

COUNSEL EMPLOYED BY THE ATTORNEY GENERAL.

LETTER

FROM

THE ATTORNEY GENERAL,

IN ANSWER TO

A resolution of the House of the 11th ultimo, relative to counsel employed by him, assistants to district attorneys, and compensation paid, &c.

MARCH 3, 1868.—Referred to the Committee on Retrenchment and ordered to be printed.

ATTORNEY GENERAL'S OFFICE,

Washington, February 23, 1868.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives, adopted February 11, 1868, directing the Attorney General to furnish to the House "a statement of the amounts paid, during each year since eighteen hundred and sixty, to counsel who have been employed to assist the Attorney General or district attorneys, in cases in which the United States have been interested, whether as fees, costs, commissions, special allowances, or travelling or other expenses, with the names of persons to whom money has been paid, with the amount to each, specifying the cases or business in which services have been rendered; and, also, to state whether any amounts are now claimed for similar services hitherto rendered, and by whom; and, also, what persons, if any, other than the officers authorized by law, are now employed as assistant counsel in his department, and for what compensation, and how paid, or agreed to be paid, and under what authority such counsel have been retained and employed, and for what purposes."

In compliance with this resolution I transmit, herewith, statements marked respectively A, B, C, and D.

Statement A contains a list of counsel employed to assist the Attorney General in cases pending in the Supreme Court of the United States, or classes of cases, showing by whom employed, and the compensation paid.

Statement B contains a list of counsel employed to assist district attorneys in special cases, or classes of cases in district courts, showing by whom employed, and the compensation paid.

Statement C contains a list of counsel employed as regular assistants to district attorneys, at annual compensations.

Statement D contains a list of persons employed at the date of the resolution, February 11, 1868, as assistant counsel to the Attorney General, showing for what services they are employed, and for what compensation.

The resolution, as I understand it, also requires the Attorney General to re-

port under what authority such counsel as those named in the last clause of the resolution, and who are mentioned in statement D, have been retained and employed. - This authority is found in the first section of the act to regulate fees, &c., of February 26, 1853, (10 Statutes at Large, p. 162,) one clause of which is as follows: "For the services of counsel, rendered at the request of the head of a department, such sum as may be stipulated or agreed on." And in the appropriation act of March 2, 1867, (14 Statutes at Large, p. 448,) one clause of which is as follows: "For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, in aid of funds arising from fines, penalties and forfeitures, in the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, including legal assistance to the Attorney General, and other special and extraordinary expenditures in cases in the Supreme Court of the United States, in which the United States are concerned, and for prosecutions for offences committed against the United States, and for the safe-keeping of prisoners, one million three hundred thousand dollars." It may be, however, that it is intended, by the last clause of the resolution, to call for the authority under which counsel have been employed in all the other cases named in the prior clauses, and which are set forth in statements A, B, and C.

As to the authority to employ counsel to assist the Attorney General in cases before the Supreme Court, that stands upon the clause quoted from the act of 1853, and upon clauses in the appropriation acts of 1860 and since, similar to the clause quoted from the act of 1867, but which are less specific than that clause, except as to the act of 1866, which is in the same terms; and as to the land cases from California, upon special appropriations.

As to the authority of the Attorney General to employ counsel to assist the district attorneys, that is given by the act of August 2, 1861, (12 Statutes at Large, p. 285, sec. 2,) as follows: "That the Attorney General be, and he is hereby, empowered, whenever in his opinion the public interest may require it, to employ and retain (in the name of the United States) such attorneys and counsellors at law as he may think necessary to assist the district attorneys in the discharge of their duties, and shall stipulate with such assistant counsel the amount of compensation."

The practice of employing counsel to assist the district attorneys at an annual compensation began, as I understand, in the time of Attorney General Bates, and has been since continued and extended as the exigencies of the public business required. But long before this special authority was given, such employment upon an annual compensation had been held to come within the power of the Attorney General. Attorney General Black, in an opinion given to the Secretary of the Treasury, May 25, 1858, says:

When the office of a district attorney is so burdened with business that he cannot possibly get through it himself, I have no doubt whatever that the departments may employ other counsel to aid him in defending suits against the public officers, or, what amounts to the same thing, and is better, because more economical, may allow him to employ a regular assistant at an agreed salary. This had better be arranged by the Secretary of the Interior, who is charged with the administrative supervision of the accounts.

