

IN THE SENATE OF THE UNITED STATES.

MARCH 10, 1880.—Ordered to be printed.

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

REPORT:

*The Committee on Claims, to whom was referred the petition of Sarah S. Flagg, widow and executrix of the late W. C. Flagg, deceased, late collector of internal revenue of the twelfth Illinois district, with the accompanying papers, have carefully considered the same, and submit the following report:*

The late W. C. Flagg was collector of internal revenue in the twelfth Illinois district from September 12, 1862, to April 30, 1869. The claimant, Sarah S. Flagg, is his widow and claims to be the executrix of his last will and testament. In her petition to Congress, not verified and not dated, she claims "that in rendering his final accounts to the government certain claims for commission, disbursing, and other items were rejected by the department, and he was required to pay and did pay the sum of \$15,000, the total of said items having been retained by him as due him under the law. The payment of this large sum of money very seriously embarrassed his estate and now threatens to deprive her and her orphan children of their home. In order to pay the said sum and interest her husband did encumber his entire estate, including homestead, to obtain the money to pay said assumed amount, the interest upon which from said date amounts to \$12,000." There is no evidence showing the date of the death of said Flagg or that Mrs. Flagg is his duly qualified executrix.

Accompanying the petition is what purports to be a statement of his accounts, made by H. J. Crane, chief clerk, which throws very little light upon the question. There is also an unverified statement from F. H. Pieper, dated Bellville, Ill., February 19, 1879, and the same from H. J. Crane, dated Alton, Ill., February 20, 1879, and the same from H. G. M. Pike, dated February 21, 1879. These statements are simply opinions and conclusions from information, and expressions of their confidence in Mr. Flagg and the justness of the claim of his widow.

This claim was first presented to the Forty-fifth Congress and referred to the Committee on Claims, and no further action had. It was again presented to the Forty-sixth Congress and referred to your committee.

Your committee, not being furnished with any competent evidence and desiring to do exact justice, referred the petition to the Secretary of the Treasury for examination and information, and received from him a letter, dated February 25, 1880, from the First Comptroller, and a letter from the Solicitor of the Treasury, dated March 2, 1880, and a copy of a letter from said Flagg to the Commissioner of Internal Revenue, dated July 23, 1869, and a copy of an affidavit made by said Flagg March 13,

1874, filed by said Flagg in the Treasury Department to procure a readjustment of his account, all of which documents are hereto attached, made a part of this report, and are as follows, to wit:

TREASURY DEPARTMENT,  
FIRST COMPTROLLER'S OFFICE,  
Washington, D. C., February 25, 1880.

SIR: I have the honor to acknowledge the reference to this office of the letter of Hon. F. M. Cockrell, United States Senator, of the 6th ultimo, and the accompanying memorial of Mrs. Sarah S. Flagg, executrix of W. C. Flagg, deceased, late internal revenue collector of the twelfth district of Illinois.

In reply, I have to state that said W. C. Flagg held the office of internal revenue collector in said district from September 12, 1862, to April 30, 1869, and that on the adjustment of his revenue account to the close of his said term, as per report No. 4218, a balance was found to his debit of \$23,726.18. By a subsequent supplementary adjustment of his said account, per report No. 6651, crediting further abatements and a deposit of the balance to his credit in his disbursing account and other items, the balance against him in his said revenue account was reduced to \$15,096.34, for which sum, on suit against him and his sureties, judgment was obtained February 17, 1872. By a subsequent supplemental adjustment of the account, per report No. 8962, an additional credit of \$14,883.01 for cash deposited, and \$213.33 as additional commissions to cover expenses of office in the fiscal year 1864, was made to balance and close the account on the books of the department. Copies of the reports above referred to, with statement of differences, are forwarded herewith.

I also send a copy of a letter written by Mr. Flagg to the Commissioner of Internal Revenue July 23, 1869, as indicating his impression of the account, and as showing from his books at that time a deficit of \$10,235.53, including, as he there claimed, "nearly or quite \$4,000" due to him as commissions and for money advanced by him to assistant assessors, &c.

The adjustments above referred to were all made subsequent to the date of said letter, and the item of \$100 therein claimed by him as a lawyer's fee which he had paid was also allowed to him in another miscellaneous internal revenue account.

