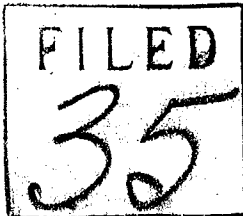


STATE PARK BOARD: State Park Board does not have power to transfer State Park to Missouri Conservation Commission.



June 3, 1954

Honorable Abner Gwinn
Director
Missouri State Park Board
1206 Jefferson Building
Jefferson City, Missouri

Dear Mr. Gwinn:

We render herewith our opinion, based upon your request of May 18, 1954, which request reads as follows:

"The State Park Board is considering the transfer of Big Oak Tree State Park in Mississippi County to the Missouri Conservation Commission. This land was purchased in 1937 and 1938 and deeded to the State of Missouri for the use and benefit of the State Park Board.

"Will you please give me an opinion regarding the authority of the State Park Board to make such transfer."

After examining the pertinent statutes and judicial decisions of Missouri, we have concluded that the State Park Board does not at the present time have authority to transfer the Big Oak Tree State Park in Mississippi County to the Missouri Conservation Commission.

In Aetna Insurance Co. et al. vs. O'Malley, 124 S.W. (2d) 1164, 343 Mo. 1232, the Court said (S.W. 1.c. 1166):

"* * * Before a state officer can enter into a valid contract he must be given that power either by the

Honorable Abner Gwinn:

Constitution or by the statutes. All persons dealing with such officers are charged with knowledge of the extent of their authority and are bound, at their peril, to ascertain whether the contemplated contract is within the power conferred. Such power must be exercised in manner and form as directed by the Legislature. * * *."

This rule applied in the above case to an individual state officer is likewise applicable to boards, agencies, and commissions of the State such as the State Park Board.

We look then to determine whether any statute or constitutional provision grants to the State Park Board the authority to make the suggested conveyance. The law creating the State Park Board and granting it certain authority is contained in Chapter 253 RSMo Cum. Supp. 1953. We find therein no provision granting the authority to convey any property belonging to the State Park Board, nor do we find such authority in any other statute or constitutional provision.

The fact that the contemplated grantee of the Big Oak Tree State Park is another agency of the State, the Missouri Conservation Commission, would in our judgment make no difference in the foregoing holding.

CONCLUSION

It is, therefore, the opinion of this office that the Missouri State Park Board does not have authority to convey the Big Oak Tree State Park to the Missouri Conservation Commission.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. W. Don Kennedy.

Yours very truly,

JOHN M. DALTON
Attorney General

WDK:irk