

CONFEDERATE HOME: Five questions relative to the transfer of the management of the Confederate Home from the Board of Trustees of such home to the Board of Managers of the State Eleemosynary Institutions.

January 11, 1944



Honorable Ira A. Jones, President
Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Mr. Jones:

This department acknowledges receipt of your several letters, dated November 15 and 16, 1943, in which you ask the opinion of this office. Said letters read as follows:

(1)

"Under Senate Bill 178, transferring the Confederate Home to the Board of Managers of the Eleemosynary Institutions, we understand there is an endowment fund of some \$24,110 that is invested in Government bonds, and the bonds are kept in a Bank in Marshall by the treasurer of the old Board.

"Are these funds to be turned over to the Board of Managers of the Eleemosynary Institutions?"

(2)

"Under Senate Bill 178, transferring the Confederate Home to the Board of Managers of the Eleemosynary Institutions there has been kept what is called a Farm Fund Account, by the old Board.

"We wish to ask if the old Board is to turn over to the Board of Managers of the Eleemosynary Institutions this Farm Account Fund. We understand there is some \$1,800 in this fund."

(3)

"Under Senate Bill 178, the question came up at the meeting of the two Boards as to whether funds left in the treasury with the State Treasurer from the appropriation that was made to the Board of Trustees of the Confederate Home were to be transferred to the Board of Managers of the Eleemosynary Institutions.

"We understand that there is between \$7,000 and \$8,000 that has not been expended under the old appropriation. We will await an opinion from you on this matter."

(4)

"Under Senate Bill 178 we contemplate moving approximately 50 women from some of the other mental institutions to Higginville. There is no provision in the bill that we can charge the Counties \$6.00 per month at Higginville.

"Is it possible for us to assume, under the statutes, that we can charge the \$6.00 per month, and put it into an earnings fund for Higginville, or could we charge the \$6.00 a month from the hospital from which the patients come, through their books. After getting this \$6.00 a month either way, is it possible for us to spend this earnings fund at Higginville?"

(5)

"In 1933 you gave an opinion that the farm account at Higginville need not be deposited in the State Treasurer's Office, but that it could be used in the Confederate Home. The Board of Managers of the Eleemosynary Institutions is taking this over under Senate Bill 178.

"Is it possible for us to continue this farm account as has been done in the past under

your opinion, or must we deposit this money with the State Treasurer? If it is deposited with the State Treasurer, is it possible for us to use it, there being no appropriation for earnings under House Bill 664?"

I.

Under your letter No. 1 set out above we wish to call your attention to Section 15132 of Senate Bill 178, to be found in Laws of Missouri, 1943, at page 955, which provides in part as follows:

"The Board of Managers of the State Eleemosynary Institutions shall be custodians of any endowment or other funds pertaining to the Confederate Home and shall have authority to accept gifts, donations or bequests for use of the Home or for any inmate thereof. * * *"

The purpose of Senate Bill 178 seems to be the abolishing of the Board of Trustees of the Confederate Home and the substitution in its place of the Board of Managers of the State Eleemosynary Institutions. Under the provisions of this act the latter board assumes control of the Confederate Home at Higginsville and all of the property attached thereto and owned by them. As a result, it is our opinion that any endowment funds which were held by the Board of Trustees of the Confederate Home for the benefit of such home should now be turned over to the Board of Managers of the State Eleemosynary Institutions, which board has assumed control of the Confederate Home. We feel that the portion of the act cited above bears out our view that such funds should be under the control of the Board of Managers of the State Eleemosynary Institutions.

We further might cite you to Section 15130, which is found on page 954 of the Laws of Missouri, 1943, which in part provides the following:

"The custody of any property at or belonging to the said Home is hereby transferred

to the Board of Managers of the State
Eleemosynary Institutions. * * * * *

We again find that the apparent intention of the Legislature is that all property of any kind whatsoever shall be transferred to the Board of Managers of the State Eleemosynary Institutions. As a result of such provisions it is our opinion that the endowment fund of some \$24,110 should be turned over to the Board of Managers of the State Eleemosynary Institutions. We could not hold otherwise since there is no longer any Board of Trustees of the Confederate Home to hold such money and it must be under the control of some person or board, and Senate Bill 178 clearly provides that such control shall be exercised by the Board of Managers of the State Eleemosynary Institutions.

