

JOSEPH C. G. KENNEDY.

APRIL 23, 1866.—Ordered to be printed.

Mr. LAFLIN, from the Committee on Printing, made the following

REPORT.

The Committee on Printing to whom was referred the memorial of Joseph C. G. Kennedy, claiming that the Secretary of the Interior did, in June, 1865, discontinue the Census Office in violation of law, and claiming that the Commissioner of the General Land Office did, in violation of the resolutions of the Senate and the House of Representatives, in the publication of the 3d volume of the Eighth Census, on manufactures, erase the name of the memorialist, as compiler, and suppress the printed preface prepared by said memorialist, &c., as will appear by reference to the memorial herewith presented, beg leave to report:

That they find that on the 23d of May, 1850, Congress passed an act establishing the Census Office, which act placed the control of said office in the hands of the Secretary of the Interior, in the words following, to wit, vol. 9, Statutes at Large, page 432: "And to enable him (Secretary of the Interior) the better to discharge these duties, he is hereby authorized and required to appoint a suitable and competent person as superintending clerk, who shall, under his direction, have the general management of matters appertaining thereto, with the privilege of franking and receiving free of charge all official documents and letters connected therewith; and the said Secretary shall also appoint such clerks and other officers as may be necessary from time to time for the efficient management of said service."

Under the power thus granted the memorialist, J. C. G. Kennedy, was appointed superintending clerk of the census on June 1, 1860, and served in that capacity till June 7, 1865, when, upon the order of the honorable Secretary of the Interior, he transferred to honorable J. M. Edmunds all the public property in his hands, and his connexion with the office ceased.

It appears that owing to the failure of the appropriations in the last Congress the Secretary of the Interior was deprived of the necessary funds to continue the operations of the census department as then constituted. Finding in the Land Office funds unappropriated, in virtue of the power vested in him "for the more efficient management of the service," he transferred the duties that had heretofore devolved upon the late superintending clerk of the census. Waiving the question whether the letter of Hon. James Harlan, Secretary of the Interior, under date June 2, 1865, constituted a commission to Hon. J. M. Edmunds, your committee find full authority for the transfer made in that part of the act, May 23, 1850, before quoted, which says:

"And the said Secretary shall also appoint such clerks and other officers as may be necessary from time to time for the efficient management of said service."

Was the appointment of such clerks and other officers necessary in the sense above contemplated?

It appears, further, that on June 2, 1865, the Hon. Secretary of the Interior addressed a letter to the Commissioner of the Land Office, authorizing said Commissioner, under his direction, to discharge the duties which devolve upon the superintending clerk of the census, which fact is shown by a copy of a letter of Hon. James Harlan, dated Washington, June 2, 1865, herewith presented, marked A.

The first question presented to your committee was, did the Secretary of the Interior, by the removal of your memorialist and the transfer of his duties to the Hon. J. M. Edmunds, Commissioner of the General Land Office, violate the law? By referring to the act of Congress May 23, 1850, we find that the whole control of the census department, including the appointment of superintending clerk of census, was, by that act, placed under the direction of the Secretary. We are unable to discover why and how the Secretary could have violated the law when acting in accordance with the statute before quoted. Under his direction, the Commissioner of the Land Office was appointed to perform the duties of the Census Office to the Land Office, that thus he might avail himself of the funds not called for by that bureau. Before this action was taken, it appears that the Hon. Secretary of the Interior had presented the case to the President and his cabinet, and the recommendations upon which he afterwards acted were approved by that high authority.

So far it would appear that not only did the Secretary of the Interior act in strict conformity with the law and under the sanction of the highest officers of the government, but that there does not appear the least warrant for the charge made by your memorialist that the Secretary of the Interior had acted "in violation of law."

In connexion therewith it is due to your memorialist to call your attention to some of the grounds upon which he claims authority for the accusation. He referred your committee to the following resolutions, viz: House resolutions, February 9, 1863; Senate resolutions, February 23, 1863, to the effect "That there be printed, under the direction of the Superintendent of the Census, and bound, for the use of the members of the House, ten thousand copies of the several parts of the Eighth Census, as the same may be supplied to the Superintendent of Public Printing," &c.

Both resolutions, with the exception as to numbers and designation of the two branches of Congress, embodied the same language. Your memorialist claims that under these resolutions the power to print was denied to the Secretary of the Interior in virtue of the general management of the Census department, and was transferred to your memorialist, making him, in this particular at least, totally independent of the head of that department. Your committee most respectfully submit that even under this interpretation of these resolutions, to which interpretation they do not subscribe, your memorialist had no right to complain of the manner in which the printing of the report of the Superintendent of the Census was done, as it has been made to appear that this right was vested only in the officer occupying that position when the several parts of the Eighth Census were supplied to the Superintendent of Public Printing.

