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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

December 14, 1973

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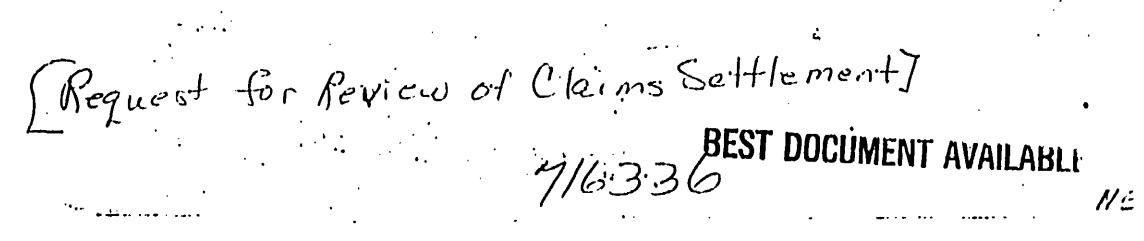
Mr. Howard U. Constantine III Route #1, Box 435 Sykesville, Maryland 21784

Dear Mr. Constantine:

Further reference is made to your latter of April 6, 1973, in affect requesting review of settlement of our Transportation and Claims Division dated March 30, 1973, which denied your claim for an amount believed due you as an heir of Raymond P. Long, service number 6070012, who died on June 16, 1942, while serving as a private in the United States Army.

Our Transportation and Claims Division advised you that we ware precluded from giving favorable consideration to your claim of January 16, 1973, filed as nephew of the deceased. You ware advised that the records pertaining to claims in the case of Raymond P. Long had been destroyed pursuant to law in accordance with our procedure pertaining to claims against the United States, such as this, in which there has been no activity for a period of 12 years of more. As the settlement pointed out, subsidiary records revealed that allowances were issued on June 12, 1946, October 10, 1946, in the amount of '\$614.68', and on November 6, 1946, but in general, the subject matter of the claims, the amounts allowed, the identity of the person or persons to whom payment was mode could not be ascertained, and further information was not available.

and that the remaining three shares were reserved for the other twobrothers and the child of the dead sister.



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The act of October 9, 1940, as codified in 31 U.S.C. 71a, 237, provides in pertinent part as follows:

> "(1) Every claim or demand* * * sgainst the United States cognizable by the General Accounting Office under sections 71 and 236 of this title shall be forever barred unless such claim * * * shall be received in said of ice within ten full years after the date such claim first accrued: * * *."

The record fails to show that either you or your legal represontative filed a claim with the General Accounting Office within 10 years from October 20, 1945, the date of receipt of proof of the decedent's death, which is the date the claim first accrued.

Your claim therefore is barred from consideration by this Office by virtue of the 1940 act. See decision B-174969, February 22, 1972, copy enclosed.

While it is unfortunate that neither you nor your legal guardian was aware of your right to claim the one-fifth share, the 1940 law provides no exceptions in such circumstances nor is there any authority contained therein under which this Office may waive any of the provisions of that act or make any exceptions to the time

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B-178554

In view of the above, there is no further action which this Office legally may take on your claim. • • • •

Sincerely yours, • • Paul C. Dembling

For the Comptroller General of the United States

Enclosure . . .

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