

MAINE STATE LEGISLATURE

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1863.

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1863.

FORTY-SECOND LEGISLATURE.

HOUSE.

No. 2.

REPORT

Of the Joint Select Committee who were instructed by an order of the Legislature to "investigate the affairs of the Land Office," etc.

THE Joint Select Committee who were instructed by an order of the Legislature "to investigate the affairs of the Land Office, so far as to ascertain whether any, and if any, what reduction can be made in the expenses of that office consistently with the interests of the State," submit the following report:—

They have carefully investigated the affairs of the land office, the amount of business done, the modes of doing it, and the necessary expenses connected therewith. They have examined various persons who have been familiar with the business and labors of the office for many years past, including three former land agents, and it is abundantly shown that, while changed to some extent in kind, it is not less in amount than in former years. It was also the concurrent testimony from every source that the duties of the office have ever been faithfully, efficiently and most satisfactorily performed by the present Land Agent. Comparing the labors of the office and the amount paid therefor, with the other State offices, it is quite apparent that such amount does not exceed the proportion allowed to the other State officers. And without such comparison, eight of your Committee out of ten are of opinion that persons competent to do the kinds of labor arising in the land office, ought to receive a fair compensation therefor, and that the amounts heretofore usually allowed are no more than a just equivalent for the labors and responsibilities of the office. As the law now stands, the Land Agent is entitled to his salary of \$1,000 00

per annum, and no more, unless the Governor and Council shall be of opinion that a further sum should be allowed for the aid of an assistant, and for such other labor as may be indispensably necessary. The expenses of the office may be different in different years, and the Committee do not perceive that any better course can be adopted, than to submit the whole matter to the discretion and judgment of the Governor and Council, who can make such allowances, year by year, as the exigencies of the occasion and the justice of the case may require; or may disallow every thing beyond the annual salary of the Land Agent, if they see fit.

Such is now the law. And a large majority of the Committee, viz., eight out of ten, are clearly of opinion that further legislation is inexpedient.

DAVID D. STEWART, *Chairman.*

MINORITY REPORT.

The undersigned, a minority of the Joint Select Committee, appointed to investigate the affairs of the Land Office, so far as to ascertain whether any, and if any, what reduction can be made in the expenses of that office, consistently with the interests of the State, ask leave to report :

The exact and precise question presented, is, "whether any, and if any, what reduction can be made in the expenses of that office, consistently with the interests of the State." It is not whether the present Land Agent, or any former Land Agent, has discharged his duties well or otherwise ; and any inquiries tending to elicit praise or blame in the conduct of the affairs of that office, are utterly irrelevant, except so far as such inquiries may bear upon the precise question submitted. The Committee were not instructed to ascertain whether there had been any malversation in that office, and to report upon that subject. In fact we are not aware that any charge of that nature has been made or insinuated to the Committee, from any source, against the present Land Agent ; and even if there were any, it would not be our duty to investigate that subject or report upon the same, without special instructions from both branches of the Legislature. It being beyond our jurisdiction, we give no opinion upon the matter.

The Committee have held two sessions of two hours each, and have made such examination as was practicable, in that short space of time. They have examined Mr. Norris, the present Land Ag't, Mr. Clark, the Assistant, and Mr. Barker, former Land Agent ; and some remarks were made by other gentlemen of the House and Senate, who happened to be present, and by members of the Committee.

It was thought by some, that the business of the office, though somewhat changed from former years, had not diminished in amount. Several gentlemen from Bangor and Penobscot county, which is the head quarters of the Land Office, at all times, except during the session of the Legislature, and who from their locality

might be presumed to know something of the matter, were strongly impressed that the expenses of the office might be reduced one thousand dollars or more, per year; and Mr. Stetson, member of the House from Bangor, testified that such was the universal opinion among business men in Bangor, who are familiar with the office. All such impressions we considered somewhat vague, and too uncertain to be the basis of any legislative action, except that of inquiry. But besides such evidence, there did appear before the Committee certain definite, tangible and admitted facts, upon the certainty and materiality of which, we may rest with the utmost confidence, and from which may be drawn the certain and sure conclusion that retrenchment in the expenses of that office, is not only justified, but imperatively demanded to a very considerable extent.

