

IN THE SENATE OF THE UNITED STATES.

MARCH 3, 1885.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany petition of John H. Stewart.]

The Committee on Military Affairs, to whom was referred petition of John H. Stewart, praying for amendment of bounty laws, so as to remove bar of limitation, have duly considered the same, and submit the following report:

Your committee referred the petition to Secretary of War and the Second Auditor of the Treasury, and received the following communications, &c.:

WAR DEPARTMENT,
Washington City, June 9, 1884.

SIR: Referring to your letter of the 30th ultimo, inclosing the petition of John H. Stewart, late a private of Company C, Fourth Regiment of Arkansas Volunteers, for special legislation to entitle him to bounty under the act of July 28, 1866, of which he is now deprived by reason of having failed to make application for the same, within the time prescribed by law, and requesting to be advised as to the propriety of granting the prayer of the petitioner, I have the honor to invite attention to the inclosed report on the subject, dated the 6th instant, from the Adjutant-General of the Army, and to the accompanying statement of Mr. Stewart's military service. I may add that the Second Auditor of the Treasury is charged with the adjudication of all claims for bounty, and he will undoubtedly furnish the information which it appears from your letter you have already applied for, in regard to the several acts of Congress under which bounty was allowed.

The petition referred to is herewith returned.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. F. M. COCKRELL,
Of the Committee on Military Affairs, United States Senate.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, June 6, 1884.

SIR: I have the honor to return herewith a communication from Hon. F. M. Cockrell, of the Senate Committee on Military Affairs, transmitting a petition of John H. Stewart, formerly a member of Company C, Fourth Arkansas Volunteers, requesting special legislation to entitle him to bounty, under the act of July 28, 1866, of which he is now deprived by reason of having failed to make application for the same within the time prescribed by the law, and requesting information "in regard to the several acts under which bounty was allowed to this soldier," &c.

In reply to the above request I have to transmit herewith a military history of the

soldier referred to, and to suggest that the other information requested can be furnished by the Second Auditor of the Treasury, to whom a similar application in this case appears to have been forwarded by Senator Cockrell.

I am, sir, very respectfully, your obedient servant,

CHAUNCEY MCKEEVER,
Assistant Adjutant-General in charge.

The Hon. SECRETARY OF WAR.

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
Washington, D. C., June 5, 1884.

SIR: I have the honor to acknowledge the receipt of your letter of the 30th day of May, 1884, requesting a "statement of service" of John H. Stewart, the following information has been obtained from the files of this office, and is furnished in reply to your inquiry.

In the case of John H. Stewart, there is no original enlistment or muster-in roll showing him to have been enrolled or mustered into the service of the United States as an enlisted man in Company C of the Fourth Regiment of Arkansas Cavalry Volunteers, on file in this office up to date.

The muster-rolls of Company C of that regiment contain the following evidence of service: It is stated that he was enrolled December 19, 1863, at Dardanelle, Ark., to serve three years. Rolls from enrollment to April 30, 1864, private, present May and June, 1864; absent on detached service scouting since June 24, 1864; subsequent rolls to April 30, 1865, report him present. Mustered out with company June 30, 1865, at Little Rock, Ark., a farrier.

I am, sir, very respectfully, your obedient servant,

CHAUNCEY MCKEEVER,
Assistant Adjutant-General in charge.

To SENATE COMMITTEE ON MILITARY AFFAIRS.

TREASURY DEPARTMENT,
SECOND AUDITOR'S OFFICE,
Washington, D. C., July 5, 1884.

SIR: In reply to your letter of the 25th ultimo, requesting information in the case of John H. Stewart, Company C, Fourth Arkansas Cavalry, and a summary of the legislation in regard to bounties, &c., I have the honor to state as follows:

A claim for additional bounty under the act of July 28, 1866, in behalf of the said Stewart, was filed in this office October 28, 1883. It cannot be acted upon, owing to the provisions of the act of July 5, 1876, which limited the time for filing such claims to July 1, 1880.

The acts of Congress granting bounties are as follows:

Act July 22, 1861 (Stat. at Large, vol. 12, p. 268, sec. 4), allows a bounty of \$100 to men who have served two years, or during the war if sooner ended. Section 6 gives \$100 bounty to the widow and legal heirs of volunteers dying in the service.

