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B-66513 May 26, 1947

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Honorable George H. Bender, Chairman, Procurement and Buildings Subcommittee of the Committee on Expenditures in the Executive Departments,

House of Representatives

My dear Mr. Chairman:

I have your letter of May 21, 1947, requesting my opinion as to whether section 302 of the Government Corporation Appropriations Act, 1947, approved July 20, 1946, Public Law 519, 60 Stat. 595, may be regarded as permanent law. The section in question reads as follows:

"No part of any funds of any wholly owned Government corporation shall be used for the purchase or construction, or in making loans for the purchase or construction of any office building at the seat of the United States Government of by any corporation owned by the United States Government."

As you doubtless are aware, the enactment of said Pubic Law 519, entitled "AN ACT Making appropriations for Government corporations and independent executive agencies for the fiscal year ending June 30, 1947, and for other purposes," stems from the provisions of the Government Corporation Control Act, approved December 6, 1945, Public Law 248, under which budget progress of Government corporations are transmitted to the Congress as a part of the annual Budget required by the Budget and Accounting Act, 1921. The said budget program are required to be submitted for all wholly Government corporations covering operation "for the fiscal year commencing July 1, 1946, and each fiscal year thereafter"; and, upon the basis of the budget programs, legislation is to be enacted by the Congress making available such funds, or other financial resources as it may determine. See sections 102, 103 and 10h of the said act of December 6, 1945, 59 Stat. 598

Title I of Public Law 519, 60 Stat. 587 authority is granted to the corporations and agencies specified to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency, necessary to "carrying out the program set forth in the Budget for the fiscal year 1947 for each such corporation or agency."

I think the foregoing matters demostrate that Public Law 519 fully governs and controls the financial operations of the corporations involved for the fiscal year 1947 and that, for all practical purposes, it is to regarded as an annual appropriation act to the same extent as other annual appropriation acts for the

departments and agencies of the Government.

Therefore, it would appear to be proper to apply here the tests generally employed in determining whether the language in an appropriation act shall be considered as permanent or temporary and which are stated in 10 Comp. Gen. 120, at page 121-2, as follows:

"* * * It is a well-established rule that a provision contained in an annual appropriation act may not be construed to be permanent legislation unless the language used therein or the nature of the provision renders it clear that such was the intention of the Congress. Usually, where the word 'hereafter' or other words indicating futurity are used in the enactment, or where the provision is of a general character bearing no relation to the object of the Appropriation, the provision may be construed to be permanent legislation. 5 comp. Gen. 510. * * *"

The above-quoted section 302 contains no specific wording which would indicate an intention that the prescribed limitation upon the expenditure of funds is for application beyond the fiscal year for which the funds were made available. Neither can it be said that said section relates to matters of a "general character bearing no relations to the object of the appropriation ," because the section refers directly to the manner of expanding funds made available by the act itself. 5 Comp. Gen. 810. Moreover, I find nothing in the legislative preceedings attendant upon the enactment of the measure indicative of an intention that section 302 is to remain operative beyond the fiscal year covered by the act.

As will be apparent from the foregoing, I am of the view that the provision of law in question does not constitute permanent legislation.

Sincerely yours

LINDSAY C. WARREN Comptroller General of the United States