

STATE PARK BOARD: Interpretation of Sections 26a and 26c of House Bill 716 relating to appropriations for parks.

September 13, 1939

Mr. I. T. Bode  
Director of Parks  
Jefferson City, Missouri

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Dear Mr. Bode:

This department is in receipt of your request for an opinion under date of September 7th, which is as follows:

"Reference is made to Section 26a and Section 26c of House Bill 716 which was passed by the 1939 Legislature and approved by Governor Stark. This bill is ordinarily referred to as the Omnibus Appropriation Bill.

We would like to use these two appropriations for all expenditures which are made on these two parks from now until the end of the biennial period. This will include the salaries of the resident superintendents, telephone bills, etc. We also have in mind the possibility of charging technical services against these two appropriations.

CCC camps will go in residence on both Crowder and Pershing Parks effective October 1, and in order to start construction on both of these parks it is necessary that proper plans be prepared. We are considering the feasibility of charging these two appropriations for the cost of these plans. We are particularly anxious to relieve our personal service appropriation which is Article A under Section 26.

Any ruling regarding the proper use of the \$5,000.00 provided for Crowder Park in Section 26a and the \$15,000.00 provided for

Pershing Park in Section 26o will be appreciated. In any event we shall expect to purchase all possible materials of construction from these two appropriations."

Sections 26a and 26o, respectively, of House Bill 716, passed by the 1939 Legislature, provide as follows:

"Section 26a. There is hereby appropriated out of the State Treasury, chargeable to the general revenue fund, the sum of Five Thousand (\$5,000.00) Dollars for the use of developing Enoch H. Crowder Park located in Grundy County, Missouri.

Section 26o. There is hereby appropriated out of the State Treasury, chargeable to the General Revenue fund, the sum of Fifteen Thousand (\$15,000.00) Dollars for the use of the State Park Board in developing and improving Pershing Memorial State Park located in Linn County, Missouri, complying with an Act passed by the 59th General Assembly, 1937 Session Acts, page 520."

In the case of Leingang v. Geller, Ward and Hasner Hardware Company, 335 Mo. 549, 73 S. W. (2d) 256, 1. c. 261, the court had occasion to examine the term "develop", and pointed out that:

"One definition of the word 'develop' given in Webster's New International Dictionary is:

'3. To unfold more completely; to evolve the possibilities or power of; to make active (something latent); to perfect; advance; further; to make to increase; to promote the growth of.'

And in the case of State v. Babcock, 242 N. W. (Minn.) 474, 1. c. 476, the court, in considering the words "improve" and "improvement", stated that:

"The words 'improve' and 'improvements' are frequently used in connection with land. They are used as denoting some betterment, such as by cultivations, clearing, drainage, irrigation, erecting buildings, or otherwise enhancing the value or usefulness of the land. \* \* \* \* \* The word 'improve' has several meanings: To make better; to increase the value or good qualities of; to ameliorate by care or cultivation -- are some of the common definitions. \* \* \* \* \*

The word 'improve' is a common word in everyday use. Its meaning is well understood. As commonly used, the word means to make better or to enhance the quality or value of some existing thing or subject."

And in the case of the People v. Clark, 296 Ill. 46, l. c. 59, the court, in considering the meaning of park improvements, said:

"It is ridiculous to assume, for instance, that improvement of a park means to sow grass, plant flowers and set out shrubbery and trees and then let them grow or die without further attention. Improvement of a park necessarily includes watering and mowing the grass, watering and cultivating the flowers and cultivating and trimming the shrubbery and trees. To do these things it is necessary to have officers and employees to supervise and do the work."

59 Corpus Juris, Section 401, page 262, discusses the rules for construction of appropriation laws:

"They are to be construed without liberality towards those who claim their benefits; but are not to be construed so strictly as to defeat their manifest objects."

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You state that you desire to charge against the above appropriations (1) salaries of resident superintendents; (2) technical services; (3) plans; (4) construction materials; (5) telephone bills, etc.

Although the appropriation act relating to Crowder Park uses only the term "developing", we believe that the term is broad enough to include the term "improving" as used in the appropriation act relating to Pershing Memorial State Park, both carrying out the idea of betterment and enhancement of parks.

Items 1, 2, 3, and 4, supra, would clearly come within the terms "developing" or "developing and improving" of parks, but item 5, including telephone bills, postage, printing, stationery and kindred matters, not being essential and necessary to the development and improvement of the parks, cannot be included. Particularly is this true in view of the case of Meyers v. Kansas City, 18 S. W. (2d) 900, 323 Mo. 200, declaring that appropriation acts are to be strictly construed.

From the foregoing, we are of the opinion that the State Park Board may use funds appropriated under Sections 26a and 26c of House Bill 716, passed by the 1939 Legislature, for (1) salaries of resident superintendents; (2) technical services; (3) plans; (4) construction materials; but not for (5) telephone bills, etc.

Respectfully submitted,

MAX WASSERMAN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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