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Cleveland's Pension Reforms

Randle Russell Richmond

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CLEVELAND'S PENSION REFORMS

A Thesis Presented in Partial Fulfillment of the Requirements for the Degree of Master of Arts

by

Randle R. Richmond

University of North Dakota 1933
This thesis, submitted by Randle R. Richmond in partial fulfillment of the requirements for the Degree of Master of Arts, is hereby approved by the Committee of Instruction in charge of his work.

[Signatures]

Chairman

Director of the Graduate Division
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Chapter I
PENSION ATTORNEY FEE LEGISLATION
1870-1884

President Cleveland took office on March 4, 1885. One of his first tasks was the reorganization of the Pension Bureau in the Department of the Interior. Under Republican administration the Pension Bureau had functioned as a vote getting machine in the last political campaign. Cleveland, after a careful study of the problem, inaugurated many reforms in the general administration of the Pension system. He was aided in his study and reforms by the testimony and findings in the report of an investigating committee appointed by the House of Representatives. This committee made its report on March 3, 1885, the day before Cleveland took office.

The campaign of 1884 which resulted in Cleveland's election was bitterly contested. Partisan feeling ran high. When Congress met in December, 1884, the Democratic House appointed several committees to investigate certain transactions of the Republicans during the previous summer and fall. One of these committees, the select committee on payment of pensions, bounty and back pay, inquired into the circumstances connected with the passage of the act of July 4, 1884, allowing a fee of twenty-five dollars to pension claim agents. They investigated fully the activities of certain pension attorneys in promoting the passage of the act. The committee, further, investigated the
administration and conduct of the Pension office in connection with its political activity during the campaign of 1884.

The select committee first examined into the passage of the act of July 4, 1884, which allowed a fee of twenty-five dollars to pension attorneys. Two considerations prompted them in their probe of this law. Rogers of the committee had sponsored a fee measure in the last session of Congress. He had been absent from Congress during the final passage and enactment of the law of July 4, 1884. Rogers had supposed until December, 1884, that it was his fee measure that had been incorporated into the law. When he found that the act was being interpreted widely different from his construction of the measure, he was led to the discovery that the act was in no sense his. A substitute fee measure had been adopted and enacted into law in place of his measure. A cursory examination of the act of July 4, 1884, showed it to be in the interests of pension attorneys and against the interests of the soldier claimants.

Investigation into the history of the act led back to a study of the act of July 8, 1870. This act allowed pension attorneys to collect a legal fee of ten dollars for completion of pension cases or as much as twenty-five dollars in case of a contract between attorney and claimant. The law further provided that the Commissioner of Pensions should approve such contract. The act was also retroactive, providing that in addition to new cases filed under the law, attorneys could make contracts with claimants upon any case then on file and unsettled in the Pension office. The legal fee for pension attorneys had been
ten dollars before the passage of this act. The retroactive feature of the act of July 8, 1870, allowed the attorneys to raise the fee (in cases in which they were actually in charge) from ten dollars to as much as twenty-five dollars, provided their clients signed an agreement to that effect. When the case was finally allowed by the Pension office, the fee was paid to the attorney and deducted from the claimant's pension by the Bureau. This much of the act of 1870 was substantially the same as the act of July 4, 1884. The interpretation of the two laws by the Pension commissioners differed widely, however, in respect to the contract fee that should be paid. The retroactive feature of the act of 1870 was a potential "windfall" to the attorneys. By coercion or misrepresentation they could generally get their claimants to contract for the increased fees. Dr. Van Aernam, Commissioner of Pensions in 1870, interpreted the law in such a way as to prevent attorneys from capitalizing on the fee clause to the fullest extent. Instead of approving the contract as to form only, Van Aernam read the law to mean that such sum as he saw fit to allow, within the face of the contract, should be paid. So, while the contract might read as of twenty-five dollars, Van Aernam might only allow ten, fifteen or twenty dollars. He based his decision on the seeming difficulty of each case. An act was passed in 1873 sanctioning this interpretation of the Commissioner. The act of July 8, 1870, with the exception of the retroactive feature, was on the whole beneficial to the claimants under the administration of Commissioner Van Aernam. The payment was made by the
government only after the attorney had completed the case. Van Aernam furthermore limited the fees in proportion to the difficulty of the case.

Commissioner Bentley in 1877 complained of the duty of determining the amount to be paid the claim agent notwithstanding the contract. He said that it was almost impossible to perform this duty in an equitable and satisfactory way. The department was being flooded with a large number of claims, some of them without merit. Bentley recommended that a law be enacted fixing the amount of the fee to be paid in all cases. This would relieve him of all discretionary powers in determining the amount to be paid to the claim agents.

On June 20, 1878, an act was passed in accordance with Bentley’s suggestions. The fee was set at ten dollars in all cases. No attorney could charge more than this amount for his services. No contracts were allowed to be filed in the Pension office and the attorneys were to look to the claimants for the payment of the fees in all instances. There was nothing in the bill to prevent the claim agents from collecting their fees in advance providing the claimants were willing to pay them. The value of contracts under the old law on cases pending in the Pension office was not impaired by the act of 1878. The office was to allow the contractual fee in all of these pending cases as fast as they were completed.

The act of 1878 was opposed by claim agents who kept up a continual fight for its repeal. Their desires were realized with the passage of the act of July 4, 1884, which repealed the
previous act. It was accomplished chiefly through the efforts of George E. Lemon, the most prominent pension attorney in Washington, D. C.

There were, however, serious defects in the law of 1878 which gave rise to many abuses. The fee of ten dollars was no doubt too small a remuneration for the work done in a large number of cases. Under the act of 1870 attorneys were paid by the government from the claimant's pension when the claim was completed and allowed. The Commissioner also had discretionary control of the fee allowance in each case. Under these wise provisions claim agents would refuse to accept all but the meritorious cases. They knew that only these claims would be able to pass inspection by the Commissioner of Pensions. Under the new law, however, attorneys were not paid through the government. The collection of their fee became distinctly a personal matter between attorneys and claimants. The collection of the fee became the chief interest of the claim agent in many cases. Unscrupulous attorneys would file any kind of a claim, good or bad, providing they saw a chance to secure a fee from the claimant. Claims were even filed for confederate soldiers! Commissioner Dudley wrote to his superior, Secretary of the Interior Teller, complaining of this practice in 1883 and 1884. Testifying before the committee, Dudley said:

"In point of fact, agents of this character filed a great many cases for Confederate soldiers. They would file a case for anybody that they could get to make a claim, their object being merely to get the ten dollars. Sometimes they would get the letter of rejection in a non-meritorious or barred case, and would hold it without informing the claimant until
after they had got the full ten dollar fee. I have known cases where these men have held letters of rejection for a year, taking care to get the money meanwhile.9

The claim agent would try to get the fee with the case. As soon as the case was filed and often before any material work had been completed, the attorney would dun the claimant. Unscrupulous attorneys, if successful in collecting the full amount of the fee, would thereupon drop the case in many instances. The claimant would be forced to seek a new attorney and would still be subject to the same nefarious practices, to say nothing of the delay caused in prosecuting the claim. In 1884, Chairman Warner characterized such operation of the act of 1878 in the following words:—

"In such cases the first man gets all he can out of the claimant and then turns him over to be operated upon by someone else."10

This latter procedure had given rise to a number of pension attorney "rings" organized specifically for the purpose of "milk-ing" the claimant. They would rob their victims of from twenty to thirty dollars each, in this way: The claim agent would send out pension petitions to be signed by the soldiers. The attorney would get the names and addresses of soldiers in this way. He then copied the names for his own records, but he may or may not send the petitions to Congress.

He next circularized each soldier. The soldiers would usually answer questions in regard to their health during and after the war.

After the statements were received by the attorney, he would send each soldier a pension application blank. He would tell the
soldier he believed him to be entitled to a pension.

The application when returned is filed in the Pension office. The attorney would then ask the claimant for three or five dollars as a part of the fee allowed by law.

When the Pension office called for more evidence, the attorney would write the claimant for it and another installment of the fee. When the attorney had received ten dollars in full, he lost all interest in the case.

Suppose the claim is allowed. The entire fee has been paid. The attorney firm would then organize within themselves another firm, called by a different name. They would write the pensioner asking him to apply for an increase of pension. The petition is sent and they go to work until they get ten dollars more.

Suppose this claim is disallowed. Then another organization within the same body of attorneys is formed. They would tell the claimant that they saw in the Pension office that his claim was rejected. They might say: "Your claim has been rejected; it ought to have been allowed. Send a petition to have the case re-opened." The petition would usually be sent; and these agents would get another ten dollars from the same claimant, until they had collected from twenty to thirty dollars in each case.

Claimants who had been robbed appealed to their Congressmen. The latter would write the Pension office in regard to the claims. The Office spent a great deal of time in looking after these cases. Speaking of the act of 1878, Rogers of the committee said:-
"Under this law grew up a system of impositions, frauds and villainies, difficult to believe and hard to describe. Claims utterly worthless with no semblance of justice were trumped up and filed, the attorney of course demanding and taking whatever he could get.

"The effect of all this was to choke the Pension office with applications. It could not cope with the flood of false and fraudulent claims that came in. It also tended to drive reputable attorneys from the business."13

Commissioner Dudley had repeatedly advocated repeal of the act of 1878. In his annual report to the Secretary of the Interior, Teller, in 1883, he re-affirmed his opposition to the act as stated in his annual reports of 1881 and 1882. He expressed himself as in favor of the substantial re-enactment of the act of July 8, 1870. Dudley suggested several safeguards for the claimants which he thought should be incorporated into the new act. The fee should be reasonable. The contractual fee between attorneys and claimants should be subject to the approval and discretion of the Commissioner of Pensions. Payment of the fee should be made only after the successful prosecution of the claim. The government should pay the fee. It would be deducted from the claimant's pension. Claimants should receive full credit for any part of the fee that had been paid in advance.

When Congress met in December, 1883, committees in the House and Senate drew up fee bills which they hoped would correct the evils of the act of 1878.

Dudley, Commissioner of Pensions, favored a twenty-five dollar fee bill on account of the political usefulness of the pensioners to him.

Republican leaders had forced Garfield to appoint Dudley as
Commissioner. The office came to Dudley as a reward for his party services in the campaign of 1880. He recognized the enormous political power than old soldiers could exert. To organize the Office and these old soldiers for party purposes, seemed to be Dudley's chief aim. He had three and a half years to prepare his "machine" for use in the next presidential campaign. In case of Blaine's election, Dudley apparently hoped to be made Secretary of the Interior. He took a leading part in the campaign in Indiana and Ohio during 1884.

This neglect of duty on Dudley's part led to a House investigation after the election.

While in office, Dudley's every step had been taken with the political usefulness of pensioners in mind. He had asked for more clerks to facilitate the disposal of pending claims. Assisted by the G. A. R. organization, he began work on a directory of all Union soldiers of the Civil war. This directory was to prove useful in future political campaigns.

On the other hand, Dudley attacked the disreputable claim agents and attorney "rings." He thought that the act of 1878 could be construed so as to eliminate them. He voiced that opinion in a letter to Teller, on December 19, 1883. Dudley asked Teller to issue an order barring claim agents from receiving fees until the case was completed. Dudley said:

"It would thus seem to be a matter of public policy to formulate and promulgate an order or ruling of the nature of the one above indicated, for the protection alike of the interests of claimants and of the Government, and for that purpose the same is most respectfully but earnestly recommended."
Nothing ever came of the letter. Teller had the power to suspend or debar claim agents for violation of the law on recommendation of Dudley. On January 8, 1884, Dudley recommended that N. W. Fitzgerald and Co., an attorney "ring," be debarred from practice in the Pension office. He preferred five charges against the firm, all of them involving gross violations of the pension laws.

Dudley, further, favored the claimant instead of the attorney when interpreting Teller’s pension orders. He construed these orders in favor of the claimants as against Lemon, a pension attorney, in three different instances.

The Commissioner had advocated the repeal of the fee act of 1878 and the enactment of a new twenty-five dollar bill. This was logical, for Dudley had worked hard to secure the good will of the old soldiers. He was a politician and he wanted the soldier vote.

Congress met in December, 1883. Dudley worked with the House select committee on payment of pensions, bounty and back pay, in perfecting a twenty-five dollar pension fee bill.

The Senate pension committee also had a twenty-five dollar fee bill called the Hawley bill. Originally it had contained a retroactive clause. This had been changed by the committee so as to prevent the filing of twenty-five dollar contracts on the 1878 cases. The Hawley bill met Dudley’s substantial approval.

George E. Lemon favored a bill allowing a twenty-five dollar fee to claim agents. He, himself, was a claim agent,
the most prominent one in Washington, D. C. As soon as fee legislation was introduced in Congress he hired counsel to look after his interests. He engaged two attorneys on a contingent basis. They were to receive $3,500 if his bill passed and nothing if it did not.

Lemon had emerged from the Civil War with a captain's commission. Capitalizing his wartime services in order to secure clients, he set himself up in the claim business in Washington, D. C. He had at this time not less than 125,000 claims.

In addition to his claim business, Lemon owned The National Tribune, a weekly newspaper, which he had established in 1877. This soldier's weekly had 112,000 bona fide subscribers. Free copies were sent out occasionally, to advertise the paper and George E. Lemon's claim business. One such edition numbered 560,000 copies.

Lemon posed as a friend of the soldiers. The G. A. R. believed he was loyal to their interests. Just how much of a soldier's friend Lemon was, may be seen by an examination of the act of July 4, 1884, which he put through Congress. The Commander-in-Chief of the G. A. R., Paul Van Der Voort, named Lemon as one of his aides-de-camp in 1882. He was named on account of the valuable services rendered the G. A. R. by The National Tribune. Van Der Voort retired as Commander-in-Chief in 1883 and was appointed on the pension committee of the order by the new Commander. During the same year Van Der Voort entered Lemon's employ. Lemon's Tribune was assisting the G. A. R.
in establishing new posts. At the National Convention of the G. A. R. in 1884, the Tribune was credited with having sent out over 250 applications for post charters. In the spring of 1884 the Tribune hailed John A. Logan of Illinois as the soldiers' candidate for President on the Republican ticket. Later the Convention met and nominated Blaine for President and Logan for Vice President. The Tribune reconciled itself to the new alignment, but continued to push the sale of a life of Logan throughout the campaign.

