

A. I think I did.
Q. Is that true or not?
A. I saw a number of deputies, including Mr. Diven, who stated to me that he had signed blank vouchers up to that time; that he was in the habit of signing blank vouchers.
Q. Did you bring that to Mr. Wharton's attention?
A. Yes, I think I did; I am not positive about it. This investigation was made, as I remember it—in the first instance the papers were referred to Mr. Wharton, and then Mr. White was not satisfied, and—
Q. What I want to call your attention to is the fact that Mr. Wharton says that this practice was discontinued since 1872.
A. Well, I do not think it was; I am quite sure it was not.
The Chairman. State substantially what took place between you and District-Attorney Wharton in regard to Marshal Murray.
A. It is difficult for me to remember now. I can not remember; but I had a number of conversations with Mr. Wharton on this subject, both in Louisville and Washington, and he admitted that the charges made by Diven were substantially correct. He admitted that there was a good case against Murray, and he always admitted it up to the last interview I had with him.
Q. When was that?
A. Certainly within two years, I think. When Mr. Hayes came in as President there was a strong effort made to return Wharton and Murray. Mr. Wharton told me that he would not have his name go into the Senate with Murray's, and he always stated to me that there was a good case against Murray.
Q. At the time you were in Louisville did you see him or confer with him in reference to Mr. Murray's prosecution?
A. I do not remember as to that. We made the whole statement and the whole matter before Judge Ballard. Mr. Wharton was with me.
Q. Who was present when the matter was laid before Judge Ballard?
A. There was Mr. Wharton, the judge himself, and I am almost positive, Mr. Murray. I won't say positively that he was present, but I am almost sure of it.
Q. Did the judge read over Mr. Diven's affidavit as you have presented it here, or did you acquaint him with its contents?
A. I acquainted him with its contents and I think he read it over.
Q. Did he say whether those statements were true or false?
A. Oh, no; as I recollect now, he defended the practice of the marshal in bringing the prisoner to Louisville.
Q. Did he defend the practice of the marshal in charging fees for services that were not rendered?
A. No; I think not.
Mr. Ryan. He did not remark that they were incorrect?
The Witness. No; the judge rather defended Murray all the way through.
The Chairman. He was a friend of Murray's?
The Witness. They were all friends together.
Q. Did Murray make any statement to the judge as to the truth or falsity of the statement in the affidavit of Diven?
A. I do not remember. I am sure that Mr. Murray was present. I think he was, but I am not sure. I think Mr. Murray did what many of the marshals were doing at the same time probably.
Q. He thought he was entitled to those fees, this \$6,000 a year?
A. I do not believe that Murray personally had anything to do with making up the accounts.
Q. Did he give his personal attention to the duties of the office?
A. I think he was in and out of the office every day, but Farley ran the office.
Q. Do you know John H. Ward, of Kentucky?
A. I do not.
Q. You did not meet him at all while you were there?
A. Not that I know of. I might have met him.
Q. Did you know Walter Evans, now Commissioner of Internal Revenue, at that time?
A. Yes, sir.
Q. Did you meet him at Louisville at the time you were there making this investigation?
A. I think I did; I am not sure. I do not remember—yes. He was unfriendly to Murray.
Q. Can you recall whether you brought these charges to his attention or not?
A. No; I can not remember. It appears to me that I have a faint recollection of his mixing in it some way.
Q. During your time of service, did you make examination into the accounts of other marshals in other States?
A. Yes, sir.
Q. What States?
A. In the western district of Virginia.
Q. Did you file a report of those investigations in the Department?
A. I do not remember whether I did or not. If I did, it is there. I never went into details myself personally. I would go to the district and would get the witnesses, and would have a stenographer and examine into the office. There must be a report of my investigation in Virginia, I should say, but I am not certain.
