

MAINE STATE LEGISLATURE

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FIFTIETH LEGISLATURE.

SENATE.

No. 14.

REPORT.

*To the Honorable Senate and House of Representatives of Maine,
in Legislature assembled:*

The undersigned, a commission appointed by the Governor and Council under resolves approved March 24, 1870, to examine certain charges against towns and "to investigate in a thorough manner all matters in relation to credits allowed on the quotas of towns by the State and general government, for men not actually put into the service," have the honor to submit the following report, agreeably to the requirement of said resolves.

METHOD OF INVESTIGATION.

The commission immediately after being qualified, commenced its sessions at Augusta and agreed upon a method of investigation.

With regard to the whole subject of charges against towns for deficiencies under the call of October, 1863, the commission considered that they had no jurisdiction except to correct such errors, if any, as the Adjutant General should leave unadjusted; and although some evidence was taken in reference to this subject, and some discussion had as to the propriety and legality of such charges, the commission considered that they were relieved from all responsible action by the communication to them of the Adjutant General, under date of November 3, 1870, informing them that all those charges had been adjusted by him under the powers granted in said resolves. As our action in this matter was thus wholly anticipated, we have not deemed it proper or necessary to report the testimony taken relative to the same.

In passing to the second branch of our inquiry, it was deemed advisable to put ourselves in communication with the officers and

agents of the various towns who had paid money to recruiting officers, brokers and other persons for recruits not enlisted in the State and not residents of the State enlisted elsewhere, by which classes of men the quotas of many towns under some of the calls of 1864 were filled. Our object was to get from these town officers and agents the lists of men or names bought, the names of the brokers or agents by whom they were sold, the branch of service to which they were represented to belong, the certificates of the military authorities of their credit, the receipts for the money paid and the contracts, written or verbal, upon which the recruits were supplied and the consideration paid; and such explanations, if any, as were given by the officers having charge of the filling of quotas, as to the validity and legality of the proceedings. Having obtained from this source, and such papers and records as we could find in the State executive department, the names of this class of credits, we desired by reference to the records of the War and Navy Departments at Washington to ascertain whether they represented men who were or had been in the service of the United States, or whether they were, in whole or in part, fabricated and fraudulent. If we found the names to represent actual men any portion of whom were still in the service and accessible, we desired to put ourselves in communication with some of them to learn from their sworn testimony whether their assignment and sale had been authorized by themselves, and whether the considerable sums levied by brokers as bounties for them, had accrued in any way to their advantage. We next proposed to call upon the parties who had entered into these contracts with such towns and to learn from them the parties of whom and prices at which they had purchased these men or names, the documents by which their ostensible character was authenticated, the representations, if any, made to them in reference to the class of the men, and the good faith of the transfer, and the sanctions, if any, which the State and national military authorities had given to the transaction. And, lastly, we designed to take the testimony of such persons as were within the reach of our processes, who being in office at the time were responsible for the manner in which the quotas of towns were filled.

Many of the difficulties of conducting such an investigation are obvious. About six years had elapsed since the occurrence of the events to be examined. Many persons closely connected with them had removed from the State, and we had no power to compel

and no inducements to attract their attendance before us; others had died. The natural infirmity of memory on the part of deeply interested witnesses was aggravated by the destruction of material papers and memoranda in fires that had occurred in Portland, Lewiston, Augusta and other places, by which data a feeble recollection might have been refreshed. Official letters and documents which ought to have been in the archives of the Capitol, had become lost or hopelessly misplaced, perhaps by having been too frequently required by earlier committees of investigation. The precaution of the accomplished Adjutant General, who served the State so assiduously during the late war to keep from the official records the names of men whose credit he deemed not meritorious, so that no facility for obtaining State bounty for enlistments of that character should be afforded, created an obscurity under which the questionable practices we have undertaken to explore, have found a most favoring shelter.

In spite of these difficulties, it is hoped that the results of our investigation will satisfy the just and reasonable expectations of the people who have ordered it. Doubtless it was desired to draw some palpable distinction in the history of our State betwixt the genuine patriotism and devotion which sent to the battle-field more than 50,000 of our choicest young men, and that shrewd and thrifty cunning by which a few speculators for putting upon quotas of towns either fictitious names, or names of men whose enlistment they had not procured, and credit for whom the State was not justly entitled to, were enabled to wring from distressed towns large sums ostensibly for bounties, but a small portion of which could ever have found its way to the pocket of any soldier or sailor.

It was expected, too, that more precise knowledge as to the character of the acts done in connection with supplying the calls for men otherwise than by actual enlistments, and of the persons by whom the acts were done or sanctioned, would abate the extravagance of vague suspicions and vindicate the reputation of many citizens whom public rumor had included in a too sweeping accusation.

So far as there may have been an expectation that the commission would facilitate by its disclosures the recovery of money claimed to have been improperly paid for unauthorized credits, we surmise that the expectation may not be met. Whether such

moneys may be recovered back, will depend upon the terms of the contracts between the brokers and the officers of towns. Nearly all such contracts as have come under our inspection, appear to have been, on the one part, to supply men to fill the quotas of towns in whole or in part, and on the other part, to pay a stipulated price when such men should be properly certified as credited to such towns; and the contract appears to have been in terms performed. But as suits are impending involving this very question, the commission deem it best not to express a general opinion as to whether money voluntarily paid on such conditions can be recovered by suit.

The commission supposed that the interest on the part of the towns which had been refused reimbursement for enlistments of the character to be investigated, might be relied upon to bring the officers of such towns before them with their complaints and testimony. They accordingly prepared a notice of the time, place and purposes of their sessions, and had it extensively published in papers circulating in different sections of the State. This notice not proving effectual, we invited to appear before us a member of the Commission on Equalization of Municipal War Debts, from whose papers and private memoranda we were first able to obtain a list of nearly all the towns which were involved in what were called "paper credits." Guided by this list we prepared and forwarded a circular to the municipal officers of such towns, requesting them to send before us such officer or person as was cognizant of and could testify in reference to the contracts under which the quotas of such towns were filled under the calls of 1864. All persons attending before us upon such request, or upon our summons, were allowed and paid fees as witnesses at the rates prescribed for witnesses in the Supreme Court of this State.

The commission commenced its sessions for the purpose of taking testimony, at the State House in Augusta, on the 24th day of May last, and made choice of A. C. Walker, Esq., of Limerick, as their clerk. We deem it a matter of justice to testify in behalf of Mr. Walker that our investigations have been greatly aided by the fidelity and diligence with which he has discharged his clerical duties, by the rapidity with which he has transcribed, and the system with which he has arranged the testimony, and by that official knowledge gained during his service in the Adjutant General's office, and with other commissions, which has directed

us at once to all such information as the official reports, records and papers could afford.

We were occupied in taking the testimony of officers of towns, and examining and comparing such official data as the records and papers furnish, from the 24th of May, with some brief intervals, to the 13th of August, and adjourned at that time, leaving unexamined a few towns which had either declined to appear, or whose witnesses had removed from the State or deceased.

The testimony taken from this class of witnesses is returned with this report, together with copies of such original receipts, letters and other papers as are referred to therein.

From the testimony thus taken, the clerk of the commission prepared an abstract in which all the names of the questionable credits, so far as procured, were inserted, arranged in the alphabetical order of the towns by which they had been purchased, with the name of the broker or person of whom they were bought, the price paid, and the class to which they were represented to belong, and of the witnesses, by whose testimony the facts were furnished. This abstract has been of very essential service in the course of the examination, particularly in enabling us by furnishing transcripts from it to apply for the requisite evidence from the Departments at Washington; and as it presents in a compact form the essential facts contained in the voluminous testimony of the first class of our witnesses, together with additional data procured since, it is made a part of our report for convenient reference.

