

MAINE STATE LEGISLATURE

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FIFTY-SIXTH LEGISLATURE.

SENATE.

No. 20.

STATE OF MAINE.

COUNCIL CHAMBER,
Augusta, January 25, 1877. }

*To the President of the Senate and
Speaker of the House of Representatives :*

The Governor and Council, to whom was referred a resolve by the last Legislature, in favor of certain towns and plantations, with instructions to report to the next Legislature whether the sums therein named were illegally and wrongfully demanded and received of the several towns and plantations therein named, and if so whether the same is still equitably due them, report that the facts appear to be briefly as follows :

Under the President's call for troops in October, 1863, the duty of filling its assigned quota was upon each town, the State paying a bounty of \$100 per man, in aid of the town, and the town empowered to pay a bounty of \$200 per man, to encourage enlistments. A majority of the towns, 250, more or less, filled their quotas by their own efforts. A minority of the towns, some 150, more or less, failed to get their quotas full. The Adjutant General, to prevent delay in recruiting for the army and to enable these towns to avoid a draft, assumed the work of enlisting men by the State to be credited to the delinquent towns. To effect this he demanded that each of such towns pay into the State Treasury the sum of \$200 for each man needed to complete its quota under the call of 1863. The \$300 State bounty, provided to meet the call of February, 1864, could not be legally used to aid a town until that town's quota of October, 1863, was filled.

Twenty-one towns complied with the demand and the money was all used in enlisting men to complete their quotas. The towns now claimant are of these twenty-one.

When the bounties were equalized by the repayment to the towns of \$100 for each man enlisted on these quotas, the twenty-one towns received \$100 for each \$200 they had paid upon the demand of the Adjutant General; the same that they would have received had they furnished the man instead of the \$200.

It is apparent from the above statement that the 250 towns, more or less, did their full duty in the premises by themselves furnishing the men. The 21 towns did no more than their duty in paying their money instead of furnishing the men. The 21 towns did no more than the 250 towns, if so much, while they received precisely the same benefit from the equalization. There can be no equity, therefore, in taxing the 250 towns to pay the 21 towns now claimant. Such a course would seem to place a premium on neglect or failure of duty.

The demand of the Adjutant General may not have been within his authority; but it was voluntarily complied with and the towns have received full credits in enlistments for the sums paid. The towns thereby made the Adjutant General their recruiting agent, instead of using local agents. There was no injustice in this, and therefore we cannot find that the money was "wrongfully exacted."

Two of the 21 towns have been repaid by special order of the Legislature. We believe, however, that the facts here stated could not have been understood by that Legislature. In any event, a small injustice to the faithful towns cannot be made a precedent for a greater injustice to them.

We therefore find that nothing is legally or equitably due from the State to the claimant towns.

By order of the Governor and Council.

S. J. CHADBOURNE, *Secretary of State.*

STATE OF MAINE.

IN SENATE, January 26, 1877.

On motion by Mr. VINTON of Cumberland, ordered to be printed and referred to the Committee on Claims.

Sent down for concurrence.

S. W. LANE, *Secretary.*