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Milton B. Duffield.

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H.R. Rep. No. 459, 45th Cong., 2nd Sess. (1878)

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MILTON B. DUFFIELD.

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APRIL 4, 1878.—Laid on the table and ordered to be printed.

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Mr. ELLSWORTH, from the Committee of Claims, submitted the following

REPORT:

*The Committee of Claims, to whom was referred the petition of Milton B. Duffield, late marshal of the United States for the Territory of Arizona, have considered the same, and report thereon :*

The committee find that this case has been considered by a committee of the Senate and rejected, and the facts stated therein we find to be true, except as to sworn testimony. The petition of Duffield has been, it would seem, sworn to by him since the report of the committee of the Senate was made; but that does not in any way change the facts of the case, and we approve of and adopt the conclusion of that report, and of the facts of the case as therein stated, and so recommend that the petition be dismissed.

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[Senate Rep. Com. No. 23, Fortieth Congress, second session.]

Mr. MORRILL, of Vermont, from the Committee on Claims, submitted the following report:

*The Committee on Claims, to whom was referred the petition of Milton B. Duffield, late marshal of the United States for the Territory of Arizona, have considered the same and report :*

That the petitioner represents himself as in the military service of his country, serving with General Frémont in March, 1863, when he was appointed marshal for Arizona; that through many delays and the death of the first Territorial governor he was subjected to heavy expenses before leaving for the scene of his labors; that in October, 1863, he left New York for San Francisco, and thence to Tucson to meet the new government officials of the Territory, as directed; that after a long and perilous journey he reached Tucson on the 15th of January, 1864, and although the other Federal officers went overland with large escorts and government transportation, they had not arrived; that he procured and furnished an office for public business, and through delays in the organization of the government was subjected to heavy expenses without any income from his office; that but few courts were holden, and at places so remote one from another, and the Indians were so hostile, the expense of attendance upon them was very great; that the Territory was destitute of stationery, which it was his duty to furnish the courts, and he was obliged to visit San Francisco to supply the requisite amount; that on the 8th of November, 1864, he started for Washington for funds to pay the expenses of the courts, where he was detained a long time by delays of department officials; and after doing what he could in the interests of the Territory, returned to Tucson, encountering again all the risks of a journey from Los Angeles to his post of duty, and after performing the duties of a "loyal citizen and sworn officer of the government" until the 25th of November, 1865, resigned his position, to take effect April 1, 1866; that he was induced to resign by the insufficiency of his salary, &c., and the want of harmony between him and the other government

officials of the Territory; that from the first election in the Territory his course was considered obnoxious for opposing active and unforgiven rebels who were striving to guide and control the affairs of the Territory, and was persecuted by malicious suits for discharging his official duties in accordance with the spirit as well as the letter of the laws.

He further represents that all the compensation he received from March, 1863 (date of appointment), to September 26, 1866, is \$600, and his expenses as "United States marshal and loyal citizen" he avers amounted to \$5,956, and asks Congress to take such action as will restore him the difference between his expenditures and receipts.

His account is stated thus:

*United States, to M. B. Duffield.*

		DR.	
1864.			
May	26. For horse taken by Indians at Fort Whipple, while on public service by order of the governor.....		\$300 00
August	25. For libeling "Brevoort ranch," with expenses of escort, for which no certificate could be obtained on account of the absence of the proper officers.....		104 00
November	1. For office hire, fuel, furniture, stationery, traveling expenses of escorts, and other expenses incidental to the office, from January 15 to date.....		2,910 00
December 1865.	9. For expenses from Tucson to San Francisco, with escort....		588 00
January	7. For travel and expenses from San Francisco to New York....		397 00
April	13. For expenses in Washington, 96 days, while attending to public business, at \$4.50 per day.....		432 00
May	5. For fare from New York to San Francisco.....		400 00
May	16. For expenses in San Francisco, at \$5 per day (10 days).....		50 00
August	14. To expenses from San Francisco to Tucson, at \$10 per day, 25 days on the road.....		250 00
	To expenses of escort, \$5 per day, 25 days.....		125 00
1866.			
April	1. To office and other incidental expenses in Tucson, from November 1, 1864, to date.....		400 00
			5,956 00
		CR.	
By cash, as salary up to September 26 .....			600 00
Balance.....			5,356 00

It will be observed he credits the government in his account "By cash, as salary up to September 26, \$600," and alleges in his petition that he has received no further sum for all his services and expenditures. Whether this amount was realized as so much paid of a salary fixed by law, or made up of fees actually collected, does not appear; but from his mode of statement and his oral explanation it is manifest that he intends to represent it as the amount he had received from the Treasury for his official services.

The duties of marshals, their fees per diem, for attendance upon court, percentage upon disbursements, salaries, if any, and the manner in which their accounts are to be certified to the Treasury to be settled and paid, are quite clearly defined in the laws. If his legal dues from the Treasury were more than \$600, he has altogether omitted the reasons for not realizing them through the proper and well-defined channels. Nor is there any indication of how much his fees from individuals for service of process and the like may have amounted to, nor whether they have been collected, or lost by his own laches.

Any person fit to hold the office of marshal of the United States ought to be presumed to have so much knowledge of the law as to know the amount of his compensation; from what source it was derived. If he had performed his whole duty, and presented proper vouchers therefor, there would have been no difficulty in getting his accounts audited at the Treasury Department. Failing in all respects to do this, to grant relief might establish a precedent for United States marshals throughout the country to come to Congress for a settlement of their accounts. Of all men United States marshals should be held to a rigid compliance with the laws pertaining to their official duties.

In fact, Mr. Duffield was in the Territory as marshal for short intervals of time only, and no court was holden until January, 1866, according to his oral statement; but he found it necessary, as he says, to go to San Francisco once for provisions, as well as

stationery, and twice to return to Washington in a fruitless effort to settle his account. His services may have been well intended, but they do not appear to have been of any very great official value. There are very few items in the account, if they had been accompanied by the proper vouchers, which could have been allowed by the Treasury Department. And this fact, if not known, surely ought to have been known to Mr. Duffield.

He charges in his account for office rent and other items the round sum of \$2,910, but the law does not authorize any allowance at all for office rent. By Mr. Duffield's oral statement it appears that he purchased and still owns a building for which he paid \$1,050, and it is this building for which he charges the United States for rent, including some minor items, the sum of \$2,910.

There is on file with the papers of the petitioner a certificate of three days' and of five days' service in the United States district court, and there is an account of the deputy marshal for \$146, in which is included six days' service in court, and rent, furniture, janitor's fees, fuel, and stationery, but these items do not appear in the account presented to the committee, nor does it appear that they have not been settled at the Treasury Department. By his oral statement it would appear that for taking the census in Arizona he was paid promptly, with an expression of surprise that he had not made the account much larger. The other items in the account are equally open to criticism, and none appear with any better foundation. It is, therefore, recommended that the petition be dismissed.

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