This brings your committee directly to the question, in what condition were "the several parts of the Eighth Census" when your memorialist ceased to perform the duties of Superintendent of the Census?

It was satisfactorily shown to your committee that the preliminary volume on population and that on agriculture had been printed, and that on manufactures was printed to the extent of about 400 pages, and the compilations that now appear in said volume, to and including page 673, had been prepared, and that the materials for the volume on Mortality, Education, Crime, &c., were in process of preparation or completion. It is then apparent that *at the time of transfer of duties on the part of your memorialist*, the volume on Manufactures had not been supplied to the Superintendent of Public Printing.

Here your committee are prepared to consider the second part of the grievance of which your memorialist complains, to wit: That his name had been erased from the title page of volume 3, manufactures, as compiler, and that a preface which he had prepared had been removed, and that written by the Hon. J. M. Edmunds had been substituted therefor; while it does appear that the name of J. C. G. Kennedy was placed upon the title page of the first two volumes of the Eighth Census, in words following, to wit:

"Under the direction of the Secretary of the Interior: By Joseph C. G. Kennedy, Superintendent of Census."

The title page of the third volume, on manufactures, appeared without either his name or that of any other person, in words following, to wit:

"Compiled from the original returns of the Eighth Census, under the direction of the Secretary of the Interior."

Inasmuch, then, as at the time of the completion for the press of the volume on manufactures your memorialist *was* no longer the Superintendent of the Census, *he* had no reason to complain of the omission of his name as compiler, especially so since it is evident that his successor, neither by name nor title, appeared to supply this omission.

While your memorialist does not allege that the Hon. J. M. Edmunds preferred claims to the authorship of the volume on manufactures by affixing his name on the title page, he does allege that he did him a great injustice by presenting such claim in appending to the preface to the same his name as "Commissioner of the General Land Office, and in charge of the census," particularly so in the exclusion of a preface which your memorialist had previously prepared.

It appears that the preface last named was not brought to the notice of the Commissioner "in charge of the census" at the time of the transfer of the public property from the office of the late Superintendent of Census, although it is alleged, and with truth, your committee believe, that said preface was left with the other public property. Your committee have examined the prefaces referred to, and, without passing upon the character of either as to merit, they feel bound to say that they do not recognize in the work and labor done by an employé of the government, however exalted his position, any claim of copyright, or its equivalent, on the part of the person performing such labor.

While your committee are not unmindful of the high character given to the census reports of the United States, while under the able management of your memorialist, they respectfully submit that there is nothing, either in the preface affixed to the volume on manufactures, or in the signature of the Hon. J. M. Edmunds, as "in charge of the census," to injure or detract from the high fame which his services had gained for him, not only in this but in foreign countries, inasmuch as this preface in no way reflects upon your memorialist, or claims for its author any credit for the work.

Independent, however, of this view, we cannot forget the fact, which we trust we have made apparent, that in no sense was your memorialist acting in an official capacity at the time of the publication of this volume, and neither can we forget the fact that at the time the Hon. J. M. Edmunds, "under the direction" of the Secretary of the Interior, as provided by law, was acting as, and performing the duties of, superintending clerk of the census.

In virtue of the power thus granted, he had the undoubted right to introduce such a preface as, in his judgment, he should think most befitting the work, subject only to the direction of his superior officer, the Secretary of the Interior.

Your committee, having thus examined the questions referred to them in the memorial, have come to the conclusion—

1. That the charge of "violation of law" on the part of the Secretary of the Interior is entirely unwarranted and without foundation.
2. That no illegal act has been committed by the Hon. J. M. Edmunds,

touching the rights of your memorialist, for which said memorialist should seek redress at your hands.

Inasmuch as the prayer of your memorialist has sought to bring into discredit the action of the Hon. Secretary of the Interior, your committee are forced by this examination to thank the Hon. Secretary for the efficient manner in which he acted in making the transfer in question, thereby most successfully aiding in the completion of a work of high statistical value, which, for the interests of the country and the world at large, had been altogether too long delayed.

In obedience to the above conclusions, your committee report the following resolution, and recommend its passage:

Resolved, That the Committee on Printing be discharged from the further consideration of the memorial of J. C. G. Kennedy, under date December 12, 1865.

A.