Act July 29, 1861 (Stat. at Large, vol. 12, p. 279, sec. 5). Regulars enlisting after July 1, 1861, entitled to the same bounties as volunteers.

Act March 25, 1862 (Stat. at Large, vol. 12, p. 374, sec. 1). Certain men in Departments of the West and of the Missouri to be paid the same bounty as in cases of regular enlistment. Section 3. Heirs of those killed to have bounty.

Act July 5, 1862 (Stat. at Large, vol. 12, p. 505, sec. 6), provides that \$25 of the bounty, per act July 22, 1861, and July 29, 1861, be paid immediately after enlistment.

Act July 11, 1862 (Stat. at Large, vol. 12, p. 535, sec. 1), appropriates money to pay bounties to heirs of volunteers under act July 22, 1861, and prescribes line of heirship. Section 2. Payment of bounties to heirs of regulars under act July 22, 1861.

Act March 3, 1863 (Stat. at Large, vol. 12, p. 758). Men discharged within two years of enlistment by reason of wounds entitled to bounty.

Act July 4, 1864 (Stat. at Large, vol. 13, p. 379), authorizes payment of bounties of \$100, \$200, and \$300 for enlistments of one, two, and three years, respectively.

Act March 3, 1865 (Stat. at Large, vol. 13, p. 487, sec. 3), names heirs to whom bounty shall be paid in cases of soldiers discharged for wounds received in battle, who died before receiving bounty. Act March 3, 1863, sec. 4. Persons discharged for wounds received in battle or in line of duty entitled to the same bounty as if their full term had been served.

Act July 28, 1866 (Stat. at Large, vol. 14, p. 310, sec. 12). Additional bounty of \$100 to certain honorably discharged soldiers or heirs. Section 13, \$50 additional bounty

to certain enlisted men or heirs. By the act of March 3, 1869 (Stat. at Large, vol. 15, p. 334), claims under the act of July 28, 1866, were declared void unless presented prior to December 1, 1869. The time for filing such claims was extended five different times by acts of Congress, the last of which limited the period to July 1, 1880. There has been no subsequent legislation affecting claims of this character.

Act February 21, 1868 (Stat. at Large, vol. 15, p. 37). Additional bounty to be paid certain heirs.

Act July 13, 1868 (Stat. at Large, vol. 15, p. 256). Certain Missouri troops placed on equal footing with others as to bounties.

Act April 22, 1872, grants \$100 bounty to men who enlisted prior to July 22, 1861, and were mustered prior to August 6, 1861.

Act March 3, 1873 (Stat. at Large, vol. 17, p. 601), places colored persons who enlisted in the army on the same footing as other soldiers as to bounty and pensions.

Act June 16, 1880, (Stat. at Large, vol. 21, p. 283). Bounties to men of the Fifteenth and Sixteenth Missouri Cavalry and heirs.

The payment of bounties was also authorized by orders of the War Department as follows:

General Orders, No. 15, Adjutant-General's Office, May 4, 1861, pursuant to the proclamation of the President of May 3, 1861. A bounty of \$100 to men honorable discharged, and the same to legal heirs of men who died or were killed in the service.

Payment of bounty under this order to *discharged men* was not carried into effect until the passage of the act of April 22, 1872, heretofore mentioned.

The order was, however, legalized and made valid by the act of August 6, 1861 (sec. 3, Stat. at Large, vol. 12, p. 326).

General Orders, Nos. 190 and 191, Adjutant-General's Office, June 25, 1863, \$400 bounty to men enlisting in the Regular Army and men enlisting as "veteran volunteers."

Circular No. 98, Provost-Marshal General's Office, November 3, 1863. Recruits for old regiments allowed \$300 bounty.

Bounties paid under regulations and orders from the War Department were legalized by the joint resolution of January 13, 1864 (Stat. at Large, vol. 13, p. 400).

All bounty acts are now in force, excepting only the act of July 28, 1866, previously noticed.

I am of the opinion that the limitation of the act granting additional bounties should remain as it now stands, and furthermore, that a time should be fixed by statute within which *all claims* growing out of the late war should be presented.

