



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

**GROVER SELLERS**  
ATTORNEY GENERAL

Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. 9-5804  
Re: Whether the Comptroller  
would be authorized to is-  
sue a warrant to the claim-  
ant under the stated facts.

This will acknowledge receipt of your letter of re-  
cent date requesting our opinion as to whether you would be  
authorized to issue a warrant to the claimant under certain  
stated facts, which facts are quoted in part from your let-  
ter as follows:

"...  
"Thomas F. Riddle of this City is a Confed-  
erate Veteran, now 97 years of age.

"In 1932 he applied for and was granted a  
pension. Through an error of the then County  
Judge John P. Harris' Secretary, who prepared his  
application, he was classed as a single man. He  
is a very illiterate old person and he signed the  
affidavit as prepared and as he was told to do.  
On the strength thereof, his pension was only \$25.-  
00 per month. Since September of this year, how-  
ever, he is getting \$50.00 per month.

"The fact is, and it can be established be-  
yond question, that he was at that time a married  
man, and as I understand the law, entitled to \$50.-  
00 per month. His first wife died some time in  
1918 or 1919, and he remarried in 1919, and con-  
tinued to live with his wife up to some time in  
1937, when she died.

"It seems clear to me, from these facts which  
can be abundantly verified, that he was entitled

to \$50.00 per month from the time his pension started to October 1937, when his then wife died, but due to the error aforesaid he only received \$25.00 per month for this period of nearly five years.

" . . . ."

Articles 6205, 6208, 6215 and 6221 of Vernon's Annotated Civil Statutes as they existed from 1932 to 1937, the dates the claimant under consideration asserts his claim for past Confederate pension, insofar as pertinent to our question, in part read respectively as follows:

"To whom Granted. -- Out of the pension fund to be created and maintained under the provisions of Article 6204, as amended, there shall be paid on the first day of each calendar month a pension in the amounts provided for in Article 6221 to every Confederate soldier or sailor whose application has heretofore been approved, and also those who came to Texas prior to January 1, 1928, and whose application shall hereafter be approved,  
. . . ."

"Application Requirements. -- Person entitled to a pension under this title shall make application for same in writing and under oath to the county judge of his or her county. Such application shall state the name, age, residence of the applicant, and occupation, if any, and every fact necessary to entitle the applicant to the pension. If the applicant is such a soldier or sailor as is prescribed herein, he shall state in his application the company and regiment in which he was enlisted; if he served in an organization for the protection of the frontier against Indian raiders or Mexican marauders, he shall name and identify such organization; if he were an officer commissioned by the President of the Confederate States or by the Governor of other proper authority of this State, in the army, navy, militia or frontier organization, he shall state the date of his commission and his rank therein; and if detailed directly under the provisions of the conscript law

for duty in the armories or shops of the Confederate government or for any other labor necessary for the maintenance of the army in the field, or if he served in the Confederate navy, he shall state the time of service in each case. Each applicant shall furnish the testimony of at least one credible witness who personally knows that he enlisted in the service and performed the duties as claimed by him. If he cannot secure the testimony of such witness, he may furnish documents or other evidence of his service. Provided, that where the applicant was born prior to 1851, he may make his proof by submitting to the county judge an affidavit stating his name, age, residence and occupation, if any together with every fact necessary to entitle him to a pension. Such affidavit, when executed, shall be accompanied by a sworn statement of at least two (2) creditable witnesses who have known the applicant for a period of not less than ten (10) years and who are in no way related to or interested in the financial welfare of such applicant, and that he is a creditable person, and that they believe the statements entitling him to a pension are correct and true."

"Payments; affidavits; Warrant. -- The payment of such pension shall be made on the first day of each calendar month to all pensioners whose application for pensions shall have been duly approved as provided by law by warrant drawn by the Comptroller on the State Treasurer, to be paid out of the money appropriated for that purpose as provided by law.

". . . ."

"On the first day of each calendar month the Comptroller shall pay to each married veteran who is living with his wife a pension of fifty dollars (\$50) per month for as long as they both may live, and after the death of either party, then the said veteran or his widow still living shall only draw an amount equal to other veterans or their widows. To each veteran now unmarried or a widower or widow

who is drawing a pension or whose application may be hereafter approved, shall be paid the sum of twenty-five dollars (\$25) per month for each year, and the remainder of said pension fund (after reimbursing the general revenue fund for any advancement theretofore made to the pension fund) shall be equally prorated among all of said pensioners whose claims to pensions have been established and filed. All pensions shall begin on the first day of the calendar month following the approval of the application."

It appears from these articles that before a person was entitled to begin receiving a Confederate pension, he was required to make an application therefor in accordance with said statutes. Such a conclusion is reached from the reading of that portion of said Article 6205 which authorizes payment out of the funds "to every Confederate soldier or sailor whose application has heretofore been approved, and also those who came to Texas prior to January 1, 1928, and whose application shall hereafter be approved," and Article 6215 which provides for payment by warrant to all pensioners whose application has been duly approved, and Article 6208 which provides for the necessary requisites to be put forth in each application.

After an application had been approved, the applicant started receiving a pension in accordance with Article 6221. In other words, an applicant was required to file his application and have same approved before he began to receive a monthly sum of money. We believe that it can unequivocally be stated from the wording of the above statutes and in the absence of affirmative language to the contrary, that although a Confederate veteran would have been entitled to a pension previous to the time he made his application, he was only authorized to receive such pension from the time his application was approved and not for any time prior thereto. Along the same line of reasoning we do not believe a person can amend his application at a later date and thus receive back payments based upon his amended application.

To hold otherwise in the absence of specific legislation to that effect would lead to the possibility of creating pandemonium in the Confederate pension system. Those who could have qualified for a pension but who were tardy or

Honorable George H. Sheppard, page 5

failed to do so could claim payment of the pension they would have received if the proper application at the proper time had been made. In fact, the entire pension system could be thrown into chaos.

Based on the foregoing, we feel constrained to answer your question in the negative.

Yours very truly

APPROVED FEB 18, 1944

ATTORNEY GENERAL OF TEXAS

RGK:db

ATTORNEY GENERAL OF TEXAS

By

Robert O. Koch  
Assistant