On the 8th of July, 1870, Governor Chamberlain, on the written request of the commission, made a requisition on the War Department at Washington for duly authenticated copies of the names of the residents of Maine in the naval service of the United States prior to February 24, 1864, returned to the office of Provost Marshal General; also of seamen of Maine drafted into the army enlisting into the navy; also for copies of enlistments in the naval service or marine corps, during the war, credited to the State at large, or any town or precinct thereof, or put at the disposal of any officer or person to be so credited. To this communication the Adjutant General of the United States replied under date of July 19th, 1870, that all persons credited to Maine under section 2, act of February 24, 1864, and section 8, act of July 4, 1864, were determined by the Naval Commission for the State of Maine, that the credits

were by number, and that no record by name appeared to have been retained, and so that the request for copies could not be complied with; that a list of persons credited to Maine under section 7, act of February 24, 1864, and section 3, act of July 1, 1864, might be obtained from the records of the War Office of enlistments subsequent to July 1, 1864; that it would require the services of one competent clerk for two months to make the transcript, and as it was kept by number only, it could not be verified from other records of credit,—for which reasons a compliance with the request was declined.

Failing thus to get authentic lists from the military and naval records of the United States of all the persons in the military and naval service, who could rightfully be credited to Maine under any provision of the then existing laws, for the purpose of comparing them with the lists we had collected, we next prepared two lists of the names so collected, classified as belonging ostensibly either to the navy or marine corps, and, through the medium of the Governor, sent them respectively to the War and Navy Departments for the purpose of having them compared with the rolls and records to ascertain if the men were actually enlisted as claimed. To this requisition it was replied by the Chief of Bureau of Equipment and Recruiting, under date of September 22, 1870, that it "was impossible to furnish the information, unless it can be shown about when the men enlisted, and the name of the vessel on which they may have served." In our communication under date of September 28, 1870, we explained at length to the Chief of Bureau of Equipment and Recruiting, that the *date of the enlistment* of the men was the very fact we were desirous of ascertaining from the records at Washington, and set forth to him fully the precise scope and purpose of our inquiries; and we returned the list with all the additional data that could be gathered from papers in our possession.

The Adjutant General of the United States, in his communication to the Governor of October 26, 1870, in reply to a communication of September 3, 1870, transmitted a list of men, "whose credits to localities are verified by the records of the A. A. P. M. G. and Provost Marshals of the State of Maine;" also copies of the returns of the Naval Commissioners, arranged by districts, and credited to the various towns by number and not by name.

No essential or very valuable information was communicated by

these last named transcripts. We already had a similar list of names with evidence that they had been assigned to certain towns under the authority of the Provost Marshals. We had also the naval credits more complete in that the record contained the names as well as the assignments, although we had not previously any record of the distribution of the so called "general naval credits." No information whatever was afforded as to whether any of these names were genuine or fictitious, or where the persons bearing them had their nativity or residence, or when, where and for whom or by whom they were enlisted.

On the 19th of November, 1870, we sent through the Governor, to the proper department at Washington, a schedule of the names of men claimed to have been enlisted into the marine corps, with a request for information, when and where, if at all, such persons were enlisted into the service of the United States, whether or not they were aliens, by what order or regulation they were credited to Maine, whether similar credits were given to other States, by what authority recruiting agents or other persons obtained possession of the muster rolls and sold them to brokers or other persons.

Our inquiries had been so long baffled by formal references to inconsequential facts and ingenious overlooking of the material matter, about which there was uncertainty, that it seemed probable that no evidence of any value to our purposes could be obtained from Washington within the period to which our labors were confined. Meantime it was ascertained by one of our commission, who, being in Washington on private business, made inquiry at the War Office, that the usage of the department did not allow any record information to be furnished except upon such formal requisition as we had made use of.

In this dilemma we applied to Hon. James G. Blaine, Speaker of the National House of Representatives, and member of Congress from the 3d District of Maine. His apprehension of the precise nature of our inquiries was prompt and complete, and to his effective intervention by personal appeals at the departments, where our requisitions for documents were waiting compliance, we consider ourselves largely indebted for whatever information from those sources we have been able to obtain.

On the 22d of December, 1870, the abstract which we had twice sent to the Navy Department was returned with the date of enlistment noted against the several names for enlistments made during

the years 1864 and 1865, and also against names of men, whose alleged dates of enlistment we had furnished, as found in the fictitious returns of towns. It did not appear whether the records furnished no evidence relative to enlistments made prior to 1864, or whether no search was made for such evidence. Accordingly as soon as the omission was discovered we made an effort to have it supplied. Not wishing to lose the data already found, we transcribed from the naval list the names against which no dates of enlistment have been placed, and sent them through the Governor to the Navy Department for the purpose of having such dates supplied, if shown by any roll, paper or record in that department. Mr. Blaine promptly aided us with his influence, but only with the effect of drawing from the Honorable Secretary of the Navy, as appears by his letter to the governor, of January 12th, 1871, the definitive decision that he found compliance with our requests impracticable, and the suggestion that the State appoint two persons to search the (naval) records for the history of its enlisted men.

We had supposed that we had been appointed for this very purpose, but after a quest of more than six months in the only direction we were informed was open to us, we find ourselves compelled by the lapse of our authority to abandon an investigation which had somewhat piqued a professional curiosity, but in prosecuting which all our resources of investigation have been fairly baffled by official evasion and imperturbability.

A deepening obscurity settles over the naval achievements that, by the fair imputation of purchase, justly accrue to our State. Where are those unboasting "naval heroes," who for us stood upon decks behind bulwarks of wood and iron while death-dealing case-shot sung through the severed rigging, or tore into the sides of sinking hulls? On what lonely ocean do they still sail, or in what cool and seaside hospitals do they solace themselves? Does the generous bounty which the recruiting agent and broker advanced to them still suffice to eke out the scanty pipe and grog, over which they can recount their brave exploits? Maine owes them a debt of gratitude. How shall she find them out to do them honor? How, if not to advertise in all the papers that if *John Lynch, and J. Murphy and William Barry will call at the State House they shall hear something to their advantage?*

On the 26th of December, we received the Marine Corps list, with the entries of the dates and places of enlistment, so far as

shown by the records of the Marine Corps, with a copy of a communication from the Commandant of the Marine Corps to the Secretary of the Navy, in which a portion of our inquiries are answered. We append to this report copies of the correspondence had with the different departments at Washington, together with the schedules received, in which the dates of enlistment as transcribed from their records are entered.

SUMMARY OF FACTS PROVED.

From the abstract before referred to, it appeared that the towns had been furnished with credits of a doubtful character by Messrs. Colby & Pike, T. M. Stevens, Charles Kimball, D. H. Brown, S. A. Barker, Benjamin Hurd, Herriman, Libby & Co., T. H. Dinsmore, Watts & Wall, J. H. Manley, G. M. Delany & Co., S. C. Archer, John P. Heath, Joseph Nye, Elliott Walker, John P. Deering & Co., A. B. Farwell, Sumner Barton, A. D. Merrow, I. W. Reed, T. H. Hubbard, Josiah H. Greely, G. P. Cochrane, Lewis Tibbetts, Ira D. Sturges, — North, C. T. Bean, and Hodgdon, Morris & Co. Many of these persons, however, appeared to be only middle men, with or without commission, between the first-hand brokers and the towns, some as agents of the towns, and some as agents and salesmen of the brokers. We have examined nearly all of these men, who were reported to be alive, whom we could find within reach of our process.

All the men sold classify themselves under these descriptions:

1. Enlistments claimed in the U. S. Navy on fictitious returns of municipal officers of various towns, but nevertheless sold to such towns, principally by G. M. Delany & Co., and others.

2. Enlistments claimed to be in the U. S. Navy, numbering sixty or more, originally at the disposal of the State authorities, but ultimately sold by A. B. Farwell.

