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-- Works Progress Administration --

For Immediate Release
October 26, 1936

Hopkins Answers Petition of New Jersey G.O.P. for WPA Lists

Harry L. Hopkins, Works Progress Administrator, today filed an answer in the District Court of the United States for the District of Columbia to the petition of New Jersey Republican campaign officials, denying their right to a list of Works Progress Administration employees, with their addresses and salaries.

Compliance with the request, which he termed political, would be against public policy, Mr. Hopkins declared,

The answer, submitted by John Dickinson, Assistant Attorney General, with Leslie Garnett, United States Attorney, John S. L. Yost, Special Assistant to the Attorney General, and William E. Linden, General Counsel for the Works Progress Administration, as attorneys for the respondent, follows:

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II. He admits the allegations contained in Paragraph II of the petition.

III. He admits the allegations contained in Paragraph III of the petition, and adds that by virtue of the Act approved February 15, 1934 (48 Stat. 351), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115) and the Emergency Relief Appropriation Act of June 22, 1936 (49 Stat. 1608), the Federal Emergency Relief Administration was continued in existence until June 30, 1937.

IV. He admits the allegations contained in Paragraph IV of the petition, except that he says that the Emergency Relief Appropriation Act of 1935, supra, provides the funds appropriated therein are to remain available until June 30, 1937, instead of June 30, 1936, and he avers that the Emergency Relief Appropriation Act of 1936, supra, provides that funds allotted by the President thereunder for administrative purposes are available for expenditure until June 30, 1938.

V. He admits the allegations contained in Paragraph V of the petition.

VI. He admits the allegations contained in Paragraph VI of the petition.

VIII. He admits the allegations contained in Paragraph VII of the petition, except that, according to information published by the Treasury Department of the United States, which Department, and not the Works Progress Administration, is charged with the disbursement of the funds appropriated by the Emergency Relief Appropriation Acts of 1935 and 1936, he is advised that as of June 30, 1936, the sum expended by the Works Progress Administration throughout the United States was \$1,305,802,580.44, of which amount \$46,125,641.32 was expended for the Works Progress Administration in New Jersey.

Respondent further says that as of August 31, 1936, the total disbursements for the Works Progress Administration throughout the States of the United States was approximately \$1,772,756,795.00, of

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which approximately \$66,804,017.00 was expended for the Works Progress Administration in New Jersey, of which latter amount the sum of \$2,487,720.00 was expended for administrative purposes of the said Works Progress Administration in New Jersey.

VIII. He admits the allegations contained in Paragraph VIII of the petition.

IX. He admits the allegations contained in Paragraph IX of the petition.

X. He admits the enactment of the acts of Congress mentioned in the first sentence of Paragraph X of the petition and that certain appropriations were provided for in said acts, and avers that the administration of the said acts has benefited the nation as a whole; he denies each and every one of the other and remaining allegations of said Paragraph X of the petition. Without limiting in any way the generality of the foregoing denial, he denies that the said acts have delegated a proper legislative function to the Executive branch and he denies that the powers, duties and expenditures of the Works Progress Administration are subject only to control by the Executive. Respondent denies the allegations that there has been gross waste and extravagance in the administration of funds appropriated by the said acts either in the United States or in the State of New Jersey; he denies that the Works Progress Administration and the funds available to it are not being used solely for the purpose of relief as intended by Congress but that the expenditure thereof is in part influenced by political considerations; and he denies that the appointment of the personnel of the Works Progress Administration has been dictated by political considerations or that excessive salaries are paid to the employees of the Works Progress Administration and avers that the said allegations with respect to gross waste and extravagance and political considerations are frivolous, scandalous and impertinent and made for political purposes.

XI. Answering the allegations of Paragraph XI, he admits that

on November 3, 1936, the qualified voters will cast their votes for electors to elect the President and Vice-President of the United States, members of the Congress, and certain members of the Senate of the United States.

