



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

A-31494

COMP. GEN.
FILE COPY

MEM

MAY - 8 1930

The Honorable,

The Secretary of the Interior.

Sir:

There has been received your request of April 19, 1930, for decision of a question presented in letter of the Assistant to the Superintendent of St. Elizabeths Hospital of the same date as follows:

"The hospital has no sewer connection with the dry cow barn on the east side of Nichols Avenue, the piggeries located in the same area, several dwelling houses, and some of the buildings containing patients. These buildings have been drained more or less into ravines adjacent to Stickfoot Creek. Complaints have been made of this on several occasions, and it has become to some extent a nuisance. With additional number of patients at the hospital and increase in the number of cows and pigs this condition becomes aggravated. It is essential that some relief be granted. The basement of the cow barn must be drained and the piggeries' sanitary condition relieved.

"The District of Columbia Sewer Department has recently installed a sewer along Sheridan Road close to the eastern section of the hospital. This sewer is low enough so that proper drainage could be had from the various hospital buildings noted. An informal communication from the District Sewer Department has advised us that they have no objection to our using this sewer for this form of drainage. The sewer on Sheridan Road would have to be continued to the hospital grounds by the District Sewer Department and the hospital take over the sewer within the grounds. The District Sewer Department has agreed to erect a portion of the sewer outside the hospital and bring it to the grounds where we could make the proper connections. The only obstacle intervening is the right of way on a stretch of ground between the sewer on Sheridan Road and the hospital grounds. Through representatives of the District Sewer Department we have canvassed the various owners of this road and find that the right of way can be secured to the best advantage from one Marcus Calaman at a cost of approximately sixty dollars (\$60.00). The District Sewer Department is ready to make this installation and take over the right of way for

the hospital, it being considered best that the right of way be under their supervision (as they must install the sewer and connect it with their main sewer), providing the hospital appropriation can be used to reimburse them for acquiring this right of way and the expense of the installation.

"In the Act approved March 4, 1929, Public-No. 1033, an Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1930, and for other purposes, on pages 48 and 49, Saint Elizabeths Hospital, for support, clothing, and treatment in Saint Elizabeths Hospital for the Insane ~~etc~~ and including net to exceed \$150,000 for repairs and improvements to buildings and grounds, etc.

"The sewer required are necessary improvements to buildings and grounds and there will be no question of its use for the installation of this sewer. The only question in the minds of the District Commissioners in doing the work for the hospital is whether in extending this sewer the hospital could reimburse them for this right of way at a cost of sixty dollars (\$60.00) and additional cost of title. Inasmuch as it is essential for the proper safeguarding of the inmates of the hospital and surrounding populace to install this sewer, which can only be done by securing right of way, it would seem that the appropriation could be used for this purpose. There having been a doubt raised, I have the honor to recommend that you transmit a copy of this letter to the Comptroller General of the United States and ask him if he will advise us at the earliest possible moment if this appropriation is available for this purpose, so that we can inform the District Commissioners and they can make this installation."

Section 3736, Revised Statutes (Title 41, section 41, U. S. Code), provides: "No land shall be purchased on account of the United States, except under a law authorizing such purchase."

The purchase of a permanent right-of-way or easement over land as proposed in the present matter would constitute a purchase of land or interest therein within the meaning of this provision of law and the appropriation made by the act of March 4, 1929, 45 Stat. 1605, providing "for repairs and improvements to buildings and grounds" does not constitute such authorization as required by law.

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Accordingly, I have to advise that the appropriation in question is not available for the purchase of a right-of-way as set forth in letter of the Assistant to the Superintendent of St. Elizabeths Hospital.

Respectfully,

(Signed) J. R. McCarl

Comptroller General
of the United States.