I am not advised that any claims not designated in the tables accompanying this report are now on file in this office.

I have the honor to be, sir, very respectfully,

HENRY STANBERY,
Attorney General.

HON. SCHUYLER COLFAX,
Speaker of the House of Representatives.

STATEMENT A.—Abstract of counsel fees allowed by the Attorney General, &c.—Continued.

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COUNSEL EMPLOYED BY THE ATTORNEY GENERAL.

Date.	To whom paid.	Amount.	By whom employed.	Cases or business in which the services were rendered.
1866.				
August 12.....	H. Stanbery.....	\$2,000 00	Attorney General Speed.....	Ex parte Milliken, Bowles, and Horsey, in United States Supreme Court.
August 13.....	B. F. Butler.....	2,495 00	.....do.....	Do. do.
October 1.....	J. A. Wills.....	3,000 00	.....do.....	California land cases in United States Supreme Court. [Contract at annual compensation of \$3,000, dated November 17, 1862.]
December 21 .	T. J. Coffey.....	1,000 00	.....do.....	United States vs. Peterhoff, prize, in United States Supreme Court.
1867.				
May 20.....	F. Avery.....	300 00	Attorney General Stanbery ..	State of Georgia and State of Mississippi vs. The President, Secretary of War, et al., in United States Supreme Court.
June 30.....	J. A. Wills.....	2,250 00	Attorney General Bates.....	California land cases in United States Supreme Court. [Contract at annual compensation of \$3,000, dated November 17, 1862. Closed here.]
October 30....	A. Russell.....	3,500 00	Attorney General Stanbery ..	United States Gardeur de Repentigny et al., land case, in United States Supreme Court.

* The payments to Mr. Coffey, in 1864, were under two contracts, made by Attorney General Bates, of \$3,000 each, to prepare and argue all prize and California land cases pending in the Supreme Court which might be reached at the December term, 1864.
 † The payments to Mr. Coffey, in 1865 and 1866, were under a contract of \$6,000, made by Attorney General Speed, to prepare and argue all prize cases pending in the Supreme Court which might be reached at the December term, 1865.

STATEMENT B.—Special counsel to assist district attorneys.