II.

The second letter, which is set out above, requests an opinion of this department as to whether a Farm Fund Account kept by the old board of the Confederate Home should be transferred to the Board of Managers of the State Eleemosynary Institutions.

Under an opinion of this department written in 1933 it was held that there could be set up a Farm Fund Account and that any moneys received by the Board of Trustees of the Confederate Home from the sale of products from the farm connected with such institution might be kept in a separate Farm Fund Account and were not required to be turned into the State Treasury. Apparently this Farm Fund Account of which you speak is the account set up under and by virtue of such opinion. In this opinion written by Mr. Lamb, formerly of this department, he bases his finding that the moneys thus received might not be turned into the State Treasury, on an exception set out in Section 13932 of the Revised Statutes of Missouri for 1929. This section was later changed to Section 15133 of the Revised Statutes of Missouri for 1939, and it will be noticed that under Senate Bill 178, in question here, that such Section 15133 has been repealed and there is no new section set up in which the exception relied upon by Mr. Lamb is made. In 1933 the Legislature passed Senate Bill 124, which pertained to the deposit in the State Treasury of all fees, funds and moneys from whatsoever source received from any department, board, etc., in the State of Missouri.

This section later became known as Section 13051, R. S. Mo. 1939, and provides in part as follows:

"All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, shall, by the official authorized to receive same, and at stated intervals, be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the General Assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated.
* * *."

We further wish to call your attention to Section 43 of Article IV of the Constitution of the State of Missouri, which provides as follows:

"All revenue collected any moneys received by the State from any source whatsoever shall go into the treasury, * * * * *"

In view of the above provisions, it is the opinion of this department that any money received from the sale of products produced on the farm of the Confederate Home shall be deposited in the Treasury of the State of Missouri to the credit of the institution and become subject at a later date to appropriation for the operation of such institution. The question as to whether or not the old board of the Confederate Home should turn over any amount in a Farm Fund Account to the Board of Managers of the State Eleemosynary Institutions, we feel should be answered in the affirmative. As stated above in this opinion, there is no longer a Board of Trustees of the Confederate Home and it is clearly the intention of the Legislature that the business of such institutions shall be handled by your Board. We feel that this Farm Fund Account in the amount of some \$1800 should be turned over to the Board of Managers of the State Eleemosynary Institutions who should in turn see that such fund is deposited with the State Treasurer of Missouri, since we feel, as previously stated, that your Board has no authority

to set up a Farm Fund Account and use it in the manner which was formerly done by the old Board of the Confederate Home.

III.

In your third letter set out above the question arises as to whether funds left in the State Treasury for the Trustees of the Confederate Home, are to be transferred to the Board of Managers of the State Eleemosynary Institutions.

As previously stated, it is the apparent intention of the Legislature of the State of Missouri that the Board of Managers of the State Eleemosynary Institutions shall become the custodians of any endowment or any other funds pertaining to the Confederate Home as set out in Section 15132 of the Laws of Missouri, 1943, found at page 955. This money was appropriated by the Legislature for the benefit of such institution and the mere fact that the government of such institution has been transferred from the old Board to your Board should not defeat the appropriation, since the institution must be kept going. Consequently, it is the opinion of this department that such appropriation fund should be transferred to the Board of Managers of the State Eleemosynary Institutions.

IV.

Your fourth letter set out above requests an opinion as to whether or not persons transferred from other mental institutions to Higginsville shall be charged \$6.00 per month as provided for under the statutes pertaining to the upkeep of patients in such institution.

