

Office Correspondence

FEDERAL RESERVE
BOARD

To Governor Eccles

From J. M. Daiger

Date March 8, 1935

Subject: Memorandum from Frank Watson

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dm D.

Frank Watson had finished talking with Mr. Vest and was waiting for me after I left you last evening. The attached memorandum, which Frank finished before we went home to dinner, suggests an approach that may be relatively simple if handled in the conference committee by one or two Administration men who clearly understand our purpose.

I have sent the original of this memorandum to Mr. Vest.

March 7, 1935

Memorandum to Mr. Daiger

Re: Emergency Relief Appropriation Act

It is not possible to say whether the Senate bill as finally reported will permit grants in aid of private housing.

The question is not one of court construction but rather one of construction by McCarl, the Comptroller General.

Under a strict construction, the words "to provide relief and work relief" can only mean direct grants to needy persons by the Federal Government and direct employment of needy persons by the Federal Government.

This construction is inconsistent with many of the other provisions of the act which indicate that materials will be purchased and land bought and sold.

It may therefore be argued that the words "to provide relief and work relief" must be construed as describing the result to be accomplished by the expenditures rather than what the money is to be directly spent for.

Under this construction, materials could be purchased and the several projects listed on page 3 of the bill undertaken. I think, also, that it is possible that such a construction also justifies grants in aid of private housing. If all projects undertaken must be owned and carried out by the Federal Government, section 7 providing for use of the facilities of private enterprise can have no meaning. If an individual is unwilling to undertake a residential construction project at his own expense but will undertake it if the Federal Government will furnish part of the work as work relief, then I think it could be so furnished and any grant which was less than the actual cost of the labor involved could be considered as utilizing the services of the home builder to provide work relief.

But the question is by no means clear. Since there are many other questions equally insolvable under the language of the bill, would it not be better to point them all out to the conference group in such a way as to force them back to much of the House bill and then see that everything was clear in the final compromise.

For instance the following difficulties might be raised:

1. The bill provides specially for loans to farmers (p.4, line 5) and by implication this denies the right to loan in any other case since if the right to loan existed anyway this provision would be surplusage as such loans could be made under "rural rehabilitation and relief in stricken agricultural areas, \$500,000,000."

If this is so, then "public projects of States or political subdivisions thereof, \$900,000,000" cannot be done on a loan basis at all nor can "highways, roads, streets, and grade crossing elimination, \$600,000,000."

2. Can any materials or land be purchased except in connection with the administration of the bill? This is by no means clear. A strict construction of the words "relief and relief projects" would exclude the purchase of land or materials. While the bill as a whole may argue for a looser construction, the point is sufficiently doubtful to justify a change.

3. Under the bill the President has no power to delegate. He must therefore sign every contract and issue every order himself even down to hiring stenographers and purchasing lead pencils.

4. It is not clear whether any grants may be made under "public projects of States or political subdivisions thereof, \$900,000,000." It is quite possible that neither loans nor grants may be made, but that the work must be done entirely by the Federal Government. If this is so, it will not be a public project of the states or political subdivisions unless they get special state legislation to permit the use of state or municipal land for the projects and the right to accept them when completed. The tax payers of a city may not be saddled with the upkeep of a project, no matter how meritorious, unless authorized in a proper manner.

5. May any persons not already on relief be hired in any of the projects authorized, or would payment of their wages be an expenditure for other than "relief or work relief"? If so, how long must they have been unemployed, a day, a week, or a year?

6. The Federal Emergency Relief Administration expires by its own terms in a month or so. This bill does not give the President power to continue that organization. The power to continue relief as authorized under the Federal Emergency Relief Act of 1933 does not preserve the organization. The same is true of the Public Works Administration.

It can then be suggested that the conference groups can, by the mere use of a few portions of the House bill, clarify the legal difficulties which the Senate bill raises and still retain the principles desired by the Senate.

(a) Strike out the (1), (2), (3), (4) of section 1 of the House bill and leave "relief and work relief" as in Senate bill. By later language only a broad construction of these words will be possible.

(b) Include the specific allocations on page 3 of the Senate bill.

(c) Leave out "The specific powers hereinafter --" etc. as omitted in Senate bill (p. 3, line 25 et al). Omit Senate special farmers provision (p. 4, line 3) as this power is present anyway under "rural rehabilitation and relief in stricken agricultural areas, \$500,000,000," and including it legally denies loans in any other case.

(d) Let Senate and House fight over Philippines (p.4, lines 12 and 13).

(e) Suggest, but do not insist, that House negative statement is better than Senate positive statement (p. 5, lines 5, 7 and 8) since contracts over \$300 are automatically subject to R.S. 3709 anyway. Senate language may mean that contracts of \$300 and under are also subject to the complications of R.S. 3709.

(f) Accede to Senate demand for application of the Classification Act of 1925 (p. 6, line 2).

(g) Insist on at least paragraph (d) of section 4 of the House bill even if corporations have to be excluded to satisfy the Senate.

(h) Insist above all on section 5 of House bill. Explain that without this the bill is a confused appropriation

act giving the President a sum of money to spend without indicating the mechanical methods by which it may be spent.

Insist particularly on paragraph (b) of this section as without it all work relief, except that in the nature of C.W.A. work, is thrown into the realm of doubtful legality. Without the power to make "grants", "loans" and "contracts" none of the things specifically enumerated by the Senate could be accomplished. That the power to make loans and contracts must be included goes almost without saying. Point out that "grants" is equally important since without it aid to "public projects of States and political subdivisions thereof" cannot be carried out. Also its exclusion prevents carrying out any of the other activities authorized under any system of local cooperation.

- (i) Section 4 of Senate bill may be omitted if section 5 of House bill is retained.
- (j) Sections 6 and 7 of Senate bill may be retained.
- (k) Section 8 of Senate bill should be dropped as it can cause all kinds of trouble and is not sufficiently clear to be interpreted.
- (l) Rest of Senate bill may be retained.

F. Watson