

B-145883

OCT 10 1967

RELEASED

Dear Mr. Lipscomb:

By letter of September 29, 1967, you forwarded a copy of a letter and attachments sent to you by the Director of the Office of Economic Opportunity containing summaries of the Senate Labor and Public Welfare Committee report on S. 2386 which proposes Economic Opportunity Act amendments for 1967. The summaries furnished you spelled out a strong endorsement for the continuation of OEO and its program.

You point out that the Director's letter was unsolicited; and in view of the prohibition of section 1913 of title 18, United States Code, pertaining to lobbying with appropriated funds, you raise two questions: Whether appropriated monies were used in sending the correspondence and, if so, whether the section 1913 prohibition has been violated.

We have ascertained that appropriated funds were used to prepare and send the correspondence. However, with respect to whether these letters thus constitute violations of section 1913, we must advise that since the statute contains fine and imprisonment provisions which may be enforced only through judicial criminal proceedings, it is not within our jurisdiction to determine the statute's applicability in any given circumstance. Whether the statute is to be viewed as reaching the situation you have brought to our attention is properly for consideration, in the first instance, by the Department of Justice.

Ordinarily, we would, as a matter of policy, refrain from volunteering an opinion on a question within the jurisdiction of another office of the Government to decide. But in the instant case, calling your attention to a similar occurrence in 1962 which you questioned, we would venture the opinion, in light of the Department of Justice view expressed at that time, that it is highly unlikely the Department would consider the correspondence to which you now refer as in violation of section 1913. See 108 Cong. Rec. 8449-51, where you inserted in the record the views of the Justice Department as contained in a letter to you concerning the nonapplicability of section 1913 in the case of a letter sent to Members of Congress urging support for certain Peace Corps legislation.

As we previously advised you in 1962, our general procedures call for referring any indicated violation of criminal laws to the head of the administrative agency involved and to the appropriate criminal law enforcement agency for consideration. However, in light of the stated

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position of the Department of Justice in connection with section 1913<sup>x</sup> as it relates to the kind of situation you bring to our attention, we do not believe there is any reasonable basis for concluding that the Department will consider that any criminal laws have been violated.

Therefore, and since you may wish to personally apprise the Attorney General of the matter, we do not plan to refer your letter to the Department of Justice unless you so request.

Sincerely yours,

FRANK H. WEITZEL

Assistant Comptroller General  
of the United States

The Honorable Glenard P. Lipscomb  
House of Representatives

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