



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

May 23, 1966

**WAGGONER CARR
ATTORNEY GENERAL**

**Mr. Wm. J. Burke
Executive Director
State Board of Control
Austin, Texas**

Opinion No. C-689

**Re: Whether all or any portion
of the surplus iron fence,
now in storage, could be
used at the Governor's
Mansion without conflicting
with the provisions of
S.C.R. No. 29.**

Dear Mr. Burke:

Your letter dated May 5, 1966, requesting an opinion of this office reads, in part, as follows:

" . . .

"For several years a portion of the iron fence that formerly completely surrounded the Capitol grounds has been in the custody of the Board of Control and in storage. While the fence has been and will continue to be maintained and painted while in storage, it is our opinion that at least a portion of this fence could better serve the purposes of the State of Texas if it could be installed around the Mansion property.

" . . .

"Our question is - could all or any portion of the surplus iron fence now in storage be used at the Governor's Mansion without conflict with the provisions of SCR 29."

Senate Concurrent Resolution No. 29, Acts 57th Legislature, First Called Session 1961, p. 482, reads as follows:

"WHEREAS, The building program of the State Building Commission has necessitated the removal of a good part of the iron fence surrounding the Capitol grounds; and

"WHEREAS, It is the desire of the Legislature that as much of the fence as can be restored should be restored, but that which cannot be used should be disposed of rather than being allowed to rust and be wasted; now therefore, be it

"RESOLVED, By the Senate of Texas, the House of Representatives concurring, that the Board of Control be requested to work with the State Building Commission toward restoring as much of the iron fence as practical to the campus of the State Capitol and that any surplus fence be sold according to law.

"Adopted by the Senate, August 8, 1961;
adopted by the House, August 8, 1961.

"Approved and filed Aug. 26, 1961."

The word "campus", used in the text of Senate Concurrent Resolution No. 29 has several meanings. Among those meanings cited in BLACK, LAW DICTIONARY (4th ed. 1951) at page 258 is the following:

". . . A field, or plain.

". . ."

By the enactment of Article 678e, Vernon's Civil Statutes, the Legislature evidenced an intent that the area encompassed by the aforementioned word "campus" in reference to the grounds of the State Capitol would include the grounds of the Governor's Mansion.

Section 1 of Article 678e, Vernon's Civil Statutes, reads, in part, as follows:

"Section 1. It shall be unlawful for any person to trespass upon the grass plots or flowerbeds, or to damage or deface any of the buildings, or cut down, deface, mutilate or otherwise injure any of the statues, monuments, memorials, trees, shrubs, grasses or flowers on the grounds or commit any other trespass upon any property of the state, real or personal, located on the grounds of the State Capitol or other property owned by the State of Texas bounded by Eleventh Street, Nineteenth Street, San Jacinto Street and Colorado Street in the City of Austin; or on the grounds of the Governor's Mansion bounded by Tenth Street, Eleventh Street, Colorado Street and Lavaca Street in the City of Austin; . . ."

Moreover, by Article 665, Vernon's Civil Statutes, custodianship of State property is vested in the State Board of Control.

In adopting this concurrent resolution, the Legislature was only concerned with the fact that the iron fence that was in storage would "rust and be wasted." This is evident from the following language used in the resolution:

". . . but that the iron fence which cannot be used should be disposed of rather than being allowed to rust and be wasted. . . ."

Therefore, it is our opinion that all or any portion of the surplus iron fence now in storage may be used at the Governor's Mansion without conflicting with the provisions of Senate Concurrent Resolution No. 29, the terms of which evidence the legislative intent that the surplus iron fence be utilized in the best possible manner in the area of the State Capitol.

S U M M A R Y

All or any portion of the surplus iron fence now in storage may be used at the Governor's Mansion without conflicting with the provisions of Senate Concurrent Resolution No. 29.

Mr. Wm. J. Burke, page 4 (C-689)

Very truly yours,

WAGGONER CARR
Attorney General

By: *Alan Minter*
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Assistant

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APPROVED:
OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL
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