Q. Was it not your practice to make written reports of your investigations?
A. No, sir; it was not my practice to make written reports.

Q. You gathered all the memoranda you had, and brought the matter verbally to the attention of the Attorney-General?
A. Yes, sir.
Q. What was the result of your examinations in the western district of Virginia?
A. The marshal and the clerk of the court resigned.
Q. Who was the marshal?
A. Mr. Gray. I do not remember his first name.
Q. What is the name of the clerk of the court?
A. I do not remember.
Mr. Ryan what year was this?
A. About 1877.
The Chairman. What place was that court held?
A. At Danville and at Harrisonburg.
Q. Where did the clerk reside?
A. At Danville.
Q. What were the nature of the charges which you investigated?
A. It was similar to the Kentucky business. That is, there would be trumped-up charges against citizens all through that part of the country for illicit distilling, and they would be brought down to Danville before this clerk, who was a commissioner, and there was collusion all around of the biggest kind, large amounts of money squandered. Gray had been marshal, I think, for about eight years. The district attorney defended him. Lutz was his name.
Q. Did he get out too?
A. No; we could not move him. He had power to keep himself in. We could not get him out.
Q. Did you find that he was in collusion with the others?
A. I thought so. I have got no evidence of it now.
Q. But that was part of the result of your investigation?
A. The result of my investigation was that the whole district was corrupt all the way through, and I endeavored to get all those officials out, and succeeded in getting the marshal out, and the judge removed the clerk. He used to charge term after term for affidavits before the commissioner, although he never drew the affidavits nor filed them.
Q. Do you recollect whether you filed a written report of the result of that investigation?
A. I do not.
Q. If you did, the report will give the matter more in detail than you have given it?
A. Yes, sir. I think Sim Newcomb filed a report on the matter, but I am not certain.
Q. Who was he?
A. He was employed in the Department of Justice at the time. I think he had more of the details of this investigation, and probably filed a report, but I am not sure as to that. The marshal died, and we dropped the matter. We intended to prosecute it, he died, and it was dropped.
[Examination suspended.]
Adjourned.
WASHINGTON, D. C., April 5, 1884.
John M. Harlan appeared and was examined as follows:
By Mr. Wilson:
Q. Please state your age and occupation.
A. I am 50 years of age. I am one of the justices of the Supreme Court.
Q. Were you acquainted with Gov. Eli H. Murray, now of Utah, but who formerly was United States marshal for Kentucky in 1876?
A. I have known him from early in the year 1861 to the present time.
Q. Did you act or advise with him as counsel in reference to a publication that was made in the Louisville Argus and some charges contained in it in 1876 in any way? If so, please state what action was had in reference to those matters.
A. I was his legal adviser while a member of the bar of Louisville, Ky., in reference to certain charges made against him touching fees in his office as marshal of the United States for Kentucky.
Q. Please examine the paper shown you, which in these proceedings the "Diven statement," and say whether that paper was known to you in 1876; whether you saw it or had any information of the paper being made in 1876.
A. (After inspecting the paper.) I have now no recollection of having seen this paper, nor can I recall particularly what papers I did see while I was the adviser of General Murray. I can only state generally that I saw all, I suppose, that was published in the papers of Louisville at or about that time.
Q. Was your attention called during that year, or at any time, to any charges against Marshal Murray except this publication in the Argus?
A. Well, it is difficult for me now to say, but my best impression is that my attention was not called to any charges except those published in the Argus, unless there were charges embodied in a memorandum which was furnished me by Attorney-General Taft while I was in Washington in the summer of 1876.
Q. I will ask you if you had an interview, in company with Marshal Murray, or without him, in Washington in 1876, with Attorney-General Taft in reference to whether any charges had been filed in the Department of Justice against Marshal Murray; and, if so, what information you obtained on that subject.