Lemon was not friendly towards Dudley. The latter had refused to allow Lemon to defraud pension claimants in a number of cases. Dudley's new fee bill gave the Secretary of the Interior more power in ruling against unscrupulous attorneys.

In the G. A. R. convention of 1884, Van Der Voort, representing Lemon's views, attacked the administration of Commissioner Dudley.

Lemon was a power to be reckoned with in any legislation affecting the soldier. He was opposed to the "Bentley Sixty Surgeon Bill" a few years before. The bill had been suggested by Commissioner Bentley in 1876. It provided for a full and open hearing, on the part of the government, of all evidence submitted in support of a claim. Sixty highly qualified surgeons were to replace the fifteen hundred more or less inefficient medical examiners. Bentley believed that adoption of his bill would eliminate frauds.

He knew that a large number of fraudulent claims were continually being filed through the connivance of one or more of
the respective groups of claimants, medical examiners, and claim agents. Lemon said that he had expended time and money in opposing the bill. A witness swore that Lemon had told him that he (Lemon) had spent $12,000 in defeating the bill. Lemon denied the assertion.

Teller, Secretary of the Interior, favored a bill allowing a twenty-five dollar fee to claim agents. Teller was a former Senator from Colorado and had been chairman of the Senate pension committee. His committee had recommended a twenty-five dollar fee bill. This bill had passed the Senate but was defeated in the House on account of the retroactive clause it contained. Had the bill passed, claim agents would have received fifteen dollars additional on each of a large number of claims that they had taken for ten dollars. In 1884, Teller was again a candidate for the Senate from Colorado.

On February 5, 1884, the Hawley twenty-five dollar fee bill was introduced in the Senate and referred to the committee on pensions. The pension appropriation bill was introduced in the House on March 22. It contained a ten dollar fee rider modifying the act of 1878 to some extent.

On April 22, Rogers of the House select committee on payment of pensions, bounty and back pay, offered a twenty-five dollar fee rider in place of the pending one. Dudley had worked with Rogers in preparing the fee rider. The twenty-five dollar fee rider was adopted. Hancock and Townshend tried to block action on the final passage of the bill but failed. Townshend
was a friend of Lemon.

The pension appropriation bill was received in the Senate and given to the committee on appropriations on April 23. The Hawley bill was reported back from committee on the next day and was ordered to be printed.

On May 23, Logan of the Senate appropriation committee obtained unanimous consent to consider the House pension appropriation bill. He said that he wished to avoid discussion on the bill. When the bill was read, Senators learned that the committee had stricken out the Dudley fee rider. Debate arose regarding the action of the committee. Logan said the fee provisions had been stricken out to leave a clean appropriation bill. He said that the House had passed the bill. Further, if the Senate was compelled in a committee of conference to have general legislation, they would try to make it as good as possible. Logan stated that the committee on pensions had the same subject under consideration and that courtesy demanded that they be allowed to participate in determining fees. He mentioned, too, that a Senate rule was the reason for striking out the fee rider.

In reply to Logan, it was stated that the Commissioner of Pensions, Dudley, had approved of the fee rider. It was also thought that the Senate rule did not apply to legislation originating in the House.

Logan became impatient over the debate he had sought to prevent. He said that he had stated two or three times why the
The rider had been stricken out. The committee struck out the Dudley fee rider so that the matter might all be considered, he said. Logan stated that the Senate fee bill could be considered in the committee of conference.

The Senate then agreed to Logan's amendment striking out the Dudley fee rider. The appropriation bill as amended was then passed. The bill was sent back to the House on the same day, May 23, and given to the House appropriation committee. On June 13, Follett brought the bill up from committee and moved that the House do not concur in the Senate amendment. The motion carried.

The action of the House was reported in the Senate on the same day, June 13. On motion of Logan a conference committee was appointed. Logan and Dawes, Republicans, and Call, Democrat, were named on the committee to meet the House committee (Hancock and Follett, Democrats, and Washburn, Republican, appointed on the 24th).

Hancock had favored Dudley's fee rider, so he said. Met he and Townshend (Lemon's friend) had tried to block action on the final passage of the House bill. The Hawley bill had been buried in the Senate committee rooms since February 5. On April 24, the day after the House bill came to the Senate, the Hawley bill was suddenly reported back to the Senate.

The House bill was in a Senate committee from April 23 until May 23. Meanwhile, no effort was made to pass the Hawley bill.

Logan had tried to avoid Senate discussion when he reported the House bill back from committee, shorn of the fee rider. His
argument in defense of the committee's action had been rather strained.

The House bill had moved to conference and its provisions were not even discussed by the Senate. Dudley had approved the fee rider just as he had the Hawley fee bill. No attempt had been made to pass the latter. Both of these bills were drawn with the interests of the old soldiers in mind.

Lemon said he had hired counsel to promote his interests shortly after Congress met in December.

Meanwhile, Lemon and his hired counsel called on the members of the House and Senate appropriation committees who were later appointed on the conference committees. They were interviewed in their homes or offices. After some discussion, they were induced to send the various fee bills to Secretary Teller for his opinion on their respective merits. Later, Teller denied any knowledge of Lemon's tactics. Nevertheless Lemon and his counsel interviewed him after persuading the committee-men to ask for his opinion. They protested against a ten dollar fee item in the House bill and argued in favor of the bill they wanted. There was no one present at this interview to represent the interests of the old soldiers. Only Teller, Lemon and the latter's counsel were present. Teller testified that after hearing their views he had drafted a fee measure. Lemon admitted that the bill Teller drafted was substantially the bill which he, himself, had recommended and he said that he was entirely satisfied with it.

On June 17, Teller sent the draft of his fee rider to
the House and Senate appropriation committees. It is a singular fact that no member of the House select committee on payment of pensions, bounty and back pay ever received a copy of Teller's fee measure. Senator Gullom was the only member of the Senate pension committee who ever received a copy. These two committees had drawn the Dudley and Hawley pension attorney fee measures. They had studied attorney fee legislation while the appropriation committees had not. No one, unless Lemon, had asked the Secretary to draft a bill. The appropriation committees had asked for his opinion on the measures they had submitted. The Senate and House conference committees were appointed on June 13 and June 24, respectively.

There were three Republicans and three Democrats on the committee of conference. Teller's prestige and views would carry considerable weight in the conference, particularly with the Republicans. Logan was the outstanding committeeman. He had been a general in the Civil War and he was now Senator from Illinois. Logan had just been nominated for Vice President by the Republicans.

The Teller fee rider was accepted by the conference committee and it was placed in the pension appropriation bill in lieu of the Dudley and Hawley fee measures. The committee vote is not known. If the three Republicans voted for Teller's rider, which seems logical, only one Democratic vote would have been needed in addition to secure the adoption of the Teller substitute. Logan seems to have dominated the committee. Hancock, Democrat, later admitted that he had supported the Teller measure, having
been overawed by Logan.

The conference reports were read and adopted in both Houses on June 27. No particular attention was paid to the reading of the report in either House. Hancock moved the clincher on the passage of the bill in the lower House. A good many Democrats were absent from Congress that day. They were leaving for Chicago to attend the National Convention. Rogers did not know until the next December that it was not his measure that had been passed by Congress. On the other hand, Mitchell, chairman of the Senate pension committee, had thought it was the Hawley fee provisions that had passed. President Arthur signed the bill as passed by Congress on July 4, 1884.

The provisions of the act of July 4 favored the claim agent in every particular. Attorney fees were as much as twenty-five dollars by contract, ten dollars without. The Commissioner of Pensions had no discretion over the contract fee. The claim agent was paid by the government out of the claimant's pension, when the case was allowed. Five classes of cases were open to the attorneys for twenty-five dollar contracts. Two classes of cases only were limited to a ten dollar fee. One provision of the act required the government to collect all attorney fees that remained unpaid under the act of 1878. This had formerly been a matter for the attorneys themselves to attend to. These fees were now to be collected by the government and paid to the recognized attorney. In addition, the act was retroactive, in that contracts could be filed on all pending claims as well
as on new ones. This was probably the worst feature of the bill. Thousands of claims were pending in the Pension office under the act of 1878 under which ten dollars only was the fee allowed by law. Attorneys by misrepresentation of the new act would generally get claimants to sign twenty-five dollar contracts on these old cases. Finally, the penalty clause which should have been rigidly drawn, was weak. Little or no protection was given to the claimants against unscrupulous attorneys.

The act of July 4, 1884, was distinctly a claim agents' act. Lemon, a claim agent, had hired counsel early that spring to promote legislation favorable to his interests. Together they formulated the bill. They had induced the appropriation committees of both Houses to send their fee measures to Teller. Lemon had appeared before Teller with his counsel and they had spoken for the bill that Lemon wanted. Teller's subsequent draft embodied substantially the recommendations that Lemon had made. Teller said he later gave Lemon a copy of the measure. Lemon afterwards denied ever seeing the measure until it appeared in the Congressional Record of June 28. Teller, on the other hand, never retracted his admission of having given a copy of his bill to Lemon.

Secretary Teller said that he had made the Hawley bill the basis for his measure, and it is true that this bill did furnish Teller with a form to follow in drafting his fee rider. Teller's fee measure was nearly identical in appearance to the Hawley bill. The same paragraph indentations, sections and numbering appear in both measures. The general language and phraseology
are similar.

On the other hand, several sections in Teller's fee rider were ambiguous in meaning. Teller took advantage of this fact when explaining his measure to the investigating committee. Without seeming to do so, Teller's fee rider prevented the Commissioner of Pensions from allowing fees in accordance with the difficulty of the case. The retroactive and collective clauses, missing in the Hawley bill, were so cleverly placed within Teller's amendment that the casual reader could easily fail to grasp their true significance. On January 8, 1885, Mitchell, chairman of the Senate pension committee, said that he had been misled by the language used in Teller's measure. He had thought that it was the Hawley bill which was read and passed in Congress during the previous session. Lemon had seen the measure that Teller drafted. He had been entirely satisfied with it. He should have been. It embodied his substantial recommendations.

But there is still another chapter in the history of the act of July 4, 1884. Just prior to the passage of the act, Lemon had purchased the business interests of the Fitzgeralds. The Fitzgeralds were an attorney "ring" composed of three brothers. N. W. Fitzgerald was the leading member of the "ring." In addition to their claim business, the Fitzgeralds owned The Washington World and Citizen Soldier, a soldiers' weekly newspaper. Lemon purchased the entire business interests of the Fitzgeralds for $10,000.

By the fall of 1883 all of the Fitzgeralds were suspended
from practice in the Pension office. They had been denounced repeatedly by Commissioner Dudley. The firm controlled between 60,000 and 84,000 pension claims. All work on these claims ceased until the Fitzgeralds could be restored to practice.

Lemon and Fitzgerald were on friendly terms. Lemon used his influence with Teller to get Fitzgerald restored to practice. In December, 1883, Teller had to suspend Fitzgerald again on account of a new violation of the law that the latter had committed. Dudley, at this time, filed five additional charges against Fitzgerald and asked Teller to disbar him. In the latter part of December, Fitzgerald opened negotiations for a sale of his business to Lemon. Fitzgerald valued his interests at that time at between $18,000 and $20,000. It was necessary, because of a rule of the Pension office, that Fitzgerald should be restored to practice before he could make a sale. The Office refused to recognize the purchaser of a business of a suspended attorney. Negotiations for this concession went on until the last of June, 1884.

In the meantime, Fitzgerald's morale was broken down by a combination of events and he offered to sell for $10,000. He had been shot in the foot in an accident in Florida during January, 1884. A portion of his foot had to be amputated. Gangrene set in and he was bedridden from January until April, 1884. He was suspended from practice. Dudley was asking for his disbarment. Fitzgerald's entire business was held up due to his suspension. Fees could not be collected on any of his cases. Fitzgerald's clients were notified of his suspension.
In addition, Lemon told him that the Dudley fee provisions in the House bill were about to become law. Fitzgerald said:—

"Mr. Lemon represented that to me fifty times."

The bill did pass the House, but Fitzgerald was not in a position to keep informed of the progress of legislation. Fitzgerald had reason to be afraid of Dudley's measure. Under its provisions, he could receive no more than ten dollars in aggregate fees on each case he then held under the act of 1878. In some of these cases Fitzgerald had already collected a part of the fee. In many cases the whole fee had been paid in advance. The Dudley amendment had a rigid penalty clause in it. Fitzgerald knew that Teller was running for the Senate. It was general knowledge that Dudley sought to succeed him as Secretary of the Interior. Fitzgerald's "ring" would receive scant sympathy if the change took place.

Fitzgerald had communicated with Teller many times seeking restoration to practice. The Secretary was non-committal. Fitzgerald recounts in his testimony that he started negotiations for the purchase of a newspaper in Denver, Colorado, where Teller was campaigning for election as United States Senator. This was a shrewd move and it brought results from Teller.

On April 28, Fitzgerald sailed for Europe. Negotiations with Lemon had been broken off by Fitzgerald's orders, before he sailed. He returned shortly before June 16 and continued his negotiations with Teller for his restoration as a pension agent. Fitzgerald testified that Teller now told him that he should sell out. Teller denied this, but admitted telling Fitzgerald
that he thought Dudley was prejudiced against him. Teller added
that he was willing to assist Fitzgerald in any assignment of
his business that he might wish to make. Lemon continued to
scare Fitzgerald with reports on the Dudley rider in the House
bill.

The federal indictment against Fitzgerald had been squashed
in April. Dudley's charges against Fitzgerald had been filed
with Teller on January 8. Teller had taken no action as yet,
although the charges involved grievous abuses of claimants by
Fitzgerald. This seems rather strange in view of Teller's
professed interest in claimants. Their cases had been at a
standstill during the time of Fitzgerald's suspension.

