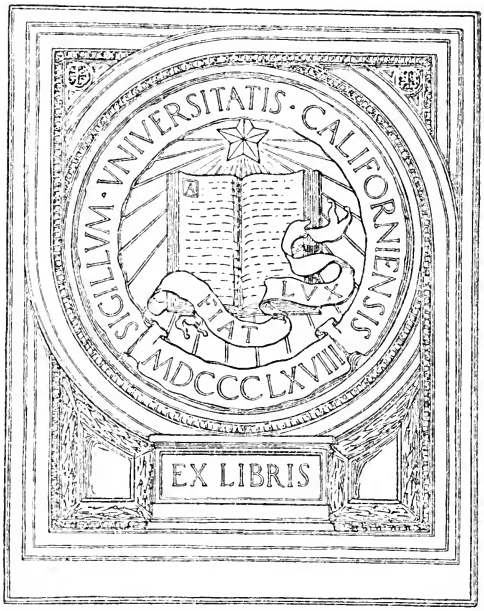
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HISTORY OF MILITARY PENSION LEGISLATION IN THE UNITED STATES

STUDIES IN HISTORY, ECONOMICS AND PUBLIC LAW

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HISTORY

OF

MILITARY PENSION LEGISLATION

IN THE

UNITED STATES

BY

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INTRODUCTION

THE maintenance of the military pension system of the United States has cost since the close of the Civil War about two and a half billions of dollars. At the present time, nearly one million names are borne upon the national pension rolls, or, approximately, one in seventy-five of the population of the country. The annual expenditure for pensions is, roughly speaking, one hundred and forty million dollars, an amount about equal to our total annual receipts from internal revenue under conditions such as prevailed from 1894 to 1897. These statements suffice to indicate the importance of what is commonly known as the "pension question," and to make it clear that the subject of pension legislation and administration is worthy of careful study. The field is now an open one in which scarcely any serious work has been done.

This monograph aims to occupy part of the open field by giving a systematic account of national military pension legislation in the United States from 1776 to the present time. The main features of the most important laws are given, together with the circumstances attending their passage and the results of their operation. While any adequate treatment of the administration of the pension laws under present complex conditions would require an independent monograph, legislation and administration are so intimately connected that the latter necessarily receives considerable attention.

After a review of pension legislation prior to the inaugu-

ration of the Federal Government in 1789, the writer's plan contemplates a topical treatment of laws. The enactments connected with each important war are grouped together, and an attempt is made to show the development of legislation and the introduction of new principles. Statistical information with regard to the admission of claims and expenditures under the various laws is compiled from the Government reports. It may be added that this essay does not include a consideration of retirement pensions, civil pensions or of State pension laws. An investigation of the latter topic would be of interest as showing the provision made by some of the Southern States for the ex-soldiers of the Confederate army.

A *military pension* may be defined as a regular allowance made by a government to one who has been in its military service, or to his widow or dependent relatives. Since a state has an absolute right to require the services of its citizens in time of war, the payment of a pension is commonly regarded not as the discharge of a debt due the ex-soldier, but as a gratuity. Pensions for soldiers may be divided into *invalid* or *disability pensions* and *service pensions*. An *invalid* or *disability pension* is one granted to a soldier on account of wounds or injuries received or disease contracted in the military service. A *service pension* is granted to one who has been in the military service for a specified length of time, without regard to the question whether or not he has incurred injury or disability in that service.

Service pensions may be divided into *pure service pensions* and *limited service pensions*. The former are granted for a specified length of military service without regard to any other consideration. Limited service pension laws require a specified length of service and also some other qualification or qualifications, such as indigence, inability to perform manual labor, inability to earn a support, disability in some

degree incurred since the termination of the war, or the attainment of a certain age.

Pensions to widows are sometimes conditioned on the date of marriage, whether before, during or after the soldier's service, or before or after a specified date. Widows generally forfeit their pensions by a re-marriage. Another matter frequently considered in the pensioning of widows and dependent relatives is the cause of the soldier's death, whether in battle, in service, or, after discharge, as the result of injuries received or disease contracted in service. The more liberal laws grant pensions to widows and dependent relatives on mere proof of death, without regard to the cause.

Before passing to the consideration of legislation, the writer wishes to acknowledge his indebtedness to Professor J. W. Jenks, of Cornell University, at whose suggestion he undertook this study, and to Professors H. R. Seager, of the University of Pennsylvania, and F. J. Goodnow, of Columbia University, for encouragement and advice during the progress of the work. The Pension Bureau has also kindly responded to requests for its official publications.

The pension laws abound with technicalities which can be of but little interest to the general reader. In so far as possible, an effort has been made to eliminate these confusing details where they are not necessary to the purpose of the essay, which is the presentation in a broad, systematic and intelligible way of the development in legislation of our present pension system.

CHAPTER I

PENSION LEGISLATION PRIOR TO 1789

THE inauguration of a military pension system by the government of the United States followed closely upon the Declaration of Independence, the first national pension law bearing date of August 26, 1776. Such a system was in full accord with over a century of colonial legislation and practice. Early in their history, many of the English colonies in America had provided for the relief and maintenance of wounded and maimed soldiers. By way of introduction to national pension legislation, some notice of early colonial laws is instructive.

In 1636 the Pilgrims at Plymouth enacted in their Court that any man who should be sent forth as a soldier and return maimed should be maintained competently by the colony during his life.[1] This was probably the first pension law passed in America. In 1676 and the years immediately thereafter, a standing committee of the General Court of Massachusetts Bay held regular meetings in "Boston toune house" to hear the applications of wounded soldiers for relief.[2] After the union of Massachusetts Bay and Plymouth under the charter of 1691, the province continued to make provisions for the relief of disabled soldiers out of the public treasury.[3]

As early as 1644, the Virginia Assembly passed a disabil-

[1] *Plymouth Colony Records*, xi, Laws, 106.

[2] *Records of Colony of Massachusetts Bay*, v, 80, 227.

[3] *Acts and Resolves of Province of Mass. Bay*, i, 135.

ity pension law, and later provided for the relief of the indigent families of the colony's soldiers who should be slain.[1] We find similar acts among the colonial statutes of Maryland[2] and New York[3] during the latter part of the seventeenth century. The Maryland militia law of November, 1678, promised yearly pensions not only to soldiers who should be disabled, but also to the widows and orphan childaen of those who should lose their lives in the military service. "Competent" pensions were to be yearly rated and allowed out of the public levy by the General Assembly. Petitioners for pensions were required to show by certificates from the commissioners of the respective county courts that they were proper objects of charity.

In 1718 Rhode Island enacted a remarkably comprehensive pension law.[4] It provided that every officer, soldier or sailor, employed in the colony's service, who should be disabled by loss of limb or otherwise from getting a livelihood for himself and family or other dependent relatives, should have his wounds carefully looked after and healed at the colony's charge, and should have an annual pension allowed him out of the general treasury, sufficient for the maintenance of himself and family, or other dependent relatives. The law further provided that if any person, who had the charge of maintaining a wife, children, parents or other relatives, should be slain in the colony's military service, these relatives should be maintained, while unable to provide for themselves, by such yearly pension from the treasury of the colony as the General Assembly might deem sufficient. The town councils were charged with the care and oversight of those persons entitled to pensions who resided in their

[1] Hening's *Statutes at Large*, i, 287; ii, 331, 347, 440.

[2] *Archives of Md., Proceedings of Assembly*, 1637-8–1664, 408, 436, and also, *Ibid.*, 1678–1683, 58.

[3] *Colonial Laws of N. Y.*, i, 234.

[4] *Acts and Laws of R. I.*, 74.

respective towns. Each council was, from time to time, to receive the pensions, and therewith to supply the beneficiaries as they should stand in need.

This notice of early colonial laws makes it clear that pension provisions for disabled soldiers are of almost as long standing in this country as English settlement. The simple provision made by the Pilgrims in 1636 is as truly a disability pension act as the more elaborate laws of later times. Aiming to secure enlistments in military expeditions against the Indians, the colonies promised to care for those who should be disabled and be left without means of obtaining a livelihood, and also to aid the indigent families of those who should fall in the conflict. So pension provisions came to be commonly included in acts organizing the militia or levying soldiers for some particular military enterprise. Rates were not specifically fixed in these laws, that matter and other details being dealt with in the process of administration. It is scarcely possible to ascertain the amount of relief afforded, though sundry entries of pension payments in colonial records show that the legislation must have had considerable effect.

With regard to pensions, as in other respects, it was natural that colonial experience and precedent should have a marked influence on the action of the colonies at the outbreak of the Revolutionary troubles, and that their new national government should inaugurate a military pension system. Nor during the Revolution did the States rely entirely on Congress to take the initiative in granting pensions. Some of them, notably Virginia and Pennsylvania, independently promised liberal allowances to their disabled soldiers.

The first national pension law, that of August 26, 1776,

[1] Hening's *Statutes at Large*, ix, 14, 91, 456, 566; x, 25. Also *Laws of Penna.*, i, 488–489.

promised half pay for life or during disability to every officer, soldier or sailor losing a limb in any engagement, or being so disabled in the service of the United States as to render him incapable of earning a livelihood.[1] Proportionate relief was promised to such as were only partially disabled from getting a livelihood. It was recommended to the States to appoint proper officers for the execution of the law, and the several legislatures were requested to cause the payment on account of the United States of such half pay and other allowances as should be adjudged due to the soldiers from their respective States.

This early national law agreed in principle with the colonial disability provisions which we have already considered. It aimed to encourage enlistment in the Revolutionary army.[2] The Continental Congress was without money or real executive power, and was hence obliged to entrust the execution of the act to the States. Consequently, it was just as effective as they chose to make it.

Washington was a strong advocate of a "half pay and pensionary establishment." On January 28, 1778, during the hard winter at Valley Forge, he sent to Congress a gloomy account of the condition of his command.[3] He said that, on the part of the officers, there were frequent resignations, and more frequent importunities for permission to resign, and, in the ranks, "apathy, inattention and neglect of duty." To reanimate the languishing zeal of the officers, he urged upon Congress a provision for half pay and pensions. "This would not only dispel the apprehension of personal distress, (at) the termination of the war, from having thrown them-

[1] *Journals of Congress*, i, 454–455. See also, in this connection, Resolution of September 25, 1778, *Journals of Congress*, iii, 68, 69.

[2] An important bounty land resolution of September 16, 1776, was also passed with this end in view.

[3] *Writings of Washington*, vi, 301–304.

selves (out) of professions and employments they might not have it in their power to resume; but would in a great degree relieve the painful anticipation of leaving their widows and orphans, a burthen on the charity of their country, should it be their lot to fall in its defence."

As a result of Washington's appeal, after several weeks of deliberation, Congress, on May 15, 1778, unanimously voted to all commissioned officers, who should continue in the service of the United States to the end of the war, half pay for seven years after its conclusion.[1] This resolution did not apply to foreign officers, and the half pay was not to exceed that of a colonel. At the same time, Congress promised to soldiers who should serve to the end of the war a gratuity of eighty dollars. On August 24, 1780, a resolution was adopted extending the above half pay provision to the widows, or orphan children, of such officers as had died, or should die in the service.[2] This was the first national pension law in behalf of widows and orphans. Congress recommended to the several State legislatures to make the necessary payments on account of the United States.[3]

Notwithstanding the efforts to encourage service in the army, distress and discontent continued. The Continental Congress had neither cash nor credit. It could make promises without end, but pay only in its own depreciated and worthless bills. The States had little regard for its requisitions and recommendations. Complaints from the army multiplied. No officer could live upon his pay, and hun-

[1] *Journals of Congress*, ii, 554–555. A vote favorable to a grant of half pay for life to those officers was taken on April 26, 1778, but the measure was not at that time finally adopted. *Ibid.*, ii, 528.

[2] *Journals of Congress*, iii, 512–513.

[3] After the adoption of the Federal Constitution, resolutions of Congress of November 2, 1785, and July 23, 1787, were construed as barring further claims under the resolution of August 24, 1780. Section 1 of the Act of March 23, 1792, suspended the barring resolutions for two years. *U. S. Statutes at Large*, i, 243.

dreds, unable longer to support themselves, resigned their commissions. Others were unfit for duty for want of clothing. In this dire emergency, Congress was helpless.[1]

Moved by these troubles, Washington wrote to the President of Congress, on October 11, 1780, urgently advocating what he had long desired, a promise of half pay for life to those officers who should serve to the end of the war.[2] "Supported by a prospect of a permanent independence," said he, "the officers would be tied to the Service, and would submit to many momentary privations, and to the inconveniences, which the situation of public affairs makes unavoidable. This is exemplified in the Pennsylvania officers, who, being upon this establishment,[3] are so much interested in the Service, that, in the course of five months, there has been only one resignation in that line." On October 21, 1780, Congress, after consideration of the report of the committee on General Washington's letter, resolved that all officers, who should continue in service to the end of the war, should be entitled to half pay during life, to commence from the time of their reduction.[4] This action was vigorously opposed in Congress, and caused considerable agitation in some of the States.

During the progress of the war, Congress made further provision for invalids by the resolution of April 23, 1782.[5] This allowed soldiers, who were sick or wounded, and were reported unfit for duty either in the field or in garrison, to receive a discharge, and to be pensioned at the rate of five dollars per month. The States were requested to discharge such pensions annually, and to draw upon the Superintendent of Finance for the money advanced.

[1] *Writings of Washington*, viii, 379–380. [2] *Ibid.*, viii, 483–484.

[3] Pennsylvania by Act of March 1, 1780, increased the half pay for seven years, granted by Congress to commissioned officers who should serve to the end of the war, to half pay for life. *Laws of Penna.*, i, 488–489.

[4] *Journals of Congress*, iii, 538–539. [5] *Ibid.*, iv, 18–19.

As the end of the war approached, the feeling against the half pay for life to Revolutionary officers grew in some sections of the country into a fierce clamor of opposition. The officers began to fear that they would never get their due. In December, 1782, those of Washington's command set forth their grievances in a memorial to Congress.[1] They complained that no effectual provision had been made for the half pay, and that those entitled to it had become the objects of obloquy. The grant seemed to them an honorable and just recompense for years of hard service in which they had suffered in health and fortune. If the objection were against the mode of reward only, they offered in the interest of harmony to commute the half pay pledged for full pay during a term of years, or for a sum in gross. Congress was also petitioned to make proper provision for the disabled officers and soldiers, and for the widows and orphans of those who had lost their lives in the service of their country.

The officers had good reason for their fears, for in Congress there was determined opposition on the part of the New England States to any provision whatever regarding the half pay. Various propositions for commutation were voted down,[2] the delegates from Connecticut and Rhode Island[3] being especially instructed against that manner of settlement. The validity of the original promise of Congress was called in question, but stoutly defended by Madison and by Wilson, of Pennsylvania. The latter criticised instructions which "militated against the most peremptory and lawful engagements of Congress," and said that "if such a doctrine prevailed the authority of the Confederacy was at an end."[4]

Meanwhile, the discontent in the army was reaching acute

[1] *Journals of Congress*, iv, 207.

[2] *Ibid.*, iv, 152.

[3] *Records of Colony of R. I.*, 1780–1783, ix, 610.

[4] Gilpin, *Madison Papers*, i, 275–277, 280, 320–321, 358.

stages. About March 10, 1783, appeared the famous "Newburgh addresses," urging the officers of the army not to separate until Congress had done justice to their claims. Washington transmitted copies of these addresses to Congress, accompanied by official letters detailing the occurrences at the Newburgh encampment. In his letter of March 18, he urged Congress to take measures to carry the half pay provision into effect.[1] He pointed out that, at a critical and perilous moment, the promise of half pay for life had been attended with the happiest consequences, and had perhaps prevented the dissolution of the army. The establishment of security for the payment of all the just demands of the army, he thought would be the most certain means of preserving the national faith and the future tranquillity of the continent.

Congress was at length compelled by the critical state of affairs to act. On March 22, 1783, the necessary nine States voted in favor of commutation of the half pay for life to five years' full pay, in money, or in securities bearing interest at six per cent. per annum, as Congress should find most convenient.[2] The officers in the lines of the respective States were given an option, when acting in each State collectively, as to the acceptance or refusal of the securities offered. This resolution, known as the Commutation Act, gave great satisfaction in the army, as is shown by letters of Washington, dated March 30 and 31, 1783.[3]

[1] *Writings of Washington*, x, 180–181. Also see *Journals of Congress*, iv, 208–215.

[2] *Journals of Congress*, iv, 178–179. In the *Address to the States*, issued by Congress on April 24, 1783, the commutation of half pay was estimated at $5,000,000, involving an annual interest charge of $300,000. This address was occupied with the financial affairs of the nation, and, in it, Congress asked the consent of the States to the laying of an impost duty to provide the general government with an independent revenue. *Journals of Congress*, iv, 194–215.

[3] *Writings of Washington*, x, 199, *footnote;* 203, *footnote.* Also *Madison Papers*, i, 433.

But far different was the feeling among the people of the New England States. There the Commutation Act evoked a storm of protest. The Massachusetts legislature in July, 1783, sent to Congress a remonstrance against the act.[1] They thought the grant more than an adequate reward for the services of the officers, "inconsistent with that equality which ought to subsist among citizens of free and republican States," and "calculated to raise and exalt some citizens in wealth and grandeur, to the injury and oppression of others." While expressing horror at the most distant idea of the dissolution of the union, they observed "that the extraordinary grants and allowances which Congress have thought proper to make to their civil and military officers, have produced such effects in this commonwealth, as are of a threatening aspect." For these reasons, the General Court refused the consent of the State to the impost duty recommended by Congress in its address, but promised to consider the matter again at the next session.

The extreme gravity of the situation is shown by a letter from Madison to Randolph, dated September 8, 1783. He said: "The opposition in the New England States to the grant of half pay, instead of subsiding, has increased to such a degree as to produce almost a general anarchy. In what shape it will issue is altogether uncertain. Those who are interested in the event look forward with very poignant apprehensions. Nothing but some Continental provision can obtain for them this part of their reward."[2]

In November, 1783, the House of Representatives of Connecticut protested that neither the half pay for life, nor the commutation, was warranted by the Articles of Confederation, or by any power ever delegated to Congress.[3] Among

[1] *Journals of Congress*, iv, 276.

[2] *Madison Papers*, i, 572.

[3] *Journals of Congress*, iv, 347, and Boutell, *Life of Roger Sherman*, 329–332.

the people of this State, the feeling against the Commutation Act amounted almost to frenzy. Complaints and threats were heard everywhere at the town meetings, and two-thirds of the towns were represented at a State convention at Middletown, called to take measures of resistance. This gathering indulged in plenty of excited speech-making, but accomplished nothing of importance. It became afterwards the subject of satirical poems and lampoons. Noah Webster, then a young man, in a series of able essays published in the *Connecticut Courant*, strongly condemned the opposition of the convention and town meetings, and supported the action of Congress.[1]

The agitation against commutation gradually subsided. Samuel Adams, who, while in Congress, had vigorously opposed the original grant of half pay for life, was among those whose influence served powerfully to quiet the public commotion. He held that Congress had an undoubted right to make the grant, and that, even though the measure should seem to any to have been ill-judged, the States were bound in justice and honor to comply with it.[2] To the officers of the army, who had felt themselves in danger of receiving nothing at all, the provision was in general acceptable. By October 31, 1783, the Secretary at War reported that the commutation had been accepted by the lines of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland and Virginia, and also by numerous separate commands and individuals.[3] Congress issued a proclamation disbanding the army from and after November 3, 1783.[4]

In settling the claims of the officers of the army, the Paymaster General found that the number who were entitled to

[1] Wells, *Life of S. Adams*, iii, 207–208, and McMaster, *History*, i, 180, *footnote*.

[2] Wells, *Life of S. Adams*, iii, 208–210.

[3] *Journals of Congress*, iv, 311,

[4] *Ibid.*, iv, 299.

half pay or commutation was 2,480. Since the Confederation had no available funds, the officers received not money but commutation certificates, payable to them or bearer and drawing interest at six per cent. These proved wretched security. No provision was made for paying either interest or principal. Many officers were driven by necessity to part with their certificates for what they could obtain, and their cash value in the market soon fell to twelve and a half cents on the dollar.[1] After the adoption of the Federal Constitution, the act for the funding of the domestic debt provided that, beginning with January 1, 1791, the holders of commutation certificates should receive a three per cent stock for the interest in arrears, a six per cent stock for two thirds of the principal, and a deferred stock, bearing no interest until the expiration of ten years,—and then at six per cent—for the other third.[2] At this time a large share of the certificates was in the hands of speculators, and officers, who had parted with them for a small fraction of their face value, lost all advantage from the provision so tardily made.[3]

On June 7, 1785, some time after peace had been established and the army disbanded, the matter of invalid pensions again received the attention of Congress.[4] In the resolutions adopted at this time, a uniform method of providing for the invalid pensioners was recommended to the several states. Commissioned officers, so disabled as to be wholly incapable of earning a livelihood, were to be allowed a half pay pension. For non-commissioned officers or privates, a

[1] See *Reports of Committees* (H. of R.), 2d Sess., 19th Congress, i, no. 6.

[2] Act of August 4, 1790, *U. S. Statutes at Large*, i, 138.

[3] The settlement of these half pay claims was long a cause of dissatisfaction among surviving Revolutionary officers. The matter was frequently agitated and debated in Congress until the passage of the Act of May 15, 1828, an account of which is given in the next chapter.

[4] *Journals of Congress*, iv, 534–535.

full pension was fixed at five dollars per month. Proportional rates might be allowed for partial disability. Congress requested that each State should appoint officers to examine the evidence of claimants, admit claims, and make the pension payments. Amounts so expended were to be deducted from the respective quotas of the States for the year in which the payments were made. No officer who had accepted his commutation for half pay was to be entered on the list of invalids, unless he should first have returned his commutation. This plan also made it the duty of the State authorities to transmit annually complete lists of the invalid pensioners of the United States in each State to the office of the Secretary of War, with information as to the pay, age, service and disability of each invalid.[1]

The Congress of the Confederation passed, on June 11, 1788, its last resolutions on the subject of invalid pensions.[2] One of these declared: "That no person shall be entitled to a pension as an invalid who has not, or shall not before the expiration of six months from this time, make application therefor, and produce the requisite certificates and evidence to entitle him thereto." If this limitation had been retained in force, no Revolutionary invalid pensions could have been allowed after December 11, 1788, except by special act. In 1792, before the limitation was suspended by the Federal Congress, there were about 1,500 invalid pensioners on the rolls under the laws thus far considered.[3]

The body of pension and half pay legislation, which we have examined, was primarily intended as an incentive to enlistment and service in the military forces of the revolting colonies. The invalid pension provisions depended for their

[1] See Hening, xi, 102, for the Virginia law passed in pursuance of this act of Congress.

[2] *Journals of Congress*, iv, 821. The resolution quoted is so in text.

[3] *American State Papers*, Claims, 57.

efficacy upon State action, which was often lacking. But Congress, after the inauguration of the Federal Government, allowed to invalid pensioners the payments which had been left in arrears by the States.[1] The half pay legislation aimed at keeping the officers in service in the face of the most discouraging conditions. It was virtually the promise of a retirement pension at the close of the war, in lieu of pay and other proper provisions during the progress of hostilities. We have seen how the promise was kept. From the standpoint of mere numbers of persons and sums of money involved, the pension legislation of this period is not of great importance. But it is of importance, both in its connection with the history of the time, and as the source from which our great national pension system has developed. With the growth of that system, its ever broadening scope and increasing liberality, its complicated and difficult administration, and its often wasteful extravagance, this study is occupied.

[1] *U. S. Statutes at Large*, vi, 4.