3. Enlistments claimed in the U. S. Navy, a list of which purporting to number two hundred and fifty-one was ordered to be credited to Maine by the U. S. Provost Marshal General, the property to which seemed to have been recognized as in J. H. Manley, and the names on which were sold to towns by him and his consignees, J. P. Deering & Co., and others.

4. Between three hundred and four hundred ostensible enlistments in the U. S. Marine Corps, the right of control to which

seems to have been recognized as in the hands of Messrs. Colby & Pike.

We had wished, before calling upon this class of witnesses, to obtain all the record evidence accessible in the State and national archives, but were warned by the early expiration of our authority, to change the proposed order, and we commenced to take this class of evidence early in November.

It seemed proper to consider, that the dealers in this class of credits would naturally have a strong interest to vindicate the fairness and legality of their transactions, and that, after such a lapse of time, in detailing what they had done, they might unwittingly substitute the impressions of a personal interest for those of a weakened memory. Many of them had previously testified before various committees, and several of them had published carefully prepared versions of their connection with these matters. With such preparation on their part, the absence of important and private papers, and the loss or spoliation of some public records, and the entire ignorance of the commissioners as to this portion of the history of our State, it seemed to us that we ought to have for the purpose of eliciting truth, all the advantages given by courts to a cross-examination. A witness should be required to speak from an actual and present recollection of the event or fact in question, and not from a consideration of what he may have said before. The tribunal, and not the witness, is to compare the consistency of different statements, otherwise the tests of fair cross-examination are thrown away.

We are not aware that any complaint has been made as to our modes of interrogation, and make none ourselves at any lack of patience, courtesy, or completeness of answer on the part of witnesses. In one or two instances, questions as to persons were refused answers, but as it was claimed to be done under the stress of personal honor, and the answer was not apparently material to the investigation, the scruple was respected, and our compulsory powers were not made use of. It became early apparent that J. H. Manley, Esq., of Augusta, was closely connected with a large number of these questionable credits, and it seemed very desirable to obtain his testimony. Mr. Manley has been during the summer and autumn employed as an officer in the U. S. Internal Revenue service, and on duty, it was understood, in Pennsylvania. A request was made to the Secretary of the Treasury, through the

Governor, that he be temporarily relieved from duty for the purpose of appearing as a witness before our commission; and the Commissioner of Internal Revenue so far complied as to send a request to the officer at Boston, to whom he had been ordered to report, that he should attend before us. The request, if communicated to him, has not yet been complied with.

We have had correspondence with Major J. W. T. Gardiner, and tried to induce him to give us the benefit of his testimony. We place among our depositions our correspondence with him, which will have the same weight as if upon oath, wherever his honorable character is known.

It will be impossible to give a brief summary of the facts, which all the testimony taken tends to establish, without some inaccuracies. Misstatements may be made by misconception, and inferences may be drawn not wholly warranted. Intending, however, to give the substance of it as it lies in our recollection after a considerable study, and to draw only such inferences as are legitimate, we refer to the testimony itself to correct any mistakes that may be made. Our task will not seem to have been fully accomplished if we leave the mass of confused questions and answers and of contradictions arising from the varying recollections of witnesses, without attempting to set forth briefly what seems to us to have been fairly proved.

ASSIGNMENT OF MEN SOLD BY DELANY & CO., AND OTHERS.

To narrate the events as near as possible in the order of their occurrence: Late in the summer of 1864, one John P. Heath, acting as a recruiting officer, and having an office in Portland, collected a list of several hundred names of persons claimed to have been enlisted into the navy. This list was brought or sent to the Adjutant General's Office in Augusta by John T. Hull, Esq., of Portland, who had been actively engaged as a recruiting agent for the city of Portland since the commencement of the war. Mr. Hull's connection with this list seemed to be with the view of having the names upon it credited to the city of Portland, on the ground that the enlistments were made there,—a claim that was disallowed by the Naval Commission then in session at Augusta, consisting of the Governor and A. A. P. M. General, Maj. Gardiner. General Hodsdon speaks of but one list obtained from Heath, which contained the names of some 300 men allowed to Portland, as in

the naval service, after assigning which there was a balance of more than 400, which were classed as "General Naval Credits." But as Mr. Hull's statement varies from this, and as we find the original return of the municipal officers of actual residents of Portland in the navy, containing nearly 300 names, we think the preponderance of proof is, that the list first above referred to did not contain the actual residents entered in said return. The list itself would settle all doubt about this matter. It ought to be on the files of the Adjutant General's office. General Hodsdon assured us that he would endeavor to find it, but in the great pressure of his private business he has as yet been unable to comply with his engagement. The clerks in the office of the Adjutant General have no knowledge of such a paper, and both it and every other roll or list upon which any of the suspicious enlistments were borne, are not known to have passed under the inspection of the clerks for the purpose of being transcribed, copied, filed or classified.

About the time this list was prepared, Heath seems to have made an agreement with G. M. Delany, or with Delany & Yates, to sell him or them all the men recruited by or for him, for the purpose of having them sold again to officers of towns. Heath was to have a premium of \$30 per man for his agency in the business, and Delany claims that in addition to this payment, which was actually made, he paid, or deposited with persons to be paid, \$100 per man for every man, excepting those already in the service whose term of enlistment had partially expired. He does not indicate how many men would fall under that description, or how many men or what sums he actually paid; and his partner, Mr. Yates, expresses the opinion that nothing whatever was paid to the men, and says that no charge for such payment was made in the settlement between himself and partner.

Under this arrangement Messrs. Delany & Yates sold, by themselves, or through parties to whom they sold, about 200 men. In this number, however, are included a few men sold directly by Heath, and a few by Thomas M. Stevens, to whom Heath had turned over a part with the consent of Delany. These sales were made to towns at prices ranging from \$80 to \$500 per man. The towns to which and the prices at which they were sold will be seen by reference to the abstract, which, it must be remembered, does not contain all the towns that bought this class of men, but

all which we have been able to investigate. These sales obtained the sanction of the Naval Commission by means of returns filled up mainly in the hand writing of Delany or some one of his partners or clerks, upon blanks furnished from the Adjutant General's office, and signed by the selectmen of towns to which the sales were made, in which returns the men so sold were certified to be persons resident or liable to enrollment in such towns, who were in the service in the U. S. Navy. These returns were upon printed blanks, similar to that of the town of Mercer, annexed to this report as a specimen.

There is no proof that the Naval Commission proper had any knowledge or suspicion that these returns were not genuine and true. The circumstance that small inland towns like Temple and Porter claimed more men in the navy than the larger maritime towns of Machiasport and Steuben, would not be likely to arrest their attention.

The selectmen of towns who had signed such certificates—their oath was not required—have given various accounts of how these certificates were obtained. Some few have been confident that they never did sign or could have signed such returns, though they generally did not fail to recognize the genuineness of their signatures. Some have asserted that they signed these papers without much knowledge of their contents and as a matter of form, while the scruples of others were overcome by the ingenious explanation, that, as the men were in the service of the United States, they ought to have a residence somewhere, and as no residence could be shown elsewhere in the United States, they might by a fiction of law be considered as residents of the towns to which they were assigned; it not being explained that the very certificate sought was the prerequisite of such assignment.

Delany asserts that the assignment of these men to the credit of towns was refused by the Adjutant General, without authority from Washington, and that he procured such authority in the form of an order from Provost Marshal General Fry, to credit the names enumerated in the list, to districts and sub-districts in the State, and that after the receipt of that order credits were made to such towns as he had negotiated with for the men.

ASSIGNMENT OF MEN SOLD BY A. B. FARWELL.