A. I came to Washington during the summer of 1876 as the legal adviser of General Murray for the purpose of seeing the Attorney-General touching the charges which had been made in the public prints affecting his conduct as

marshal of the State of Kentucky. I did see the Attorney-General in company with General Murray, and also had conversation with him when General Murray was not present. I said to the Attorney-General that I had come to Washington for the purpose of ascertaining what charges there were, if any, which were being entertained by the Department of Justice in reference to General Murray; that he was here in Washington for the purpose of meeting any charges, and desired the fullest possible investigation of each and all of them, with an opportunity to cross-examine any witnesses who might be introduced against him. During our conversation the subject of the resignation of General Murray as marshal was alluded to.
I do not distinctly remember when I first heard of the request, coming from the Department of Justice, that Gen. Murray should resign his office, but I do remember saying to Attorney-General Taft that General Murray was not specially anxious to retain his position, and certainly would not stand in the way if his resignation was desired upon political grounds; but that he was unwilling to vacate the office, and his friends were unwilling that he should vacate it, if it was understood that the Department of Justice had any charges to make against him affecting his integrity as an officer or as a man. The Attorney-General replied in substance that he did not doubt the integrity of General Murray, and had no charges to make affecting his integrity.
I was aware before I came to Washington that an agent of the Department had been to Louisville for the purpose of looking into the condition of General Murray's office, and therefore asked the Attorney-General whether the agent had made any report to him. He replied that no report had been, and that none would be made; that the agent had brought back with him some memoranda, indicating certain items in the accounts of General Murray which in the judgment of the agent were not authorized by law. The Attorney-General remarked that he was inclined to agree with the agent as to some of those items, although he had not very carefully examined them. I said to him that although no report had been made General Murray was unwilling to rest under the imputation of making charges that were not authorized by law, and I would be glad to see that memoranda, or have a memorandum furnished me indicating substantially the items in General Murray's accounts to which the agent objected. He said if I would call the next day he would furnish me with the desired information. I did call, and was furnished with a memorandum, containing, as I now remember, four or five, or half a dozen items.
I do not now recall what they were, but I am sure that they did not exceed that number. I took the memorandum and examined such of the provisions of the statute as seemed to me to bear upon the items, and had subsequent conversations with the Attorney-General, mainly for the purpose of ascertaining exactly what, in his judgment, were the legal grounds of objection to them. I can only state now as my recollection, that I was satisfied upon examination of the provisions of the statute that there was not exceeding one of the items that was, perhaps, not strictly in accordance with the law, or about which there ought to be any serious dispute. The Attorney-General adhered to his views as to some of the items, but reiterated to me the expression of his confidence in the integrity of General Murray, and repeated the statement that no report had been made by the Department agent, and that none would be made. I said to him before leaving that if the Administration, or the Department of Justice, desired General Murray to retire from the office for any political reasons there would be no obstacle thrown in the way. Being satisfied that the department did not impugn his integrity as an officer or as a man, and being further satisfied that it was desired by some men in power that he should vacate the office, I said to the Attorney-General that in the course of a few months General Murray would take pleasure in sending on his resignation; which he did.
I suppose, Mr. Chairman, it would be fair and just to all concerned for me further to say that upon my return to Louisville, I exhibited to Judge Ballard, then district judge for the State of Kentucky, now dead, the memorandum of differences between the Department of Justice and General Murray—these items to which I have referred. I went over them with him particularly, as he was the judge of the court who felt, necessarily, some concern about such matters. The result of the examination by him was that in his judgment the charges of the marshal were correct.
I believe that is all that I know bearing upon that part of the controversy, unless it be that upon my return to Louisville, General Murray having made up his mind to send his resignation shortly thereafter, determined upon consultation with me to look over his accounts before he retired and see what items there were about which any possible doubt could exist. I know it was his purpose, and such was my advice to him, that under all the circumstances of the case, and in view of the trouble which often comes upon officials and their securities years after they have retired from office, to resolve any doubt which he had as to any item in favor of the Government and close it up that there could be no further complaint or just ground of censure. And I know that before he

resigned, some time in the summer of 1876, he did make a remission to the Government of \$700 or \$800, intending to cover every possible item about which there could be any complaint. I do not now remember anything else about the matter.
