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December 13, 1961

Mr. V. H. Simon, Chairman
Wilson's Creek Battlefield National
Park Commission
c/o The Southern Missouri Trust Company
Springfield, Missouri

Dear Mr. Simon:

This refers to your letter requesting an opinion concerning expenditures which may be made by the Wilson's Creek Battlefield National Park Commission from the appropriations made for the commission in Section 24, Conference Committee Substitute For House Bill No. 758, 71st General Assembly, which reads as follows:

"Section 24. To Wilson's Creek Battlefield National Park Com- mission	
For acquisition of sites, as provided by law	\$350,000
For expenses of Commis- sion	<u>1,800</u>
Total from General Revenue	\$351,800

This appropriation is contingent on enactment of Senate Bill 254 of the 71st General Assembly."

The Wilson's Creek Battlefield National Park Commission was created by Senate Bill No. 254, 71st General Assembly. While the commission has certain other duties, the major function of the commission is stated in paragraph (1) of Section 4 of that Bill, which reads as follows:

"(1) To acquire and convey to the United States of America or any of its agencies such lands and improvements thereon and any

monuments as may be designated by the United States of America or any of its agencies for inclusion in the Wilson's creek battlefield national park pursuant to Public Law 86-434 of the 86th congress of the United States, which established the park;"

You state in your letter that the National Park Service has designated for inclusion in the proposed park approximately 1700 acres of land, consisting of approximately Thirty-seven separate tracts and ownerships.

Your basic question is whether the expenditures of the commission which may be charged to the \$350,000 appropriation for acquisition of sites are restricted to amounts paid to the owners of land acquired by the commission or whether other expenditures made in connection with the acquisition of land may also be charged to such appropriation.

As originally introduced Senate Bill No. 254 had appended to it the following "Fiscal Note" furnished by the State Division of Budget and Comptroller:

"The cost of land acquisition authorized by this bill is estimated at \$350,000. Expenses of the Commission, assuming an average of one meeting a month at \$15 a day for each of the 5 members, would be \$1,800 for the biennium, for a total cost of \$351,800."

It is significant that the appropriations made for the commission were in the same amounts as, and obviously were based upon, the estimates contained in said "Fiscal Note." Also, in the "Fiscal Note", the \$1800.00 estimate of expenses of the commission apparently was calculated on the basis of the amounts which might be payable to members of the commission in reimbursement "for their actual and necessary cost of meals, lodging and travel expenses while engaged in performing commission business," to which the members of the commission are entitled under Section 3 of Senate Bill No. 254.

The acquisition of land by the commission necessarily will involve expenditures other than amounts paid to owners of the land acquired. Section 5 of Senate Bill No. 254 requires that before the commission buys any land it shall cause an appraisal of the same to be made by three qualified and impartial appraisers; and such appraisers will have to be compensated by the commission. As a practical matter and in accordance with the express provisions of Section 6 of Senate Bill No. 254, the commission, before acquiring land, must satisfy itself as to the title thereto; and this may involve expenditures for abstracts of title, title opinions, or title insurance. In some instances, it may be necessary to have surveys made in order to ascertain the correct descriptions and to be satisfied concerning titles. The commission is authorized to condemn land and any such action will require, as a minimum, expenditures for court costs which will have to be paid by the commission as a part of the court's judgment. Condemnation may also involve other expenses, including attorneys' fees, if the commission employs its own attorneys to institute the proceedings, as it is authorized to do.

It is our opinion that these and other expenses reasonably related to the acquisition of land can properly be construed to be a part of the cost of acquisition of the land and to be chargeable to the \$350,000.00 appropriation for acquisition of sites. It is believed that such a construction is necessary in order to conform to the legislative intent, taking into consideration the manner in which the \$1800.00 appropriation for expenses of the commission was calculated, the fact that such \$1800.00 appropriation would be clearly inadequate if expenses of the kind described above were required to be charged to it, and the fact that a contrary construction of the law probably would prevent any significant acquisition of land by the commission during the current biennium.

Reimbursement of members of the commission for meals, lodging and travel expenses should, of course, be charged to the \$1800.00 appropriation and any other expenses of the commission not reasonably re-

Mr. V. H. Simon, Chairman

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lated to the acquisition of land should likewise be charged to that appropriation.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JCB lc

*cc. to Ray Daniel
John K. Hulston
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