The item of his commissions for the fiscal year 1864 seems to be the principal one of difference now remaining. During that fiscal year, 1864, collectors were entitled to commissions at 4 per cent. on the first \$100,000 collected by them, and 2 per cent. on the residue, subject to the following limitations prescribed by law, to wit: "That the salary of no collector shall exceed ten thousand dollars in the aggregate, or more than five thousand dollars exclusive of the expenses of administering the office."

At the prescribed rates, the commissions on his collections for said fiscal year 1864 would have amounted to more than the maximum sum of \$10,000, except for the said \$5,000 limitation above his expenses.

But he reported as expenses of office only \$1,809.88, which limited his compensation under the law to \$6,809.88, and his account for that year was adjusted accordingly.

About ten years thereafter, viz, May 13, 1874, after the balance against him had been reduced by a deposit to \$213.33, he made an affidavit and furnished vouchers showing additional expenses incurred by him in said year 1864 of \$5,343.58, which would have entitled him under the law to the full \$10,000 in said year, or \$3,190.12 in addition to the previous credit. But as only the said sum of \$213.33 was then requisite to close his account, and as the excess, if any, had been covered into an unappropriated fund, he was credited only that sum to balance and close the account on the books of the department. A copy of said affidavit is inclosed herewith, as is also the letter and memorial referred to this office as aforesaid.

Very respectfully,

A. G. PORTER, *Comptroller.*

Hon. JOHN SHERMAN,  
*Secretary of the Treasury.*

DEPARTMENT OF JUSTICE,  
OFFICE OF THE SOLICITOR OF THE TREASURY,  
Washington, D. C., March 2, 1880.

SIR: I have the honor to acknowledge the reference of a letter of Hon. F. M. Cockrell, and its inclosure, requesting me to furnish such information as the records of this office show in relation to a suit instituted against Willard C. Flagg, late collector of internal revenue for the twelfth collection district of Illinois.

It appears from the dockets of this office that suit was instituted in the United States district court for the southern district of Illinois on the 15th of May, 1871, against late Collector Flagg and the sureties upon his bond for the recovery of the sum of \$21,369.81. This balance was subsequently reduced to the sum of \$15,096.34.

At the January term, 1872, a judgment was rendered in favor of the government for debt .....	\$15,096 34
Interest to April 9, 1872 .....	130 83
Judgment for costs—clerk, \$17.30; marshal, \$16.32 .....	33 62
Marshal's fees on execution .....	120 27
Total amount collected from defendants .....	15,381 06
Marshal's fees retained by marshal .....	120 27
Balance paid into court .....	15,260 79
Marshal's fees in judgment .....	\$16 32
Clerk's fees and commissions .....	172 91
United States attorney's commission of 2 per cent .....	305 22
	494 45
Net amount to be paid into Treasury .....	14,766 34
Amount actually paid into Treasury .....	14,883 01
	116 67

The sum of \$14,883.01 was deposited to the credit of the United States Treasury on account of said judgment, and covered into the Treasury, and the account of said collector was subsequently balanced and closed.

Application was made by the clerk for a refund of the sum overpaid, which the Comptroller declined to grant on the ground that the act of March 3, 1849, 9 Stats., p. 398, provided that the gross amount of all sums received for the use of the United States should be deposited without any abatement.

The inclosures of your letter are herewith returned.

Respectfully,

K. RAYNER,  
*Solicitor of the Treasury.*

Hon. JOHN SHERMAN,  
*Secretary of the Treasury.*

UNITED STATES INTERNAL REVENUE,  
COLLECTOR'S OFFICE TWELFTH DISTRICT ILLINOIS,  
*Alton, July 23, 1869.*

SIR: In answer to yours of June 12 and 22, concerning the deficit in my cash account, I respectfully reply that I have examined into the matter partially and find the books to show the following result, which I believe will be still further diminished by further investigation into the data from which the accounts were made up. This investigation I hope to be able to make next week.

You will see that we differ considerably in the two offices on two or three items, and that my showing reduces the deficit largely.

