



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

May 12, 1939

Honorable Hazel H. Beckham  
Executive Secretary-Director  
State Commission for the Blind  
Austin, Texas

Dear Miss Beckham:

Opinion No. 0-300

Re: Does the Legislature of Texas have legal authority to authorize the State Board of Control to allow a blind person to operate a cigar, cigarette, magazine, and confectionery stand in the State Capitol.

We acknowledge receipt of your letter dated May 11th, in which you request an opinion of the Attorney General regarding the authority of the Legislature of Texas to authorize the State Board of Control to allow a blind person to operate a cigar, cigarette, magazine, and confectionery stand in the State Capitol building.

The answer to your question will be found in the following quotation from the opinion in the case of Conley v. Daughters of the Republic, 136 S. W. 197, decided by the Supreme Court of Texas:

"The power of the Legislature of this State, with reference to the property in question, is not limited by any provision of the Constitution; therefore, it has in general the same right and powers in respect to property as an individual. It may acquire property, real or personal,

by conveyance, will, or otherwise, and hold or dispose of the same or apply it to any purpose, public or private, as it sees fit. The power of the State in respect to its property right is vested in the Legislature, and the Legislature alone can exercise the power necessary to the enjoyment and protection of those rights, by the enactment of statutes for that purpose..... The state has, in general the same power to contract as a corporation or an individual.' 36 Cyc., p. 869, 871."

In this connection we call your attention to an act of the Legislature passed in 1884 which prohibits the use of any part of the State Capitol building, with certain exceptions, for private purposes. We quote this statute in full:

"Article 658. No room, apartment, or office in the State Capitol building shall be used at any time by any person as a bedroom or for any private purposes whatever. This Article shall not apply to the rooms occupied by the Judges of the Supreme Court and the Courts of Civil and Criminal Appeals on the third and fourth floors of the Capitol."

In view of this statute it is our opinion that the use of any portion of the State Capitol building for the purposes mentioned in your letter is now prohibited by law. The Legislature, however, has the authority and, of course, may at any time it sees fit amend the above statute or pass a new statute permitting the use of a part of the State Capitol building for the purposes mentioned in your letter.

It is, therefore, our opinion that the Legislature of Texas has ample authority to authorize the State Board of Control to allow a blind person to operate a cigar, cigarette, magazine and confectionery stand in the State Capitol.

You are further advised, it is our opinion that the use of a portion of the State Capitol building for the

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poses mentioned in your letter is now prohibited by law; but the Legislature may, by enacting another statute or amending the above quoted statute, authorize the use of a portion of the State Capitol building for such purposes.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Tom D. Rowell Jr.*  
Tom D. Rowell  
Assistant

TDR:FL

APPROVED:

*Gerard B. Mann*  
ATTORNEY GENERAL OF TEXAS

