

PAROLE BOARD-

Rights to enter into compact
with other states.

July 21, 1937

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Honorable Frank G. Harris
Acting Governor of Missouri
Jefferson City, Missouri

Dear Governor Harris:

This will acknowledge your request of the 20th inst. wherein you submitted a letter to Governor Lloyd C. Stark from Governor Carl E. Bailey of Arkansas, requesting an opinion from this Department as to the authority of the Governor of this State or the Parole Board recently created by the 59th General Assembly to enter into such a compact, copy of your letter being as follows:

"Governor Stark has referred to me the attached copy of letter from Hon. Carl E. Bailey, Governor of Arkansas, Act No. 172 of said State, passed by the General Assembly of Arkansas.

"Inasmuch as I will be Chairman of the new Parole Board I will very much appreciate your opinion as to whether or not the State of Missouri, through its proper officer, may enter into such compact as is provided in this act."

And copy of the letter from Governor Bailey of Arkansas to Governor Stark is as follows:

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"The Arkansas General Assembly this year enacted a measure which provides that the state may enter into compacts with other states for the purpose of effecting cooperative supervision of persons on parole or probation. A copy of the new law, which is Act No. 172, accompanies this communication.

"My purpose in writing is to make a formal request that you as Governor of Missouri join in a compact with Arkansas such as is provided for. You may be interested in the fact that the General Assembly also enacted legislation under which we are setting up a new parole system with the State Parole Officer under whom eighteen state policemen are working. The state Police Commission, state Public Welfare Commission, and state Penal Board are cooperating, and we are confident that within a few months we shall have one of the most efficient, satisfactory parole systems in the country".

There seems to be only one question involved in this inquiry: That is whether the State of Missouri, through its proper officer, may enter into such a compact as is provided by Act No. 172 of the Arkansas General Assembly of 1937.

The rule seems to be as follows:

"Rules and orders made by administrative boards must accord with the authority conferred upon the board by law".

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And also the further rule is:

"The powers and authority of public officers are fixed and determined by the law".

Lamar Tp. v. Lamar, 261 Mo. 171, 169 S. W. 12, AnnCas 1916D 740; 79 A. L. R., Federal Trade Commission vs. Raladam Co., l.c. 1197.

From an examination of Committee Substitute for House Bills Numbers 511, 12, 13 and 14, which set out the powers and duties of the Board, especially in Section 5 thereof, and from an examination of Act No. 172 of the Arkansas General Assembly of 1937, we fail to find that the Legislature of Missouri has by any part of the Act authorized the State of Missouri, through its proper officer, to enter into any such compact as is proposed by the said Arkansas Act.

CONCLUSION

From the above considerations we are of the opinion that the State of Missouri, through its proper officer, may not enter into the compact with the Governor of the State of Arkansas as is provided by Act No. 172 of said State, passed by the General Assembly of Arkansas in the year 1937.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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