The assignment of some sixty or more men, whose names were originally borne on the Heath lists, but who, not having been taken

up by the certificates of towns as residents thereof, were for a while classed as "General Naval Credits," to the towns of Sidney, Norridgewock, Mercer, Starks, and others, in performance of contracts made with those towns by A. B. Farwell, and for which men Farwell was paid, was, perhaps, the transaction which has excited more comment and suspicion than any other connected with these credits. So far as the disposition of these so called "General Naval Credits" was made "to such poor and meritorious localities, as were deemed most deserving of them," no just censure can be bestowed upon it. A record of such distribution accompanies this report, showing it to have been, mainly, with tolerable equality to smaller towns and plantations as follows: Three to the towns in the 1st District, seventy-four to towns in the 2d District, one hundred and seven to towns in the 3d District, one hundred and nine to towns in the 4th District, and thirty-five to towns in the 5th District. Some marked inequalities will be observed, as twelve to the town of Levant in the 4th District, but the testimony of Mr. Ruggles sufficiently explains the good faith and propriety of this assignment. It is nothing more than fair to conjecture that the assignment of ten to the town of Weld and six to the town of East Livermore in the 2d District, and of four to Burlington in the 4th District, and five to Belfast in the 5th District, may be justified on the ground of some previous inequality in quotas, which were thus corrected; but the allowance of fifteen to the town of Sidney, twelve to the town of Mercer, eleven to the town of Winthrop, six to the town of Monmouth, fourteen to the town of Starks, twelve to the town of Norridgewock, all in the 3d District, and of two to the town of Greene in the 2d District, and all of which seem to have been supplied with this class of "naval heroes" by Mr. Farwell, has excited considerable inquiry and comment.

Mr. Farwell's own explanation of his connection with this distribution has been put before the public in various forms. It may be found succinctly stated in his communication to the Portland Advertiser, dated October 5, 1869, and more at length in his answers to interrogatories in his deposition taken by us. He says that he went to Washington, D. C., taking with him only a private letter from Governor Cony, introducing him and his business, and while in that vicinity procured and caused to be mustered into the army a number of men, not varying ten from seventy-five, part of which he enlisted himself, part of which he bought of other re-

cruiting agents, and part of which were transferred to him by a man whose name he suppresses, he advancing their bounties and taking their receipts therefor. He says the muster rolls of all these men were either sent by mail or brought by himself to the Adjutant General's office in Augusta, and that all the men whose receipts and enlistment papers he did not himself bring, were assigned by the State authorities to the State at large, or to the towns of their residences respectively. He says he had advanced as State bounties and premiums for these men \$35,000, and over \$30,000 more than was reimbursed to him in the sale and assignment of such as he was allowed to control. Complaining to the State authorities of this considerable loss, they finally arranged to reimburse him by allowing him to take some sixty or more men from the "General Credit" list, and sell them to towns, by which he was enabled to indemnify himself for his said loss. After this arrangement was agreed upon, he asserts that the Governor burnt the original receipts in his private room in the State House of all the men who had been assigned, as he says, to the general credit of the State or to the towns of their residence, to none of which had a bounty been paid by the State.

This statement, although asseverated and repeated by a man who has largely enjoyed the friendship of eminent public men, and the confidence of his fellow citizens, is contradicted by so many facts and circumstances, that we find ourselves compelled, in determining what our testimony proves, to state in order the reasons for distrusting it :

1. There was no law or order permitting men re-enlisting into the army under general order No. 227, to be assigned to the general credit of the State. There was no assignment to the general credit of the State, of men, either in the army or navy during the war.

2. There was no law or order requiring men re-enlisting, under said order 227, to be assigned to the towns of their residence. The act of Congress under which Farwell and other agents acted, paramount to all State laws, expressly provided that this class of men should be assigned to the towns procuring them, and the general order of the Adjutant General of this State, No. 27, sect. 10, distinctly recognized the right of cities, towns and plantations to the men procured by their agents.

3. If Mr. Farwell had advanced to men in Washington, State

bounties, there was no difficulty in tracing them to whatever towns they may have been assigned. Their State bounties were due without any reference to such assignments, and he admits that he held their receipts, and had sent forward their muster rolls in case of all the men he had procured.

4. It is improbable that the State authorities should have taken away from Mr. Farwell, who enjoyed their confidence and went to Washington under a special and honorable appointment, four-fifths of the men he procured, and should have given them, in violation of the act of Congress, to the towns where he could not trace them, though he got back to Augusta early in September, while all the assignments of men made by Mr. Stimson, thirty-three in number, were allowed to stand, though Stimson stood in no such relation to the State authorities, and did not return to Augusta till weeks after Mr. Farwell had returned.

5. There was not only no law or order requiring men procured by recruiting agents to be assigned to the place of their residence, but the custom of the Adjutant General's Office seems to have been not so to assign them. Of Stimson's thirty-three men, only one appears by the Adjutant General's Reports to have belonged to the town to which he was assigned. Of the five men we have been able to indentify as procured by Farwell, the original assignment by Farwell seems to have been changed on their muster-in roll, in the handwriting of the Adjutant General himself, to a town other than that of their residence, as shown by his own reports.

6. It is improbable that the Governor committed such a folly, not to say such an official malfeasance, as to burn the soldiers' receipts for \$18,000, required by law to be produced at the Adjutant General's office, which receipt was the proper voucher that their State bounties had been received by them. It gave fifty or more men the opportunity to make claim for their bounties over again, and the record showing their service, and no receipt being at hand, and no evidence for its payment being found, under the usage of the Adjutant General's office, the claim would have been allowed.

7. The records of the Adjutant General's office, in which all men wherever enlisted mustered into the credit of towns in Maine, were entered as the muster rolls were received (and Mr. Farwell admits that all his muster rolls were received,) show only twelve

men mustered in by all the recruiting agents in Washington, exclusive of Stimson's thirty-three men.

8. The other recruiting agents who were with Mr. Farwell in Washington, estimate the number of men procured by Farwell as very much less than his estimate.

9. With the most strenuous purpose to credit Mr. Farwell, we should be perplexed to determine which Mr. Farwell,—the one who, fresh from the event, in February, 1865, made a statement before the legislative investigating committee, which was taken down in writing by Hon. Nathan Webb, or the one who more than six years after the event subscribes and swears to the testimony taken before us. In the former he states that he had a commission from the Adjutant General, and procured all his men under that authority. In the latter he swears that he refused to take a commission from the Adjutant General, and to be considered a recruiting officer, and only had a letter from the Governor. In the former he said that he paid a maximum of \$600 for men, and \$450 for a personal substitute. In the latter he testifies that he paid a maximum of \$700 for men and \$550 for a personal substitute. In the former he relates that of his 60 or 80 men all but twelve or twenty were men already in the *Navy* on board two different war vessels, whose enlisting papers he had bought. In the latter he makes oath that the whole number, not varying ten from seventy-five, were enlisted and mustered into the *Army* in the vicinity of Washington. In the former he plainly implies that he bought the enlistment papers of Stimson's, Gaslin's, Emery's and Manley's men. In the latter he admits that he bought only Emery's and Manley's men, and it is otherwise proved that he did not buy Stimson's. In the former he makes no complaint of misassignment or loss of men. He was so successful that he had men to spare, and after generously donating ten or fifteen men, which the Adjutant General assigned for political purposes at his written request, he sold what he had left so as to get back what he had paid out and a little more. In the latter he complains under oath, that he lost some 50 or 60 men, by the misassignment of the State authorities, and more than \$30,000 which he had disbursed for them more than what he got back by sale and payment, and that the State authorities repaid this loss by turning over to him 60 or more men from the general naval credits.

