

JOSEPH M. KENNEDY.

[To accompany bill H. R. No. 652.]

JANUARY 9, 1857.

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

REPORT.

The Committee of Claims, to whom the petition of Joseph M. Kennedy, with the papers accompanying it, was referred, have had the same under consideration, and now report:

Joseph M. Kennedy is the marshal of the United States for the eastern district of Louisiana. There is no public building in the city of New Orleans for the accommodation of the United States courts; and as the government is obliged to rent what is necessary for that purpose, it sometimes happens that the place for holding the courts is changed, and that the necessity for doing so obliges the making of some expenditure to fit up the court-room, and the offices connected with it, in a suitable manner.

In 1854 one of these removals was effected; and when it was taking place, it was found that it was requisite there should be a quantity of new furniture obtained, and that there should be a number of repairs made to the old, in order to put the new rooms in a proper condition. The Hon. T. H. McCaleb, the United States district judge for the eastern district of Louisiana, directed the marshal to get what was needed for the purpose; and, acting under this direction, the marshal procured various articles of furniture, and had repairs made, as stated in the accounts on file, for which he paid the sum of three hundred and sixty-two dollars and sixty cents in November of that year.

In 1855 the marshal presented his account, with the vouchers for these payments, to the Secretary of the Interior, and he declined paying them, on the ground that he was prohibited from doing so by the proviso to the second section of the act approved February 26, 1853, (10 Stat. at Large, 165) which declares "that the marshal shall not incur an expense of more than twenty dollars in any one year for furniture," "without submitting a statement and estimates to the Secretary of the Interior, and getting his instructions in the premises."

The refusal of the Secretary to pay the bills when presented was undoubtedly right; but as the expenditure was a proper one, as is shown by the statement of the district judge, and the expenditure was made by the marshal in good faith, your committee are of

opinion that the amount expended should be reimbursed; and they therefore report back the bill referred to them, with the recommendation that it do pass.

NEW ORLEANS, November 14, 1854.

United States Circuit Court,

Bought of P. Mallard and Co.,

No. 67 Royal and 80 Bienville streets.

121½ yards of ingrain carpet, at \$1 per yard.....	\$121 50
Making and laying down, at 12½ cents per yard.....	15 18
104 yards of bagging, at 23 cents per yard.....	23 92
1 drapery for the ceiling above the judge's seat.....	50 00
1 red worsted damask curtain, with cornice.....	18 00
55 yards of cocoa matting, at 50 cent per yard.....	27 50
Laying, at 5 cents per yard.....	2 75
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	258 85
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Received payment.

P. MALLARD.

NEW ORLEANS, February 27, 1856.

At the request of the United States marshal for this district, I have carefully examined the within bill of articles furnished, and labor performed, in the fitting up of the United States court-room in this city, and have no hesitation in certifying that the same were necessary for the object specified.

THEO. H. McCALEB,
United States Judge.

NOVEMBER 3, 1854.

J. M. Kennedy, Esq., United States Marshal,

To Wm. Low, Dr.

Taking down railing in former court-room.....	\$1 00
Taking down blinds in former court-room	3 00
Getting safe up to marshal's office (iron).....	10 00
Partition for coal house, lock, door, &c.....	19 75
Key for lock on paper box.....	50
Painting partition, two coats.....	5 00
Covering two tables in court-room.....	4 50
Covering two desks in court-room.....	4 00
Covering two portable desks in court-room	2 00
Varnishing and cleaning furniture in court-room..	12 00
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	\$61 75

Brought forward.....	\$61 75
Taking down, remounting, and repairing record cases in clerk's office, United States district court, including lumber and other materials.....	42 00
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	103 75
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Received payment.	

WILLIAM LOW.

Approved :

R. M. LUSHER,
District Clerk, District Court.

NEW ORLEANS, *February 25, 1856.*

I hereby certify that the above stated repairs and labor were indispensably necessary for the proper accommodation of the United States court and the protection of its records, and that they were all made at the time stated above.