CHAPTER II

REVOLUTIONARY PENSION LEGISLATION, 1789–1878

AMONG the many changes brought about by the inauguration of the Federal Government in 1789 was the centralization of pension administration. The first Congress under the new government provided, in September, 1789, for the continuance by the United States of the pensions which, under Congressional authority, had been granted and paid by the States to Revolutionary invalids.[1] This continuance, at first for one year, was several times renewed for a like period, and finally extended indefinitely for the life of the pensioners. In 1790, the United States also undertook the payment of certain arrears to March 4, 1789, due to Revolutionary pensioners, and unpaid through the neglect or refusal of the States to act.[2] The Secretary of War became the principal executive officer concerned with the national pension administration, but Congress for a long time reserved to itself a direct control over the final allowance of claims. It is noteworthy that there was not a complete transfer of pensioners from State to national rolls. Individual States continued to pay regular stipends to many persons who had been pensioned for various causes under State laws, but without authority of Congress.

Scarcely had the National Government assumed the pension administration when Congress was beset with petitions from soldiers of the Revolution for original pensions or increase. Some had neglected to apply within the time limit

[1] *U. S. Statutes at Large*, i, 95.

[2] *Ibid.*, vi, 4.

prescribed by previous legislation; others, unsuccessful in the States, came to Congress with their claims. Special legislation was the only means of relief, since there was no general law in force.

These claims were frequently referred for a report and opinion to the Secretary of War, General Knox. We find that he was not favorably disposed toward them, especially where they had been already rejected in the States. He thought that claims which had failed under all the circumstances of local information and influence, even though the provision was made at the expense of the United States, could not be well founded. Knox also advised Congress to adhere to the six months' limitation prescribed by the resolution of June 11, 1788. Had his counsel shaped the policy of the Government, the payments to Revolutionary pensioners would never have been of much importance. In March, 1792, the number of non-commissioned officers and privates on the general pension list was 1,358, none of whom received a pension exceeding five dollars per month. The entire number of invalid pensioners of all descriptions at that time was 1,472. With no general pension law, and with special acts passed only in exceptional cases, death would have slowly but surely wiped out this small list.[1]

Quite different was the actual course of events. Responding to the pressure of applicants and to favorable expressions of public opinion, Congress enacted the general pension law of March 23, 1792.[2] As a pension law, it is of small importance, for the greater part of it was soon repealed. Its great significance is found in the fact that it furnished the first occasion for a disagreement between Congress and the Judiciary as to their respective powers under the Federal Constitution.

[1] See Reports of Sec'y Knox, *American State Papers*, Claims, 5, 18, 28, 57.

[2] *U. S. Statutes at Large*, i, 243.

The law imposed upon the Circuit Courts of the United States the duty of examining, in person, applicants for pensions, receiving prescribed proofs of service and disability, and determining the nature and degree of the disability. If an applicant was found entitled to be placed on the pension list, the court was required to transmit a written report to that effect to the Secretary of War with an opinion as to the proportion of the monthly pay of the applicant, which would be equivalent to the degree of disability ascertained. The Secretary of War was then to place the name of the applicant upon the pension list of the United States, in conformity to the opinion of the court and accompanying certificates. But when the Secretary suspected imposition or mistake, he was empowered to withhold the name from the pension list, and make report of the matter to Congress for consideration at the next session. Thus each Circuit Court was virtually constituted a bureau for the examination and allowance of pension claims, with its decisions subject to revision by the Secretary of War and Congress.

The judges promptly denied the power of Congress to impose upon them the duties set forth in the above act. Chief Justice John Jay and Associate Justice William Cushing, of the Supreme Court, sitting with James Duane, district judge, as a Circuit Court for the district of New York, sent, in April, 1792, to President Washington a letter of protest, which they desired him to communicate to Congress.[1] With boldness and unanimity they asserted the independence of the judiciary as a distinct and co-ordinate branch of the government. Neither the legislative nor the executive branch, argued they, could constitutionally assign to the judicial any duties but such as were properly judicial and to be performed in a judicial manner. The duties imposed by

[1] *American State Papers*, Miscellaneous, i, 49–53. See also Carson, *Supreme Court of United States*, 162–163.

the act in question were not of that description, since the decisions of the court were made subject to the consideration of the Secretary of War and to the revision of the legislature; whereas, under the Constitution, no executive officer, nor even the legislature, was authorized to sit as a court of errors on the judicial acts or opinions of the Circuit Courts. Similar opinions were expressed in letters to the President from the judges of the Pennsylvania and North Carolina Circuit Courts. The judges of the New York Circuit were, however, willing to regard themselves as commissioners, designated by the act, and therefore at liberty either to accept or decline the office. Since the objects of the law were benevolent, they agreed to adjudicate claims as commissioners, adjourning the Circuit Court for that purpose.

As a consequence of the refusal of the Pennsylvania Circuit Court to recognize the validity of the act of 1792, Attorney General Randolph, at the August term of that year, made application to the Supreme Court for a writ of mandamus directing the Pennsylvania court to proceed in the case of William Hayburn, an applicant for a pension.[1] No decision was ever pronounced, as, while the matter was yet under consideration, Congress passed a law providing other regulations for the granting of pensions.

Some of the judges, styling themselves commissioners, adjudicated claims under the disputed law.[2] Such adjudications were declared invalid by the Supreme Court in February, 1794, in the case of Yale Todd, a Connecticut claimant.[3] But this decision, while denying the authority of the judges to act in the capacity of commissioners under the act of 1792, did not touch the main question of the constitutionality of that law. There seems to have been no formal judicial decision on that point, but the letters of the judges

[1] Hayburn's Case, 2 Dallas, 409.

[2] *American State Papers*, Claims, 56–67.

[3] 13 Howard, 52, *note*.

clearly indicate their opinion. The case is important as being the first in the history of the Federal Government in which a law was rendered of no effect by the virtual, if not formally expressed, opinion of the Supreme Court that it was repugnant to the Constitution.[1]

Congress yielded to the contention of the Judiciary by passing the act of February 28, 1793, which repealed the objectionable sections of the act of 1792 and established new regulations.[2] All evidence relative to invalids was to be taken upon oath before the judge of the district in which the invalids resided, or before any three persons commissioned by the judge. Claimants were required to prove decisive disability resulting from known wounds received while in the actual line of duty in the service of the United States during the Revolutionary War. Each district judge was directed to transmit a list of claims, accompanied by all required evidence, to the Secretary of War for comparison with the muster rolls and other documents in his office. The Secretary was then to make a statement of the cases to Congress, which reserved to itself the power of final action in the allowance of claims. No claim under the law was to be allowed unless presented within two years from its passage.

The evidence in support of many of the applications under this act was very defective. Muster rolls were lost, and the proof, in most cases, depended alone upon the affidavits produced by the claimants. The Secretary of War transmitted to Congress lists of claimants as provided by law. In one instance, Congress granted pensions to all persons included in the Secretary's report whom he should find to have clearly established claims under the law.[3] In acting upon later lists, Congress specifically named each individual

[1] See Thayer, *Cases on Constitutional Law*, Parts i and ii, 105 *note*, and also 131 U. S., Appendix, ccxxxv.

[2] *U. S. Statutes at Large*, i, 324.

[3] *Ibid.*, i, 392.

to whom a pension was allowed, together with the rate at which he was to be paid.[1] A full pension for a non-commissioned officer or private soldier was fixed at five dollars per month, and for a commissioned officer at one-half of his monthly pay.

Between 1793 and 1803, no important alterations in the existing Revolutionary pension laws were made. There seems to have prevailed a laudable disposition to guard the interests of the Government against claims of an unreasonable or fraudulent character. On a proposition in 1798 to amend the acts respecting invalid pensioners, the Committee on Claims of the House of Representatives, after reviewing the course of pension legislation to that date, reported that "the provisions heretofore made for admission of claims of this nature have been as extensive as the principles of justice, equity or good policy required; and that it would not be expedient to make any alteration in the existing laws."[2]

Such views, however, did not long prevail. The expiration, in 1795, of the act of 1793 had left the statute books for some time without any general provision for the further admission of Revolutionary pension claims. But the solicitations of claimants continued, and, in 1803, Congress was prevailed upon to enact a new invalid pension law.[3] Rates remained as under the act of 1793, and the method of administration was much the same. The most important change in procedure was the endowment of the Secretary of War with the power of final decision in the allowance of claims.

A supplementary act of March 3, 1805, extended the benefits of the pension law to those who, in consequence of known wounds received in the military service during the Revolution, had at any period since the war become and con-

[1] For example, see Act of April 20, 1796, *U. S. Statutes at Large*, i, 454.

[2] *American State Papers*, Claims, 216–218. [3] *U. S. Statutes at Large*, ii, 242.

tinued disabled so as to render them unable to procure a subsistence by manual labor.[1] This opened the way for the tracing of the disabilities and ills of later life to wounds from which the claimants had apparently enjoyed a complete recovery.

Invalid pension legislation on behalf of soldiers of the Revolution reached its most comprehensive form in the act of April 10, 1806,[2] and supplementary provisions. This liberal law repealed all former enactments conferring pensions on Revolutionary invalids, and from the date of its passage became the fundamental provision upon which the claims of such invalids were thereafter based. It did not, of course, affect pensions already granted. Within the scope of this act of 1806 were included all those classes of claimants who had been provided for by previous legislation, and, in addition, all volunteers, militia and State troops, who had served against the common enemy in the Revolutionary War. Disability must have been the result of known wounds received in the line of duty, and must have been such as to render the applicant wholly or partially unable to procure a subsistence by manual labor. Desertion was a bar to a claim. The method of taking evidence and examining claims was similar to that under the laws of 1793 and 1803. Congress, however, once more reserved to itself the power of final action in placing names on the pension list, which had been delegated to the Secretary of War under the act of 1803.

Rates of pensions under the act of 1806 were the same as under previous laws. Each pension was to commence on the date of the completion of the testimony. For the first time, regulations were established in accordance with which an increase of pension might be granted by Congress in cases where justice required, but, with the increase added, no more

[1] *U. S. Statutes at Large*, ii, 345. [2] *Ibid.*, ii, 376.

than a total disability rate might be paid. The sale, transfer or mortgage of the whole or any part of a pension before the same became due was declared invalid. Claims in process of adjudication were not prejudiced by this law, and its operation was limited to six years from the date of its passage.

In the execution of the law of 1806, Congress passed a series of acts pensioning long lists of claimants at varying rates per month. One of these acts which became law on April 25, 1808, contained two important additional sections.[1]

Section 3 directed the Secretary of War to place on the pension list of the United States all persons who remained on the pension lists of any of the States, and were placed there in consequence of disability occasioned by known wounds received during the Revolutionary War, whether on land or sea, in the service of the United States or of any particular State, in the regular army, militia or volunteers. This completed the assumption by the United States of the payment of all the Revolutionary invalid pensioners in the States. Section 4 of this act of 1808 extend the benefits of the act of 1806 to all persons who had been disabled since the Revolutionary War, while in the line of duty, in the actual service of the United States, whether belonging to the military establishment, or the militia, or any volunteer corps, called into service under authority of the United States.

When the act of 1806 expired by limitation in 1812, it was renewed and continued in force for six years by the act of April 25, 1812. It was afterwards revived for one year by the act of May 15, 1820, and for periods of six years each by the acts of February 4, 1822, and May 24, 1828.[2] These later renewals were subject to amendments which had been made, and which will be mentioned in due time.

A step in the direction of increased pension expenditures

[1] *U. S. Statutes at Large.* ii, 491. [2] *Ibid.*, ii, 718; iii, 596, 650; iv, 307.

was taken in the act of April 24, 1816.[1] About the time of the passage of this law, the United States was expending annually $120,000 for pensions. There were 185 officers and 1,572 non-commissioned officers and soldiers of the Revolutionary army on the rolls, and 52 officers and 391 soldiers who had become disabled since the Revolution, making an aggregate of 2,200 pensioners.[2] The rate of a full pension for a private was increased from five to eight dollars per month. Pensions of first lieutenants and commissioned officers below that grade were also increased to the extent of two or three dollars per month. The act applied both to those already on the rolls, and to those of the grades mentioned who should thereafter be granted pensions. It was estimated that the annual expenditure for pensions would be increased to about $200,000, including the claims up to that time allowed on account of the War of 1812. Under carefully executed invalid laws, the annual payments for Revolutionary pensions had apparently reached a maximum.

We now come to the time when a new principle was introduced into national pension legislation by the enactment of the Revolutionary service pension law of March 18, 1818.[3] With this measure came unsavory scandals and a startling increase of pension expenditures. In his message of December, 1817, President Monroe had recommended to Congress some provision for the indigent survivors of the Revolutionary army, of whom he thought there were but few.[4] General Bloomfield, of New Jersey, promptly reported to the House a bill designed to carry the President's recommendation into effect. The extended debates on the meas-

[1] *U. S. Statutes at Large*, iii, 296.

[2] *American State Papers*, Claims, 473–474.

[3] *U. S. Statutes at Large*, iii, 410.

[4] *Annals of Congress*, 1st Sess., 15th Cong., 1817–1818, i, 19.

ure served to show a wide diversity of opinion in Congress regarding the proper nature and scope of pension legislation, and the law finally enacted was quite different from the original bill.

In both Houses there were pronounced majorities in favor of the passage of a service pension law, but, as to its detailed provisions, there was lack of harmony. Some wished a pure service pension law; others advocated a measure based upon "service and poverty." The advocates of a service law knew nothing as to the probable number of applications which would follow its passage, nor had they any conception of its probable cost. Such estimates as they attempted proved ridiculously small in the light of later experience.[1]

Advocates of the proposed bill pointed complacently to the surplus in the Treasury. The burden of their argument was eulogy of the Revolutionary soldiers, praise of their services, descriptions of the privations they had undergone, and an appeal to the gratitude of the country. "Let us show the world that Republics are not ungrateful," said one of the speakers. Another appealed to Congress thus: "Permit not him, who, in the pride of vigor and youth, wasted his health and shed his blood in freedom's cause, with desponding heart and palsied limbs to totter from door to door, bowing his yet untamed soul to meet the frozen bosom of reluctant charity."

In the Senate, this service pension law was opposed by a minority, strong in arguments but weak in numbers. Senator William Smith of South Carolina opposed the general principle of the measure, and asserted that it was a way to get rid of a little money in the Treasury not immediately wanted. To those who supported the bill from sentiment,

[1] In the Senate, Goldsborough, of Maryland, estimated the number of applicants under the law as, at the largest, less than 1900.

he said that good feelings were a miserable guide to a legislator. Nor did he believe that Congress had any power under the Constitution to pass such a law, the many precedents notwithstanding. The following extract from his speech seems almost prophetic in the light of later experience:

"As an argument, it would appear, to avoid an inquiry into the propriety of this measure, we are told such a case can never happen again—that you can never have another Revolutionary War. Will not those brave men who fought your battles and triumphed so gallantly over the enemy at Chippewa, Plattsburg, Erie, Champlain, Orleans and on the seas, have the same claims upon their country some thirty-five years hence, when time shall have thrown a veil over all the minute circumstances, and it shall be forgotten that they retired from the army with reluctance, after being abundantly paid and abundantly honored?

Their claim will be as great, and the precedent you are about to make will be followed. One army you say gained your independence, and the other has given it a new character, and made it worth maintaining. They have released your country from its degraded state of impressments, paper blockades, royal orders in council, and imperial decrees, and given it as high a grade in the scale of nations as your independence. *This will be the beginning of a military pension system which posterity may regret.*"[1]

The force of Senator Smith's words is felt when we remember that service pension laws, more or less limited, have been passed on account of the War of 1812, the Mexican War, and the Indian Wars; and that the Dependent Pension Law of 1890, enacted on account of the Civil War, is a near approach to a service law, and has already drawn hundreds of millions of dollars from the national Treasury. The service pension system, inaugurated in 1818, has truly become a burden which posterity regrets.

[1] For Senator Smith's speech, see *Annals of Congress*, 1st Sess., 15th Cong., i, 140–150. The italics in the extract are introduced by the writer.

The act of 1818 passed the House of Representatives without division. In the Senate, its scope was considerably limited by amendments, but only a small minority actively opposed it. The act provided that every person who had served in the Revolutionary War until its close, or for the term of nine months or longer at any period of the war, on the Continental establishment or in the navy, and who was a resident citizen of the United States, and was by reason of his reduced circumstances in life "in need of assistance from his country for support," should receive a pension. If an officer, the rate was twenty dollars per month, and if a non-commissioned officer or private, eight dollars per month, during life. No person was to be entitled to the benefits of the act until he should have relinquished his claim to every pension heretofore allowed him by the laws of the United States.

Evidence in support of claims was taken before the district judges of the United States, or before any judge or court of record of the county, state or territory in which the applicant resided. It consisted of the claimant's own declaration, supported by such other testimony as he might be able to procure. If satisfied of the claimant's service, the judge was required to transmit the testimony and proceedings in the case to the Secretary of War, whose duty it was, if he considered the claim a legal one, to place the applicant on the pension list of the United States. The statute prescribed no method of proof of the claimant's need of assistance, but the regulations of the War Department required his oath and the certificate of the judge to establish that fact.[1] It is to be noted that, in the execution of this law, Congress gave the Secretary of War final power in the allowance of claims. Pensions, if allowed, were to commence from the date of the applicant's declaration.

[1] *American State Papers*, Claims, 682–684.

If the members of Congress, who anticipated but few claims under the act of 1818, were sincere, they must have been astounded at the eager rush for pensions when the law came into operation. The country at large was certainly surprised and indignant. By the middle of September, the number of applications was so great that it was not possible with every exertion to act upon them as fast as they came in.[1] Flagrant abuses of the act of 1818 were the subject of severe comment in the newspapers of the time.[2] Men of means were charged with having made themselves out to be paupers in order to receive the benefits of the act, and others were said to have deposited the whole amount of their pensions in savings banks. The American people did not relish an increase of the annual pension expenditure from two or three hundred thousand dollars to two or three millions. In Connecticut, so great was the popular indignation at pension frauds that a meeting was held "to ascertain the names of the pensioners, and cause those to be erased from the list, if possible, who should not receive the public money, meant to be distributed only to the needy and destitute."[3]

At the first session of the Sixteenth Congress, in December, 1819, the question of pension frauds demanded and received attention. The repeal of the act of 1818 found some advocates, but this was deemed inexpedient. Secretary Calhoun admitted that, in spite of every precaution, the War Department had probably been imposed upon to a considerable extent as to the circumstances of claimants. His reports also showed that, in the number of pensioners under the law, the leading states were as follows: New York, Massachusetts, District of Maine, Connecticut, Vermont, New

[1] Niles' *Register*, xv, 63.

[2] *Ibid.*, xvii, 99. Contains extracts from various newspapers.

[3] *Ibid.*, xvii, 321.

Hampshire and Pennsylvania. The entire absence of Southern States from this list is noticeable.[1]

Public indignation at exposures of fraud led Congress to enact remedial legislation in the act of May 1, 1820.[2] This required pensioners under the act of 1818, and also all who should thereafter apply for pensions under that law, to submit sworn schedules of their whole estate and income, exclusive of necessary clothing and bedding. They were also required to take oath that they had not disposed of any part of their property with the intention of bringing themselves within the provisions of the law, and that they had not in person or in trust property or income of any kind other than that shown in the schedules subscribed by them. The Secretary of War was authorized to strike from the list of pensioners those persons, who, in his opinion, were not in such indigent circumstances as to be unable to support themselves without the assistance of their country. Revolutionary invalid pensioners, who had relinquished their pensions in order to avail themselves of the act of 1818, and who, by virtue of this supplementary act, might be stricken from the pension list, were to be restored to the pensions relinquished.

The act of 1820 caused the names of thousands of pensioners to be stricken from the rolls. Many of those who applied for continuance suffered a rejection of their claims, and others, without hope of favorable action, failed to exhibit the required schedules, and were consequently dropped. The fact that there had been great frauds and impositions on the generosity of the Government was clearly established.[3]

Secretary Calhoun made a report to the Senate, in February, 1823, on the operation of the acts of March 18, 1818,

[1] See *American State Papers*, Claims, 682–684, 703–704.

[2] *U. S. Statutes at Large*, iii, 569.

[3] Regarding execution of Act of 1820, see Niles' *Register*, xix, 243.

and May 1, 1820.[1] The total number of persons whose claims had been admitted under both laws was 18,880, and of these 12,331 were on the rolls on September 4, 1822. The remainder had for the most part been removed by the operation of the act of 1820.[2] "In 1818, the sum of $104,900.85 was paid to pensioners under the act of that year; in 1819, $1,811,328.96; in 1820, the sum paid was only $1,373,849.41, the list of pensioners having been reduced by the operation of the act of 1st May, 1820; in 1821, the sum of $1,200,000 was paid, and, in the year 1822, the sum of $1,833,936.30." The apparent increase in 1822 was due to the fact that a deficiency of $451,836 for the previous year was included. A greater number having applied for pensions in 1821 than had been anticipated, the estimates for that year had proved very deficient, and the amount was made up in the next year's appropriation.

By the act of March 1, 1823, Congress provided for the restoration to the pension list of those persons who had been dropped on account of the evidence afforded by their schedules of property, but had since become so reduced in circumstances as to need a pension.[3] The practical effect of this measure was to return to the pension list a large number of those persons whom the act of 1820 had removed.

The pension business had now become so great that Congress finally abandoned the attempt to participate in the detailed administration of general laws. The fourth section of an act of March 3, 1819,[4] gave the Secretary of War power to place persons entitled to invalid pensions under the act of April 10, 1806, and under the fourth section of the act of April 25, 1808, upon the pension list without reporting to

[1] *American State Papers*, Claims, 885.

[2] There were, of course, some removals caused by death.

[3] *U. S. Statutes at Large*, iii, 782. Found in statutes among acts of March 3, 1823.

[4] *Ibid.*, iii, 526.

Congress for final action. As to service pensions, this power had already been conferred upon the Secretary by the original terms of the act of 1818. In the period during which it exercised the power of final action, Congress had usually been guided by the recommendations of the Secretary of War.

For a few years, there was no further Revolutionary pension legislation of importance. But soon the troublesome question of the claims of the Revolutionary officers, who had been entitled to half pay for life under the resolution of October 21, 1780, came up for consideration. The survivors were not satisfied with the results of the commutation and settlement of their half pay, and, at intervals from 1810 to 1827, they besought Congress for an allowance from the National Treasury. President John Quincy Adams, in his message of December, 1827, recommended to the consideration of Congress "the debt, rather of justice than gratitude, to the surviving warriors of the Revolutionary War."[1] Congress took action in the passage of the law of May 15, 1828.[2]

This act granted full pay for life, beginning with March 3, 1826, to the surviving Revolutionary officers in the Continental line, who had been entitled to half pay for life by the resolution of October 21, 1780. The same allowance was also made for non-commissioned officers and soldiers, who enlisted for the war and served until its end, and thereby became entitled to receive the reward of eighty dollars promised by the resolution of May 15, 1778. The beneficiaries under this act were required to give up other pensions which they might be receiving under the laws of the United States, but, under later amendments, were permitted to retain invalid pensions. The act of 1828 was not at first regarded as

[1] *House Journal*, 1st Sess., 20th Cong., 23. [2] *U. S. Statutes at Large*, iv, 269.

an ordinary pension law, and it was executed by the Secretary of the Treasury. In 1835 this function was transferred to the Secretary of War. At the end of 1828, about 850 persons had been allowed the full pay for life.[1]

About 1830, the rapid extinction of the public debt promised soon to leave the United States with a considerable annual surplus in the Treasury. There was great opposition to a reduction in existing tariff rates, and, under the circumstances, proposals were made to spend more money for pensions. President Jackson, in his message of December, 1829, suggested the extension of the benefits of the pension laws to all Revolutionary soldiers who were unable to maintain themselves in comfort.[2]

In accordance with Jackson's suggestion, there was a prompt movement in Congress to widen the scope of the pension laws. One bill, introduced for this purpose, passed the House, but was indefinitely postponed in the Senate. In debate upon this measure, Senator Hayne of South Carolina, on April 29, 1830, made a notable speech in which he reviewed the course of pension legislation to that time.[3]

While not entirely accurate in details, he showed a good knowledge of the general subject. He opposed the attempt to admit to the company of the war-worn veterans of the Revolution a host, many of whom had never even seen an enemy, "mere sunshine and holiday soldiers, the hangers-on of the camp, men of straw, substitutes, who never enlisted until after the preliminaries of peace were signed." Down to the year 1818, as he pointed out, the national pension system had been based upon the principle of disability. The law of that year had abandoned this principle, and made service and poverty the basis of pensions. The atten-

[1] *Report of Sec'y of Treasury*, *State Papers*, 2d Sess., 20th Cong., ii, no. 68.

