

Report No. 678.

HOUSE OF REPRESENTATIVES.

WILLIAM H. RUSSELL.

JUNE 14, 1848.

Laid upon the table.

Mr. DUNN, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, to whom was referred the petition of William H. Russell, report:

They are of opinion that he has shown no facts, in a reliable form, calling for the aid of Congress. The letter and abstracts from the Treasury Department printed herewith, marked A, B, and C, furnish, in the judgment of the committee, a sufficient answer to his petition.

A.

TREASURY DEPARTMENT, *May 1, 1848.*

SIR: I have the honor to acknowledge the receipt of your letter of the 28th ultimo, enclosing the petition and sundry papers of W. H. Russell, esq., late marshal of Missouri, and expressing the desire of the Committee of Claims to be furnished with such information on the subject as the department has it in its power to afford.

In regard to the claim stated in the petition on account of payments made to deputy marshals who took the census of 1840, I can only remark, that not being furnished with any detailed statement of the extent or character of the claim, it is impossible to furnish any information upon it. Unless the facts are shown, it is difficult even to express an opinion upon it. Whenever services were duly rendered by marshals under the census acts, and properly established before the State Department, which was charged

with carrying those acts into execution, the just and legal compensation would doubtless have been allowed by that department. Whether the *trifle* mentioned in the petition as received by Mr. Russell is all he was entitled to, does not appear from any proof among the papers. It could have been hardly necessary for the marshal to travel over the whole State to disburse money to his deputies, as suggested in the petition.

As to the claim, certified by Mr. Russell, for "services rendered in obedience to suggestions of officers of the United States army and Indian agents, while acting as marshal of Missouri, between the period of April 1841 and April 1843, suppressing Indian disturbances and enforcing the rights of the Indians," for which a gross sum of either two or four thousand dollars (which it is not easy to decide) is charged, I am not aware of any duties or services which could lawfully devolve upon the marshal or his deputies, except the service of process for which he was entitled to charge, and has doubtless received ample compensation. If Mr. Russell was employed by army officers or Indian agents in any other duties than those belonging to his ordinary functions, the facts should be shown by proper evidence to the War Department, in order that due provision be made for his compensation for services under the direction of that department.

In regard to the items in Mr. Russell's accounts, suspended by the accounting officers upon their adjustment pursuant to law, as set forth upon statement, 85,164 and 88,162, of which copies are with the papers, these contain upon their face all the information now in the power of this department, except as to the charge of \$50 alleged to have been paid to P. H. Burnet, esq., for services as counsel in behalf the United States. The vouchers not allowed by the accounting officers being all returned, there is nothing in the department showing when, by whom, or upon what occasion Mr. Burnet was retained as counsel for the United States. No information can, therefore, be given as to this charge, except as to the principles which govern the decision of all similar claims.

It is no part of the duty of courts to select officers to prosecute in behalf of the United States before them. The laws have provided for the appointment of prosecuting officers, and pointed out their compensation. Should the district attorney of any district choose to employ assistance in conducting the business of the United States, he will, of course, compensate such assistance, except where, from the importance of any case to the public interests, assistant counsel are especially authorized to be retained. This has only been done, for many years past, upon an official report of the facts, showing the necessity of employing and compensating such counsel. After due examination, if it is decided to be proper to retain assistance to the district attorney, authority is given stating the counsel and the compensation to be given him, as well as the conditions of the retainer. The records of this department show numerous instances of claims against the United States for professional services, either volunteered or assigned by the court, in behalf of the prosecution, as well as defence of indi-

B.

Wm. H. Russell, marshal for the district of Missouri, in account with the United States.

DR.		CR.	
To balance of his account, in report No. 84476.....	\$1,264 85	By amount of compensation to himself for attendance, mileage, and summoning juries at the district and circuit courts held for said district, February, March, and April terms, 1842, per abstract.....	\$127 40
To treasury warrant for amount of the following, viz:		By amount of compensation to the clerk and attorney for their attendance and mileage at said courts, per abstract..	180 00
No. 447, dated February 19, 1842.....	\$2 000 00	By amount of compensation to the jurors for their attendance and mileage at the circuit court, April term, 1842, per abstract.....	1,190 85
No. 496, dated February 28, 1842.....	1 000 00	By amount of compensation to the witnesses for their attendance and mileage at said circuit court, per abstract...	453 75
No. 972, dated April 20, 1842.....	2,000 00	By contingent expenses of said courts.....	331 45
	5,000 00	By costs taxed by said courts.....	661 29
		By commission on \$2,689 59, at 2½ per cent.....	67 24
		By balance due the United States.....	3,252 87
	6,264 85		6,264 85

B—Continued.

