

4-17-1894

Annual Settlement of the Public Accounts

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

S. Misc. Doc. No. 153, 53rd Cong., 2nd Sess. (1894)

This Senate Miscellaneous Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

IN THE SENATE OF THE UNITED STATES.

APRIL 17, 1894.—Ordered to lie on the table and be printed.

Mr. GALLINGER presented the following

JOINT REPORT:

FROM THE SECRETARIES OF THE DIFFERENT DEPARTMENTS
RESPECTING THE ANNUAL SETTLEMENT OF THE PUBLIC
ACCOUNTS, DECEMBER 6, 1816.

In obedience to the resolution of the Senate of the 20th of April last, requiring the Secretaries of the Departments to report jointly to the Senate, in the first week of the next session of Congress, a plan to insure the annual settlement of the public accounts, and a more certain accountability of the public expenditure in their respective Departments, the undersigned have the honor to report:

That in order to comply with the requisitions of the resolution, and to satisfy the just expectations of the Senate, it is necessary to inquire into the causes of the delay in the annual settlement of accounts, and the want of sufficient certainty in the accountability of the respective Departments, upon which the resolution is predicated.

An attentive review of the principles upon which the several Departments of the Government were originally organized, and of the changes which have necessarily been made in that organization, appears to be necessary at the threshold of this investigation.

By referring to the laws for organizing the several Departments of the Government, they will be found to be extremely general in their terms, leaving the distribution of the duties and powers of the Secretaries, in a considerable degree, to executive regulation. The law organizing the Treasury Department, however, specifically refers to that Department the settlement of all public accounts. The pecuniary embarrassments by which the Government was pressed at that period, requiring a system of the most rigid economy in the public disbursements, could not fail to give peculiar force to the idea, that the Department charged with the replenishments of the Treasury should have a direct control over the public expenditure. Under the influence of this idea, all purchases for supplying the Army with provisions, clothing, supplies in the Quartermaster's Department, military stores, Indian goods, and all other supplies or articles for the use of the War Department, were, by executive regulation, directed to be made by the Treasury Department.

The first important change which was made in the organization of the War Department was effected by the act of the 8th of May, 1792, which

created the office of accountant of that Department, and referred to that officer the settlement of all accounts relative to the pay of the Army, the subsistence of the officers, bounties to soldiers, expenses of the recruiting service, and the incidental and contingent expenses of the Department. The accounts settled by the accountant were to be certified quarterly and sent to the accounting officers of the Treasury for their revision. This act continues with the Treasury Department the power of making for the War Department, the purchases before enumerated.

On the 30th of April, 1798, the Navy Department was created. From the organization of the Government to this date the Secretary of War executed the orders of the President in relation to the Navy. On the 16th of July, in the same year, the office of accountant of the Navy was created and the settlement of all accounts in the Navy Department was referred to that office. On the same day the power of the Treasury Department to make contracts for the War Department was rescinded and all the accounts of that Department were thenceforward settled by the accountant.

The power of revision, both as to the accounts of the War and Navy Departments, was, and still is, reserved to the accounting officers of the Treasury. This power, however, from the period of the primary settlement of the accounts of the War and Navy Departments was withdrawn from the Treasury, ceased to be useful, and has been preserved merely for the sake of form. In the Treasury, balances or debts admitted on settlement are paid only upon the report of the Auditor, confirmed by the Comptroller, whose decision is final. In the War and Navy Departments the sums reported by the accountants to be due to individuals are paid without waiting for the revision of the accounting officers of the Treasury. This practice, which has been adopted in some measure from necessity, is not believed to be incompatible with the provisions of the law requiring that revision. The accountants of the War and Navy Departments are required to transmit quarterly all the accounts which have been settled to the Treasury Department for final revision. It could not have been the intention of Congress that an officer or an individual, to whom money was found to be due by the report of the accountant of either of these Departments, should wait for payment not only until the expiration of the quarter but until his accounts should be reexamined by the Auditor of the Treasury and also by the Comptroller.

The delays to which this course would necessarily have led must have produced a state of confusion which, in a short period, could not have failed to have obstructed all the operations of the Government. On the other hand, it is manifest that from the moment payments were made upon the settlement of the accountants, before the revisionary power of the Treasury officers was exercised, revision became useless. The leading feature of the organic laws of the Departments, that the settlement of the public accounts should exclusively rest with the Department which was charged with the replenishment of the Treasury, was substantially abandoned. The form, indeed, was preserved, but the vital principle was extinguished.