On June 16, Teller wrote Dudley and dismissed all of the
charges against Fitzgerald. The latter was suddenly restored
to practice on the same day. The Assistant Secretary of the
Interior, Joslyn, said that Fitzgerald was restored so that he
could sell out to Lemon. Teller denied this assertion but
Joslyn's statement was never retracted.

The order restoring Fitzgerald was made on June 16. The
bills were sent by the appropriation committees to Teller on
June 9. The day after Fitzgerald's restoration to practice,
Teller sent the bill he recommended to the committees. The
official order restoring Fitzgerald was published on June 20.
Lemon called Fitzgerald on June 21 in regard to their proposed
deal. Fitzgerald wanted $10,000 but Lemon told him he would not
buy at any price if the Dudley fee measures passed.

On June 24 the Fitzgeralds agreed to sell their business.
A written memorandum was made out and placed in the hands of an attorney who was to prepare the papers. The papers were not ready for execution until the afternoon of June 26, the same day that Teller’s fee rider was agreed upon in conference. Lemon had seen a draft of the measure and probably knew that the conference committee had agreed to recommend it for passage.

Fitzgerald was kept in ignorance as to the changing status of the Dudley fee rider. His mail had been tied up since June 24, by a written agreement filed in the postoffice. The mail was to be delivered to Lemon when the sale was completed. All mail, letters, newspapers, and the Congressional Record, were tied up in the postoffice on the pretense that Lemon was entitled to everything in the mail after June 24.

The sale was consummated between two and four o'clock on the afternoon of June 26. Prior to the final execution of the papers Lemon had visited the Pension office. He went there shortly before four o'clock, just before the office closed. He secured an order, drawn by Joslyn and signed by Teller, which recognized him as the attorney in all of the transferred cases. Lemon returned to Fitzgerald’s office, signed the contract, and paid the purchase price in currency. Lemon had ordered delivery wagons from an express office to report at Fitzgerald’s. As soon as the contract was executed, the wagons were loaded with the purchased files and driven away.

The next day The Washington Star reported that the conference committee had agreed to a favorable report on Teller’s fee
rider. The report was adopted that same morning by the House and the Senate. These facts explain Lemon's unusual haste in completing the sale on the 26th. He appreciated the necessity of closing the deal before the news appeared in the papers.

Fitzgerald heard of the passage of the Teller fee measure on the morning of June 27. He went to Lemon's office that night and pleaded with him to cancel the sale. He offered Lemon his money back and $20,000 additional. According to Fitzgerald, Lemon said:

"You don't know what you are talking about. Your business has not cost me only the $8,000 ($10,000) that I paid you; it has cost me $50,000 to get the bill through Congress... I showed you forty-seven thousand dollar bills in my office about a week ago. Every dollar of that is exhausted and more too, in getting this bill through."

Lemon admitted that Fitzgerald had tried to repurchase his business, but he denied the other statements attributed to him by Fitzgerald. Lemon did say that Fitzgerald might have seen as much as $30,000 in his office on one occasion, had he been present. Fitzgerald said that Lemon had made fun of him when he had sought to repurchase his business. He claimed that Lemon had robbed him of $500,000. This was accomplished, Fitzgerald said, through the operation of the act of July 4, 1884, and Teller's orders in regard to the cases which he had sold to Lemon. Had he known that there was any possibility of the Teller fee rider becoming a part of the pension legislation of this session, he would never have parted with his business for this ridiculously low price.

In view of this statement, it is worth inquiring why
Fitzgerald did not know about the progress of the pension legislation and the Teller amendment. From January, 1884, until sometime in April, Fitzgerald had been bedridden. He sailed to Europe on April 28 and returned shortly before his restoration to practice. The agreement to sell was entered into on June 24. Fitzgerald’s mail was tied up in the postoffice on that same day. The sale was consummated in the late afternoon of June 26. Teller’s measure was approved in conference the same day. The Washington Star contained the decision of the conference committee in its issue of June 27. The same morning Fitzgerald awakened to the fact that he had been robbed.

Fitzgerald was a shrewd and clever Irishman. It is a little strange that he should have sold his business for a song, when a day later it was worth a fortune. Fitzgerald was present in his office on the afternoon of June 26, when the sale was completed. Smith, who drew the bill of sale, read it to Fitzgerald before he signed it. Lemon then gave Smith twenty $500 bills and he in turn paid Fitzgerald.

How was Fitzgerald induced to sell a $500,000 enterprise for only $10,000? The only inkling we have is what Fitzgerald said in his testimony as to when he learned of the passage of Teller’s measure. He said:

"The next morning after I had sold my business, and after it had gone into the hands of Mr. Lemon. In the month of January before that I had been shot through the foot, in Florida, accidentally, and had to suffer an amputation of a part of the foot—the charge of a double-barreled shotgun passing through the foot. And (whether to my discredit, or not) I am free to admit that for a long time I was not ment-"
ally as sound as I ought to have been. It was during that time that I was induced to part with my business." 100

Lemon fully realized Fitzgerald's shrewd capabilities. He told his attorney to draw the contract of sale so as to leave no loop-hole or possibility of escape, otherwise Fitzgerald would take advantage of it. It is difficult to believe that so clever and wily a claim agent would allow even Lemon to get the best of him. Fitzgerald's only explanation was that he was not mentally as sound as he should have been.

Before consummating the contract on June 26, Lemon visited the Department of the Interior. He went there shortly before four o'clock, when the Departments finally close. He secured an executive order from Teller that recognized him as the substitute attorney in all of the Fitzgerald cases. This order (No. 100) through its provisions indirectly repealed an old rule of the Pension office. Since 1882 the rule had been that an attorney, although substituted under an original power of attorney, must go back to the claimant a second time and secure consent for the substitution. The attorney would not be recognized unless he did so. Dudley had made this ruling in the interest of the claimant. Teller revoked the rule in the interest of a claim agent. The Secretary could not have substituted Lemon according to the rules of the Office. Instead, Teller directed that Lemon be recognized in all of the Fitzgerald cases according to the contract of sale. Claimants had no choice in the matter, Lemon was simply thrust upon them. No claimant
under similar circumstances had ever before been denied the right to select his own attorney. The order benefitted Lemon and no one else. The new law went into effect in a few days. Thirty thousand pending claims were thrown open to twenty-five dollar contracts. Lemon, alone, was the recognized attorney in all of these cases.

Order No. 100 was based on Lemon's contract. The order directed that Lemon be recognized according to his contract with Fitzgerald. When the order was issued, the contract was as yet unexecuted, but Lemon was taking no chances. He wanted to be sure that Teller's fee measure would be adopted in conference. He also wanted to make sure that his cases would be recognized in the Pension office. Assured by his counsel that the Teller amendment would pass, Lemon was substituted for Fitzgerald by Order No. 100. He then signed the Fitzgerald contract. Joslyn, the Assistant Secretary, drew Order No. 100 and Teller signed it. Teller denied ever having seen the contract. Neither had seen the contract but Joslyn said he knew its general terms.

The first part of Order No. 100 favored Lemon clearly and openly. The last sentence achieved the same result but in an indirect manner. It read:

"It is not material whether the attorney's fees are paid to the original or substitute attorney provided only one payment is made by the United States pension agent."

This was exactly the situation because Order No. 100 recognized the contract, and the contract provided that Lemon was to receive all fees addressed to the Fitzgeralds during the
next eighteen months.

The order, furthermore, was drawn with the provisions of the Teller amendment in mind. The last sentence in the order about payment by the United States pension agent, applied to only a very few cases under the existing law (act of 1878). Joslyn, who said that he drew the order, could not recall that the sentence applied to any case under the act of 1878. On the other hand, when the new law came into effect a week later, practically every case decided thereafter came under the ruling mentioned. Joslyn testified that he knew nothing about Teller’s measure at the time he drafted Order No. 100. This is a clear case of wilful misstatement of facts for Joslyn drew the order and the very face of the document shows how it dovetails exactly with Teller’s fee amendment.

The Teller measure, on its face, was an apparent duplicate of the Hawley bill. Order No. 100 mentioned Lemon and Fitzgerald by name and while it appeared to be a special order, the last paragraph was couched in general terms. It was so worded that its directions could apply to any other attorney who might be seeking admission with transferred cases. But there were no other attorneys seeking admission under similar circumstances at this time and Lemon was the only beneficiary of Teller’s official favors. Joslyn who testified that he drew Order No. 100 was cross examined by the investigating committee. Joslyn said that he intended that Lemon’s Fitzgerald cases should come in under the old rule of the Office. In view of his Order No. 100, Joslyn’s statement does not square with the known facts.
Teller, who signed Order No. 100, said of it:-

"I simply recognized what they (Lemon and Fitzgerald) had done, nothing more."119

He dearly wished it to be inferred that the order directed the Office to receive the transfer cases under the old rule, but the instructions given in the order flatly contradicted that rule.

In the light of later events, it appears that Order No. 100 was drawn with the hope and expectation that it would be interpreted as a special order by the Pension office. If an investigation came up, Teller had two defenses for his action. He could say that the order was a general one applying to any other substituted attorney as well as to Lemon. In addition he could say that he never intended to revoke the standing rule of the Office. The Pension office could be blamed for misinterpreting the order while Teller could insist that the order had been a special one. Fitzgerald's dishonest dealings with clients were well known in Washington. Teller had been criticized for not disbaring him. Fitzgerald's claims had been neglected on account of his suspension and claimants were protesting. Their cases were now transferred to Lemon "in the interests of the claimants."

Teller's Order No. 100 violated the existing rules of the Pension office because it was based on the Lemon-Fitzgerald contract and drawn with a knowledge of the operation of Teller's fee measure in connection with it. Besides this, it was drawn
for the purpose of benefitting Lemon at the expense of claimants.

The collection of fees under this order and the act of 1878 was of little importance. The new act took effect one week later. The most that Lemon could collect from these cases under existing law was ten dollars. He might have a few of the ten and twenty-five dollar contract cases allowed, these having been saved from the act of 1870. The government paid the fees in these cases out of the claimant's pension when the claim was allowed. The probabilities are that Lemon made no attempt to collect fees under the existing law of 1878. He knew that Teller's fee measure would raise the fees in all cases as soon as it became law. It is known that Lemon had delayed collecting fees earlier than this. After the passage of the ten dollar act in 1878, he had refused to collect fees for eighteen months. He believed that such an "unwise" law would be repealed by the following Congress.

After the passage of Teller's fee rider, every case in the Pension office was thrown open to twenty-five dollar contracts providing claimants consented. Most of them did consent for one reason or another. Lemon and other claim agents had waited six years for the opportunity that this law gave them. They reaped a golden harvest.

Teller's order had surrendered thirty thousand claimants to the exactions of this self-constituted friend of the soldier. Order No. 100 under the new law appeared outrageous to Dudley. He wrote Teller seeking an explanation of this extraordinary order. Many claimants objected, he said, to the transfer of
their cases to Lemon. The work on many claims was substantially completed. Lemon, Dudley said, was claiming all the cases and the whole fee, despite the fact that one fee had already been paid to Fitzgerald by the claimant in many instances. Dudley asked Teller for a complete explanation of these questions.

Teller replied with a letter of explanation that was published by the Office as Order No. 103. Dudley's questions had been clear and specific, referring directly to Lemon and his cases. Teller's reply was vague and was couched in general terms. Lemon and Fitzgerald were not mentioned by name. Rogers, of the investigating committee, said of the letter:

"This letter of explanation needs explanation. It is as clear as mud."

Dudley, however, interpreted the order so as to favor claimants whenever possible. Under the law and by Teller's Order No. 103, Lemon was allowed to file twenty-five dollar contracts on all uncompleted cases. In some instances the full fee of ten dollars had been paid under the act of 1878. The claims were allowed and were completed except for the Secretary's signature. Dudley refused to allow Lemon to file contracts on these cases. He said the work was done and the case was complete. Dudley dated these cases back to show settlement under the act of 1878. Lemon protested and Teller decided that a case was not "complete" until the Secretary had signed the claim. Lemon was allowed to file twenty-five dollar contracts thereafter on these kinds of cases, and he received fifteen dollars in each instance.
In similar cases, if nothing had been paid heretofore, Lemon filed his contract and received twenty-five dollars. If a part or all of the former ten dollar fee had been paid and only a part of the work had been completed, Lemon received the full fee of twenty-five dollars. In some instances as much as ten dollars had been paid to Fitzgerald on the same case. All these settlements were made by the direct order of Teller. Lemon claimed to be an old soldier but he made a fortune through Teller's orders and legislation "in the interests of the soldiers."

Order No. 100 had directed that only one payment be made by the United States pension agent. The rule remained, but there were double payments in many cases. If the claimant had paid once, the government made a second payment out of the claimant's pension. In other instances one payment was made by the government for the claimant but the amount was doubled in size.

Teller's second order was issued in response to Dudley's inquiry in regard to the Lemon transfer cases. Dudley had asked two specific questions. Teller replied in a long letter which had no paragraph indentations. Lemon and Fitzgerald were not mentioned by name. Teller devoted most of his letter to an explanation of what fees should be paid. No specific sums were mentioned. The language was vague in some sentences, disarming in others. The ordinary reader would not notice how Lemon was being favored in the order. Teller ruled that claimants were not bound to recognize the substituted attorney. Dudley read that
much of the letter to mean that Lemon must see the claimant a second time and secure his consent for the transfer from Fitzgerald.

Dudley was absent from Washington in the late summer and fall. He was organizing the old soldiers in Ohio and Indiana for the fall elections. Dudley resigned as Commissioner on November 10, 1884. Clarke was acting Commissioner during Dudley's absence and succeeded him as Commissioner after November 10. Clarke never saw the letter Dudley had addressed to Teller. He interpreted Order No. 100 as it read. To him, it appeared as a special order transferring all the Fitzgerald cases to Lemon. He interpreted the transfer to have been made for exceptional reasons. Thereafter he refused to allow claimants to repudiate Lemon's authority as the recognized attorney in these cases.

