

LANDS:) Legislation is necessary in order for the State
STATE FORESTS:) of Missouri to obtain benefits of the Fulmer Act;
) until legislation is enacted the State of Missouri
) cannot cooperate with the Federal Government.

August 25, 1936. 8-26



Honorable Wilbur C. Buford
Commissioner
Game and Fish Department
Jefferson City, Missouri

Dear Mr. Buford:

We are in receipt of your communication requesting our opinion as to the authority of your Department to cooperate under the Fulmer Act relating to State forests.

The so-called Fulmer Act was enacted by the Congress of the United States for the purpose of acquiring, developing and administering and managing State forests and coordinating State and Federal activities in order to carry out a national program of forest land management. The Act is found in United States Code Annotated, Vol. 16, 1935 Cumulative Annual Pocket Part, pages 119 to 121. Said Act consists of Sections 567a, 567b and 567c. Section 567a provides in part as follows:

"For the purpose of stimulating the acquisition, development and proper administration and management of State forests and of insuring coordinated effort by Federal and State agencies in carrying out a comprehensive national program of forest-land management, the Secretary of Agriculture is hereby authorized to enter into cooperative agreements with appropriate officials of any State or States for acquiring in the name of the United States, by purchase or otherwise, such forest lands within the cooperating State as in his judgment the State is adequately prepared to administer, develop, and manage as State forests in accordance

with the provisions of this Section and Section 567b and with such other terms not inconsistent therewith as he shall prescribe, * * * * *

Section 567b relates to the "Conditions and requirements for cooperation in acquisition and management of state forests" and provides in part as follows:

"No cooperative agreement shall be entered into or continued in force under the authority of Section 567a * * * * * unless the State concerned, as a consideration for the benefits extended to it thereunder, complies in a manner satisfactory to the Secretary of Agriculture with the following conditions and requirements which shall constitute a part of every such agreement.

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"(b) * * * the State shall provide for the employment of a State forester, who shall be a trained forester of recognized standing.

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"(h) During the period any cooperative agreement made under this section and Section 567a and 567c remains in force, one-half of the gross proceeds from all lands covered by said agreement and to which the United States holds title shall be paid by the State to the United States and covered into the Treasury. All such payments shall be credited to the purchase price the State is to pay the United States for said land, such purchase price to be an amount equal to the total sum expended by the United States in acquiring said lands. Upon payments of the full purchase price, either as herein provided or otherwise, title to said lands shall be transferred from the Federal Government to the State, and the Secretary of

Agriculture is authorized to take such action and incur such expenditures, as may be necessary to effectuate such transfer."

The State of Missouri in 1935 gave its consent to the United States to acquire Missouri land for certain purposes by statutory enactment, namely, Section 11072, Laws of Missouri, 1935, page 291. Said section, with the emergency clause, reads as follows:

"The consent of the State of Missouri is hereby given in accordance with the seventeenth clause, eighth section of the first article of the Constitution of the United States to the acquisition by the United States by purchase or grant of any land in this State which has been or may hereafter be acquired, for the purpose of establishing and maintaining postoffices, internal revenue and other government offices, hospitals, sanatoriums, fish hatcheries, game and bird preserves and land for reforestation, recreational and agricultural uses.

"The government of the United States being willing to acquire additional lands for purposes of reforestation and prevention of soil erosion and to aid in the nation-wide unemployment by establishing forest camps to carry on the work of reforestation, thereby creating healthful and remunerative employment for thousands of men now idle and unable to support themselves and their dependents and it being immediately necessary to immediately promote the welfare of the citizens of the State and immediately necessary for the preservation of the public health, peace and safety that the unemployment calamity be immediately relieved in all possible ways, therefore an emergency is hereby declared to exist within the meaning of the Constitution of this State and this act shall take effect and be in full force from and after its passage and approval of the Governor of Missouri."

We have carefully examined the statutes of Missouri and we do not find any legislation which would permit cooperation by the State of Missouri with the Secretary of Agriculture in order to effectuate the purposes of the Fulmer Act. The above section (11072) of our law merely provides for the acquisition of land by the United States. Chapter 43, R. S. No. 1929, does provide, however, for a Fish and Game Department, and Section 8215 of said chapter authorizes the State Game and Fish Commissioner to locate, build and maintain suitable fish hatcheries. Section 8220 of the same chapter authorizes the "purchasing, improving and maintaining for the State suitable real estate for public parks, for the recreation of the people of Missouri" and authorizes the Fish and Game Commissioner, the Governor, and the Attorney-General to contract for and purchase real estate, the title of which is to be in the State of Missouri, for the use as public parks. Section 8221 authorizes the State Game and Fish Commissioner to establish and maintain auxiliary game refuges for the protection and propagation of game. Nowhere in said chapter, however, is it provided or authority given to the State Game and Fish Commissioner to enter into a cooperative agreement with the Secretary of Agriculture to administer, develop and manage State forests.

Absent specific legislation, it is our opinion that your Department does not have legal authority to cooperate under the Fulmer Act.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General.

JLH:EG