

FIRE INSURANCE, LINCOLN MEMORIAL.

The income derived from the endowment fund assigned to the United States by the Lincoln Farm Association is not strictly a Government fund, yet the title is vested in the United States, and in accordance with the general policy of the Government it may not be used for the payment of fire-insurance premiums.

Decision by Comptroller Warwick, April 4, 1918:

Sydney E. Smith, disbursing clerk, War Department, applied December 24, 1917, for revision of the action of the Auditor for the War Department in disallowing by settlement, No. 43116, dated December 5, 1917, his claim for two items paid by him. The items were fire-insurance premiums for policies covering the Lincoln Memorial, Hodgenville, Ky., and the card record cabinets of the Lincoln Farm Association.

The auditor's action was based on the ground that—

“The payment of fire insurance is not a proper charge against Government funds. See 23 Comp. Dec., 269.”

The act of July 17, 1916 (39 Stat., 385), provides for the acceptance by the United States of a deed of gift from the Lincoln Farm Association of land near Hodgenville, Ky., embracing the homestead of Abraham Lincoln and the log cabin in which he was born, together with the memorial hall inclosing the same, and for the acceptance of an assignment of an endowment fund of \$50,000.

The act cited further provides:

“* * * The title to said endowment fund is accepted upon the terms and conditions stated in said assignment and transfer, namely, that the United States of America shall forever keep the said tract of land * * *; and further, shall forever protect, preserve, and maintain said land, buildings, and appurtenances, and especially the log cabin in which Abraham Lincoln was born and the memorial hall inclosing the same, from spoliation, destruction, and further disintegration, * * *.”

The property is to be “under the control of the Secretary of War and administered under such regulations not inconsistent with law as he may from time to time prescribe.”

The claimant states:

“In presenting this appeal I beg to say that the disallowed items were not paid for from funds appropriated by the Congress, but were paid for from the income derived from dividends and interest accruing on the stocks and bonds constituting the endowment fund of the Lincoln Farm Association, the title to which was accepted by the Secretary of War under the provisions of section 2 of the act of Congress approved July 17, 1916 (39 Stat., 385). Therefore it would appear that the income derived from that fund can not be said to be Government funds and the only connection with such funds is that they are to be withdrawn, disbursed, accounted for and audited the

same as all Government funds according to the method prescribed in the decision of the Comptroller of the Treasury of February 28, 1911, with respect to contributed funds for river and harbor improvements.

"In this connection, attention is invited to the opinion of the Acting Comptroller dated January 25, 1917, relative to the proper method of accounting to be pursued in the disbursement of the income derived from the endowment fund, in which it is held that trust funds are available for expenditure under the authority of an act of Congress which creates the trust fund without further appropriation thereof."

There is an inconsistency in saying that "the disallowed items were not paid for from funds appropriated by the Congress" and in the next paragraph quoting from a decision of this office to the effect that "trust funds are available for expenditure under the authority of an act of Congress which creates the trust fund without further appropriation thereof."

While the funds involved in the present case are not strictly Government funds in that they are not derived from the revenues of the Government, yet they are Government funds in that the legal title is in the United States.

As far as this case is concerned it is not necessary to decide whether or not trust funds held by the United States are subject to the same restrictions as to expenditure as funds derived from the revenues of the Government. By the provisions of the act of July 17, 1916, *supra*, the United States has obligated itself to "protect, preserve, and maintain said land, buildings, and appurtenances, * * * from spoliation, destruction, and further disintegration;" that is, the United States has assumed the risk. That being so, the general policy would be as laid down in 23 Comp. Dec., 269, and the decisions therein cited. It should be remembered that fire insurance does not tend to protect or preserve a building from fire.

The action of the auditor is affirmed and a certificate of no differences upon revision will issue. * * *

PAY OF AIDS, NAVY.

The duties of an aid to a rear admiral being of a personal, confidential, and routine nature, an officer of the Navy assigned to such duty is not entitled to the additional pay authorized under the act of May 13, 1908, prior to the date he came into personal contact with the rear admiral on board the same ship.

Comptroller Warwick to the Secretary of the Navy, April 4, 1918:

I have your letter of March 1, 1918, stating certain facts touching upon the issuance to Capt. E. A. Anderson, United States Navy, of a temporary appointment as rear admiral. Decision as to the date from which increased pay should be allowed was originally requested October 24, 1917, by your reference of the question pre-