Mr. Isaac R. Clark has been employed in the office, as Assistant, for the last six years; was himself Land Agent in 1855, and is thoroughly acquainted with the duties of the office. Mr. Norris has held the office three years. During the session of the Legislature the Land Office is kept in the State House, the office at Bangor being then closed. During the remainder of the year, it is kept at Bangor, the office in the State House being closed. Mr. Norris states that during the session of the Legislature he has been in the office at Augusta about as regularly as the members attend the sessions of the Legislature; that he could not tell, with much exactness, how much of the time he spent in the office at Bangor, between the sessions. He used to be there two days, four days, a week or more at a time. He was asked whether he spent a quarter of the time between the sessions, in the office at Bangor. He answered "Perhaps not." Mr. Clark was asked whether Mr. Norris spent more than a quarter, or more than an eighth of the time in the office at Bangor, between the sessions. He answered that he could not state any more definitely than Mr. Norris had done. Mr. Norris further stated that he attended to some business of the Land Office at Skowhegan, the place of his residence; that during the whole year, he might have attended, personally, at the office in Bangor and Augusta, about four and a half months; that during his three years administration he had never visited the Public Lands, but was intending to do so; that he had sent Mr. Clark there several times; that during the whole three years he had been employed in other business.

MINORITY REPORT.

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The usual clerk hire in the office, besides the salary of Mr. Clark, \$1,000 per year, amounts, on an average, to about \$200 per year.

Mr. Clark was asked the question whether, if the duties of Land Agent and his own duties as assistant, were embodied in one, he could not discharge all those duties with the usual clerk hire of \$200. His answer was, that he could, but it would be laborious.

From the above facts, we think we are justified in coming to the conclusion, that the main duties of the office, for the last three years, have been performed by Mr. Clark, and that with the usual clerk hire of \$200 or with the addition of \$100 to the clerk hire, making the total clerk hire \$300 per year, Mr. Clark, or any other competent man, giving his *personal* attention to its duties, after he had become familiar with the office, could discharge them all easily and well, and without an amount of labor greater than Mr. Clark has done for the last three years. The office of Land Agent, and of his principal Clerk called by courtesy, "Assistant Land Agent," should be combined in one, and the entire salary of one of them saved to the State.

As the matter now stands, notwithstanding that the Assistant does all, or nearly all the labor, still the presence of the Land Ag't himself is undoubtedly occasionally required to sign deeds, certificates, and to give his official sanction to other matters. But if he attended, personally, to the duties of the office as Mr. Clark has done, without the intervention of an assistant, we believe that all the labor which he now performs, would be but a trifling addition to his duties. It requires no uncommon sagacity to see that all the actual labor performed by the Land Agent, personally, or that could well be performed by him in the irregular, disjointed and occasional visits made by him to the office at Bangor, or that would be likely to be done by him in Augusta, amid the usual whirl of politics during the session, would be of very little practical value, or assistance to Mr. Clark.

It is said that there are many settlers in Aroostook who have accounts to the number of two thousand now open in the Land Office, and that disputes sometimes arise requiring an adjustment by the Land Agent. But it does not appear that it has even *once* been necessary for Mr. Norris to visit the County of Aroostook to settle any such disputes, or for any purpose whatsoever; but that Mr. Clark has been there on the general business of the office sev-

eral times. We cannot think that the settlement of disputes has been a very burdensome matter even to the Assistant, certainly not to the Land Agent himself. Probably no greater number of disputes arise than in the same amount of many other kinds of business.

The law, Revised Stat. Chap. 5, Sec. 2, has the following, by no means insignificant provision, in relation to the Land Agent :

“ He shall personally attend to the duties of his office, as far as practicable, and may employ as many other assistants as he shall find necessary, for whose doings he shall be responsible.”

It is by virtue of this provision that he employs the “ Assistant Land Agent,” Mr. Clark, at a salary of \$1000 a year. He is undoubtedly authorized to employ an assistant, provided he shall find it necessary, and not otherwise. This special requirement of *personal attention* is not exacted by statute of any other of the usual officers of government. We conceive that such special and peculiar enactment means something, and we think that a fair construction of the statute requires the *personal attention* of the Land Agent to the duties of his office in about the same manner that those duties have been performed by Mr. Clark ; and if such *personal attention* is given we can see no necessity for the employment of both persons at a salary of \$1000 each. The Land Agent should give his “ personal attention ” “ as far as practicable.” The man who cannot find it “ practicable ” to “ give his personal attention to its duties ” ought not to hold the office.

Mr. Barker testified that during his three years administration, he devoted his whole attention to the business, with the exception of about ten days spent upon his farm at one time in summer ; that with that exception, he was either in the Land Office at Augusta during the session, or in the Bangor office the remainder of the time, except what time he spent in Aroostook on the public lands ; that one year he visited Aroostook but once, the other two years twice, and that on those trips he was usually absent about three weeks at a time.