Clarke thought that Order No. 103 was a general order. He believed that the Lemon transfer cases were excepted from the new directions which stated claimants were to have a choice of attorneys. While the order read that claimants were to have a choice, no specific cases were mentioned. Further, the last sentence in the order read as follows:

"The assignment of claims held by one attorney and in an uncompleted state should not be allowed, except in such cases as appear to the Department to be necessary to the proper conduct of such cases in the interest of the claimant."

Construing these two sections in Order No. 103 in the light of the directions contained in Order No. 100, Clarke refused to allow transfer cases to be taken away from Lemon. The first
appeal was taken from Clarke’s decision on August 20, 1884. The Department never overruled Clarke’s action until January 19, 1885. By that time the Department was in "hot water" due to the Congressional investigation into the passage of the act of July 4, 1884.

Joslyn testified that he wrote the first order and that Teller simply signed it. He also assumed the authorship of Order No. 103. He tried to explain away the bad features of the measure but after failing to do so, he admitted that Teller had drafted it. They had talked the matter over together, he said, then Teller drew the order. Joslyn said, however, that he, himself, was responsible for the pension details in the Department of the Interior. If anything were wrong about the Fitzgerald transfer, he alone was responsible. Joslyn stated that he never knew Teller to have done anything in connection with the transfer except what he had mentioned.

Teller admitted that he, himself, had drafted Order No. 103 but he refused to admit that any irregularities had occurred as far as the Department was concerned. He disclaimed any knowledge of the fact that claimants had been refused a choice of attorneys. Teller tried hard to explain away the fee and collective clauses in his amendment and orders. He was finally compelled to admit that the fees were collected in accordance with the orders. He explained to the committee that the heavy fees Damon secured were one of the evils occurring from assignments.
Many appeals were sent to the Department of the Interior on account of Clarke's interpretation of Orders No. 100 and No. 103. Claimants protested the Lemon substitution. Joslyn said he knew of only two specific appeals, but he thought that there were one or two others. Dawson, an official in the Department, thought that some twenty appeals had been filed up to January 21, 1885. The first appeal had been taken on August 20, 1884. None had been decided before January 19, 1885. Langlan, a claim agent, had appealed a case on October 25. It was a former Fitzgerald case that had been transferred to Lemon. The claimant wanted Langlan to be recognized as his attorney instead of Lemon. Langlan called on Dawson several times in regard to the matter. On one occasion Dawson told him that Teller was gone and that he alone could decide the case. Langlan called again after Teller's return. Teller was about ready to go to Colorado. Langlan asked that his case be decided before Teller left but nothing was done. Langlan then called on Dawson and the latter told him that he would operate in the matter without Teller's aid. The decision was already under preparation, Dawson said.

It was nearly six months after the first appeal had been filed before a decision was rendered by the Department. The final ruling as well as the last order in regard to the transfer cases was dated January 19, 1885. This order was issued just one week after the investigating committee had begun to take testimony.
Joslyn had taken the stand on January 19. He had assumed full responsibility for both orders. He had failed rather badly in his attempts to explain them. On January 20, he resumed the stand and testified that he had consulted with Teller on Order No. 103, but that the latter had drafted it. The decision of January 19, 1885, had been reached some three weeks before. Teller had gone and the Department was burdened with work. Joslyn said that Dawson had just finished writing the decision on the day before and that he had signed the decision.

The Order of January 19, 1885, explained that the transfer of cases made in Order No. 100 was done so on account of the "circumstances" and "in the interests of the claimants." These facts, the order says, "warranted a departure from the established rule, so far as to permit the general transfer of the cases. The order quotes parts of the two previous orders and then lays down a final ruling on the question of attorney substitution in the transfer cases. The ruling was, briefly, first, that Lemon would be recognized as attorney in any case in which the claimant consented to the transfer. In view of the large number of cases involved, Lemon was not required to file formal papers showing consent. If no objections appeared, he was recognized as the attorney. On the other hand, objections to his appointment could be informal. The appointment of a different attorney by the claimant would be evidence of an objection to Lemon.

This order was the third one issued by Teller's department "in the interests of claimants" and they all favored Lemon.

The final chapter in the history of the passage of the act
of July 4, 1884, relates to the operation of the law. At the time it was passed there were 272,617 claims pending in the Pension office. They had been filed under the acts of July 8, 1870, and June 20, 1878. All of the cases filed since 1878 were ten dollar cases. The attorney himself collected the fee in these cases. Many of the fees had been partially or completely paid. The work also had been substantially completed in a large number of cases.

The new act allowed an increase of fee of fifteen dollars in all pending as well as original claims. The government collected the fee for the attorney, taking it out of the claimant's pension when the case was allowed. In addition, Lemon sometimes secured as much as twenty-five dollars on a single transfer case where the claimant may have already paid a legal fee of ten dollars. These additional fees under the act of 1884 were secured, of course, only through the operation of contracts between attorney and claimant. Through ignorance on the part of some of the claimants and by the use of pressure by the attorneys, many contracts were signed. By February 7, 1885, Lemon had secured nearly 30,000 contracts.

A few of the pending cases had been filed under the act of 1870. These were contract cases ranging from ten to twenty-five dollars. Attorneys would try to file new contracts on all of these cases which were not already carrying twenty-five dollar fee contracts. With 272,617 pending cases to file on, claim agents reaped a rich harvest. The increased fees alone at fifteen dollars per case would amount to over $4,000,000. All
this was due to the retroactive feature of the act of 1884.

The collective clause in the act set five per cent of the employees of the Pension office to work on this uncalled-for measure. They had to ascertain what fees had been paid in each case allowed under the act of 1878. The unpaid fees were then deducted from the claimant's pension and paid to the recognized attorney.

Lemon secured between 60,000 and 84,000 pension claims from the Fitzgeralds. If he had 30,000 of these claims allowed, the increased fees alone, at fifteen dollars per claim, would amount to $450,000.

Lemon had a total of 198,000 cases, including the Fitzgerald transfer cases. If 100,000 of these claims were allowed at a fifteen dollar increase each, the total would be $1,500,000. Warner, chairman of the investigating committee, two years later, estimated that Lemon had received that approximate amount, due to the operation of the act of July 4, 1884.

The act had been planned by Lemon and Senator Logan had smoothed the path for its adoption by his tactics in the Senate and in the committee of conference. Teller, Secretary of the Interior, submitted the draft of his bill to the conference committee. His orders were deliberately written so as to favor Lemon at every turn. He, himself, agreed that Clarke's interpretation of the fee provisions in his orders was substantially correct. Teller explained the exhorbitant fees lemon received were "one of the evils of assignments." Lemon had spent $12,000 in defeating the sixty surgeon bill so that $50,000 was not an
excessive amount for him to have spent in securing the enactment of this measure.

Discussing the act of 1884 in the next session of Congress, Warner said:

"I characterize it as one of the grossest abuses ever practiced upon pension claimants."160

According to him the act was an unmitigated outrage on all old soldiers or their widows who had pending claims when the bill was enacted. Warner said:

"Piracy in the Middle Ages on honest commerce was an honest calling compared with some of the operations of claim agents. . . . under this law."161

Logan was defeated for Vice President in the fall of 1884 despite The National Tribune's efforts in his behalf.

Teller was exonerated by the committee. He was elected Senator from Colorado as a Free Silver Republican in 1884 and later became a valuable ally of the Democrats.

On March 3, 1885, Rogers spoke in the House. He exposed the circumstances surrounding the passage of the act of the year before. Lemon had the effrontery to be present in the galleries. Rogers denounced him in scathing terms. He said:

"I have recited these facts for a two-fold purpose: First, to put the country upon notice how disinterested and tender is the affection of the chief pension attorney of this city for the soldier, and to gratuitously furnish him an article of an 'historical nature' which the 112,000 subscribers of his newspaper will read with some interest perhaps, if not with pleasure. Of course nothing 'of interest to the soldiers or historical in its nature' will escape so enterprising a gentleman and disinterested a philanthropist as he."162
In addition, Rogers mentioned that a measure had been introduced lately to correct the evils of the 1884 legislation. He said that there were some House members opposing the measure. With this fact in mind, he said:

"I hope it is not a source of consolation to those gentlemen, in view of what I have now said, to know that sitting in these galleries, yea, Mr. Speaker, almost over your own head, the chief beneficiary under this legislation, this self-constituted and proclaimed friend of the soldier, has been seen sitting through the long hours of the night, 'watching and waiting,' no doubt, to see whether this House would, like the Senate, rise up in its indignation and stamp the seal of its condemnation upon his atrocious conduct, and take from him his ill-gotten booty." 163

Two years later, in debating a pension bill, Warner denounced Lemon and called him a scoundrel for the part he had played in 1884. Warner said:

"When my friend from Pennsylvania (Mr. Bayne) asked a while ago for the name of some claim agent who was here urging the passage of this bill, I think if he had looked around he would have seen this same lemon-squeezer and blood-sucker of soldiers in the gallery looking down and listening with approval to the statement of the gentleman from Pennsylvania that there were no claim agents here in the interest of this bill, and that it was not a claim agent's bill." 164

As late as 1890, Lemon was still acting as a pension attorney. The Commissioner of Pensions issued an order making a change in the adjudication of claims. Lemon had sought this order but had been refused. The order was highly beneficial to Lemon. The next day after the order was issued, Lemon endorsed the Commissioner's personal note for $12,000.

In closing, Rogers announced his satisfaction in knowing that the work of the investigating committee was not all in vain.
He thought that the results of the investigation would aid the new administration. Rogers said:

"If those whose duty it shall become to administer that office (Pension office) in future will go over the evidence now in print and accessible, much will be found that will prove useful in the reorganization and purification of that branch of the public service. That a reorganization and purification are necessary, there can be no doubt; that it will be done, I have great faith."166
FOOTNOTES

Chapter I

   (This reference will hereafter be called the Report of the Investigation.)


6. U. S. Statutes at Large, Boston, 1873, XVII., Chap. 234, Sec. 31.


10. Ibid., XIX., No. 43, p. 28.


20. Ibid. Part 1, p. 54, 55.


22. Ibid., XV., 4426.


27. Ibid., 275.


31. Oliver, op. cit., 44-47.


33. Ibid., Part 1, p. 79, 80.


36. Ibid., XV., 2196, 2885.

37. Ibid., XV., 3232-3242.

40. Ibid., XV., 3331.
41. Ibid., XV., 4425.
42. Ibid., XV., 4426.
43. Ibid., XV., 4426.
44. Ibid., XV., 4427.
45. Ibid., XV., 5094.
46. Ibid., XV., 5083.
47. Ibid., XV., 5537.
48. Ibid., XV., 3242.
51. Ibid., Part I, p. 18, 19, 99.
54. Ibid., Part I, p. 79, 82.
55. Ibid., Part I, p. 79.
62. Ibid., XVI., 547-548.
64. A copy of Teller's fee rider will be found in the Appendix, p. 82.
66. Ibid., Part 1, p. 133.
67. Ibid., Part 1, p. 105.
68. A copy of the Hawley bill will be found in the Appendix, p. 87.
70. Cong. Record, 48th Cong., 2nd Sess., XVI., 548.
72. Ibid., Part 1, p. 90-95.
73. Ibid., Part 1, p. 127, 141.
74. Ibid., Part 1, p. 89-90.
75. Ibid., Part 1, p. 90-95.
76. Ibid., Part 1, p. 45-122.
77. Ibid., Part 1, p. 27.
78. Ibid., Part 1, p. 36.
79. Ibid., Part 1, p. 29, 30, 37.
80. Ibid., Part 1, p. 29, 37.
81. Ibid., Part 1, p. 98, 123.
82. Ibid., Part 1, p. 123.
83. Ibid., Part 1, p. 93.
84. Ibid., Part 1, p. 95.
85. Ibid., Part 1, p. 51.
86. Ibid., Part 1, p. 111.
87. Ibid., Part 1, p. 111.
88. Ibid., Part 1, p. 79, 82.
89. Ibid., Part 1, p. 42.
90. Ibid., Part 1, p. 29, 127, 163.


