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FIFTH ANNUAL REPORT OF THE
CONTROLLER OF COUNTRY
ACCOUNTS. FEBRUARY, 1892**

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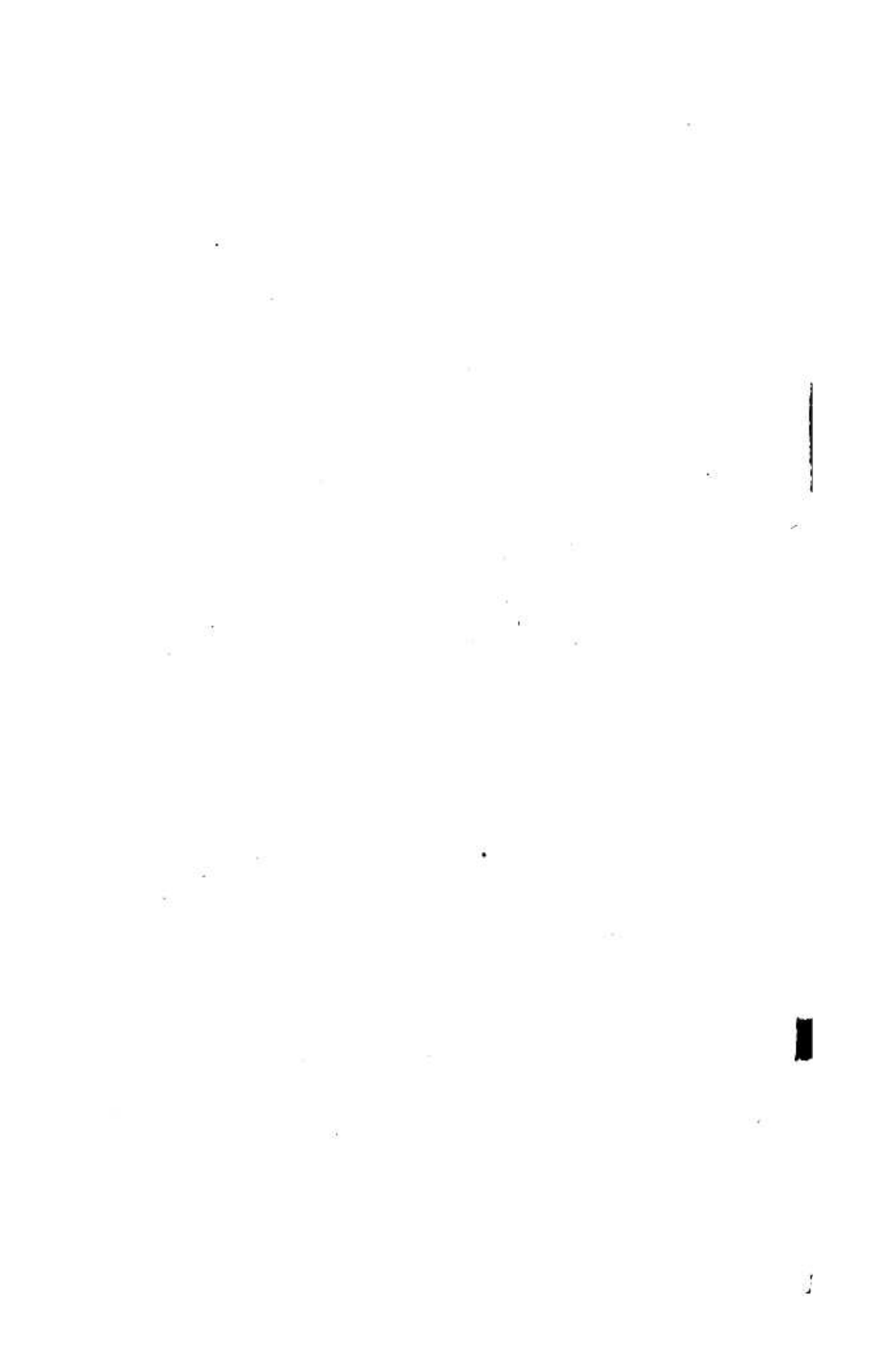
FIFTH ANNUAL REPORT

OF THE

CONTROLLER OF COUNTY ACCOUNTS.