He is advised that the question of whether the administration of the Works Progress Administration is or is not an issue in the said national campaign is not material to the issues of this case, and he denies the innuendo in Paragraph XI, that the said administration has been partisan and wasteful and has permitted or caused to be permitted diversion of funds from the purposes for which such funds have been appropriated by Congress, and he avers that the said innuendo has been inserted in said petition maliciously and to serve the political purposes of the Petitioners. Further, respondent denies that the petitioners are entitled by this proceeding to have made available to them the records of the Works Progress Administration containing the individual names, addresses, and salaries of the employees of the said Administration, and he denies that an inspection of such records is in any way essential to assist petitioners in the intelligent exercise of their franchise privileges or to aid them to reach an intelligent understanding of the issues of the said national campaign.

XII. Respondent is advised that the allegations of Paragraph XII of the petition are not material to the issues of this case; but he admits that he is fully cognizant of the candidacy of the President of the United States for reelection to the office of Chief Magistrate of the Nation, as are all other citizens of the United States, and that respondent herein is exercising his lawful rights as an individual citizen in advocating the reelection of the President of the United States.

Respondent denies, however, that any facts and figures from the records of the Works Progress Administration have been used in support of said candidacy which have not been available to the Petitioners, or that it is impossible for the petitioners to determine from the

information which is available to them the true facts regarding said Administration. Respondent informed the Honorable Walter E. Edge, one of the petitioners herein, by letter of October 16, 1936, a copy of which is attached to the petition as Exhibit D, "that the American public is entitled to and will receive full facts and figures concerning the operations of the Works Progress Administration," but that respondent would not furnish the individual names, addresses or salaries of the workers of the Works Progress Administration for commercial or political purposes, and that respondent insisted that he would protect the workers of the said Administration, as individuals, "from commercial and political exploitation." Respondent is informed and believes that there is a grave danger that the information demanded by petitioners may be used for the purpose of political solicitation and coercion, and that this is an improper use of such information, against which respondent is entitled and obligated to protect the employees of the Works Progress Administration.

XIII. Answering the allegations contained in the first sentence of Paragraph XIII of the petition, respondent avers that the said allegations are so vague, indefinite, and uncertain that respondent is unable to determine to what demands petitioners intend to refer, and that he is advised that the said allegations are in any event not material to the issues in this case, but he denies that any reasonable request for information and detailed figures pertaining to the Works Progress Administration has been refused. He admits the receipt of the letters referred to in said paragraph as Exhibits A and C and the authenticity of the replies referred to as Exhibits B and D, and he avers that said Exhibits A and C by their contents, manifest the unreasonableness, impropriety and bad faith of the petitioners' demands.

Respondent admits that in the exercise of the discretion conferred on him by virtue of his office and the laws applicable thereto he has declined to furnish the names, addresses, and the individual salaries of the employees of the said Administration, but again asserts

that he is ready and willing to comply with all reasonable demands of petitioners for information with respect to the operations of the Works Progress Administration, except that he has refused and will continue to refuse to reveal or grant access to such records as pertain to the names, addresses, and individual salaries of the employees of said Administration. Respondent denies that the purpose of petitioners' request is to determine in an impartial way whether the records of the Works Progress Administration are correct or whether the administration of the Works Progress Administration has been partisan or non-partisan or economical or wasteful, and avers that he is informed and believes that any investigation which petitioners might make of the records of the Works Progress Administration would be partisan and prejudiced and designed to promote the campaign purposes of a particular political party and would not result in the disclosure of accurate information to the public. Respondent further avers that he is advised and believes that it would be against public policy and at variance with his lawful duty as Administrator to give a list of the names, addresses and salaries of individual employees of the Works Progress Administration to any person or agency other than one authorized by the Congress of the United States to investigate the Works Progress Administration.

