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Report : Petition of T. Walker

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IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 954.]

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

In the petition No. 1, petitioner asks to be reimbursed moneys expended by him for clerk-hire and office-rent, rendered necessary by the unusually large quantity of land entered at his said office for the first two years of his official term.

And petition No. 2 asks to be reimbursed money expended by the petitioner for the hire of one additional clerk and the rent of a larger office, rendered absolutely necessary by the consolidation of the Iowa City land-office with the Fort Des Moines office during the third and last year of his official incumbency.

Petition No. 1 was referred to the Senate Committee on Claims, second session of the Forty-fourth Congress, when the following report was made by said committee, which report your committee find, upon examination, well sustained by the evidence, and adopt the same, as follows :

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, 680. 00	\$2, 017 00	\$2, 771 98
1855, January 1 to December 31	908, 794. 09	752, 740. 35	18, 818 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. 30	29, 685 81	7, 992 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 reimbursement, 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
Making a total entered, during said time, of	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, *Register.*

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 for 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 reimburse 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 petitioner be paid the sum of \$3,600, to reimburse him for money paid by him for clerk-hire and office-rent for and during the two years beginning June 15, 1854, and ending June 15, 1856.

In petition No. 2, petitioner asks to be reimbursed the sum of \$1,517.75, paid by him for the hire of an extra clerk and the rent of an additional room from April 15, 1856, at which time the Iowa City land-office was consolidated with the Fort Des Moines office, to September 27, 1857, at which time petitioner retired from the office.

The petition, which is sworn to, recites—

The undersigned, being register of the land-office at Fort Des Moines, was compelled, in consequence of the increase of business, to remove his office into larger rooms and to employ an additional clerk, the vouchers for which are herewith transmitted. The additional business devolved upon the office by the consolidation rendered the employment of one additional clerk indispensable, as well as added to the labors and duties of the undersigned.

The clerk employed, James A. Moore (see voucher No. 1), was engaged upon business, thrown into the office after its consolidation, and the room-rent paid (see voucher No 2) was paid for rooms occupied and rendered necessary by the consolidation, and at no time during the period charged for could the services of the additional clerk have been dispensed with or would suitable rooms have been obtained for less price.

This statement is corroborated by the vouchers referred to and various affidavits.

The act of February 18, 1861, 12 Statutes at Large, page 131, being section 2255 of the Revised Statutes, authorizes reasonable allowance for the hire of clerks, &c., on application to and approval by the Secretary of the Interior.

But the petitioner, being at the time ignorant of this statute and believing himself entitled to the fees collected, expected to and would have been abundantly able to have paid all of these expenses out of said fees, and reserved to himself after paying them a much larger compensation than the \$3,000 per annum allowed by law.

Hence, without consulting the department, he incurred and paid these expenses out of his own funds, and subsequently paid into the Treasury, as he was required to do by law, the fees collected by him, amounting to over \$29,000, and received his salary of \$3,000 per annum.

Clear as the sworn petition and accompanying vouchers and affidavits seem to make this case, your committee addressed a letter to the Secretary of the Interior, asking such information as the records of that department contained touching this claim, and received the following answer:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., January 28, 1878.

SIR: Your letter of the 23d instant, calling for information concerning the claim of T. A. Walker, formerly register of the land-office at Des Moines, Iowa, for allowance for office-rent and clerk-hire, was received and referred to the Commissioner of the General Land Office. I have the honor to transmit herewith a copy of his report on the subject, received to-day.

I am, sir, very respectfully, your obedient servant,

C. SCHURZ,
Secretary.

HON. ISHAM G. HARRIS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 26, 1878.

SIR: I have the honor to acknowledge the receipt, by your reference of the 24th instant, of a letter from Hon. Isham G. Harris, dated the 23d instant, requesting, on behalf of the Senate Committee on Claims, such information as the records of this department afford, touching the claim of T. A. Walker, esq., sometime register of the Fort Des Moines, Iowa, land-office, for an allowance of \$1,517.75, as reasonable compensation for expenses incident to the consolidation of the Iowa City office with his, in 1856, said claim being presented under act of February 18, 1861, Statutes, vol. xii, p. 131, now embraced in section 2255 of the Revised Statutes.

Respecting this claim, I find from the records that it was duly filed for settlement in January, 1862; but for some unexplained reason was not acted upon at that time.

On February 2, 1877, J. M. Walker, esq., filed in this office a sworn statement, requesting that the matter be taken up for action; and on the 8th of the same month I addressed your predecessor as follows:

"SIR: Herewith I have the honor to transmit an account of T. A. Walker, late register of the land-office at Des Moines, Iowa, for clerk-hire and rent paid by him under the terms of the act of Congress February 18, 1861, in relation to consolidated land-offices.

"This account was filed in this office on January 25, 1862, but has never been acted upon. It appears to be just and regular, and is sustained by the affidavits of the register. Although held in abeyance for a long period, there seems to have been no sufficient reason why it should not have been allowed at the time, and, if so, it is now doubly important that it be settled without further delay.

"The third section of the act referred to indicates cases of this character, and in my opinion the account may be defrayed out of the appropriation for contingent expenses of local land-offices, for the current year.

"I therefore submit the matter for your consideration, with the recommendation that this office be authorized to state the account and submit it to the Treasury Department for payment.

"Very respectfully, your obedient servant,

"J. A. WILLIAMSON,
"Commissioner."

To this communication the following reply was received :

" DEPARTMENT OF THE INTERIOR,
" OFFICE OF THE SECRETARY,
" Washington, D. C., February 20, 1877.

" SIR : I have received your letter of the 8th instant inclosing a claim of T. A. Walker, former register of the land-office at Des Moines, Iowa, for office-rent and clerk-hire, amounting to \$1,517.75.

" The account appears to have been filed in the department and referred to your office in January, 1862. Why it has been permitted to sleep these fifteen years is not apparent from the papers ; but I cannot reconcile it with my sense of official duty to approve it at this late day. The papers are herewith returned.

" Very respectfully,

" CHAS. T. GORHAM,
" *Acting Secretary.*

" Hon. J. A. WILLIAMSON,
" *Commissioner General Land-Office.*"

These communications appear to cover the matter now before me, and I have only to repeat what I at the first reported, that in my judgment Mr. Walker was justly entitled to the compensation which was especially provided by the act of 1861 for precisely such cases; and if by reason of long and obviously improper delay the claim has passed beyond the power of the department to satisfy, it should be placed by Congress on its proper footing, and rendered capable of speedy adjustment.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

Being satisfied that the petitioner is entitled and should be reimbursed the sum of \$3,600 for clerk-hire and office-rent paid by him during the two first years of his official term, and the sum of \$1,517.75 for clerk-hire and office-rent rendered necessary by the consolidation of the two offices during the third and last year of his term, and paid by him, the committee report the accompanying bill and recommend that it pass.

S. Rep., 176—2