Q. In the interview with the Attorney-General in regard to the items which he furnished you, was there any intimation of any kind that Marshal Murray had made any improper charges knowingly in his accounts?
A. The Attorney-General was clear and explicit in disclaiming any belief on his part that General Murray had knowingly made any improper charges. Had he not been explicit upon to appoint the resignation of General Murray would not have been sent to him.
Q. Was the Diven statement mentioned, or did you know at that time that they had a Diven statement?
A. I do not recall any special papers, I only remember that no papers were exhibited to me in the Department of Justice when I was here, except a memorandum furnished from the items which had been brought from Louisville to the Department of Justice.
Q. Did the memorandum or statement to which your attention was called embrace any charges of malpractice or malfeasance in office in any way?
A. There was Nothing on the memorandum furnished me except figures and such words as would indicate the nature of the charge that was made against the Government.
Q. The Diven statement embraces allegations that Governor Murray had charged for guards which he knew were not used, and that he had made various other charges and instituted prosecutions for fees and had been taken from the remote mountain districts before commissioners at Louisville, past nearer commissioners, and had had witnesses paid that he knew had not attended. Was your attention called to any such things as those by the attorney-General at that interview?
A. I do not remember that it was. I do remember in a general sort of a way that one of the charges made by this agent of the Department was that with reference to one or two cases charges had been made for guards which were not furnished, but to what case he referred I do not now remember.
Q. Did the Attorney-General, or the memorandum, indicate to you that anybody claimed that General Murray knew that the guards had not been furnished?
A. Certainly the memorandum furnished me did not contain any such intimation, and nothing was said by the Attorney-General supposed that General Murray had intentionally made any wrong charge.
Q. Did you know Mr. J. L. Farley, who was the chief deputy of General Murray at that time?
A. Very well.
Q. What is his reputation, if you know, as a man of integrity?
A. I have known Mr. Farley for a great many years. There is no man of better standing for integrity than Mr. Farley.
Q. Did you know and have you known the character and standing of General Murray in the community in Kentucky in which he lived at that time and for many years, and in the army? If so, will you state what he was?
A. I have known the general standing of Governor Murray in Kentucky more than twenty years. As a practitioner in the Federal court at Louisville I was often thrown in contact with him. I will say, generally, that there is no man in Kentucky for whose integrity, both as an officer and as a man, the people of that State without distinction of party would more readily vouch than for him. I know of no man in Kentucky of better standing there, according to the estimate placed upon him by the people generally, than Murray. He did, of course, in the discharge of the duties of his office during the period while there was a great deal of disorder in Kentucky, incur the enmity of some; but beyond that I take it that there are very few people in the State who would question his integrity.
By the Chairman:
Q. Was one of the items to which your attention was called in relation to fees in the case of the United States vs. Matt. McCord?
A. I am not sure that I recall names. There is one item in the memorandum that I recall a little more distinctly than any other; it was an item in reference to a charge made for fees in connection with the arrest of some man, I think an ex-postmaster in the lower part of the State.
Q. At Livermore?
A. Yes; I think so. I rather think that was embraced in the items.
Q. Do you remember any other matter that was embraced in the memorandum?
A. I do not, with certainty, though I have an impression—I can only give that—that there was in the list something in connection with guards said to have been furnished to prisoners brought from Lexington, Ky., to Louisville, men who were indicted for some offense in connection with elections. I perhaps recollect that particularly from the fact that it was the special counsel for the Government in the prosecution of those cases.
Q. Was there anything about the attendance of R. Brent and Cassin and Crittenden before the commissioner as deputy marshals?
A. I do not certainly recall them, though those names are familiar. I knew young Cassin about the federal court there.
Q. What position did he hold?
A. I am not sure about that. It was

a good long while ago; it was some subordinate position about the building.
