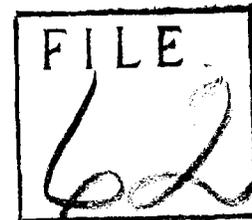


PENAL INSTITUTIONS: MISSOURI TRAINING SCHOOL FOR BOYS: The Commission of Penal Institutions has the power to authorize boys at the Missouri Training School for boys to do work outside the institution for private individuals.

November 14, 1941

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Mr. Loyd I. Miller, Director
Department of Penal Institutions
Jefferson City, Missouri



Dear Mr. Miller:

This is in reply to your letter of recent date wherein you request an opinion from this department on the following statement of facts:

"The Superintendent of the Missouri Training School for Boys at Boonville informs me that he has been contacted by Mr. E. H. Weir of the Missouri State Employment Bureau in regard to the possibility of using about twenty (20) boys from his institution to pick turkeys for a produce house located at Pilot Grove, Cooper County, Missouri. Mr. Weir stated to the Superintendent that the labor supply in Cooper County had been exhausted, and that the produce house had to turn away turkeys that were brought to them for slaughter. He also assured the Superintendent that no labor problems would be involved in case the request is granted.

"Mr. Riley proposes to use the money earned by the boys for the purpose of buying much-needed equipment for their athletic department, such as basket ball uniforms and other equipment, which, due to our limited appropriations, we are unable to supply at State expense. After these purchases are made, he will submit to the Penal Board a receipt showing the amount expended for this purpose, and any balance in the fund will be disposed of in any manner approved by your office and the office of the State Auditor.

"Because of the appeal from residents of Cooper County, we feel that this situation

might be termed an emergency, and if your office can see fit to render us an opinion immediately as to whether or not we are within our legal rights in permitting these boys to work for a private concern for a limited time (approximately seven days), we will abide by your decision."

The only section of the statutes which we find that would prevent the Commission from contracting the labor of inmates of said Training School, is Section 8991, R. S. Mo. 1939, which is as follows:

"Except as in section 8988, hereinabove provided, the leasing or contracting of convict labor in any form or manner, directly or indirectly, is hereby prohibited."

Under the Juvenile Acts, certain boys are committed to the Missouri Training School for Boys, but we do not think that these persons could be classified as convicts, and for that reason there is no question that Section 8991, supra, would apply to such boys. Under Section 8988, R. S. Missouri 1939, boys of certain ages are committed to the Missouri Training School for Boys for the commission of felonies and misdemeanors. Section 8994 authorizes the Commission of the Department of Penal Institutions to adopt rules and regulations not inconsistent with the law and the management of the institution.

We think the convicts referred to in Section 8991, supra, was intended to mean those persons who are confined in the penitentiary.

From a reading of Article 2, Chapter 48, which relates to the Missouri Training School for Boys, it will be seen that the purpose of this chapter is to provide for the rehabilitation of such boys that are sent to that institution. This statement is supported by the provisions of Section 8999 which authorizes the Governor to commute the sentence of a person under twenty-five years of age, who has been sentenced to the penitentiary, to this training school. It further provides that if a person between the ages of seventeen and twenty-five is sent to the Intermediate Reformatory and such person is found to be incorrigible and not

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amenable to the reformation by the opportunities and advantages afforded him in such institution, then the Governor may direct that such person be transferred to the State Penitentiary.

As stated above, this is a clear indication that the lawmakers have not intended the Training School to be a penal institution so much as they intended that it be more in the nature of a training school. For that reason, we think that the section of the statute authorizing the Commission of the Department of Penal Institutions to make by-laws and rules and regulations was proper. In this particular case which you have submitted, we think that if the Commission of the Department of Penal Institutions thinks that it would be to the best interests of certain inmates in the Missouri Training School for Boys to permit them to perform the services suggested in your request, the purpose for which the institution exists would be furthered. However, we do call your attention to the fact that the provisions of the Child Labor Laws would be applicable in cases of such employment.

CONCLUSION

It is therefore the opinion of this department that the Commission of the Department of Penal Institutions can make a regulation, the purpose of which is to permit the boys to work for a private concern for a limited time, if the Commission, by such regulation and as a reason therefor, thinks it will be for the best interest of such boys.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General

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