[2] *Senate Journal*, 1st Sess., 21st Cong., 1829–1830, 17.

[3] Benton's *Debates*, x, 547–555.

tion of the Senate was called to the circumstances attending the passage of the act of 1818, and to the resulting scandal and fraud. With the experience afforded by that law in mind, the senator urged that it was folly to open a wide door to similar and greater evils.

In the latter part of his speech, Hayne asserted that there was an intimate connection between the proposed increase of pension expenditures and the maintenance of a protective tariff policy. He said:

"I consider this bill as a branch of a great system, calculated and intended to create a permanent charge upon the Treasury, with a view to delay the payment of the public debt, and to postpone, indefinitely, the claims of the people for a reduction of taxes, when the debt shall be finally extinguished. It is an important link in the chain by which the American system party hope to bind the people, now and forever, to the payment of the enormous duties deemed necessary for the protection of domestic manufactures."

Senator Hayne thought schemes for internal improvement, for colonization, education, distribution of surplus revenue, and many others "all admirably calculated to promote the great end—the absorption of the public revenue."

"But," said he, "of all the measures devised for this purpose, this grand pension system, got up last year, and revived during the present session, is by far the most specious, the most ingeniously contrived, and the best calculated for the accomplishment of the object. Here gentlemen are supplied with a fine topic for declamation. 'Gratitude for Revolutionary services!' 'the claims of the poor soldiers!'—these are the popular topics which it is imagined will carry away the feelings of the people, and reconcile them to a measure which must unquestionably establish a permanent charge upon the Treasury to an enormous amount, and thereby furnish a plausible excuse for keeping up the system of high duties."

Under the existing tariff arrangements, Hayne claimed that the South was paying the greater portion of the duties which supplied the Treasury, and that the public money

was expended chiefly in the North. This was nowhere better illustrated than in the pension system. From official reports, he stated that the whole amount of appropriations for pensions under the act of 1818 had been about $14,175,000, and that there had been paid to all other pensioners from the beginning of the government, $6,360,000, making a total of $20,535,000. Of the sixteen thousand pensioners on the roll at the last report, about twelve thousand resided in the ten States north of Maryland, and four thousand in the Southern and Western States. From this rough basis, Hayne drew the conclusion that about fifteen of the twenty millions paid to pensioners had gone North, and about five millions to the South and West. He thought an extension of the pension system would be likely to operate in the same way, and, when this system degenerated into a mere scheme for the distribution of the public money, the South had a right to complain of its gross inequality.

The opposition to an extension of the pension laws, so ably represented by Hayne, prevailed in the Twenty-First Congress, but in the next Congress the matter came up again, and pension bills were introduced into House and Senate. The House bill was extravagantly liberal. Mr. Davis of South Carolina said that its passage would be a signal that would "wake up from the slumbers of the grave almost as many dead militia as the last trumpet; not harmless ghosts and spectres, but substantial pensioners, tax receivers, and consumers of the substance of the people."[1] Mr. Johnston of Virginia pronounced it not an "old soldier's bill," but rather "a waste dam to let off surplus revenue." This measure passed the House by an overwhelming majority, but the Senate preferred to consider its own bill. This was less extravagant than that of the House, and was

[1] *Congressional Debates*, Vol. viii, Part ii, 2434.

in form supplementary to the act of 1828. Hayne led a vigorous but unsuccessful opposition. Senator Foot, who was in charge of the bill, estimated that it would produce an annual charge on the Treasury not to exceed $450,000. The Senate's measure was passed, accepted by the House, and was approved by the President on June 7, 1832.[1]

This is probably the most important act passed on account of Revolutionary services. It granted to all who had completed, at one or more terms, a total service of two years during the Revolutionary War, whether in Continental or State troops, volunteers or militia, or in the navy, and who were not entitled to any benefit under the act of May 15, 1828, full pay for life according to rank, not to exceed a captain's pay, to commence from March 4, 1831. All who had completed a total service of not less than six months were to receive for life an annuity bearing the same proportion to the amount granted those who had served two years, as did the terms of service to the full two years. Every one who received the benefits of this law was required to relinquish any pension received by him under any other Revolutionary pension act, but the amendment of February 19, 1833, excepted invalid pensioners from the operation of this provision.

The Secretary of the Treasury was originally charged with the execution of the act of 1832, but this duty was transferred to the Secretary of War by the resolution of June 28, 1832. Evidence in support of claims was taken in the form of declarations upon oath before a court of record in the county where the applicant resided. In the case of the regular or Continental troops, the evidence could be compared with the muster rolls in the possession of the War Department, but, in the case of the State troops, volunteers

[1] *U. S. Statutes at Large*, iv, 529.

and militia, the Department possessed no rolls except of the State troops of Virginia and the militia of New Hampshire.

This lack of rolls necessitated, in the consideration of a large number of applications, entire reliance upon the sworn declarations of the claimant and his witnesses, except in so far as his narrative of service could be compared with the known events of the period of the alleged service. Much importance was attached to traditionary evidence, such as a general belief in the neighborhood that the claimant had been a Revolutionary soldier. This was required to be established by the evidence of the nearest clergyman and other persons of character and standing in the community.[1]

These provisions were extremely liable to abuse, and frauds soon came to light in various sections of the country. The scandal of the act of 1818 was repeated. There was such a rush of applicants that it was thought incredible that there should be so many Revolutionary soldiers alive. The annual charge on the Treasury, instead of being $450,000, as had been estimated in the Senate, was four or five times that amount. The Senate ordered the publication of the list of pensioners, classified by States and counties, and the transmission of each State's list to its courts of record.[2] Thoughtful men began to question the moral and political effect of the whole pension system of the United States. Upon a resolution to extend the law of 1832 to those who had fought in Indian wars, Mr. Bouldin of Virginia said in the House of Representatives, on December 27, 1833, that "the practical effects of the system had been to discourage private industry, and lead a large portion of the people of the United States to look to the Treasury as the unfailing spring from which they were to receive every good. The poor, instead of being

[1] For full regulations under the Act of 1832, see *Executive Documents*, 2d Sess., 25th Cong., 1837–1838, v, no. 118, 84–91.

[2] *Senate Journal*, 1st Sess., 23d Cong., 1833–1834, 404.

relieved in their own neighborhoods, were pensioned on the United States." [1]

In the fall of 1834, most startling frauds under the act of 1832 came to light. Numerous indictments for perjury and forgery in the prosecution of pension claims were found at the session of the federal court in western Virginia, and many of the accused were said to have fled to Texas.[2] In Vermont, the Government was swindled out of an amount estimated at from forty, to two or three hundred thousand dollars through payments to fictitious pensioners.[3] Here the frauds were perpetrated by Robert Temple, formerly pension agent, president of the Bank of Rutland, and a man of great wealth and prominence in the State. Alarmed at the prospective publication of the pension list, he went to Washington, and attempted to bribe a clerk to alter the list in order to conceal his crimes. The clerk disclosed the affair to his superiors, and steps were taken to secure further evidence in the matter. Temple, learning that he was about to be arrested, committed suicide at his home in Vermont. Other frauds were discovered in Kentucky and New York.

These disclosures received the attention of the Commissioner of Pensions in his annual report presented on November 7, 1834.[4] He said the most daring and iniquitous frauds had been discovered to have been perpetrated by men of high standing in society, whose official stations and respectability placed them far above suspicion. In every such case which had come to the knowledge of the Department, steps had been taken to punish the offenders. Prosecutions, in some instances, had been successful, and terminated in the confinement of the criminals in State prisons. In other

[1] *Cong. Debates*, vol. x, Part ii, 1833–1834, 2245.

[2] Nile's *Register*, xlvii, 97, 147.

[3] *Ibid.*, 105–106. (Extracts from several current newspapers.)

[4] *Executive Documents*, 2d Sess., 23rd Cong., 1834–1835, i, no. 2, 273–280.

cases, they had fled from justice. Wherever there was a prospect of recovering money improperly paid, a suit had been commenced.

The following extract from the Commissioner's report shows the bold character of the frauds:

"It has been ascertained that papers have been presented at this Department purporting to contain proof of Revolutionary service, taken in open court, bearing the official seal of the clerk of the court, and duly certified by him, when, in fact, the persons in whose behalf the claims were made, never had any but an imaginary existence. In some instances, the claims have been admitted, and money has been paid. In other cases, money has been paid to a period after the time when the pensioners died; and this last mentioned description of fraud was effected by means of falsifying the certificates of a clerk of a court of record."

After giving a detailed description of the way in which the frauds were in some particular instances perpetrated, the Commissioner recommended the appointment of officers in each State and territory "for the purpose of examining in in person all pensioners and applicants for pensions." He reported that there were 27,978 pensioners on the rolls under the act of 1832, and that the amount sent to agents in 1834 for payments under this act was about $2,325,000. The whole national pension roll contained about 43,000 names.

The pension frauds were further discussed in the annual report of the Secretary of War,[1] and in the President's message of December, 1834.[2] Secretary Cass pointed out that, as these disclosures had been the result of accident, it was impossible to judge to what extent frauds might have been committed. President Jackson recommended an actual inspection of the pensioners in each State. The object of this inspection should be twofold, to look into the original justice

[1] *Executive Documents*, 2d Sess., 23d Cong., 1834–1835, i, no. 2, 36–38.

[2] *Ibid.*, 18–19.

of the claims, and to ascertain, in all cases, whether the claimant was living, and this by actual personal inspection. Notwithstanding these recommendations, Congress took no measures to bring about a reform of the pension system.

The expenditures of the United States for Revolutionary and other pensions, from the beginning of the Federal Government to September 30, 1834, are shown by a report of the Secretary of the Treasury to have been something over $33,100,000.[1] Up to the close of 1833, the amount was about $29,600,000. The States which received most largely of this latter amount rank as follows: New York, $6,186,000: Massachusetts, $3,331,000; Pennsylvania, $2,644,000; Maine, $2,115,000; Connecticut, $1,942,000; Vermont, $1,923,000; New Hampshire, $1,697,000, and Virginia, $1,649,000. A study of these figures will show why the most earnest opposition to lavish pension laws came from the South.

Thus far in our study of Revolutionary pension legislation, we have found scarcely any provision for the widows or children of deceased soldiers. By the resolution of August 24, 1780, half pay for seven years was granted to the widows or orphans of such Revolutionary officers as had died or should die in the service, but the widows of non-commissioned officers and soldiers were not included in the benefits of this measure. The resolution expired before the inauguration of the Federal Government, but was renewed for two years by the act of March 23, 1792.[2]

With the exception of sundry provisions for the payment of pension money, accrued and unpaid at the death of pensioners, to their widows, children or legal representatives, there was no general legislation for the benefit of the widows of Revolutionary officers or soldiers from 1792 to 1836. At

[1] *Executive Documents*, 2d Sess., 23d Cong., 1834–1835, iii, no. 89, 32.

[2] *U. S. Statutes at Large*, i, 243.

intervals, propositions were made for the granting of pensions to Revolutionary widows, but none were successful until the passage of the act of July 4, 1836.[1] The third section of this law provided that if any Revolutionary soldier, who would have been entitled to a pension under the act of June 7, 1832, had died, leaving a widow whose marriage took place before the expiration of his last period of service, such widow, so long as she remained unmarried, should be entitled to receive the pension which might have been allowed to her husband, if living at the time the act was passed. In applications under this act, the Secretary of War was to adopt such forms of evidence as the President should prescribe.

The act of 1836 was the first of a long series of laws for the benefit of Revolutionary widows. These grew more and more liberal as the years passed by. To follow the intricacies of this legislation might involve us in some confusion. We may say, in short, that provision was first made for those widows who married during the Revolution, then for those who married prior to 1794, later for those who married prior to 1800, and finally for all Revolutionary widows, regardless of the date of marriage.[2] The pensions granted to widows were to continue during widowhood, and, in amount, were the same as those to which their husbands would have been entitled under the existing laws, if living.

There yet remain to be considered a few minor Revolutionary pension measures. The act of April 1, 1864, granted one hundred dollars additional annual pension to each of the surviving soldiers of the Revolution then on the pension rolls.[3] By November of that year seven of the number who were the intended recipients of this special bounty had died at an average age of about one hundred years, and but five

[1] *U. S. Statutes at Large*, v, 127.

[2] *Ibid.*, x, 154 and 616.

[3] *Ibid.*, xiii, 39.

were still living.[1] For the benefit of these five, Congress passed the private act of February 27, 1865, granting each of them a gratuity of three hundred dollars annually during his natural life, in addition to the pensions already being paid them according to law.[2]

By June 30, 1867, all the Revolutionary soldiers on the pension rolls had died, but, during the following fiscal year, two other Revolutionary soldiers were pensioned by special act at $500 per annum. Daniel F. Bakeman, the last survivor, died on April 5, 1869. On June 30, 1869, the names of 887 Revolutionary widows were still borne on the rolls, although the actual number living was without doubt somewhat less on account of unreported deaths.[3] Some additional provisions for Revolutionary widows were made in acts of February 18, 1867, July 27, 1868, and March 9, 1878, but these were entirely unimportant in their results.[4]

From the first resolution of August, 1776, to the legislation of March, 1878, we have reviewed over a century of Revolutionary pension laws. In the history of those laws, there has been a constant development of new and more liberal principles. At first, invalid pension provisions were made. These were broadened and extended until the law of 1818 introduced a new principle by granting pensions based on service and indigence. Then came the pure service pension law of 1832. Later, widows' pensions were granted to those who had married during the progress of the war. As more liberal tendencies prevailed, the time before which marriage must have occurred was extended to 1794, then to 1800, and finally all limitation was abolished. With respect to this alone of our wars, the complete effects of all pension

[1] *Report of Commissioner of Pensions*, 1864.

[2] *U. S. Statutes at Large*, xiii, 597.

[3] See *Reports of the Commissioner of Pensions*, 1867, 1868, 1869.

[4] *U. S. Statutes at Large*, xiv, 566; xv. 235; xx, 27.

legislation have been practically realized. The report of Commissioner of Pensions J. H. Baker for 1874 gives us statistics upon which may be based a summary of these effects.[1]

In this report the number of soldiers serving in the Revolutionary War is placed at 289,715, although, considering the inadequacy of the records, this estimate cannot be more than approximately correct. Of these, the number pensioned for service was 57,623, of whom 20,485 were pensioned under the act of 1818, 1,200 under the act of 1828, 33,425 under the act of 1832, and the remainder under minor and special acts. The manner of keeping the records during the early years of the Federal Government makes it impossible to state the number of Revolutionary soldiers who were granted invalid pensions for actual disability. There were probably not more than two or three thousand of such persons. The entire number of Revolutionary soldiers pensioned by the Federal Government is probably not far from 60,000. The total amount of pensions paid to such soldiers from 1818 to 1869, when the last survivor died, was $46,178,000. The amount paid to Revolutionary invalids prior to 1818 was about $2,500,000, so that the total payments of pensions to Revolutionary soldiers may be said to roughly approximate $49,000,000.

Under the general laws from July 4, 1836, to June 30, 1874, there were pensioned 39,295 Revolutionary widows. Of these, 5,446 were married to the deceased soldier prior to the termination of the war, 28,837 prior to 1794, 1,242 between 1794 and 1800, and 3,750 after 1800. If we take into consideration the widows of Revolutionary officers who

[1] The *Reports of the Commissioners of Pensions* are published in several forms and with varying pagination. This reference may be found in the *House Executive Documents*, 2d Sess., 43rd Cong., 1874–1875, *Report of the Secretary of the Interior*, i, 667–668.

received the seven years' half pay, the widows who were pensioned by special acts, and the few widows pensioned after 1874, the entire number of Revolutionary widows pensioned may be estimated at over 40,000. The total amount paid to these widows from 1836 to 1874 was $19,604,000. Making allowance for the early half pay to officers' widows, and for the payments since 1874, the total payments to Revolutionary widows amount to about $20,000,000. Thus the total cost to the Federal Government for pensions to soldiers of the Revolution and their widows has been about $69,000,000, exclusive of the cost of the administration of the pension laws. We are now spending more than twice that amount every year for pensions to the soldiers of the Civil War and their dependent relatives.

In considering the statistics of the pension cost of the Revolutionary War, it must be remembered that service pensions were not granted until thirty-five years after the close of the war, that widows' pensions were practically not granted until fifty-three years after the close of the war, that the invalid pension provisions were quite restricted, that there were no pensions to dependent fathers, mothers, sisters and brothers, and that there were pensioned by general law only a few orphan children of officers, and by special act, a few aged daughters of soldiers. Under our present pension system the cost of a war of equal magnitude would be vastly greater. Indeed, we may confidently expect that the cost of paying pensions on account of our recent brief War with Spain will, in a very few years, amount to more than the cost of executing the Revolutionary pension laws of over a century.

CHAPTER III

LEGISLATION BASED ON SERVICE BETWEEN 1789 AND 1861

THE provisions of national pension legislation enacted on account of military services rendered between 1789 and 1861 may be conveniently classified under five headings. They were intended to benefit (1) the regular army and miscellaneous bodies of militia and volunteers, (2) those who served on board vessels of the navy and privateers, (3) the soldiers of the War of 1812, (4) of the various Indian Wars, and (5) of the Mexican War. These classes, however, cannot be sharply differentiated. Although there was a distinct body of navy pension legislation, which requires a separate treatment, the benefits of that legislation were very largely conferred on sailors who served in the War of 1812. So also the pension provisions for the soldiers of the regular army had force while they were serving in the War of 1812, the Mexican War and the Indian wars, except in so far as those provisions were superseded by particular legislation enacted for the war in question. Some of the laws, which we are to consider in this chapter, are of quite recent date, but they have reference to services rendered prior to 1861.

1. *Provisions for the Regular Army and Volunteers*

Beginning with the act of April 30, 1790, to regulate the military establishment of the United States, pension provisions of this class were quite numerous, but in the aggregate of small importance. Laws fixing the military peace establishment, or raising volunteers or militia for various purposes, commonly included a section dealing with the

matter of pensions. Until 1816, the invalid pension rate for officers was not to exceed one-half of the monthly pay, and for non-commissioned officers and privates not to exceed five dollars per month. The act of April 24, 1816, however, increased the allowance for non-commissioned officers and privates to eight dollars per month, and also increased the rate for the lower grades of commissioned officers.[1] In cases of partial disability, a proportionate allowance was made. For many years, the only provision for widows and orphans was a grant of half pay for five years to the widows, or children under sixteen years of age, of commissioned officers in the troops of the United States, dying in the service in consequence of wounds received. These provisions were based upon sections of the act of March 16, 1802, which was the fundamental law for regular army pensions until the time of the Civil War.[2] After 1861, regulars were included under the Civil War legislation.

Prior to the Civil War, when bodies of militia or volunteers were raised for special service, the provisions of the act of 1802 were frequently extended to such forces. In time of war the widows and orphans of private soldiers of both regular army and militia were usually allowed half pay for five years in the same manner as the widows and orphans of commissioned officers. Upon its expiration, this half pay was often continued from time to time. Eventually, the act of June 3, 1858, granted to all those surviving widows and minor children, who had been allowed five years' half pay under the provisions of any previous general law, a continuance of such half pay, to commence from the date of the last payment. This pension was to be paid to widows during life, and where there was no widow, or in case of her

[1] *U. S. Statutes at Large*, iii, 296. [2] *Ibid.*, ii, 132.

death or remarriage, to the minor children while under the age of sixteen years.

2. *Navy and Privateer Pension Funds*

While pension laws in the United States have applied, to a large extent, to army and navy alike, there was developed early in our history a separate pension system applicable to the navy alone. This was administered apart from the general pension system, and requires a distinct treatment. The navy pension laws were for the most part concerned with the formation, administration and use of the funds known as the navy and privateer pension funds.

From the establishment of a naval armament in 1791 up to about 1800, disability pension provisions were made for the officers, marines and seamen of the navy in the same manner and at the same rate as for the regular army. The acts of March 2, 1799, and April 23, 1800, for the government of the navy of the United States, provided for a navy pension fund, which was to be made up of the Government's share of money accruing from the sale of prizes taken at sea by vessels of the navy.[1] This fund was to supply half pay pensions for life, or during disability, to all disabled officers and men of the navy. If it should prove insufficient for the purpose, the public faith was pledged to make up the deficiency. The fund was placed under the management and direction of the Secretary of the Navy, the Secretary of the Treasury and the Secretary of War. These commissioners were required to present an annual report of their operations to Congress.

It was not until after the outbreak of the War of 1812 with Great Britain that this fund became of much importance. At the close of 1813, the annual outlay for pensions was about $11,300, and the fund itself amounted to $329,-

[1] *U. S. Statutes at Large*, i, 709; ii, 53.

000. It was rapidly increased by the Government's share of prizes taken in the existing war, and the income of the fund was much in excess of the demands upon it.[1]

Prior to the War of 1812, only invalid pensions were paid from the navy pension fund. By acts of 1813 and 1814, half pay pensions for five years were granted to widows and orphans of those who should die by reason of wounds received in the line of duty in the navy. Between 1817 and 1824, the same allowance was made in cases where the death of the officer or seaman occurred "in consequence of disease contracted or of casualties or injuries received, while in the line of duty." This provision produced too great demands upon the fund and was repealed in 1824. As they expired from time to time, the half pay pensions for five years were usually renewed for a like term. After 1813, the laws granting and renewing pensions to widows and orphans were numerous and complicated, but not of sufficient importance to warrant a detailed account of them.

The history of the navy pension fund is not without its frauds and scandals. In their report for 1815, the commissioners complained of the difficulty of collecting arrearages of prize money, and of securing a punctual and faithful accountability on the part of those officers who were charged with the prosecution and sale of prizes. Congress soon after passed the act of April 16, 1816, which made detailed provision for the collection and payment into the navy pension fund of the Government's share of prize money, and furnished means to enforce obedience to the law on the part of negligent or dishonest officials. In 1832 the Secretary of the Navy was made sole manager of the fund. The property of the fund was to be in the custody of the Treasurer of the United States, and the Secretary of the Navy was directed to invest the cash balance on hand and all money that

[1] *American State Papers*, Naval Affairs, i, 298, 381–382; iii, 535.

might arise to the fund in stock of the bank of the United States.

At this point we may consider some statistics of the management and operations of the fund from the close of 1813 down to January 1, 1832. The amount of the fund at the close of 1813 was $329,000. From that time to the close of 1831, there was paid into it from the sale of prizes $452,000. During the same period it received in interest and dividends on stock $822,000, and $584,000 was paid out for pensions. On January 1, 1832, the fund owned about $1,000,000 in stocks, less than $100,000 being in various bank stocks. It had suffered a loss of about $100,000 by the failure of the Columbia Bank. On November 1, 1835, the capital amounted to $1,160,000, but, in consequence of ill-advised laws of 1834 and 1837, charges upon the fund became too great to be met from the current income. The securities were gradually sold, and the fund was finally exhausted in 1842. From that time until the Civil War, navy pensions were paid by annual appropriations made by Congress.[1]

The laws establishing the navy pension fund remained upon the statute books, and again came into existence during the Civil War. In the division of this work that has been adopted, the latter part of the history of the fund should in strictness be given in the chapters on Civil War pensions, but it will be included here for the sake of continuity of treatment. With the opening of the war, large sums of money began to accrue to the Government from the sale of prizes taken at sea. Congress gave express sanction to the re-establishment of the fund by the act of July 17, 1862.[2] By October 1, 1864, Commissioner of Pensions

[1] On the management and operations of the navy pension fund, see *American State Papers, Naval Affairs*, i, 380–395; iii, 528–530; iv, 44–45, 818–825, 863.

