

## SENATE....No. 85.

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### Commonwealth of Massachusetts.

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IN SENATE, March 9, 1844.

The Special Joint Committee to whom was referred the Secretary of State's annual report, dated January eighth, have attended to the subject which was committed to them, and having heard the statements, not only of the secretary of the past year, but also those of several gentlemen who had taken an interest in the various matters which came under the cognizance of the committee, ask leave to

### REPORT:

*First.* The first matter which was contained in the secretary's report, and which may be found on the eighth, ninth and tenth pages of the printed document, has reference to the *Abstract of the School Returns*. On this subject the committee heard the statements, both of the past Secretary of the Commonwealth, and of the Secretary of the Board of Education, (Hon. Horace Mann,) and after a full hearing the committee were of opinion that a misconstruction had been given to the statute of 1838. The committee saw that it was necessary that the returns of the schools should be made into the Secretary of State's office, because it is from the data therein contained that the apportionment of the school fund is based. For the purpose of giving to the Secretary of the Board of Educa-

tion a full and free access to these papers, and at the same time to retain these papers in the office in which they are wanted to apportion the school fund, it was provided in the statute of 1838, that "the Abstract of the School Returns shall be made up under the direction of the Board of Education, *in the office of the Secretary of the Commonwealth.*"

The committee did not think that any act or resolve was necessary to place this matter on a correct footing, for they believed that the simple expression of this sentiment, on the part of the Legislature, signified by their acceptance of this report, would be a sufficient justification of the Secretary of the Commonwealth, should he in future decline to add this item to the expense of extra clerk-hire in his department.

*Second.* The second matter to which allusion was made in the report, and which seemed to your committee to demand examination, was that part which referred to the "fees charged and received in this office." The committee found it stated, with some self-complacency, by the secretary, that the fees received during the past year, and which were by law deducted from the secretary's salary, amounted to \$454<sup>71</sup>/<sub>100</sub>. The secretary regards this as a matter of economy and of judicious saving.

On the eleventh page of the printed report, the secretary suggests the necessity of "an entire revision of the laws regulating fees in this office." The committee are fully of his opinion, that the fees which have been lately collected and received in this office do require regulation. But they cannot agree with the secretary in the opinion further expressed by him, that "there is no reason why this office, under a discreet tariff of fees, should not pay, or more than pay, the entire salary of the secretary."

They are strengthened in this view when they further examine the sources from which fees have been already received into the secretary's office. These are as follows:

1. The issuing of commissions for civil offices of emolument in Massachusetts.
2. Passports and certificates of citizenship or residence.
3. Certificates to be used in foreign courts or countries, or in

sister States, authenticating papers, documents, official character or facts or record.

4. Executive requisitions or warrants.

5. Copies of maps or plans.

6. Time and labor spent in archives.

The Committee, although they inquired of the secretary, were not able to ascertain from which of these six sources the several parts of the \$454  $\frac{74}{100}$  received during the last year, were made up.

In reference to the first of the above sources, (the issuing commissions for civil officers, &c.,) the committee found that it had been the uniform habit of the members of the council, when in session, to qualify civil officers without charge; and when it appears that very many of the commissions for civil officers, nominally of emolument, are in a measure, merely complimentary, the committee see reason to regret the possibility of an introduction of a petty system of fees on this branch. If the fee should be proportional to the trouble of the qualifying officer, it would be too small to be received by a secretary of Massachusetts; and if proportional to the honor of the office received, it would be a difficult matter to apportion.

In reference to the second source of these fees, viz: "passports and certificates of citizenship"—the committee cannot ascertain that much has been received from this source, but they believe that citizens of Massachusetts, who have contributed their share toward the expenses of the government, are fairly entitled, when necessary, to have a certificate of citizenship free of expense. It appears to be a singular act for Massachusetts to receive a paltry fee from a citizen for issuing a certificate declaring "you are my child."

On the third source of fees, (authenticating papers to be used in foreign courts, &c.,) the committee are aware that there may be some papers issued from the secretary's office under this head, which might be proper subjects for fees,—still, as there are many others which would not, and particularly as this branch would cover the revolutionary claim certificates, the committee preferred that no fees should be charged under this head.

In reference to the fourth source of these fees, viz: "Executive requisitions or warrants," your committee on examination find, that although it seems right that such documents should be paid for by fees; yet in almost every instance, the fees paid in these cases are subsequently put into the bills of costs, and eventually paid by the county treasurers. The people therefore pay them after all, and your committee think that a better economy teaches that these papers should be furnished by a salaried officer, viz: the secretary of the state, free of fees.

The fifth item is "copies of maps or plans." Your committee can see here too that cases may occur in which it would be right for the applicant to pay the full expense of any time and labor spent in making these copies;—but they are fully of opinion, that there should be no fee for any certificate of authentication which may be issued under the hand of the secretary.

