

THE MURRAY INVESTIGATION.

TESTIMONY BEFORE THE SPRINGER COMMITTEE.

REPRESENTATIVE WHITE'S APPENDIX.

Washington, D. C.,
January, 29, 1884.

Ralph Ballin recalled.

By the CHAIRMAN:

Q. State whether there have been on file in the Department of Justice any papers or reports in reference to the accounts of the United States marshal for the State of Kentucky during the time that Mr. Murray held that office?

A. Yes.

Q. State where the papers are at this time?

A. They are in the committee room; at least they were yesterday evening.

Q. State whether this package [handing papers to the witness] is the package of papers sent by the Attorney General to this committee in relation to the matter spoken of?

A. I recognize this as the package. Q. Have you examined these papers yourself to see what are their contents?

A. I did give them a casual examination.

Q. State briefly the result of that casual examination?

A. I looked over these papers, and I can only state to the committee what suggested itself to me in that casual examination. I have no proof for it.

The Chairman.—You are not called upon for proofs of the truth of what you may have observed in these papers. To what do they relate?

A. They are vouchers for fees, which vouchers accompanied the accounts of the late Marshal Murray, and for which he claimed credit in his accounts. There is also a duplicate of an emolument return rendered by him to the Department for the second half of the calendar year 1875.

Q. From your knowledge of the papers which should have been sent to the Department of Justice, or retained in the offices of the United States marshal, what do you say as to whether these represent the whole of the papers that ought to be found in relation to these accounts, or whether they are merely a partial list?

A. These papers are merely parts of the account; little bits of it.

Q. Are these all the papers that have been sent to the Department of Justice in reference to that half-yearly account.

A. I can not say that, because these papers must have been referred to the Department of Justice long before I was appointed in that Department. I merely know that these papers came from the Department of Justice from the fact that they were sent to me while I was testifying here the other day, with the instructions that I was to hand them to the committee; and I find on some of the papers the stamp of the Department. Consequently I know that they came from the Department.

The Chairman. A letter was sent to the Attorney-General requesting all papers in reference to Marshal Murray to be sent to the committee, and these papers were sent in response to that letter.

The Witness. I have no doubt that these are all of his papers that are in the Department of Justice.

Q. The other papers relating to his accounts would be, I suppose, in the Treasury Department, and also in the marshal's office in Louisville, Ky.

A. It is questionable whether his duplicate emolument returns are on file in the court at Louisville, but the clerk of the court is, under the law, required to retain on file the duplicates of accounts approved by the court, the originals of which are sent to the Treasury Department for payment.

Q. What part of the probable term of service of Marshal Murray is embraced in these papers?

A. I did not examine the dates very closely, and can not tell. They are just snatches of fee accounts. These papers would probably not constitute one-tenth of the fee account rendered by the marshal for one year. They are but small samples.

Q. They are but fragments of such papers as ought to be found in the Treasury Department and in the office of the court at Louisville.

A. Yes.

Q. State the names of the deputy marshals whose accounts are covered by these papers.

A. John Wyatt, H. Diven, Howard, and others.

Q. State whether the papers before you show any investigation into the accounts of Marshal Murray by Mr. George K. Chase, a former agent of the Department of Justice.

A. There are marginal notes on some of the vouchers, which I believe to be in the handwriting of Mr. Chase, and which would indicate that he had investigated them.

Q. State whether you have examined among these papers what purports to be a statement made by Deputy Marshal H. Diven.

A. I have.

Q. State whether that statement is accompanied by any indorsement by Mr. Chase.

A. There is an indorsement of Mr. Chase's on it.

Q. Is that in Mr. Chase's handwriting?

A. Yes.

Q. Are you familiar with his handwriting?

A. I am familiar with his signature, and it appears to me as if all this indorsement was in the same handwriting.

ing. I have no doubt that it is Mr. Chase's handwriting.

Q. Read that indorsement on Diven's statement in the handwriting of Mr. Chase.

A. [Reading]:

The within statement is made by Mr. Henry Diven, of Louisville, Kentucky, formerly deputy United States marshal for nine years last past, who resided there on Jan. 4, 1886. I find Diven's character for veracity beyond question. I have investigated the within statements, as made by him, and find them substantially true.

