
capacity to act in the matter,
the settlement is being held up.

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Could you write me, as Vice President of the Board, an opinion upon the subject."

Since the Board of Trustees of the Confederate Home is an agency set up by the statutes, we must look to the statutes for the power and authority of such Board.

Section 13928, Revised Statutes, 1929, as amended, Laws of 1933, page 398, provides in part as follows:

"The control and management of the confederate soldiers' home, located at Higginville, shall be vested in the board of trustees, composed of five members, * * * * *."

What is meant by control and management? The two words are synonymous. Webster's Dictionary defines management as follows:

"Act or art of managing; the manner of treating, directing, carrying on or using, for a purpose; conduct; administration; guidance; control."

In the case of State vs. Howard, 119 Mo. l. c. 46, we find the following definition of management:

"Thus, 'management' means administration, control, etc., and one of the synonyms of management is government. The last word means control, and that means power or authority to check or restrain."

We must assume that the Legislature used the word management in its ordinary sense in Section 13928, supra, and that being true, it follows that said section was designed to place the administration of the Confederate Home in the Board of Trustees therein provided for. In other words, the Trustees were vested with the handling and control of the building and facilities furnished by the state for that institution, as well as with control over the inmates thereof. This intention is further evidenced by Section 13929, Revised Statutes, 1929, as amended, Laws of 1935, page 363, wherein it is provided as follows:

"said board of trustees shall have power and authority to make all necessary rules and regulations for the control and maintenance of said home and for the admission and discharge of the inmates thereof, and shall also provide for a superintendent who shall be a descendant of a soldier or a sailor who shall have served in the army or navy of the Confederate States of America, and for other necessary employees."

We therefore conclude that the general power vested in the Trustees as above set out, are not broad enough to authorize them to compromise litigation in which the institution is interested.

Section 13933, Revised Statutes, 1929, specifically authorizes the Trustees to accept gifts, donations and bequests from any private source, not to exceed in the aggregate \$75,000.00, the same to be set apart and maintained as a permanent endowment fund for the maintenance of certain lands in connec-

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tion with the institution.

We do not believe the power to accept bequests is broad enough to authorize the Trustees to compromise litigation in which a bequest is involved. The institution belongs to the State of Missouri. The trustees are merely commissioned by law as the agents of the state to manage it. To have authority to compromise a bequest to the institution and accept less than the amount bequeathed, would be to have authority to release a claim or chose in action in favor of the state. The Legislature has not given the Trustees such power.

CONCLUSION

It is therefore the opinion of this office that the Board of Trustees of the Confederate Home, located at Higginsville, Missouri, does not have authority to compromise litigation whereby they would agree to accept less of a bequest than the amount mentioned in a will which was involved in the litigation.

Yours very truly,

HARRY H. KAY,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

HHK:RV