XIV. Respondent denies each and every allegation contained in Paragraph XIV of the petition, except that he admits that he has stated that the records of the Works Progress Administration are public records and open to any one having legitimate reason to see them, and that he has held that the information with respect to individual employees contained in said records would not be furnished or made available for commercial or political purposes, and further, respondent avers that such data from the records of the Works Progress Administration as has been used as the basis for public statements by the Executive branch of the Government constitute information which is fully available to the petitioners and to other members of the public who may apply for the same, and at no time has respondent revealed in such public statements the

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individual names, addresses, and salaries of the employees of the Works Progress Administration, which is the information which petitioners now seek to obtain, and he denies that the interest of petitioners in the presidential election entitles them to the names, addresses, and salaries of the employees of the Works Progress Administration or that the possession of such information is essential to enable petitioners intelligently to exercise their franchise privileges.

XV. Answering the allegations contained in Paragraph XV of the petition, respondent denies that he has improperly used the records of the Works Progress Administration for the political advancement of the administration in power, and he avers that to the extent that he has used such records he has used them in good faith to make known to the American public accurate information with respect to the operation of the Works Progress Administration. Respondent denies he has breached any trust reposed in him, and denies that his refusal to furnish to petitioners the names, addresses, and individual salaries of the employees of the Works Progress Administration, is such a breach, or that his action in this respect amounts to a refusal to open the sources of information to those who challenge the administration of the Works Progress Administration, and avers that information as to the operation of the Works Progress Administration, except that pertaining to the individual employees, has been and is available to petitioners. Respondent denies that the petitioners, by reason of this proceeding, have a right to any or all of the records of the Works Progress Administration, which are records of the Government of the United States. Respondent further denies that petitioners have a legitimate interest in information with respect to the names, addresses, and salaries of individual employees of the Works Progress Administration, or that such information is necessary to assist petitioners in any way to cast an informed vote, or that the integrity of the Government depends in any way upon petitioners obtaining such information. Respondent further says that he fully understands his duty and obligations to the people of the United States, as well as to petitioners.

Further answering the allegations of the petition, respondent says:

1. The Works Progress Administration and the Treasury

Department from time to time have published voluminous and detailed reports and statements with respect to the operations, administration and expenditures of the Works Progress Administration. These reports and statements show, among other things, with respect to each state, the number and classification of employees, the total amount of compensation received by the employees in each classification, the number and classifications of projects, the number of persons employed in each classification, the allocations of funds made to each state and to each classification of projects, and the average hourly wages, rates and earnings on the projects in each classification, and a mass of other information with respect to the Works Progress Administration. In addition thereto the Works Progress Administration publishes regularly at intervals of approximately a month figures for each state showing total costs for all purposes on the basis of obligations incurred, total amount of administrative costs, the per cent of administrative costs to total costs, and the number of administrative employees for the pay period immediately preceding the date of the publication. The comprehensive and detailed information contained in these reports is available to petitioners and consequently respondent is informed and believes that the real purpose of petitioner's request and of this proceeding by petitioners is not to obtain information with respect to the administration of the Works Progress Administration but to conduct a partisan and prejudiced inspection, investigation and audit of the books, records and papers of the Works Progress Administration with a view to promoting the interests of a particular political party. Respondent is further advised and believes that petitioners have no more right to investigate and audit the books and records of the Works Progress Administration than petitioners or other citizens have to investigate and audit the books, records and

papers of any other governmental agency. Respondent is also advised and believes that if petitioners have a right as citizens and taxpayers to investigate and audit the books and records of the Works Progress Administration or of any other governmental agency, then all other citizens have a similar right, and the assertion of such a right by petitioners or by other taxpayers and citizens would make impossible the orderly and efficient administration of the Executive Departments and agencies of the Government.

2. He respectfully calls the court's attention to the fact that the prayer of the petition demands

* * * access to the records of the Works Progress Administration showing the employees of the organization, the scope of their duties, the salaries or other compensation which they have received since they have been connected with the Administration, their present salaries and compensation and also access to the records which will show the details with respect to the cost of the various projects, the amount of money which has been expended and for what purpose, with all underlying data.