In this connection I invite your attention to my views respecting a statute of limitation, as set forth in my annual report for the fiscal year ended June 30, 1883 (p. 16), a copy of which I inclose.

I have possession of no data upon which I can form a judgment, even approximately, of the probable number of claims for bounty that would be presented were the limitation removed from the act of July 28, 1866. Mr. Stewart's petition is returned.

Very respectfully,

O. FERRIS, Auditor.

Hon. F. M. COCKRELL,
United States Senate.

The following extracts are taken from the report of the Second Auditor of the Treasury for year 1883:

CONDITION OF THE PUBLIC BUSINESS.

The condition of the public business intrusted to my charge is shown by the following comparative statement of accounts and claims received, disposed of, and remaining on hand in the fiscal years 1881, 1882, and 1883:

FISCAL YEAR 1881.

Description of accounts, &c.	Number of accounts and claims.		
	Received.	Disposed of.	On hand June 30.
<i>Disbursing accounts.</i>			
Army paymasters	601	419	312
Recruiting, medical, ordnance, and miscellaneous	1,732	1,664	514
Indian agents	847	1,166	24
Total disbursing accounts	3,180	3,249	850

AMENDMENT OF BOUNTY LAWS.

FISCAL YEAR 1881—Continued.

Description of accounts, &c.	Number of accounts and claims.		
	Received.	Disposed of.	On hand June 30.
<i>Claims.</i>			
Arrears of pay and bounty	8,682	9,110	32,747
Indian	3,052	3,140	60
Total claims	11,734	12,250	32,807
<i>Property accounts.</i>			
Clothing, camp and garrison equipage	3,649	4,969	6,241
Indian	354	372	331
Total property accounts	4,003	5,341	6,572
Aggregate	18,917	20,840	40,229

FISCAL YEAR 1882.

<i>Disbursing accounts.</i>			
Army paymasters	588	398	502
Recruiting, medical, ordnance, and miscellaneous	1,869	1,889	494
Indian agents	958	797	185
Total disbursing accounts	3,415	3,084	1,181
<i>Claims.</i>			
Arrears of pay and bounty	13,789	15,434	31,102
Indian	3,069	3,026	103
Total claims	16,858	18,460	31,205
<i>Property accounts.</i>			
Clothing, camp and garrison equipage	3,569	4,132	5,678
Indian	558	513	376
Total property accounts	4,127	4,645	6,054
Aggregate	24,400	26,189	38,440

FISCAL YEAR 1883.

<i>Disbursing accounts.</i>			
Army paymasters	583	469	616
Recruiting, medical, ordnance, and miscellaneous	2,101	2,084	511
Indian agents	869	868	186
Total disbursing accounts	3,553	3,421	1,313
<i>Claims.</i>			
Arrears of pay and bounty	16,971	11,961	36,112
Indian	3,492	3,527	68
Total claims	20,463	15,488	36,180
<i>Property accounts.</i>			
Clothing, camp and garrison equipage	3,116	4,438	4,356
Indian	460	757	79
Total property accounts	3,576	5,195	4,435
Aggregate	27,592	24,104	41,928

Notwithstanding the best efforts of the office it has been found impossible to prevent an accumulation of unfinished work. The record of accounts of disbursing officers shows an increase of 138 in the number received, 337 in the number audited, and 132 in the number remaining unsettled at the close of the year. The record of property accounts makes a more favorable showing, the number received being 751 less than last year, the number settled 550 more, and the number on hand 1,619 less than on June 30, 1882. The number of claims on hand (arrears of pay and bounty, exclusive of longevity claims of officers in the service) has increased by 4,950, the number received being 3,191 in excess of last year's returns and the number disposed of 4,842 less. It should be stated, however, that in reporting disallowed cases only those are counted that have been finally rejected by the Second Comptroller. The number actually disallowed by this office was 6,580, of which only 5,281 are included in this report—1,299 not having been acted upon by the Second Comptroller on June 30. The actual falling off in the number of cases disposed of is therefore 3,543. But it by no means follows that less work was performed in 1883 than in 1882. On the contrary the decrease in the number of cases settled was accompanied by a large increase of work. This apparent anomaly is explained by the fact that disallowed cases which, prior to January 1, 1882, were summarily disposed of by the Second Auditor, are now formally reported to the Second Comptroller; and by the further fact that all cases, whether disallowed or not, are so exhaustively examined and inquired into as to consume at least thrice as much time as was formerly considered necessary. It is not an unusual occurrence for one claim to occupy the entire time of an experienced clerk for two or three days, and then be suspended for further evidence.