The sixth item is "time and labor spent in searching archives." Upon this point the committee feel that a more correct statement can be given of their views, when they come to speak upon the subject of the restitution of the revolutionary rolls and documents from Washington.

The committee proceed, therefore, to the more particular consideration of the matters referred to in the order of the House, dated January 4th, and which relates more particularly to certain documents relating to revolutionary services. These matters are repeatedly referred to in the communication of the secretary of the last year, and are the principal subject matter of the communication of the present secretary, dated February 15, 1844. To understand more distinctly the situation of these matters, the committee respectfully ask the attention of the Legislature to some of the past legislative acts upon this subject.

The earliest action to which it seems necessary to refer, is the resolve of April 16th, 1836, which was as follows:

"*Resolved*, That the secretary of State is hereby authorized and directed to loan to the secretary of war of the United States, all papers, books and documents of every kind, now under his care, which relate to the services of soldiers in the

army of the revolution, and which may be selected by said secretary of war or his authorized agent, as being necessary and useful in carrying into effect the pension laws of the United States."

"*Resolved*, That as a *condition* of the loan above authorized, the United States government in receiving the same, will direct, that every reasonable precaution will be used to prevent the exposure of said papers to damage or destruction by fire or water, as well during the transmission of the same between Boston and Washington, as in the manner of their deposit in the latter city, and that said *papers, books and documents, will all be returned to the possession of the secretary of this Commonwealth, together with all indexes, bindings, filings, or other improvements that may be made thereon, at any time such return may be directed by vote of the Legislature of this Commonwealth, after three years from the passage of these resolves.*"

In 18 , a resolve was passed, authorizing the secretary, (then Mr. John P. Bigelow,) to cause the documents to be returned, pursuant to the reservation in the resolve of 1836. The secretary accordingly repaired to Washington; but after repeated interviews with the pension agent, and several gentlemen of the Massachusetts delegations then at Washington, he became satisfied that it would be most beneficial to the claimants (the persons most interested,) that these papers and documents should be suffered to remain, and as the resolve was merely an authority and not a positive command, he came home without them.

On the 5th April, 1839, resolves were passed, declaring that the papers, books and documents might remain at Washington during the pleasure of the Legislature; "provided the secretary of war shall, as soon as practicable, cause to be prepared a suitable index of the names of all the officers and privates contained therein, with convenient references, and shall adopt regulations by which claimants for pensions, or their agents, may be permitted to examine said papers, books and documents, &c."

And further: "That if demanded, a reasonable compensation for preparing said index, shall be paid to the United States

whenever, within five years from the passage of these resolves, said index, with all the papers, books and documents loaned as aforesaid, with all the other indexes, bindings, filings, or other improvements that may be made thereon, shall be transmitted from the office of said secretary of war, to the office of the secretary of this Commonwealth, agreeably to any order or resolve of the Legislature, directing such transmission of the same; and the secretary of the Commonwealth is hereby authorized to stipulate for the payment of such as may, in his opinion, be a just compensation for preparing said index, if required, as aforesaid.

In March, 1843, *an order* was passed in the Senate, *authorizing* "the Secretary of the Commonwealth to reclaim and cause to be returned into his possession, all the papers, books, and documents, which were lent to the war department of the Federal government in 1836." *This order* was received in the House of Representatives on the 3d day of March, and by a decisive vote *referred to the committee on the Library*, but in the hurry of business, the order was marked as having been concurred in by the House, and consequently it was transmitted to the secretary. As soon, however, as the error was discovered, the clerk of the House addressed a note to the secretary on the subject, but the order was not returned. The committee were informed that one other gentleman, beside the clerk, informed the secretary of the mistake, before the papers were returned from Washington, yet the order never was returned, and the secretary proceeded to Washington, and caused the rolls to be returned.

The committee find among the expenses charged by the late secretary to the Commonwealth, the sum of \$270, being "the expense of recovering those Washington rolls, including the charges of the pension office, *which the former resolves of Massachusetts* (April 5, 1839) *directed to be paid.*"

The committee on looking at the condition of the loan in 1836, as contained in the resolutions of that year, are of opinion that by the terms of the loan, the United States were to have borne the expense of the restoration of these documents and rules to Massachusetts, with all indexes, &c. &c. On

turning to the resolves of 1839, which are referred to by the secretary, we there find that those documents might remain at Washington on certain conditions of indexing, &c., and further that the secretary might "stipulate for the payment of such sums as might in his opinion be a just compensation for preparing said index, if required." The committee cannot learn that any indexes were made at Washington under the provisions of this resolve. All the indexes which have been returned were made before 1839, and come under the provisions of the resolves of 1836, by which resolves Massachusetts was to pay nothing. Although, therefore, the secretary refers to the resolve of 1839 for his authority for the payment of the \$270, we cannot find any such authority there. The committee can find no appropriations for this purpose, and think it ought not to have been paid.