It is difficult to reconcile these two statements or to make them

appear like veritable recitals of the same transaction. We conclude that the men sold by Farwell to the towns of Sidney, Mercer, Winthrop, Starks, Norridgewock, Monmouth and Greene, were taken out of the category of General Naval Credits where they first stood, and put to the credit of these towns either in the manner that Delany effected his assignment of the same class of men, or in the manner the 251 list was assigned, of which we speak further along. The returns of the towns of Mercer, Sidney and Starks in Mr. Farwell's own hand writing, and the records of the Naval Commission, show how the thing was done as to those towns. In the case of the other men transferred from the "General Credit" list to the towns to which Farwell sold men, it seems to have been effected otherwise than through the "recognized fiction of formal returns." There is evidence tending to connect Mr. Farwell with the sales of other similar naval credits to the towns of Friendship, Bristol and Waldoboro', but it is too incomplete to furnish safe data.

ASSIGNMENT OF MEN SOLD BY J. H. MANLEY.

The names contained in the 251 list, and claimed to be the names of recruits in the navy, although assigned to some thirty-five towns, seem to have been regarded as the property of J. H. Manley, and were probably bought by him of some person connected with and referring to John P. Heath. We desired to obtain the testimony of Mr. Manley himself as to this list, but as already stated, have been disappointed. Perhaps, however, there is as much light thrown upon the acquisition, distribution and sale of this number of men as upon any other class of suspicious enlistments. We have the testimony of Mr. Simmons, partner of J. P. Deering & Co., substantiated by the books of the firm who sold over 100 of them, a fragment of Manley's statement before the Legislative committee of 1865, and a copy of a paper which will be annexed to this report, which paper General Hodsdon thinks shows the actual distribution of men to these towns.

It appears that the list containing the men was procured by J. H. Manley through J. P. Heath, that it was offered to the State authorities to obtain their sanction to its assignment to the credit of towns with which bargains of sale had already been made, or were expected to be made, that the State authorities sent an agent to Boston, who went on board the receiving ship and reported that he found all the names on record there as enlisted men, a fact,

however, which would nowise prevent their being sold and assigned on the credit of other States. The men were not residents of Maine or aliens enlisted in Maine, and there was no law or general order by which they could be put to the credit of towns in Maine. A special order, however, from Provost Marshal General Fry was obtained, under which the assignment actually made seems to have been justified. We append a copy of this special order, dated December 10, 1864. Perhaps it is fairly inferable from what we have of Mr. Manley's testimony that he had some agency in procuring this special order. It turned out that he had a very strong personal interest in procuring such order, for he seems to have sold to Deering & Co. alone, 121 of these men at \$47,400, and if he sold the rest at the same rate, his gross sales must have amounted to more than \$100,000. The abstract accompanying the report shows the sales of this list so far as we have been able to trace it.

ASSIGNMENT OF MARINE CORPS MEN SOLD BY PIKE & COLBY.

Messrs. Pike & Colby seem to have managed the list of men claimed to have been enlisted into the U. S. Marine Corps. It was originally brought to Maine as testified to by Mr. Farwell and General Hodsdon, by one Captain Forrest, and at that time was a mere collection of sheets of foolscap paper containing names, without seal or proper security against being indefinitely added to, and was signed only on the last of several sheets. The proposition made to General Hodsdon and Major Gardiner to sanction the assignment of men on this list to towns in Maine, was decisively rejected. The list was taken away but was presented some weeks after to Major Littler, successor to Major Gardiner, and a special order from Provost Marshal General Fry having in the mean time been obtained to credit them to districts and sub-districts of Maine, they were distributed in strict accordance with arrangements made with Messrs. Pike & Colby. Mr. D. T. Pike, the surviving member of that firm, has testified before us with great frankness, minuteness and candor, and all the main points of his testimony harmonize with his published account of his connection with these transactions and with such other evidence as we have collected. The only considerable discrepancy that occurs to us is, in that Mr. Pike states that these men were enlisted in the District of Columbia, and bases his claim to obtain the credit of them for towns in Maine, in part upon the fact that they could not be

credited to any other State ; whereas, it appears from the data obtained from the Navy Department that only 21 of these men were actually enlisted in Washington, the rest being enlisted in Philadelphia, Chicago, Boston, and other cities. Our abstract shows only 335 of these men disposed of by Messrs. Pike & Colby, their agents and assignees. It is not likely, however, that the number was less than 400, as Mr. Pike would have no disposition to exaggerate the number. The rest of them must have been sold to some other towns whose officers we have not been able to put ourselves in communication with, or who, being content with having them count on their quotas, made no claim for reimbursement to the Equalization Commissioners, and so no clue is furnished to their disposition.

WHOLE NUMBER OF "PAPER MEN."

Supposing the list sent to the Adjutant General by John T. Hull to have contained 600 names, and the list managed by Pike & Colby to have contained 400 names, and adding the 251 list, we have a pretty definite record of 1251 names ; but besides this there was the list of Marine Corps men brought to Augusta by one Higgins, and sold to G. P. Cochrane in January, 1865, and out of which Cochrane previous to his sickness had sold about 30 men to towns. The rest, numbering about 170, were left in the Adjutant General's office, and the sale and distribution of them was managed by parties unknown. That is to say, we conclude they were sold because there was a special order of the Provost Marshal General to assign them upon the quotas of towns, and in the eagerness of towns at that time to procure men they would not be likely to remain on the market. Then there was still another list of 200 names in possession of Delany at the time of his arrest, which he says were disposed of by Major Littler, and a percentage upon the sale of which, amounting to \$604, was paid to him. Delany names among the towns to which this lot was disposed of, Nobleboro', Waltham and Mariaville ; and we find that the town of Nobleboro' made claim for reimbursement for 18 men, not named, which it is presumed were acquired in this way.

These together make an aggregate of 1380, after deducting the 271 said to have been gratuitously distributed by the governor from the "General Credits," for which the towns must have paid to private persons not less than half a million dollars. Of these our abstract contains about 1,000, named and un-named. Many of

the rest it would be very difficult to trace, because many towns were well aware in advance that reimbursement would not be allowed for this class of men, and so made no claim for them; and the officers and agents of other towns might have been too familiar with the manner in which these men were put to the credit of their towns, to think it politic to say anything about reimbursement.

DUPLICATION OF NAMES.

The records of the Naval Commissioners and the returns of towns show that the same name is in many instances entered twice to the credit of the same town, but as the number returned as credited in the Provost Marshal's office in Washington is in many cases less than the number entered on the records of the Naval Commissioners, it may be assumed that these duplications were wholly or in part corrected. But we find credited to the town of Southport six names so similar to six also credited to the town of Canaan, that their identity cannot be questioned. Stephen P. Hart, Enoch S. Chase and Thomas M. Packard, three men enlisted into the Veteran Reserve Corps in the summer and fall of 1864, by recruiting agents of Maine, seem to have been each credited twice to different towns. The practice of certifying the filling of a quota by number only without furnishing names, was one that favored duplication. Where no names were furnished at the time the men were credited and paid for, and could not be procured afterwards by repeated application, there was of course no opportunity to compare the names with those that had been credited to other towns.

GENUINENESS OF THE CREDITS.

We exceedingly regret that after so long and expensive an investigation we are not able definitely to answer the question, how many of these one thousand or sixteen hundred names are those of veritable sailors and marines in the United States service during the rebellion? We have already detailed, at length, the efforts which we have put forth to obtain this information, and how our inquiries have been evaded and only partially answered.

