

1978 S.C. Op. Atty. Gen. 83 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-60, 1978 WL 22542

Office of the Attorney General

State of South Carolina

Opinion No. 78-60

March 23, 1978

***1 In Re: H-3768**

The Honorable Edward E. Saleeby
Member
South Carolina State Senate
Box 519
Hartsville, South Carolina 29550

Dear Ed:

Your letter of March 3 requests an opinion on whether there is any constitutional objection to H-3768 which relates to Clemson University.

This bill would amend Section 59-119-40 so as to provide that the president of the Clemson student body should serve ex officio as a voting member of the Board of Trustees.

I have inspected the Will of Thomas G. Clemson and, in my opinion, there is no constitutional infirmity in such proposed legislation. The Clemson Will designated seven individuals to serve as trustees, with the right of appointing their successors as trustees. The selection of the six additional trustees was vested in the Legislature by the terms of the will in the following words:

‘But the Legislature may provide, as it sees proper, for the appointment or election of the other six trustees, if it accepts the donation.’

The State, of course, accepted the terms of the Clemson Will and the funds and properties accruing thereunder were accepted and are now held in trust by the successor trustees.

The broad discretion vested in the Legislature under the Will of Thomas G. Clemson to select trustees gives the General Assembly a sufficient basis upon which to permit the president of the student body of Clemson to serve as a board member should that be the course it may desire to follow. The important matter is that the benefits of the property should be applied toward the purposes for which it was given. Bogert, Trust and Trustees ¶328.

Very truly yours,

Daniel R. McLeod
Attorney General

The Legislature may provided or a member of the Clemson University student body to serve as a member of the Board of Trustees without violating the terms of the Clemson Will.

1978 S.C. Op. Atty. Gen. 83 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-60, 1978 WL 22542