N. R. JENNINGS, *Clerk.*

NEW ORLEANS, *March 15, 1856.*

DEAR SIR: I learn, from a letter of the Secretary of the Interior to the marshal of the eastern district of Louisiana, J. M. Kennedy, esq., that the sum of \$362 60, expended by the latter for carpets and other necessary articles for the room appropriated to the United States circuit and district courts, and also for necessary repairs made upon cases designed for the safe-keeping of the records, has been disallowed, upon the ground that under the act of Congress an estimate should first have been made of the cost. This can be no objection to the justice of the claim now made by the marshal. He has paid the money, and the vouchers show that he paid what was actually charged by those who furnished the carpets, &c., and made the repairs upon the cases.

The marshal has not complied strictly with the requisition of the law, under an impression, perhaps, that the expenditure was not incurred for what might strictly be denominated *furniture*, as that term is used in the act of Congress. But certainly a mistake of so trivial a character, from which no injury has been sustained by the government, should be treated with indulgence. The only question is, did the marshal, according to his vouchers, pay a fair and reasonable price? Upon this point no doubt has been expressed.

As the judge of the court I ratified the accounts of the marshal, after satisfying myself that the expenditures were actually necessary. In relation to the furniture of the court-room, I expressed the opinion before the carpets were furnished, that the old ones should be removed and replaced by better—the former being then much worn and torn; and in relation to the cases, I know that the repairs were made at the request of the clerk of the United States district court, and I am satisfied that his request was highly proper, inasmuch as the repairs were really required for the proper preservation of the judicial records.

I make this statement under the full conviction that the sum of \$362 60 was properly expended by the marshal, and that it should, in justice, be refunded to him by the government.

I have the honor to be, very respectfully, your obedient servant,
THEO. H. McCaleb.

Hon. MILES TAYLOR.

DEPARTMENT OF THE INTERIOR,

Washington, March 5, 1856.

SIR: I have received from J. M. Kennedy, esq., marshal for the eastern district of Louisiana, two vouchers, which had been suspended by the First Comptroller of the Treasury, for the approval of this department—one in the name of the P. Mallard & Co., for carpets, &c., for court-rooms, amounting to \$258 85; and the other in the name of William Low, amounting to \$103 75, which latter was for repairs upon furniture, &c.—with the request that the same be approved, notwithstanding his failure to obtain the sanction of this department previous to making the expenditure.

These expenditures are clearly prohibited by the *proviso* to the second section of the act of the 26th of February, 1853, (vol. 10, Stats. at Large, page 165,) and it is not conceived how their approval now could be reconciled with a proper sense of official duty.

It is presumed that this provision of the statute was enacted to place expenditures of the character named within the control of this department; and if so, the practice of approving expenditures in cases similar to this once having obtained here, would, in my opinion, entirely defeat its object.

Permit me, in addition, to call your attention to my annual report of December 4, 1854, a copy of which is herewith enclosed, wherein my views are more fully expressed.

Should you desire to take any action in relation to these accounts, they will be sent you upon request.

I am, sir, very respectfully, your obedient servant,
R. McCLELLAND, *Secretary.*

Hon. MILES TAYLOR,
House of Representatives.

DEPARTMENT OF THE INTERIOR,

Washington, July 29, 1856.

SIR: In reply to your request of the 26th instant, I send you enclosed herewith a copy of the accounts for fitting up court-rooms at New Orleans, and which were presented to this department for its sanction by Mr. Kennedy, the marshal, in his letter of the 27th of February last.

These accounts were the subject of my letter addressed to yourself on the 5th of March last, and are supposed to comprise all the accounts referred to in your note.

I am, sir, very respectfully, your obedient servant,
R. McCLELLAND, *Secretary.*

Hon. MILES TAYLOR, *House of Representatives.*