[2] *U. S. Statutes at Large*, xii, 607.

Barrett reported that the navy pension fund amounted to about $6,056,000, of which more than $4,000,000 had been paid into the fund during the year preceding that date. This sum, invested at six per cent., would give an annual income of some $363,000. The total annual rate of the navy pensions of all classes on June 30, 1864, was only $179,000. In view of the heavy annual demand for the payment of army pensions, Commissioner Barrett proposed that a certain proportion of the money accruing from the sales of abandoned or confiscated property or land should be similarly used for the creation of an army pension fund. His suggestion was commended to the consideration of Congress by the Secretary of the Interior, but not acted upon.[1]

By the act of 1862, only navy invalid pensions were chargeable upon the fund. These were paid at the regular rates established by Civil War pension laws, and from the office of the Commissioner of Pensions. Congress, by resolution of July 1, 1864, directed the Secretary of the Navy to invest the fund in registered securities of the United States. Its nominal income was greatly increased by the exchange of the coin interest on these securities for legal currency of the United States at the existing rate of premium on gold.[2] The income thus created was so far in excess of all demands that Congress, in 1866, charged upon the fund the payment of pensions to navy widows and dependent relatives.[3] By 1867 the receipts from prize money and surplus income had increased the capital amount to $13,000,000, and there was an uninvested balance of $229,000.

In an act of March 2, 1867, Congress provided for the payment from the navy pension fund of a half pay allowance to seamen or marines who have served twenty years, and

[1] Regarding the management of the fund, see annual *Reports of the Commissioner of Pensions*, 1863, 1864, 1865 and 1867.

[2] *U. S. Statutes at Large*, xiii, 414.

[3] *Ibid.*, xiv., 2-3.

are, from age or infirmity, disabled from sea service. This allowance is in lieu of being provided with a home in the United States Naval Asylum at Philadelphia. The same law authorized the Secretary of the Navy to make from the fund an allowance to disabled persons who had served in the navy or marine corps for a period of not less than ten years.[1] The naval appropriation act for 1870 also charged upon the income of the fund the future support of the Naval Asylum at Philadelphia.[2]

At the close of the war, the principal of the navy pension fund invested in United States bonds was $14,000,000. By act of July 23, 1868, the rate of interest on the fund was reduced to three per cent. per annum in lawful money.[3] In consequence of the great increase of pension expenditures, due to the Civil War, the income of the fund has been since 1870 inadequate to pay all navy pensions, and a provision of the act of 1862, pledging the public faith to make up the deficiency, has been brought into operation. In 1899 the fund was about the same in amount as at the end of the Civil War, but it will presumably be somewhat increased by the investment of the prize money received by the Government on account of the recent War with Spain.

In the present condition of the navy pension fund, the income available for the payment of navy pensions is less than ten per cent of the actual payments made in connection with that branch of the service.[4] This is shown by the following statistics:

[1] *U. S. Statutes at Large*, xiv, 515–517. These provisions were enacted to carry out the clause of the eleventh section of the Act of July 17, 1862, directing that the surplus income from the navy pension fund "be applied to the making of further provision for the comfort of disabled officers, seamen and marines." The allowances are in addition to pensions to which the persons concerned may be entitled under other laws.

[2] *Ibid.*, xv, 277.

[3] *Ibid.*, xv, 170.

[4] *Report of Commissioner of Pensions* for 1899, 105.

	Payments for Navy Pensions.	Available income of fund.
In 1895.....	$3,655,485	$339,535
In 1896.....	3,588,528	340,685
In 1897.....	3,635,802	340,275
In 1898.....	3,723,932	341,275
In 1899.....	3,683,794	342,275

As was previously noted, a part of the income of the navy pension fund is used for the support of the Naval Asylum at Philadelphia.

A privateer pension fund was inaugurated by the act of June 26, 1812, but this was exhausted at the end of about twenty-five years. The provisions for its establishment and administration, however, still remain on the statute book. The fund consisted of two per cent of the net amount of the prize money accruing to privateers of the United States.[1] Pensions were paid, under supervision of the Secretary of the Navy, to those who were wounded and disabled on board the private armed vessels of the United States in engagements with the enemy, and also to the widows and orphans of such as died by reason of their wounds. The fund was managed in much the same way as the navy pension fund, and at one time amounted to about $200,000.[2] Demands upon the fund being too great to be satisfied from the income, it was gradually decreased by the sale of stocks and finally exhausted about 1838. The few pensions paid from it were stopped. Congress later made provisions for the renewal of the privateer pensions and for their payment from the ordinary pension appropriations.

3. *War of 1812 Pensions.*

In the spring of 1812, various acts for the raising of troops included the same invalid pension provisions as had been made for the regular army by the act of 1802. In 1816, the

[1] *U. S. Statutes at Large*, ii, 759.

[2] *American State Papers*, Naval Affairs, i, 666–667.

rate of a full pension for private soldiers was increased from five to eight dollars per month, and there was also an increase in the rates of pensions paid to the lower grades of commissioned officers. Half pay pensions for five years were granted to widows and orphans, but these allowances, in course of time, expired. However, they were eventually renewed, and, before the Civil War, pensions had been granted for life to all surviving War of 1812 widows, whose husbands had died as the result of wounds received or of disability incurred in service. Pension rates for the War of 1812 were made equal to Civil War rates by some of the earlier pension acts passed on behalf of the latter war.

Service pensions on account of the War of 1812 were not granted until 1871. With the lapse of time, the number of invalid pensioners had become very small, and a lively and long-continued agitation for service pensions finally met with success. The Revolutionary act of 1832 was appealed to as a precedent, and thus the predictions made by senators in the debate on that law were fulfilled.

The act of February 14, 1871, was one of numerous bills on the subject proposed to Congress. In the debates, the principal feature was the discussion of a so-called "pauper clause," requiring proof of indigence on the part of applicants for pensions. This would have accorded with the principle of the Revolutionary pension act of 1818. A majority, however, was found in favor of a simple service pension act without property qualification. There was the usual underestimate of the number of applicants and amount of expenditure involved.

As finally approved, the act of 1871 granted pensions to all surviving soldiers or sailors of the War of 1812, who served sixty days and were honorably discharged, or who received personal mention by Congress for specific services in the war. Applicants were required to have been loyal

during the Civil War and to take an oath to support the Constitution. Pensions were also granted to the surviving widows of those who had served as above, provided that the widows had been married prior to the treaty of peace and had not re-married. The rate allowed was eight dollars per month during life, and proof was to be made under rules prescribed by the Secretary of the Interior.[1]

The effect of the law of 1871 was immediately felt. At its passage, there were few survivors of the War of 1812 on the pension rolls. By October 13, 1871, the Commissioner of Pensions reported that some 32,000 claims had been received under the law, and that a new class of pensioners had been established. Of the claims received, about 25,000 were those of survivors and 7,000 those of widows.[2] The number of widows' applications was greatly limited by the proviso with regard to the date of marriage. Statistical information with regard to the working of this act will be furnished later.

Hardly had the act of 1871 become law before numerous bills were introduced in the interest of greater liberality. A particular effort was made to remove the restriction on widows' pensions. The desired ends were at length attained in the act of March 9, 1878, which received commanding majorities in both House and Senate.[3] This measure was extravagant in its terms, opening the way to the pension roll for widows unborn when the War of 1812 was fought, and for soldiers who had seen only fourteen days' service. Congress endorsed the proposition put forward in the debates that "the affectionate ministrations of a devoted wife during the declining years of an infirm and too often destitute and suffering soldier should receive some recognition on the part of

[1] *U. S. Statutes at Large*, xvi, 411.

[2] *Report of Commissioner of Pensions* for 1871.

[3] *U. S. Statutes at Large*, xx, 27.

the Government created and established by their (*sic*) valor and services in the field." Besides shortening the necessary length of these valorous services to a term of fourteen days, the requirement of loyalty during the Civil War was abolished.

Under the act of 1878, pensions were granted to all those persons in any branch of the service, who served for fourteen days in the War of 1812, or who were in any engagement and were honorably discharged, and to the surviving widows of all such persons. Pensions to all ranks were at the rate of eight dollars per month during life. It was provided that re-marriage should terminate widows' pensions. Record evidence of service and honorable discharge were not required, but applicants might establish their claim by any other satisfactory testimony. Provision was made for the restoration to the rolls of all War of 1812 pensioners who had been removed for disloyalty during the Civil War. Where pensioners had thus been stricken from the rolls and had died without restoration, their widows were given the right to make claim for a pension under the new act.

At the time of the passage of the act of 1878, claims under the law of 1871 were nearly exhausted. The new measure resulted in the presentation of about 25,000 claims between March 9 and October 15, 1878, on account of a war which had ended sixty-three years ago. Survivors presented only about one-seventh of these claims. This condition of affairs was in marked contrast to that under the act of 1871, when the great majority of claims was by survivors. The change was due to the removal of the restriction on the date of marriage and also to the great mortality among the survivors, who had all reached an exceedingly advanced age.[1]

There has been no further pension legislation on account

[1] *Report of Commissioner of Pensions* for 1878.

of the War of 1812, although the act of March 19, 1886, operated to raise the pensions of widows of that war to twelve dollars per month. On June 30, 1899, there was on the pension roll one surviving soldier of the War of 1812, aged ninety-nine years. At the same date, there were 1998 widows of this war on the rolls.[1] Some of these widows will probably be found among the nation's pensioners considerably more than a century after the conclusion of the war.

The operation of the War of 1812 pension laws of 1871 and 1878 is shown in the tabular statement on the opposite page.[2] It is not possible to give separate statistics regarding this class of pensioners for the years prior to 1871. At that date, the number of such pensioners was inconsiderable.

4. *Indian War Pensions.*

In the course of its history, the United States Government has had frequent conflicts with hostile Indian tribes. Some of these disturbances were of sufficient importance to be termed wars. It has been uniformly the custom to extend the benefits of existing pension laws to the soldiers of these wars, and also to the widows and orphans of the slain. An early law providing for those engaged in fighting hostile Indians was that of April 10, 1812, for the relief of the officers and soldiers who served in General Harrison's campaign on the Wabash. From that time down, the benefits of the pension laws were extended from time to time to those engaged in putting down Indian insurrections in Florida and elsewhere. At the time of the Civil War, the survivors and widows of soldiers in the various Indian wars stood on the same footing as to pensions as those of the War of 1812.

Service pensions were not granted on account of the In-

[1] *Report of Commissioner of Pensions* for 1899.

[2] Compiled from statistics in *Reports of Commissioner of Pensions.*

WAR OF 1812 PENSIONS SINCE 1871

Fiscal Year.	No. of Pensioners on Rolls.			Expenditures.		
	Survivors.	Widows.	Total.	Survivors.	Widows.	Total.
1871	.....	.....	727	$2,555.05	$511.00	$3,066.05
1872	17,100	3,027	20,127	1,977,415.84	335,993.63	2,313,409.47
1873	18,266	5,053	23,319	2,078,606.98	689,303.59	2,767,910.57
1874	17,620	5,312	22,932	1,588,832.95	616,016.40	2,204,849.35
1875	15,875	5,163	21,038	1,355,599.86	533,000.21	1,888,600.07
1876	14,206	4,987	19,193	1,089,037.18	445,772.95	1,534,810.13
1877	12,802	4,609	17,411	934,657.82	361,548.91	1,296,206.73
1878	10,407	3,725	14,132	768,918.47	294,572.05	1,063,490.52
1879	11,621	21,194	32,815	1,014,525.66	2,192,699.54	3,207,225.20
1880	10,138	24,750	34,888	790,710.39	2,658,058.14	3,448,768.53
1881	8,898	26,029	34,927	621,612.80	2,381,800.95	3,003,413.75
1882	7,134	24,661	31,795	478,274.85	2,024,207.63	2,502,482.48
1883	4,931	21,336	26,267	357,334.81	1,882,542.41	2,239,877.22
1884	3,898	19,512	23,410	278,888.85	1,686,302.09	1,965,190.94
1885	2,945	17,212	20,157	207,782.80	1,518,202.39	1,725,985.19
1886	1,539	13,397	14,936	144,389.59	1,458,896.44	1,603,286.03
1887	1,069	11,831	12,900	105,837.01	1,765,582.36	1,871,419.37
1888	806	10,787	11,593	73,659.48	1,596,604.96	1,670,264.44
1889	603	9,964	10,567	52,800.27	1,397,487.09	1,450,287.36
1890	413	8,610	9,023	38,847.09	1,263,239.37	1,302,086.46
1891	284	7,590	7,874	22,504.64	1,040,284.41	1,062,789.05
1892	165	6,651	6,816	11,908.93	827,080.53	838,989.46
1893	86	5,425	5,511	10,494.27	721,060.32	731,554.59
1894	45	4,447	4,492	5,312.20	645,297.46	650,609.66
1895	21	3,826	3,847	3,583.27	541,923.48	545,506.75
1896	14	3,287	3,301	1,972.27	456,847.61	458,819.88
1897	7	2,810	2,817	1,440.00	388,291.95	389,731.95
1898	3	2,407	2,410	791.06	347,070.15	347,861.21
1899	1	1,998	1,999	193.33	293,097.48	293,290.81
Total.	.....	.....	.....	14,018,487.72	30,363,295.50	44,381,783.22

dian wars until the passage of the act of July 27, 1892.[1] This act included in its benefits those "who served for thirty days in the Black Hawk War, the Creek War, the Cherokee disturbances, or the Florida War with the Seminole Indians" between 1832 and 1842, and were honorably discharged. It also included such others as had been personally named in any resolution of Congress for any specific service in said Indian wars, even though their term of service had been less than thirty days. The surviving widows of the above persons received the benefit of the act, provided that they had not remarried. Pensions were at the rate of eight dollars per month during life. Service and honorable discharge might be proved by any satisfactory evidence, and loyalty during the rebellion was not required. The following table gives the statistics of Indian war pensions, beginning with the fiscal year ending June 30, 1893:

INDIAN WAR PENSIONS SINCE 1893[2]

Fiscal Year.	No. Pensioners on Rolls.			Expenditures.		
	Survivors.	Widows.	Total.	Survivors.	Widows.	Total.
1893	2,544	1,338	3,882	$158,076.26	$66.434.05	$224,510.31
1894	3,104	3,284	6,388	377,883.57	456,652.25	834,535.82
1895	3,012	3,911	6,923	308,365.24	469,161.39	777,526.63
1896	2,718	4,237	6,955	268,778.30	468,694.44	737,472.74
1897	2,373	4,288	6,661	227,580.41	442,082.76	669,663.17
1898	2,019	4,067	6,086	189,981.39	418,997.35	608,978.74
1899	1,656	3,899	5,555	165,327.01	403,871.74	569,198.75
Total.	.....	.....	.....	1,695,992.18	2,725,893.98	4,421,886.16

5. *Mexican War Pensions.*

The act of May 13, 1846, declared the existence of a state of war between the Republic of Mexico and the United

[1] *U. S. Statutes at Large*, xxvii, 281.

[2] Compiled from *Reports of Commissioner of Pensions.*

States, and also authorized the President to raise volunteers for the prosecution of the war.[1] A section of the act promised to those volunteers, who should be wounded or otherwise disabled in the service, the same benefits as were provided for regular troops. Between 1848 and 1850, a number of acts were passed granting five years' half pay to the widows and orphans of those who had died or should die as the result of wounds received or disease contracted in service during the war. The act of June 3, 1858, extended the half pay of widows for life, and that of orphans until they reached the age of sixteen years.[2] At the time of the Civil War, pensions were granted for service in the Mexican War on the same basis as for the War of 1812 and Indian wars. The earlier Civil War pension laws increased the rates for all the "old wars" to a level with those paid on account of the Civil War.

Immediately after the passage in 1871 of the War of 1812 service pension bill, an agitation was begun in favor of a similar measure applying to the Mexican War. The question was long before Congress, and bills on the subject several times passed one house or the other. Finally, a limited service pension act became law on January 29, 1887.[3] This directed the Secretary of the Interior to grant pensions to those persons "who being duly enlisted, actually served sixty days with the army or navy of the United States in Mexico, or on the coasts or frontier thereof, or en route thereto, in the war with that nation, or were actually engaged in a battle in said war, and were honorably discharged, and to such other officers and soldiers and sailors as may have been personally named in any resolution of Congress for any specific services in said war, and the surviving widows of such officers and enlisted men."

[1] *U. S. Statutes at Large*, ix, 9. [2] *Ibid.*, xi, 309. [3] *Ibid.*, xxiv, 371.

Widows, to be eligible for pensions, must not have remarried. The law also requires that every person pensioned must be either sixty-two years of age, or subject to a disability or dependency equivalent to some cause recognized by the pension laws of the United States as a sufficient reason for the allowance of a pension. Nor must the disability have been incurred by the applicant while voluntarily engaged in opposing the United States Government during the Civil War. The rate of pensions is eight dollars per month during life. The act does not apply to those already pensioned at the rate of eight dollars per month or more, and, as regards those receiving less than eight dollars per month, it applies only as to the difference between the existing pension and eight dollars per month. Disloyalty during the Civil War is not a bar to a pension, but the act does not include in its benefits any person while under the political disabilities imposed by the fourteenth amendment to the Constitution of the United States.

By the act of January 5, 1893, the Secretary of the Interior was authorized to increase to twelve dollars per month, the allowance of such Mexican War survivors then on the rolls, as were wholly disabled for manual labor, and in such destitute circumstances that eight dollars per month was insufficient to provide them with the necessaries of life.[1] At the end of the fiscal year 1894, about 3,700 pensions had been increased under this provision. On June 30, 1899, out of 9,204 survivors of the Mexican War, 5,027 were pensioned at eight dollars per month, 4,121 at twelve dollars per month, and the small remainder at rates in excess of twelve dollars per month. All widows were pensioned at eight dollars per month, with the exception of a few cases provided for by special act.[2]

[1] *U. S. Statutes at Large*, xxvii, 413. [2] *Reports of Commissioner of Pensions.*

A tabular statement of the operation of Mexican War pension laws since 1887 follows:

MEXICAN WAR PENSIONS SINCE 1887

Fiscal Year.	No. of Pensioners on Rolls.			Expenditures.		
	Survivors.	Widows.	Total.	Survivors.	Widows.	Total.
1887	7,503	895	8,398	$53,148.68	$2,548.08	$55,606.76
1888	16,060	5,104	21,164	1,861,756.07	583,056.28	2,444,812.35
1889	17,065	6,206	23,271	1,796,899.30	693,572.45	2,490,471.75
1890	17,158	6,764	23,922	1,728,027.54	695,054.90	2,423,082.44
1891	16,379	6,976	23,355	1,622,114.75	695,314.52	2,317,429.27
1892	15,215	7,282	22,497	1,425,258.18	686,733.57	2,111,991.75
1893	14,149	7,369	21,518	1,396,392.38	736,173.41	2,132,565.79
1894	13,461	7,686	21,147	1,388,707.07	803,345.91	2,192,052.98
1895	12,586	7,868	20,454	1,433,690.86	802,032.96	2,235,723.82
1896	11,800	8,017	19,817	1,368,685.95	814,096.14	2,182,782.09
1897	10,922	8,072	18,994	1,279,188.31	818,563.78	2,097,752.09
1898	10,012	8,143	18,155	1,213,508.63	846,560.26	2,060,068.89
1899	9,204	8,175	17,379	1,107,594.63	818,067.58	1,925,662.21
Total.	.....	.....	.....	17,674,972.35	8,995,029.84	26,670,002.19

CHAPTER IV

CIVIL WAR PENSION LEGISLATION, 1861–1879

THE operation of the pension laws enacted on account of our Civil War has invariably extended back to March 4, 1861, the date of the inauguration of the Lincoln administration. Hostilities began in the spring of 1861, but, when the fiscal year ended on June 30, they had not yet resulted in the addition of any new names to the pension roll. In July was fought the important battle of Bull Run, and, by November, Commissioner of Pensions Barrett reported that claims were being rapidly filed by disabled Union soldiers, and by the widows and orphans of the slain. In the absence of legislation entirely adequate to the emergency, it was some time before the effects of the war began to be felt in any large increase in the number of pensioners.

Up to the beginning of the war, the United States Government had expended for military pensions about $90,000,000, and had granted 65,500,000 acres of bounty land in recognition of military services. The pension list at this time consisted of some 10,700 persons, of whom 63 were soldiers of the Revolution, and 2,728 the widows of such soldiers. The aggregate annual value of these pensions was $958,000, and the actual expenditure during the fiscal year ending June 30, 1861, was $1,072,000.[1] Under the laws then in force, the number of pensioners was decreasing at the rate of five or six hundred each year. Seventy-five or eighty persons were proving more than sufficient to carry on the work

[1] For statistics see *Report of Commissioner of Pensions*, 1861.

of the Pension Bureau. Normally, there would have been a gradual but constant decrease in the amount of the annual pension payment. The Civil War checked this tendency, and opened the way to an expenditure for military pensions unequaled in the history of any nation.

At the opening of the war, the Bureau of Pensions soon found it necessary to adopt a policy with regard to the treatment of disloyal pensioners. An order issued before the semi-annual payment of September 4, 1861, required the oath of allegiance to be taken by pensioners before receiving their stipends. The pension agencies in the disloyal States were suspended, as were also the pensions of disaffected persons in loyal States. On June 30, 1862, the pensions of 2,073 persons in the Southern States were reported as suspended, and, by the end of the war, the names of all the pensioners in the eleven Confederate States had been stricken from the rolls. After the close of hostilities, such as were able to prove their continued loyalty in act and sympathy throughout the war were restored to the pension list, and also received the arrears which had accrued since the last payment prior to the rebellion. Since 1862, the requirement of loyalty during the Civil War has been a fundamental principle of our pension laws, although exceptions have been made in the service pension acts passed on behalf of the soldiers of the "old wars," and in certain other cases.[1]

On April 15, 1861, three days after the firing on Fort Sumter, President Lincoln issued a proclamation calling out seventy-five thousand militia, and also appointing an extraordinary session of Congress to convene on July 4. At this session, the act of July 22, 1861, was passed, authorizing the President to accept the services of not exceeding five hundred thousand volunteers.[2] Among the sections of this law

[1] The question of loyalty is discussed in the *Reports of the Commissioner of Pensions* for 1861, 1862, 1865 and 1866.

[2] *U. S. Statutes at Large*, xii, 270.

was one which provided that all volunteers under its provisions, who might be wounded or otherwise disabled in the service, should be entitled to the benefits conferred on persons disabled in the regular army. The widows or legal heirs of such as should die in the service were promised the sum of one hundred dollars, in addition to all arrears of pay and allowances. This provision may be said to have established at the very outset of the war the principle of invalid pensions for disabled Union soldiers. The promise of such pensions was without doubt an inducement offered to secure voluntary enlistments.

The preceding provision did not apply to the soldiers called into service by Lincoln's proclamations of April 15 and May 3, 1861. These men were engaged in the important battle of Bull Run and in minor engagements, and, by tha fall of 1861, numerous claims on their behalf were received by the Pension Bureau. Old laws were found on the statute books which were deemed to warrant the allowance of many of these claims, but the uncertainties and discrepancies of existing provisions led the Commissioner of Pensions to ask for the prompt enactment of explicit and detailed legislation by Congress.[1]

The need of further legislation was emphasized in an opinion of Attorney-General Bates, prepared at the request of the Secretary of the Interior.[2] For provisions respecting invalid pensions the Attorney-General was compelled to go back to the old laws of 1802 and 1813, which were quite inadequate. There was in his opinion no provision of law whereby pensions might be conferred upon the widows and children of such of the volunteers as might die or be killed

[1] *Report of Commissioner of Pensions*, 1861. *Message and Documents*, 1861–1862, Part i, 836.

[2] *House Ex. Doc.*, vii, 1861–1862, no. 98.

in the service.[1] He earnestly recomended that the attention of Congress might be called to the propriety of enacting laws which might be easily understood, and which might comprehend all that the emergency required.