There are now more unsettled claims on hand than at any time since 1872. On June 30, 1873, 35,771 claims remained on hand. The number then gradually decreased until it reached 14,466 in 1877. Since that year there has been a steady increase until the unadjusted cases on June 30 numbered 36,042. At the present rate of settlement (about 12,000 per annum) it will take three years to clear off this accumulation, provided no more claims be filed. But as the number presented is increasing instead of diminishing, the prospect of settling a claim within a reasonable time is somewhat remote. Since July 1 I have withdrawn five experienced clerks from other divisions of the office in which the work, though equally important, is not so pressing, and assigned them to the pay and bounty division. But even with this increase of force the number of unsettled claims on hand on October 1, was 37,391, being 1,349 more than on June 30. Under these circumstances I feel constrained to ask for a material addition to the clerical force of the office, and I have accordingly submitted, with the annual estimate, a request for fifty more clerks.

If no addition be made to the force I shall, as heretofore, use my best endeavors for the dispatch of public business, but in justice to the great mass of claimants I shall be compelled to suspend the long-established rule of the office which permits a case to be made special, or advanced by request, and to insist upon each claim being taken up in its proper order, according to date of presentation, departing from this course only upon satisfactory evidence that the claimant is in destitute circumstances and suffering for want of pecuniary aid.

The great increase in the number of applications for arrears of pay and bounty is something anomalous, and when it is stated that not one in ten of the applications now being filed possesses any merit, the inquiry is naturally suggested why, at this late period—nearly twenty years after the war—so many claims are filed, and the number increasing. The following table shows the number filed in each month of the last fiscal year:

Month.	New claims.	Old claims revived.	Total.
1882.			
July	1,049	36	1,085
August	1,023	121	1,144
September	948	109	1,057
October	503	117	620
November	1,091	102	1,193
December	1,321	120	1,441
1883.			
January	1,638	165	1,803
February	1,002	165	1,167
March	1,456	209	1,665
April	1,145	180	1,325
May	1,582	491	2,073
June	1,728	277	2,005
Total	14,486	2,092	16,578

Not one in twenty of all these claims was filed upon the suggestion or by the voluntary action of the claimant. The ordinary causes that establish the relation of attorney and client do not exist. The person who has business to transact and is ignorant of the proper manner of accomplishing it usually applies to an attorney who is supposed to be well informed upon the subject. In claims for back pay and bounty this order is, in most cases, reversed, and the attorney seeks the client. An agent is employed to solicit business in a certain section. His advent is announced by advertisement. He is armed with blanks ready to be filled up, and represents to the uninformed, more generally the colored soldiers or their heirs, that they have not been paid all that is justly due them; that some new law, or new construction of existing law, entitles them to more bounty or further pay; a small fee in advance is required, generally two or three dollars, sometimes more, in fact all that can be got, with the promise that no more will be demanded unless the claim be allowed. The fee is paid, the application filed, and in the end rejected. It is a very common thing to receive, in one package, fifty or a hundred such claims. The attorney rarely looks after them—it does not pay. He has received his little advance fee, and it pays better to hunt up more victims. After a few months the deluded soldiers complain that their claims have been a long time pending and that they can hear nothing from them. They state that their attorneys do not or will not answer their letters. In this way a very large correspondence is imposed upon this office—a correspondence that costs the Government a large amount of money and benefits no one. The soldiers are swindled, and after their claims are rejected, frequently denounce the Government and its officers, who simply administer the law as they find it.

Another class of worthless claims is constantly increasing, namely, claims for bounties already paid. In many of these cases denials of former payments are made, under oath, when the records of this office, authenticated in the highest manner known to the law and the courts, show conclusively that payments were made years ago. To perjury is sometimes added forgery, and the lapse of time since the war increases the chances of success to the forgers and perjurers. Should these records be destroyed, and such a calamity is not beyond the pale of possibility, the Government would certainly be defrauded out of millions of dollars.

