Commerce and Labor, and thus come within the jurisdiction of that Department.

I am therefore of opinion that the Auditor for the State and other Departments is not required by section 2, *supra*, to receive and examine accounts for disbursements made by other Departments or establishments for expenses in connection with those offices, etc., or for the compensation of the officers and employees thereof while such offices, etc., shall remain a part of such other Departments or establishments; but that he is required by that section to receive and examine all accounts of the Department of Commerce and Labor for disbursements for expenses in connection with those offices, etc., and for the compensation of the officers and employees thereof after those offices, etc., shall have been transferred to said Department; or, in other words, that all payments made by disbursing officers of the Treasury Department not later than June 30, 1903, in connection with those offices, etc., shall be settled by the Auditor for that Department; and that all payments made by disbursing officers of the Interior Department not later than June 30, 1903, in connection therewith shall be settled by the Auditor for that Department; but that all accounts for payments made by disbursing officers of the Department of Commerce and Labor shall be settled by the Auditor for the State and other Departments.

As indicated *supra*, the act of March 3, 1903, provides that the compensation of all persons transferred thereunder "shall be credited and disbursed by the Department of Commerce and Labor." This provision refers to particular employees of the Treasury Department, which the Secretary of the Treasury is directed to transfer to said Department before July 1, 1903. I am also of opinion that the Auditor for the State and other Departments is required by section 2, *supra*, to receive and examine all accounts for disbursements made by said Department for the compensation of the employees referred to who shall be transferred to said Department before July 1, 1903.

PURCHASE OF LAND FOR A NAVAL STATION ON THE ISLAND OF CULEBRA.

The provision in the Navy emergency appropriation "to be expended at the discretion of the President" operates to except expenditures thereunder from the operation of the provision in section 3736, Revised Statutes, that "no land shall be purchased on account of the United States except under a law authorizing such purchase," and the appropriation is therefore applicable, in the discretion of the President, to the purchase of land for a naval station on the island of Culebra, West India Islands.

(*Assistant Comptroller Mitchell to the Secretary of the Navy, June 24, 1903.*)

In your communication of June 18, 1903, you request my decision of a question which you present as follows:

"A number of guns have, by naval authority, been mounted on the island of Culebra, West Indies, for the protection of that island, in connection with its use as a naval base and coaling station. Many of these guns are on private land, having been placed there by permission of the landowners under the supposition that the arrangement was to be temporary only. It has been decided, however, that the occupation of this land for this purpose must be permanent, and the property owners are seeking reimbursement in the form of rent or purchase of the tracts by the Government. The total value of the lands used is $449.50. The President has been asked for an allotment of $500 from the emergency fund to cover the proposed purchase and incidental expenses.

"Under the circumstances above recited, your opinion is requested as to whether the proposed purchase can be made, assuming that the authority will be granted by the President.

"Your ruling is requested at this time in view of the fact that it is desirable to consummate the purchase, if it may legally be done, before the expiration of the current fiscal year, and it is accordingly requested that response may be made to this inquiry at as early a date as you may find convenient."

The appropriation to which you refer is as follows:

"To meet unforeseen contingencies for the maintenance of the Navy constantly arising, to be expended at the discretion of the President, one hundred thousand dollars." * * * (Act of July 1, 1902, 32 Stat., 663.)

An appropriation in precisely the same terms, except that the amount appropriated is only $25,000, is contained in the

act of March 3, 1903 (32 Stat., 1178). I think there is no doubt that these appropriations are sufficiently broad in their terms to authorize by implication the purchase of land which is deemed necessary for the maintenance of the Navy. It is, however, provided by section 3736 of the Revised Statutes that—

"No land shall be purchased on account of the United States except under a law authorizing such purchase."

In view of this express prohibition, it has been held that such authorization to purchase land must be so clearly expressed in the law from which it is to be derived as to be equivalent to an express grant of authority. (7 Comp. Dec., 524.) And in a subsequent decision, in considering the general and permanent character of this prohibition in the Revised Statutes, it was said:

"The provisions of the Revised Statutes are permanent legislation, and many of these provisions are intended to restrict general implications arising from subsequent general laws and particular appropriation acts. Otherwise it would be necessary to repeat these restrictive provisions year after year in numerous statutes. In considering a subsequent statute, therefore, it is to be read as if it actually contained these provisions, so far as they are applicable thereto, unless the terms of the statute clearly indicate a contrary intention or are repugnant thereto. It is also to be presumed that every statute passed by Congress is framed in contemplation of these provisions, and that it is not intended to abrogate any of them or to operate as an exception thereto, unless such an intention is clearly manifested, and then to no greater extent than is so manifested." (7 Comp. Dec., 714.)

There are no provisions in these emergency appropriations which clearly manifest such a purpose. But it is to be observed that these appropriations contain a provision that they shall "be expended at the discretion of the President." In 9 Comp. Dec., 457, it was held that a provision in the appropriation for the national defense, acts March 9, 1898, and January 5, 1899 (30 Stat., 274, 781), in precisely the same terms, operates to except expenditures made thereunder from the requirement in section 3744 of the Revised Statutes, that contracts entered into by the officers specified therein shall be "reduced to writing and signed at the end thereof." This decision was based on an opinion of the Attorney-General (22 Op. Att. Gen., 442) and a decision of the Court of Claims in

the case of the *Pacific Steam Whaling Co.* v. *United States* (36 Ct. Cl., 105), from which quotations are made therein.

I am of opinion that the same principle is applicable in this case, and I therefore have the honor to advise you that you are authorized in the discretion of the President to purchase land for the object indicated.

ENGRAVINGS AND PORTRAITS FOR THE ELLIS ISLAND IMMIGRANT STATION.

The appropriation for the expenses of immigration is applicable to the cost of engravings and portraits purchased as furniture for the Ellis Island immigrant station, provided that the engravings and portraits are necessary for the public service.

(*Comptroller Tracewell to the Secretary of the Treasury, June 25, 1903.*)

In your communication of June 17, 1903, you request my decision of a question which you present as follows:

"I have the honor to submit herewith a communication from the Commissioner of Immigration at Ellis Island, N. Y., in reference to the purchase of three engravings and one crayon portrait, aggregating $125 in value, and to request decision from you as to whether these pictures may be considered furniture and paid for out of appropriations under the control of this Department."

A similar question was considered in 7 Comp. Dec., 1, in which it was held that paintings suitable for the decoration of rooms in a public building are within the meaning of the term "furniture."

It was also held therein that the appropriation for furniture and repairs of same for public buildings is applicable to the cost of cases used for protecting paintings in a public building. But the appropriation for furniture and repairs of furniture for the fiscal years 1903 and 1904, made by the acts of June 28, 1902, and March 3, 1903 (32 Stat., 448, 1110), excludes furniture and repairs of furniture for immigration stations from the purview of those appropriations.

I have the honor, therefore, to advise you that the purchase of the pictures indicated by you is authorized, the cost thereof to be paid from the appropriation for expenses of immigration, provided such expenditure is necessary for the public service.