It is probable that more importance was attached to this principle by those who presided over the primary organization of the Departments than it intrinsically merits. The power of the accounting officers, whether belonging to the Treasury Department or to those in which the disbursements are made, to enforce economy in any branch of the public service, must necessarily be extremely limited.

In disbursements for the pay, subsistence, and clothing of the Army, whilst rations are furnished by contracts, the most rigid economy may be easily enforced. In the Quartermaster's Department, and where provisions are supplied by a commissariat, the accounting officers can exercise but a very limited control. The principal reliance of the Government for economy in those Departments must be upon the integrity of the persons employed. Over the contingent disbursements of the War and Navy Departments, which in time of war are considerable, and which, in all governments, are extremely liable to abuse, the accounting officers have still less control. For economy in that branch of the public service, the heads of those Departments must be responsible to the nation. From this view of the subject it appears not to be so important that the public accounts should be settled in the Treasury Department as that they should be promptly and finally settled.

Whatever diversity of opinion may exist upon this subject it is believed that there can be none upon the propriety of either returning to the principle upon which the Departments were originally organized, of referring the settlement of all public accounts immediately to the Treasury Department, or of finally settling the accounts of the War and Navy Departments without the intervention of the accounting officers of the Treasury. The former has the recommendation of unity and simplicity in theory, and it is believed that no serious inconvenience will result from it in practice. The latter would insure the prompt and final settlement of the accounts of the several Departments, but might possibly lead to the establishment of different principles in the settlement of the public accounts in the respective Departments. Under judicious regulations it is believed that the prompt and final settlement of the public accounts may be as effectually secured by the former as by the latter modification.

Whichever modification may be adopted, an increase in the number of the accounting officers appears to be indispensable. From the year 1792, when the office of accountant of the War Department was created, to the year 1798, when all the accounts of the War Department were referred for settlement to that officer, the military force of the United States was not so extensive as the present military peace establishment. The duties assigned the accountant at the former period was, as has already been stated, the settlement of all accounts relative to the pay of the Army, the subsistence of officers, bounties to soldiers, expenses of the recruiting service, and the contingent expenses of the War Department. The services required by that act are believed to be sufficient to give full employment to one accounting officer. By the act of 1798 the settlement of the accounts relative to the subsistence of the Army, the quartermaster's department, the clothing department, the purchase of arms and munitions of war, and to the Indian department, were referred to the accountant of the War Department.

The additional duties imposed upon the accountant by this act have been so great that some of the accounts of the War Department, nearly of the same date, remain still unsettled. It is, therefore, confidently believed that the duties imposed upon the accountant by this act require the undivided attention of another accounting officer.

In contemplation of the law the Comptroller of the Treasury revises all the accounts of the Government, for the purpose of correcting the errors both of fact and of law which may have been committed by the accounting officers, to whom their settlement is, in the first instance,

committed. He is likewise charged with the superintendence of the collection of the revenue arising from duties and tonnage, and directs the collection, by suit, of all debts due to the United States. It has been already stated that the revision of the accounts settled by the accountants of the War and Navy Departments by this officer has always been merely nominal. The enumeration just given of the extent and variety of the duties imposed upon him will satisfy every reflecting mind that they must continue to be so. Should this officer be relieved from the superintendence of the collection of imposts and duties and of suits for recovery of debts due the United States by the assignment of those the duties to another officer, still, it is believed, he would not be able to revise all the accounts of the Government so as to be, in fact, the check upon the auditing officers which the law contemplates. When the office of the Comptroller was created and the duties of that officer prescribed, the Auditor of the Treasury was the only accounting officer whose acts he had to revise. At present, he has to revise the settlements made by three accounting officers; and, according to the plan which it is the duty of the undersigned to propose, in order to insure the annual settlement of the public accounts there will be five accounting officers whose acts are to be revised. From this view of the subject the appointment of an additional comptroller appears to be indispensable.

It has been previously stated that the mass of business thrown upon the accountant of the War Department by the act of the 16th of July, 1798, has produced an arrearage in the settlement of the accounts of that Department almost coeval with that date. This observation was intended to apply to the accounts appropriately belonging to the Department, arising from the administration of the military establishment. But the accounts of the Indian department, without a solitary exception, have remained unsettled from that date to the present period. This has resulted from the fact that the Secretary of War is substantially the auditor of all the Indian accounts. It is also his duty to inquire into and decide upon all claims exhibited by the citizens of the United States for property stolen or destroyed by the Indian tribes to whom annuities are payable, and where they are proved to his satisfaction to direct compensation to be made to the injured party out of the annuity payable to the offending tribe. These duties, together with the examination of the contingent expenses of the Department, which must also receive his special sanction if duly attended to, would leave him no time to devote to the more important and appropriate duties of his station. The consequence has been that the Indian accounts have remained unsettled, and must continue so, until a different organization of the Department shall be effected.

