



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

B-49485-O.M.

Chief, Claims Division:

Returned herewith are the papers pertaining to the claim of for \$510.12 and \$336.55, representing the amounts of two judgments rendered against the United States in his favor under dates of October 23, 1928, and November 20, 1928. The facts with respect to the action heretofore taken by this office in the matter are, briefly, as follows: It appears that actions were brought in the United States District Court for the Northern District of California under authority of the act of June 7, 1924, 43 Stat. 595, which act conferred jurisdiction on the said court to hear and determine the claims of American citizens for losses sustained through Government intervention with sealing voyages in the Bering Sea during the years 1886 to 1896; that judgments were entered in favor of the claimant in the amounts claimed, and that an appropriation for the payment thereof was made by the Congress, which appropriation, by reference to Senate Document No. 192, 70th Congress, 2d Session, specifically stipulated the person and the amounts to be paid. It further appears that, under date of October 3, 1945, this office disallowed the judgment creditor's claim for the reasons stated in the settlement as follows:

"The act of October 9, 1940, 54 Stat. 1061 (31 U.S.C. 71a), a copy of which is forwarded herewith bars claims against the United States if not filed in this office within 10 full years after the date such claim first accrued, and the rights so barred include those cognizable by this office under section 305 of the Budget and Accounting Act directing that claims and accounts 'be settled and adjusted in The General Accounting Office.'

"Your right to file claims for payment of the judgments accrued when the judgments were rendered, i.e., October 23, 1928, and November 20, 1928, and claims not having been presented to this office until August 1945, the same are now barred, since the adjudication of your rights by the court did not of itself make payment automatic without further effort on your part. Accordingly, there exists no authority for payment of the amounts claimed."

The limitation in the act of October 9, 1940, is applicable only to claims and demands cognizable by the General Accounting Office under section 305 of the Budget and Accounting Act and the act of April 10, 1928. See B-13283-O.M., December 10, 1940; B-30743-O.M., December 28, 1942; B-39330-O.M., March 14, 1944. The act of February 18, 1904, 33 Stat. 41, provides that payments of final judgments rendered against the United States by district courts of the United States, to be made under appropriations by Congress, shall be "on settlements by the auditor for the department or branch of the public service having jurisdiction over the subject-matter out of which the claim arose."

By section 304 of the Budget and Accounting Act the powers and duties conferred or imposed by law upon the Comptroller of the Treasury or the six auditors of the Treasury Department were vested in and imposed upon the General Accounting Office. Consequently, said section 304 necessarily affected an amendment of the said act of February 18, 1904, by substituting the words "General Accounting Office" for the words "auditor for the department or branch of the public service having jurisdiction over the subject-matter out of which the claim arose." See 31 U.S.C. 228. But otherwise, the said act of February 18, 1904, is still in full force and effect. See A-12287, February 29, 1928. And it is pursuant to authority conferred by the said 1904 act rather than pursuant to authority conferred by section 236, Revised Statutes, or section 305 of the Budget and Accounting Act that the General Accounting Office settles claims or demands for payment of final judgments against the United States rendered by district courts of the United States. This distinction was clearly drawn in A-97256, November 3, 1938, wherein it was stated that the question presented for decision in that case was controlled by "the law relating to the payment of judgments against the United States, as distinguished from the law and regulations applicable to the filing, settling and payment of claims and demands as contemplated by section 3 of the act of March 3, 1817, 3 Stat. 366, carried into the Revised Statutes as section 236 and now embodied in section 305 of the Budget and Accounting Act of June 10, 1921, 42 Stat. 24."

Accordingly, the limitation in the said act of October 9, 1940, is not applicable to this and similar cases.

(s) Lindsay C. Worrel

Comptroller General  
of the United States

Enclosures.