

CRIPPLED CHILDREN SERVICE: (1) Salaries of the employees under the Crippled Children Service shall be paid from the appropriations for such service and not from the appropriations for the Confederate Home; (2) Transportation may be furnished for crippled children and their nurses under the Crippled Children Service appropriation but not by the Confederate Soldiers' appropriation.

September 23, 1942.

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Mr. John C. Croswhite
Superintendent
Confederate Home of Missouri
Higginsville, Missouri

Dear Mr. Croswhite:

The Attorney-General wishes to acknowledge your letter of September 18th in which you request an opinion of this Department. Your letter, omitting caption and signature, is as follows:

"Please render an opinion on the following matter:

"Items B and C of Section 34, of House Bill 581 provide for the prorating of funds appropriated to the Confederate Home, with the Crippled Childrens service as instituted here. This specifies the use 'Repairs and Replacements' and 'Operations'.

"Item A provides for salaries of the Confederate Home but makes no reference to the personnel necessary to the maintenance of the Crippled Childrens Hospital.

"Can we then, legally pay these salaries at the Crippled Childrens Hospital?

"I make this request for an opinion at the insistence of the auditors and the Governors secretary, Mr. Arens, who assume that the salaries should be met by House Bill 583, section 3, which appropriates

the sum of \$125,000.00 for the Crippled Childrens work, which includes salaries and transportation to and from the hospitals and the convalescent homes.

"Are we legally entitled to maintain and operate a vehicle for transporting the children and their nurses to and from the hospital in Kansas City, and to and from the city of Higginsville for shopping purposes?"

"I shall appreciate your early consideration of these questions and thank you in advance."

It appears that there are two questions which you wish answered, the first of which is - Can the Confederate Home of Missouri legally pay the salaries of the employees at the Crippled Children's Hospital? And the second is - Whether the Confederate Home of Missouri is legally entitled to maintain and operate a vehicle for transporting children and their nurses to and from the hospital in Kansas City, and to and from the city of Higginsville for shopping purposes?

In answer to your first question I wish to call your attention to the fact that in your letter you speak of Items B and C of Section 34 of House Bill 581, Laws of Missouri, 1941. Such section does not have an Item B and I assume that you have reference to Items C and D of such section. Proceeding under that assumption, I will first cite you to Section 34 of House Bill 581, found at page 195 of Laws of Missouri for 1941 (for reasons apparent we will omit Item A of such section):

"Confederate Soldiers' Home.--There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, the sum of Ninety-two Thousand Five Hundred Dollars (\$92,500.00) to pay the salaries, wages and per diem of the officers and employees and other expenses of the Confederate Soldiers' Home of Missouri, for the years 1941 and 1942, as follows:

* * * * *

"C. Repairs and Replacements:

"Labor, material and supplies for the repair of buildings, building equipment, light plant, water supply and plumbing. Operating equipment consisting of laundry, cleaning and sanitation equipment, plant machinery and equipment, production and construction equipment, other and miscellaneous equipment. As buildings are turned over to the Board of Curators of the Missouri University for Crippled Children's program, then the amount set forth in this item shall be prorated between the two boards 7,500.00

"D. Operation:

"General expenses: consisting of communication, printing and binding, transportation of things, travel, other general expenses. Material and supplies: consisting of clothing and dry goods, farm and garden supplies, grounds and roadway material and supplies, household supplies, laundry, cleaning and sanitation supplies, light, heat, power and water supplies, medical, surgical and hospital supplies, small tools, miscellaneous supplies and repairs, stationery and other supplies, insurance and premiums on bonds, and other necessary expense. As buildings are turned over to the Board of Curators of the Missouri University for the Crippled Children's program, then the amount set forth in this item shall be prorated between the two boards \$40,000.00

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Also in connection with this matter I wish to further cite you to Section 3 of House Bill 583, found on page 274 of the Laws of Missouri for 1941, which section reads as follows:

"Expense of work for crippled children.--
There is hereby appropriated out of the

State Treasury chargeable to the General Revenue Fund the sum of One Hundred Twenty-five Thousand Dollars (\$125,000.00) for the work of the Crippled Children Service; to be administered by the Missouri State University, including the transportation of children to and from the hospitals and convalescent homes and transportation for nurses, attendants and doctors in the operation of the service, and the maintenance of the children in the hospitals and convalescent homes, including medicines, appliances, treatments, nursing, drugs, dressings, X-rays, printing costs, salaries and wages, instruction and training and the purchase and repair of equipment, and other necessary expenditures for the Crippled Children Service in this State and the University of Missouri is hereby designated as the State agency to cooperate with, to receive and expend allotments from the appropriate department or bureau of the Federal Government that may be authorized to allot Federal funds for the care of crippled children."

As can be seen from the above two appropriation measures there is an appropriation made for the Confederate Soldiers' Home and also an appropriation for the expenses of work for crippled children.