94. Ibid., Part 1, p. 30.

95. Ibid., Part 1, p. 30.

96. Ibid., Part 1, p. 135.

97. Ibid., Part 1, p. 129.

98. Ibid., Part 1, p. 28-30.


100. Ibid., Part 1, p. 27.

101. Ibid., Part 1, p. 166.

102. Ibid., Part 1, p. 167.


105. A copy of Order No. 100 will be found in the Appendix, p. 97.


108. Ibid., Part 1, p. 112.


110. Ibid., Part 1, p. 167.

111. Ibid., Part 1, p. 131.

112. Ibid., Part 1, p. 40, 47, 119.

113. Ibid., Part 1, p. 48.

114. Ibid., Part 1, p. 40.

115. Ibid., Part 1, p. 32.

116. Ibid., Part 1, p. 60.

118. Ibid., Part 1, p. 46.

119. Ibid., Part 1, p. 122.

120. Ibid., Part 1, p. 111.

121. Ibid., Part 1, p. 115.


123. Ibid., Part 1, p. 155.

124. A copy of Dudley's letter will be found in the Appendix, p. 98.


126. Ibid., Part 1, p. 41.

127. A copy of Order No. 103 will be found in the Appendix, p. 100.


130. Ibid., Part 1, p. 55, 67.

131. Ibid., Part 1, p. 67.

132. Ibid., Part 1, p. 74, 75, 120.

133. Ibid., Part 1, p. 69, 74, 75, 120.


137. Ibid., Part 1, p. 124.


139. Ibid., Part 1, p. 41.

140. Ibid., Part 1, p. 78.

141. Ibid., Part 1, p. 47, 65.

143. Ibid., Part 1, p. 52.

144. Ibid., Part 1, p. 107, 110, 112, 116, 125.

145. Ibid., Part 1, p. 106, 107, 120.

146. Ibid., Part 1, p. 47, 53.

147. Ibid., Part 1, p. 78.


149. Ibid., Part 1, p. 65.

150. Ibid., Part 1, p. 47, 78, 88.

151. Ibid., Part 1, p. 65, 66.

152. Ibid., Part 1, p. 66.

153. A copy of the Order of January 19, 1885, will be found in the Appendix, p. 103.


157. Ibid., Part 1, p. 158.

158. Ibid., Part 1, p. 70.


161. Ibid., XVI., 487.

162. Ibid., Appendix, 190.

163. Ibid., Appendix, 192.


Chapter II

CLEVELAND'S PENSION REFORMS

President Cleveland was inaugurated on March 4, 1885. Rogers had expressed the hope that the new administration would reorganize and purify the Pension Bureau. His hopes were to be realized. Cleveland, himself, played an active part in pension reform. Lamar of Mississippi was appointed Secretary of the Interior. He was a former Confederate soldier and a gentleman of the old school. He was a man of high integrity and possessed much personal courage. Black of Illinois was made Commissioner of Pensions. He was a Union veteran and was inclined to be generous with worthy claimants. He began a thorough reform of the Bureau. Black's statement of the conditions in the Bureau, as he found them, agreed with the report of the investigating committee. Black said:

"At one time the Pension Bureau was all but avowedly a political machine, filled from border to border with the uncompromising adherents of a single organization, who had for the claimant other tests than those of the law, and who required, in addition to service in the field, submission to and support of a party before pensions were granted. Not always, but often was this true; not openly, but surely were the tests applied; and the vast machinery of a professed governmental office became a party power. The enormous array of the medical boards established in every quarter was almost solidly partisan; made so not openly but surely. People of one faith filled every one of the great agencies. Examiners, trained in unscrupulous schools, traversed the land as recruiting sergeants for a party."
"Chiefs of divisions, assistants, clerks, messengers, messenger boys, watchmen, and laborers were all but entirely from the one school. Veteran service could not secure continuance in office, and at the behest and demands of partisans beyond the office old employees were cut adrift and zealous rufflers placed in their stead; leaves of absence were granted that the active men of the party might dominate over the elections."

Black began his reforms at once. He recommended a change in the manner of examination and settlement of the accounts of government pension agents. Under the old system it had been quite possible for frauds to have been concealed for as long as five years. The statute of limitations would bar prosecution in such cases.

Black advocated a uniform fee of two dollars for examining surgeons. He felt that this fee would ensure a higher type of examiners in the future.

During his first year as Commissioner, Black reorganized the special examination division. The former system divided the country into twenty-one districts. Each district maintained a district headquarters and a large force of office holders. All field reports had to pass through the district office before reaching the Bureau at Washington. In this way twenty-one different "headquarters" had been kept up at a large expense to the government.

All communications from Washington to the forces in the field had to pass through these district offices, and vice versa. Black abolished all the district offices. He reduced the number of districts to five. A supervisor was assigned to each district. The five district supervisors maintained their offices in the
Pension building in Washington. They were thus in close touch with the central office.

The results were gratifying. Much red tape was eliminated. A much needed centralization of control was accomplished. Under Commissioner Dudley, the district "headquarters" had been more or less political in character. In addition, the new system was economical. Black inserted a table in his report which gave a comparison of the results under the old and new systems. The data was based on one month's work under each plan. He compared the work of the Bureau for September of 1884 and 1885.

This table showed that Black had reduced the average number of examiners in the field from 351½ to 271½. The average number of depositions taken remained approximately the same. The number of reports made were also approximately equal in number. The average cost of each report was reduced from $20.61 to $15.40.

A more searching inquiry into the credibility of claims was instituted. The number of such inquiries rose from 1,750 in September 1884 to 2,623 in September 1885.

Black next took up the task of purging the pension rolls of fraudulent and illegal claims. The work was hardly more than under way at the time of his first report. Black said, though, that great success was attending that project.

The Commissioner, next, instituted a board of re-review. Fourteen of the ablest men in the Bureau were appointed on the board. All claims were subjected to the final scrutiny of this body.

Black acknowledged that the Office was subject to some
criticism regarding the delay in granting pensions. In self defense, he stated that the Office had been a "dumping ground" for other offices. He mentioned that many of the employees had been of low moral character. Just recently, he said, one clerk had admitted that he had acted as agent for one man in aiding to prepare from 300 to 400 pension cases.

Many pension claims had been filed for deserters. Black ruled, with the approval of Lamar, that desertion was, under the law, a bar to pension for injuries or disabilities received or contracted in the service. He also ruled that the War Department alone could remove the charge of desertion from a soldier's record. Cleveland found that deserters appealed to Congress for private legislation in order to secure pensions which had been denied by the Bureau.

At the time of the Commissioner's report for 1885 he had been in office only eight and one half months. Cleveland, Lamar and Black had co-operated in the attempted reformation of the Bureau and the Department. Much had been accomplished. More remained to be done in the future.

Cleveland, in his first annual message to Congress, mentioned the reforms instituted in the Pension Bureau by Black. Cleveland thought it to be just as important to cleanse the rolls of fraudulent pensioners as it was to speed up the consideration of meritorious claims. He said Black's reforms promised to do both.

Black's second report, in 1886, showed the result of the new pension policy. Two hundred and seventy-eight criminal prosecutions had been certified to the Department of Justice.
There had been one hundred and twenty-seven convictions during the year for offenses against the pension laws. On June 20, 1886, two hundred and eighty-four cases were awaiting action in the federal courts. The prosecutions were for offenses against almost all the criminal clauses of the pension law. Offenses listed included defraud of pensioners, false impersonation of dead pensioners, and embezzlements in office.

The special examination division had a particularly pleasing record for the fiscal year. The average number of examiners had dropped from 308 to 277. The aggregate amount of work had increased and the expenses had decreased. The net savings of this department totaled $3,441,306.13. Most of this sum was saved through the rejection of 3,175 pension claims. The accrued arrears in these cases investigated by the Office totaled nearly $4,000,000.

Efficiency seems to have increased throughout all the departments of the bureau. The record division had reduced their office force by one fourth. This reduced force turned out twenty-five per cent more work than it had during the last year of the Dudley administration.

The average clerical decrease in the Pension office was one hundred. Black also remedied the lax conditions as to absences that had existed under Dudley. The aggregate time saved by the Office in the fiscal year of 1886 as compared with that of 1885, largely under the Dudley administration, was enormous. The savings included annual and sick leave. It amounted to 15,664 days or 42 years, 11 months and 4 days.
Black's report of 1887 was comprehensive. It included a report from the chief of every division. Each report presented a statement of the methods and workings of each division. The Commissioner, himself, submitted a brief sketch of the progress of a case through the Bureau of Pensions. In addition, Black published in his report briefs showing the pension systems of eight foreign countries. The Commissioner studied the various systems and drew some valuable conclusions which he submitted in his report. Black said:

"No instance can be found where pension is allowed for services dishonorably terminated or marked by a disreputable record..."

"The foreign pension codes are based upon this idea of the duty owed to the state, and that the same is to be rendered without regard to pension save in case of disability or long service, and of the right of the state to demand the services of every man capable of bearing arms without regard to any other than a disability pension, and that the pension itself is a mark of extreme honor, reward of long service, or distinguished ability."20

The report of 1887 was a credit to the Bureau. Cleveland must have studied this report with special interest. His executive acts implied a thorough knowledge of the Pension office. Black's reports are largely responsible for this.

The next report, that of 1888, was the last one to be made during Cleveland's first term. The report shows that the Bureau was operating with a high degree of efficiency. Black called attention to the large amount of mail that was received by the Office during the year (2,697,608 pieces, including 94,000 Congressional letters of inquiry). Congressional inquiries had been the particular bane of the Office for many years. They
entailed a large amount of extra work on the part of the office. In spite of the extra labor imposed, the morale of the employees had improved from that of former times. Dudley in 1884 had to issue strict orders to keep many of the Office force from cheating the government through tardiness and unexcused absences. Brock, chief clerk under Black, said of the employees in 1888:

"The employees exhibit a cheerful willingness to do their very best within the official hours, and a great many have voluntarily remained after office hours to keep their work as near up to date as possible."

The law division recovered approximately $15,000 in illegal fee payments as compared to $5,000 collected during the previous year. One hundred and seventy cases had been submitted to the Department of Justice for prosecution. Sixty of these cases involved offenses of pension attorneys. Out of the 170 cases only six offenders had been acquitted. Grand juries, however, failed to indict in four instances. These facts render high testimony to the sound judgment with which cases for prosecutions had been submitted.

The five special examination districts continued to function with increased efficiency. The average cost of each field report had been reduced to $12.51.

The administration of the Pension Agents Division was improved. Stricter accounts and reports were enjoined on this department. Changes were made which facilitated the regular payments made to pensioners. By paying foreign pensioners by international money orders instead of checks, from five to nineteen per cent of the face value was saved to the recipients.
During the previous year Black had written for digests of pension laws of foreign countries. He was upheld no doubt in his research work by President Cleveland. After publishing his report of 1887, he sent a copy of it to each of the military commanders stationed in the various districts of the United States. With the approval of the President, Black asked them to make any recommendations they might care to in regard to the existing pension laws. The commanders were practically unanimous in recommending one addition. They thought that a rigid physical examination, conducted at the time of discharge and certified to by a council composed for that purpose, might be made a part of the military history of each soldier. This would save the government from many future fraudulent pension claims. Under existing law only the men discharged for disability received a thorough medical examination. The recommendations of the military commanders were subsequently enacted into law.

One other item in Black's report of 1888 remains to be mentioned. He made a full and complete explanation of the method which had been used by him in regard to special acts. This phase of Black's report will be covered in connection with Cleveland's pension vetoes.

Throughout his entire term in office Black worked ceaselessly in reforming the Pension Bureau. The reorganization of the special examiners division was one of the best of his reforms. The attitude of research in all things pertaining to his department is also commendable. The Office was systematized, efficiency was restored and the morale of the whole Bureau was on a higher
plane at the end of Black's regime.

In addition to backing the Commissioner of Pensions in his administrative reforms in the Bureau, Cleveland, himself, played an active role in pension reform. He had a definite pension policy. He believed that pensions should be granted for service, and disability as a result of the service. He thought that all pensions should be granted through general legislation and not by means of private acts. The latter method simply favored a few claimants, many of whom were unworthy of pensions. The Bureau of Pensions was the government agency for sifting claims and as a general rule its judgement on particular claims should serve as the final authority. The President did sanction private legislation as a means of correcting a few exceptions to all cases which sometimes arise. Cleveland thus placed himself squarely behind the idea that the Pension office was best qualified to pass on the merits of pension claims. Government money should not be needlessly squandered on those not entitled to it. The President announced his views on pension legislation in his annual messages to Congress. He displayed his convictions by vetoing numerous private pension bills.

With the exception of five bills vetoed by President Grant on technicalities, no private pension bill had been vetoed by any President before Cleveland. There were several reasons for this. Survivors of earlier wars had received land as a general rule instead of pensions. In addition, the government before the Civil War was never rich enough to afford an extensive system of pensions. After the Civil War the circumstances were reversed.
The best public lands had been taken up. The government, owing to a period of prosperity, had accumulated large sums in the Treasury. The pension policy of Congress became more and more liberal. Less attention was given to the merits of private pension claims by Congress. Special days were set aside by both Houses for the passage of these claims. Their passage was attained after little or no consideration. Many unworthy claims were allowed by Congress under this procedure. Indeed, the great majority of them had been turned down by the Pension office as unmeritorious or fraudulent. Cleveland's service in pension reform was rendered by calling the attention of Congress to these evils. He did so by his private vetoes and the messages he sent back to Congress accompanying his vetoes.

During his first term, Cleveland vetoed 251 private pension bills. He announced his decision in each of these cases after a thorough study of all the circumstances surrounding them.

Black's report for 1888 shows in detail the procedure followed by the President in considering private pension bills. When Cleveland received the bills passed by Congress he immediately referred them to the Commissioner. The latter gathered all the facts, favorable and unfavorable, shown in the files, concerning the case. Every paper concerning the particular case was reviewed and re-reviewed by the ablest men in the Office. All records pertaining to the case were then submitted to the Commissioner. He in turn examined the case to search out any errors. He then passed on the question as to whether the Bureau's action had been taken in accordance with the general law. Finally, the
Commissioner passed on the merit of the case in general. Following this consideration in the Pension office the claim was re-submitted to the President.

Black made a recapitulation of all the private pension acts vetoed by Cleveland between March 4, 1885, and August 15, 1888. His statement showed the grounds for the adverse action, and the date of the original rejections in the Bureau of Pensions. Of the 191 vetoes during this period, 147 had been rejected by the Bureau previous to their presentation in Congress. Three claims had been rejected twice in the Office. Thirty claims were pending in the Office at the time of Cleveland's vetoes. Only eleven of the 191 claims had not been previously filed in the Pension office.

Cleveland's veto messages were brief and to the point. His comments were sometimes sarcastic and biting. They served however to call the attention of Congress to their obvious dereliction from duty in passing so many of these bills without regard to their merits.

It was almost impossible for the President to devote his time to the consideration of all of the private pension bills submitted to him. He permitted many of them to become law without his signature. On the other hand, Cleveland signed far more of these bills than he vetoed. During his first administration 1,871 such bills became law. He vetoed 251 other bills.

In Harrison's four years, 1,388 private pension bills were enacted. The Republicans were pledged to a liberal pension
policy. Harrison, who had had a chance to study Cleveland's pension policies, failed to veto a single private pension bill! A Democratic House cut down the number of private pension acts during the last half of Harrison's term. Only 217 of the total number became law during that time.

During Cleveland's second administration only 497 such acts became law. Congress had learned its lesson. Cleveland vetoed only twenty bills during this period.

Incorporated in each of Cleveland's veto messages was his basis for such action. By far the greatest number of his vetoes were based upon the grounds that the soldier's disabilities or deaths were in nowise due to the service. Others were vetoed on the ground that they were of no benefit to the claimants. Under the general law some claimants were entitled to more than the private acts would give them. Desertion or dishonorable discharge formed the basis for many vetoes. Others were vetoed on the grounds of unnecessary increase of pension or dependency not proved, in the case of soldier relatives.

