

December 6, 1971

OPINION LETTER NO. 418  
Answer by Letter - Klaffenbach

Mr. Joseph Jaeger, Jr.  
Director  
Missouri State Park Board  
Post Office Box 176  
Jefferson City, Missouri 65101



Dear Mr. Jaeger:

This letter is in response to your opinion request in which you ask the following questions:

"At this time the Missouri State Park Board is responsible for a State owned property, known as the Old Tavern, located at Arrow Rock, Saline County, Missouri.

In April, 1923 the 52nd Missouri General Assembly approved \$5,000 for purchase of the Old Tavern. The Missouri Society of the Daughters of the American Revolution (D.A.R.) were given custody of the building at that time. During the following years the General Assembly approved additional legislation, and your office issued two formal opinions concerning the operation of this State owned facility. Contracts between the Missouri State Park Board and the D.A.R. have been renewed every two years, since 1948.

Considerable confusion exists concerning the proper role of the Missouri State Park Board as relates to the Old Tavern. This uncertainty centers around the ownership of personal property, for example two portraits by the

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artist George C. Bingham of Dr. and Mrs. John Sappington, responsibility for maintenance of the building, grounds, kitchen equipment, museum objects, etc.) and clearly defined limits of operating procedures between the State Park Board and the D.A.R.

I should like to request your formal opinion as to

- (1) the responsibilities of the Missouri State Park Board pertaining to the Old Tavern,
- (2) the status and role of the D.A.R.,
- (3) responsibility for maintenance in its several forms,
- (4) the legality of current operating contracts between the two parties, and
- (5) the status of personal property located within the historic structure."

We also acknowledge receipt of the report on the history of this subject, with appendices, compiled by Kenneth G. Kombrink, September 1, 1971.

Whatever "custody" rights the Missouri State Society, Daughters of the American Revolution had respecting said site were terminated by the actions of the parties pursuant to the Laws of 1947, Vol. II, p. 310 (H.C.S.H.B. No. 239). Thereafter the Society had only such rights as it acquired by lawful contract with the Board. The Society is thus, with respect to the Park Board, in the position of a concessionaire under Section 253.080, RSMo 1969, and the status and role of such parties are governed by the statutes and the contracts.

Your question concerning the legality of the "current operating contracts" is not sufficiently precise to enable us to render a proper opinion. Such a question in its general form is not a proper question for an opinion under Section 27.040, RSMo 1969, relating to opinions of this office. We reach the same conclusion with respect to your question concerning the responsibility for maintenance in "its several forms."

Mr. Joseph Jaeger, Jr.

The question concerning the ownership of personal property is a question of law and fact and as such is not one which can be decided by an opinion of this office.

Very truly yours,

JOHN C. DANFORTH  
Attorney General