



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

HON. Harry Knox, Jr.
The Adjutant General
Austin, Texas

Dear Sir:

Opinion No. 0-1343

Re: Authority of Adjutant General to exchange for other needed military stores a boat acquired by the expenditure of State funds appropriated to the Adjutant General's Department, and now found to be unsuitable for the Department's present military requirements.

By your letter of September 27, 1939, you ask the opinion of this department upon the following question:

"May The Adjutant General exchange for other needed property a boat which was acquired by the expenditure of State funds appropriated to The Adjutant General's Department and is now found to be unsuitable for the Department's present military requirements?"

You advise that this boat was constructed by a prior administration at Palacios for the military use of the State of Texas, and that the present administration finds the boat unsuitable for military requirements at this time.

Article 5798, Revised Civil Statutes of 1925, reads as follows:

"The Adjutant General, after the appropriations are made for that purpose, may purchase and keep ready for use, or issue to the military forces of this State, as the best interests of the service may require, such amount and kind of quartermasters, ordnance, subsistence, medical, signal, engineers, and all other military stores and supplies as shall be necessary; he shall see

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that all military stores and supplies both the property of this State and of the United States are properly cared for and kept in good order, ready for use; and all accounts which may accrue against the State under the provisions of this chapter shall, if correct, be certified and approved by the Adjutant General and paid out of the State Treasury as other claims are paid. Any military stores belonging to this State which may become unservicable, obsolete, or unfit for further use, may be disposed of in such manner as the Governor or Adjutant General may prescribe by regulations or orders; and the Adjutant General may sell or destroy as he may see fit for the best interests of the service, any unservicable, obsolete, or unsuitable military stores belonging to this State, the sums realized from the sale thereof to be turned into the State Treasury, or he may in his discretion, exchange such stores for such other military stores as the interest of the service may require, for the use of the active militia of this State."

Since the above statute confers specific authority upon the Adjutant General to exchange unsuitable military stores belonging to the State of Texas for such other military stores as the interests of the service may require, we assume that the question which you have in mind is whether this boat may be regarded as a "military store."

The term "military store," as found in the above statute, must be construed according to the ordinary definition of such term, unless something is found in the statute indicating that the Legislature intended that it should have a contrary meaning. We find nothing in the statutes reflecting the legislative intent that the term "military stores" should have any other meaning or significance than that which it ordinarily bears. Webster's New International Dictionary, Second Edition, defines the term "stores" as meaning "supplies, as of provisions, arms, equipments, etc."

We think it must be deemed to be undisputed that a boat provided for military purposes must be regarded as military "equipment." We therefore advise that the boat to which you refer is a "military store," within the meaning of Article 5798, and, therefore, that you have such authority with reference to the exchange thereof for other suitable military supplies as is expressly given you by the

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terms of such Article, above quoted.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *R. W. Fairchild*
R. W. Fairchild
Assistant

RWF:pm APPROVED OCT 4, 1939

R. W. Fairchild
FIRST ASSISTANT
ATTORNEY GENERAL