G. K. CHASE,
Agent, Department of Justice.
August 8, 1876.

The Chairman read the statement submitted by Diven, and to which that indorsement is appended.

The witness read as follows:

August 1, 1876.

"I, H. Diven, state as follows:

"In December, 1875, Mat. McCord was brought to this city from Livermore, charged with having deposited in the postoffice, for the purpose of being carried by mail, certain circulars concerning illegal lotteries. In relation to that case, I would state that the prisoner McCord was brought here by a private citizen from Livermore, without any warrant, and without the marshal's knowledge. The marshal charged for going after him and bringing him with a guard. The marshal made his return on the back of the warrant, charging fees to the amount of \$82.60.

"In January, 1875, the judge of the Lexington election refused to receive the votes of negroes who had not paid their poll-tax. General James F. Robinson, Dr. Chipley, J. W. Cochran, John C. Young, Matthew Foursbee, John Marrs, George Snider, Reese, and others were arrested by M. F. Atley, a deputy marshal, and all came down together to Louisville without any guards. The marshal charged for guards with most of them.

"In attending on the commissioner the marshal is allowed to have one man to attend on each case. In many cases there would be no one there in reality, but fictitious names would be put on the roll. They would put 'Diven' down, for instance, when he would not be there at all, and then afterwards cross the name and substitute Sam Crail, or put some fictitious name.

"The deputy marshal is allowed to make \$3,000, which would be \$1,500 for six months. When they come to make up the fee-bill for the six months, if it is found that the deputy has made \$2,000, for instance, for the six months instead of \$1,500, the extra \$500 is transferred nominally to the account of some deputy who has not made up to the allowance. That deputy never gets the extra amount allowed him, as shown by the rolls. The emolument return ought to show exactly what the deputy makes for each six months; but the deputy has been required to sign the emolument returns in blank. All through Kentucky we have United States commissioners, but when a man is arrested, say in the mountains, instead of taking him to the nearest commissioner, where he could get his witnesses and stand a chance to give bail, he is brought to Louisville, in order to make fees, and in eight cases out of ten guards are charged for when they really don't have any guards. The man is allowed to lay in jail without being able to get his witnesses, when at the place where he was arrested, if brought before the nearest commissioner, he could obtain his witnesses or give bail.

"I will state that when John R. Reno was United States collector in one of the Kentucky districts he came up here to attend a meeting of the Grand Army of the Republic, and he was paid on the witness rolls about \$100, when he was not a witness in any case.

"James H. Ashcroft, while he was deputy United States marshal and deputy collector at Paducah, Ky. (two offices under Government which he had no right to hold at the same time), came to Louisville on a visit, and he was paid on the witness-roll \$38 as a witness when he was not a witness in any case.

"There is a negro named James H. Moody who is paid as janitor for cleaning the third floor \$2 per day. He is paid \$2 for every day the court is open in the year. When the regular court opens, twice a year, in order to manage so as to give him \$4 a day he has been put down as one of the bailiffs of the court and he is allowed \$2 per day extra for that. In the October term, 1875, the controller discovered that he had been signing twice, and disallowed that term, so, to accomplish the same end, General Murray put another negro, Taylor, down on the roll as bailiff instead of Moody, but did not tell the negro Taylor anything about it. Moody now pays Taylor \$2 per week for cleaning up, and when court is over Mr. Farleigh gets the old negro Taylor to sign the certificates and hands Moody the money. So, as it is now managed, Moody's name does not appear twice in Washington while he still gets the money.

"In many cases, especially bankrupt cases, where it becomes necessary to serve day process outside of a warrant, upon a party at some distance in the interior from Louisville, it has been the custom of the marshal to send the original process to the postmaster at the place, or some constable, or sheriff, or some other person, with directions to execute the same and return to the original to him by mail. When the process is returned executed, the marshal charges fees the same as though a deputy had actually been sent, thus charging fees for something which has not been done.

"The deputy marshals are allowed three-quarters of the fees which they make, paying their own expenses. This arrangement is made by General Murray, and the remaining one-quarter of the fees goes to him. In cases where the deputy marshal returns without making an arrest, the whole expense falls upon the deputy, and furnishes a motive for charging extra and illegal fees, where it can be done, upon some subsequent trip, in order to get even.

