

PARK BOARDS: Section 260, House Bill No. 716, does not authorize purchase of additional land for Pershing Memorial State Park.

9/18

September 18, 1939



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

Dear Mr. Bode:

We are in receipt of your letter of September 15th, wherein you state as follows:

"Further reference is made to Section 260 of House Bill No. 716 which was passed by the 1939 Legislature and approved by the Governor, and which reads as follows:

'Section 260. There is hereby appropriated out 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.'

"We are asked by persons who are interested in the development of Pershing Park to purchase some addition land. Under the wording of this appropriation, are we authorized to use a part of this money for the purchase of additional land?"

In the case of Leingang v. Geller, Ward and Hasner Hardware Company, 335 Mo. 549, 73 S. W. (2d) 256, l. 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, l. c. 476, the court in considering the words "improve" and "improvement", stated that:

"The words 'improve' and 'improvement' 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 mean-

September 18, 1939

ings; 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."

It is evident from the definitions of the terms develop and improve that the expenditure of funds for the "developing and improving" of Pershing Memorial State Park must be to "promote the growth of" "some existing thing or subject." Or, in other words, to enhance the value or usefulness of the existing land. To permit any other construction would be to defeat the manifest object of the statute, for funds expended for new land, would obviously deprive the existing land of funds for development and improvement. Our construction is sustained by reason of the case of *Meyers v. Kansas City*, 18 S. W. (2d) 900, 323 Mo. 200, which declares that appropriation acts must be strictly construed.

From the foregoing we are of the opinion that Section 260 of House Bill No. 716, passed by the 1939 Legislature, does not authorize the purchase of additional land for Pershing Memorial State Park.

Respectfully submitted,

APPROVED:

MAX WASSERMAN  
Assistant Attorney General

---

J. E. TAYLOR  
(Acting) Attorney General

MW:RV