I further wish to cite you at this time to Section 15130, R. S. Mo. 1939, which is contained in Chapter 124 pertaining to "Soldiers' Homes." This section reads as follows:

"The board of trustees shall elect a president, treasurer and secretary from their number and fix the amount of bond which the treasurer shall be required to give, which bond shall be approved by the governor and deposited with the secretary of state. No member of the board of trustees shall either directly or indirectly furnish any supplies towards the maintenance of said home, or its buildings or grounds, nor be directly nor indirectly interested in any corporation furnishing such supplies under

penalty of dishonorable dismissal from his trust by either the board or the governor of this state. Said board shall, on or before the third Wednesday of January, 1935, and on the same day every two years thereafter, furnish a detailed report of its work to the general assembly, accompanied by a statement under oath of the treasurer of the board of the financial transactions of the two preceding years, giving a detailed statement of all moneys and property received on account of such home and an itemized account of its disbursements. 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. The board of managers of said home shall set aside to be used by the board of curators of the university of Missouri for the hospitalization and care of crippled children such portion of said home as shall in the judgment of said board of managers be not necessary for the maintenance and care of ex-confederate soldiers and sailors and wives, widows and orphans, and the portion so set aside shall be under the exclusive jurisdiction and control of said board of curators of the university of Missouri. The members of the board of trustees shall receive compensation at the rate of \$5.00 per day for not more than one day per month for meeting actually attended, and also their actual traveling expenses, to be paid out of the appropriation for said institution."

The above provision provides that the board of managers of the Confederate Home located at Higginville, shall set aside

to be used by the Board of Curators of the University of Missouri for the hospitalization and care of crippled children such portion of said home as shall in the judgment of said board of managers be not necessary for the maintenance and care of ex-confederate soldiers and sailors and wives, widows and orphans, and the portion so set aside shall be under the exclusive jurisdiction and control of said Board of Curators of the University of Missouri. Of course, the purpose of this provision is to provide a home for the crippled children, and in view of the fact that eventually the residents of the Confederate Home will be gone, such home will provide a suitable place for such crippled children. It further appears that if the demands of the confederate soldiers and their wives, widows and orphans become fewer that such portion of the Confederate Home that is not used shall be turned over to the Board of Curators of the Missouri University for the use of the crippled children aforesaid.

Therefore, under Items C and D of Section 34 of House Bill 581, cited above, the expenses and upkeep of such buildings, as they are placed at the disposal of the crippled children, shall be shared by the Confederate Home and the University of Missouri acting on the part of the crippled children. In reading this appropriation act it can be seen that no where in the two items mentioned is there any provision made for the payment of salaries of employees, if any, of the crippled childrens administration. However, by reading Section 3 of House Bill 583, cited above, we find that the appropriation set out in that provision shall be used for "the transportation of children to and from the hospitals and convalescent homes and transportation for nurses, attendants and doctors in the operation of the service, and the maintenance of the children in the hospitals and convalescent homes, including medicines, appliances, treatments, nursing, drugs, dressings, X-rays, printing costs, salaries and wages, * * *."

In view of the fact that appropriation measures must be under the law strictly construed, it is our opinion that the salaries at the crippled childrens hospital shall be paid from the appropriation set up in Section 3 of House Bill 583 and not from the appropriation of the Confederate Soldiers' Home as set out in Section 34 of House Bill 581.

Your second question is as to whether you are legally entitled to maintain and operate a vehicle for transporting children and their nurses to and from the hospital in Kansas City, and to and from the city of Higginville for shopping purposes.

In answer to your question I will again call your attention to Section 15130, supra, in which it states that the portion set aside at the Confederate Home for the use of the crippled children shall be under the exclusive jurisdiction and control of the Board of Curators of the University of Missouri. The Board of Curators of the Missouri University have control of the appropriation in the amount of \$125,000.00 for the work of the Crippled Children Service and this appropriation specifically states that this is to be administered by the Missouri State University for "the transportation of children to and from the hospitals and convalescent homes and transportation for nurses, attendants and doctors in the operation of the service, * * *"

We believe that under the provisions of Section 15130 and also under the provisions of Section 3 of House Bill 583, that the Missouri State University, acting through the Board of Curators, can, if such board deems it expedient, maintain and operate a vehicle for transporting the children and their nurses to and from the hospital in Kansas City, and to and from the city of Higginville for shopping purposes, provided such shopping purposes are confined to the general business of such Crippled Children Service. However, we do not believe that under Section 34 of House Bill 581, cited above, that the Confederate Home at Higginville, can, under its appropriation, furnish transportation for the purposes as set out above. There is a definite appropriation made, as stated above, for the transportation of the patients to the University of Missouri and it is our opinion that such transportation shall be paid out of that appropriation and not the appropriation made to the Confederate Home.

Conclusion

Therefore, it is the opinion of this Department that the salaries of the employees of the Crippled Children Service

shall be paid from the appropriation under Section 3 of House Bill 583, found at page 274 of the Laws of Missouri, 1941, and should not be paid from the appropriation made for the benefit of the Confederate Home. It is further our conclusion that the Missouri State University, acting through the Board of Curators, may furnish a vehicle for the transportation of children and their nurses from the hospital in Kansas City to the Confederate Home in Higginsville if they deem it expedient to do so. However, we do not think that the Confederate Home can furnish such transportation from the appropriation made under Items C and D, Section 34 of House Bill 581, cited at page 194, Laws of Missouri, 1941.

Yours very truly

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

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