tion 19 of this Act discharged by the examination and report of the inspector of an insurance company doing business in the State of Indiana or does the provision; "it shall be inspected before it is again operated", require inspection and report by this Department?

I reply that this provision is also subject to the provisions of Section 9 quoted above, since Section 9 applies to any installation of a boiler in the State at the time this Act went into effect, and, since also under our discussion of Section 2 of the Act, Burns 20-602, it is clear that the inspection referred to in Section 19 may be made and reported upon by an inspector of an insurance company doing business in this State. Accordingly I answer this question by stating that the obligation of inspection referred to in Section 19 of this Act, may in the case of the old boilers covered by Section 6 of the Act, be discharged by the examination and report of an inspector of an insurance company.

Nothing stated in this opinion is to be interpreted as relieving the owner of the boiler from complying with the requirements of the report of the inspector of the insurance company and repairing any defects therein reported in accordance with the recommendations of such report.


January 13, 1936.

Hon. Virgil M. Simmons,
Chief Administrative Officer,
Division of Conservation,
Indianapolis, Indiana.

Dear Sir:

This office acknowledges receipt of correspondence from Honorable A. G. Hamel, Assistant Regional Forester of the United States Department of Agriculture, Milwaukee, Wisconsin, dated December 6, 1935. In that letter Mr. Hamel suggests that an opinion be given on the following question, namely: as to whether Indiana has the necessary legislation to take advantage of the provisions of the Fulmer Act.
For the purpose of properly approaching the answer to this question, it becomes necessary to discuss briefly the purpose and intent of the Fulmer Act. This Act, both in the title and in Section one thereof, says that the Act was passed for the purpose of stimulating the acquisition of, development, and proper administration and management of State forests and of insuring co-ordinated effort by Federal and State agencies in carrying out a Conservation National Program of forest land management. The Act then proceeds to give certain authority to the Secretary of Agriculture to enter into co-operative agreements with any State or States for the purchase or otherwise of such forest lands within the State as in his judgment the State is adequately prepared to administer, etc., in accordance with the provisions of the Fulmer Act. The Act further states that it does not modify, limit or change in any manner whatsoever the future ownership and administration by the United States of existing national forests and related facilities, etc. It further provides that this Act shall not limit or repeal legislation authorizing land exchanges by Federal Government, etc.

It is noted from a careful study of the Fulmer Act as follows:

The Federal Government may acquire forest land for a specific purpose, i.e., resale to the State or States under certain conditions therein prescribed.

Numerous decisions may be found wherein Federal acquisition of land within a State may be acquired either with or without consent of the State wherein the land is located. The quality of the title to such land obtained by the Federal Government is another question and, for the purpose of answering your query, is not of importance.

The Conservation Department of the State of Indiana was, by the Act of 1919, Chapter 60, paragraph 7, given broad powers pertaining to drainage, prevention of waste of mineral resources, etc. This power given the Department by this Act, however, is not broad enough to be in any manner classed as a consent on the part of the State of Indiana to the acquisition by the Federal Government of land within the State. The Act, if it states anything of interest here, hints broadly as to the general intent of the legislature in the conferring upon this Department rights pertaining to nat-
ural resources of the State of Indiana. The Act of the Indiana General Assembly of 1935, Chapter 29, reads as follows:

"An Act to empower the United States of America to acquire lands in the State of Indiana by purchase or otherwise, for establishing, consolidating, and extending national forests, and to grant to the United States all rights necessary for proper control and administration of lands so acquired, and legalizing certain acts and proceedings connected therewith.

Forest Lands—Cession by State to United States—Condition

Sec. 1. Be it enacted by the general assembly of the State of Indiana, That the consent of the State of Indiana be and is hereby given to the acquisition by the United States of America, by purchase, gift, or condemnation, with adequate compensation, of such lands in the State of Indiana, as in the opinion of the Federal government may be needed for establishment, consolidation, and extension of natural forests in the state: PROVIDED, That the State of Indiana shall retain concurrent jurisdiction with the United States in and over lands so acquired, so far that civil process in all cases and such criminal process as may issue under the authority of the State of Indiana against any person charged with the commission of any crime, without or within said jurisdiction, may be executed thereon, in the same manner as if this act had not been passed.

Acts of Congress—Validation

Sec. 2. That the acts and proceedings of any and all public officials pursuant to the act of the 73rd Congress, approved June 14, 1934, are hereby legalized and validated, and are hereby declared to be as legal, valid, and binding as though express authority for the performance of such acts, as provided in this act, had in fact existed at the time when such acts were performed."

From the express words of this Act the legislature provides that the consent of the State of Indiana "be and is
hereby given to the acquisition by the United States of America, by purchase, gift or condemnation, with adequate compensation of such lands in the State of Indiana as in the opinion of the Federal Government may be needed for establishment, consolidation, and extension of natural forests in the State;”.

It is our opinion that this Act of 1935 is the necessary legislation to the taking advantage of the provisions and terms of the Fulmer Act. The legislature specifically consents to the acquisition on the part of the Federal Government of natural forests. The words “natural forests” signify natural forests as distinguished from forests of an artificial nature. The Fulmer Act in its provisions specifically states that the intent of the Act did not cover or apply to existing national forests. The words national forest signify more than the term natural forest. They signify, when examined from the standpoint of the establishment of the system, a tract or tracts of land held, obtained and governed by specific acts of Congress. The National Forest System is not subject to resale by the Federal Government to any State or States. Congress in enacting the Fulmer Act did not have in mind the National Forest System. It had in mind natural forests and the purchase thereof for the intent, as broadly stated herein, of turning back or selling that natural land or natural forest to the State wherein it was located. I repeat that there is a distinct difference between the National Forest System, as heretofore enacted by Congress, and the kind of forest land contemplated by the Fulmer Act.

Section 2 (i) of the Fulmer Act provides in substance that the State concerned may request the Federal Government to terminate a co-operative agreement as to the purchase from the Federal Government of the forest land and upon such request the Secretary of Agriculture may on his own motion terminate this agreement, etc. After the termination thereof this land shall be held and administered as our national forest land acquired by the United States under the Act of March 1, 1911. (36 Stat., 961.)

This further supports the theory hereinabove expressed of a wide distinction between lands to be purchased under the Fulmer Act and lands purchased under the Act of March 1, 1911.

Our Reporters Systems are replete with decisions concern-
ing consent on the part of the State to acquisition by the Federal Government of forest land and other related subjects.


Sufficient legislation to take advantage of the provisions of the Fulmer Act is provided by reason of Chapter 29 of the Acts of the Indiana General Assembly of 1935.

FORT WAYNE STATE SCHOOL: Estate and guardian of inmates of State dependent institutions liable for care under Chap. 132, Acts 1935.

January 13, 1936.

W. F. Dunham, M. D.,
General Superintendent
Fort Wayne State School & Muscatatuck Colony,
Fort Wayne, Indiana.

Dear Sir:

This is in answer to your request of January 3, 1936, which is as follows:

"For several years there has been some question raised with our Board of Trustees as to whether or not maintenance charges against inmates of dependent institutions of the State can be maintained where there is a refusal or failure to pay on the part of the parents or guardians of such inmates.

"What we are interested in knowing is whether or not a suit can be maintained against such parents or guardians for the benefit of such institutions.

"We should like your opinion on this subject, as there have been some lawyers who contend that we cannot legally collect such charges by bringing suit."

The Act under which the feeble-minded colony was established (Acts 1919, Ch. 94, P. 480; Burns Ind. Stat. 1933, Sec. 22-1808), provides in Section 12: