

Letter protesting Pension Agency
Reforms.

To His Excellency

Rutherford B. Hayes

President

Washington

D. C.

TO THE PRESIDENT OF THE UNITED STATES:

As one of the Pension Agents whose offices were summarily discontinued by the Executive order of the 7th inst, I desire to make certain inquiries pertinent thereto. I am aware how unpardonable a thing it *has been* for an American office-holder to have an idea with regard to the conduct of his office, his rights as an officer or the administration of the Department with which he is connected, which had not already percolated through the brains of superiors whose acts were beyond question, if not above law. Based, as the present Administration is, however, upon the idea of Civil Service Reform, I suppose that an officer who feels himself aggrieved, or even a citizen who questions the lawfulness of any of its acts, may be permitted respectfully and earnestly to question the same, and even to protest against them.

The objective point aimed at, by what is known as Civil Service Reform, if I rightly understand it, is to secure the independence, efficiency and uprightness of every officer of the Civil Service, by assuring to him the tenure of his office during a specific term and under legal restrictions. In other words, it is to assure the officer that the appointing power will not act arbitrarily or without authority of law towards him, as such officer. This, I understand also, to be the declared principle of the present Administration. Of its justice there can be no doubt. Neither can it be questioned that the Administration has the power to do otherwise, for our law has not yet given any redress against the unlawful exercise of power towards a subordinate officer.

Premising this much, I desire to ask—

I. *Whence does the President derive any authority to "discontinue" or "consolidate" Pension Agencies or to remove Pension Agents except for official misconduct?*

Section 4,780, Rev. Statutes, provides that the President may "establish Pension Agencies wherever in his judgment they are required by public interest and the convenience of the pensioners." It is entirely silent, however, as to any power to "discontinue" or abolish any Agency. It should be noted, too, that no new Agencies, (or not more than one or two) have been established since this law was re-enacted in 1873-4.

This omission to confer the power to consolidate or discontinue is important from two points of view:

First. The order purports to be based on the fact that the present system is "cumbersome and unnecessarily expensive." Yet it was this very system which was approved by the enactment of 1873, and the President was given thereby power to extend it, under certain restrictions, but *not* authorized to restrict or reduce it.

Second. In all other cases where power is conferred upon the President to *establish* offices of a certain class—so far as I have been able to discover—an *express power to disestablish, consolidate and unite* offices of that class has also been conferred. This is true with regard to Public Land Districts, Registers and Receivers of Public Lands, Indian Agents and Inspectors, certain classes of consular, and perhaps, other officers. A very marked instance of this is the law in regard to Collectors of Internal Revenue. By Sec. 3141, the President is given the power to *establish, unite, subdivide and alter* Internal Revenue Districts in his discretion. By Sec. 3,142 he is expressly given power to drop one or both of the Collectors "when two Districts are united." Would any President have dreamed of abolishing any Collection District without this *express* authority? Is it a question for the Executive whether a system be "cumbersome" or not, when the Legislative branch of the government has already approved it and conferred on the Executive power only to *extend* it? Has the President any better authority in law, for discontinuing a Pension Agency than for abolishing a Customs District?

II. *Has the President a right to remove an officer appointed by and with the consent of the Senate, during a recess of that body, except for official misconduct?*

It is true that the Civil Tenure of Office Act has been so emasculated by conditions and restrictions that it is useless to the officer as a means of redress or defence. The civil official is yet just as much at the mercy of the appointing power, practically, as if it had never been enacted. If it means anything, however, it is an enunciation of a right which such officer has, to have and hold the said office, and its emoluments during his term of office, and this right, should be as carefully guarded by the Executive as any other right of the citizen. While the officer has absolutely no remedy, yet the President, I respectfully submit, has no more moral right to deprive him of his interest in such an office, except by express authority of law, than of his coat.

What cannot lawfully be done directly is equally unlawful when accomplished by indirection. The pay of the Pension Agent is entirely dependent on his disbursements. While the removal of them is not a direct ouster of the officer, it is such, in effect. Let us apply the principle to another branch of the Civil Service. The salary of Postmasters, of a certain class, is dependent upon the amount of stamps sold at their offices. The President has a right to prescribe rules and regulations for the sale of stamps. Suppose he should say, "The present system is cumbersome and expensive—I can devise a better one;" and should thereupon, by an executive order, direct that no stamps should be sold except at New York, Philadelphia, Boston, Columbus and some dozen other large cities. It is in his power, and would save the government ten dollars where the order of May 7th would save one. The principle is the same. It would not *remove* any Postmaster appointed with consent of the Senate, but it would cut off the salary, and so *squeeze out* of official existence all but the favored officers.

