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B-10929 February 1, 1972

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Date: 1972-02-01

B-10929 February 1, 1972

The Honorable George P. Shultz Director, Office of Management and Budget

Dear Mr. Shultz:

By letter of November 19, 1971, the Assistant Director for Legislative Reference requested our comments on a draft bill entitled "A BILL To grant relief to payees and special indorsees of fraudulently negotiated checks drawn on designated depositaries of the United States by extending the availability of the check forgery insurance fund, and for other purposes." Also enclosed was a copy of a proposed transmittal letter to the President of the Senate concerning the bill.

The primary purpose of the bill is to authorize the use of the check forgery insurance fund, created by section 1 of the act of November 21, 1941, 55 Stat. 777; 31 U.S.C. 561--by amending such act--to pay the rightful payees (including special endorsees) of checks drawn on United States depositaries which have been lost or stolen and thereafter paid under forged endoresements. The authority to pay rightful payees under the bill is subject to the same conditions and limitations that presently apply to the use of the fund to pay payees and special endorsees of checks drawn on the Treasurer of the United States. If the forged check was payable in foreign currency, the accountable officer may be authorized to pay the rightful payees prior to reclamation in foreign currency.

At the present time the only manner in which the rightful payee of a forged depositary check may be paid prior to reclamation of amounts paid under a forged endoresement is by a second payment from the appropriation. In such event, the accountable officer in some cases might be liable for the additional payment, unless he is relieved by the General Accounting Office from such liability. If the bill is enacted and payment is made to the rightful payee from the check forgery insurance fund, the General Accounting Office would not be involved in the transaction.

By authorizing payment from the insurance fund to rightful payees of checks drawn on depositary funds prior to reclamation, to the same extent as presently provided payees of checks drawn on the Treasurer of the United States, the bill would accomplish an equitable objective.

The second purpose of the bill is to delete the word "directed" from the concluding clause in section 2 of the 1941 act. This change is to prevent the Treasurer of the United States from being faced with an impossible situation of being directed to pay from the fund prior to reclamation, when in fact there may

at that time be insufficient monies in the fund from which the full amount due the rightful payee can be paid. We see no objection to this change.

Considering the foregoing and in view of the need for amending the present law as explained in the proposed transmittal letter we would have no objection to the draft bill.

Sincerely yours,

R. F. KELLER Deputy Comptroller General of the United States