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FEBRUARY, 1892.
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Comptroller of the Accounts
of the Commonwealth of Massachusetts

Commonwealth of Massachusetts

OFFICE OF THE CONTROLLER OF THE ACCOUNTS OF COUNTY OFFICERS,
OFFICERS OF INFERIOR COURTS AND TRIAL JUSTICES,
No. 9 PARK STREET, BOSTON, Feb 1, 1892.

To the Honorable Senate and House of Representatives.

In compliance with law, I have the honor to submit my fifth annual report.

I have nothing new to suggest in the way of legislation, unless it be to recommend that in case of the defalcation or absconding of a county treasurer, the county commissioners, or some other officer, be authorized to take summary possession of the office, books and papers of such delinquent treasurer, and hold them until a new appointment can be made, or until any question or charge of dishonesty or defalcation can be investigated. Fortunately in this Commonwealth, there have been few cases where any authority not given in the statutes has been found necessary. But in the case of the late treasurer of Franklin county, who, in June last, confessed himself to be a defaulter to the amount of over sixteen thousand dollars, I could not fail to see that the present law in some respects is defective.

That confession was made in the midst of an examination of the accounts of that officer by me, and the county commissioners were in session at the time. If the treasurer had absconded, instead of confessing and promptly resigning and standing by to aid, by all the means in his power, in straightening out his affairs, and in the instalment of his successor, the condition of things to which I desire to call attention would have existed. The treasurer of Franklin kept the office in his store. If he had locked that store

and gone to Canada, the derelict treasury would have been recovered only by a trespass. He gave a large bond. In his absence, who could have taken possession of the county funds, books and papers without risk of discharging the bondsmen? With no law and no precedent to guide me at Greenfield, I at once notified the county commissioners and the bondsmen of the treasurer of his default; with his consent held possession of the books and papers until the commissioners could appoint a successor and allow the latter to qualify by giving bonds. If the treasurer had refused to open his store or the county safe, had refused to resign, and declined to abscond, what could have been done under the law? It is provided that if the office of county treasurer "becomes vacant by the death, removal from the county, or incapacity of the treasurer, or otherwise, the county commissioners shall appoint a successor." (Public Statutes, chapter 10, section 17).

If there be no constitutional objection, I recommend that power be given to the supreme judicial court to remove a county treasurer, when, in their judgment, the public good requires it, as may now be done with clerks of courts, clerks of inferior courts, sheriffs, registers of probate, commissioners of insolvency and district attorneys,—every county officer except the judge of probate, county commissioners and registers of deeds.

Upon the merits of the Greenfield defalcation I have something to say. It staggered me at first, as it did the entire community of Franklin county. The frank avowal that for fifteen years the county funds had been used by the treasurer in his own private business; that he had successfully escaped detection by me for four years, the savings bank commissioners for more than ten years, the board of examiners and the county commissioners during his whole term, was indeed amazing. The boards of examiners were relieved from the duty of examining the accounts of county treasurers by chapter 380 of the Acts of 1890, and the same chapter required me to certify to the correctness of their accounts whenever I made an examination. I examined in Franklin the week after the act took effect, and more carefully than ever before went over