Date.	To whom paid.	Amount.	By whom employed.	Cases or business in which the services were rendered.
1861.				
April 8.....	F. Randolph	\$2,500 00	Attorney General Black.....	New Almaden land case, in United States courts northern district of California.
April 9.....	F. Randolph	5,000 00	P. Della Torre, U.S. att'y, and E. M. Stanton, special agent.	United States <i>vs.</i> John Parrott, California land case; northern district of California.
October 24 ...	J. B. Williams ...	2,000 00	Attorney General Stanton....	Land cases in northern district of California.
December 13..	J. O. Broadhead ..	1,500 00	Attorney General Bates.....	United States <i>vs.</i> Tucker. Treason and investigation of frauds, conspiracies, and other crimes; eastern district of Missouri.
December 31..	W. M. Everts ...	1,250 00	.....do.....	United States <i>vs.</i> Baker. Piracy, United States circuit court, southern district of New York.
1862.				
January 23....	C. Gibbons	1,050 00	Attorney General Bates.....	Services in United States courts in eastern district of Pennsylvania. [Contract dated October 12, 1861, at \$150 per month during illness of the district attorney.]
July 9.....	R. P. Ranney....	250 00	.....do.....	United States <i>vs.</i> Court <i>et al.</i> Conspiracy, in United States circuit court, northern district of Ohio.
July 15.....	W. D. Kelley....	500 00	.....do.....	United States <i>vs.</i> Crews of Privateers, in United States circuit court, eastern district of Pennsylvania.
July 16.....	Geo. H. Earle ...	500 00	.....do.....	Do. do. do.
September 13.	P. Della Torre...	7,500 00	.....do.....	Land cases in United States district court, northern district of California.
1863.				
April 4.....	E. L. Gould	1,000 00	Attorney General Bates.....	Gomez <i>vs.</i> United States, in United States district court southern district of California.
December 10..	J. M. Jordan	500 00	.....do.....	United States <i>vs.</i> John Racey <i>et al.</i> Conspiracy, in United States circuit court southern district of Ohio.
1864.				
April 25.....	I. Hartman	2,559 00	Attorney General Bates.....	Land cases, in United States district court southern district of California.
May 17.....	T. Campbell.....	3,000 00	.....do.....	United States <i>vs.</i> Ridgely Greathouse <i>et al.</i> Treason, in United States circuit court of California.
1865.				
July 5.....	B. White.....	500 00	Attorney General Speed.....	United States <i>vs.</i> Rosenthal & Merrick. Conspiracy, in United States circuit court northern district of Ohio.
July 20.....	I. Hartman.....	19,000 50	Special agent E. M. Stanton, with approval of Attorney General Black.	Mission cases and Almaden case. Land claims, southern district of California. [For continuous services since 1858.]
1866.				
June 14.....	W. Y. Gholson ..	500 00	Attorney General Speed.....	United States <i>vs.</i> Modary <i>et al.</i> Conspiracy and Treason, in United States circuit court southern Ohio.
July 20.....	E. C. Carrington.	680 00	Att'y's Gen'l Bates and Speed.	Special reports to Attorney General in thirty-four cases of convictions in criminal court, Dist. of Columbia.
1867.				
January 17....	T. V. Russell....	500 00	Attorney General Stanbery ..	United States <i>vs.</i> Foster. Murder, United States district court, Montana.
May 29.....	W. M. Everts ...	5,450 00	.....do.....	United States <i>vs.</i> Jefferson Davis. Treason, in United States circuit court, Virginia.
November 15..	R. H. Dana, jr....	1,000 00	.....do.....	Do. do.
November 15..	H. H. Wells.....	1,000 00	.....do.....	Do. do.

COUNSEL EMPLOYED BY THE ATTORNEY GENERAL.

STATEMENT C.—Amounts paid to assistant district attorneys.