III. *Is it sound economy?*

The last report of the Commissioner of Pensions is a continued series of excuses, for the fact that his office is in arrears of work. *Eighty-five thousand cases behind*, he says! And its utmost capacity for reducing that amount is only eleven thousand per annum. Besides this there are *sixty thousand* rejected cases, *two thousand* of which were re-opened the year previous. So that it is reasonable to say, that this office is from eight to ten years in arrears of its regular work! Many excuses are offered not pertinent to this subject and one remedy suggested, which seems to bear directly upon the subject-matter of this order. He suggests the appointment of *sixty clerks*, one in each Pension District, to take testimony and investigate applications made in the same, performing all the work of the Special Service Division and much of that of the other division. He shows that these clerks would cost \$129,000, and would reduce the expenses of the office \$140,000, by the work they would perform.

Now, there are already, fifty-eight officers of this Bureau, one in each of the Pension Districts, certainly quite as capable of performing the duties which would be required of these clerks as they would be. They have already knowledge of the workings of the office, its rules and regulations. The duties of these sixty proposed clerks might, by an order, be at once imposed on these officers without increasing their compensation at all, except by giving them the travelling expenses now allowed the Special Service Agents.

This plan would save the entire amount of \$140,000, which it now costs to do the work from the home office, according to the Commissioner's Report 1876, p. 21. If it be said that the Agents would be interested in obtaining pensions, it could be provided that no case heard by any of them should go up on the rolls of his Agency.

It seems to me, that the order of May 7th, when taken with this recommendation of the Commissioner, smacks of the policy of cutting off the tail of the garment to add to the collar.

Again, the order of May 7th will require the transfer of not less than *one hundred and fifty thousand* pensioners, from the rolls of the discontinued Agencies, to those retained. This transfer must also be made in the Pension Office and in the Third Auditor's Office. Both these offices are largely in arrears of regular work. What will be the expense of these transfers and what the delay occasioned by them? The expense I have no means of estimating.

The order of January 29th, 1876, required the transfer of about seventeen thousand pensioners, and these transfers were barely completed in a year. The bulk of those transferred to this Agency were not received until after October, 1876.

Again, this order can reasonably only be in operation for one fiscal year. The Administration is bound, in the execution of a policy of reform in the service, to recommend to Congress, not only a thorough revision of the plan of *paying* pensions, but of the *entire workings* of that office. The suggestion of change has been constant on the part of its chief officers for many years. Both its effectiveness and its economies must be overhauled. A bill is already pending in the Senate to abolish the Agencies entirely and have pensioners paid by the Treasurer. The only question with regard to the Agents will be whether they shall be abolished or made regular salaried officers and united with the working force in the office. Efficiency and economy will dictate the latter, but no possible view can tolerate the state of affairs which will be produced by this order.

The clerical force required to do the work of the Agencies is over one hundred men. More than one half of the compensation received by Agents is in the shape of fees. The whole amount of fees is \$209,000 and upwards. This, distributed among the eighteen retained Agents, with the \$2,000 commissions and \$2,000 compensation, to which they are each entitled by law, and reasonable contingent expenses, would make their remuneration about \$17,000 each! An enormous salary for an officer, but not much for a contractor!

If economy compels the excision of forty, out of fifty-eight, why does not the same motive cut off seventeen, out of the retained eighteen. One man can hire a clerical force to do it all, just as well as eighteen! It will cost but little more to transfer all the pensioners to one Agency than to transfer two-thirds of them to eighteen! Besides, it would save another transfer, when the Treasurer or other officer should be required by law to pay the pensioners. As to convenience of the pensioners, the difference would be very slight. The post-office, railroads and telegraphs have very nearly obliterated that consideration, anyhow. This would save just \$68,000 more than the present order, to-wit, salaries and compensation of seventeen Agents, \$4,000 each, \$38,000. This would give the one remaining Agent all the fees, \$209,000, \$4,000 salary and compensation, and a reasonable sum for contingent expenses, say in all \$225,000. I suppose he could hire one hundred clerks for \$100,000, so he would make a good thing out of it. It would not be much of an office, but *would* be an excellent job. This *seems* absurd, yet the principle is *exactly* the same. The Government now has fifty-eight officers. The President says, "Eighteen can do this just as well. Let forty of them be dropped." Those forty receive on the average, from all sources, \$3,500 per annum each. The *eighteen* contractors would receive under the law as it now stands, \$17,000 each. But the United States would save, *we are told*, \$150,000. Now, if there were but *one* contractor he would receive from \$213,000 to \$225,000 per annum, but the Government would save \$218,000 instead of \$150,000! If the forty have no rights as officers, the seventeen certainly have not!

