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B-33518 April 23, 1943

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The Honorable, The Secretary of the Navy.

My dear Mr. Secretary:

I have our letter of March 30, 1943, JAG:J:HJH:ac, as follows:

"From time to time U.S. Navy airplanes make forced landings or crash in isolated spots where it is difficult to locate the planes or the remains. Frequently these planes carry valuable mail and other property which may be recovered if prompt discovery of the location of a plane is made. Also in case of a crash much valuable material may be recovered.

"In order to effect or facilitate the discovery of lost planes the Navy Department proposes to offer rewards in appropriate cases not exceeding $500 in any one case for information leading to their location and discovery. A decision is requested as to whether the appropriation 'Aviation, Navy' or other appropriation is available for this purpose. In this connection Article 863, U.S. Navy Regulations, provides for payment of rewards for the recovery of lost torpedoes, mines, or parvenus."

It is a well-settled principle that an appropriation, general in terms, is available to do the things essential to the accomplishment of the work authorized by the appropriation to be done. 8 Comp. Gen. 613; 9 id. 309. The current appropriation for "Aviation, Navy" (Public Law 441, approved February 7, 1942, 56 Stat. 67) does not specifically authorize the payment of rewards for information leading to the recovery of lost airplanes, nor may the terms of the appropriation reasonably be construed as authorizing expenditures for such purposes. While it provides, inter alia, for the "overhauling of planes" and for "new construction and procurement of aircraft and equipment," clearly the information for which the rewards are proposed to be paid cannot be held to the essential, or even remotely related, to the accomplishment of the work authorized by the said appropriation.

However, the current appropriated "Contingent, Navy", appearing in the act of February 7, 1942, supra, provides:

"For all emergencies and extraordinary expenses, exclusive of personal services, in the Navy Department or any of its subordinate bureaus or offices at Washington, District of Columbia, arising at home or abroad, but impossible to be anticipated or classified, to be expended on the approval and authority of the Secretary of the Navy, and for such purposes as he may deem proper***."

In a decision of May 31, 1927, to the Secretary of War--6 Comp. Gen. 774-- a former Comptroller General of the United States held that a reward could be offered and paid under the appropriation "Contingencies of the Army" for the return of stolen Army property. The following is quoted from said decision:

"The appropriations for 'Contingencies of the Army' for the fiscal years 1927 and 1928, made by the acts of April 15, 1926, 44 Stat. 255, and February 23, 1927, 44 Stat. 1106, provide:

"'For all contingent expenses of the Army not otherwise provided for and embracing all branches of the military service, including the office of the Chief of Staff; for all emergencies and extraordinary expenses, including the employment of translators and exclusive of all other personal services in the War Department or any of its subordinate bureaus or offices in the District of Columbia, or in the Army at large, but impossible to be anticipated or classified; to be expended on the approval or authority of the Secretary of War, and for such purposes as he may deem proper.***'

"The question involved is whether the appropriation for 'Contingencies of the Army' is available for the purpose of offering and paying a reward for the return of stolen Army property, there being no specific appropriation for that purpose. In a decision of August 19, 1910, a former Comptroller of the Treasury held that a reward might be offered and paid from the appropriation for 'Contingencies of the Army' for the apprehension of the person or persons implicated in the theft of a safe containing upward of $6,500 that had been stolen from the possession of a disbursing officer of the Army. In the course of the decision in that case, it was said:

"'The law makes it the duty of the military authorities to hold secure the property of the United States committed to their care. If it is stolen it would seem to be their clear duty to use every reasonable effort to apprehend the person or persons guilty of any theft of United States property committed to their care in order that such person or persons may be tried by either the military or civil authorities according to whether they belong to the military or are civilians.'

"It was likewise held in decisions in 11 Comp. Dec. 124 and 16 id. 132, referred to in your submission, that due to the inadequacies of the reward authorized by law to be offered for the apprehension and return of deserters from the Army, the Secretary of War was authorized to offer and pay from the appropriations for 'Contingencies of the Army' more substantial rewards for the apprehension and return of deserters who were also charged with forgery of a Government check and embezzlement of Government funds.

"The appropriation for 'Contingencies of the Army' is intended to cover such incidental, casual, and unforeseen expenses in connection with the operations of the Army as are necessary and appropriate to the execution of duties required by law that are impossible to be anticipated or classified. Expenditures therefrom are to be made on the approval or authority of the Secretary of War and for such purposes as he may deem proper. Therefore, and in line with the decisions hereinbefore cited, I have to advise you that if, in the exercise of the discretion vested in you under the appropriation, you deem it advisable to offer a reward for the return of the stolen platinum, there will be no objection, upon the recovery of the material, to the payment of the reward from the appropriation for 'Contingencies of the Army' covering the fiscal year in which

the offer is made."

In view of the fact that the appropriation involved in the foregoing decision is substantially similar to the appropriation, "Contingent, Navy," it may be held that the conclusion reached therein with respect to the payment of rewards for the recovery of stolen Army property is equally applicable to the present matter. Accordingly, I have to advise that this office will not question otherwise proper payments under the appropriation, "Contingent, Navy", of rewards--not to exceed a limitation fixed by you--for information leading to the location and discovery of lost airplanes of the Navy.

Respectfully,

LINSDAY C. WARREN Comptroller General of the United States