

2-21-1877

Report : Petition of T. Walker.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 21, 1877.—Ordered to be printed.

Mr. COCKRELL submitted the following

REPORT:

[To accompany bill S. 1268.]

The Committee on Claims, to whom was referred the petition of Thomas A. Walker, late register of the United States land-office at Fort Des Moines, Iowa, with accompanying papers, have duly considered the same, and submit the following report:

Your committee wrote a letter of inquiry to the Secretary of the Interior, and received through him the following report from the Commissioner of the General Land-Office, to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND-OFFICE,
Washington, D. C., February 14, 1877.

SIR: I have the honor to acknowledge the receipt, by reference from the Department of a letter from Hon. F. M. Cockrell, for Committee on Claims of the United States Senate, dated the 8th instant, and in reply to the inquiries therein contained, respectfully state that Thomas A. Walker, late register of the United States land-office at Fort Des Moines, Iowa, (bond dated June 1, 1854,) entered upon the duties of his office June 15, 1854, and turned over to his successor the books, papers, &c., of the office, September 15, 1857.

The public lands disposed of during his official incumbency, the amount of military bounty-land warrant fees collected, and the amount paid him, pursuant to a decision of the United States Supreme Court, January term, 1841, in the case of the United States vs. Dixon, receiver of Choctaw district, Mississippi, (15 Peters, 141,) for salary, commissions, and fees, were as follows:

Years.	Area sold for cash.	Area located with military bounty-land warrants.	Amount of military bounty-land warrant fees received.	Amount paid register as salary, commissions, &c.
1854, June 15 to December 31.....	709,444.22	80,650.00	\$2,017 00	\$2,771 98
1855, January 1 to December 31	908,794.09	752,740.35	18,218 87	3,000 00
1856, June 1 to December 31.....	63,388.41	353,996.00	8,849 94	1,756 11
1857, January 1 to September 15.....	400.00	2,815.85	365 66
	1,682,026.72	1,190,232.20	29,685 81	7,892 75

It has been held that the entire amount of register's and receiver's fees collected for locating military bounty-land warrants is to be accounted for by the receiver, to be by him deposited in the United States Treasury, as other proceeds from the disposal of public lands; the said fees to be again paid out by warrant, with limitation as regards the legal maximum of compensation to the respective officers alluded to.

The fees received, amounting to \$29,685.81, referred to in the foregoing table to have

been accounted for by the former receiver, and is presumed to have been paid into the Treasury, inasmuch as but a small balance appears against him upon the books of this office.

The following United States land-offices were allowed for payment to clerks, rendered necessary in consequence of the magnitude of the sales of Osage and other Indian lands, the sums paid to them having been charged against the proceeds as expenses incident to the sale of such lands, viz:

David B. Emmert, receiver at Humboldt, Kans	\$3,145 00
William Q. Jenkins, register at Wichita, Kans.....	3,207 50
M. W. Reynolds, receiver at Independence, Kans	2,041 66

The act of Congress of 7th July, 1876, allowed Ariel K. Eaton, late receiver, and James D. Jenkins, former register, at Decorah and Osage, Iowa, \$3,600 each on account of payments for the services of clerks, upon the ground that such employment was necessary, owing to the large number of entries of land at that office.

By act of 18th February, 1861, section 2255, Revised Statutes of the United States, the Secretary of the Interior is authorized to approve the employment for a limited period, and at a reasonable per diem compensation, of one or more clerks in the office of a register of a consolidated land-office, &c.; but with this exception there is no direct authority of law for the employment of clerks at the expense of the United States in the offices of the registers and receivers of the United States district land-offices.

I have not the data which enable me to state precisely what additional force was necessary or was employed at the Des Moines office during the period referred to, but know that the requirements were far greater than those of most other offices, on account of the large excess in sales of land over other offices, and it was during this period that it became a consolidated land-office; and I know that clerks were employed, and the merits of a claim for re-imbusement, therefore, are to my knowledge far superior to those of the Decorah and Osage offices, in regard to which the evidence was ample beyond all doubt.