By resolution of April 1, 1862, the House of Representatives requested from the Attorney-General a copy of the preceding opinion.[2] Prompt steps were taken to secure adequate pension legislation. On April 30 "An act to grant pensions" was introduced into the House from the Committee on Invalid Pensions.[3] The measure had been prepared after numerous meetings of the committee, and had received the approval of the Commissioner of Pensions. Speedy action was urged. Although amended in several respects, the bill met no serious opposition in either House or Senate, and was finally approved by the President on July 14, 1862.[4]

This law applied to army and navy alike, including regulars, volunteers and militia, and also the marine corps. It provided pensions for disability, which had been incurred since March 4, 1861, or should thereafter be incurred, by reason of wounds received or disease contracted while in the service of the United States, and in the line of duty. The rates for total disability ranged according to rank from thirty dollars to eight dollars per month. The former amount was allowed to a lieutenant-colonel or officer of a higher grade in the army or marine corps, and to a captain, commander or officer of equal rank in the navy;

[1] The Department of Interior conformed to the Attorney-General's opinion by a decision excluding widows and orphans of deceased Union soldiers from the benefits conferred on those classes by previous army pension laws. *House Ex. Doc.*, 38th Cong., 1864–1865, v, 654.

[2] *Cong. Globe*, 2d Sess., 37th Cong., 1861–1862, 1480.

[3] *Ibid.*, Part ii, 1886.

[4] *U. S. Statutes at Large*, xii, 566–569.

while the latter amount was granted to non-commissioned officers and privates in the army, and to petty officers and common sailors in the navy. Proportionate pensions were to be allowed in each rank for partial disability. Invalid pensions were to commence from the date of discharge in all cases in which the application should be filed within one year after that date. Otherwise the pension was to be paid from the date of filing the application. In all cases the pensions were to continue during the existence of the disability.

To the widow, or if there were no widow, to the child or children under sixteen years of age, of any person dying, after March 4, 1861, by reason of any wound received or disease contracted, while in the service of the United States, and in the line of duty, the act granted the same pension as would have been allowed to the husband or father for total disability. This pension was to commence from the death of the husband or father, and to continue to the widow durher widowhood, or to the child or children until they severally attained the age of sixteen years.

Where a deceased officer or soldier left no widow or legitimate child, but a dependent mother, the mother was given the right to receive the pension which might have been allowed to a widow or child. By a re-marriage, the dependent mother forfeited the pension received on account of her son, nor could any mother receive at the same time more than one pension under the provisions of the act. Where the deceased soldier had left neither widow nor child nor mother, but an orphan sister or sisters, under sixteen years of age, who were wholly or in part dependent upon him for support, the pension might go to such sister or sisters until they severally attained the age of sixteen years. But the orphans were in no case to receive more than one pension under the law at the same time. Payment of pensions to any disloyal relatives or heirs of a deceased soldier was specifically for-

bidden, and the right to such payment was transferred to the loyal heirs, if there were any.

The remaining sections of the act dealt with many administrative details, and included provisions regulating attorneys' fees, imposing penalties for frauds by agents and attorneys, regulating the appointment and fees of examining surgeons, and authorizing the Secretary of the Interior to appoint a special agent to assist in the detection and prosecution of pension frauds. The last section repealed all previous enactments inconsistent with the provisions of this law.

This act of 1862 was epoch making. It became the fundamental pension law for all claims arising out of service in the Civil War. Extending its operation backward to March 4, 1861, and forward indefinitely, it was by far the most liberal measure of the kind up to that time enacted by our Government. Two classes of dependent relatives heretofore unknown to our legislation—mothers and orphan sisters—were provided for, while the pensions to other classses, and particularly to widows and orphans, and to disabled seamen, were largely increased. Greater uniformity in the rates of army and navy pensions was also secured. By the terms of this law, we find the National Government, early in the war, explicitly committed not only to a grant of pensions to disabled Union soldiers, but also to a similar provision for the dependent relatives of those who should lose their lives in the service.

In Congress, the act of 1862 was practically unopposed, and the exciting events of the time seem to have so engrossed public interest that it met with but little attention in the country at large. We do, however, hear of "apprehensions in some quarters of an extravagant, if not insupportable, annual burden resulting from the law." Commissioner Barrett thought these unwarranted, and expressed, in November, 1862, the conviction that, "supposing the results of

the war to be commensurate with what may reasonably be expected from the means employed, the total annual sum required to carry out this law will in no year exceed $7,000,000." [1] The unexpected duration of the war rendered this estimate entirely inadequate, as the Commissioner himself pointed out in his report for 1864. By June 30 of that year there were 51,135 pensioners, a much greater number than had ever before been on the rolls. Some 47,000 pensions had been allowed under the act of 1862, 21,000 to invalids, and 26,000 to widows, orphans and dependent relatives.[2]

The history of Civil War pension legislation is one of continually increasing liberality on the part of Congress. This tendency was early manifested in the passage of the act of July 4, 1864, which introduced a new principle into our pension legislation—that of fixed rates for certain specific disabilities.[3] This system of special ratings has since had an astonishing and almost absurd development. Rates, ranging from twenty-four to one hundred dollars per month, are now fixed by law for about twenty specific disabilities, and, under authority conferred upon him, the Commissioner of Pensions has fixed rates for some fifty other disabilities. Total disability was in 1862 understood to be inability to perform manual labor, and the pension was eight dollars per month. But this rate is now paid for "simple total disability," and is the same as that for stiffening (anchylosis) of the wrist, loss of a thumb, or loss of the great and second toes. Inability to perform manual labor is now pensioned at thirty dollars per month.[4]

The following official table exhibits in a concise form all of

[1] *Report of Commissioner of Pensions*, 1862. *Message and Documents*, 1862–1863, Part ii, 580–581.

[2] *Report of Commissioner of Pensions*, 1864.

[3] *U. S. Statutes at Large*, xiii, 387–389.

[4] *Treatise on the Practice of the Pension Bureau*, 1898, 122–125.

the rates established by law for specific disabilities from 1864 to the present:

Rates and Disabilities Specified by Law.	From July 4, 1864.	From Mar. 3, 1865.	From June 6, 1866.	From June 4, 1872.	From June 4, 1874.	From Feb. 28, 1877.	From June 17, 1878.	From Mar. 3, 1879.	From Mar. 3, 1883.	From Mar. 3, 1885.	From Aug. 4, 1886.	From Aug. 27, 1888.	From Feb. 12, 1889.	From Mar. 4, 1890.	Act of July 14, 1892.
Loss of both hands	$25	...	...	$31¼	$50	...	$72	.....	...	.....	...	...	$100	...	....
Loss of sight of both eyes	25	...	...	31¼	50	...	72	.....	...	.....	...	...	...	...	....
Loss of both feet	20	...	...	31¼	50	...	72	.....	...	.....	...	...	...	...	....
Loss of sight of one eye, the sight of the other lost before enlistment	...	...	$25	31¼	50	...	72	.....	...	.....	...	...	...	...	....
Total disability in both hands	...	...	25	31¼	50	...	72	.....	...	.....	...	...	...	...	....
Regular aid and attendance (first grade)	...	...	25	31¼	50	...	72	.....	...	... .	...	...	.....	$72	[*]
Periodical aid and attendance	...	...	...	.....	...	...	..	....	...	.....	...	...	...	...	†$50
Loss of a leg at hip joint	...	...	15	24	...	...	...	$37½	...	.....	$45	...	...	...	....
Loss of an arm at shoulder joint	...	...	15	18	24	...	...	.....	$30	$37½	45	...	...	...	....
Loss of an arm at or above elbow, or a leg at or above knee	...	...	15	18	24	...	...	.....	30	.....	36	...	...	...	....
Loss of a leg above the knee causing inability to wear an artificial limb	...	...	15	24	...	...	...	.....	30	.....	36	...	...	...	....
Loss of one hand and one foot	...	$20	...	24	...	$36	...	.....	...	.....	...	...	...	...	....
Total disability in one arm and one leg	...	...	15	18	...	...	...	.....	24	.....	36	...	...	...	....
Total disability in one hand or one foot	...	...	20	24	...	36	...	.....	...	.....	...	...	...	...	....
Total disability in both feet	...	...	20	31¼	...	...	...	.....	...	.....	...	...	...	...	....
Loss of a hand or a foot	...	...	15	18	...	...	...	.....	24	.....	30	...	...	...	....
Total disability in one hand or one foot	...	...	15	18	...	...	...	.....	24	.....	30	...	...	...	....
Incapacity to perform manual labor	...	...	20	24	...	...	...	.....	30	.....	...	...	...	...	....
Total deafness	...	...	...	13	...	...	...	.....	...	.....	...	$30	...	...	....
Disability equivalent to the loss of a hand or a foot	...	...	15	18	...	...	...	.....	24	.....	...	...	...	...	....

* Seventy-two dollars from June 17, 1878, only where the rate was $50 under the Act of June 18, 1874, and granted prior to June 16, 1880. First grade proper is $50, amended by the Act of March 4, 1890, which increases rate to $72.

† From date of medical examination held after July 14, 1892.

In his report for 1864, Commissioner of Pensions Barrett commented upon the development of the pension system under the acts of 1862 and 1864. He said:

"No other nation has provided so liberally for its disabled soldiers and seamen, or for the dependent relatives of the fallen. The

Government has undertaken to make up, to a certain specified extent, for the loss of health or members, when incurred strictly in its military or naval service, and to furnish regular pecuniary aid to the families of those whose lives are thus sacrificed. From this simple impulse of justice, manifesting itself in the war of independence, has sprung the entire system now expanding into proportions perhaps little anticipated in those early days. In place of laws for particular emergencies, cautiously limited to retrospective action, we have now a statute which puts on an equal footing each arm of the service, embracing the future as well as the present in its scope, and providing for regulars, volunteers and militia alike."[1]

An act of March 3, 1865, broadened the construction of the act of 1862 in the interest of the children of deceased officers and soldiers.[2] Where a widow should die or marry without payment to her of any part of a pension to which she was entitled, it provided that the pension should go to the child or children under sixteen years of age, just as in cases where there was no widow. If the pension had been paid to the widow, the child or children were, in case of her death or remarriage, to succeed to the pension until they severally attained the age of sixteen years.

The pension list continued to grow with ever increasing rapidity. By June 30, 1866, the number of pensioners on the rolls was 126,722, and the annual expenditure already amounted to $13,460,000. Notwithstanding the increasing demands upon the Treasury, the liberality of Congress continued unchecked, and two increase acts became law in 1866.

New rates for many specific disabilities were established by the act of June 6, 1866.[3] These involved a substantial addition to the annual pension expenditure. The act of

[1] *House Ex. Doc.*, 38th Cong., 1864–1865, v, 656.

[2] *U. S. Statutes at Large*, xiii, 499–500.

[3] *Ibid.*, xiv, 56.

1862 was also amended so as to grant the benefits of the pension laws to orphan brothers under sixteen years of age as well as to orphan sisters, and to dependent fathers as well as mothers. This same act established regulations covering many minor questions arising in the administration of the pension laws.

The second of the increase acts was that of July 25, 1866.[1] Its main object was the relief of widows who had large families dependent upon them for support. Pensions of such widows were increased at the rate of two dollars per month for each child of the deceased soldier or sailor under the age of sixteen years. Where there was no widow living and entitled to a pension, and there was more than one child, the children were granted a pension equal in amount to that which, under the circumstances, would have been allowed to a widow.

The same law extended the provisions of the act of July 14, 1862, and supplementary acts to the pensions under previous laws, except Revolutionary pensions. This extension was afterward so construed as to limit its effect merely to the specific increase allowed to pensioners, and it was not recognized as making a new class of pensioners, or as placing, in every respect, all pensions, except Revolutionary, upon the basis of the acts in question.[2]

The passage of these two laws of 1866, together with the continued reception of original applications in numbers exceeding expectations, nearly doubled the labors of the Pension Bureau for the year ending June 30, 1867. Commissioner Barrett expressed a belief that no important extension of the very liberal provisions of the pension laws would now be contemplated by Congress. In two years, about

[1] *U. S. Statutes at Large*, xiv, 230.

[2] *House Ex. Doc.*, 40th Cong., 1867–1868, *Report of Sec'y of Interior*, i, 4–5.

18,800 pensions were increased under the act of June 6, 1866, and about 46,300 under the act of July 25, 1866.[1]

The next important pension law was that of July 27, 1868, which easily passed both houses of Congress.[2] In explaining it to the Senate, Mr. Van Winkle said:

"The whole object of the bill is to correct certain misconstructions in the law, supply some omissions in the law, and make other similar corrections * * * * in order to prevent such a flood of pension bills being thrown upon Congress as has been at this session. There have been misconstructions of the law at the Pension Office. The law in some cases is defective, perhaps, in a single word or two, which is now to be supplied, or some case of parallel nature to that mentioned in the law has not been mentioned."[3]

Mr. Van Winkle asserted that the bill, as it had been acted on, would reduce pensions on the whole, but from an examination of its provisions it is difficult to see where the reduction came in.

During the debate in the Senate, an amendment was offered to increase the pensions of the higher classes of army and navy officers. Senator Sherman of Ohio said in opposition:

"It is a very ungracious task to object to a pension of any amount to a person who has been in the military service; but I submit to the Senate whether it is wise now, in the present condition of the public business, at this stage of the session, the attention of the Senate having scarcely been called to this bill, to raise the pensions of any portion of the army or navy. At a time when we are endeavoring to lower all the expenses of the government; when we have reduced all our appropriations; when we have thrown off $100,000,000 of taxes, and yet when taxes are still very burdensome on our people; when the pension fund now is $33,000,000 (?) a

[1] *Reports of Commissioner of Pensions*, 1867 and 1868.

[2] *U. S. Statutes at Large*, xv, 235–237.

[3] *Cong. Globe*, 2d Sess, 40th Cong., 1867–1868, Part v, 4228–4230.

year—twice as much as any nation in the world ever paid before—I ask whether it is worth while for us to increase our pension lists on a mere amendment of a bill of this kind. I do not like to object to anything of this sort, because I have the same feelings that other Senators have, a feeling of kindness and commiseration for those who have been wounded in the service of the country; but, if this amendment is pressed, I shall have to make opposition to it and move the postponement of the bill. If the bill is only intended to remove ambiguities in existing laws, as the Senator from West Virginia (Mr. Van Winkle) has stated, I have no objection, but I cannot consent to this increase of pensions."[1]

The amendment was withdrawn and the bill passed.

Previous legislation had left the order of precedence of dependent relatives in the receipt of pensions somewhat indefinite, and declaratory legislation on the question was needed. This was supplied by the first section of the act of 1868, which gave precedence to dependent relatives of deceased soldiers leaving neither widow nor child "in the following order, namely: first, mothers; secondly, fathers; thirdly, orphan brothers or sisters under sixteen years of age," who were to be pensioned jointly if there was more than one. Where the dependent mother and father were both living, the father was given the right to succeed to the pension on the death of the mother. And, upon the death of the father and mother, the dependent brothers and sisters under sixteen years of age were given joint title to the pension until they attained the age of sixteen years, respectively; the pension to date from the death of the party who, preceding them, would have been entitled to the same. No pension already awarded was to be affected by the foregoing provisions.

The second section of the act of 1868 was also important as defining the conditions under which pensions would be

[1] *Cong. Globe*, 2d Sess., 1867–1868, Part v, 4230.

granted for disabilities incurred in time of peace. It provided:

"That no person shall be entitled to a pension by reason of wounds received, or disease contracted, in the service of the United States, subsequently to the passage of this act, unless the person who was wounded or contracted disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort or garrison; or, if in the naval service, was at the time borne on the books of some ship, or other vessel of the United States, at sea or in harbor, actually in commission, or was on his way, by direction of competent authority, to the United States, or to some other vessel or naval station."

Arrears of pension were allowed by section six of this law. This provided that all pensions which had been granted in consequence of death occurring, or disease contracted, or wounds received since March 4, 1861, or which might thereafter be granted, should commence from the death or discharge of the person on whose account the pension had been or might be granted. In order to secure the benefits of this arrears provision, it was required that the application for the pension should be filed with the Commissioner of Pensions within five years after the right thereto had accrued. An exception to this limitation was made in favor of insane persons and children under sixteen years of age without guardians or other proper legal representatives.

This act also contained numerous sections of minor importance, changing and supplementing the general pension law. Failure to claim a pension for three years was made presumptive evidence that the pension had legally terminated, subject to a right of restoration on a new application, with evidence satisfactorily accounting for the failure to claim the pension. Where a soldier or sailor died leaving a widow entitled to a pension, and also a child or children under sixteen years of age by a former wife, a pension of

two dollars per month was provided for each of such children, thus placing them upon the same footing as the children of a surviving widow. Other sections dealt with many matters not of sufficient general interest to demand attention here, although of great importance to claimants and attorneys. The whole tendency of this act of 1868 was toward a liberal construction of the pension laws.

Although several measures were introduced into Congress, no other general pension laws were enacted for some time. The acts of June 17 and June 30, 1870, may be noticed as marking a further provision for the veterans of the war.[1] In these laws, Congress granted to every soldier who lost a limb during the war, an artificial limb or apparatus once in every five years, or, if he elected, money commutation therefor.

There was approved on July 8, 1870, an act "to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes."[2] This was important from an administrative standpoint. It provided that pensions should be paid quarterly instead of semi-annually, and only to the persons entitled thereto, and not to any attorney or claim agent acting for the pensioner. The fees of attorneys were also regulated. In consequence of the provision for quarterly payment of pensions, the whole amount of pensions accruing between March 4, 1870, and June 4, 1871, a period of fifteen months, became due and payable within the fiscal year ending June 30, 1871. This made the expenditure during the year 1871 larger by one-fifth than it would normally have been.

Under the laws then in force, pension expenditures seemed to have reached a maximum. The reported expenditure for the year ending June 30, 1869, was $28,423,000; for 1870, $27,781,000; and if payment for but four quarters had been

[1] *U. S. Statutes at Large*, xvi, 153, 174.

[2] *Ibid.*, xvi, 193–195.

made in the fiscal year 1871, the amount for that year would probably have been under $26,500,000. On February 14, 1871, the act granting service pensions on account of the War of 1812 became law. This was the culmination of many attempts to enact a statute of the kind, and for a time added considerably to the annual outlay for pensions. It has been considered under the treatment of War of 1812 pensions.

Commissioner Baker, in his report for 1871, gives some interesting information with regard to the average pension at that time.[1] He says:

"The invalid army pension averages $8.92 per month; widows and dependents, $12.65; navy invalids, $9.10; navy widows, $15.40. The average pension for all classes is $10.99. As a total pension for a private is but $8 per month, this rating appears extraordinary and the result was unexpected. The solution of this problem, so far as the invalid army and navy pensions are concerned, lies in the act of June 6, 1866, which establishes the most liberal rates for serious disabilities; and those entitled have not been slow to avail themselves of this generous beneficence. As provided by this act there are no less than 15,060 of the third grade ($15 per month) already on the rolls. The high average of widows' pensions is explained by the liberal provisions of the act of July 25, 1866, which grants $2 per month additional for each child under sixteen years of age."

In the same report, the Commissioner also says:

"As we recede from the War of the Rebellion, many disabilities, in their nature temporary, are disappearing by recuperative energies, and the pensioner, reluctant to lose his gratuity, oftentimes tries to fortify himself by evidence, which only consumes the time and labor of the office to no purpose. In many of the later applications for original pension, it is often a matter of extreme doubt whether the disability at this distant period from the war (1871) actually had its

[1] *House Ex. Doc.*, 42d Cong., 1871–1872, *Report of Sec'y of Interior*, Part i, 380, 382, 385.

origin in the service, so that the line of demarcation between duty to the Government and justice to the soldier is difficult to find."

These words are especially interesting when it is remembered that at the present time original invalid pension claims are still being allowed on account of service in the Civil War.

With the multiplication of pension laws, the urgent need of a codification was felt. The laws were often confused, ambiguous in expression and contrary in provisions. In 1871 Commissioner Baker recommended that all the needful provisions of past legislation, cleared of what was doubtful, contrary or cumbersome, be codified into one act. He thought that no additional or more liberal legislation was needed. On March 3, 1873, "An act to revise, consolidate, and amend the laws relating to pensions" was approved.[1]

This act consisted of thirty-nine sections. It has sometimes been called the "Consolidation Act," and was primarily intended as a codification, revision and interpretation of the numerous pension laws for which the Civil War had furnished occasion. So many changes had been introduced into the law from time to time, that a reduction of the whole body of legislation to an intelligible and harmonious system, had become a necessity.

However, this measure did in some respects materially change existing laws. New rates were established for certain kinds of specific disabilities. The section regarding the pensions of widows and children was so drawn as to increase a large number of pensions of this class, with arrears from July 25, 1866. In a number of cases where there was only one surviving child, and the widow was dead or debarred from receiving a pension, the amount of the surviving child's pension was increased two dollars per month. That is, the child was granted the amount to which a widow with one

[1] *U. S. Statutes at Large*, xviii, 566 *et seq.*

child would be entitled, instead of the amount which a widow with no child would receive. The provisions of this section involved in many cases seven years' arrears of increase. A further demand upon the pension appropriations was caused by the authorization of intermediate grades between eight and eighteen dollars for certain classes of invalid pensioners who had been receiving the lower rate.

Everything of a permanent nature in the pension laws of the United States, down to March 4, 1873, was included in the Revised Statutes enacted in that year. Sections 4692 to 4791, inclusive, pertain to pensions, although many miscellaneous sections deal with questions arising out of the administration of the pension laws.

Commissioner Baker, in his report for 1873, gives a very interesting account of the condition of the widows' and dependent relatives' roll at that time.[1] He says:

"An annual diminution of the widows' and dependent relatives' roll may hereafter be expected by reason of the termination of minors' pensions (of which there were on the 30th of June last, 34,850) on account of the children reaching the age of sixteen years. A very careful and interesting analysis of this roll has been made since the close of the last fiscal year, from which it is found that of the 112,088 pensioners upon it, 21,862 were widows without minor children; 29,696 were widows with children to the number of 54,451 under sixteen years of age; 34,850 were minors' pensions, with 57,807 children receiving the benefits therefrom; 21,852 were dependent mothers; 2,025 were dependent fathers; and 56 were pensions to brothers and sisters of deceased soldiers."

For the first time since 1862, the pension roll on June 30, 1874, showed a decrease in numbers. This decrease continued slowly but steadily until 1879, when the remarkable legislation of that year brought about rapid additions to the list of pensioners. The War of 1812 pension act of 1878

[1] *House Ex. Doc.*, 43d Cong., 1873–1874, *Report of Sec'y of Interior*, Part i, 306.

also had a similar effect. Between 1873 and 1879, several acts were passed making decided increases in the rates for specific disabilities. In spite of these laws, the expenditure for pensions, as well as the number of pensioners, declined during that period, with the exception of a slight increase in 1877. The Arrears of Pensions Act of January 25, 1879, and the supplementary provisions contained in the arrears appropriation act of March 3, 1879, marked a new era in the history of pension legislation. The next chapter will open with a study of this Arrears Act.

CHAPTER V

CIVIL WAR PENSION LEGISLATION, ARREARS ACT TO 1890

To understand clearly the Arrears Act of 1879, it is necessary to review previous provisions with regard to the commencement of pensions granted on account of service in the Civil War. The act of July 14, 1862, provided that invalid pensions should commence from the date of discharge in all cases in which the application should be filed within one year after that date; otherwise the pension was to commence from the date of filing the application. Pensions to widows and dependent relatives were to commence, without limitation as to the date of application, from the death of the soldier on whose account the pension in question was granted. Further provisions regarding the commencement of pensions were made in 1864 and 1866, and the whole matter was left in a state neither clear nor satisfactory. Without going into confusing details, it is enough to point out that under the existing provisions there was great danger of unjust discrimination between claims of equal merit.

