

BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
WASHINGTON

R-695

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD



August 23, 1940

Dear Sir:

There is enclosed for your information a copy of H.R. 10365, "A bill to facilitate preparation for national defense by amending section 3477 of the Revised Statutes", which was introduced in the House of Representatives on August 15 by Mr. Sumners, Chairman of the Judiciary Committee; together with a copy of the Board's letter of August 21, 1940, to Mr. Sumners expressing the belief that the enactment of the bill is desirable and in the public interest for the reasons stated therein and calling attention to the fact that the Federal Advisory Council had advised the Board prior to the introduction of this bill that it favored a proposal of this character.

Very truly yours,

Chester Morrill,  
Secretary.

Enclosures 2

(Copy of bill sent only with addressed copies)

TO THE PRESIDENTS AND CHAIRMEN OF ALL FEDERAL RESERVE BANKS  
AND THE MEMBERS AND SECRETARY OF THE FEDERAL ADVISORY COUNCIL

R-695-a

August 21, 1940

Honorable Hatton W. Summers, Chairman,  
Committee on the Judiciary,  
House of Representatives,  
Washington, D. C.

Dear Mr. Summers:

This is in response to your letter of August 19, 1940 requesting the views of the Board of Governors of the Federal Reserve System on H. R. 10365, "A bill to facilitate preparation for national defense by amending section 3477 of the Revised Statutes".

The bill would amend section 3477 of the Revised Statutes so as to permit the assignment of the entire amount of any claim of \$10,000 or more upon the United States to a bank or other lending agency as security for a loan or credit whenever such claim is based upon a contract entered into on behalf of the United States by the War Department, the Navy Department or the Procurement Division of the Treasury Department.

Section 3477 of the Revised Statutes makes assignments of claims against the United States null and void unless they are made after the claims have been allowed and warrants issued. This statute, which dates back to 1846, was enacted solely for the protection of the Government; but it is so strictly worded and has been so strictly construed that an attempted assignment which does not comply with the exact terms of the statute has been held void even as between the assignor and the assignee, so that it confers no rights in the assignee as against a trustee in bankruptcy of the assignor. National Bank of Commerce v. Downie, 218 U. S. 345. As a consequence, banks and other lending agencies which might otherwise be willing to extend credit to finance the performance of contracts with the Government are unable to rely upon assignments of amounts payable under such contracts as security, because they would find themselves in the position of general creditors of the contractors in the case of bankruptcy even though the funds which they advanced may have made the fulfillment of the contracts possible.

There are many manufacturers and other businesses, particularly the smaller ones, which may be deterred from bidding on

contracts arising out of the program for national defense because they have inadequate amounts of working capital and may encounter difficulties in financing the performance of such contracts. If such businesses could offer security in the form of assignments of claims against the Government growing out of such contracts, they would in many instances be able to obtain the necessary credit from their own local banks and other financing institutions, which have large amounts of idle funds awaiting employment. In many instances such credit could be obtained more simply and quickly from local institutions than from the lending agencies of the Government, whose commitments usually have to be passed upon in Washington.

The Federal Advisory Council, established under section 12 of the Federal Reserve Act, advised the Board, prior to the introduction of this bill, in regard to a proposal of this character, as follows:

"The Council believes this suggested amendment to the law especially important at this time, since the Government's preparedness program whenever put into effect will result in the necessity of placing large orders for materials of all kinds. Many small and medium sized business enterprises would be in a better position to accept and execute Government orders if they were able to use assignments of their claims against the Government as collateral for loans."

It is believed, therefore, that the enactment of this bill would facilitate financing the performance of Government contracts, would encourage additional business concerns to bid for such contracts and, by increasing the number of bidders, would tend to expedite, and reduce the cost of, the defense program.

For these reasons, the Board of Governors of the Federal Reserve System believes that the enactment of the bill H. R. 10365 is desirable and in the public interest.

Very truly yours,

(Signed) Chester Morrill

Chester Morrill,  
Secretary.