A STATUTE OF LIMITATION RECOMMENDED.

It is not alone with a view of protecting the Government from fraudulent claims, but also for the protection of soldiers and their representatives that I renew my former recommendation for the passage of a law of limitation. All claims growing out of the late war should be presented for payment within one or two years from the enactment of the law. There is no other way of checking the growing evils to which I have referred.

Statutes of limitation are common in all States of the Union. They apply not only to transactions between individuals, associations, and corporations, but generally to transactions in which the State is a party. They are regarded as a necessary preventive of fraud and imposition; are universally commended by jurists, and no complaint of their effect is made by business men.

In 1793 Congress enacted that all claims upon the United States for services, &c., prior to March 4, 1789, should be presented before May 1, 1794, or be forever barred and precluded from settlement or allowance (1 Stats., 301). In 1863, the time for commencing suit in cases where the Court of Claims has jurisdiction was limited to six years after the claim first accrued (12 Stats., 767). This limitation, it is worthy of note, was not imposed until eight years after the establishment of the court. The time for the presentation of claims for the refundment of internal-revenue taxes erroneously or illegally assessed, is limited to two years next after the cause of action accrued (Section 3228 Revised Statutes). No action can be maintained in case of forfeiture or penalty under the copyright laws unless commenced within two years after the cause of action has arisen (Section 4968 Revised Statutes). The time for filing claims on account of collecting, drilling, and organizing volunteers during the late war, and for additional bounty under the act of July 28, 1866, expired by statutory limitation on June 30, 1874, and June 30, 1880, respectively. The time for filing claims for the value of horses and equipments lost in battle will expire on January 9, 1884. All these are salutary laws, and the propriety of their enactment was never seriously questioned.

It is not to avoid the payment of just demands that a statute of limitation is recommended. A person to whom the Government is indebted is not justified in withholding the presentation of his claim until a time when the Government may be without the means of determining its justness and validity; and the Government has a right at all times to know, by a call upon its creditors, the full amount of its indebtedness.

While earnestly advocating the enactment of a statute of limitation as to claims against the United States, I beg leave to repeat the following suggestions, made by

me two years ago in relation to overpayments, and to the final settlement of the accounts of disbursing officers:

"In view of all the circumstances connected with overpayments, it has become a question whether the Government would not really lose less by ignoring overpayments made during the war of the rebellion than by attempting to collect them; but, in the absence of legal authority to ignore them, it is the custom of this office to take action on all cases brought to its knowledge in which the Treasury has suffered by erroneous payments. I would suggest, however, that as, in my opinion, the time has arrived when all claims against the United States growing out of the late war should be barred by a statute of limitation, so, also, should claims by the United States against individuals be barred, with the exception, perhaps, of cases of double payment. It would doubtless be a measure of economy if Congress were to authorize the Second Auditor and Second Comptroller to make no further charges on account of overpayments prior to March 16, 1868, in cases where it is evident that payees did not knowingly and willfully obtain more than their just dues.

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Practically, the sureties of a public disbursing officer are never released, and a law seems to be needed making it obligatory upon the accounting officers to prepare and transmit to the Department of Justice, within a reasonable time, transcripts of the accounts of delinquent disbursing officers and all other persons who are in arrear to the United States; suit to be entered within ten years after the officer or other person became in arrears; otherwise, the United States to be estopped as regards the sureties—the principal, however, to be held.

The Second Auditor, in his report for 1884, says:

A STATUTE OF LIMITATION RECOMMENDED.

I beg leave to invite attention to the remarks under this head in my last annual report (which will be found on page 398 of the finance report for 1853), and to renew the recommendation therein made for the passage of an act which will bar and preclude from settlement all claims growing out of the late war not presented for payment within one or two years after the enactment of such a law. Another year's experience has strengthened my conviction that a law of this kind is absolutely necessary for the protection of the Government, and that it would not operate to the prejudice of honest claimants.

The petitioner claims he was entitled to a bounty of \$100 by virtue of act of Congress approved July 28, 1866, but failed to make his application prior to July 1, 1880, and is barred by limitation, and asks the removal of the bar by limitation.

In view of the recommendations of the Department and the facts stated, your committee do not feel authorized to report any legislation, and ask to be discharged from further consideration of petition.

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