The act of July 27, 1868, granted arrears and made a fresh start. Section six of this law provided that all pensions which had been granted, in consequence of death occurring, or disease contracted, or wounds received since March 4, 1861, or which might thereafter be granted, should commence from the discharge or death of the person on whose account the pension had been or might be granted. In order to secure the benefits of this provision, it was required that applications for pensions should be filed with the Commis-

sioner of Pensions within five years after the right thereto had accrued, but applications by or in behalf of insane persons and children under sixteen years of age might be filed after the expiration of the five years, if previously they were without guardians or other legal representatives.

The above law involved the payment of considerable arrears, but it served to establish a definite basis for the commencement of pensions. This same provision was substantially incorporated in the important Consolidation Act of March 3, 1873, which provided that pensions should commence from the death or discharge of the person on whose account the claim had been or should thereafter be granted, or from the termination of the right of the party having prior title to the pension, provided that the application had been or should be filed within five years after the right to pension had accrued. Otherwise the pension was to commence from the date of filing the last evidence necessary to establish the claim. This five years' limitation was subsequently embodied in the Revised Statutes, and remained in force until the passage of the Arrears Act.

It would seem that a period of five years after his discharge afforded to the soldier sufficient opportunity to discover whether or not he was suffering from any disability, and, in case he was disabled, to file an application for a pension. Where he did not file an application within five years, there seems to be presumptive evidence that, from his own standpoint, he either did not deserve or did not need a pension. If later he applied for a pension, it is hard to see any sound reason for paying him arrears from the date of his discharge from the army. Certainly, the most that could with any show of justice be asked is that the pension should date from the time of filing the application. And this has not proved in practice a faultless rule, for it has given opportunity for the resurrection of worthless claims, which

have long been dormant, and for the completion of the evidence by fraudulent means in order to obtain large sums of arrears. The safest rule, which may of course work hardship in some cases, is to date the pension from the completion of the last evidence necessary to establish the claim.

Early in the seventies, the number of pensioners and the expenditures for their payment showed signs of having reached a maximum under existing laws. For a time, any marked tendency towards a decrease was checked, largely by the passage of the act of February 14, 1871, granting service pensions on account of the War of 1812. But, as has been noted, in the fiscal year 1874 the pension list decreased in numbers from the previous year for the first time since 1862. This decrease continued until 1879, when the War of 1812 pension act of 1878, and the Arrears Act, reversed the process. Likewise the annual pension expenditure decreased from $30,594,000 in 1874 to $26,844,000 in 1878. Beginning as early as 1869 and 1870, there was also a notable falling off in the number of original claims presented on account of service in the Civil War. The number of original claims filed under the general law—practically all Civil War claims—was 24,851 in 1870, 18,154 in 1871, 16,030 in 1872, 15,523 in 1873, and 15,284 in 1874.[1] During 1871 and 1872, the claim agents were kept busy pressing claims under the War of 1812 pension act of 1871. After these were disposed of, the agents displayed greater activity in stimulating new Civil War claims. As a consequence, there was a considerable increase in the number of new claims presented in the years from 1875 to 1878. But, with all their efforts, the agents found original applications more and more difficult to secure, and to prevent the loss of their lucrative business began an aggressive agitation for new legislation.

The increased activities of the pension attorneys received

[1] Compiled from the *Report of the Commissioner of Pensions* for 1898.

considerable attention in the report of Commissioner of Pensions Bentley for the year 1878.[1] He said that the country was being continually advertised and drummed from one end to the other by claim agents in pursuit of persons who had honest claims, or of those who were willing, in consideration of the fact that it would cost them nothing unless they won their pensions, to file claims which had no merit, leaving it to the ingenuity and cupidity of their agents to "work" the cases through. The Commissioner also called attention to the fact that professional claim agents and claim firms at Washington and other points were advertising their business by "employing for that purpose in some instances sheets issued in the form of periodical newspapers purporting to be published in the interest of the soldiers, the columns of which contained matter in which apparent anxiety for the soldiers' welfare and appeals to their love of gain were cunningly intermingled." These sheets always represented the advertisers as in the enjoyment of special and peculiar facilities for the successful prosecution of claims, and usually added the suggestion that no charge would be made unless a pension should be obtained.

All of this agitation and advertisement had its effect in producing a demand for pensions throughout the country. Congress received numerous petitions for arrears and additional legislation. An act granting arrears was introduced in the 44th Congress, but the proposal was killed in committee. In the 45th Congress, the Arrears Act, which finally became a law, was introduced by Mr. Cummings, of Iowa, on April 2, 1878. The bill was referred to the Committee on Invalid Pensions, and ordered printed.[2] On June 19, under a suspension of the rules, and, without any discussion whatever, the Committee on Invalid Pensions was discharged

[1] *House Ex. Doc.*, 1878–1879, ix, 813–837.

[2] *Cong. Record*, 2d Sess., 45th Cong., 1878, vii, Part iii, 2217.

from further consideration of this measure, and it was passed with an amendment providing that no claim agent or other person should be entitled to receive any compensation for services in making application for arrears in pensions. The vote on the bill was yeas, 164; nays, 61; not voting, 65.[1] In the House, the political majority was Democratic. The bill was sent to the Senate, where it was referred to the Committee on Pensions and not reported at this session.[2]

Upon a superficial observation, the amendment, forbidding claim agents to receive compensation for services in making application for arrears, may seem to have deprived them of all pecuniary interest in the passage of the measure. Nothing could be further from the truth. In fact, the amendment served as a cunning blind, and gave to the bill the appearance of being wholly for the benefit of the soldiers and their dependent relatives. The great point of importance in this legislation was not that it granted millions of arrears on claims already allowed, but that it granted on all original claims, which might thereafter be allowed, arrears dating from the time of death or discharge. Here was a premium of about one thousand dollars placed upon the establishment of each new claim, and this premium growing in amount year by year. It needed no unusual keenness to perceive that this extraordinary stimulus would enable the claim agents to bring upon the Pension Bureau a flood of original claims from all parts of the country. Upon such claims the agents were at that time legally entitled to collect a fee not greater than ten dollars, without taking into consideration such sums as they might obtain by their common evasions and violations of the law.[3] This whole aspect of the Arrears Act was utterly ignored in Congress.

[1] *Cong. Record*, 2d Sess., 45th Cong., 1878, vii, Part v, 4874–4875.

[2] *Ibid.*, Part v, 4865.

[3] The prohibition of compensation to agents for service in making application

With the arrears measure passed in the House and awaiting the consideration of the Senate at the next session, its advocates devoted the intervening time to the circulation of petitions and to the continuance of their agitation. The Grand Army of the Republic was not yet the efficient organ in the pursuit of pensions which it has since become. Organized in 1866, its motives were for some years entirely praiseworthy. It sought to perpetuate old friendships and memories, and provide for the mutual support and assistance of the comrades of the war. Such recommendations as it made to Congress in behalf of the old soldiers were quite beyond criticism. It was not until after 1880 that the organization began to serve as a mighty machine for the prosecution of the claims of the soldiers of the Civil War upon the National Treasury. However, at the annual encampment in 1878, General John C. Robinson, Commander-in-Chief, called attention, in his address, to the introduction of the Arrears Act in Congress, He said that he had been struck with the justice of the measure, and that he had immediately brought it to the attention of the department commanders, hoping that action by the several department encampments might have an important bearing on its success. At the next annual encampment, General Robinson was able to report that the Arrears Bill had become law.[1]

At the third session of the 45th Congress, the movement for arrears was strongly felt in the Senate. Several bills on the subject were introduced, and from all sections of the country came numerous petitions in favor of the measure

for arrears should be received with considerable allowance. It can hardly be thought that the average claimant, who had just received, through the efforts of an agent, from several hundred to a thousand dollars of arrears in a lump sum, would make any objection to paying the agent under some pretext or subterfuge an adequate and sometimes exorbitant fee.

[1] See article on "The Grand Army as a Pension Agency," *Forum*, xv, 527.

which had passed the House at the second session. One memorial from an association of pensioners included a former estimate made by the Pension Bureau of the probable amount which would be necessary to pay arrears to January 1, 1876. Basing their figures on this report, the memorialists urged that fifteen millions of dollars would suffice to meet the arrears provided by the House bill. They referred to the fact that six State Legislatures had recommended the passage of the bill, "while numerous organizations have made similar recommendations, and petitions of over two hundred thousand citizens to the same effect have been filed in Congress." The passage of the Arrears Act was urged "in behalf of honesty, equity, justice and morality, and in upholding and maintaining the national faith which has been pledged to the payment of this just debt."[1]

On January 16, 1879, the House arrears bill was taken up in the Senate and considered. The debate on the matter was most inadequate. Senator Ingalls, who was in charge of the bill, thought that from eighteen to twenty million dollars would be required to pay arrears on claims already allowed, but admitted that these estimates were very largely in the nature of surmises. The important questions of the cost of arrears on pension claims yet to be allowed, and of the effect of the measure in stimulating new applications, were entirely dodged. In fact, the advocates of the Arrears Act seem to have given the impression, whether intentionally or not, that the bill would take only some twenty million dollars from the Treasury. They resolutely opposed any amendment, and the measure was passed as it came from the House by yeas, 44; nays, 4; absent, 28.[2] Having been adopted by overwhelming majorities in both the Democratic House and the Republican Senate, the bill went to the Pres-

[1] *Cong. Record*, 1878–1879, viii, Part i, 373.

[2] *Ibid.*, Part i, 484–494.

ident for his approval. Already serious misgivings, as to its probable effects, were being expressed by Secretary of the Interior Schurz and Secretary of the Treasury Sherman, but even they had no adequate conception of the vast expenditures to be required. The pressure for the act was great, and it received the signature of President Hayes on January 25, 1879.[1]

The Arrears Act, in substance, provided that all pensions which had been granted under the general laws regulating pensions, or which should thereafter be granted, in consequence of death from a cause which originated in the United States service during the Civil War, or in consequence of wounds, injuries, or disease received or contracted in that service, should commence from the date of the death or discharge of the person on whose account the pension had been or should thereafter be granted, or from the termination of the right of the party having prior title to the pension. The rate of pension for the intervening time for which arrears were allowed was to be the same per month as that for which the pension was originally granted. Rules and regulations were to be adopted by the Commissioner of Pensions for the payment of arrears to each pensioner entitled, or, if the pensioner should have died, to the person or persons entitled to the same. A requirement of record evidence from the War or Navy Department in cases not prosecuted to a successful issue within five years was repealed. As previously mentioned, the act forbade claim agents to receive compensation for services in making application for arrears of pension. All conflicting acts or parts of acts were repealed.

Soon after the passage of the Arrears Act, new claims began to be presented at the Pension Bureau with unexampled rapidity. Secretary Schurz thought the existing

[1] *U. S. Statutes at Large*, xx, 265.

system of adjudication utterly inadequate to handle them with justice to the pensioner and proper safeguards to the Government. On February 4, 1879, the Commissioner of Pensions estimated that $34,000,000 would be required to pay the arrears on claims which had been allowed prior to January 25, 1879; $2,500,000 for arrears upon claims allowed and to be allowed between January 25 and June 30, 1879, and $5,000,000 to pay arrears upon claims which would be allowed in the fiscal year ending June 30, 1880.[1] Adopting this estimate, the Secretary of the Treasury recommended to Congress that bonds be sold to meet a prospective deficit in the national budget for the year 1880.[2] However, in making the above report and estimate, the Commissioner of Pensions called attention to some manifest defects in the loosely drawn Arrears Act, and recommended to Congress some changes and explanatory provisions. If these recommendations were adopted, he thought the arrears on claims allowed prior to January 25, 1879, could be reduced to $25,000,000, and that the amount of arrears to be paid on claims allowed after that date would be materially lessened. In the meantime, he delayed the final adjustment of all pending claims.

The Commissioner also called the attention of Congress to the extraordinary facilities for the successful prosecution of fraudulent and unmeritorious claims afforded by the existing *ex parte* system of evidence. He asked Congress for relief along the lines recommended in previous reports, and said:

"As the law stood previous to the passage of the Arrears Act the temptation to fraud was very great, but since that act it is many times increased. Then the claims were comparatively few in which any considerable sum of money would be the immediate reward of a successfully prosecuted claim, but since that act every invalid claim

[1] *House Ex. Doc.*, 3d Sess., 45th Con., 1878–1879, xvi, no. 75.

[2] *Ibid.*, Document no. 85.

allowed, as well as many of the other classes, will have in it from several hundred to several thousand dollars due the claimant at the first payment.

"It is estimated by those best informed that there have been not less than $2,000,000 paid out annually for fraudulent pensions. In my judgment, the estimate is below, rather than above, the actual amount.

"With the temptation to the commission of fraud so greatly increased, and the road to the Treasury easy through *ex parte* proceedings, the consequences can easily be foretold. Not only will the people be taxed to pay an annual tribute to the unworthy amounting to several millions of dollars, but with so many claims pending, and still to be presented, and the avenues to the two or three hundred persons, more or less, who are charged with their adjustment, open for the approach of interested parties, it will be little less than a miracle if extensive official corruption does not follow."

Later in the same session of Congress at which the Arrears Act was passed, a bill making appropriations for arrears was introduced into the House, and passed without much consideration.[1] It carried an appropriation of $25,000,000 for the arrears due on pensions which had been allowed prior to January 25, 1879, and an appropriation of $1,800,000 for arrears on claims to be allowed between January 25, 1879, and June 30, the end of the fiscal year. In the Senate, this bill and proposed amendments were the occasion of a considerable discussion.[2] Several of these amendments were very important, and were accepted by the House. They embodied in part suggestions made by the Commissioner of Pensions.[3]

[1] *Cong. Record*, 1878–1879, viii, Part ii, 1487–1488.

[2] *Ibid.*, 1878–1879, viii, Part iii, 1980, 1981–1984, 2033–2040, 2042–2051, 2052–2058, 2223–2243.

[3] One amendment, proposed in the Senate, was designed to change the system of adjudication of pension claims in accordance with the recommendation of the Secretary of the Interior and the Commissioner of Pensions. It contemplated

It is interesting in this debate to find that the Senate had awakened to some idea of the great cost of the Arrears Act. It was freely alleged that Senator Ingalls and the other advocates of the arrears bill had given the impression that "the amount to be taken out of the Treasury by the arrears of pensions bill could not exceed $20,000,000 at the outside." Senator Thurman, of Ohio, said:

"The very next thing after the passage of the bill that I heard was that the Commissioner of Pensions required $4,000,000 for the present fiscal year, and thirty odd millions for the next fiscal year, and there is no telling where it is to end; and we are told in some quarters that it will take fifty, some say sixty, and some say one hundred millions out of the Treasury. I must say that, if that is so, there was a grievous error somewhere, a grievous mistake somewhere when the arrears of pensions bill was considered."

Senators Conkling and Ingalls had a sharp dispute as to whether Mr. Ingalls had misled the Senate at the time of the passage of the Arrears Act. Conkling had the better of the argument, for whether Ingalls meant to mislead the Senate or not, his words on the occasion in question were well calculated to do so.

While refusing to authorize the sale of bonds to pay the arrears, the Senate was willing to add to this appropriation bill an innocent little "rider" providing, "That the law

the division of the country into not to exceed sixty districts for the purposes of pension administration. At various points in each of these districts, a commission, consisting of an experienced surgeon and a legal clerk, was to sit and personally examine claimants and witnesses, thus doing away with the *ex parte* system of testimony. The testimony was to be forwarded to the Commissioner of Pensions, for the adjustment and settlement of claims. The scheme was designed to prevent frauds which were variously estimated to amount to from ten to twenty per cent. of the pension list. It was bitterly opposed by the clique of Washington pension attorneys, who imputed partisan motives to its advocates. Some of the senators thought the measure capable of abuse to secure the soldiers' votes. The amendment was rejected.

granting pensions to the soldiers and their widows of the War of 1812, approved March 9, 1878, is hereby made applicable in all its provisions to the soldiers and sailors who served in the War with Mexico of 1846." The bill was passed with this amendment, which received absolutely no consideration. A motion to reconsider was entered by Senator Windom. Some days later, when he pointed out that "the little proposition so good-naturedly introduced by the Senator from Missouri and so good-naturedly supported by a majority of the Senate the other evening would take from thirty to forty millions out of the Treasury," the vote by which the bill passed was reconsidered. The amendment was struck out after a debate in which the old question of loyalty and disloyalty during the Civil War came up, and considerable partisan acrimony was shown. One is tempted to believe that some of the Senators who had voted for the "rider" were glad of the opportunity to plead as an excuse for changing their votes the fact that the provision would have the pernicious effect of pensioning Jefferson Davis and other ex-Confederates. After being passed again, the bill was sent to the House with a number of Senate amendments which were concurred in. It was approved on March 3, 1879.[1]

The Senate amendments provided that the rate, at which the arrears of invalid pensions should be allowed and computed, should be graded according to the degree of the pensioner's disability from time to time, and the provisions of pension law in force over the period for which arrears were granted. In no case was a pension to be allowed and paid from a time prior to the date of actual disability. It was also provided that arrears of pension should be granted only where the application for the pension had been or should thereafter be filed with the Commissioner of Pensions prior to

[1] *U. S. Statutes at Large*, xx, 469.

the first day of July, eighteen hundred and eighty; otherwise the pension was to commence from the date of filing the application. This limitation did not apply to claims by or in behalf of insane persons and children under sixteen years of age. The introduction of such a limitation is most important, although it is directly contrary to the principle on which the Arrears Act was passed. The advocates of the act had urged that the interposition of any statute of limitation against the full satisfaction of the claims of the ex-soldiers was a despicable defense on the part of the National Government. They sought to place the Government in the position of a debtor avoiding a just settlement with creditors holding claims of a most sacred nature. Nevertheless, it was the introduction of a limitation that saved the arrears monstrosity from being utterly unendurable. Expensive and harmful as the amended measure was, there was a prospect of some end to the drains upon the National Treasury. Left in its original form, the premium upon the successful prosecution of a pension claim would have grown greater with the lapse of each year. Claims might be presented today and allowed with arrears dating back to the Civil War. Under such a law, who could estimate the inducement to fraud, or count the cost? It was well that Congress provided some bar against the enormous demands which were impending on the Treasury.

In his report for the year ending June 30, 1879, the Commissioner of Pensions spoke of the pressure upon his office which the Arrears Act was causing.[1] He said:

"Since the act of January 25, 1879, commonly known as the Arrears Act, the new claims of invalids, widows, minor children and dependent relatives have come in at an unprecedented rate, the invalids at a rate more than double that ever before known in the his-

[1] *House Ex. Doc.*, 2d Sess., 46th Cong., 1879–1880, *Report of the Secretary of Interior*, ii, 282.

tory of the office, except in the year 1866, and within a few hundred of double the rate of that year, which, it will be noted, was the year following the disbandment of the armies, when all the sick and disabled soldiers became at once entitled to apply for pension, while the rate of the receipt of widows', children's, and dependent relatives' claims is greater than that of any year since 1867, and more than twice the rate of any year since 1871.

Added to this inflow of new business is the pressure of all the older claims for an early settlement, which was great and constantly increasing before the passage of the Arrears Act, but since its passage overwhelms the office with repeated demands of claimants for the adjustment of their claims, and altogether the current work of the office is greatly increased and has been thrown so far in arrears that there are many and very serious complaints at the delays in answering the inquiries relative to pending claims."

The Commissioner again pointed out the wretched inefficiency of the *ex parte* system of adjudicating claims.

"Besides being cumbersome and expensive," said he, "the present system is an open door to the Treasury for the perpetration of fraud. The affidavits in support of the claims have the same appearance to the officers of the Bureau, whether true or false. * * * There is another aspect of the *ex parte* system which should receive the most earnest consideration on the part of the Government, and that is its fruitfulness of crime against the laws, in the nature of perjury, forgery and false personation."

This was the claim agents' harvest time. A thousand dollars or more at the first payment was a strong incentive to the presentation of new claims. In the months of the fiscal year 1879, during which the Arrears Act was in operation, such claims were filed many times as fast as during the first half of the same year. The full effect of the Arrears Act in the stimulation of original claims was not felt until the fiscal year ending June 30, 1880. During that year the total number of original claims filed for invalids, widows and dependent relatives on account of services in the Civil War

was 138,195. The number of such claims filed in 1878 was 26,304, and in 1879, 47,416. In the single month of June, 1880, just before the limitation upon the allowance of arrears went into effect, there were 44,532 original Civil War claims filed. This was nearly as many as in the whole fiscal year 1879. The total disbursements for pensions were, in the fiscal year 1880, $57,240,000 as compared with $26,844,000 in 1878, and $33,780,000 in 1879.[1]

In the years 1881 and 1882, it became apparent that the arrears of pensions on claims allowed *prior to* January 25, 1879, would reach nearly $25,000,000, the amount estimated by Commissioner Bentley just after the passage of the Arrears Act. It also became clear that the great cost of the measure would result from a feature entirely ignored upon its original passage, that is, the granting of arrears upon each claim allowed *after* January 25, 1879, (provided, by the amendment of March 3, 1879, that such claims were filed before January 1, 1880). This feature gave the greatest incentive to extraordinary efforts for the establishment of new claims by fair means or foul.

The average first payment, in 1881, to an army invalid was $953.62; to army widows, minor children and dependent relatives $1,021.51; to navy invalids, $771.42; to navy widows, minor children and dependent relatives, $790.22. Provided that claims were originally filed within the prescribed time, delay in the completion of proof simply increased the allowance in prospect at the first payment, and the prize grew greater as the years passed by. The system put a premium upon fraud, the method of adjudication facilitated fraud, and there is no doubt in the mind of the writer that fraud was an element in the establishment of many claims under the Arrears Act.

[1] The statistics in this chapter are compiled from the annual *Reports of the Commissioner of Pensions* for the years in questions.

Besides the great total which the first payments reached annually, the ordinary payments for an indefinite series of years were increased to an extent which would have been impossible but for the unnatural stimulus to the presentation of claims. The cost of the Arrears Act in this respect is enormous, but cannot be calculated. It is not possible to estimate accurately the number of claims which would have been filed if the act had not been passed. Statistics have shown us, however, that the increase in the number of claims which followed its passage was immediate and unprecedented.

Under date of January 25, 1886, General J. C. Black, Commissioner of Pensions, estimated that, up to June 30, 1885, the aggregate of arrears paid under the act of 1879 was $179,400,000. This leaves out of consideration the cost to the Government resulting from the extraordinary stimulus afforded by the Arrears Act, to the presentation of new claims. In its national platform of 1884, the Republican party pledged itself to the repeal of the limitation contained in the Arrears Act. In 1890, it was officially estimated that the cost of a repeal of that limitation would be $471,000,000.[1] The pledge has not been fulfilled. While, from the nature of the problem, the exact cost of the Arrears Act cannot be ascertained, we have indisputable evidence that it has reached hundreds of millions of dollars. Thus, at the expense of the nation, has been demonstrated the monstrous character of this measure, passed under the assumption that it would take about twenty millions from the Treasury.

The following table is valuable in the study of the effects of the Arrears Act.[2] It shows the amounts of disburse-

[1] *Senate Reports*, 51st Cong., 1st Sess., vii, no. 989, 25–26.

[2] From *Statistical Abstract of United States* for 1899, 422. The total disbursements differ slightly from revised figures given in recent reports of the Commissioner of Pensions.

ments for pensions for first and subsequent payments from 1877 to 1899 inclusive.