The letter of Senator Cockrell is herewith returned.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. Z. CHANDLER,
Secretary of the Interior.

The following certificate accompanied the petition, to wit:

DES MOINES, IOWA, November 22, 1876.

I, F. G. Clarke, register of the United States land-office at Des Moines, Iowa, do hereby certify that the records of this office show that while Col. T. A. Walker was register of said office there was entered from the 15th day of June, 1854, to the 15th day of June, 1856, at said office, the following amount of public lands, to wit:

	Acres.
By military land-warrants, various acts.....	1,169,831.00
By cash entries.....	1,558,196.75
	2,728,027.75

I also certify that quite a proportion of said lands entered by warrants were small warrants, calling for forty and eighty acres each.

F. G. CLARKE,
Registrar

The claimant, in his petition, verified by affidavit, states that during his first two years he was obliged to employ a large clerical force to discharge the duties of his office and to accommodate the public, and that he did so believing that he and the receiver were entitled to the land-warrant fees received, and that during these two years he paid out \$5,340 for clerk-hire and never received any allowance or compensation therefor, and only received his salary, \$3,000 per annum, and that the force of clerks hired by him was absolutely necessary to subserve the public.

The facts stated are substantiated by the sworn evidence of many witnesses, who were present and had personal knowledge of what they say.

The necessity for this course is so forcibly stated by Judge Love, of the United States circuit court, in his opinion in Babbitt's case, that your committee introduce the following extract from his opinion:

The history of the land-sales of 1855 will place the object of Congress, in passing the sixth section, (act of 1855,) in a clear and definite light. The rage of speculation had, during that year, nearly reached its height. Multitudes of people besieged the land-offices, clamorously demanding the location of their warrants. Many millions of acres of land were disposed of in Iowa in an incredibly short space of time. Under these circumstances it was manifest that no ordinary force of clerks and no ordinary means and appliances were sufficient to meet the exigencies of the service. The salaries of the officers were wholly inadequate to meet these expenses. Hence, Congress had either to provide the means of paying such expenditures out of the public Treasury, or of enabling the land-officers to do it by authorizing them to receive fees adequate to that purpose from those for whose benefit the services were performed and the expenses incurred. Congress chose the alternative least burdensome to the public Treasury.

Under the belief, which prevailed generally at that time; that the fees received for locating warrants belonged to him, the receiver, and were intended to compensate him for his services and expenses in locating warrants, Mr. Walker employed the necessary clerks, and incurred the other necessary expenses to enable him to transact the immense business crowding upon him promptly, correctly, and to the entire satisfaction of his customers and the Government.

In the opinion above referred to, Judge Love points out the greatly-increased labor and responsibility of land-officers under the land-warrant system. He says:

In cash sales the officer had but to count the gold and issue the certificate. In cash sales one written application and one certificate were sufficient for a whole section. How different is it under the land-warrant system. In the location of warrants, the officers have to examine the assignments, oftentimes numerous, and sometimes by guardians, &c., and pass upon their validity. This is often a delicate and responsible duty. A separate application and separate certificate have to be written for every warrant. With 160-acre warrants, four applications and four certificates were required for a section of land, and with 40-acre warrants sixteen applications and sixteen certificates were required for the same quantity of land.

No allowance whatever has ever been made him for any clerical or other expenses. Hence the officer has paid out of his own pocket all the expenses of running the office and transacting this large amount of business in so short a time.

Under these circumstances, your committee are of the opinion that the Government ought to re-imburse this officer for the money he thus necessarily paid out and expended for clerical assistance for the benefit of the Government and the public.

In the case of Ariel K. Eaton and James D. Jenkins, receiver and register at Decorah and Osage, Iowa, referred to in letter of Commissioner of General Land-Office, this Congress, at its first session, allowed each of them \$3,600. The claim of Mr. Walker is equally if not more meritorious.

Your committee therefore recommend that the relief prayed for be granted to the extent named in the bill herewith reported, and that said bill do pass.