and shows unto the Court that the relief prayed is not confined to the records of the Works Progress Administration with respect to operations in the State of New Jersey or to the records with respect to the operations of the Works Progress Administration in any other single state, district or political subdivision, but covers the records with respect to the operations of the Works Progress Administration throughout the entire United States and that the demand is not specific with respect to the cost of the various projects and the underlying data, but comprehends all of the various projects undertaken and prosecuted by the Works Progress Administration. The number of employees of the Works Progress Administration at the present time is over 2,000,000, and the Works Progress Administration is now conducting approximately 100,000 projects. All of the underlying data with respect to the cost of the various projects, the amount of money which has been expended and for what purpose is contained in voluminous files throughout the offices of the United States Government, not only in Washington, D.C., but throughout the 48 states of the Union. To grant to the petitioners and their agents access to these records would require that petitioners be permitted to remove any or all of such records from the files and to work with them during

business hours when such records are required for the conduct of the administration of the Works Progress Administration. Petitioners' request would also require many of the employees of the Works Progress Administration to devote a large part of their time to obtaining records and information for petitioners and to supervising the inspection of such records and their removal and return to the file. In such circumstances the conduct of the business of the Works Progress Administration would be confused, impeded and retarded and the orderly and efficient administration of its business would be impossible. The petitioners assert a right as citizens and taxpayers to have access to and to search the records of the Works Progress Administration and if petitioners have such a right then all other persons who are citizens and taxpayers have a similar right and the door is open to successive assertions of that right by numerous citizens, a result which would impede, if not completely stop, the orderly operation of the Works Progress Administration.

3. Respondent is advised and believes that a general investigation of the Works Progress Administration or of any other governmental department involving the compulsory production of documents or access to records can be legally undertaken only by some federal agency authorized by law to conduct such an investigation and that it cannot be undertaken by citizens acting in their personal capacities as taxpayers and voters and that if this were not the case, the resulting conflicts of authority and jurisdiction would destroy the possibility of useful investigation, and would disrupt and impede the orderly administration of the Government. Under existing legislation the records as to all funds appropriated by Congress for the operation of the Works Progress Administration are subject to audit and are audited by the General Accounting Office of the United States in accordance with the Budget & Accounting Act of June 10, 1921,

42 stat. 20. Under the Emergency Relief Appropriation Acts of 1935 and 1936, supra, Congress has directed that reports of the operations under said Act shall be submitted to Congress, the reports to include a statement of the expenditures made and obligations incurred, by classes and amounts.

4. Inspection by petitioners of the records relating to the employees of the Works Progress Administration would necessarily reveal to petitioners such intimate and personal particulars with respect to such employees as their age, legal residence, education, marital status, citizenship; number of persons dependent upon them for support; nature of any defects, infirmities or chronic diseases they may have; whether they have ever been arrested, indicted or convicted for violation of any law; their employment record; and other matters relating solely to the personal affairs of such employees, a record of which is necessary, appropriate and customary in the administration of a governmental agency. Petitioners have no legitimate interest in such personal information. The possession of such information by petitioners would not assist them in an intelligent exercise of their franchise and the disclosure of such personal and intimate information to petitioners would be a breach of confidence on the part of respondent and an abuse of his discretion.

5. The disclosure or non-disclosure of the records, data and information mentioned in said petition contained in the records of the Works Progress Administration is a matter within the sound administrative discretion of the respondent, and petitioners herein are not entitled, as a matter of law, to the relief prayed for; to grant to the petitioners and their agents access to, or the disclosure of information from, the records which are the subject of this suit, is a matter of administrative discretion, and is therefore not controllable in mandamus proceedings, and would greatly interfere

with the proper, efficient and orderly administration of the business of the Government of the United States, and it would not be compatible with the public interest to allow an indiscriminate inspection of the said records by private persons, having no legitimate or material reason therefor; the question of determining which, if any, of these records may be inspected is a matter involving the exercise of administrative discretion and as such cannot be controlled in a mandamus proceeding.

6. Petitioners in their petition filed herein do not show a sufficient special legal or legitimate interest in the premises to entitle them to maintain this proceeding.

Respondent, having fully answered, prays to be hence dismissed with his reasonable costs in this behalf incurred.

Harry L. Hopkins, Administrator
Works Progress Administration.

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