Year ending June 30.	First payments.	Pensions exclusive of first payments.	Total disbursements.
	Dollars.	*Dollars.*	*Dollars.*
1877.....	3,284,937.12	24,837,746.36	28,580,157.04
1878.....	2,992,352.17	23,538,439.93	26,844,415.18
1879.....	5,763,758.60	27,725,979.96	33,780,526.19
1880	12,468,191.20	44,558,802.92	57,240,540.14
1881.....	23,628,176.61	26,458,498.14	50,626,538.51
1882.....	26,421,669.19	27,408,390.05	54,296,280.54
1883.....	29,906,753.94	29,915,480.89	60,431,972.85
1884.....	23,413,815.10	32,682,126.58	57,273,536.74
1885.....	27,115,912.21	37,817,375.91	65,693,706.72
1886.....	22,137,054.16	41,621,591.49	64,584,270.45
1887.....	25,166,990.06	48,300,591.81	74,815,486.85
1888.....	22,299,605.46	56,568,841.28	79,646,146.37
1889.....	21,442,349.13	66,832,764.15	89,131,968.44
1890.....	38,721,866.03	66,806,314.35	106,493,890.19
1891.....	38,652,274.31	78,326,898.41	118,548,959.71
1892.....	45,114,167.68	94,045,188.71	141,086,948.84
1893.....	33,756,549.38	122,983,917.76	158,155,342.51
1894.....	11,917,359.58	127,887,101.47	140,772,163.78
1895.....	11,451,133.01	128,356,204.29	140,959,361.37
1896.....	11,289,278.48	126,925,483.46	139,280,078.15
1897.....	12,575,601.40	127,374,115.95	139,949,717.35
1898.....	15,542,914.03	129,108,965.77	144,651,879.80
1899.....	9,247,957.75	129,107,095.20	138,355,052.95

In the above table, attention should be given to the remarkable increase in the amounts of first payments during the years following the passage of the Arrears Act. A very large part of such first payments consisted of arrears. In the year 1883, the first payments amounted to about half of the total disbursements. The abnormal expenditure in 1880 for pensions, exclusive of first payments, was probably due to the payment of arrears to those persons already on the rolls. It should also be remembered that the total pension expenditures had been slowly decreasing for several years prior to the passage of the Arrears Act. After 1879,

the increase was very marked. Other legislation is responsible for a large part of the expenditure in first payments after 1889.

Between 1879 and 1890, a number of laws were enacted increasing the rate of pension for certain specific disabilities, providing for the removal of the charge of desertion in many classes of cases, and also providing for special examinations, medical examinations and other details in the administration of the pension laws. The Mexican War pension act of 1887 has been previously discussed.

The increase act of March 19, 1886, provided that the pensions of all widows, minor children and dependent relatives already on the pension rolls, or who might thereafter be placed upon the pension rolls, should be increased from eight to twelve dollars per month.[1] Nothing in the act was to affect the existing allowance of two dollars per month for each child under the age of sixteen years. It was further provided that the law should apply only to widows who were married to the deceased soldier or sailor prior to its passage, and to those who might thereafter marry prior to, or during the service of the soldier or sailor. Claim agents were not to be recognized in the adjudication of claims under the act. This increase of forty-eight dollars a year affected some 95,000 cases on the rolls, besides claims allowed after the passage of the act.

In a pension appropriation act of June 7, 1888, the following provision was included: "That all pensions which have been, or which may hereafter be, granted under the general laws regulating pensions to widows in consequence of death occurring from a cause which originated in the service since the fourth day of March, eighteen hundred and sixty-one, shall commence from the date of death of the husband."[2]

[1] *U. S. Statutes at Large*, xxiv, 5.

[2] *Ibid.*, xxv, 173.

This was a repeal of the limitation on the operation of the Arrears Act in so far as widows were concerned, making that act apply to them indefinitely. It involved large payments of arrears in cases already on the rolls, as well as in cases thereafter taken up.

The thoroughly harmful character of this law is set forth at length in the report of Commissioner of Pensions Evans for 1899.[1] It enables widows, who have failed to apply for a pension during widowhood and afterwards re-married, to receive in a lump sum pension for the full period of widowhood. This amount is frequently used for the benefit of the husband, who has had no connection whatever with the United States military service.

In his report for 1898, Commissioner Evans illustrates the operation of the act in the case of the widow of a captain of volunteer infantry. The Commissioner says:

"In 1871 this captain died. He was not a pensioner, and never had filed a claim for pension. His widow remained a widow until March 30, 1887, when she re-married, having filed no claim, and, having re-married, had no pensionable status. In 1893, five years after the act of June 7, 1888, had passed, six years after her re-marriage, and twenty-two years after the death of her soldier husband, she files her claim for pension as a widow, from the date of the death of her soldier husband, in 1871, to the date of her re-marriage in 1887—sixteen years—and gets nearly $4,000, practically for the use and benefit of the second husband."

The first payments of several thousand dollars afford incentive for unscrupulous persons to perpetrate frauds upon the Government. Commissioner Evans says:

"The records of national cemeteries have been brought into use for the purpose of determining the names and service of those buried there. Women are then hunted up who are induced to execute applications for pension on account of the service and death

[1] See pages 21 and 22 in pamphlet report.

of these soldiers. These women become pliant tools in the hands of the operators. A *prima facie* case is made out by means of "stock witnesses," and the originator of the fraud pockets the amount of the first payment, leaving the fraudulent claimant to reap the benefit of the future payments. Great difficulty is often experienced by this Bureau in disproving a marriage or marriage relations alleged to have occurred thirty or forty years ago."

This law, like the original Arrears Act, puts a premium on crime. Under the existing *ex parte* system of adjudication, the Government has no adequate means of detecting fraud. The way is open for perjury and forgery, and thousands of dollars are put within reach of the successful criminal. Occasionally the crime is detected, and the Government is shown to have lost large sums of money. But in many other cases fraud goes undetected, and the Treasury is looted.

CHAPTER VI

CIVIL WAR PENSION LEGISLATION, DEPENDENT PENSION ACT TO 1899.

THE passage of the Arrears Act, instead of satisfying the pension attorneys and claimants, resulted in a demand for further legislation. Adapting to his purpose a phrase from classical English, one of the speakers in the Congressional debates remarked that "this appetite for pensions doth increase by what it feeds on." The voting strength of the veterans of the Civil War was so great that both political parties feared to oppose pension measures.

President Cleveland, in his annual message of 1886, said:

"Every patriotic heart responds to a tender consideration for those who, having served their country long and well, are reduced to destitution and dependence, not as an incident of their service, but with advancing age or through sickness or misfortune. We are all tempted by the contemplation of such a condition to supply relief, and are often impatient of the limitations of public duty. Yielding to no one in the desire to indulge this feeling of consideration, I cannot rid myself of the conviction that if these ex-soldiers are to be relieved, they and their cause are entitled to the benefit of an enactment under which relief may be claimed as a right, and that such relief should be granted under the sanction of law, not in evasion of it; nor should such worthy objects of care, all equally entitled, be remitted to the unequal operation of sympathy, or the tender mercies of social and political influence with their unjust discriminations."

This declaration was taken in Congress to commit the President to the approval of a limited service pension bill

for the veterans of the Civil War. Accordingly, the so-called Dependent Pension Bill was passed, which granted a pension of twelve dollars per month to all persons who had served three months in any war in which the United States had been engaged, had been honorably discharged, and were "suffering from mental or physical disability, not the result of their own vicious habits or gross carelessness, which" incapacitated "them for the performance of labor in such a degree as to render them unable to earn a support," such persons being dependent upon their daily labor for support. The cost of this measure was estimated in the House at less than $6,000,000 per annum, which was ridiculously small and based more on surmise than anything else.

President Cleveland performed a public service by vetoing the bill.[1] He called attention to the fact that it was the first law passed by Congress granting pensions to the soldiers and sailors of the Civil War upon the ground of service and present disability alone, and in the absence of any injuries received in the military service. The language of the law he thought uncertain, liable to conflicting constructions, and subject to unjust and mischievous application. The law failed to provide for any grading of the pension, and President Cleveland argued that a lack, in any degree, of ability to earn a support would under its terms entitle an applicant to receive the full twelve dollars per month. This would make the cost of the act very many times what had been estimated.

The veto message is so valuable as to justify an extended quotation. After setting forth his interpretation of the measure, the President said:

"Believing this to be the proper interpretation of the bill, I cannot but remember that the soldiers of our Civil War, in their pay and bounty, received such compensation for military service as has never been received by soldiers before, since mankind first went to war;

[1] *House Ex. Doc.*, 49th Cong., 2d Sess., no. 158.

that never before, on behalf of any soldiery, have so many and such generous laws been passed to relieve against the incidents of war; that statutes have been passed giving them a preference in all public employments; that the really needy and homeless Union soldiers of the Rebellion have been, to a large extent, provided for at soldiers' homes, instituted and supported by the Government, where they are maintained together, free from the sense of degradation which attaches to the usual support of charity; and that never before in the history of the country has it been proposed to render Government aid towards the support of any of its soldiers based alone upon a military service so recent, and where age and circumstances appeared so little to demand such aid.

"Hitherto such relief has been granted to surviving soldiers few in number, venerable in age, after a long lapse of time since their military service, and as a parting benefaction tendered by a grateful people.

"I cannot believe that the vast, peaceful army of Union soldiers, who, having contentedly resumed their places in the ordinary avocations of life, cherish as sacred the memory of patriotic service, or who, having been disabled by the casualties of war, justly regard the present pension roll, on which appear their names, as a roll of honor, desire at this time and in the present exigency, to be confounded with those who, through such a bill as this, are willing to be objects of simple charity and to gain a place upon the pension roll through alleged dependence.

"Recent personal observation and experience constrain me to refer to another result which will inevitably follow the passage of this bill. It is sad, but nevertheless true, that already in the matter of procuring pensions there exists a widespread disregard of truth and good faith stimulated by those who as agents undertake to establish claims for pensions, heedlessly entered upon by the expectant beneficiary, and encouraged or at least not condemned by those unwilling to obstruct a neighbor's plans.

"In the execution of this proposed law under any interpretation, a wide field of inquiry would be opened for the establishment of facts largely within the knowledge of the claimants alone; and there can be no doubt that the race after the pensions offered by this bill,

would not only stimulate weakness and pretended incapacity for labor, but put a further premium on dishonesty and mendacity."

Referring to the underestimates of the costs of the bill, the President said:

"If none should be pensioned under this bill except those utterly unable to work, I am satisfied that the cost stated in the estimate referred to would be many times multiplied, and with a constant increase from year to year; and, if those partially unable to earn their support should be admitted to the privileges of this bill, the probable increase of expense would be almost appalling."

In reconciling his attitude towards the proposed law with the expression of opinion previously quoted from his annual message, he continued:

"I do not think that the objects, the conditions and the limitations thus suggested are contained in the bill under consideration.

"I adhere to the sentiments thus heretofore expressed. But the evil threatened by this bill is in my opinion such, that, charged with a great responsibility in behalf of the people, I cannot do otherwise than to bring to the consideration of this measure my best efforts of thought and judgment, and preform my constitutional duty in relation thereto, regardless of all consequences, except such as appear to me to be related to the best and highest interests of the country."

This courageous veto evoked a storm of criticism from those interested in the passage of the Dependent Pension Bill. Petitions were received from Grand Army of the Republic posts, other organizations and citizens all over the country asking for the passage of the measure over the President's veto. In Congress, he was freely charged with inconsistency by speakers from both parties. Mr. McKinley of Ohio was among those who spoke in favor of passing the bill over the veto. The Pension Committee of the House, where the measure originated, unanimously recommended

such action.[1] On the vote, the yeas numbered 175 and the nays 125. Thus the bill failed, two-thirds not supporting it.

There was no cessation of the agitation for service pensions, and the attitude of the political parties on this question had an important influence upon the Presidential campaign of 1888. The Republican national platform adopted at Chicago on June 21, 1888, said:

"The gratitude of the nation to the defenders of the Union can not be measured by laws. The legislation of Congress should conform to the pledge made by a loyal people, and be so enlarged and extended as to provide against the possibility that any man who honorably wore the Federal uniform should become an inmate of an almshouse or dependent upon private charity. In the presence of an overflowing Treasury, it would be a public scandal to do less for those whose valorous service preserved the Government. We denounce the hostile spirit shown by President Cleveland in his numerous vetoes of measures for pension relief, and the action of the Democratic House of Representatives in refusing even a consideration of general pension legislation."

At the twenty-second national encampment of the Grand Army of the Republic at Columbus, Ohio, September, 1888, the following resolutions were passed:[2]

"1. *Resolved*, That it is the sense of this encampment that the time has come when the soldiers and sailors of the war for the preservation of the Union should receive the substantial and merited recognition of the Government by granting them service pensions in accordance with established usage; and, further

2. *Resolved*, That this encampment favors the presentation of a bill to Congress which will give to every soldier, sailor and marine who served in the army or navy of the United States between

[1] *Congressional Record*, xviii, Part ii, 1970–1973. For debates on this bill, see the heading "pensions" in the index to this volume.

[2] *Journal of the National Encampment of G. A. R.*, 1888, 190.

April, 1861, and July, 1865, for the period of sixty days or more, a service pension of eight dollars per month, and to all who served a period exceeding eight hundred days, an additional amount of one cent per day for each day's service exceeding that period."

In the fall campaign of 1888, the pension question was very influential in determining the result in the doubtful State of Indiana, and consequently in the contest for the Presidency. The Republican candidate for Governor of Indiana was General A. P. Hovey, President of the Service Pension Association of the United States. He was elected, and the State was carried for Harrison.

The new Republican administration was soon called upon to redeem its pledges to the ex-soldiers. On February 7, 1890, Mr. McKinley of Ohio presented to the House of Representatives an appeal of A. P. Hovey, president of the Service Pension Association of the United States, and the resolutions of the Grand Army posts of forty States and four Territories, for the passage of a service pension bill, as recommended by the Grand Army of the Republic at Columbus in 1888 and at Milwaukee in 1889.[1] Several bills were introduced with the object of gratifying the demand for pensions. The Republican leaders wished to satisfy the ex-soldiers without going to the extreme of general service pension legislation to which the party was really committed. Democrats charged the Republicans with breach of faith, and also taunted them with their refusal to remove the limitation on arrears as promised in the platform of 1884. The debates were conducted very largely with reference to their effect on the soldier vote. Each party attempted to pose as the special friend of the soldier.

Both the House of Representatives and the Senate passed bills, that of the Senate resembling the Dependent Pension

[1] *Congressional Record*, 51st Cong., 1st Sess., 1061–1066.

Bill which had been vetoed by President Cleveland.[1] Conference committees from the Houses finally agreed upon a measure, more nearly resembling the Senate bill, which was passed and received the approval of President Harrison on June 27, 1890.[2] Like the former measure which failed, this has been known as the Dependent Pension Law. The cost of the law, as it passed, was estimated in the House at not to exceed $35,000,000 per annum, and, in the Senate, at not to exceed $41,000,000 per annum. Senator Gorman, who opposed the bill, estimated that its annual cost would be from $56,000,000 to $79,000,000.

The first section of the act of June 27, 1890, is not connected with the principal object of the law. It provides that in the presentation of the pension claims of dependent parents, where the deceased soldier has left no widow or minor children, it shall be necessary only to show by competent and sufficient evidence that the parent or parents are without other present means of support than their own manual labor or the contribution of others not legally bound for their support.

Section 2 provides:

"That all persons who served ninety days or more in the military or naval service of the United States during the late war of the rebellion and who have been honorably discharged therefrom, and who are now or who may hereafter be suffering from a mental or physical disability of a permanent character, not the result of their own vicious habits, which incapacitates them from the performance of manual labor in such a degree as to render them unable to earn a support, shall, upon making due proof of the fact according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the list of invalid pensioners of the United States, and be entitled to receive a pension not exceeding twelve dollars per month, and not less than six dollars per month, proportioned to the degree of

[1] House Bill, 8297, and Senate Bill, 389. [2] *U. S. Statutes at Large.*

inability to earn a support; and such pension shall commence from the date of the filing of the application in the Pension Office after the passage of this act, upon proof that the disability then existed, and shall continue during the existence of the same."

Persons pensioned under the general laws are permitted to apply under this act, and pensioners under this act may apply under the general laws. But no person may receive more than one pension for the same period.

Widows of those who served ninety days during the Civil War and were honorably discharged, are, under the act of 1890, granted pensions at the rate of eight dollars per month without proving the soldier's death to be the result of his army service. As under the general law, an additional allowance of two dollars per month is made for each child of the deceased soldier under the age of sixteen years. The widow, to be pensioned, must have married the soldier prior to the passage of the act and must be dependent upon her daily labor for support. She loses the pension if she remarries. In case of her death or remarriage, the pension is paid to any surviving children of the soldier until they reach the age of sixteen. When a minor child is insane, idiotic or otherwise permanently helpless, the pension continues during life or during the period of disability. Attorney's fees under the law are limited to ten dollars.

This act of June 27, 1890, is the most important pension law ever enacted. Up to June 30, 1899, it had cost the country about $500,000,000, and over sixty million dollars is being paid out annually. It is a limited service pension bill. In the case of soldiers, the requirement is three months' service and a certain degree of permanent disability, not the result of vicious habits. Widows' pensions are based upon the above length of service by their husbands and their own dependence upon daily labor for support. Thus, we have, in fact, two independent systems of pension legislation,

that under the general invalid pension law and that under the act of 1890.[1] Under the former, 333,192 invalids and 107,149 widows are pensioned; under the latter, 420,912 invalids and 130,266 widows. It seems surprising that under this one act 110,000 more persons should be pensioned than under all other laws taken together.

The rates allowed by the general law are higher than those allowed by the act of 1890. As a consequence, it has been the general practice of applicants to file two claims, one under each system of law. The pension under the act of 1890 is more easily obtained, but surrendered if sufficient proof can be brought forward to secure the higher rate allowed by the general law. The latter requires proof that disability or death resulted directly from causes incurred in the military service.

In the execution of the act of 1890, there has never been any inquiry into the capacity of the claimant to earn a support. The rich have been pensioned alike with the poor. All that has been required of the claimant is proof that he served ninety days in the Union army, and adequate medical evidence that he has a physical or mental disability that disqualifies him in whole or in part for earning a support by manual labor. No matter what may be the cause of the disability, provided that it is not the result of the claimant's vicious habits. Let us illustrate. Suppose a business man, lawyer or physician to suffer an injury in a railroad accident, necessitating the amputation of a foot. If he served ninety days in the Civil War, he will be allowed upon application a pension of twelve dollars per month for life. In case of an injury of less severity, the rate might be anywhere from six to twelve dollars. Is a law which grants pensions under

[1] For comparison of the two systems, see *Report of the Commissioner of Pensions* for 1899, 33.

such circumstances sound in principle? The individual in the illustration may be enjoying a large income, his earning ability may be but temporarily impaired, his injury has no connection whatever with military service, and, in fact, he may never have seen active service. Nevertheless, he is pensioned for life at the expense of the taxpayers of the country. And this is not an extreme case. Our supposed claimant has a clear legal title to a pension, which he can prove without departing in the least from strict honesty of statement. But, in that large class of cases where disability is not physically apparent, there is abundant reason to believe that large numbers of persons, seemingly in normal health, have discovered in themselves ailments which would have passed unnoticed but for the pension laws.

The act of 1890 seems to the writer a bad law. It is loose in expression, unsound in principle, and often absurd in application. It lays an extravagant and unjust burden upon taxpayers to insure a privileged class against serious accident or disability. It stimulates dishonesty and dependence, fails to discriminate between the deserving and the undeserving, and prevents the pension list from being, as it should be, a roll of honor. This act was passed at a time when there was a large annual surplus in the Treasury. It was argued that the payment of more pensions to ex-soldiers would be a proper use of this surplus. The additional expenditure involved in the execution of this law has, however, come to be one of the causes of the deficit of recent years. Our extravagant pension expenditures are beginning to attract public attention and to arouse protest. The cost of the law of 1890 is shown in the following table:[1]

[1] Tables are compiled from *Reports of the Commissioner of Pensions.*

COST OF ACT OF JUNE 27, 1890

Year ending June 30.	Army Pensions.		Navy Pensions.		Totals.
	Invalids.	Widows and others.	Invalids.	Widows and others.	
1891..	$7,471,926.82	$972,829.29	$340,180.83	$122,699.83	$8,907,636.77
1892..	42,498,340.54	7,177,175.65	1,346,730.48	385,724.65	51,407,971.32
1893..	52,849,007.52	13,129,148.15	1,719,602.64	561,778.87	68,259,537.18
1894..	43,666,091.58	12,271,792.94	1,396,059.20	566,229.82	57,900,173.54
1895..	44,830,630.62	12,011,524.49	1,647,596.78	612,583.40	59,102,335.29
1896..	43,707,246.39	12,501,371.65	1,550,416.31	638,929.37	58,397,963.72
1897..	44,953,265.81	14,510,046.32	1,560,856.51	662,563.68	61,686,732.32
1898..	48,267,959.49	15,644,124.34	1,679,262.23	664,324.61	66,255,670.67
1899..	47,345,583.46	14,607,685.51	1,699,548.75	668,643.05	64,321,460.77
Totals.	375,590,052.23	102,825,698.34	12,940,253.73	4,883,477.28	496,239,481.58

Since the passage of the act of 1890, there has been an almost constant decrease in the number of claims allowed under the general law. A very large proportion of all claims now admitted comes under the law of 1890. This is shown in the following table:

. ORIGINAL PENSION CLAIMS ALLOWED BY FISCAL YEARS

Year ending June 30.	Old Wars and Army Nurses.[1]	General Law.	Act of June 27, 1890.	Total Original Claims Allowed.
1890.....	1,584	65,053	.....	66,637
1891.....	804	53,295	102,387	156,486
1892.....	1,014	25,163	197,870	224,047
1893.....	4,895	17,527	99,208	121,630
1894.....	3,895	10,354	24,836	39,085
1895.....	1,701	9,042	28,442	39,185
1896.....	1,237	7,776	31,361	40,374
1897.....	964	8,338	40,799	50,101
1898.....	821	8,080	43,747	52,648
1899.....	1,017[2]	5,435	30,625	37,077

[1] Includes Mexican War and War of 1812 pensions, and, since 1893, Indian War pensions, and pensions to army nurses.

[2] Includes 303 pensions granted on account of the War with Spain.

By the act of August 5, 1892, all women employed by the Surgeon-General of the army as nurses during the Civil War for a period of six months or more, and who were honorably relieved from such service, are granted a pension of twelve dollars a month, provided they are unable to earn a support.[1] At present there are about 650 of these nurses on the roll.

The Supreme Court of the United States has held that no pensioner can claim a vested legal right to his pension, but that pensions are the bounties of the Government, which Congress has the right to give or recall, increase or diminish, at its discretion.[2] The Pension Bureau has also exercised the power of revising or reconsidering its decisions for the correction of error or illegality. In the act of December 21, 1893, Congress modified the prevailing practice by declaring a pension a vested right in the grantee to the extent that payment thereof may not be suspended or withheld without notice to the pensioner of not less than thirty days. Such notice must contain a full statement of any charges or allegations upon which it is sought to modify or change the decision granting the pension, and the Commissioner must act only after hearing all the evidence presented. This provision has facilitated frauds upon the Pension Bureau in some cases where the fraud was discovered just after a certificate carrying a large amount of arrears had been issued. Commissioner Lochren cites, in his report for 1894, a case where the Government lost $2,200 in this manner, and says that numerous cases of the same kind occur in the practice of the Bureau.

A proviso in the pension appropriation act of March 2, 1895, increased to six dollars per month all invalid pensions below that rate, and provided that thereafter, whenever any applicant for pension would be entitled, under the then existing rates, to less than six dollars for one or for several

[1] *U. S. Statutes at Large*, xxvii, 348. [2] 107 *U. S. Reports*, 64, 68.

combined disabilities, he should receive not less than six dollars per month.[1] This is now the minimum invalid rate paid.

There was also included in the pension appropriation act of March 6, 1896, the following noteworthy clause:[2]

"That whenever a claim for pension under the act of June 27, 1890, has been, or shall hereafter be, rejected, suspended or dismissed, and a new application shall have been, or shall hereafter be, filed, and a pension has been, or shall hereafter be, allowed in such claim, such pension shall date from the time of filing the first application, provided the evidence in the case shall show a pensionable disability to have existed, or to exist, at the time of filing such first application, anything in any law or ruling of the Department to the contrary notwithstanding."

