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WASHINGTON 25

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June 21, 1960

B-142862

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Honorable John L. McClellan, Chairman
Committee on Government Operations
United States Senate

Dear Mr. Chairman:

Your letter of May 9, 1960, acknowledged May 10, requests our report on S. 3491.

The bill would repeal that part of the act of March 2, 1889, as amended, 40 U.S.C. 256, which requires that in the procurement of sites for public buildings it shall be the duty of the Attorney General to require grantors to furnish, free of all expenses to the Government, all requisite abstracts, official certifications and evidences of title that he may deem necessary. The cited statute applies only to sites acquired for public buildings, which sites it is understood represent only a small percentage of the number and value of Government acquisitions. The statute does not apply to sites which are not to be used for public buildings, such as sites for military reservations, defense requirements, flood-control and reclamation projects, Veterans Administration facilities, national forests and other similar Government acquisitions. With respect to acquisitions of this latter type, it has been the universal practice for years to pay the costs of abstracts and other necessary title evidence from the appropriations available for the acquisition of the sites, except where the sites are acquired by condemnation in which event the cost of procuring title evidence is generally regarded as part of the expense of the condemnation proceedings and, therefore, for payment out of the appropriations for the Department of Justice. In the event of enactment of S. 3491, in situations where sites are acquired by direct purchase from the owners, the appropriations available for such acquisitions or the contingency appropriations of the acquiring agency will be available for the necessary title evidence. 355 Revised Statutes, as amended, 40 U.S.C. 255.

Informal information from General Services Administration is to the effect that its experience has shown that many owners did not receive or procure evidences of title at the time they

acquired the realty and are dilatory in, resist the procurement of, or refuse to procure the required title evidence. In these situations, if the realty is urgently needed and title evidence is not furnished within a reasonable time by the owner, GSA resorts to condemnation proceedings. It is the view of GSA generally that the existing statutory provisions requiring grantors of public building sites to furnish title evidence at their own expense has resulted in undue delays in the acquisition of such sites as well as added costs to the Government in the prosecution of condemnation actions. It is the further view of GSA that repeal of the present statutory requirement is not likely to result in added expenditures of Federal funds but instead may result in a saving under the theory that vendors in the past have, no doubt, included in the purchase prices amounts more than adequate to protect against unforeseen expenses incident to furnishing the required evidence of title.

In addition to the foregoing, GSA has informally advised that in some instances the statutory requirement has resulted in the withdrawal of proposed donations of realty to the Government because the prospective donors refused to bear the expense of procuring title evidence, and that in the past nine years there have been five donations of realty. As to acquisitions generally, the records of GSA show that during the period from January 1956 through January 1960, about 450 tracts of land were acquired from individual owners through direct purchases and condemnation proceedings representing 115 public building sites and additions to sites. Approximately 10 percent of such acquisitions were by direct purchase. Information obtained by GSA from other agencies is to the effect that the cost of title evidence has averaged \$114 per tract at the Department of Defense (Army and Air Force) and \$95.50 at the Department of Agriculture.

We are not in a position to determine whether in the event of the proposed repeal of the pertinent part of the 1989 statute there would be any actual saving such as indicated by GSA. It appears, however, that enactment of S. 3491 would put GSA on equal footing with other Federal agencies in the procurement of title evidence and that it would facilitate acquisition of public building sites by GSA.

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Section 355, Revised Statutes, as amended, 40 U.S.C. 255, provides that the head or other authorized officer of any department, independent establishment, or agency shall procure any evidence of title which the Attorney General may deem necessary, and that the expenses of procurement, except where otherwise authorized by law or provided by contract, may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department, independent establishment, or agency. If the present statutory requirement is repealed, the foregoing provisions of section 355 Revised Statutes would appear to adequately provide for the procurement of any title evidence which the Attorney General may consider necessary and the cost of procurement of same, except where otherwise authorized by law or provided by contract, would be properly chargeable to the appropriations for the acquisition of the sites or the appropriations made for contingencies of the acquiring agency.

Accordingly, we have no objection to favorable consideration of S. 3491.

Sincerely yours,

JOSEPH CAMPBELL

Comptroller General
of the United States