



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

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Federal Works Administrator,
Federal Works Agency.

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Sir:

I have your letter of May 4, 1940, as follows:

"The Act of May 23, 1928 (45 Stat. 721), provided for constructing a highway from Washington, D. C. to Mount Vernon, Virginia, such highway being usually referred to as the Mount Vernon Memorial Highway. Subsequent acts modifying or supplementing the above act were approved May 29, 1928 (45 Stat. 895); January 23, 1930 (46 Stat. 59); April 3, 1930 (46 Stat. 139); May 27, 1930 (46 Stat. 427); and March 4, 1931 (46 Stat. 1563).

"This legislation provided for the investigation of possible routes for such highway, the acquisition of lands necessary in connection with its construction, and the actual construction of the highway by the Secretary of Agriculture, who performed all such duties through the Bureau of Public Roads which at that time was in the Department of Agriculture. During the time that the highway was under construction there also was enacted by Congress what is commonly referred to as the Capper - Cranton Act, approved May 29, 1930 (46 Stat. 483), which provided for the George Washington Memorial Parkway. Section 1 (a) of this latter act provided that '*** /said lands including/ the Mount Vernon Memorial Highway authorized by the Act approved May 23, 1928, upon its completion, shall be maintained and administered by the Director of Public Buildings and Public Parks of the National Capital ***.'

"Accordingly, the Mount Vernon Memorial Highway was turned over to the Director, Office of Public Buildings and Public Parks of the National Capital, for maintenance and administration at the beginning of the fiscal year 1933. The transfer of jurisdiction and control over this highway was effected by letter of June 30, 1932, from the Secretary of Agriculture to Hon. Simeon D. Fess, Vice Chairman, Commission for the Celebration of the Two Hundredth Anniversary of the Birth of George Washington, recommending to said Commission that the maintenance and administration of the highway be so transferred, and by letter of the same date from Senator Fess to the Director, Office of Public Buildings and Public Parks of the

National Capital, turning the highway over to him, effective July 1, 1932. One copy of each of these letters is attached hereto.

"Subsequently the Office of Public Buildings and Public Parks of the National Capital was reorganized by Presidential order of June 10, 1933. It thereafter has constituted a unit in the National Park Service, which latter organization has since exercised control and jurisdiction over the highway.

"When the construction work referred to in the letters transferring the highway to the Office of Public Buildings and Public Parks of the National Capital was completed and the additional land acquisitions therein mentioned consummated there remained an unexpended balance of \$89,839.23 in the appropriations made for the purpose of acquiring lands and constructing this highway. This unexpended balance is carried on the books of the Public Roads Administration under the appropriation made by the Act approved May 27, 1930, 46 Stat. 427, (80X0211 Mount Vernon Memorial Highway, Public Roads Administration). The National Capital Park and Planning Commission has for some time been desirous of acquiring certain additional lands along the Mount Vernon Memorial Highway at critical points where there is need to protect the highway from encroachment, and has urged the use for that purpose of the unexpended balance mentioned above.

"The Public Roads Administration, which prior to the Reorganization Act which went into effect July 1, 1939, was the Bureau of Public Roads of the Department of Agriculture, has felt that the acquisition of these additional lands may be desirable but has not been certain that it would be authorized to expend the funds at this time for that purpose. Accordingly, the National Capital Park and Planning Commission has negotiated an option for the purchase of a parcel of land which it desires to acquire. The parcel in question is south of Alexandria, Virginia, and is owned by Mr. and Mrs. Robert Arnold. By letter of April 27, 1940, the Secretary to said Commission transmitted the option to the Public Roads Administration with request that it be submitted to you for advice as to whether or not the land to which it relates may be acquired and paid for out of the unexpended balance of funds appropriated for the acquisition of lands and for the construction of the Mount Vernon Memorial Highway. The letter from the National Capital Park and Planning Commission and the option transmitted therewith are attached. If the acquisition of this land with these funds will be legal, there is sufficient balance to pay for it at the price indicated in the option.

"It, therefore, will be appreciated if you will advise as to whether or not the Public Roads Administration may legally expend

the funds indicated above in acquiring the parcel of land covered by the option. In this connection, attention is invited to the fact that a postscript added at the bottom of the option recites that it is good until May 21, 1940."

Section 4 of the act of May 23, 1928, 45 Stat. 721, authorized the Secretary of Agriculture to acquire lands necessary for the "proper location, construction, and maintenance of said highway, including parking * * *." Section 5 of that act, ^{May 23, 1928} 45 Stat. 722, provided that "after the construction of said highway, the Secretary of Agriculture shall cause the same to be properly maintained," and, as stated in your letter, by the act of May 29, 1930, 46 Stat. 482, the maintenance and administration of the highway after completion was entrusted to the Office of Public Buildings and Public Parks of the National Capital which later became a part of the National Park Service, Department of the Interior.

Several appropriations were made for the purpose of carrying out the provisions of the act of May 23, 1928, and, by the Agricultural Appropriation Act of May 27, 1930, 46 Stat. 427, an appropriation was made as follows:

"For constructing a memorial highway to connect Mount Vernon with the city of Washington, as provided in the Act authorizing the construction of such highway and the making of appropriations therefor, approved May 23, 1928 (45 Stat., pp. 721, 722), including not to exceed \$12,000 for departmental personal services in the District of Columbia, \$2,000,000, to be immediately available, together with the unexpended balance of the appropriation of \$2,500,000 for this purpose contained in the Second Deficiency Act, fiscal year 1928, to remain available until expended."

While there appears to be nothing in the original act limiting the acquisition of lands to that necessary for the construction of the highway or indicating that no further land could be acquired after completion of the highway—authority being given the Secretary of Agriculture, as above stated, to acquire lands deemed necessary for the location, construction and maintenance of the highway—it is noted that the appropriation, supra, does not provide in specific terms for carrying out the provisions of the act of May 23, 1928, as did the appropriation made in the act of May 29, 1928, 45 Stat. 883, 895, but provides specifically for "constructing a memorial highway." Furthermore, the Second Deficiency Act of March 4, 1931, 46 Stat. 1563, contained an appropriation as follows:

"Bureau of Public Roads: For an additional amount for paving and other expenses of constructing the highway from Washington, District of Columbia, to Mount Vernon, Virginia, including all necessary expenses for the acquisition of such additional land adjacent to said highway as the Secretary of Agriculture may deem necessary for the development, protection, and preservation of the memorial character of the highway, \$2,700,000, to remain available until June 30, 1932, and this amount shall provide for the entire completion of such project and all objects of expenditure incident thereto."

It will be noted that this appropriation, limited as to availability to June 30, 1932, was made specifically available for the acquisition of land adjacent to the highway as might be deemed necessary by the Secretary of Agriculture for the development, protection and preservation of the memorial character of the highway.

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As such, said appropriation must be considered as exclusively available for such purpose under the well established rule that an appropriation providing specifically for a particular object is available therefor to the exclusion of a more general appropriation. 17 Comp. Gen. 974, 976.

Accordingly, I have to advise that the unexpended balance of the funds in the no-year appropriation for the construction of the highway is not available for the acquisition of the land here in question unless and until specifically made so available by law.

Respectfully,

(Signed) W. M. Zeller

Acting Comptroller General
of the United States.