Is not such a system of farming out the official work of the Government opposed to the experience of all governments, to sound policy, and to every idea of Civil Service Reform? Does it not tend to the degradation of the official rather than to his elevation?

V. *Is it not prejudicial to the interest of the Pensioners?*

The law makes the chief measure of the President's discretion in the *establishment* of Agencies, "the convenience of the Pensioners." How will this be affected by the order of May 7th?

It is taken for granted that a radical change will be made in the manner of paying pensions by the next Congress. It can hardly be possible that there should not be. The pressure for what purports to be economy will make all parties a unit on that point. Either the present Agencies will be made working integral parts of the Bureau, with salaried officers, or one officer with a corps of regularly appointed clerks, will be designated to make all the payments. Either of the plans would effect a saving of a considerably greater amount than the order, reducing the cost of disbursement probably to less than *one per cent.* of the amount disbursed where it is now about *one and three-fourths per cent.*

The present Agencies have been long established. The pensioners have become familiar with their location, and the matter of obtaining their quarterly stipends from them has become habitual. The greater part of them are poor, dependent upon their pensions entirely for their support. The delay of a check beyond the accustomed time is nearly as bad to them as the failure of the ravens to make their diurnal trip would have been to Elijah in Horeb. A large proportion of them are ignorant. More than one-half of those paid at this office sign with their marks. In September of this year come the biennial examinations. How many of the *one hundred and fifty thousand* pensioners who have to be transferred, will be disappointed, delayed, inconvenienced and subjected to suffering for one, two or more quarters by this order, only to be put to *the same inconvenience a gain* at the close of the year, when another transfer will be necessary? If it were only to be willed and it were done, it would be different; but any one who noted the suffering occasioned by the order of January 29th, 1876, who heard the pitiful cries of those who had no other hope for bread, under its operation, may well consider the suffering to be wrought by such an order making an instant and wholesale change. The government may save something, not much when the cost of transfers and delay of work is counted, but it is absolutely impossible that the pensioners should not suffer greatly.

It may not be amiss to note here, that nearly every change in the pension laws for many years, has been in favor of securing *prompt, regular and frequent* payments to the pensioner. It has not been considered a matter to be carefully weighed in dollars and cents. The writer, though still a young man, well recollects that when, through the mishaps of war, his name was first placed upon a Pension Roll, he was required to go in person to the Agency, a hundred miles away, twice a year, or employ an attorney to draw his pension for him. The system of payment by checks has brought the Agent to the pensioner's door. Quarterly payments have taken the place of semi-annual and the distribution and multiplication of Agencies, has insured promptness of payment. As now arranged, any pensioner may have his check in hand in ten or fifteen days after the execution of his voucher. It may be that this care for the convenience of pensioners has been carried too far. Of course, there must be a limit somewhere, and as we recede from war it is natural that we should become less considerate for those who suffered by its scath. It would seem, however, that any change of policy looking in that direction, should be prepared with deliberation, adopted without haste and made as light and gradual to the pensioner, as it is possible that it should be.

I have no apology to make for these remarks. I make them as a party in interest and therefore entitled of right to be heard. They are intended to be entirely respectful, though at the same time earnest. They are not intended as captious criticisms, nor designed to hinder, delay or oppose, any measure already determined upon, but only to suggest difficulties, which naturally present themselves from my standpoint, but may have escaped the attention of those regarding it from another, to a policy proposed, but not yet put in practice. They are made by one who has studied carefully the law pertaining to the subject, who has some knowledge of the practical workings of the present system, at that end of the line where the difficulties attending the execution of this order will be first experienced, and who has determined, if the principles of Civil Service ever are applied to that Department in such manner as to permit him to do so fairly, to compete for a place therein. If they should be regarded as impertinent, I can only regret that long continued custom has deprived the American civil officer even of the right of an earnest protest and a respectful hearing.

I have the honor to be, your obedient servant.