



# THE ATTORNEY GENERAL OF TEXAS

PRICE DANIEL  
ATTORNEY GENERAL

AUSTIN, TEXAS

December 8, 1949

Hon. Moyne L. Kelly  
Executive Director  
Board for Texas State  
Hospitals and Special Schools  
Austin, Texas

Opinion No. V-956.

Re: The agency vested with  
authority to appoint  
the Superintendent of  
the Confederate Women's  
Home.

Dear Sir:

We quote from your inquiry as follows:

"Recently we have had one of our Superintendents of a State Institution to pass away; namely, Mrs. Susie Peale Butler of the Confederate Women's Home here in Austin.

"There has been some discussion backwards and forward between the Governor's Office, Mr. Claud Gilmer, Chairman of this Board, myself and applicants for this position as to who was to make the appointment to this vacancy. The Governor's Office has accepted the status of House Bill 1, 51st Legislature, which seems to give the power of appointment of this position to this Board.

"Mr. Claud Gilmer and I are not sure of this status so we would like an opinion from your Department at an early date concerning the law governing the appointment of the Superintendent of the Texas Confederate Women's Home at Austin, Texas."

Section 1 of Article 3174b, Vernon's Civil Statutes (H.B.1, 51st Leg.) provides for the creation of the Board for Texas State Hospitals and Special Schools. Section 3 reads in part:

"The term 'Texas State Hospitals and Special Schools' . . . shall mean The Austin State Hospital, Austin State School, Austin State School Farm Colony, The Confederate Home for Women, The Texas Confederate Home for Men, The Texas Blind, Deaf and Orphan

School, The Texas School for the Blind, the Texas School for the Deaf, and the State Dairy and Hog Farm, all located in or adjacent to the City of Austin, Texas . . . (Emphasis added)

Section 2 of Article 3175b provides in part:

" . . . Effective September 1, 1949, the control and management of, and all rights, privileges, powers, and duties incident thereto . . . which are now vested in and exercised by the State Board of Control shall be transferred to, vested in, and exercised by the Board for Texas State Hospitals and Special Schools. Provided, however, that the Board of Control shall continue to handle purchases for such institutions . . ." (Emphasis added)

At the time House Bill 1 was enacted, the Confederate Home for Women was an eleemosynary institution subject to the powers of the State Board of Control under Article 3219 V.C.S. This statute provides in part:

" . . . The Board shall appoint a superintendent for the Confederate Woman's Home, with the approval of the Governor."

By virtue of the underscored provisions of Section 2 of Article 3174b, considered in connection with Article 3219, the authority to appoint the superintendent of the Confederate Home for Women is vested in the Board for Texas State Hospitals and Special Schools, subject to the approval of the Governor.

In its opinion No. V-929, this office held that the State Board of Control is the appointing authority as to the superintendents of the Texas School for the Blind and the Texas School for the Deaf. But that holding was required by the provisions of House Bill 370, 51st Legislature, which was enacted later than House Bill 1. House Bill 370 has no relevancy with respect to the appointment of the superintendent for the Confederate Home for Women.

#### SUMMARY

The Board for Texas State Hospitals and Special Schools is vested with the authority

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to appoint the superintendent of the Confederate Home for Women, subject to the approval of the Governor. Art.3174b, Sec.2 and Art.3219, V.C.S.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

CEO:mw

By

*Chester E. Ollison*

Chester E. Ollison  
Assistant

APPROVED

*Price Daniel*  
ATTORNEY GENERAL