

HOUSE....No. 296.

[EXTRA SESSION.]

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, November 14, 1859.

The Joint Special Committee, to whom was referred the Report of the Committee appointed by the Revision Committee, have considered the same, and report that the duties of the Committee have been faithfully performed and that a large portion of the Committee have labored with great industry and fidelity; having spent from ten to twelve hours per day in the work of revision.

Your Committee therefore recommend the passage of the accompanying Resolve.

N. BOYNTON,
HORACE CONN,

Of the Senate.

ALBERT TOLMAN,
E. C. SHERMAN,
R. C. NICHOLS,

Of the House.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Fifty-Nine.

R E S O L V E

For the payment of the Committee on the Revision of the Statutes.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth to each member of the committee appointed to examine the Report of the Commissioners, (appointed to revise the laws,) the sum of four dollars for each and every day's attendance at the meeting of said committee in the recess of the general court, and two dollars for every ten miles travel from their respective places of abode to the place of the sitting of the said Committee, once during its session, and that a warrant be drawn accordingly.

Commonwealth of Massachusetts.

The undersigned, a member of the Joint Committee to whom was referred the subject of affixing the pay of the "Joint Special Committee on the Revision of the Statutes," dissenting from the views of the majority, would respectfully submit the following

R E P O R T :

In dissenting from the report of the majority, I do so for several reasons. First, I deem the rate of compensation reported, as excessive. I can see no reason why a member of the legislature should receive a higher compensation while serving as a member of a committee, or commission, than while discharging his usual legislative duties. The one requires as much time and talent as the other; and a member is liable at any moment to be called upon to act upon a committee, or otherwise, as the legislature may, in its wisdom, see fit to designate. But it is urged, that the members of the revision committee were called upon to labor more assiduously than were the members of the legislature, and should, therefore, receive a greater compensation. If that were true, then why should not the legislative committees—who labor far more than the members—receive a greater compensation, also? It is urged that there were men who labored upon the Committee of Revision, whose time and talents would command double the price which the Committee have reported. Granted. But are they not also members of the legislature, and are their time and talents worth less in the legislature than in the Committee on Revision? And yet the compensation is less, as a member of the legislature, than the sum reported by the Committee. Still these same

gentlemen, with all their talent, accepted the office of legislators, and, in virtue of that office, were appointed members of the committee upon whose pay we have reported.

Secondly. I think the compensation reported is unexpected by the legislature, and the Committee on Revision, also; and for this reason: At the close of the session, it will be remembered that a bill was reported, affixing the pay of the members of the legislature for the extra session, and also the Committee on Revision, at three hundred dollars. It passed both branches without a word of debate, and was sent to the governor. His excellency *vetoed* the bill, and returned it to the house, where it failed to receive the vote necessary to survive the veto. This is conclusive testimony against the report of the majority, and proves the intent of the legislature; proves, also, that every member thought the compensation was sufficient, both for the legislature and for the Committee on Revision—though he himself might be one of that committee. And his excellency also thought (keeping in mind his idea of retrenchment) that the compensation was not only sufficient, but really too high, and so exercised his prerogative by vetoing a smaller sum than that now reported by the Committee. Yet, in the face of this, we report a still larger sum, for the petty reason that the labor was more arduous than was anticipated, and that the session was longer than it was contemplated it would be. When men make bargains, they must abide by them. When the gentlemen composing the Committee on Revision accepted the position of honor which was assigned them, they should abide by the result. The post of danger is the post of honor, and he who accepts it must meet the responsibility. The work of revision was their own, they did it in such manner as seemed to them best, and if its duties were arduous, and its session lengthy, they made it so, and so must abide the consequences.