Name.	Amount.	District.	By whom employed.	Date.
T. K. Lothrop.....	\$11,250 00	Massachusetts.....	Attorney General Bates.....	October 1, 1861, to June 30, 1863, at \$3,000 per annum.
E. W. Morton.....	3,750 00	do.....	do.....	October 1, 1861, to June 30, 1863, at \$1,000 per annum.
J. H. Ashton.....	2,000 00	Eastern Pennsylvania.....	do.....	October 1, 1861, to September 30, 1863, at \$1,000 per annum.
Charles Gibbons.....	2,100 00	do.....	do.....	November 12, 1861, to July 12, 1862, at \$350 per month.
C. S. Hayden.....	400 00	Eastern Missouri.....	do.....	April term of United States circuit court, 1862.
C. S. Hayden.....	3,112 00	do.....	do.....	August 4, 1862, to August 31, 1864, at \$1,500 per annum.
N. Wilson.....	1,125 00	District of Columbia.....	do.....	January 1, 1863, to September 30, 1863, at \$1,500 per annum.
N. J. Thayer.....	2,605 97	Maryland.....	do.....	January 1, 1863, to August 8, 1863, at \$1,000 per annum.
N. Wilson*.....	2,500 00	District of Columbia.....	do.....	October 1, 1863, to December 31, 1867, at \$2,000 per annum.
J. K. Goodloe.....	2,750 00	Kentucky.....	do.....	November 1, 1863, to August 31, 1863, at \$1,500.
J. H. Ashton.....	916 66	Eastern Pennsylvania.....	do.....	October 1, 1863, May 10, 1864, at \$1,500 per annum.
C. O. Tappan.....	2,500 00	Northern New York.....	do.....	January 1, 1864, to March 31, 1865, at \$2,000 per annum.
J. G. Chandler*.....	2,500 00	West Virginia.....	do.....	October 1, 1862, to September 30, 1867, at \$500 per annum.
C. O. Tappan.....	3,982 87	Northern New York.....	Attorney General Speed.....	April 1, 1865, to November 3, 1866, at \$2,500 per annum.
John K. Valentine.....	1,125 00	Eastern Pennsylvania.....	do.....	April 1, 1865, to December 31, 1865, at \$1,500 per annum.
J. S. Smith.....	2,500 00	Northern New York.....	do.....	May 1, 1865, to December 31, 1866, at \$1,500 per annum.
W. A. Field*.....	5,000 00	Massachusetts.....	do.....	July 1, 1865, to December 31, 1867, at \$2,000 per annum.
E. W. Morton.....	1,500 00	do.....	do.....	July 1, 1865, to March 31, 1866, at \$2,000 per annum.
A. M. Rodgers.....	1,115 21	Maryland.....	do.....	October 1, 1865, to September 4, 1866, at \$1,200 per annum.
B. H. Bristow.....	531 16	Kentucky.....	do.....	November 24, 1865, to March 31, 1866, at \$1,500 per annum.
John K. Valentine*.....	4,000 00	Eastern Pennsylvania.....	do.....	January 1, 1866, to December 31, 1867, at \$2,000 per annum.
L. H. Bond*.....	3,000 00	Southern Ohio.....	do.....	January 1, 1866, to December 31, 1867, at \$1,500 per annum.
L. S. Dabney.....	1,000 00	Massachusetts.....	do.....	April 1, 1866, to September 30, 1866, at \$2,000 per annum.
T. Hennessey.....	3,500 00	Virginia.....	do.....	April 1, 1866, to December 31, 1867, at \$2,000 per annum.
L. H. Boutell*.....	3,500 00	Northern Illinois.....	do.....	April 1, 1866, to December 31, 1867, at \$2,000 per annum.
G. C. Wharton*.....	2,250 00	Kentucky.....	do.....	June 1, 1866, to December 31, 1867, at \$1,500 per annum.
J. O. Broadhead.....	1,500 00	Eastern Missouri.....	do.....	July 1, 1866, to October 31, 1867. [Erroneous—see statement B.]
H. B. Brown*.....	1,500 00	Eastern Michigan.....	do.....	July 1, 1866, to December 31, 1867, at \$1,000 per annum.
Benjamin Price.....	690 00	Maryland.....	Attorney General Staubery.....	September 5, 1866, to March 31, 1867, at \$1,200 per annum.
H. D. Hyde*.....	2,500 00	Massachusetts.....	do.....	October 1, 1866, to December 31, 1867, at \$2,000 per annum.
G. W. Miller*.....	2,422 00	Northern New York.....	do.....	Dec. 12, 1866, to March 4, 1867, and April 5, to Dec. 31, 1867, at \$2,500 per annum.
J. S. Smith.....	504 94	do.....	do.....	January 1, 1867, to April 10, 1867, at \$1,800 per annum.
J. A. C. McClure*.....	960 00	Maryland.....	do.....	April 1, 1867, to December 31, 1867, at \$1,200 per annum.
S. Clinton*.....	1,478 02	Northern New York.....	do.....	April 5, 1867, to December 31, 1867, at \$2,000 per annum.
O. Folsom*.....	1,335 16	do.....	do.....	May 1, 1867, to December 31, 1867, at \$2,000 per annum.
W. C. Bunts*.....	1,125 00	Northern Ohio.....	do.....	May 9, 1867, to February 9, 1867, at \$1,500.
M. L. Perkins.....	750 00	Western Tennessee.....	do.....	August 2, 1867, to December 31, 1867, at \$1,500 per annum.

* Still under employment at the same compensation.

STATEMENT D.—*Special counsel now under engagement.*

Name.	Amount.	By whom employed.	
J. H. Ashton ...	\$3,000 00	Attorney General Stanbery.	Prize and other cases in the Supreme Court, which may be reached at the term beginning December, 1867.
Delos Lake	3,500 00	.....do	Emil Grisar <i>vs.</i> Major General Irwin McDowell, in United States Supreme Court upon appeal from United States circuit court for California, involving the title of the United States to the military reservations at San Francisco. Act March 2, 1867. (14 Statutes at Large, p. 448. There are no other special counsel now employed to assist the Attorney General in the Supreme Court, or as assistant counsel in his department.