Respectfully,

W. C. FLAGG,  
*Late Collector.*

C. DELANO,  
*Commissioner Internal Revenue.*

	Deputy commissioner's letter.	Collector's book.
Collections .....	\$3,175,634 92	\$3,175,634 92
Cash deposited .....	3,115,042 51	3,114,939 82
Assessor's drafts .....	7,714 84	7,723 67
Refunding drafts .....	85 50	76 67
Stationery .....	1,343 11	801 95
Collector's compensation .....	19,502 23	22,627 68
Assistant assessor's drafts .....	14,238 08	16,237 08
Salary tax .....		395 91
Postage .....		410 66
Advertising .....		487 85
Express .....		86 15
Exchange .....		75
Depositing money .....		72 60
Telegram .....		6 10
Lawyer's fee (authorized) .....		100 00
Collector's salary, net .....		1,432 50
	3,157,926 27	3,165,399 39
Deficit .....	17,708 65	10,235 53

The \$10,235.53 includes nearly or quite \$4,000 which is properly due this office for commissions, salary, and money advanced as salary for assistant assessors.

P. S.—The deficit appears to have arisen in the accounts kept prior to June, 1865, when we were very much at sea, and it has been difficult to tell, until the account was closed, just where we were. I deposited April 9, 1866, \$10,000 towards covering the deficiency, but it seems did not deposit enough. I shall still hold myself ready to deposit the actual deficiency, which I am mortified should have occurred (so far as the old account goes), but, now it has, will ask that the credits, which seem to me just and equitable, be allowed.

Respectfully,

W. C. FLAGG,  
Late Collector.

I, W. C. Flagg, late collector of internal revenue twelfth district of Illinois, do hereby declare that during the year ending June 30, 1864, I was to pay, by agreement with my deputies, one-half of the commissions allowed me by law on the amounts collected by them; but that owing to inequalities of compensation thus resulting, I allowed the deputies collecting the smaller amounts the whole of the commissions on the amounts that were collected by them or more; that the amounts collected by each of said deputies from September 1, 1863, to June 30, 1864, was, as nearly as I can determine from the papers now in my hands, as given in the following table, and the amounts allowed were those added and heretofore reported with vouchers:

Division.	Deputy.	Amount collected.	Compensation.
1	D. C. Martin.....	\$133,019 63	\$1,408 50
2	John Blattner.....	97,601 27	983 02
3	E. C. Deu.....	5,342 04	126 20
4	J. W. Sost.....	2,615 57	160 13
5	S. B. Servant.....	4,944 99	190 25
6	H. Kuenster.....	4,825 34	210 60
7	F. H. Pieper and C. Stephani.....	228,529 78	2,264 88
	Total.....	476,878 62	5,343 58

Owing to the changes necessitated by my paying more than agreed to some and perhaps less to others, I cannot determine more definitely the rate allowed to each, but the gross sums allowed were as given herewith.

W. C. FLAGG. [SEAL.]

Subscribed and sworn to before me this 13th day of March, A. D. 1874.

[NOTARIAL SEAL.]

WM. L. PIZGOTT,  
Notary Public.

Your committee were also furnished by the Secretary of the Treasury with copies of the revenue accounts of said Flagg, made by the Fifth Auditor, the first dated January 26, 1870, and numbered 4214, and showing a balance of \$23,726.18 due from said Flagg to the United States; and the second, dated January 12, 1872, No. 6651, showing a readjustment of the account up to that date, and a balance of \$15,096.34 due from said Flagg to the United States, after deducting credits allowed since first adjustment; and the third, dated April 14, 1874, No. 8962, showing since last readjustment a deposit of cash to the amount of \$14,883.01, and a balance due to the United States of \$213.33, which was settled and balanced by allowing a credit to that amount to said Flagg for additional commissions to cover expenses of office in the fiscal year of 1864, on vouchers long delayed and recently submitted.

From the foregoing your committee find that said Flagg was the collector from September 12, 1862, to April 30, 1869, and that the first adjustment of his account in the Treasury Department was made January 26, 1870, by the Fifth Auditor, and was approved by the Comptroller October 22, 1870, and showed a balance of \$23,726.18 due to the United States; and that the second or supplementary adjustment of his accounts