Thirdly. The salary reported is without a precedent in the State. No legislative body, no committee or commission emanating from the legislature, ever received such a salary as that reported by the Committee. Therefore, the report is not based upon the precedent of any former legislature. I know it is urged that the Constitutional Convention of 1850 received a higher salary than that received by the legislature. So it did. But it was an innovation of the day—though retrenchment and

reform was then, as now, loudly proclaimed by the men who introduced the innovation. But that is certainly no precedent for us; for we go beyond even that body, and would now institute another innovation,—proclaiming also retrenchment,—and report a compensation even higher than that of the precedent which we quote for the basis of our action. But is it a precedent? The Convention of 1850 received three dollars per day; we report four dollars. So it is no precedent for our action, but on the contrary, a rebuke. That body had men as able, men of as great fame as any gentleman composing the Committee on Revision. Then why should the one receive greater compensation than the other? If precedent be our guide, we shall have to look elsewhere for it.

I can see no reason why we should depart so broadly from the path of experience, and wander, we know not where, into devious ways which may mislead those who are to come after us, and who may one day cite our example, as an easy excuse for an “itching palm.” In the language of another, “’Twill be recorded for a precedent, and many an error, by the same example, will rush into the State.”

Fourthly. I object to the report of the majority on the ground that it is not such a report as the interest or honor of the Commonwealth demanded. There were matters submitted to the Committee, which in my opinion, demanded our consideration, before we could decide upon any compensation whatever. The opinion was generally entertained and expressed, that a portion of the Committee on Revision, were derelict in their duty; yet the Committee took no steps to ascertain who had or who had not discharged their duty. The report of a committee, embracing the table of time of the Committee on Revision, was referred to us,—for no other reason that I can conceive of, than for our action. Yet it received no action at our hands. I thought that it was competent for the Committee to go beyond the mere item of compensation; the more particularly, as evidence was not wanting, to show that the *entire* labor on the Committee on Revision was done by a minority, and that the time reported by members surprised no one more than it did the gentlemen upon whose shoulders the labor and responsibility of the work rested. It was unanimously agreed in our Committee that there was a marked distinction in the services

of gentlemen serving upon the Committee on Revision; and the difficulty which we found in deciding upon the rate of compensation, arose from the fact, that while we thought that some members should be paid even a higher rate of compensation than that reported by the Committee, were their attention to duty alone considered, there were others whose services demanded no such recognition at our hands.

I thought that justice demanded that we should make a distinction,—justice to the members whose services reflected credit upon themselves and the State, and justice to those who, accepting a post of honor and of trust, failed to discharge its duty. But how shall it be done? Evidently not by making a scale of prices, but by paying each member for the actual time and labor given in the service of the State. But who shall determine the actual time of the members—the members themselves? Then why refer the table of time to our Committee? It was in the province, and in my opinion, the duty of our Committee, to examine that subject, the more particularly as members of the Committee on Revision wished us so to do, that thereby the men who faithfully discharged their duty might stand acquitted at the bar of public opinion, and justice be done to all. It is undeniable that the work of revision was accomplished by a portion only of the committee, yet we have almost a full return of time by the entire body. How is this return of time reconcilable with the evidence before us, and in the face of the generally expressed opinion, that the labor was accomplished by a portion only?

I am aware that members of the Revision Committee offer as an excuse for their neglect of duty, permission granted by a "Committee on Leave of Absence."

It appears, then, that the committee was clothed with an extraordinary power, a power as new, as unheard of,—a power dangerous alike to the integrity of our institutions and the purity of our political life,—clothed itself in the garments of the power which created it, and established that legislative facility—Committee on Leave of Absence. In my opinion the committee had no such power, either inherent in itself or delegated to it, and its exercise was an assumption of power dangerous alike to the honor and interest of the Commonwealth.

Therefore, while agreeing with the majority as to the ability and faithfulness of a portion of the Committee on Revision, I know of no reason why that body should receive a compensation unusual in our legislative bodies, uncalled for, not only in the opinion of the legislature, but of the members of the Committee on Revision themselves, and unprecedented in the annals of the State, and would respectfully submit the following:—

Resolved, That the subject be referred back to the Committee, with instructions to report the exact time of each member of the Committee on Revision, certified by the clerk of said Committee, and to report a per diem salary of three dollars.

MARTIN GRIFFIN.

