



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JOHN C. DANFORTH
ATTORNEY GENERAL

OPINION LETTER NO. 188

Mr. James L. Wilson
Director of Parks
Missouri State Park Board
Post Office Box 176
Jefferson City, Missouri 65101

Dear Mr. Wilson:

This is in response to your request for my legal opinion on the following question:

"Does the Missouri State Park Board have the legal authority to invest funds of the Confederate Memorial Park Endowment Fund and use the income therefrom for the maintenance of the Confederate Memorial State Park?"

In 1925, the General Assembly established the Confederate Soldiers' Home Endowment Fund to be administered by the board of trustees of such home. The fund was to be composed of gifts, donations, and bequests from private sources and was to be used for maintenance of certain described land in Lafayette County as a permanent memorial park to the valor of Confederate soldiers. The board of trustees was authorized to invest the moneys of the fund, to use the income derived from the investment for maintenance of the park grounds, and to retain the principal intact as a permanent endowment fund. L.Mo. 1925, p. 136.

The General Assembly in 1943 abolished the board of trustees and transferred the control and management of the Confederate Soldiers' Home to the Board of Managers of the State Eleemosynary Institutions. Custody of the endowment fund was likewise placed in the board of managers and it was given similar authority to invest the moneys of the fund and to use the income for maintenance of the park grounds while leaving the principal intact. L.Mo. 1943 p. 953.

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The Division of Welfare succeeded to the role of the Board of Managers of the State Eleemosynary Institutions in 1949. Senate Bill No. 1067, L.Mo. 1949.

In 1951, the Confederate Soldiers' Home was abolished and all its property except the memorial park transferred to the Department of Public Health and Welfare. The control, maintenance, and administration of the Confederate Memorial Park was transferred to the State Park Board and control of the endowment fund was also transferred to the State Park Board. The park board was authorized to accept gifts, donations or bequests for the maintenance of the Confederate Memorial Park, to sell, convey or otherwise convert into money any property so received, to invest such moneys, and to use the income for maintenance of the park while preserving intact the principal. L.Mo. 1951, p. 774.

Finally, in 1957, the General Assembly again identified the grounds of the memorial park the same as they had been described in the Laws of 1925, declared such grounds a permanent memorial park to the valor of Confederate soldiers during the War Between the States, and continued the State Park Board's control, maintenance, and administration of the park and the endowment fund. The maximum amount of the fund was set at \$75,000.00 but otherwise the State Park Board's power over the fund was not changed. L.Mo. 1957, p. 306; Sections 253.110 and 253.120, RSMo.

You have advised us that as of May 16, 1973, the total assets of the Confederate Memorial State Park Permanent Endowment Fund was \$26,260.65, with the major portion thereof invested in United States Treasury Bonds. These bonds are secured by the State Park Board in a safe deposit box in the Central Trust Bank. The State Park Board maintains a small amount of the fund in a checking account with the bank for use as needed at the Confederate Memorial Park. The State Treasurer does not have any custody or control of the fund, and the General Assembly does not periodically appropriate moneys from the fund for the State Park Board's use.

We understand your question to be whether the Missouri State Park Board is the proper custodian of the Confederate Memorial Park Permanent Endowment Fund, whether the park board may manage and invest the assets of such fund, and whether the park board may use the income of such fund without appropriation thereof.

For the same reasons expressed in our Opinion Letter No. 91, May 26, 1971, to Robinson (copy enclosed), we believe the assets of the Confederate Memorial Park Permanent Endowment Fund are within the purview of Article IV, Section 15 of the Constitution and Section 30.240, RSMo, and should be handled accordingly. We

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therefore believe custody of the fund should be transferred to the State Treasurer for management and investment consistent with Article IV, Section 15, and that subsequent use of the income of the fund should be as authorized by proper legislative appropriation to the State Park Board.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. Ltr. No. 91
5-26-71, Robinson