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### Report : Claim of the Estate of J. Whitfield

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## IN THE SENATE OF THE UNITED STATES.

MARCH 23, 1892.—Ordered to be printed.

Mr. FAULKNEE, from the Committee on Claims, submitted the following

## REPORT:

[To accompany S. 242.]

The Committee on Claims, to whom was referred the bill (S. 242) for the relief of the estate of John W. Whitfield, have carefully examined the same and report as follows:

Your committee adopt the following report, submitted by the Committee on Claims of the House of Representatives, as fully and fairly setting forth the facts of this case:

From evidence submitted to the committee John W. Whitfield was a register of the land office in the Delaware land district in Kansas from August, 1857, to June, 1861, and that Daniel Woodson was a receiver of public moneys in said district during said time.

Congress on the 18th of August, 1856, in the seventh section of "An act making appropriations for certain civil expenses of the Government," enacted—

"That in the settlement of the accounts of registers and receivers of the public land offices, the Secretary of the Interior be, and he is hereby, authorized to allow, subject to the approval of Congress, such reasonable compensation for additional clerical services and extraordinary expenses incident to said offices as he shall think just and proper, and report to Congress all such cases of allowance at each succeeding Congress, with estimates of the sum or sums required to pay the same." (Statutes at Large, Vol. 11, p. 91.)

On December 21, 1860, Moses Kelly, the Acting Secretary of the Interior, settled the account of John W. Whitfield as register of the land office, and of D. Woodson as receiver of public moneys in said district, for clerical services, office rent, etc., under said act, and allowed them \$12,857.92, and on said day he reported said sum to Congress for appropriation, as required by said act of 1856. This sum was made up as follows:

Amount allowed Register Whitfield for clerk hire .....	\$7,383.00
Amount allowed Receiver Woodson for clerk hire .....	3,150.00
<b>Total allowed both officers for clerk hire .....</b>	<b>10,533.00</b>
Amount allowed Register Whitfield for office rent, as per voucher No. 3 .....	845.80
Amount allowed Register Whitfield for fuel and lights, as per voucher No. 2 .....	316.66
Amount allowed Receiver Woodson for office rent, as per voucher No. 1 .....	845.80
Amount allowed Receiver Woodson for fuel and light, as per voucher No. 4 .....	316.66
<b>Total sum allowed both officers for clerk hire, rent, etc. ....</b>	<b>12,857.92</b>
Amount appropriated on February 19, 1861, to pay for clerk hire (12 Stat., 133) .....	10,533.00
<b>Balance of sum allowed for office rent, fuel, and light, not appropriated .....</b>	<b>2,324.92</b>

Only \$10,533, allowed both officers for clerk hire, was appropriated by the appropriation act of February 19, 1861 (12 Stat., 133). No appropriation has yet been made to pay the sum of \$2,324.92, due to said officers for office rent, etc., as per report of settlement on December 21, 1860; nor does it appear that the Secretary of the Interior reported to any succeeding Congress for appropriation the sum of \$2,324.92 remaining due to said officers.

The Acting Secretary of the Interior, in said report of December 21, 1860, in these cases says:

"The register and receiver for the Delaware land district, Kansas, appear to have proceeded in this matter according to the law of August 18, 1856. Their expenses for clerk hire, office rent, etc., during the three years mentioned, have amounted to \$12,857.92, or a little over \$4,000 per year, which is regarded as reasonable in view of the unusually large quantity of land sold and located at that office during this period of time."

The late John W. Whitfield, deceased, became a surety on the bond of W. W. Dennison, an Indian agent, in March, 1857, who in March, 1861, was supposed to be a defaulter to the United States, in consequence of which the Secretary of the Interior, on March 28, 1861, instructed the Commissioner of the General Land Office to withhold payment of any moneys due to the said Whitfield as register, etc., "whilst the matter of his liability on the official bond of Mr. Dennison remains unadjusted." In April, 1861, the attorney of the said Whitfield, in writing, requested the Commissioner of Indian Affairs "to ascertain the actual amount due by him (Dennison), that his sureties may take early and prompt measures to cover the amount of any defalcation, if it can be done."

Mrs. Sarah B. Whitfield, widow, and administratrix of the estate of the late John W. Whitfield, deceased, made application for the special adjustment of the account of said Whitfield, as late register of the land office in said district, which she was unable to obtain; and that she also requested a settlement of the account of the said W. W. Dennison, as late Indian agent, and that in 1885 she made a proposition of compromise in the case of the said Dennison, which the Solicitor of the Treasury refused to recommend; and that in 1887, more than a quarter of a century after the said Dennison had ceased to be an Indian agent, the Solicitor caused a suit to be instituted against Mrs. Sarah B. Whitfield, widow, and John A. Whitfield, as the heirs-at-law of the said John W. Whitfield, deceased, on the bond of the said Dennison, as late Indian agent, in the circuit court of the United States for the western district of Texas, at the November session, 1887, No. 346.

During the Forty-ninth Congress H. R. bill No. 5470, appropriating \$1,162.46 for the relief of the estate of the late John W. Whitfield, deceased, late register, etc., was formally reported by the Committee on Claims, which was not acted on by Congress.

No just and final settlement of the accounts of said Whitfield, as late register, etc., can be made until the sum of \$1,162.46 due to him for office rent, etc., is appropriated to be placed to his credit, and as the administratrix of his estate can not institute any suit against the United States under any existing law, and as she can not claim any moneys, long withheld and due to said estate by the United States as a set-off in the trial of the suit now pending in said circuit court of the United States against the heirs at law of the said Whitfield, deceased, the said circuit court of the United States for said district should be empowered to try both suits and settle the accounts of the said Whitfield, deceased, as late register, etc., and determine the question whether the said Whitfield, deceased, or his heirs at law, are or are not indebted to the United States.

Your committee therefore recommend the passage of the bill (S. 242) with the following amendments:

Amend in line 7 by striking out the words "surviving wife" and inserting "widow of the late John W. Whitfield."

In line 8 by striking out the letter "s" in the word "heirs."

In line 29, by striking out the word "sole" and inserting "widow and," and in the same line by striking out the letter "s" in the word "heirs."

In line 40, after the word "therein" insert "subject to the right of appeal by either party."