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the accounts, under a sense of the new responsibility devolved upon me. The balance then on hand was found to be very small and was duly certified on the cash book. I visited Greenfield again in June, 1891, but a little earlier than in 1890. My attention was engaged by the fact that the first entry on the receipt side was a large loan, and that the entries of cash received from towns for dog licenses, due by law and usually paid June 1, were not entered on the cash book for many weeks after that date. I went through the examination without asking any questions about the loan and the "dog money," and called upon the treasurer to show me his balance,—say nine thousand dollars. Then it was that he made the confession of his default. He could not show the balance called for by the books as they then stood, but had, say, one thousand dollars. On being asked by me "if that was all of it," he said no, and took from his safe a memorandum book in which he had entered his dog money for June, 1891, and from that charged himself upon his cash book with about two thousand dollars of dog funds, and with the proceeds of a note given by the county commissioners to effect a temporary loan to the amount of some five thousand dollars, given months before, so that the real balance he should have exhibited was about seventeen thousand dollars, and not nine thousand dollars, as stated above. Investigation showed that the treasurer had tided himself over the examination of 1890 by the same means, viz.: by not entering the temporary loan referred to and the dog funds of 1890 till after I had visited him. Had there been any practicable means of informing myself that there had been any temporary loans, or that the towns had paid what was due June 1 for dog licenses, (town clerks being frequently delinquent in this matter of prompt payment to the counties), I could not escape reproach and condemnation. But the fact was the records of the county commissioners did not contain one scrap of evidence that the county of Franklin had borrowed a cent of money in 1890 or 1891. And unless the treasurer saw fit to charge himself with the money or send to the clerk of the court a duplicate of the receipt given by him when he received the same, as

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required by Public Statutes, chapter 23, section 12, I could not know that he had borrowed money except by inquiring of everybody who had money to loan, and, as to payment of dog money, I must have inquired of town clerks whether they had paid the same.

The fact is, the looseness with which county business was done in Franklin county, put a premium on defalcation, and gave the facilities for the precise condition of things that I have described, and about which I have been scolding for four years.

In the second report from this office, at page 58, may be found these words: "And this brings me to what I regard as the greatest irregularity and the most dangerous one that is to be found in the transaction of county business, to wit: the fact that the clerks of the county commissioners do not in fact attend the meetings of the boards, nor keep the records of the proceedings. The books are filled with litigation caused by the fact that these records are not properly kept. There is an explosion every little while over the question; it enters into political campaigns, and yet nothing is done which furnishes a complete remedy."

This was said in 1889. The next year a bill passed the Legislature which is compulsory upon the commissioners, in the absence of their clerk from any regular meeting, to appoint one of their own number clerk *pro tem.*, and have a record made by a sworn officer (chapter 198, Acts of 1890.) At present there is no excuse for not having full records of all regular meetings of county commissioners.

The duplicate receipts now required by law would be a great check if the law was complied with. I still think it would be wise to provide that the duplicate should be sent to this office, and not to the county clerk. A package could be forwarded at the end of each week, without much expense or labor, and I could know, with substantial accuracy, whether cash was being properly paid over and receipted for by the various treasurers.

NO LOSS TO FRANKLIN COUNTY.

There will be no loss to the county by the defalcation at Greenfield. The deficiency has already been made good

to within \$2,200, and the county has some pledge of the bondsmen of the late treasurer for the amount at an early day.

NATURALIZATION.

I take the liberty to renew some of the recommendations contained in the report of last year.

By the returns from the police court at Williamstown, it appears that that court is still exercising the jurisdiction of naturalization, although the court has no clerk. This is the fourth time I have called the attention of the Legislature to what seems to me a great practical question. In this smallest of the inferior courts can exercise this great power of making citizens of aliens, then nine other inferior courts of the State have the same power. And more than this: if they have jurisdiction they are bound to exercise it, and persons living in their respective districts cannot go to other inferior courts which do have a clerk. Worcester county will best illustrate what is meant. In that county are four district courts not having clerks. The justices of those courts do not believe they have power to naturalize, and for several years persons residing in the territory within the jurisdiction of those courts went to the central district court of Worcester to be naturalized. When Attorney-General Waterman gave his opinion that the court at Williamstown, by appointing a clerk, could naturalize, the central court declined to entertain petitions for naturalization from persons residing outside of its territorial jurisdiction. But the other courts not having clerks did not take up the work. The result is that a cloud rests upon the citizenship of perhaps thousands of people in the Commonwealth, from no fault of their own.

And there is much inconvenience, to say nothing of expense, by compelling persons to go to the superior court, or to the United States courts, when, if the court at Williamstown is right, there is a competent tribunal close at hand. I am not urging any extension of the power of inferior courts in this behalf, but of a determination of the question as to what courts have this great power.

I think the opinion of the justices of the supreme judicial court may well be required. Since my last report, the