"A great many people in town do not go to the collector's office and pay their special tax, I would go around and hunt them up, and take them before the commissioner, and after he disposed of the case, if I would make a return on a warrant, Gen. Murray would sign it and he would pay me the witness fee.

"Then I would go to these men's places on the corner, and look in and see that he did not have his special tax put up in some conspicuous place, and I would ask him, 'Mr. Brown, you have not got your Government license?' 'Yes,' he would say, 'I have got them.' 'Where are they?' 'I have got them in the drawer.' Then I would say to him, 'You have been reported to the United States commissioner for not having it.' In point of fact he had not been reported, but Gen. Murray did not understand this arrangement. I would set a time and he would go up there. Between the time that I had seen him and the time that he came to the commissioner I would write out a warrant in my own handwriting, no affidavit, though. I would write the warrant, and the commissioner would sign it; but it would have no affidavit. The commissioner would ask if I had inquired into the case. In eight cases out of ten the man would tell him that when he got his licence he didn't read the penalty. Most of them were Germans, and he would consider the matter a minute or so, and say, 'Don't let this occur again. Go and put them up.' He would not make any charge against them for that as commissioner, but the commissioner would charge the United States. The fees for this kind of business were about \$20, marshal and all. The marshal got about \$8, the district attorney \$5. The district attorney would not be present. The marshal's costs would be about \$5.50, on the average, and witness fees \$3, putting this negro Taylor in with me.

"This arrangement the marshal understood, because he paid me 50 cents extra to send the negro in to catch him. I could not get into his grocery to catch him; they would know me. I would send the negro in, as if he was buying potatoes, &c., and I would go in in five minutes afterward, and send the fellow up. When I got fees on these town warrants I did not resort to anything of the kind about the negro—very seldom sent anybody in. When I executed the warrants myself the arrangement was that he would pay me \$1.50 witness fees, and 50 cents extra in case I was out anything, on sending the negro in. Then I had to keep the negro all the time. This arrangement has been going on for some two years. He figured it up that the court would be open about two hundred days in the year, and I would be allowed \$2 a day as crier, and I would make \$2 a day on the warrants. He figured it up at one every day. He put some of his relations in—young Crittenden—and forced me down. He took all the work away from me, and gave it to Crittenden. He told the clerks to bring the process to the office, and Mr. Farleigh would hand him the process.

Another point: If they argue the reason that these men are brought from a great distance is because there is no district attorney to prosecute the case, he don't know his cases until he looks at his fee-bills. He never sees one case in five hundred. He never looks at his cases until he looks at his fee-bills, and somebody makes them out for him.

"Most of these men brought down from the country are brought down by men deputized by deputies. General Murray can not delegate his power and authority. John Wyatt knows that he has not made out a large return on a process for three years—all legal charges. He is allowed \$2 per day every day he is after a man, and he charges for days he is in town before he starts. If he is here three or four days he charges for them.

"He don't take guards from Louisville. He may go way up in the country and hire men from there; but he don't take them from here. General Murray would have discharged him six months ago if he was not afraid that he would talk. He is drunk all the time. Colonel Bullitt told me himself that it would never do to let John Wyatt out of the office; that he would go out on the street and talk.

"You have not put down about Charley Ballard. They took him down to Paducah, and they put him on the witness-roll. They took J. Fry Lawrence down into the country and put him on the witness-roll several years. I spoke to Colonel Wharton about it, and made him stop it; and he did not go this time. He did not take him down this time; he had been summoned, though.

"John Wyatt brought a man down in February, and charged two guards. Sam Crail was astonished, and asked if he could not give bail up there. He could not give any kind of bail. I think his name was Thomas Scalf. He told Sam Crail that he had two guards.

"Since the 1st of January, 1876, while Mr. Merriweather was commissioner, there was but one commissioner here, and that was him. He was commissioner before the 1st of January. He done all the business, civil and criminal. He resigned the clerk's business.

After that Judge Ballard appointed John Wharton, a brother of Colonel Wharton. He appointed Sam Crail and Austin Ballard, his son. That is three. The old nigger would go out and get cases, and take one case before one commissioner in the morning, and one case before another commissioner in the evening, and get two witness fees. That has only been since the 1st of January. Wharton tried to get me appointed in the Secret Service, but Bluford Wilson went back on him.