Q. Did you know Mr. R. Brent?
A. I might say that I recall his face, as at the time I knew everybody about the federal building.
Q. "D. C." is placed after his name. What position did he hold? I suppose he was a deputy clerk?
A. I think I do recall him.
Q. Did you know Henry Diven?
A. Yes, sir.
Q. He seems to have been a deputy marshal there for nine years.
A. He was a deputy marshal for a number of years.
Q. Previous to 1876 what was his character for truth and veracity in the neighborhood in which he lived?
A. In the neighborhood in which he lived?
Q. Yes; in Louisville.
A. I knew him only in a general way as a deputy marshal, and I don't know that I ever heard any discussion about it one way or the other until those differences arose there at Louisville in connection with the marshal.
Q. Had you previous to that ever heard anything to his discredit?
A. I think not.
Q. You knew he was a deputy marshal there?
A. Yes.
Q. You saw him frequently about the courts?
A. Yes; I saw him about the court building very often, and knew of no change in his position there until he was discharged by General Murray.
Q. Do you know whether he enjoyed the confidence of the bar, and of the court during his connection with it?
A. I can only say that up to this disturbance I never heard anything one way or the other about him in that regard; and probably it is a fair answer to your question to say that after that he did not enjoy the confidence of all. To what extent I do not know; my intercourse with him was purely official; I only know that after Mr. O'Neill was appointed marshal I was in the court one day when the judge of the court made an order, which was announced, reciting that Diven was not a proper person to be a marshal, and removed him.
Q. That was on the motion of Marshal Murray?
A. I do not know.
Mr. Stewart. Is that a question or statement.
The Chairman. I am asking the question.
The Witness. I do not know anything on the subject. The first that I knew of it was the announcement in court. If it would be proper for me to state it, I can tell you the estimate in which the district judge, Judge Ballard, held him.
Q. You may state that. I do not know what estimate anybody had of him; I am asking for information.
A. Frequently after the troubles commenced, I heard Judge Ballard say that he had entirely lost confidence in him as an officer and a man. But I ought to say that I have no personal knowledge of Mr. Diven's habits and ways other than as I would see him backwards and forwards about the building.
By Mr. Van Alstyne.
Q. Did Judge Ballard make any explanation in connection with his statements about Diven?
A. I can answer generally that he did. I can tell you what he said if you desire it, as far as I remember it.
Q. I suppose that would illustrate his view more definitely.
A. Well, Judge Ballard came to the conclusion, at least I heard him so say, that Diven's conduct in and about these charges against General Murray was influenced by very bad motives on his part; that he had become enraged because of his discharge from his position as deputy, and that he set out for the purpose of seeking his revenge upon the marshal. Judge Ballard had the highest confidence, perhaps I should say in that connection, in the integrity of General Murray and perhaps did not regard with patience the assaults made upon him. I never heard Judge Ballard say anything in reference to Mr. Diven except in connection with his conduct arising out of these charges.
By the Chairman:
Q. You never heard anything to his discredit except as you have stated?
A. No; I never heard anything about him one way or the other, except in connection with this matter.
Q. Are you acquainted with Representative John D. White, of Kentucky?
A. Yes, sir.
Q. What is his reputation in that State for truth and veracity?
Mr. Stewart. I don't know that I ought to object to that question, but I do not think it is proper.
The Chairman. He has been charged with having lied here, and I think it would be well to protect him, as he is a member of the House.
Mr. Van Alstyne. I think as a member of the House his reputation ought to carry the presumption that it is above suspicion. It has been assailed only incidentally by Governor Murray. If Mr. White wishes to defend himself against that assault, let him seek the opportunity. I do not think the committee need to follow it down.
Mr. Stewart. I think it is quite improper. It is charge against charge. Mr. White has charged Governor Murray with certain acts of malfeasance in office, and Governor Murray repels the charge and says it is false. I don't think that lays a foundation for such a question.
The Chairman. I have on objection to that view. Mr. White has not been apprised, so far as I know, of these