Section 9328, R. S. Mo. 1939, in speaking of the upkeep of the insane poor, makes the following provision:

"The several county courts shall have power to send to a state hospital such of their insane poor as may be entitled to admission thereto. The counties thus sending shall pay semi-annually, in cash, in advance, such sums for the support and maintenance of their insane poor, as the

board of managers may deem necessary, not exceeding six dollars (\$6.00) per month for each patient; * * * * *

For the purposes of this opinion we must assume that the fifty women which you contemplate transferring from other mental institutions to Higginsville will come under the classification of "insane poor." In a conversation which the writer had with you, you stated in explanation of this one question that this transfer was contemplated in view of the overcrowded conditions of the various state mental hospitals. Your Board has authority under Section 15133 of the Laws of Missouri, 1943, found at page 955, to transfer persons from certain institutions to the Confederate Home at Higginsville. This section of the statutes provides the following:

"Said Board of Managers of the State Eleemosynary Institutions shall have full power in its discretion to transfer to said Home any aged, infirm person who now is, or hereafter may be, properly within its jurisdiction as an inmate of any state hospital; * * * * *"

If any aged or infirm person is transferred from any other hospital in this State, who would also be classified under the term "insane poor," as provided under Section 9328 aforesaid, we feel then that the county from which such person has been sent should be liable in the amount set up by statute. We feel that if a person is sent to a state hospital as an indigent person and as such the county of the patient's residence is liable for the upkeep of such person, that it would not make any difference as to which particular hospital such person was sent. In other words, we do not feel that a county can escape its liability set up by statute by the mere fact that the patient sent from such county is transferred to another state institution in an emergency due to the overcrowded conditions of the various institutions. As stated in your conversation with the writer relative to this matter, it might be possible that the records of the inmates would necessarily be required to be kept at the institution in which such person was first assigned. However, that is a matter we feel within the discretion of the Board of Managers of the State Eleemosynary Institutions.

It will be noted that in Section 9328, supra, provision is made that the county courts shall have power to send to "a state hospital" indigent persons and should pay a certain specified

amount for their upkeep per month. Under such provision and reasoning we feel that it is possible for said patients to be transferred from a mental institution to the Higginsville Home and that the counties shall be required to pay the stipulated amount each month for their upkeep.

You also request us to state whether the earnings of \$6.00 per month, as specified in your request, could be spent at Higginsville if that amount is collected at the institution where the patient was originally assigned. We feel that if the amount is collected at the institution where the patient is first assigned, that such earnings must be deposited in the State Treasury for the benefit of such institution and could not be transferred to a fund to be used for the benefit of the Higginsville Home. As a result we feel that the only solution to the problem would be that a plan be worked out whereby the patients could be originally sent to this Home, since, under the provisions of Senate Bill 178, we feel that a county would have the authority to send aged and infirm people to the Confederate Home in the first instance. This would prevent any question arising as to the proper allocation of the funds.

V.

Your final request in the fifth letter set out above, we feel has been answered under our remarks in answer to your second letter which pertains to the Farm Fund Account.

As stated under such section of this opinion, we feel that any moneys received from the sale of products from the farm connected with the Confederate Home shall be turned into the State Treasury of Missouri and at a later date there can be an appropriation made from the earnings of such institution.

Conclusion

Therefore, it is the opinion of this department that (1) the endowment fund mentioned in your first letter shall be turned over to the Board of Managers of the State Eleemosynary Institutions; (2) that the Farm Fund Account shall be turned over to the Board of Managers of the State Eleemosynary Institutions, who shall in turn deposit such funds with the State

Treasurer of Missouri; (3) that the appropriation remaining to the benefit of the Confederate Home shall be transferred to the Board of Managers of the State Eleemosynary Institutions; (4) that patients can be transferred from other state hospitals to the Confederate Home and a charge can be made for the upkeep of such persons in such home; and (5) that all moneys received from the sale of any products produced on the farm at the Confederate Home shall be deposited in the State Treasury.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

JSP:EG