Cleveland's policies in all these vetoes were deserving of the highest praise. He attempted to save the country from useless expenditures. Again, he tried to protect the mass of veterans from inequalities in the distribution of the nation's bounty. Many claimants applied for pensions who were entirely capable of self support. By vetoing these cases, Cleveland prevented the pensioners from becoming social drones. In all cases of doubt as to the real merits of the claim, Cleveland favored the beneficiary. The President expressed his idea of the
stewardship imposed upon him in his last message to Congress.

Cleveland said:-

"I have endeavored within my sphere of official duty to protect our pension roll and make it what it should be, a roll of honor, containing the names of those disabled in their country's service and worthy of their country's affectionate remembrance."46

During his first administration, Congress was hostile towards Cleveland. A Senate committee considered his first 136 private pension vetoes. Out of these, the Senate could find only seven bills which seemed to merit investigation. One of these was subsequently found to have been wisely vetoed. The Senate quibbled over the remaining six for a time. All of Cleveland's findings were based on a close examination of each claim by the Pension office. Congress did not dare to do much as most of the private pension acts had been pushed forward as a part of the regular "log-rolling" and "pork barrel" program. The host of pension claim agents and a good share of the G. A. R. also opposed Cleveland's veto policies. The public upheld his vetoes as is shown by the comment of scores of newspapers on the subject.

When Cleveland began his second administration, he found that the Pension Bureau would have to be re-purified. There had been a four years interregnum. The Office was weakened from Republican, G. A. R. and claim agent rule. Corporal Tanner of "God help the surplus" fame was the first Republican Commissioner during the interregnum. His attempts "to drive a six-mule team through the Treasury" were halted by the Secretary of the Interior, and Tanner was forced to resign. Following his resignation
Raum was appointed. A Republican Congress forced the adoption of the Dependant Pension bill which Harrison signed. This act widened the scope of the government's bounty and the G. A. R. thereafter became the loyal friend of the "Grand Old Party." Raum, Republican Commissioner of Pensions, could now say:

"Nothing shall be left undone by this Bureau to give effect to this latest expression of the gratitude of the American people to the soldiers who have saved the Republic."  

Cleveland appointed Hoke Smith of Georgia as Secretary of the Interior in his second term. He was a southern lawyer of marked ability. Smith carefully guarded his department against the exploitation of outside interests. William Lochren, a Union veteran was appointed Commissioner of Pensions. He was to prove himself different from the Dudley, Tanner and Raum class of soldier-commissioners.

Lochren found that the pension roll had nearly doubled in numbers during the last four years of Republican rule. From 489,725 pensioners in 1889, the roll had increased to 966,012 pensioners in 1893.

The act of June 27, 1890, the dependant pension act, provided that all persons who had served in the military or naval service in the Civil War for ninety days or longer should receive pensions under certain conditions. Honorable discharge was made one prerequisite. The claimant must be suffering from disability of a permanent character, not the result of his own vicious habits. Such claimants who were incapacitated from earning their support by manual labor would draw from six to twelve
dollars per month, depending on the degree of incapacitation.

The interpretation of this act by Raum, Commissioner of Pensions under Harrison, had led the medical examiners to almost totally disregard the capacity of claimants to perform manual labor. Instead, disabilities under the act of 1890 were rated, up to twelve dollars per month, as if the claims had been made under prior laws for like disabilities of service origin. This interpretation was a clear disregard of the intent of the law, Lochren said. The case of one, Bennett, was cited. He was awarded twelve dollars a month for slight deafness which could not interfere with manual labor. It seemed probable that many more such cases had been allowed.

One of Lochren's first tasks under orders from Smith, was to form a board of revision to examine the cases allowed and cull out the defective claims.

The special examination division was set to work and soon uncovered evidence of wholesale frauds by claim agents against the government. Prosecution of these and similar cases went on throughout Lochren's entire administration.

The law division worked in close harmony with the special examination division in prosecuting frauds of all kinds.

In his second annual report, that of 1894, Lochren complained of that old bugbear of all Commissioners, Congressional calls. Some 95,000 such calls had been received and answered by the Office. Claim agents, who prompted their clients to appeal to Congressmen as a last resort to secure action on their claims, were the instigators of these calls, according to Lochren.
The board of revision by this time had dropped 2,226 cases which had been allowed under Raum's interpretation of the act of 1890. A total of 3,343 cases had been reduced to lower ratings.

The Commissioner mentioned that the special examination and law divisions constituted the main defense of the government against unscrupulous pension attorneys. One hundred and ninety-four convictions for pension frauds had been obtained during the past year, claim agents minimizing and decrying the work of the special examiners, Lochren said.

The effect of the act of 1890 on the Treasury is shown by the Commissioner's report for the fiscal year ending June 30, 1894. Whereas the amounts paid for pensions under the general law totaled $78,197,282.83, payments under the act of 1890 reached to the sum of $57,900,173.54.

The report of 1895 showed that the Bureau staff had been reduced. One hundred and twenty of the least efficient employees had been discharged. Lochren expressed a much needed principle when he said that the Bureau was not an eleemosynary institution. The government was credited with savings amounting to $8,672.58 for this year representing recovery of pension money and attorneys' fees paid to persons illegally.

The work of the board of revision in regard to claims under the act of 1890 was virtually completed. Four thousand, one hundred and forty-nine cases were dropped from the rolls during the last fiscal year. A total of 2,279 cases were dropped under the act but restored under the general law. The rate of pension was reduced in 20,539 cases. Lochren stated that this work, in
addition to cleansing the pension rolls, lessened the filing of non-meritorious original claims.

The law division secured convictions in 294 cases involving crimes in pensions and pension claims. The Commissioner stated that vigorous and successful prosecution of unscrupulous claim agents was having a salutory effect on the remaining members of the profession. Lochren said:-

"The conviction and punishment in penitentiaries of some of the most prominent of this class of attorneys have measurably stopped these practices by means of which the Treasury was being largely plundered."67

The last report of the Commissioner of Pensions under Cleveland's administration was rendered in 1896. D. I. Murphy had succeeded Lochren as Commissioner in May, 1896.

The report showed the total number of pensioners enrolled to be 970,678. During the year a careful examination of the files was made, and the number and class of every claim was accurately determined. The number of pending claims was found to total 495,664. There were several claims filed for the same applicant. The total number of applicants in pending cases was 410,922, of which 234,337 were already drawing pensions. A total of 176,585 applicants were not drawing pensions. Murphy directed that preference be given to these original applicants, which seems proper.

The mail matter received and sent out by the Bureau reached the amazing figures of 5,928,157 pieces—an increase of twenty-five and five-tenths per cent over the preceding year. Congressional calls totalled 95,509. An order promulgated in 1893 was probably
The order had directed that calls be limited to cases of bona fide residents of the respective districts and states represented by Congressmen and Senators. The same status was to be furnished not oftener than once in every ninety days. The Congressman and Senators had to state that the call was not made at the instigation or request of any pension attorney or claim agent.

One material advance had been made in the administration of the Pension office. On July 1, 1895, by executive order, all the clerks in the different agencies were placed under civil service rules. Murphy stated that this change had brought about a decided improvement in the entire service. A change was also made in the payment of pensioners. Some eighty thousand of these had formerly been paid in person. All pension checks were hereafter sent direct to the pensioners by mail.

The board of revision had been abolished and its unfinished business was transferred to the board of review. The work had been substantially completed. Murphy announced his purpose now, as before, was to preserve the pension roll as the "nation's roll of honor."

Additional safeguards for the protection of the government and claimants were drawn up by the medical department. Every applicant for a pension was assured the right of a medical examination by three members of the board of surgeons. Applicants could waive the right if they so desired.
Murphy directed that hereafter claims appealed to the board of review on a question of merit should carry a reference from the law division. Murphy continued the vigorous prosecution of pension law violators which Lochren had inaugurated. One hundred and sixty-seven convictions had been secured in the past year. A total of $20,982 had been refunded to the Treasury in illegal fees that had been collected by attorneys or claimants.

The process of special examinations was speeded up in such a way as to shorten the length of time required to investigate cases. Correspondence was handled directly by the Bureau instead of through the special examiners.

The Assistant Secretary, Reynolds, issued a report upon the execution and construction of the pension laws. When he had assumed office he found that many decisions of the Department were wholly inconsistent with the law. He revised these orders where he found them to be violations of the express terms of the law. Reynolds made a strict ruling on the meaning of disabilities incurred in the line of duty. Many former claims allowed during Raum's administration were dropped in accordance with Reynolds' ruling. The Assistant Secretary mentioned the great confusion in the Office relating to the recognition and fees of pension attorneys. He revised and codified the rulings on attorneys. They were held to a strict performance of their contract and every vigilance was employed to guard against illegal demands on their part.

With the close of Cleveland's second administration the Pension Bureau found itself operating in a highly efficient manner.
More work was being turned out than ever before. About 9,000 more cases had been disposed of since April 15, 1893, than had been in any like period prior to that time.

The work of the Pension Bureau under Cleveland's second administration will be remembered particularly for reason of the frauds uncovered by Lochren.

Lochren uncovered wholesale frauds in Virginia, New Mexico and Iowa. In the first two instances mentioned, hundreds of fraudulent pension claims had been allowed. Testimony in these cases had been manufactured and forged by the claim agents. Lochren said that hundreds of similar claims were pending in the Bureau. In the Van Leuven frauds at Lime Springs, Iowa, whole medical boards had been bribed. The result of this practice was the allowance of pensions, at high rates, to nearly all of Van Leuven's clients in that vicinity. This brought a steady and considerable stream of money into all business channels of that community. So corrupting was the influence that a special examiner who had obtained proofs of the frauds was nearly mobbed by the townsmen.

The William Newby case was an interesting example of individual fraud. The records of the War Department showed that William Newby, from White County, Illinois, was killed at Shiloh April 6, 1862. He had been buried on the battlefield by friends and messmates. His family had grown up and his wife had moved to Texas, when in 1891 a stranger walked into the streets of Carmi and announced himself as William Newby. He gave what
seemed to be a satisfactory account of his absence. Newby said that a head wound had driven him insane. His wife was sent for and she identified him as Newby. She had been pensioned as his widow for thirty years. Immediately she ceased to draw her pension and Newby applied for a pension himself. He was playing for large stakes. His claim if allowed would yield from $15,000 to $20,000. The United States, however, found discrepancies between the alleged Newby and the real one. Newby should be 69 years old, this man was but 49. Newby's eyes were blue, while this man's were dark. Investigation brought out that "Newby" was in reality Dan Benton, known as "Rickety Dan." He had left White County, Illinois, when only eight years of age. He had never been in the army. Benton had raised a family in Tennessee. He was a ne'er-do-well and had served terms in jails and penitentiaries. The government was able to account for his location every year but one. Public sentiment divided. Even the Press took sides. A "Newby" league was formed in his defense. Counsel was engaged for him. The trial was held in Springfield, Illinois. The defense called one hundred and forty witnesses. The United States imported sixty witnesses from Tennessee. Newby's widow declared "Rickety Dan" was her husband. One of her sons supported her. Newby's daughter and brother repudiated him. They told of marks not shown on the defendant. The trial was a spirited one and feeling ran high. The jury was out only ten minutes and brought in a verdict of guilty. Intense excitement prevailed. Lochren said that the United States attorney, the jury, and the special examiner were all threatened with violence.
Special examiners endured much at the hands of the populace. Ayres, an examiner at Buffalo, New York, had brought about the conviction of Moore, a claim agent. Ayres was subsequently sued by one of Moore's employees on the false charge of malicious prosecution. Ayres was convicted and damages of $5,000 were assessed against him. The court, however, promptly set the verdict aside.

Dishonest pension attorneys often tried to protect themselves by making charges against the examiners. Lochren deplored the presence of so many unscrupulous attorneys. He said that many of these men had failed in other avocations and were now making a failure in this business. Admission to the bar was not required in order to be a claim agent. Lochren advocated that it be made a prerequisite for all.

Lochren had uncovered frauds among the pension attorneys and new applicants for pensions. He was zealous in his efforts to revise the list of accepted pensioners.

A famous case in the latter class was that of Charles D. Long. Long was a judge of the supreme court of Michigan. He had been pensioned for some years at the rate of fifty dollars per month. He was a man of vigor and discharged his duties on the bench. His left arm had been amputated. Commissioner Tanner had re-rated him in 1889 and allowed a pension of seventy-two dollars per month dating from 1878.

Lochren suspended the pension in 1893 pending an investigation. He ordered Long to appear for a special examination. Long refused, and Lochren promptly reduced his pension to fifty dollars per
Long resorted to the law in order to protect his seventy-two dollar rating. Lochren said more than seven thousand dollars had been unlawfully paid to the judge. He suggested that if Long appealed to the Supreme Court of the United States, he might also, when the case was decided, consider the propriety of returning this money to the Treasury.

The Court of Appeals of the District of Columbia sustained Lochren's action in reducing Long's pension to fifty dollars per month. Its decision was announced on June 6, 1895.

Such had been the work of Cleveland and the Pension Bureau. The Bureau had been purified and reorganized. Cleveland's private pension vetoes had been of material assistance in stopping the robbery of the public treasury. In addition, they helped to keep the pension list "a roll of honor." The President was a man of courage. He performed his duty as he saw it and he was true to the great trust which the nation reposed in him. Cleveland's pension policies were denounced by the selfish interests of his time. Well-intentioned people were led to oppose him through misrepresentation. Only today his true character and the significance of his reform measures are emerging from the smoke screen so carefully laid down on his administration by partisan hatred.
FOOTNOTES

Chapter II

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2. Ibid., XI., 111.