The salary of the Land Agent is fixed by law at \$1000. It has been a custom of many years standing for the Governor and Council to allow the Land Agent, in addition to his salary, five per cent. on his disbursements for roads and bridges. The present Land Agent has received about \$600 during his entire three years for this item. His predecessors have received even more. Mr.

Walker, Land Agent of 1856, received \$430 59 on this item for one year alone. There is not now, and never was, any law for it. This matter of Mr. Walker's, among other things, was investigated in 1858, and report made by Hon. E. L. Hamlin, Chairman of the Land Committee, in which he says:—

“It was one of his duties, as Land Agent, to perform these duties, [disbursement of the monies appropriated for roads and bridges] and there is no law to sustain the charge.”

This charge of five per cent. commissions, so far as we have examined, no where appears on any of the Land Agents reports in such a manner that a person not in the secret can perceive it. It comes in under the item of “incidental expenses,” or “charges,” or some such phraseology. It stands upon the authority of custom, and of custom alone; but, in our opinion, a custom more honored in the breach than the observance, and should never be allowed in any case.

There was no evidence before us that the business of the Land Office had not been well done during the last three years. We think the present Land Agent has shown wisdom in the employment of an assistant so familiar with his duties as Mr. Clark, provided it was necessary for him to have an assistant at all, beyond the usual clerk hire of \$200 per year. We think, however, that for the future the Land Agent should be his own assistant, and be further authorized to employ clerk hire to a certain defined amount of \$300—certainly not to exceed \$500—and should receive no commissions whatever.

We do not deem it expedient to leave the matter of compensation for assistants in the office to the tender mercies of the Governor and Council. The custom of allowing \$1000 for an assistant, and five per cent. commissions on disbursements, having been followed so many years through the administrations of different political parties, and the matter of retrenchment having been agitated so much, at different times in the Legislature, it is highly probable that the Governor and Council would consider the refusal of the Legislature to express any opinion on the subject, as an *emphatic acquiescence* in the present practice. It must be admitted, that such an argument on the part of the Land Agent, accompanied by the statement on his part that, as provided by law, *he did find the assistant necessary*, would press home with much force. If we desire a change, we must initiate it ourselves; and we will and ought to take the responsibility.

Whether the present compensation of \$1200 per year compares favorably or unfavorably with the compensation of other officers of government, has nothing to do with the matter. Let this question be decided upon its own merits. If other salaries are too high, cut them down. If they are too low, raise them.

If the business should increase in after years, (which we do not believe,) then will be the time to increase the force of the office. Let the morrow take thought of the things of itself. Our business is to legislate for the present state of things.

We regard the present time as exceedingly opportune for retrenchment. The present Land Agent having held the office three years, and received the customary emoluments, it is doing no injustice to him to reduce his pay for the future, whether he shall hold the office hereafter or not; and it will surely be no injustice to any other person who may accept the office, knowing the emoluments to be reduced. Now is the time for retrenchment, or never. The times are dreadfully out of joint. Our necessities were never greater since the time of the Revolution. The amount expended the past year by the State and towns, in the support of destitute families of volunteers, is immense. A retrenchment in all the expenses of the State, in the same ratio as we propose, would save hundreds of thousands of dollars to the State. When and where shall we retrench, if not now and at this place? Let us make a beginning somewhere. Now is the favored time. Delay not for a more convenient season, which will never come. We ought to manage the affairs of the State as prudently as an individual manages his own affairs. We talk much of economy, and all praise the abstract idea. Let it not be said of us by our constituents, that we have kept economy perpetually on our lips, while our hearts were far from it.

We report the accompanying bill, and recommend its passage.

JOSIAH CROSBY,
DANIEL ELLIOT.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-THREE.

AN ACT defining the salary and compensation of the land agent.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. The salary of the land agent shall be 2 fifteen hundred dollars per year in full for all his ser- 3 vices instead of the sum now fixed by law, and no 4 commissions shall be allowed him for his disburse- 5 ments, and no sum shall be allowed him for assistants 6 in the office at Augusta or Bangor.

SECT. 2. All acts and parts of acts inconsistent with 2 the provisions of this act are hereby repealed.

SECT. 3. This act shall take effect from and after 2 its approval by the governor.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
January 21, 1863. }

Taken from the table on motion of Mr. KINGSBURY of Portland, and on motion of Mr. PAGE of Berwick, 350 copies ordered to be printed for the use of the Legislature.

CHARLES A. MILLER, *Clerk.*