



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

COMP. GEN.

JUN 28 1928

FILE COPY

A-23385.

Mr. Levi Cooke,  
Union Trust Building,  
Washington, D. C.

Sir:

I have received your letter of June 15, 1928, outlining for my consideration facts, etc., which in your opinion "not only have bearing upon but establish the invalidity of the Wool Standards Act and the appropriation made in pursuance thereof." You urge in substance that the funds involved "were created under a contract by the Government with the wool dealers - not with the growers," and that "the funds were collected under contracts which provided for distribution by the Government to wool growers. To now use these funds for purposes of the United States is a violation of the contracts and the conversion of a trust fund to the use of the United States." By reason of which you suggest that this office "should not approve payment of any moneys under the Wool Standards Act out of funds not belonging to the Government."

The Wool Standards Act, Public No. 409, 70th Congress, approved May 17, 1928, is entitled "An Act To authorize the appropriation for use by the Secretary of Agriculture of certain funds for wool standards, and for other purposes," and provides as follows:

"That there is hereby authorized to be appropriated for expenditure by the Secretary of Agriculture, for the purposes hereinafter stated, all funds heretofore or hereafter collected by suit, or otherwise, pursuant to appropriations for the completion of the work of the domestic wool section of the War Industries Board, and for enforcing Government regulations for handling the wool clip of 1918 as established by the wool division of said board, pursuant to the Executive order dated December 31, 1918, transferring such work to the Bureau of Markets, now a part of the Bureau of Agricultural Economics of the Department of Agriculture, and for continuing as far as practicable the distribution among the growers of the wool clip of 1918 of all sums heretofore or hereafter collected or recovered with or without suit by the Government from all persons, firms, or corporations which handled any part of the wool clip of 1918, which he finds it impracticable to distribute among said growers, provided that not to exceed \$50,000 may be expended in any fiscal year.

"Sec. 2. Said funds may be used for the purpose of acquiring and diffusing among the people of the United States useful information relative to the standardization, grading, preparation for market, marketing, utilization, transportation, handling, and

distribution of wool, and of approved methods and practices relative thereto, including the demonstration and promotion of the use of grades for wool in accordance with standards therefor which the Secretary of Agriculture is hereby authorized to establish. Said funds may be used for the grading of wool, and for such grading or other service rendered hereunder reasonable fees may be charged, and provided further that hereafter reasonable charges may be made for practical forms of grades for wool.

"Sec. 3. The Secretary of Agriculture may make such rules and regulations as he deems advisable for carrying out any of the provisions of this Act. All receipts hereunder shall be deposited in the Treasury to the credit of miscellaneous receipts."

The deficiency appropriation act of May 29, 1928, Public No. 563, contains a provision as follows:

"Wool standards: Not to exceed \$50,000 of the funds collected from persons, firms, or corporations which handled any part of the wool clip of 1918, which the Secretary of Agriculture finds it impracticable to distribute among wool growers, shall be deposited in the Treasury to the credit of a special fund which is hereby appropriated for the fiscal year 1929 for the purpose of carrying into effect the provisions of the Act entitled, 'An Act to authorize the appropriation for use by the Secretary of Agriculture of certain funds for wool standards, and for other purposes,' approved May 17, 1928, including personal services and other necessary expenses, \$50,000, of which amount not to exceed \$25,000 may be expended for personal services in the District of Columbia."

The propriety of making an appropriation is for the consideration of the Congress and the General Accounting Office as created by the Budget and Accounting Act of June 10, 1921, 42 Stat. 23, 27, is an instrumentality of the Congress and is charged with the duty of enforcement of the laws and regulations with respect to the uses of appropriations as made. It may be assumed the matters you set forth were for the consideration of Congress; but however that may be, if the invalidity or unconstitutionality of the enactment is now contended for upon the reasons you set forth, the determination thereof would not appear to be required by this office. See also Massachusetts v. Mellon, 262 U.S. 447, and United States v. Realty Company, 163 U.S. 427.

Respectfully,

(Signed) J. R. McCarl.

Comptroller General  
of the United States.

*McCarl*  
7/1/28