Of the 335 men claimed to be in the Marine Corps, whose names we have collected from the testimony taken, it will appear by the table annexed to this report that the records and rolls in the Navy Department, of which the Marine Corps is a Bureau, show no enlistment of 111 of them. We are not sufficiently familiar with the precision and care and fulness with which these records are kept

at Washington, to determine judicially that all of these one hundred and eleven names are fictitious. But on the other hand it is full more uncertain that the 224 names against which the dates of enlistment, principally during the years 1862 and 1863, are entered, are the same 224 marines that were assigned to towns in Maine and paid for out of their treasuries; because it is by no means certain when we find a John Lynch, William Barry and John Kelley entered of record as in the Marine Corps, that they are the identical men assigned to towns in Maine. There may be a half dozen men of each of these names in the Marine Corps, and every one of them lawfully claimed by some other State or precinct. It seems reasonable to conclude that at least one-third of this list of Marine Corps was fictitious. Whether fictitious or real, there was no law or valid order which furnished the slightest pretext for assigning them to the credit of Maine. One hundred and twenty-two of them were enlisted in Philadelphia, twenty-one of them only in Washington, others in New York, Brooklyn, Chicago and other cities, but not one of them in Maine.

Of the men in the navy, numbering 397, of which we forwarded a list in connection with the Marine Corps men, the records in the Navy Department show as actually enlisted only 94; but this is not a fair test of the genuineness of the names either way, for no search has yet been made, excepting as to men enlisting into the navy in 1864 and 1865, and as to 58 names with dates of enlistment set against them, taken by us from fictitious returns of selectmen. As to those enlistments appearing of record in the Navy Department during 1864 and 1865, there is very little probability that they are identical with the men purchased and put to the credit of towns in Maine, for none of these enlistments were made in Maine, and there being large bounties for seamen as well as soldiers during those years, enlisted seamen would be likely to be eagerly appropriated on the quotas of precincts where they enlisted. The towns in Maine that sent their residents into the navy during those years had little difficulty in securing their credit for themselves; and it would be almost incredible that there were hundreds of men enlisting in Boston, New York and other cities that had organized agencies, procuring men that did not fairly belong to those places, which fell to Maine because the precincts lawfully entitled to them failed to make claim for them.

As in case of the Marine Corps, the names against which dates

of enlistment are set are principally those common names of which several can be found in any considerable body of men. It is not certain that the John Robinson, J. Murphy and John Ward, appearing to be in the service, are the identical men that fell to us in the distribution of "this class of naval heroes." The only fair test as to the genuineness of these names is found in the fact that of 58 names claimed to have been enlisted prior to 1864, only 16 were found on record in the navy office. Whether this is or is not a fair proportion for the whole list, is a conjecture which any one can make, but we need not, as we are to find facts and not conjectures.

COMMENTS ON THE TRANSACTIONS.

The testimony taken furnishes an ample basis for every citizen to make these for himself, and he probably will without his judgment being much controlled by ours. We shall not, however, have fully discharged our duty unless we indicate in some general way the conclusions we have unavoidably arrived at, as to the persons upon whom the responsibility for these unauthorized credits rests. There have been some attempts by published speech and communication, to abate the severity of the public censure which has held as especially odious this part of the business of a class of men come to be unfavorably known as substitute brokers. It has been pleaded that these names were valid enough, as the event turned, to supply a call for troops when the real men that were equipped and sent forward, on account of the sudden collapse of the rebellion, never reached the lines or encountered an enemy on the field. It has been urged that these men cost the towns much less than citizens of the State would have cost, and that the State and general government were wholly saved the bounties payable to newly enlisted soldiers. It has been feelingly and eloquently maintained that the towns in Maine had so far exhausted their able-bodied population by volunteering, recruiting and drafting, that the men were not in the State to fill the demand which the rejection of these questionable credits would have made. All these arguments and statements are entitled to due consideration. But, on the other hand, it must be remembered that nearly half of these "paper men," distributed in Maine were put upon quotas under the call of July, 1864, and that the fact that elsewhere as well as in this State, this call was so largely responded to by men that added nothing to the effective numbers of the army, made necessary the addi-

tional call of December, 1864, with the enormous expense it entailed upon the people of all the States to meet it. In the debate in the National House of Representatives, on the 21st of February, 1865, upon an amendment of the enrollment act, by which the nefarious practice, at that time become notorious, of answering calls for troops by credits for men not actually furnished, was effectually checked, Mr. Blaine, our member from the 3d District said, "the amendment which I have offered is designed to correct this evil, to cut it up by the roots and bring back recruiting to an honest, meritorious and patriotic effort to fill the ranks of our gallant army with men and not with the shadowy fictions which pass under the general name of 'paper credits.' We have witnessed with amazement the quotas of entire cities and districts, and I do not know but States also, technically filled without adding a single man to the effective military force of the nation." Mr. Pike, then our member from the 5th District, in the same debate said, "but worse than this, credits have been given to these States when no men have ever been furnished by anybody. Bold frauds; paper men have been substituted for sailors, and up to this time fifty per cent. more men have been credited to the different States than are in the navy altogether. It is therefore time the thing should stop."

As to the moral quality of the acts thus justly characterized, it made no difference how the event turned. It was dangerous, at the very climax of the great struggle happily ending in victory, to meet by pretence and not by performance a call for a last rally, the effective force of which undoubtedly completed the despair of the rebels and compelled their surrender. The patriotism of those States and the great majority of towns in our own State, that sent or prepared to send to the field the last remnant of their citizens capable of bearing arms, was none the less noble because those men returned unscathed after a bloodless campaign of a few months.

The trick of substituting for recruits, fictitious names and names of persons to whose service the State had no just claim, was none the less scandalous because it was so covered up by the fair and honest efforts of the people at large.

In order to determine accurately the responsibility connected with the official acts by which these fraudulent credits were sanctioned, it is necessary to ascertain what the law permitted and required. Section 2, of the act of Congress of February 24, 1864,

provided that "in ascertaining and filling the quota of any ward of a city, town," &c. "there shall be taken into account the number of men who have heretofore entered the naval service of the United States, and whose names are borne upon the enrollment lists as already returned to the office of the provost marshal general of the United States." Section 9 provides "That all enlistments into the naval service of the United States, or into the marine corps of the United States, that may hereafter be made of persons liable to service under the act of Congress entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved March third, eighteen hundred and sixty-three, shall be credited to the ward, town, township, precinct or election district, or county" &c. "in which such enlisted men were or may be enrolled and liable to duty under the act aforesaid, under such regulations as the provost marshal general of the United States may prescribe." The provision in Section 2 seems to be general and to allow credit for all seamen previously furnished to the navy, but Section 9 seems to limit the credit to enlistments in the naval service made after the date of the act. The latter seems to have been considered the controlling provision, and accordingly the Provost Marshal General of the United States, in Circular No. 11, of Circulars of the Provost Marshal's Bureau for 1863-4-5, at page 157, promulgates the opinion of Honorable William Whiting, Solicitor of the War Department, as the authoritative regulation of the Bureau in regard to credits on the quotas of wards, towns, &c., to this effect: "*First.* A person enlisting into the marine corps or naval service of the United States who is (according to the provisions of the act of March 3, 1863) liable to military service, whether enrolled or not—if he might be enrolled—is to be credited to the quota of the place where he was liable to military service. *Second.* Persons not liable to military service, whether enrolled or not enrolled, should not be credited to any quota."

Section 3 of the act of July 1, 1864, provides as follows: "That all enlistments into the naval service or marine corps during the present war shall be credited to the appropriate township, precinct, or district, in the same manner as enlistments for the army." Section 8, of the act of July 4, 1864, which is undoubtedly a substitute for said section 3, provides as follows: "That all persons in the naval service of the United States who have entered said

service during the present rebellion, who have not been credited to the quota of any town, district, ward, or State, by reason of their being in said service and not enrolled prior to February twenty-fourth, eighteen hundred and sixty-four, shall be enrolled and credited to the quotas of the town, ward, district, or State, in which they respectively reside, upon satisfactory proof of their residence made to the Secretary of War."