3. Ibid., XI., 105.

4. Ibid., XI., 106.

5. Ibid., XI., 107.

6. Ibid., XI., 120.

7. Ibid., XI., 107.

8. Ibid., XI., 109.

9. Ibid., XI., 110.

10. Ibid., XI., 110.

11. Richardson, Messages and Papers of the Presidents, Washington, D. C., 1898, VIII., 704.

12. Ibid., VIII., 306.


15. Ibid., IX., 648.

16. Ibid., IX., 649.

17. Ibid., IX., 650.


19. Ibid., XI., 1056.

20. Ibid., XI., 1056.


24. Ibid., XII., 93.

25. Ibid., XII., 115.

26. Ibid., XII., 117-119.

27. Ibid., XII., 14.

28. Ibid., XII., 4.

29. Richardson, op. cit., VIII., 525.

30. Ibid., VIII., 524.

31. Ibid., VIII., 116.


33. Mason, The Veto Power, Boston, 1890, p. 137.


35. Richardson, Messages and Papers of the Presidents, Washington, D. C., 1899, X., 303-305.


37. Ibid., XII., 5-6.


39. Ibid., 279.

40. Ibid., 279.

41. Ibid., 279.

42. Richardson, Messages and Papers of the Presidents, Washington, D. C., 1899, X., 303-305.

44. Ibid., XII., 5-6.

45. Richardson, Messages and Papers of the Presidents, Washington, D. C., 1898, VIII., 437.

46. Ibid., IX., 737.

47. Mason, op. cit., 91.


50. Ibid., 229-240.


53. Ibid., XV., 9-11.

54. Ibid., XV., 10.

55. Ibid., XV., 10.

56. Ibid., XV., 12.

57. Ibid., XV., 13.


59. Ibid., XVI., 13.

60. Ibid., XVI., 13-14.

61. Ibid., XVI., 49-50.


63. Ibid., XVI., 7.

64. Ibid., XVI., 7.
65. Ibid., XVI., 9.
66. Ibid., XVI., 10.
67. Ibid., XVI., 14.
68. Report of the Commissioner of Pensions for 1896, 54th Cong.,
  2nd Sess., House Exec. Docs., Washington, D. C., 1896,
  XIV., 5.
69. Ibid., XIV., 6.
70. Ibid., XIV., 7.
71. Ibid., XIV., 7.
72. Ibid., XIV., 9.
73. Ibid., XIV., 9.
74. Ibid., XIV., 11.
75. Ibid., XIV., 11-12.
76. Ibid., XIV., 12.
77. Ibid., XIV., 12.
78. Ibid., XIV., 12-13.
79. Ibid., XIV., 59.
80. Ibid., XIV., 75.
81. Ibid., XIV., 78.
82. Report of the Commissioner of Pensions for 1893, op. cit.,
  XV., 12.
83. Ibid., XV., 12, 25.
84. Ibid., XV., 13, 19.
85. Ibid., XV., 13, 19.
86. Report of the Commissioner of Pensions for 1895, op. cit.,
  XVI., 15.
87. Ibid., op. cit., 15-16.
  XVI., 17-19.
89. Ibid., XVI., 18.

90. Ibid., XVI., 18-19.

A portion of the Teller fee rider in the act of July 4, 1884.

An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June thirtieth, eighteen hundred and eighty-five, and for other purposes.—July 4, 1884.

That the act entitled "An act relating to claim agents and attorneys in pension cases" approved June twentieth, eighteen hundred and seventy-eight, is hereby repealed: Provided, however, that the rights of the parties shall not be abridged or affected as to contracts in pending cases, as provided for in said act; but such contracts shall be deemed to be and remain in full force and virtue, and shall be recognized as contemplated by said act.

Sec. 2. That sections forty-seven hundred and sixty-eight, forty-seven hundred and sixty-nine, and forty-seven hundred and eighty-six of the Revised Statutes are hereby made applicable also to all cases hereafter filed with the Commissioner of Pensions, and to all cases so filed since June twentieth, eighteen hundred and seventy-eight, and which have not been heretofore

Sec. 3. That section forty-seven hundred and eighty-five of the Revised Statutes is hereby re-enacted and amended so as to read as follows:

Sec. 4785. No agent or attorney or other person shall demand or receive any other compensation for his services in prosecuting a claim for pension or bounty land than such as the Commissioner of Pensions shall direct to be paid to him, not exceeding twenty-five dollars; nor shall such agent, attorney or other person demand or receive such compensation, in whole or in part, until such pension or bounty-land claim shall be allowed:

Provided, That in all claims allowed since June twentieth, eighteen hundred and seventy-eight, where it shall appear to the satisfaction of the Commissioner of Pensions that the fee of ten dollars, or any part thereof, has not been paid, he shall cause the same to be deducted from the pension, and the pension agent to pay the same to the recognized attorney.

Sec. 4. That section forty-seven hundred and eighty-six of the Revised Statutes is hereby amended so as to read as follows:

Sec. 4786. The agent or attorney of record in the prosecution of the case may cause to be filed with the Commissioner of Pensions, duplicate articles of agreement, without additional cost to the claimant, setting forth the fee agreed upon by the parties, which agreement shall be executed in the presence of
and certified by some officer competent to administer oaths. In all cases where application is made for pension or bounty land, and no agreement is filed with the Commissioner as herein provided, the fee shall be ten dollars and no more. And such articles of agreement as may hereafter be filed with the Commissioner of Pensions are not authorized, nor will they be recognized except in claims for original pensions, claims for increase of pension on account of a new disability, in claims for restoration where a pensioner's name has been or may hereafter be dropped from the pension rolls on testimony taken by a special examiner, showing that the disability or cause of death, on account of which the pension was allowed, did not originate in the line of duty, and in cases of dependent relatives whose names have been or may hereafter be dropped from the rolls on like testimony, upon the ground of non-dependence, and in such other cases of difficulty and trouble as the Commissioner of Pensions may see fit to recognize them: Provided, That no greater fee than ten dollars shall be demanded, received, or allowed in any claim for pension or bounty land granted by special act of Congress, nor in any claim for increase of pension on account of the increase of the disability for which the pension had been allowed; And provided further, That no fee shall be demanded, received or allowed in any claim for arrears of pension or arrears of increase of pension allowed by any act of Congress passed subsequent to the date of the allowance of the original claims in which such arrears of pension, or of increase of pension, may be allowed.
And if in the adjudication of any claim for pension in which such articles of agreement have been, or may hereafter be, filed, it shall appear that the claimant had, prior to the execution thereof, paid to the attorney any sum for his services in such claim, and the amount so paid is not stipulated therein, then every such claim shall be adjudicated in the same manner as though no articles of agreement had been filed, deducting from the fee of ten dollars allowed by law such sum as claimant shall show that he has paid to his said attorney.

Any agent or attorney or other person instrumental in prosecuting any claim for pension or bounty land, who shall directly or indirectly contract for, demand or receive or retain any greater compensation for his services or instrumentality in prosecuting a claim for pension or bounty land than is herein provided, or for payment thereof at any other time or in any other manner than is herein provided, or who shall wrongfully withhold from a pensioner or claimant the whole or any part of the pension or claim allowed and due such pensioner or claimant, or the land warrant issued to any such claimant, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for every such offense be fined not exceeding five hundred dollars, or imprisoned at hard labor not exceeding two years, or both, in the discretion of the court.

Section 5. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, at-
Attorneys, or other persons representing claimants before his department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud in any manner deceive, mislead, or threaten any claimant or prospective claimant by word, circular, letter, or by advertisement.

Sec. 6. The Commissioner shall have the power, subject to review by the Secretary, to reject or refuse to recognize any contract for fees, herein provided for, whenever it shall be made to appear that any undue advantage has been taken of the claimant in respect to such contract.

Approved, July 4, 1884.
A portion of the Hawley bill.¹

A Bill to amend the pension laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the act entitled "An act relating to claim agents and attorneys in pension cases," approved June twentieth, eighteen hundred and seventy-eight, is hereby repealed.

Sec. 2. That sections forty-seven hundred and sixty-eight, forty-seven hundred and sixty-nine, and forty-seven hundred and eighty six of the Revised Statutes are hereby made applicable also to all cases hereafter filed with the Commissioner of Pensions, and to all cases so filed since June twentieth, eighteen hundred and seventy-eight, and which have not been heretofore allowed, except as hereinafter provided.

Sec. 3. That section forty-seven hundred and eighty-five of the Revised Statutes is hereby re-enacted and amended so as to read as follows:

Sec. 4785. No agent or attorney or other person shall demand or receive any other compensation for his services in prosecuting a claim for pension or bounty-land than such as

the Commissioner of Pensions shall direct to be paid to him, not exceeding twenty-five dollars; nor shall such agent, attorney, or other person demand of receive such compensation, in whole or in part, until such pension or bounty-land claim shall be allowed: Provided, That when it shall appear to the Commissioner of Pensions that in addition to the usual ex parte presentation of any such claim, and the prosecution thereof in the Pension Bureau, there shall be conducted a special examination by the examiner of the Pension Office of such case, and the agent of record has not for any reason attended the same, and that the claimant has therefore employed another person to act as his attorney or counsel at the taking of depositions at such special examination, it shall be lawful to allow such additional attorney a fee of five dollars for each day so employed in such special examination while attending the hearing before the special examiner, together with his expenses incurred in so doing while actually present with the special examiner, to be shown by a sworn statement of items, to be made and proven before such special examiner; such account to be made a part of his report, and be paid by the pension agent out of the first payment of such pension as may be allowed.

Sec. 4. That section forty-seven hundred and eighty-six of the Revised Statutes is hereby amended so as to read as follows:

Sec. 4786. The agent or attorney of record in the prosecution of the case may cause to be filed with the Com-
missioner of Pensions, for his approval, duplicate articles of agreement, without additional cost to the claimant, setting forth the fees agreed upon by the parties, which agreement shall be executed in the presence of and certified by some officer competent to administer oaths. In all cases where application is made for pension or bounty-land, and no agreement is filed with and approved by the Commissioner as herein provided, the fee shall be ten dollars, and no more. And such articles of agreement as have been heretofore, or may hereafter be, filed with the Commissioner of Pensions are not authorized, nor will they be recognized, except in claims for original pensions, claims for increase of pension on account of a new disability not before alleged, in claims for restoration where a pensioner's name has been or may hereafter be dropped from the pension-roll on testimony taken by a special examiner of this office showing that the disability or cause of death on account of which the pension was allowed did not originate in the line of duty, and in cases of dependent relatives whose names have been, or may hereafter be, dropped from the rolls on like testimony, upon the ground of non-dependence, and in such other cases of difficulty and trouble as the Commissioner of Pensions may see fit to recognize them: Provided, That no greater fee than ten dollars shall be demanded, received, or allowed in any claim for pension or bounty-land granted by special act of Congress, nor in any claim for increase of pension on account of the increase of the disability for which the pension had been allowed, nor in any case filed in the office of
the Commissioner of Pensions after June twentieth, eighteen hundred and seventy-eight, and prior to the date of this act:

And provided further, That no fee shall be demanded, received, or allowed in any claim for arrears of pension or arrears of increase in pension allowed by any act of Congress passed subsequent to the date of the allowance of the original claims in which such arrears of pension or of increase of pension may be allowed.

And if in the adjudication of any claim for pension in which such articles of agreement have been, or may hereafter be, filed, it shall appear that the claimant had, prior to the execution thereof, paid to the attorney any sum for his services in such claim, and the amount so paid is not stipulated therein, then every such claim shall be adjudicated in the same manner as though no articles of agreement had been filed, deducting from the fee of ten dollars allowed by law such sum as claimant shall show that he has paid to his said attorney.

And any payment to any person or persons of fees under this act in excess of twenty-five dollars in the aggregate shall be illegal within the purview of section fifty-four hundred and eighty-five of the Revised Statutes, the object of this act being to protect claimants from the payment of any greater fee than that provided herein for services rendered them by a person or persons in successfully prosecuting their claims for pensions, which shall in no case exceed in the aggregate the sum of twenty-
five dollars in each case, except as provided in this act for services and expenses in cases under special examination.

Sec. 5. That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases; and such Secretary may suspend, debar, dismiss, and disbar from further practice before his Department, any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to abide by the said rules and regulations, or who shall in any manner deceive, mislead, or threaten any claimant, or prospective claimant, by word, circular, letter, or by advertisement.

Sec. 6. That no firm shall be allowed to practice before the Department of the Interior as agents or attorneys of a claimant until each individual of said firm is known to and by name appointed by the principal; and the name of each partner shall appear in the body of the power of attorney or other instrument constituting such firm as agent or attorney by their firm-name and style; and upon the withdrawal or death of any one of such individuals constituting such firm the surviving partner shall
notify both the claimant and the Interior Department of that fact, and such agency shall survive to the remaining partner, under such name and style as shall then be agreed upon between the surviving parties. Nothing in this act or in any law of the United States shall be construed as creating or permitting an interest in a pension or bounty-land warrant in favor of an agent or attorney, or coupling with any power of attorney granted by a claimant in a pension or bounty-land case any interest in the claim or pension or land-warrant granted thereunder; nor shall any power of substitution conveyed in a power of attorney in a pension or bounty-land claim be recognized unless accompanied with the written request of the claimant that the particular person or firm sought to be substituted be so recognized.
A portion of the Lemon-Fitzgerald contract.

Articles of agreement made and entered into at Washington, District of Columbia, on this 24th day of June, A. D. 1884, by and between George E. Lemon, of the first part, and W. T. Fitzgerald, S. C. Fitzgerald, N. W. Fitzgerald, and N. W. Fitzgerald and Co., of Washington, D. C., of the second part, witnesseth:

That for and in consideration of $10,000, which is to be paid immediately upon the issuing of an order by the Secretary of the Interior, recognizing said Lemon as the substitute of the parties of the second part in business before that Department, the said parties of the second part, and each of them, hereby assigns, sells, and conveys to said Lemon all the claim and legal business, together with the goodwill thereof of them, or of either of them, and the goodwill and ownership, together with the types and forms of the mailing list of the newspaper known as the "Washington World and Citizen Soldier," including the right to prosecute all claims, applications, and suits pertaining to said business, and to collect and retain the fees therefor. This transfer includes the jackets, papers, evidence, letters, and books, with all the racks or troughs in which the pouches

are now arranged, and all office tables, but no walnut desks; also all pigeon-holes for filing and holding papers.