"If a commissioner tries fifty cases, he don't get but one per diem, but three commissioners will get three per diems. Previous to January Mr. Merriweather has done all the work himself for four or five years. I took all the town cases to him, and never issued an affidavit either.

"As to General Murray not knowing anything about these things, General Murray sat down and made out the warrant. I walked out in the hall and said: 'General Murray, do you want this warrant?' He said: 'Yes.' I never would have said a word about it, only I went to Colonel Bullitt to stop the illegalities, for he knew that I wanted to get out of the office. I didn't want him to tell Murray who his authority was. I wanted to tell him that he had read that warrant on the desk, and he had tried the man, and that it was not right; but he didn't do it that way, but told him that I told him. I was going for him all the time. Farleigh is as big a rascal as he is.

"The mayor's election came off the 7th of December. John Wyatt charges for fourteen days endeavoring to arrest a man. He commenced charging the 6th, 8th, and on up to the 14th, when he was in town the 6th or 7th, and I would swear to it. You ask him if he did not vote for mayor last December. He can not get out of that. General Murray knows that a man cannot do anything by paying his own expenses. Wyatt went out a few days ago and did not catch anybody, and when he goes out another time he is bound to get even. If the thing can be sifted to the bottom about one-half of his fees will be found to be illegal.

"The first I knew of his trying to get illegal fees was very soon after he was appointed. He called a witness out in the hall and asked where he lived, and he told him in one of the lower counties, and he charged mileage for going after him, and the clerk up there told him he could not do that: 'You can't charge mileage, for you didn't go after him.' Crail knows all about that. You had better ask him. I took a prisoner to Galveston in December, 1875, and charged for two guards for taking him there. I had the clerk of the Saint Cloud Hotel as a witness, and Mr. Brown was a witness. I charged for two guards. I paid Mr. Brown's expenses and hotel bill when he was there. General Murray knew there was no guards. He knew that I took these two men as witnesses. He got his one-fourth. Farleigh is at the bottom of it; he makes out all the warrants.

"In the McCord case he paid Hackett 10 cents a mile for 180 miles, and \$1.50 a day for one day, \$19.50. This last was as witness fee. Then he paid him \$25 for his services and expenses in arresting the man. Then General Murray made the return himself, pretending to adopt the act of W. C. Hackett as his own. I think they call it 180 miles to Lawrence. It 22 miles back of Owensborough. General Murray told Hackett to make out his expenses. I heard him. He sat down and wrote on a slip of paper the expenses of bringing prisoner McCord to Louisville. 'Expenses from Livermore to Owensborough, \$5 cents; hotel bill at Owensborough, \$1; steamboat from Owensborough to Louisville, \$4.' He handed it to the general, and he says, 'For two of you?' That is the last I seen of it until I seen the return on the warrant. He called him in his private office."

Q. Was McCord discharged on the examination?

A. No, sir; he was held over. I don't want to say anything against Col. Bullitt. The charge was that he had deposited these things in Kentucky and he had not. When the case was brought before the grand jury he was discharged. His brother is postmaster over here, and you can get him any time you want him.

"Peter Johnson is a fictitious name. See McCord about Reno and Ashcroft.

"I am afraid that they won't tell you everything. Crail has got some money and property, but he has a lifetime place as long as he suits Judge Ballard. He can give you some points, though. He is not married. He is a clever fellow.

"Col. Wharton said to Sam Crail, 'Sam, are my accounts all straight?' He says, 'Yes; why do you ask me?' Col. Wharton says, 'How are Murray's accounts?' Wharton says, 'They are all wrong.' Wharton says, 'You surprise me, Sam. Sam says, 'No, I don't surprise you a damned bit.'"

The Chairman. Does this statement embrace substantially the contents of all the papers that have been sent to the committee?

