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Floyd C. Babcock.

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FLOYD C. BABCOCK.

APRIL 21, 1876.—Committed to a Committee of the Whole House and ordered to be printed.

Mr. TARBOX, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 516.]

The Committee on Claims, having had under consideration the bill (H. R. 516) for the relief of Floyd C. Babcock, submit the following report:

Floyd C. Babcock was a deputy United States marshal for the west district of Arkansas, and at Fort Gibson, Indian Territory, on the 9th day of April, A. D. 1873, a complaint was made to him that a murder of two white men had been committed in the Indian Territory, and the suspected murderers would probably escape and avoid punishment if not speedily apprehended by the legal authorities. Upon this information, given by responsible persons, Babcock made immediate pursuit, and after eighteen days' pursuit, assisted by three *posse comitatus*, he arrested three suspected parties (Indians) at the mouth of Horse Creek, on Grand River, in the Cherokee Nation, Indian Territory, and brought them under guard to Fort Smith, and before the United States commissioner there. One of the prisoners was discharged, and the others held for trial, found guilty on indictments for murder, sentenced, and hung on the 10th day of October, A. D. 1873. By reason of the absence of the United States commissioner from the Indian Territory at the time of the murder, Babcock was unable to obtain a warrant from the court, and proceeded without any lawful process. The fees and expenses incurred in the pursuit, arrest, and production of the prisoners before the commissioner amounted to \$283.65, which were duly certified, but disallowed and payment refused because not done in the execution of legal process. In the judgment of the committee, these services having been rendered and expenses incurred in the apprehension of criminals, whereby the perpetrators of a great crime were brought to justice, and as the officer acted from the exigencies of the case in the interest of public justice, the officer is justly entitled to the allowance of fees and expenses to which he would have been entitled had he acted under due process of the court.

On the 18th day of April, 1873, by request of Gen. J. W. Davidson, commanding at Fort Gibson, Indian Territory, Babcock took custody of a soldier, charged with murder, to be produced before the United States commissioner at Fort Smith for examination on the criminal charge. The prisoner was accordingly produced before the commissioner and an indictment found for murder. For fees and expenses incurred in this custody the officer, if acting under authority of process, would be en-

titled to the sum of forty-nine dollars, and this the committee think, under the circumstances, should be allowed him.

The committee, upon these considerations, recommend that the bill pass with the following amendment, to wit: In the 5th and 6th lines of the printed bill strike out the words "five hundred and fifty-six dollars and fifty-five cents," and insert in lieu thereof the words "three hundred and thirty-two dollars and sixty-five cents."

