

PURCHASE OF TITLE TO SITE FOR A PUBLIC BUILDING.

Until the written opinion of the Attorney-General shall be had in favor of the validity of the title to a site for a public building, as required by section 355 of the Revised Statutes, the Comptroller of the Treasury will not decide the question whether the appropriation made for the site is available for the purchase of the fee of the land which is subject to certain outstanding leases.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,

November 21, 1896.

SIR: I am in receipt of your letter of the 18th instant, relating to the acquisition of a certain lot or piece of ground in the city of Philadelphia to be used in connection with the post-office building in said city, under the appropriations contained in the acts of August 13, 1894 (28 Stat., 373), March 2, 1895 (28 Stat., 912), and June 8, 1896 (29 Stat., 275.)

It appears that condemnation proceedings were duly instituted, which resulted in the following awards: To the owner of the fee, as damages, \$85,000; to Klein & Bro., tenants, for the improvements on the Market street front, \$7,500, and to the tenant upon the rear of the lot, \$1,200, a total of \$93,700; that the total appropriations made in the acts above cited amount to \$91,000; that certain expenses properly chargeable to the appropriations have been incurred which will reduce that amount several hundred dollars.

It has been suggested that the Government abandon the condemnation proceedings and purchase the fee, subject to the outstanding leases. You ask whether such purchase can be made.

Section 355, Revised Statutes, specifically provides that—

“No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building, of any kind whatever, until the written opinion of the Attorney-General shall be had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be, to such purchase, has been given.”

I am clearly of the opinion that this section not only prohibits payment for land to be used for the purposes therein

enumerated until the Attorney-General shall have certified as to the validity of the title, but was also intended to make the opinion of the Attorney-General conclusive upon that question. I see nothing in the appropriations above cited in any way indicating an intention upon the part of Congress to except them from the provisions of section 355, Revised Statutes.

While having a very decided opinion as to the purchase of the fee in question while there are leases outstanding, that question is clearly one for the determination of the Attorney-General when the title papers are presented to him for his examination and opinion. At present, therefore, the question which you ask is not one within my jurisdiction to determine.

Respectfully, yours,

R. B. BOWLER,
Comptroller.

The SECRETARY OF THE TREASURY.

EXPENSE OF REPAIRING PRIVATE PROPERTY HIRED FOR GOVERNMENT PURPOSES.

While repairs to private property are not ordinarily a proper charge against the Government, yet when a public officer deems it expedient and necessary, as a part of the agreement for the hire of a private conveyance, as a horse and wagon, that the Government assume the expense of keeping it in good condition while in use, such an item of expenditure is, under such circumstances, properly payable from the appropriation from which the cost of hiring is payable.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
November 21, 1896.

SIR: I am in receipt by your reference of a letter from the Director of the Geological Survey, inclosing a voucher in favor of Prof. I. C. Russell, one of the geologists of the Survey, for sundry items paid by him, as follows:

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| Repair of saddle..... | \$1.25 |
| Shoeing four feet, at 50 cents..... | 2.00 |
| Shoeing six feet, at 50 cents..... | 3.00 |
| Repairs to wagon, repairing broken device..... | .25 |
| Total..... | 6.50 |

It appears that Prof. Russell was employed by Mr. Newell, hydrographer in charge of hydrographic work, to make an investigation of underground currents and artesian wells in portions of eastern Washington and adjacent parts of Idaho