It is obvious to the mind of every reflecting man that the duties imposed upon the Secretary of War in relation to the Indian department have no rational connection with the administration of the military establishment. From the view that has been presented it is conceived that the public interest requires that the Secretary of War should be relieved from further attention to those duties. It then becomes necessary to inquire whether those duties can, consistently with the public interest, be assigned to either of the other Departments. An examination into the duties required of those Departments, it is confidently believed, can not fail to produce the most decided conviction that no additional duties ought to be imposed upon them under their present organization. On the other hand, there is good reason

to believe that the public interest would be promoted by relieving those Departments of several branches of the public service at present committed to their respective charges.

The retrenchments which, with great advantage to the public interest, might be made in the duties now imposed upon the Secretaries of the respective Departments and the General Post-Office would furnish ample employment for the head of another independent department.

An appropriate assignment of duties to the chief of the new department would embrace the Territorial governments, the Indian Department, the General Post-Office, roads and canals, and the Patent Office, and such other branches of the public service as may be deemed expedient.

But the defects in the organization of the existing departments are not the only reasons why the public accounts are not annually settled.

The want of power to compel those to whom the collection or disbursement of the public money has been confided to render their vouchers and settle their accounts, when required, has largely contributed to swell the list of unsettled accounts. The power of dismissing from office for misfeasance or nonfeasance in office, especially with the collecting officers, is sufficiently coercive as long as the conduct of the officer will bear examination, and powerfully contributes to keep him in the line of his duty; but when the settlement of his accounts must expose his guilt, and especially when he has been dismissed from office, this coercion entirely ceases.

With disbursing offices, and particularly in the military establishment, this mode of coercion is much more feeble. In that department, too, there is the strongest reason for the adoption of the most vigorous measures to bring to a prompt and final settlement those who have been intrusted with the disbursement of money, particularly in the Quartermaster's and Paymaster's departments. Until the accounts of the quartermaster-general of an army or of a military district are settled it is impossible to settle the accounts of the deputies and assistants, the barrack-masters, forage masters, and wagon masters employed with the same army or in the same district. The same observation applies to the pay departments. Until the deputy paymaster-general settles his accounts, or at least until he renders his vouchers, none of the district, assistant district paymasters or regimental paymasters can settle their accounts. This observation applies to the several grades in both departments. Thus a single officer who knows himself to be a public defaulter may, by standing aloof, and by procrastinating the decisions of law after suit is brought, prevent for years the settlement of the accounts of other officers who may be solicitous to adjust them.

It is the peculiar province of the legislature to apply appropriate remedies for every evil disclosed by the practical operations of the Government. The one now under consideration, taken in connection with the inability of the accounting officers to settle annually the public accounts, has produced more serious consequences to the national treasury than every other united. The conviction on the part of an officer that his accounts can not, or will not, be settled for years, presents a certain degree of impunity to embezzlement and powerfully tempts to the commission of it. The necessity of resorting to an action at law to enforce the settlement of accounts, or to recover money embezzled by an officer, ought to be avoided, if it can be done, consistently with the provisions of the Constitution. In some of the States

this necessity is avoided, the public money retained by a revenue officer being collected by execution issued by the State treasurer. If this or a similar principle could be acted upon by the United States, embezzlement would not be frequent.

In conformity with these preliminary observations, the undersigned respectfully propose that it is expedient—

First. That another independent department of the Government be organized to be denominated the "Home Department."

That the secretary of this department shall execute the orders of the President in relation to—

- (1) The Territorial governments.
- (2) The national highways and canals.
- (3) The General Post-Office.
- (4) The Patent Office.
- (5) The Indian Department.

Second. That the primary and final settlement of all accounts to be made in the Treasury Department, and that the organization of that Department be modified so as to authorize the appointment of—

- (1) Four additional Auditors.
- (2) One additional Comptroller.
- (3) One Solicitor.

(4) That the Mint establishment be placed under the direction of the Treasury Department.