It covers and includes all claims and applications, wherein either of the parties of the second part is, or may be, named as attorney, for pensions, bounties, land warrants, additional homesteads, patents, arrears of pay or salary, or of allowances, balances due on contracts with the Government, changes of muster of officers, removal of charges of desertion, entries and contests respecting public lands, refundment or abatement of taxes, or duties, for lost horses, and other property taken, destroyed, used, or occupied by the Army, and, in fact, all claims, whatsoever their nature, filed with either of the several Executive Departments of the Government, pending or settled; and all those that may have been or are now pending before Congress or the courts, and all other matters of business with the Federal Government whenever the parties of the second part or either of them are, or may be attorney. It covers and includes settled as well as unsettled claims, claims hereafter to be filed, as well as cases already filed, and gives to said Lemon full ownership of, and right to collect and retain whatever fees remain due and unpaid on cases heretofore settled; and the better to enable said Lemon to receive through the mail, mail matter addressed to the parties of the second part, and pertaining to the business hereby transferred, the parties of the second part hereby agree, and order that all mail matter addressed to them, or either of them, or to the "Washington World" or to the "Citizen Soldier"
or to the "Washington World and Citizen Soldier" within the next eighteen months, and thereafter until we otherwise order, shall be delivered to said Lemon and may be opened by him.

Money due for advertising already done in the said newspaper remains the property of the parties of the second part, and is to be paid over to them by said Lemon as fast as collected, without charge for collecting the same; but money to become due for future advertising in said paper, as well as money due or to become due for subscription to said paper are to be the property of said Lemon.

And the parties of the second part jointly and severally convenant and agree for himself, his heirs, and legal representatives that each of them will, whenever by said Lemon requested so to do, endorse sans recours drafts, checks, postal, or express money orders, issued in payment of fees in the matters herein mentioned, and will execute such other and further instruments of writing as may be found proper and necessary in the process of the prosecution of said cases to enable said Lemon to fully represent the same as attorney, and to cash and realize the fees arising therefrom, and that they will not in any manner attempt to revoke the power of substitution given by them to said Lemon insaid cases, or in any manner limit or disturb the transfer and sale hereby made; or re-engage in the business of prosecuting claims, or soliciting patents of the Government or publishing a soldiers' newspaper, and that after said eighteen months and the resumption of their mail by them they will promptly send to said Lemon such of said mail as may pertain in any wise to the
business hereby transferred.

And the said Lemon on his part, stipulates and agrees, that upon the issuing of an order by the Secretary of the Interior, recognizing him as the substitute of the parties of the second part as herein contemplated, he will pay to them in cash, the said sum of $10,000.

It is expressly understood and agreed as a part of this contract, that said Lemon is not to be in any manner bound by or responsible for the fees that may have been advanced to said parties of the second part or either of them in any claim whatsoever, or required to render the services for which said fees were paid.

Witness our hands and seals at Washington, D. C., this 24th day of June, 1884.

George E. Lemon.
N. W. Fitzgerald
N. W. Fitzgerald & Co.
Washington World and Citizen Soldier
S. C. Fitzgerald
W. T. Fitzgerald
By S. C. Fitzgerald, his Attorney.

Attest:

J. W. Smith
Chas. W. Sackville
Teller's Order No. 100.

Washington, D. C., June 30, 1884.

(Order No. 100)

The following order of the honorable Secretary, dated the 26th instant, is published for the information and guidance of the office.

W. W. Dudley, Commissioner.

The Commissioner of Pensions:

Sir: Herewith is transmitted to you a power of attorney from N. W. Fitzgerald, N. W. Fitzgerald & Co., S. C. Fitzgerald, and W. T. Fitzgerald to George E. Lemon, and a letter of withdrawal of said parties and firm as pension attorneys, which, under the circumstances and the good standing of George E. Lemon, are approved by me.

You will therefore recognize George E. Lemon as attorney in all cases heretofore represented by said parties and firm, according to the terms of the papers herewith filed with you.

And in all cases of transfer from one attorney to another you will recognize such contract as they may make touching attorney fees, &c. It is not material whether the attorney fees are paid to the original or substituted attorney, provided only one payment is made by the U. S. pension agent.

H. M. Teller,
Secretary.

Dudley’s letter to Teller asking for an interpretation of Order No. 100.

Department of the Interior, Pension Office
Washington, July 14, 1884.

Sir: Referring to your letter of the 26th ultimo, transmitting the power of attorney from N. W. Fitzgerald, N. W. Fitzgerald & Co., S. C. Fitzgerald and W. T. Fitzgerald, to George E. Lemon, I have the honor to invite your attention to the following facts:

1. In many instances the claimants object to the transfer, and desire to select their own agent, or prosecute their claims without such aid.

2. It appears in many claims that the Messrs. Fitzgerald have been paid the fee, either in part or in full, and wherein there is nothing else for Mr. Lemon or any other agent to do, the claims being complete at the date of the transfer. Is it intended, as is held by Mr. Lemon that he should be recognized in despite of the expressed wish of the claimants, and is it your intention that in the second class of claims mentioned that Mr. Lemon is to be paid the fee notwithstanding the claim is complete and the

claimant has paid Fitzgerald & Co.?

This letter is written in pursuance of our conversation of Friday last, in order that a full expression of your views upon the subject may be given for the guidance of the office.

Very respectfully,

W. W. Dudley,
Commissioner.
Teller's Order No. 103 issued in reply to Dudley's inquiry.

Department of the Interior, Pension Office
Washington, D. C., July 30, 1884.

(Order 103)

The following instructions of the honorable Secretary, of the 17th instant, in regard to payment of fees and transfer of business by one attorney to another, are published for the information and guidance of the office.

W. W. Dudley,
Commissioner.

Hon. W. W. Dudley,
Commissioner of Pensions:

Sir: I have yours of the 14th instant concerning the collection of attorneys' fees in case of the assignment of business by one attorney to another. It was not my intention in allowing one attorney to transfer his business to another to allow additional fees to be collected for work completed and when the fee has been paid. In all cases where the work is but partially completed it will be impossible to determine what ought to be paid to the new attorney, and I must, therefore, leave the fee to be paid as the law directs. If an attorney who

has partially completed the work of a pension case and received his pay therefor, in whole or in part, refuses to complete the work so begun, he cannot be compelled to do so, although for such misconduct he may be disbarred; but if he discontinues to practice, the Department is powerless to compel him to proceed or to punish him for neglecting to do so. If he assigns his business to another attorney, the claimant is not bound to recognize the assignee as his attorney; he may employ other persons to present his claim, and the assignee so receiving the papers of claimant from the former attorney will be required by the Department to turn over to such claimant, on demand, any and all papers in his hands belonging to such claimant. But if the claimant chooses to recognize the assignee as his attorney, then he is bound to pay to such attorney the legal fee for his services, unless an agreement shall be made between the claimant and the assignee for a fee less than that established by law. When the claimant has paid a portion only of the fee allowed by law, and only a portion of the work necessary to secure the pension has been performed by the attorney, it would seem to be but just that the assignee should be paid only for the work done by him; but it is impossible to determine the amount that ought to be paid for the services rendered by such assignee, and therefore, I see no way but to allow the assignee to receive pay in all cases where he is required to do substantial service to his client. He should not be allowed to render service simply as a means of making a charge in cases completed by the assignor. Whenever the claimant has paid nothing, as I have before said, he should be required to pay the assignee whether he has rendered
service or not, because the former attorney or assignee has made the last attorney or assignee his agent to collect such fee. The assignment of claims held by one attorney and in an incompleted state should not be allowed, except in such cases as appear to the Department to be necessary to the proper conduct of such cases in the interest of the claimant.

Very respectfully,

H. M. Teller,

Secretary.
The Order of January 19, 1885, issued by Joslyn in the absence of Teller.

Department of the Interior,
Washington, January 19, 1885.

The Commissioner of Pensions:

Sir: I have considered the question presented in the appeal of Allan Rutherford, of this city, from the refusal of your office to recognize him as attorney in the prosecution of the claim for pension, No. 290,613, of Rosanna White.

In an application for pension filed March 10, 1882, N. W. Fitzgerald & Co. were named by the claimant as her attorneys with full power of substitution. This firm was suspended from practice before your office December 22, 1883, upon information that indictments had been found against them in the supreme court of this district. They were restored to practice June 16, 1884. The claim was transferred by Fitzgerald & Co. to George E. Lemon, under a general power of attorney, which was approved by the Department in a letter to the Commissioner of Pensions dated June 26, 1884.

On the 26th of August, 1884, the appellant filed a power of attorney from the claimant revoking all former powers of attorney and authorizing him to prosecute the claim. He was informed of

the transfer of her claim from Fitzgerald to Lemon, whereupon the claimant addressed a letter to your office protesting against such action, and positively declining to accept Lemon as her attorney. The question presented in the appeal is whether Lemon should be recognized as attorney against the wishes of the claimant.

The instructions contained in the letter to the Commissioner authorizing the recognition of Lemon in the Fitzgerald cases were as follows:

Washington, D. C., June 26, 1884.

Sir: Herewith is transmitted to you a power of attorney from N. W. Fitzgerald, N. W. Fitzgerald & Co., S. D. Fitzgerald, and W. T. Fitzgerald, to George E. Lemon, and a letter of withdrawal of said parties and firm as pension attorneys, which, under the circumstances, and good standing of George E. Lemon, are approved by me.

You will therefore recognize George E. Lemon as attorney in all cases heretofore represented by said parties and firm according to the terms of the papers herewith filed with you.

And in all cases of transfer from one attorney to another you will recognize such contract as they may make touching attorneys' fees, &c. It is not material whether the attorney's fees are paid to the original or substituted attorney, provided only one payment is made by the United States pension agent.

H. M. Teller,
Secretary.

The Commissioner of Pensions.

At the time the transfer of the business of Fitzgerald & Co. to Lemon was authorized in the letter above quoted it was a rule of your office that "no power of substitution contained in any power of attorney executed subsequent to January 1, 1882, and no substitution contained in any power of attorney hereafter filed, will be recognized by this office * * *

nor will any
transfer of any agency from one agent to another be permitted unless the first agent had full power of substitution, executed prior to January 1, 1882, and the substituted agent shall file the written consent of the claimant to such change, &c."

The existence of this rule accounts for the issue of the direction contained in the letter of June 26, authorizing the transfer from Fitzgerald to Lemon. Taking into consideration the criminal proceedings which had been instituted against Fitzgerald for acts in connection with the prosecution of claims for pensions, his disability for a considerable period to properly represent his clients owing to his suspension from practice, and the numerous complaints which had been received of his methods of transacting his pension business, it was believed that the best interests of claimants warranted a departure from the established rule, so far as to permit the general transfer of the cases.

On the 14th of July, 1884, the Commissioner addressed a letter to the Department, of which the following is an extract, relating to the subject now under consideration:

"Referring to your letter of the 26th ultimo, transmitting the power of attorney from N. W. Fitzgerald, N. W. Fitzgerald & Co., S. C. Fitzgerald, and W. T. Fitzgerald, to George E. Lemon, I have the honor to invite your attention to the following facts:
First. In many instances the claimants object to the transfer, and desire to select their own agent or prosecute their claims without such aid. * * * This letter is written in pursuance of our conversation of Friday last, in order that a full expression of your views upon the subject may be given for the guidance of the office."

To which the Secretary replied, on the 175th of July, as
f ollows:

Hon. W. W. Dudley,
Commissioner of Pensions:

Sir: I have yours of the 14th instant concerning the collection of attorney's fees in case of the assignment of business by one attorney to another. It was not my intention in allowing one attorney to transfer his business to another to allow additional fees to be collected for work completed and when the fee had been paid. In all cases where the work is but partially completed it will be impossible to determine what ought to be paid to the new attorney; and I must, therefore, leave the fee to be paid as the law directs. If an attorney who has partially completed the work of a pension case and received his pay therefor, in whole or in part, refuses to complete the work so begun he cannot be compelled to do so, although for such misconduct he may be disbarred; but if he continues to practice the Department is powerless to compel him to proceed or to punish him for neglecting to do so. If he assigns his business to another attorney, the claimant is not bound to recognize the assignee as his attorney, he may employ other persons to present his claim, and the assignee so receiving the papers of the claimant from the former attorney will be required by the Department to turn over to such claimant, on demand, any and all papers in his hands belonging to such claimant. But if the claimant chooses to recognize the assignee as his attorney, then he is bound to pay to such attorney the legal fee for his services, unless an agreement shall be made between the claimant and the assignee for a fee less than that established by law.

I have underscored the portion of the letter which relates particularly to the subject of the present appeal. The instructions then given would seem to be sufficiently clear as to the course to be pursued in such cases, and until the attention of the Department was directed to the matter by appeal it was not aware that a contrary practice prevailed.

That there may be no further misunderstanding upon the subject, you will cause the practice of your office in the cases
embraced in the transfer from the Fitzgeralds to Lemon to conform to the following rule:

1. Lemon will be recognized as attorney in any case transferred from the Fitzgeralds in which the claimant consents to the transfer. In view of the large number of cases involved, he will not be required to file the written consent in express terms to the substitution, but such acquiescence may be inferred in any case in which the claimant does not object, or in which Lemon presents additional evidence in compliance with a requirement of your office therefor, or other evidence in writing indicating a willingness on the part of claimant that he shall be recognized as attorney in the claim.

Lemon will not be recognized in any case transferred in which the claimant objects to his recognition as attorney. Such objection need not be formal, but may be inferred from the appointment by the claimant of another attorney, or from any written communication to your office, indicating a desire that Lemon shall not be recognized as attorney in the claim.

The papers in the pension claim submitted with your report upon the appeal are herewith returned for action in accordance with the above instructions.

Very respectfully,

M. L. Joslyn,
Acting Secretary.
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