was made January 12, 1872, by the Fifth Auditor, and approved by the Comptroller January 25, 1872, and showed a balance due to the United States of \$15,096.34, after allowing sundry items of credit, including a cash deposit of \$2,912.19. Prior to this supplementary readjustment, on May 15, 1871, a suit was instituted by the United States against the said Flagg and the sureties on his bond in the United States district court for the southern district of Illinois for the recovery of the sum of \$21,369.81, and prior to final action in said suit this second or supplementary adjustment was made out, and at the January term, 1872, of said court a judgment was rendered in favor of the United States against the said Flagg and his sureties for said \$15,096.34, the balance found due on said supplementary adjustment, and the interest due at that time amounted to \$130.83, and the total amount paid by the defendants was \$15,381.06, and after deducting fees of marshal, clerk, and commissions of United States attorney and clerk, the actual amount paid into the Treasury was \$14,883.01. After this and on April 14, 1874, the third or supplementary adjustment was made, in which said Flagg was charged with said original balance of \$15,096.34 so found due on the second or supplementary adjustment, and no interest included, and he was credited with \$14,883.01, the amount actually paid into the Treasury on said judgment, which left a balance of \$213.33 of said original balance still unpaid. In the mean time, and on March 13, 1874, Mr. Flagg had filed his affidavit, in which he claimed that during the year ending June 30, 1864, he was to pay, by agreement with his deputies, one-half of the commissions allowed him by law, but that owing to inequalities of compensation thus resulting he allowed the deputies collecting the smaller amounts the whole of the commissions on the amounts collected by them or more; that the amounts collected by each of said deputies from September 1, 1863, to June 30, 1864, was, as nearly as he can determine from the papers now in his hands, as given in the table hereinbefore copied in his affidavit, and aggregating \$5,343.58. He further states that owing to the changes necessitated by his paying more than agreed to some, and perhaps less to others, he cannot determine more definitely the rate allowed to each, but that the gross sums allowed were as given in the table. Upon this affidavit, made some two years after the rendition of said judgment, the said balance of \$213.33 was adjusted, and his accounts closed on the books of the Treasury Department.

Your committee further find that, according to the statements of Mr. Flagg himself, who must be presumed to know more about his own accounts than any one else, and the adjustments in the Treasury Department, the only actually disputed matters were in regard to his salary and expenses of administering the office for the fiscal year of 1864. The law then in force provided "that the salary of no collector shall exceed \$10,000 in the aggregate, or more than \$5,000 exclusive of the expenses of administering the office." His commissions on collections for that year would have amounted to more than \$10,000, but the law before quoted restricted the salary to \$5,000 exclusive of expenses. He reported the expenses of his office for that year at \$1,809.88, and was allowed his salary of \$5,000 and said expenses, aggregating \$6,809.88. Ten years afterward, and some two years after the rendition of the judgment and the payment thereof, and after two adjustments of his accounts in the Treasury Department, and after full opportunity to present all just and proper claims for allowance and credit in the courts, Mr. Flagg makes an affidavit and furnished vouchers purporting to show additional expenses incurred by him in said year 1864 to the amount of \$5,343.58. These expenses, according to his affidavit, were commissions

allowed by him to his deputies on amounts collected by them, and he himself only says that said amounts were given in said table as nearly as he could determine from the papers that were then in his hands, and that he cannot determine more definitely the rate allowed to each.

Your committee could not devote the time and labor necessary to a personal examination of these vouchers, and is not prepared to say that where a collector allowed to his deputies commissions on their collections, to some one-half the amount allowed him by law, to some more than one-half, to some even more than the full amount of commissions, and to some less, he can legally claim such payments as expenses of administering the office.

It is impossible for your committee or Congress to devote the time, labor, and attention necessary in making a re examination and adjustment of all the sundry items of account and business of Mr. Flagg for nearly seven years, and in reviewing the sundry adjustments made in the Treasury Department, and the proceedings in the suit in the United States court after the lapse of so many years, and without such re-examination, readjustment, and review it is impossible for your committee or Congress to ascertain or determine whether Mr. Flagg has received credit for every item and amount to which he may have been entitled. It is sufficient to say that he had over one year after the termination of his office in which to present his credits, and that there is no ground for believing that the officers of the Treasury Department acted harshly, improperly, or with prejudice. A suit was then commenced against him and sureties for a balance of \$21,369.81, and another year was given him in which to make his defense, present his credits, and obtain a proper adjustment, and the Treasury Department, after the institution of the suit, did make a supplementary adjustment and allow him over \$6,000 in credits, and upon the same a judgment was rendered.

It does seem to your committee that full opportunities were given to Mr. Flagg in his lifetime for the full presentation of every proper and just claim on his part for credit.

Your committee are, therefore, constrained to recommend that the claim of said Sarah S. Flagg, widow and executrix of W. C. Flagg, be not allowed, and this report adopted, and your committee discharged from the further consideration of this claim.

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