



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

December 18, 1963

Honorable John Connally
Governor of Texas
Austin, Texas

Opinion No. C-196

Re: Authority to transfer
monies in the suspense
fund received by the
State under a will.

Dear Governor Connally:

Your request for an opinion reads as follows:

"As of this date, the Governor's office is holding in the Suspense Fund in the Treasury the sum \$3,000, this amount having been deposited in 1936. To explain the origin of this balance we quote in part from a state auditor's report of January 21st, 1947:

" . . . Deposit made on December 22, 1936, being a check made payable to the State of Texas, the Treasurer of the State of Texas, and Governor James V. Allred, in the sum of \$3,000.00, remitted by the Trust Company of Georgia under a provision of the will of one Helen Gray, which reads as follows:

"I will and bequeath to the State of Texas the sum of Three Thousand (\$3,000.00) Dollars, in trust, nevertheless, subject to the following limitations, uses and trusts, to-wit:

"I will and direct that said State invest said sum until sufficient funds are obtained by said State to establish a school of economics and political science in Eastern Texas, and it is my earnest wish that the purpose of said School be to study with keen analysis, the economic and political interests of the State of Texas and other Southern States, and I wish that the thoughts and principles of Thomas Jefferson, George McDuffie and Matthew Maury be particularly studied at said school, and that a keen comparison between the character

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and principles of our great and noble President, Jefferson Davis, and President Abraham Lincoln be made. The idea of the necessity of economic and political science associations throughout the South came to me when I was in Galveston, Texas, writing for the Atlanta Constitution Publishing Company. . . ."

"In order to carry out the wishes of the donor, this office has notified those colleges and universities in the eastern part of Texas that might qualify to submit a statement indicating their qualifications to receive this bequest. We have received a proposal from Texas A & M University, a copy of which is attached.

"Your opinion is respectfully requested as to the legality of transferring this \$3,000 now in suspense to Texas A & M University for the purposes stipulated in their proposal."

The letter from President Earl Rudder, President of Texas A & M University, reads as follows:

"Your letter of October 31, 1963, in regard to \$3,000 from the estate of Helen Gray for a school of economics and political science in Eastern Texas for the purpose of studying the thoughts and principles of the founding fathers of this nation and state and in particular those of Jefferson, McDuffie, Maury, Davis, and Lincoln has been gratefully received. We feel that Texas A&M University is fully qualified to meet the terms of Helen Gray's will through its program of study in political science and related fields of study in economics and history where the political and economic philosophies of the founding fathers and those of their interpreters receive careful attention. The philosophical thinking of the leaders of the Old South is emphasized.

"Our degree programs in government (political science) are relatively new ones,

and it is our belief that the \$3,000, if made available to us, can be used most advantageously to build more strongly our library collection to exemplify the economic and political philosophies taught by the men mentioned in the Gray will. The books for the Library would be selected by our Department of History and Government, and a suitable name plate to identify the donor and purpose will be inserted in each. The following lettering on the name-plate is suggested, although we will be willing to consider any other that your office or the family may desire:

"The Helen Gray Collection
in
Economic and Political Thought of the Old South

"It is our belief that this use falls within the restrictions posed by the Helen Gray will."

You are advised that under the facts submitted, monies received under the will of Helen Gray were properly placed and kept in the suspense fund and such monies are not subject to appropriation. Attorney General's Opinion O-945 (1940). Therefore, in order to transfer such monies acquired pursuant to the will, the only requirement is that such monies are to be spent for the purpose stated in the will. According to your letter, this purpose is "to establish a school of economics and political science in Eastern Texas, and it is my earnest wish that the purpose of said School be to study with keen analysis, the economic and political interests of the State of Texas and other Southern States, and I wish that the thoughts and principles of Thomas Jefferson, George McDuffie and Matthew Maury be particularly studied at said school, and that a keen comparison between the character and principles of our great and noble President, Jefferson Davis, and President Abraham Lincoln be made."

According to the letter of President Earl Rudder, Texas A & M University, located at College Station, has degree programs in government (political science). It is our opinion that such fact is in sufficient compliance with that portion of the will "to establish a school of economics and political science in Eastern Texas." It is not clear from the letter of President Rudder whether Texas A & M University is agreeing to establish

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a course of study outlined in the will of Helen Gray, (1) wherein the economic and political interests of the State of Texas and other Southern States are included, (2) wherein the thoughts and principles of Thomas Jefferson, George McDuffie and Matthew Maury are included, and (3) wherein a keen comparison between the character and principles of Jefferson Davis and Abraham Lincoln are made.

It is our opinion that if Texas A & M University agrees to expend the above referred to monies held in suspense, for the purpose of establishing a course of study outlined in the will of Helen Gray, said monies may legally be transferred to Texas A & M University for said purposes. In the absence of such an agreement, it is our opinion that such monies may not be transferred to Texas A & M University, but must be held in suspense for the benefit of a school in Eastern Texas which will provide for such course of study in a school of economics and political science as outlined in the will of Helen Gray.

SUMMARY

Monies received under a will to the State of Texas are required to be held in the suspense fund until such monies may be expended for the purposes set out in the will.

Yours very truly,

WAGGONER CARR
Attorney General

By *John Reeves*
John Reeves
Assistant

JR:ms

APPROVED:

OPINION COMMITTEE
W. V. Geppert, Chairman
Pat Bailey
J. S. Bracewell
Robert Flowers
Edward Moffett

APPROVED FOR THE ATTORNEY GENERAL
By: H. Grady Chandler