This provision opened the way for applications for arrears on the part of those whose original claims had failed. Applications were renewed and fortified with additional evidence in the hope of securing a large first payment. It is gratifying to note that there has been a large percentage of rejections of claims under this clause.

The last important general law which we shall note is that of March 3, 1899.[3] This provides that a pensioner who has deserted his wife, or children under sixteen years of age, for a period of over six months, or who is an inmate of a Soldiers' Home, must give up one-half of his pension to his wife, she being a woman of good moral character and in necessitous circumstances, or to the guardian of his child or children. In this way the Pension Bureau is enabled to afford relief in many worthy cases upon appeal from the wives and children concerned.

The same act also provides that, in the future, no pension shall be granted to a widow under the laws of the United

[1] *U. S. Statutes at Large*, xxviii, 704. [2] *Ibid.*, xxix, 45. [3] *Ibid.*, xxx, 1379.

States unless the marriage of the widow to the soldier on account of whose service the pension is asked, was duly and legally contracted prior to the passage of the act, or unless she shall have lived and cohabited with the soldier continuously from the date of the marriage until the date of his death, or unless the marriage shall take place hereafter and prior to or during the military service of the soldier on account of whose service pension is claimed. This proviso does not apply to the widows of soldiers who served in the War with Spain. It is intended to stop the common abuse found in the marriage of young women to aged soldiers for the sake of acquiring a pensionable status.

So liberal and comprehensive is our system of general pension laws that no additional legislation has been necessary on account of the war with Spain. Soldiers of that war are entitled to pensions for disabilities of a permanent character, resulting from their military service, at the same rates as allowed soldiers of the Civil War. Existing legislation likewise provides for the widows and dependent relatives of those who died in service in the war with Spain or as the result of injuries received or disease contracted in that war. Except as to dependent parents, the act of June 27, 1890, is applicable only to the soldiers of the Civil War. Up to June 30, 1899, there had been filed in the Pension Bureau 17,560 claims on account of the war with Spain, 303 of which had been allowed. The filing of such claims is proceeding rapidly, and the number received from some regiments which saw no active service is surprisingly large.

Special Pension Legislation

In closing this account of general pension legislation, it seems desirable to call attention briefly to the great development of special pension legislation since the Civil War. Previous to that war, few special acts were passed, but since

its close their number has become great, as is shown by the following table:[1]

SPECIAL PENSION ACTS PASSED BY EACH CONGRESS FROM MARCH 4, 1861, TO MARCH 4, 1899.

Congress.	Number passed.	Congress.	Number passed.
Thirty-seventh (1861–63)...	12	Forty-eighth (1883–85).....	598
Thirty-eighth (1863–65)....	27	Forty-ninth (1885–87).....	856
Thirty-ninth (1865–67).....	138	Fiftieth (1887–89).....	1,015
Fortieth (1867–69).....	275	Fifty-first (1889–91).....	1,388
Forty-first (1869–71).....	85	Fifty-second (1891–93)	217
Forty-second (1871–73).....	167	Fifty-third (1893–95).....	119
Forty-third (1873–75).... .	182	Fifty-fourth (1895–97).....	378
Forty-fourth (1875–77).....	98	Fifty-fifth (1897–99).....	694
Forty-fifth (1877–79).....	230		
Forty-sixth (1879–81).....	96	Total.....	6,791
Forty-seventh (1881–83)....	216		

These special acts are usually passed to allow claims which have been rejected by the Pension Bureau, often because they are absolutely without merit. Some of the claims are meritorious, but do not come technically within the provisions of the general law. It is the practice of both Houses of Congress to set aside portions of certain days for the consideration of pension bills. At those sessions, special laws are put through the form of passage with remarkable speed, and commonly in the absence of a quorum. Very few members vote or give any attention to the bills, which are enacted by common consent. Occasionally, some member does insist upon the presence of a quorum. This reckless method of doing business, originating at a time when the surplus in the Treasury seemed capable of satisfying every demand for pensions, has resulted in the allowance of many unworthy claims.

[1] Compiled from *Reports of the Commissioner of Pensions* for 1898 and 1899.

President Cleveland endeavored to put a stop to the abuse of special acts by the use of his veto power.[1] In his first term, he vetoed 228 pension bills. Grant was the only other President who had used the veto for this purpose, he having vetoed five unimportant pension measures. Among the bills which Cleveland vetoed was the Dependent Pension Bill, which we have already discussed. His action was very severely criticised in Congress and throughout the country, and it was said by his opponents to be an improper use of the veto power. It had the desirable result of bringing the special act abuse prominently before the people and thereby checking the recklessness of Congress. The President vetoed only those measures which he considered improper after a careful examination into the facts had been made by the Pension Bureau. In a number of cases, he was able to show that Congress had been imposed upon by deserters, by those whose injuries had not been received in the line of duty, and by persons whose claims were tainted with fraud. His resolute stand was instrumental in bringing about more careful methods in the committees of Congress. Claims are not now considered by Congress until they have been first submitted to the Bureau.

Congress is not the proper place for the settlement of private pension claims. The pressure of general business is too great. There is no time for the detailed discussion of such matters on the floor of either House, and the decision of committees must necessarily be accepted without question in order that business may be done. These committees are not so well fitted to investigate the merit of the claims as the Pension Bureau. It would be an improvement upon present methods if Congress should pass special bills only upon re-

[1] For an excellent discussion of Cleveland's pension vetoes, see Mason, *The Veto Power*, 87–93.

commendation from the Bureau. Under our present liberal system, it is probable that there are but few meritorious claims not within the scope of the laws. The Pension Bureau can not be accused of bias against claimants, and could do more than is now done to place proper safeguards upon the Treasury.

CHAPTER VII

CONCLUSION: A CRITICISM OF PENSION LEGISLATION

1. The Trend of Pension Legislation

In this country, pension legislation has tended constantly toward increased liberality. Our earliest laws were disability provisions, carefully restricted in their operation and meager in their allowances. The scope of these laws was soon broadened, provision was made for widows and orphans, and rates were increased. In 1818, thirty-five years after the termination of the Revolutionary War, service pensions were granted to the indigent soldiers of that war, despite warnings in Congress that a precedent was being created which posterity would regret. We have read of the resulting scandals and fraud. Fourteen years later, a surplus in the Treasury, due to a high tariff on imports, opened the way for a further grant to the survivors of the Revolutionary War. The act of 1832, a pure service pension law, was passed. Again were there surprising disclosures of fraud. The precedent for service pensions, however, was strengthened.

The intervention of the Civil War troubles prevented the granting of service pensions to the survivors of the War of 1812 at as early a date as would otherwise have been probable. But in 1871, precedent was appealed to and a service pension bill passed for their benefit. This was supplemented by the extremely liberal act of 1878. The effects of these two measures have been presented in a previous chapter, but both effects and measures were overshadowed by Civil

War legislation. In 1887, a limited service pension law was passed for the survivors of the Mexican War, and, in 1892, a pure service pension law for the soldiers of sundry Indian wars.

At the beginning of the Civil War, the act of 1862 was passed, making broader provisions for invalids, widows and dependent relatives than had before been known in this country. No sooner had the war ended than Congress began passing more and more liberal provisions for invalids and dependent relatives, and establishing higher rates for the severer disabilities. Then came the Arrears Act with an outlay of hundreds of millions of dollars. This was followed by an agitation for service pensions. But to pay service pensions without limitation to the vast armies of volunteers who were enlisted in the Civil War was so stupendous an undertaking that Congress dared not go to the full length of the proposals urged upon its members. The act of 1890 was the costly compromise. The present enterprises of the Government have of late afforded full use for all the funds in the Treasury, but if it shall be our fortune to have another period of Treasury surplus, we may expect a demand for pure service pensions for all survivors of the Civil War.

2. Our Present System of Pension Laws

The pension legislation on the statute books with reference to the wars prior to 1861 is now of slight importance. There is great need of a thorough revision and codification of the numerous laws passed with reference to service subsequent to March 4, 1861, and of the confused mass of rulings and decisions thereunder. These laws comprise in reality two systems, that under the so-called general law and that under the act of June 27, 1890. Under the former, there are fewer pensioners, but this great body of legislation, dealing with disability and death resulting from service, applies in-

definitely to the future as well as to the past. It includes within its scope the war with Spain, the war in the Philippines and such other wars as may be in store for us. Among its beneficiaries are disabled soldiers, widows, orphan children, dependent fathers and mothers, and orphan brothers and sisters. For the severer disabilities, it allows rates of pension reaching as high as one hundred dollars a month for the loss of both hands. No other body of laws has ever provided so generously for those disabled in military service and for the relatives of those whose death was due to such service.

The law of June 27, 1890, which pensions the soldiers of the Civil War and their widows in cases where disabilities and death are not due to military service, embraces within its scope more pensioners than are enrolled under all our other laws taken together. A counterpart of this act of 1890 cannot be found in the legislation of any nation, and, indeed, no measure nearly resembling it. For reasons already discussed at length, it seems to the writer to be the most vulnerable point in our pension system.

3. Causes and Evils of Unwise Legislation

The existence of a large surplus in the Treasury has been, in the history of this country, a frequent temptation to extravagant and mischievous pension legislation. This was seen in the case of the Revolutionary pension act of 1832, and has been more strikingly illustrated in the course of legislation since the Civil War. After the country recovered from the abnormal conditions incident to that great conflict, a high protective tariff caused the accumulation in the Treasury of millions of money, not needed to meet the ordinary expenses of Government. This surplus opened the way for unnecessary and harmful expenditures.

One of the most obvious ways to put these millions in cir-

culation among the people was to pay them out in the form of military pensions. Proposals to make such payments were, in general, well received, because of the prevailing good-will toward the citizen soldiers who had fought for the preservation of the Union. At first, steps were taken to broaden the provisions and increase the benefits of the laws granting pensions to invalids, widows and dependent relatives. Then, when applications and expenditures for pensions began to decrease, the pension attorneys and claim agents sought means to continue their business at the expense of the people of the United States. Under pretense of a demand for just and honorable treatment of the disabled soldiers, they urged the passage of the Arrears Act. Among the great mass of the soldiers, there was little real sentiment for such a measure. This being the case, the claim agents, by means of a cunningly conducted agitation, proceeded to stir up the needed support. They flooded the country with artfully worded appeals, calculated to persuade the honest veteran that he had a just claim and to arouse the cupidity of his less honest comrade. The movement was successful, and we have seen what it cost the country.

Notwithstanding the passage of the Arrears Act, the income of the Government continued to be greatly in excess of its expenditures. The ex-soldiers, organized in the Grand Army of the Republic, began systematic efforts to obtain from Congress additional pension legislation. In these efforts, they were largely under the guidance of pension attorneys among their number. The organized soldier vote became of such political importance as to command the consideration of both great parties and to become one of the determining factors in a Presidential campaign. Demands were made that the surplus should be used in paying service pensions on account of the Civil War. Both parties in Congress feared to antagonize the Grand Army, but also

feared to enact the extreme measures which were proposed. The act of June 27, 1890, was, in a sense, a compromise, though we can scarcely call it a happy one. Through their organization, the soldiers secured many other measures of importance, notably the increase act of 1886, the repeal of the limitation in the Arrears Act, so far as concerns widows' pensions, and the establishment of the minimum invalid rate of six dollars per month.

The evils resulting from our pension system have been many. Unwise laws have lowered the standards of morality and patriotism held by the volunteer soldiers. Frauds of all sorts have been perpetrated in the preparation of evidence and prosecution of claims. In a great number of cases, while there has not been conscious fraud, claimants have allowed themselves to be persuaded of the existence of disabilities which never would have been discovered except at the suggestion of pension attorneys. Others, in independent or affluent circumstances, have been willing to receive payments on account of disabilities in no way connected with military service. Youth has been joined in wedlock to old age for the sake of the widow's allowance. In the eager rush for pensions, the finer feelings of veterans have been blunted and the attempt has been made to secure a monetary equivalent for the performance of patriotic duty. The investigator must, at times, turn from the record in disgust. A former soldier, who is a present officer of the Pension Bureau, writes:

"The rapid increase in the number of widows' pensions tells the story of the passing of the volunteer. It must be left to history to record his virtues. To this generation he has been so persistent in asserting his rights, and so insistent upon recognition, so easily gulled by self-seeking politicians, and misrepresented by such a host of blatant orators, that his detractors may be pardoned for regarding him as a greedy cormorant."[1]

[1] G. C. Kniffin, *The Independent*, November 10, 1898, 1333.

Much evidence of the financial evils of our pension system has been presented in preceding chapters. Unjust burdens have been placed upon the taxpayers of the country to carry into effect the lavish grants made by Congress. With the assumption by the government of the United States of new responsibilities in this and other continents, the weight of national taxation is being felt more than in former years. We have not of late been troubled with the problem of the surplus. Pension expenditures are becoming a matter of public concern. The prospect of an enlarged military establishment has intensified interest in the question. It seems probable, too, that, with the decrease in the voting strength of the Grand Army, proposals of pension legislation may be examined in Congress with respect less to party advantage than to public duty.

4. A Proper System of Laws

Laws granting pensions for military service, without regard to any proof of the existence of disability contracted in that service, have proved, throughout our history, extremely costly and liable to a multitude of abuses. Almost invariably, the framers of such legislation have seriously underestimated the expenditure involved in its execution. The laws have required but short periods of service, have been loosely drawn, and have failed to place ordinary safegards upon the Treasury. Where the service pensions have been granted long after the close of the wars concerned and to persons who have reached old age, there has not been so great a cause for objections as to measures which have granted allowances to those who were independent and actively engaged in the affairs of life. But service pension laws, as the term is used in the United States, seem, in any case, to be unwise. They have only been made possible through a revenue system which, during long periods of years, has

kept a large surplus in the hands of the Government. European nations have provided pensions for soldiers who have completed many years of faithful service in the regular army, but no other nation has had service laws at all comparable to those enacted on behalf of the volunteer armies of the United States.

While service pension laws are subject to grave objections, a properly guarded invalid pension system is in accordance with good public policy. Most civilized nations have recognized this fact and have provided, in some way, for wounded or disabled soldiers. In enlisting volunteers for our wars, it has been usual to make a promise of invalid pension provisions for the benefit of the troops enlisted. So long as war continues to be the means of settling disputes between nations, the duty of providing for those who are disabled in military service will be enforced upon governments by public opinion. If, as in the case of the United States, the government is able to provide liberally for invalids, it seems but right that it should do so. There will be few, if any, who will oppose the claim for relief made by the soldier who has received actual disability in the line of duty.

Properly restricted pensions to widows, orphans and dependent relatives seem also to merit general approval. There will be great difference of opinion as to what is a proper restriction in the case of widows' pensions. A conservative rule would allow a pension to a widow only when marriage took place prior to or during the soldier's term of service, and when the soldier's death was directly due to injuries received or disease contracted in the performance of his military duties. Some greater degree of liberality with regard to the date of marriage might, however, prove expedient.

All propositions for pension reform made under present circumstances must hold in view what is practically attain-

able rather than theoretical perfection. Radical changes in the existing system would be attended with much difficulty and might work considerable hardships. Though this essay has been devoted primarily to a consideration of legislation, enough has been said to show that administrative reforms are also urgently needed. We have never had a system of adjudication of pension claims which has sufficiently safeguarded the interests of the Government. In this direction, there is a fruitful field of investigation. It is earnestly to be desired that public interest may be aroused to the importance of the whole pension question, and that a knowledge of the experience of the past may lead to a betterment of legislation and administration in the future.

APPENDIX

Statement from the annual Report of the Commissioner of Pensions for 1899, showing disbursements for pensions, fees of examining surgeons, cost of disbursement, and the number of pensioners on the rolls each fiscal year since July 1, 1865.

Fiscal Year ending June 30.	Disbursements for Pensions.		Fees of Examining Surgeons.		Cost of disbursement, maintaining pension agencies, etc.	Pension Bureau.		Number of pensioners on rolls.
	Army.	Navy.	Army.	Navy.		Salaries.	Other expenses.	
1866	$15,158,598.64	$291,951.24			*a*$155,000.00	$237,165.00	$15,000.00	126,722
1867	20,552,948.47	231,841.22			*a*155,000.00	308,361.49	27,615.86	155,474
1868	22,811,183.75	290,325.61			*a*155,000.00	366,186.20	31,834.14	169,643
1869	28,168,323.34	344,923.93			*a*155,000.00	366,007.31	43,519.50	187,963
1870	29,043,237.00	308,251.78			216,212.86	333,660.00	51,125.00	198,686
1871	28,081,542.41	437,250.21	Paid from Army and Navy pensions. No separate accounts kept.		431,720.03	372,378.97	58,980.00	207,495
1872	29,276,921.02	475,825.79			457,379.51	436,315.71	57,557.78	232,189
1873	26,502,528.96	479,534.93			456,323.99	456,021.26	90,855.39	238,411
1874	29,603,159.24	603,619.75			447,693.17	444,052.24	75,048.72	236,241
1275	28,727,104.76	543,300.00			444,074 79	464,821.21	73,799.35	234,821
1876	27,411,309.53	524,900.00			447,702.13	468,577.80	98,798.88	232,137
1877	27,659,461.72	523,360.00	$66,057.42	$767.00	455,270.05	445 262.08	67,102.78	232,104
1878	26,251,725.91	534,283.53	231,658.26	3,310.00	313,194.37	443,096.56	41,240.90	223,998
1879	33,109,339.92	555,089.00	85,543.50	995.00	203,851.24	493,255.70	54,088.70	242,755
1880	55,901,670.42	787,558.66	73,161.00	2,386.00	221,926.76	582,517.84	55,035.68	250,802
1881	49,419,905.35	1,163,500.00	113,392.00	3,345.00	222,295.00	686,565.45	46,462.19	268,830
1882	53,328,192.05	984,980.00	222,995.87	9,600.00	234,544.37	868,113.92	130,981.85	285,697
1883	59,468,610.70	958,963.11	321,966.49	19,220.00	285,620.29	1,723,285.68	241,555,83	303,658
1884	56,945,115.25	967,272.22	247,966.32	14,100.00	303,430.61	1,936,161.65	333,522.42	322,756
1885	64,222,275.34	949,661.78	475,031.13	7,150.00	275,976.55	2,122,926.54	511,492.12	345,125
1886	63,034,642.90	1,056,500.00	487,614.76	5,100.00	294,724.14	1,948,285.80	509,291.91	365,783
1887	72,464,236.69	1,288,760.39	1,089,724.92	16,600.00	248,280.42	1,968,599.66	430,195.91	406,007
1888	77,712,789.27	1,237,712.40	833,561.86	11,581.75	263,109.87	1,986,027.55	420,776.24	452,557
1889	86,996,502.15	1,846,218.43	772,272.72	15,119.00	278,902.20	1,978,119.98	422,554.50	489,725
1890	103,809,250.39	2,285,000.00	876,108.51	19,569.11	292,697.35	1,957,725.43	380,281.73	537,944
1891	114,744,750.83	2,567,939.67	1,591,293.76	49,700.00	380,360.14	2,301,721.80	377,560.74	676,160
1892	135,914,611.76	3,479,535.35	1,690,507.47	35,090.00	500,122.02	2,494,122.87	178,823.44	876,068
1893	153,045,460.94	3,861,177.00	1,614,392.80	43,235.50	519,292.95	2,460,044.50	230,768.67	966,012
1894	136,495,965.61	3,490,760.56	652,678.50	20,000.00	517,430.37	2,403,522.75	370,344.69	969,544
1895	136,156,808.35	3,650,980.43	782,631.08	25,136.25	563,449.86	2,461,890.50	504,912.52	970,524
1896	134,632,175.88	3,582,999.10	665,313.97	7,273.50	565,027.85	2,258,959.35	494,800.94	970,678
1897	136,313,914.64	3,635,802.71	678,395.44	*b*	572,439.41	2,262,597.70	474,350.52	976,014
1898	140,924,348.71	3,727,531,09	894,249.08	*b*	536,629.84	2,254,181.40	429,031.14	993,714
1899	134,671,258.68	3,683,794.27	715,191.26	*b*	522,496.49	2,151,578.85	465,805.63	991,519
Total	2,338,559,870.58	51,351,104.16	15,181,708.12	309,278.11	12,092,178.63	44,442,110.75	7,795,115.67	.....

a Approximate. *b* Now included in Army. NOTE.—Up to June 30, 1865, disbursements for pensions amounted to $104,723,000

BIBLIOGRAPHY

In the preparation of this monograph, the principal sources of information have been the records and public documents of the various departments of the government of the United States. The following have been used: *Annals of Congress*, *Congressional Debates*, *Congressional Globe*, *Congressional Record*, *Senate Journal*, *House Journal*, *Senate Reports of Committees*, *House Reports of Committees*, *House Executive Documents*, *Message and Documents*, *State Papers*, *Reports of the Commissioner of Pensions*, *Reports of Cases argued and adjudged in the Supreme Court of the United States*, *United States Statutes at Large*, and *Statistical Abstract of the United States*.

The writer has also examined a large number of newspaper and magazine articles, compilations of laws, and other works which have proved of but little value for his purpose. In addition to the public documents mentioned above, the following authorities have been found useful and are cited in the footnotes:

Acts and Laws of His Majesty's Colony of Rhode-Island and Providence-Plantations in New-England, in America. Newport, 1745.

The Acts and Resolves, public and private, of the Province of Massachusetts Bay (1692–1780). 5 vols. Boston, 1869–86.

American State Papers, Documents, Legislative and Executive. Folio, 38 vols. Washington, 1832–61.

Archives of Maryland, edited by William Hand Browne. *Proceedings of the General Assembly* (1637–92). Baltimore, 1883–94.

Benton, Thomas Hart, *Abridgment of the Debates of Congress.* 15 vols. New York.

Boutell, Lewis Henry, *The Life of Roger Sherman.* Chicago, 1896.

Bureau of Pensions, its Officers and their Duties. The Manner in which the Work of Adjudicating Claims is Performed. Washington, 1893.

Carson, H. L., *The Supreme Court of the United States.*

The Colonial Laws of New York from the Year 1664 to the Revolution. 5 vols. Albany, 1894.

The Forum. New York, 1893.

Hening, William Waller, *The Statutes at Large, being a Collection of all the Laws of Virginia from the First Session of the Legislature in the Year 1619.* 13 vols. New York, Philadelphia and Richmond, 1819–23.

The Independent. New York, 1898.

Journals of the American Congress from 1774 to 1788. 4 vols. Washington, 1823.

Journal of the Twenty-second Annual Session of the National Encampment, Grand Army of the Republic. Minneapolis, 1888.

Laws of the Commonwealth of Pennsylvania. 4 vols. Philadelphia, 1810.

Laws of the United States Governing the Granting of Army and Navy Pensions, together with the Regulations Relating thereto. Bureau of Pensions. Washington, September, 1896; September, 1897; May, 1899.

McMaster, John Bach, *History of the People of the United States from the Revolution to the Civil War.* 4 vols. New York, 1883–95.

Mason, Edward Campbell, *The Veto Power, Its Origin, Development and Function in the Government of the United States* (1789–1889). Boston, 1891.

Niles' Weekly Register. Baltimore, 1811–49.

The Papers of James Madison, edited by Henry D. Gilpin. 3 vols. Mobile, 1842.

Records of the Colony of New Plymouth in New England. 11 volumes in 9. Boston, 1855–61.

Records of the Colony of Rhode Island and Providence Plantations in New England (1636–1792), edited by John Russell Bartlett. 10 vols. Providence, 1856–65.

Records of the Governor and Company of the Massachusetts Bay in New England. 5 vols. in six. Boston, 1853–54.

Thayer, James Bradley, *Cases on Constitutional Law, with Notes.* 2 vols. Cambridge, 1894–95.

A Treatise on the Practice of the Pension Bureau. Compiled by order of the Commissioner of Pensions. Washington, 1898.

Wells, William Vincent, *The Life and Public Services of Samuel Adams.* 3 vols. Boston, 1865.

The Writings of George Washington. Collected and edited by Worthington Chauncey Ford. 14 vols. New York and London, 1889–93.