Third. That the office of accountant of the War and Navy Department and of the superintendent-general of military supplies be abolished.

Fourth. That the survey of the coast be confided to the Navy Department.

According to the modification here recommended, the—

First Auditor will be charged with the settlement of the public accounts accruing in the Treasury Department.

Second Auditor will be charged with the settlement of all accounts relative to the pay and clothing of the Army, the subsistence of the officers, bounties and premiums, the recruiting service, and the contingent expenses of the War Department.

Third Auditor will be charged with the settlement of all accounts relative to the subsistence of the Army, the Quartermaster's Department, the Hospital Department, and the Ordnance Department. Both of these Auditors will keep the property account connected with those branches of service in the War Department, confided to them respectively.

Fourth Auditor will be charged with the settlement of all accounts relative to the Navy Department. And the

Fifth Auditor will be charged with the settlement of all accounts relative to the State and Home Departments.

The First Comptroller being relieved from directing and superintending the recovery, by suits, of all debts due the Government, will revise all accounts settled by the First and Fifth Auditors.

Second Comptroller will revise all settlements made by the Second, Third, and Fourth Auditors.

The Solicitor of the Treasury will be charged with the recovery of debts due the Government, according to the forms prescribed by law.

It is probable that experience will suggest the propriety of making changes in the distribution of duties among the accounting officers of the Treasury. In order that they may be done with facility, and as

they shall be discovered to be necessary, it is respectfully recommended that the whole subject be left to executive regulation.

With this organization of the Departments the check contemplated by the revision of the Comptroller will be as effectual as it can be made. Money will then be paid in all the Departments upon the settlement of an auditor, only after it has been revised and approved by a comptroller.

If the Departments shall be thus organized, and vested with sufficient power to compel all officers employed in the collection or disbursement of the public money, to render their vouchers and settle their accounts, the annual settlement of the public accounts will be insured, and a more certain accountability established in the respective Departments.

If the officer intrusted with the recovery of money improperly detained by public officers was authorized to issue an execution for the sum appearing to be due, either upon settlement, or upon the failure to settle when called upon for that purpose, and that the execution so issued should be satisfied by the distress and sale of all the delinquent's property and that of his securities, one of the most formidable obstacles to the annual settlement of the public accounts would be surmounted.

It is believed that there is no constitutional objection to the adoption of this principle in relation to the officers of the Government who improperly withhold the public money. Under the law imposing the direct tax, the collector, on default of payment, is authorized to make the amount due by the levy and sale of the defaulter's property.

In this case there is, on the part of the defaulter, nothing but a breach of the general implied obligation which every citizen owes to the community to contribute to the wants of the State, in proportion to the property which he possesses. This breach may frequently be the result of inevitable necessity, and but seldom brings his integrity in question. In the case of the delinquent officer, there is, in most cases, a direct breach of special confidence involving the odious charge of speculation or embezzlement. Is there any reason why the remedy of the Government should be more summary in the former than in the latter case? Is there not, on the contrary, a clear distinction between the two cases entirely in favor of the tax defaulter? Can it be considered more important to the community that the revenue should be rigidly collected, than that it should be faithfully and honestly disbursed? Has the difference in the remedy arisen from the consideration that the one has withheld from the Government an hundred cents, which he ought to have paid, whilst the other has embezzled a thousand dollars of the public money thus summarily collected?

There can be no doubt that the different remedies in the two cases have resulted from the want of sufficient reflection, and not from design. The subject is now presented to the view of the Senate, and no doubt is entertained that that enlightened body will satisfy the demands of reason and of justice. It may be proper to observe, that the principle now recommended has been applied by the laws laying direct taxes, to the collectors of the internal revenue. The legislature, in relation to that class of officers, has even authorized the arrest and imprisonment of collectors who fail to collect, or neglect to pay after collection, and the seizure and sale of the property, real and personal, of his securities during their imprisonment. As the principle has already been applied to cases arising out of the collection of the revenue, it is respectfully con-

ceived that reasons more cogent call for its application to the disbursing officers of the Government. The different rules established in relation to those two classes of officers, if persevered in, can not fail to present the idea that the Government is more astute in devising means to raise and collect revenue, than in enforcing a faithful application of it when collected.

JAS. MONROE.

WM. H. CRAWFORD.

GEO. GRAHAM.

Acting Secretary of War.

B. W. CROWNINSHIELD.

Hon. JOHN GAILLARD,

President pro tempore of the Senate.

DECEMBER 6, 1816.

