



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-111945

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Martin & Tate, Attorneys and Counselors
Union Planters National Bank Building
Memphis, Tennessee

Gentlemen:

Reference is made to your letter of August 28, 1952, in effect, requesting review of certificate of settlement No. _____, dated August 21, 1952, wherein Mr. _____ was allowed the amount of \$880.93 in satisfaction of an award in his favor in the judgment rendered in the case of _____, et al. v. United States of America.

The judgment awarded Mr. _____ "the principal sum of \$623.55, together with the additional sum of \$177.71 as interest to the date of this judgment, being the total amount of \$801.26." The latter amount plus \$79.67 representing interest on the principal sum of \$623.55 at the rate of four per centum per annum from March 26, 1949, the date of the judgment, to June 5, 1952, the date of the appropriation act, equals the amount of \$880.93 allowed in the cited settlement. It is contended in your letter that interest should have been computed on the total amount of the judgment (\$801.26) since the interest in the amount of \$177.71 was allowed in the judgment as just compensation under the Fifth Amendment to the Constitution of the United States and that interest should have been allowed for thirty days after the date of approval of the appropriation act.

The settlement has been carefully reviewed and it has been determined that interest should have been computed on the total amount of the judgment (\$801.26) from March 26, 1949, the date of the judgment, to June 5, 1952, the date of the appropriation act. A supplemental settlement will issue for the additional amount due in the next few days. However, no interest is due for any period subsequent to the date of the appropriation act for the following reasons.

This suit was instituted under the provisions of the act of March 3, 1887, 24 Stat. 505, as amended, section 10 of which provides in pertinent part, as follows:

"From the date of such final judgment or decree interest shall be computed thereon, at the rate of four percentum per annum, until the time when an appropriation is made for the payment of the judgment or decree."

While this provision of law was specifically repealed by section 39 of the act of June 25, 1948, 62 Stat. 992, which act revised, codified and enacted into law title 28 of the United States Code, the same section further provides that "Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal." It thus seems clear that, even though Title 28, section 2411, United States Code, authorizes the payment of interest on judgments in actions instituted under Title 28, section 1346, United States Code, up to, but not exceeding, thirty days after the date of approval of the appropriation act, it in no way affects any rights or liabilities existing prior to September 1, 1948, the effective date of the cited act of June 25, 1948, there being no question that the instant cause of action accrued prior thereto.

It further is stated in your letter that the appropriation act requires the interest to be paid up to, but not exceeding, thirty days after date of approval of any appropriation act. The appropriation providing for payment of the instant judgment is contained in Chapter XIII of the Third Supplemental Appropriation Act, 1952, Public Law 375, approved June 5, 1952, 66 Stat. 121, which provides, in pertinent part, as follows:

"For payment of * * * judgments rendered against the United States * * * together with such amounts as may be necessary to pay interest (as and when specified in such judgments or in certain of the settlements of the General Accounting Office or provided by law) * * * Provided further, That, unless otherwise specifically required by law or by the judgment, payment of interest wherever appropriated for herein shall not continue for more than thirty days after the date of approval of this Act."

The body of this appropriation appropriates the necessary amount to pay interest on this judgment as specified in the judgment or provided by law. The judgment itself does not provide for payment of interest after its date and as explained above, the law authorizes the payment of interest on this judgment only until the date of the appropriation act. The proviso to this appropriation does not authorize the payment of interest up to, but not exceeding, thirty days after the date of approval of the appropriation act, but to the contrary, the effect of the proviso is to limit the body of the appropriation, that is, to prohibit the payment of interest for more than thirty days after the date of approval of the appropriation act in certain cases not here material.

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Accordingly, with the exception of the additional interest due for the period March 26, 1949 to June 5, 1952, the settlement of August 21, 1952, is correct, and, upon review, it is sustained.

With reference to your letter of October 25, 1952, requesting advice as to when the remaining checks may be expected, you are advised that settlements in the remaining cases have been withheld pending determination of the questions raised in your letter of August 28, 1952, which questions are answered herein, but instructions have been issued today that settlements in those cases be expedited and the checks should be received in the near future.

Very truly yours,

Lindsay C. Warren

Comptroller General
of the United States