Balance due the marshal, per his account.....	\$52 13
Balance due the United States, per this statement.....	3,252 87
Difference.....	<u>3,305 00</u>

Which is accounted for as follows, viz: The following treasury warrants, not yet credited by the marshal, viz:

No. 496, dated February 28, 1842.....	\$1,000 00	
No. 972, dated April 20, 1842.....	2,000 00	
		<u>\$3,000 00</u>

Add this sum, by which the balance made by him, in his last account, in favor of the United States, is short—brought forward in this..... 2

Add commission overcharged in his last account..... 52

Add the following sums suspended from abstract of contingencies, April term, 1842, viz:

Timothy Leaky's bill, No. 1, suspended to have it properly made out.	\$58 14
Card's and Bingham's bills, Nos. 5 and 6, for services as bailiffs, suspended for the reason that the vouchers are imperfect, there being no date to the receipts, nor term stated where the services were performed.....	64 00
Stephen W. Meech's bill, No. 7—that portion of it for stationery for district attorney disallowed; call on district attorney to refund..	24 25
This sum, being so much more charged than for which vouchers are furnished, supposed to be caused by charging Cordell & Co.'s bill twice, inadvertently, as it is the exact amount of that bill.....	20 83

Abstract of costs taxed, viz:

Peter H. Burnett's bill, as counsel for the United States, suspended, (it can only be paid by direction of the Secretary).....	50 00	
		<u>217 22</u>
		<u>3,217 76</u>

Abstract of costs taxed, No. 2—A. McClintock's bill, as deputy marshal, for conveying prisoners from Fort Leavenworth to St. Louis, (that portion of it which is for per diem allowance disallowed).....	\$63 00
No. 3—Barnum & Moreland's bill, for boarding three soldiers, summoned as witnesses, suspended for explanation, enquire at City Hotel, and Mr. Gamble, St. Louis.....	14 50

	77 50
Deduct short charge for bill No. 7.....	<u>2 00</u>

Add overcharge for compensation to jurors, April term, 1842.....	1 20
Commission charged more than allowed in this statement.....	10 54

3,305 00

FIRST AUDITOR'S OFFICE, August 24, 1842.

J. M. RAMSEY.

Auditor's balance as above.....	\$3,252 87
Deduct, in conformity to precedents, this amount disallowed A. McClintock as deputy marshal.....	63 00
	<u>3,189 87</u>

COMPTROLLER'S OFFICE, September 20, 1842.

WM. ANDERSON.

C.

William H. Russell, marshal for the district of Missouri, in account with the United States.

Dr.	Cr.
To balance of his account, per report No. 85165	By amount of compensation for himself, for attendance, mileage, and summoning juries at the district court, held for said district, December term, 1842, and March term, 1843, per abstract.....
treasury warrant for amount of the following, viz:	
No. 3578, dated December 13, 1842	\$72 80
No. 4312, dated March 6, 1843	80 00
2,000 00	amount of compensation to the clerk, for his attendance at said court, per abstract.....
	80 00
	amount of compensation to the attorney, for his attendance at said court, March term, 1843, per abstract.....
	20 00
	amount of compensation to jurors, for their attendance and mileage at said court, March term, 1843, per abstract....
	301 30
	amount of compensation to witnesses, for their attendance and mileage at said district court, March term, 1843, and at a circuit court, April term, 1843, per abstract.....
	394 00
	contingent expenses of said district court.....
	216 38
	costs taxed by said district court.....
	23 18
	commission on \$1,026 86, at 2½ per cent.....
	25 67
	balance due the United States.....
	4,056 54
5,189 87	5,189 87

C—Continued.

Balance due the United States, per his account, (account current April term, 1843)	\$984 99
Add differences from former adjustment	3,242 00
Add witness absent district court, March term, 1843, error in bringing it into account current.....	50
Add contingent, absent circuit court, April term, 1843, (the amount thereof not being certified by the clerk, in accordance with act May 18, 1842, revived by act March 3, 1843, is therefore suspended).....	343 87
Add marshal's per diem, &c., (circuit court, April term, suspended, not being certified by clerk).....	197 00
Add amount paid Joel M. Clanton and Isaac Clanton, witnesses, (circuit court, April term, suspended, being receipted for by mark without attestation)....	81 50
Add this sum, charged in account current, (circuit court, April term,) as for two years' salary disallowed, being payable out of a special appropriation, and has been paid up to 31st December, 1842	400 00
Add commission charged more than allowed	10 56
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	5,260 42
-Add treasury warrant No. 4312, not yet credited by him.....	1,000 00
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	6,260 42
Deduct this sum, being the difference between the balance struck by him, as per accounts adjusted, per report No. 85165, (\$52 13 in his favor,) and the balance brought forward to account current, district court, December term, 1842, (\$2,101 75 in favor United States,) which difference arises in consequence of the intermediate accounts having been returned to him on account of informality, and not being again received.....	\$2,153 88
Deduct, also, treasury warrant credited by him, which does not appear in the register's certificate, and which is presumed to have been on account of his annual salary.....	50 00
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	2,203 88
Balance due United States, per this statement.....	<hr/>
	4,056 54

JANUARY 2, 1844.

COMPTROLLER'S OFFICE, January 27, 1844.

J. M. RAMSEY.

WM. ANDERSON.