DEPARTMENT OF THE INTERIOR,

Washington, D. C., June 2, 1865.

SIR: I herewith enclose, for your information, a copy of a letter of this date to Jos. C. G. Kennedy, esq., the superintending clerk of the census.

You will receive from that gentleman all official documents and letters connected with the census, and all public property of every description now in his hands. You will give to him duplicate receipts therefor.

As you have consented, in addition to your present duties, to discharge those which devolve upon the superintending clerk of the census, you are hereby authorized to do so under my direction, and you will enter upon them on the 6th instant. A sufficient number of clerks will be detailed from your office to enable you to prosecute the work with all practicable despatch.

I cannot impress upon you too earnestly my conviction of the vital importance of the completion at an early period of the remaining volumes. The tardy publication of statistical returns renders them of but limited value for any immediate practical purpose, although they may furnish to the student of history an authentic and faithful record of the condition, population, and resources of the country at a given period.

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

JAS. HARLAN, *Secretary.*

Hon. JAMES M. EDMUNDS,

Commissioner of the General Land Office.

WASHINGTON, *December 12, 1865.*

To the House of Representatives of the United States:

The memorial of the undersigned respectfully represents, that in 1849-'50 he actively participated in the preparation of the law now in force providing for the taking of the seventh census and subsequent censuses, and the schedules and instructions necessary for their execution; and for five years prior to the month of June last he rendered continuous service as Superintendent of Census, in which capacity he performed faithfully, and he believes satisfactorily and usefully to the country, every duty incumbent upon him in connexion with this work, and in addition thereto has contributed a vast amount of information to the different departments, generals in the field, and the executives of the several

States, called for by the peculiar condition of the country. Without advice, assistance, or interference from any quarter, he superintended the taking of the Seventh and Eighth Censuses, both executed so satisfactorily to the country that no serious doubt or complaint has ever been expressed in any State, city, or county, regarding the accuracy of the work, or the integrity which prevailed in its administration or in the representation of the results, while every Secretary who has presided over the department during these enumerations has testified to his fidelity, as have all the members of the Census Board under whom he has served in the preparation of the law, schedules, and instructions.

The system of regulating the accounts of the marshals was arranged by your petitioner, and never was an appeal from his decision sustained by the Secretary of the Interior. Under these circumstances, Hon. James Harlan, present Secretary of the Interior, in the month of June last addressed your petitioner a note, (of which a copy, with accompanying correspondence, is appended,) in violation of law discontinuing the Census Office, the duties of which were subsequently transferred to the Commissioner of the General Land Office, James M. Edmunds, who, upon being advised of the fact, informed your petitioner that he, said Edmunds, was altogether ignorant of the manner of performing the duties thus imposed, and requested a continuance of your petitioner's services to insure the proper prosecution of the work, which services were faithfully rendered for near the space of two months without compensation. When your petitioner withdrew from the census, there had been published, first, the preliminary report, embracing proximate details of all the more important facts developed by the census; second, the volume on population; third, the volume on agriculture; all which works proved acceptable to our people, and have been highly complimented in foreign countries. The volume on manufactures was more than half printed, the labor on all its details more than ninety-nine-hundredths done, and its entire plan fully matured, the best evidence of which exists in the fact that there does not appear in the body of the volume as published one line of text, one column of figures, one expression, one form in manner, or one idea of matter, the result of any act, direction, or suggestion on the part of him the said Edmunds. A title page and introduction, of which a copy will be found herewith accompanying, had been prepared early in April; and had been corrected in proof by your petitioner.

Now, that of which your petitioner especially complains, and from which he prays redress, as well on the public account as his own, is the act of said Edmunds directing and causing the Superintendent of Public Printing, in violation of the resolutions of the Senate and House of Representatives, to erase the name of your petitioner as compiler, and suppress the printed preface prepared by your petitioner for the volume compiled under the direction of your petitioner exclusively, and to insert in lieu thereof certain inappropriate "preliminary views," to which is affixed the name of said Edmunds, thereby not only obliterating and excluding what had been prepared legally by your petitioner under the predecessor of the present Secretary, and by him approved, in violation of every principle of honor, justice, and propriety, but surreptitiously assuming to himself to have superintended the work by a clandestine suppression of all evidence of your petitioner's official association therewith, in defiance of the resolution of the Senate, 23d February, 1863, and of that of the House on the 9th of the same month. This petitioner prays your honorable bodies to take some suitable action expressive of your views of such an unwarrantable breach of privilege so subversive of official courtesy and honor.

JOS. C. G. KENNEDY.