It will be seen at a glance, that the acts of July in no way change the requirement in the act of February, that credits to towns, &c. shall be given only for actual residents of such towns, enrolled or liable to be enrolled. They only add another class,—residents of towns not actually enrolled on account of absence in the naval service of the United States; and an express provision is added, that the residence is a fact to be proved. Mr. Wilson, chairman of the Military Committee in the U. S. Senate, in reporting the act of July 4, 1864, says, that the 8th Section "throws the burden of proof upon the community claiming to have credit for seamen, and the proof is to be made satisfactory to the War Department. If they do not prove it clearly they do not get any credit for them." There is no ambiguity about the law and no misunderstanding the intention of its framers. Persons in the Navy and Marine Corps were to be credited to the towns where they resided and were liable to enrollment. Aliens and persons not having such residence, enlisting or who had enlisted in such service, were not to be so credited. Their service enured to the benefit of the United States at large. Perhaps an alien might be a substitute, or might volunteer, and, with his own consent might go upon the quota of any town; he might waive his alienage and permit himself to be enrolled and drafted; in these cases he might lawfully be assigned to the credit of the town for which he consented to volunteer or to be drafted. The naval service of all other aliens the government had the benefit of, and called only for such persons as it needed besides.

The law thus interpreted by itself should have controlled the Provost Marshal's Bureau, and when the Provost Marshal General in his letter of July 9, 1864, appointing Governor Cony and Maj. Gardiner to the Naval Commission, instructed them that in determining the credits the State of Maine, and different sub-divisions of it were entitled to, "the Secretary thinks it will be fair to assume that the State in which naval enlistments have been made,

is entitled to credit for the enlistments, unless it shall appear by more direct evidence that the credits belong elsewhere," he seems to us to have transcended the requirements of law. The terms and intendment of the act were to throw the burden of proving residence upon the towns; the effect of the instruction was to assume the residence to be at the place of enlistment, and throw the burden of disproving it upon the town making an adverse claim. The instruction from the same officer to Governor Cony and Major Littler, of December 10, 1864, authorizing the crediting of the 251 naval recruits, is of the same force and refers to the foregoing instruction. The mere private endorsement upon the Marine Corps list, in the hands of Messrs. Pike & Colby, authorizing a credit of the names it contained to districts and sub-districts of Maine, and the similar instruction authorizing a like credit of about 200 names upon a list held by G. P. Cochrane, to districts and sub-districts in the State of —, does not seem to us to have had the slightest pretext of law or propriety to vindicate it. Of the first list the proof shows that only two-thirds of the names thereon were genuine, and there is no proof that any of the names upon the last list were genuine. There was no safeguard against an indefinite supply of names, or against the same name being sold and credited indefinitely to any number of States. As to how these orders were procured, we do not deem the proofs we have collected sufficient in quantity and quality to express, officially, our opinion. That high officer acted outside of our jurisdiction, if not of our criticism, and his conduct is a matter more fit for a Congressional than a State Legislative investigation.

But the Provost Marshal's Bureau was a military rather than a civil department, and its actions are to be judged under the principles of the military rather than the civil law. The orders emanating from General Fry, whether general or special, were an ample vindication for all acts fairly done, according to their plain intent and meaning, by the persons claiming authority subordinate to that department.

It does not appear that the Naval Commission undertook to exercise the whole discretion given them in the instructions of July 9, 1864. If the 457 men which they reported as having enlisted in the navy, but could not be credited to any particular town, were actually enlisted in Maine, they might under those instructions have credited them to Portland, Kittery or Belfast, if enlisted at

those points, but, either doubting the legality of such instructions or from abundant caution, they seem to have asked permission of the Provost Marshal General to credit them to the State at large, and to have obtained permission therefor by his letter of August 30, 1864. A large number of these enlisted naval men, both before and after this assignment of "General Credits," seem to have been claimed as residents of towns in this State, by returns which are now shown to be false. The only evidence we have taken upon the point is to the effect that the Naval Commission had no knowledge or suspicion that such returns were not reliable. General Hodsdon admits that he suggested to Mr. Farwell that he should cause a part of these men to be claimed as residents of certain inland towns, of which he must have known that they were not residents; and whether the suggestion came from some knowledge that a similar practice had been resorted to by other dealers in this class of men, is a question upon which any one can form his own opinion. In regard to an officer whose oversight of the military affairs of the State was so minute, whose system of administration, arrangement and record was so methodical, and whose personal capacity so far exceeded even the large requirements of his place, it is difficult to infer that practices not authorized by the fair construction of law and dangerous to the public service, escaped his vigilant attention. General Hodsdon, however, had no official responsibility for these matters. They did not belong to the department of his office, and what assistance he rendered was either voluntary or as a clerk, and his knowledge, if any, did not necessarily effect his superiors.

We have already admitted that an order from the Provost Marshal General justified all acts done in strict pursuance of it, by the Acting Assistant Provost Marshal General of Maine, his subordinate. It is necessary, therefore, to know with some precision, the terms of such orders, and the precise powers they gave. The only one of which we have been able to find a copy is that from General Fry to Acting Assisting Provost Marshal General, R. M. Littler, dated December 10, 1864, which required the then governor and A. A. P. M. General of the State to adjust the credits for 251 naval recruits "under the same rules laid down in my letter of July 9, 1864, to Governor Cony and Major Gardiner, appointing them a Commission," &c. That is, if the enlistments were in Maine, "to assume that the State is entitled to credit for them, unless it shall

appear by more direct evidence that the credits belong elsewhere." We have only verbal testimony of the terms of the special orders to credit the names borne on the Marine Corps lists offered by Pike & Colby and Cochrane. The authority given seems to have been to credit said names to districts and sub-districts in the State of Maine. This authority gave to the Naval Commission in the first class, and to the A. A. P. M. General of Maine in the other classes, authority which they were bound to exercise in good faith and according to law. It did not require them to credit the men to Heath, Farwell, Manley, Pike, Gordon, Higgins, or any other broker or person. The Adjutant and Inspector of the Marine Corps, through the Secretary of the Navy, in a communication dated December 20, 1870, says: "The muster rolls of the Marine Corps are under the charge of the Commanding officers of Stations, Receiving Ships, and Rendezvous, and the Adjutant and Inspector's Office at Head Quarters. No recruiting agent or person, other than those employed as clerks in the above named offices could have had control of or access to them."

No recruiting officer or other person could lawfully have the original rolls to carry them into different states. No certified copy of the original rolls could be properly furnished, except upon a formal request for them by the Executive, by Congress, or by a governor of a state, or by some other recognized public officer. If any officer or clerk furnished such copy, or the original, to any unauthorized person, it would be a misdemeanor for which he would be liable to dismissal from office, and if it was done corruptly, with the knowledge that it was to be used unlawfully, he would be liable to arrest and punishment. An officer or clerk that would furnish such certified rolls for money, would furnish as many similar ones as would be paid for. However obtained, such certified roll (if not a forgery) was only evidence that certain names were names of men in the service. Any other evidence, as of a man who had surreptitiously copied a roll or record, would be nothing more or less than similar evidence. The only value of any such paper was that certain officials, who had that discretion, ordered the names on it to be distributed and credited to towns called upon for men, by which act the parties allowed to control it were enabled to sell the names upon it to such towns. For such order such parties could well afford to pay a large gratuity. Having obtained it, the only risk run was that some other speculator

might buy a similar attested copy, procure a similar order, and compete with them in offering the names to towns. There was probably cunning if not honor enough among this class not generally to operate in the same state, though we have no knowledge that the Cochrane list and the Delany list were not of the same men, and each parts of the Colby & Pike list. The ambiguous terms of the order which left the State to which they were to be credited, blank, favored such repetition.