It is unnecessary for the committee to express an opinion as to the expediency of causing these documents to have been returned. The whole action was upon an *order*, read of course but once, and not subject to the usual deliberative process, of two readings, by which *resolves* are passed. Still, as the books are now in our custody and possession, we may all agree that it is expedient to retain them, and not render ourselves liable to the imputation of idle and vacillating legislation.

In the annual report of the late secretary, that officer has appended certain regulations, which he considers indispensable for this branch of the State department, also certain rules which have been adopted at Washington. These rules did not exist at Washington until after the journey of our secretary to reclaim the papers, and the ground upon which it is pretended that they should be enforced, is to prevent the possibility of fraudulent applications for pensions.

On this point, the committee take great pride in saying, that they cannot learn that an application of a fraudulent nature has ever come from a claimant residing in Massachusetts; and they cannot fail to add their belief, that a courteous submission of the papers, in our archives, to the anxious eyes of the widows and descendants of the soldiers, who fought the battles of our Revolution, can never be attended with a fraudulent result.

But few of the soldiers of that day remain alive. Their widows, many of them married after the Revolution was accomplished, and after their husbands had retired from the field, are not often cognizant of their husband's former commanding officers. Perhaps they never knew. Perhaps if they ever did, their memories have failed. To such applicants as these, desiring information, the cold blooded answer, that *to prevent a fraud*, you must first furnish the name of the officer, captain and colonel, under whom your husband served, before we allow you to seek for his name on our records, would be both an insult to the applicant and degrading to the Commonwealth.

The number of such applicants must of course be daily decreasing. But a few years and there will be none left; let us not embitter the last moments of these relics of former days, by a suggestion that *possibly they may be cheats*.

The committee were astonished to find that the fee in these cases was exacted before search. An applicant related the name of the captain or colonel, as well as it could be recollected, and upon paying the fee \$3, a search was made, and no such name being found under that captain's lists, the applicant was turned away, with the implied imputation of an attempted imposter, when, upon a little search the name might have been found in the muster roll of another captain, and a misrecollection of some veteran comrade, who has given the information to the widow of his old friend, may be the sole cause of the error.

The committee are glad to learn that the fee system in this department was abandoned at once, by the orders of the present secretary. In fact, they can find no law authorizing its imposition; certainly the sum which was exacted was arbitrarily fixed as to its amount, and the committee cannot believe that the Commonwealth is reduced to such a straight as to find it necessary to eke out the secretary's salary, by petty exactions from the widows and children of Revolutionary heroes.

On turning to the remarks of the present secretary, upon this matter, the committee find that he recommends the binding and copying of certain useful documents, in this depart-

ment, which will not exceed in cost the sum of seventy-five dollars. Your committee report a resolve in accordance with those views. They also find it suggested by him, that to render the books returned from Washington, more useful, &c., it is necessary to complete the index. If this is to be done, it ought to be done at once. The days of their usefulness, as a means of proving pension claims, are fast passing away. The committee, in the confidence that the secretary will exert himself to see that the work under his supervision is faithfully, rapidly and perseveringly done have reported a resolve, believing that this will complete all the work which can ever be demanded upon the Revolutionary rolls and papers.

For the committee,

JOHN C. PARK, *Chairman.*

*Resolves in Revolutionary Papers.*

Resolved, That the Secretary of the Commonwealth be authorized and directed to cause twenty-two volumes of "Outstanding Bills," to be tabulated; and to cause the indices of these bills, which are desired and want, to be copied, provided that all the expenses under this resolve shall not exceed seventy-five dollars.

Resolved, That the necessary be further authorized and directed to cause such volumes as were returned from Washington in 1835, and in the year 1836, to be indexed, to be fully indexed as soon as possible; provided, however, that the whole expense of indexing all such bills is certain, and shall not exceed fifteen hundred dollars.

## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Forty-four.

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## RESOLVES

### Relating to Revolutionary Papers.

*Resolved*, That the Secretary of the Commonwealth be authorized and directed to cause twenty-two volumes of "Continental Rolls" to be rebound; and to cause the indexes of these rolls, which are defaced and worn, to be copied, provided that all the expense under this resolve shall not exceed seventy-five dollars.

*Resolved*, That the secretary be further authorized and directed to cause such volumes as were returned from Washington in 1843, and in his opinion require indexing, to be fully indexed as soon as possible; provided, however, that the whole expense of indexing all such rolls as require indexing, shall not exceed fifteen hundred dollars.