The Witness. I looked over them last evening as you directed me to do, and I did not see this statement at all. It was not among the other papers. Perhaps it was on the table. You asked me to look through the vouchers, and I did so, without seeing this statement. On just looking over the vouchers the following suggestions occurred to me that I would act upon, at least so far as suspension of the account would go, if I were in the Treasury and adjusting these accounts. 'John Wyatt's accounts, expenses in endeavoring to arrest, seem excessive. Mileage appears excessive.' I made a note

bearing on the duplicate emolument return. 'Emolument return for second half of 1875 embraces credit claims for \$680, voucher 9, alleged station bill from Bradley & Gilbert.' This seems to me an unusual charge for stationery in a marshal's office for six months. Probably the bill itself would show what it was for.

The Chairman. Is not \$1,500 about the amount paid for stationery for the Department of Justice in this city?

The Witness. I do not know.

The Chairman. I am informed by gentleman connected with the Department that the whole amount allowed for stationery for the Department of Justice in this city is only about \$1,000.

The Witness. I also made the following note: 'Deputies apparently charged separate trips for each prisoner transported, when perhaps several prisoners were transported together. The charge for guards in each voucher seems subject to investigation, as stands to reason that guards were needed in every case. The travel charged seems unusually heavy, and perhaps excessive.' I also made the following memorandum: 'The deputy marshals sued out warrants; many cases dismissed; perhaps the majority of them. Deputies seemed to have taken prisoners whose arrest they had more than a warrant before several commissions on the same day. The only objection could have been to make fees for commissioners and marshals.'

The chairman. Explain that process a little more clearly.

The witness. For instance, when a deputy has three warrants to serve one day, and there are three commissioners in town, if he takes his prisoners before the one commissioner the commissioner gets only one per diem. The commissioner's fees in hearing and deciding criminal cases \$5 a day for each day necessarily attending; the deputy marshal's fees \$3 a day for each day attending on a commissioner's court; that fee is for attending court and for bringing in and guarding prisoners and witnesses. Now, if a deputy marshal has three prisoners and he takes them before one commissioner, that commissioner gets only \$5 and the deputy marshal \$2; but if he takes one prisoner before one commissioner he charges his \$2 a day, and the commissioner charges \$5 a day; then the deputy marshal takes his second prisoner before a second commissioner and repeats the charges, and so with the third prisoner and the third commissioner. In that way often fictitious names are inserted in the accounts, and the accounting officers of the Treasury are deceived.

I also made a note in reference to the McCord case, as follows: 'United States vs. Mat. McCord, post-office case, costs \$26.00. No name is given of officer making arrest and transporting prisoner. Perhaps William Hackett, who appears as a witness summoned to testify in the case, was the party making the service if at all.' I see from the statement Mr. Hackett did transport himself. It also appears that actual expenses are charged at different dates and on different suits, while probably the papers in the hands of the marshal were served on one and the same trip. I also find little slips pinned to the vouchers which show that attendance on the commissioner's court are charged for persons who did not attend.

The Chairman. In whose handwriting are these slips?

The Witness. Mr. Chase's; those making charges on dates wherein the deputy who really attended has charged his per diem for attendance, and where another name was probably inserted to deceive the accounting officer, I also made this note: 'Deputy marshal's receipts to marshal's emolument returns were, judging from the different inks used, signed by them in blank.'

The Chairman. That is a custom which was frequently found in deputy-marshal's accounts?

The Witness. Yes. I also made the following memorandum: 'E. H. Murray's personal fee account shows fictitious charges for attendance of deputies on commissioner's courts in cases wherein warrants were served by the marshal in person.'

The Chairman. What do you mean by fictitious charges?

The Witness. I mean the names of men being put in as attending commissioner's court when they did not attend. I also found that from the slips.

The Chairman. As the result of Mr. Chase's investigation?

The Witness. Yes. I also made this note: 'It also appears that deputy United States marshals assumed authority to deputize persons to serve process for them (the deputies). Deputy marshals cannot legally do that, and it is a dangerous thing to allow a man who is not commissioned, has given no bonds, and has not taken an oath of office, to arrest, transport, or commit to jail any person charged with a violation of United States laws.'

These are the notes I made in running over these papers. I do not know but that the Treasury Department may have suspended parts of these accounts.

By the Chairman:

Q. You do not know whether these accounts have been finally settled or not?

A. I do not. The statement of disallowances on Mr. Murray's accounts will show it.

Q. That will appear by calling on the Treasury Department for a statement of the accounts of Mr. Murray as settled?