The recruiting agents who had come into possession of these papers, whether or not in violation of any rule or law, may have done some meritorious service, or furnished some useful information, for which they were entitled to receive some equitable commission or compensation. Their claim to absolute ownership of the rolls or lists, in the absence of all authority from the men themselves to assign them and collect local bounties for them, was a claim not defined by any law, or founded upon any equitable consideration. The actual assignment of these men was virtually to these brokers, who dictated the towns upon whose quotas they should be placed, such towns paying to the brokers an average price of \$400 per man for such privilege.

We fail to see the fairness and good faith of such distribution, nor do we see how an assignment to certain towns which had bought claims to credits for certain enlistments of brokers claiming to control the lists on which their names were borne, can be justified as a strict or literal execution of an order—which order was itself illegal—to “credit to districts and sub-districts of Maine.”

It was doubtless inconvenient, if not impossible, to deduct these men from the whole quota of the State, and call only for the number assigned to the State after such deduction. But Gov. Cony himself had indicated how a discretion to credit generally to Maine, or to districts and sub-districts thereof, should be exercised, when he had decided to “allow *unclaimed* and hence *general* naval credits to such poor and meritorious localities as were deemed most deserving of them.” Here were from eight hundred to one thousand men that, by some stroke of luck, or, as it appears, by an illegal or unauthorized order of the competent military authority, had fallen to the general credit of the State. There was no reason why they might not have been distributed upon some fair and equal rule in the manner that other men, substan-

tially of the same class, had been disposed of. But the lists were in private hands of persons who claimed ownership of them, and who, if their claims had not been respected, would have carried them to other States. True, as to the first Heath list, the claim to private ownership seems to have been disregarded, and when the marine corps list was first offered it was summarily seized by Major Gardiner, against the protest of the ostensible owner, and sent to Washington. It is altogether probable, however, that these very proceedings made the manipulators of the lists more cautious, and that having an order to credit, which was either equivocal in terms, by the name of the State being left blank, or capable of being changed, they left to the military authorities the alternative either to distribute the names as they should indicate, or to call upon the towns for so many more real men.

Important facilities seemed to have been furnished by the selectmen of towns, who gave certificates of residence of such men as were transferred from the general credit to the credit of such towns. It must be remembered that the papers were prepared by the brokers, and the plausible reasons to explain away scruples can be found in the testimony. The strong interest that officials, both State and local, had to abate the rigor of the draft, to allay the apprehensions and opposition of the towns, which in some places amounted to a panic and almost to a sedition, made them naturally eager to obtain whatever advantages, in the way of exemption or factitious supply of men, were fairly within their reach. Rumors, perhaps exaggerated, of shifts resorted to in other states, by shrewd operators and unscrupulous officers, to fill quotas without recruiting men, stimulated competition. A too harsh judgment, particularly after this lapse of time, upon what was done or overlooked in a deplorable season of national and local distress, would not be responded to by the public sympathy.

The sums shown to have been received by brokers for credits, to which, if the State was entitled at all, it was entitled without pay, seem in the aggregate enormously disproportioned to the triviality of the services rendered and the slight risks incurred by the purchasers. The bargain seemed to be one of absolute security to the purchasers. They were not to pay in any case unless the proper military authority sanctioned the assignment, and as the contract to sell had been, in many cases, conditionally made, and even the purchase money advanced, and as the market was sure and rising, no investment ever offered a more tempting

opportunity to quick returns and large profits. Possibly intending only a slight commission above the advances they were to make, they found themselves compelled afterwards, by the uncontrollable laws of demand and supply, to rise in the prices of their wares, just as the holders of everything salable in California after the gold discoveries, or in all the north after the late suspension of specie payments, found everything appreciating on their hands. As soon as you begin to buy and sell men, you bring them as much under the laws of trade as are corn and cloth.

We have already indicated as distinctly as we deem necessary, our views in reference to the right of towns to recover the moneys paid to brokers for naval and other suspicious credits. Some expectation may have been entertained that we should in some way revise the action of the Commission on Equalization of Municipal War Debts, and let in for reimbursement the towns furnishing themselves with what are called "paper credits," the claim for reimbursement for which was disallowed by said commission. We understand, however, that the ground for such disallowance was that the existing laws did not cover that class of cases. It is for the Legislature, and not for us, to say whether the class for which reimbursement has already been provided shall be enlarged by further enactments. We doubt if the great majority of towns in this State which sent their young men to the battle-field will consent, or ought to consent, to contribute in taxes to provide a bonus for the comparatively few towns which purchased fictitious credits, and the nominal service of unknown persons and fictitious persons of recruiting agents and brokers. The advantage of saving from draft and recruitment their own men, was an advantage fully equivalent to the hundred dollars which the State has denied, and at the time it was supposed to be equivalent to much more than that. When it is considered that as dearly as paper credits came to be rated in the competition of towns, real, home men always raled some hundred dollars higher in the market, and that for these latter a provision for the support of the families had to be advanced, the balance of pecuniary advantage will be found to be in favor of those towns whose quotas were filled by the class of credits which we have investigated.

All of which is respectfully reported.

GEORGE F. TALBOT,
SELDEN CONNOR.

APPENDIX.

The following papers accompany the foregoing Report, and are made a part of it, viz :

1. Depositions of officers and agents of towns, and papers annexed thereto.
2. Depositions of brokers.
3. Depositions of officers and others.
4. Abstract from testimony of officers and agents of towns, containing name of town, name of witness, names of men said to have been furnished, name of broker of whom the purchase was made, the price paid, and the class to which the credits were said to belong, and other data.
5. Correspondence, through the Governor, with the War and Navy Departments.
6. Copies of correspondence between the Naval Commission and A. A. P. M. General of Maine with the Provost Marshal General of the United States.
7. Copy of distribution of the 251 naval list.
8. Communication of A. B. Farwell to Portland Advertiser of October 5, 1869.
9. Specimen copy of return of men in Navy, claimed to be residents of town of Mercer.

Depositions of Officers and others.

H. S. Osgood.	Charles K. Partridge.	Wm. H. Chesley, and papers
B. H. Hinds.	George N. Page.	referred to in it.
John L. Hodsdon.	John T. Hull.	W. Atkinson, and correspond-
James M. Stone.	Hiram Ruggles.	ence with Maj. Gardiner.

GEO. F. TALBOT,
SELDEN CONNOR.

STATE OF MAINE.

IN SENATE, January 19, 1871.

Read, and on motion of Mr. CLEAVES, one thousand copies
were ordered to be printed for the use of the Senate.

SAMUEL W. LANE, *Secretary.*

STATE OF MAINE.

SECRETARY'S OFFICE, }
Augusta, January 19, 1871. }

To the President of the Senate:

In response to the order of the Senate this day passed, directing the Secretary of State "to furnish the Senate for the use of the Legislature the total expense to the State incurred by reason of or on account of any and all investigations of 'Paper Credits' made prior to this date"—

I have the honor to inform you that the first investigation made by a Committee of the Legislature in 1865, was unattended with expense; the second, made by a Committee of the Legislature in 1866, incurred for witnesses and advertising an expense of \$231.00; the third, made by a Committee of the Legislature in 1870, was at the expense of \$85.00; the fourth, made the past year by a Commission appointed by the Governor, incurred the following expense:

Compensation of Commission	\$2,976.68
" " Clerk.....	1,105.00
Fees of Witnesses	942.20
Advertising	29.25
Stationery	25.00
Postage	22.50
Printing	23.58
Estimated bills not paid.....	300.00
Making the aggregate expense as follows:—	
Investigation in 1866.....	\$231.00
" in 1870 (Committee).....	85.00
" in 1870 (Commission).....	5,401.71
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Total.....	\$5,717.71

Very Respectfully,

FRANKLIN M. DREW,

Secretary of State.

STATE OF MAINE.

IN SENATE, January 20, 1871.

Read, and on motion of Mr. VOSE, laid on the table and ordered to be printed in connection with the report of the Commissioners on paper credits.

SAMUEL W. LANE, *Secretary.*