

"The H-C broke loose again."

RALEIGH, N. C., January 10th, 1888.

Hon. M. J. Durham, Comptroller:

SIR:—I have your letter of December 24th, with form of Commissioner's Fee Bill, and have examined same.

Items 4, 5, 9, 10, 12 and 13 are incomplete in form, unless you mean, for instance, that one fee of 25 cents pays for all acknowledgments of principal and sureties on any one bond or recognizance. If so, then items 6, 11 and 15 are wrong, for, granting that principal and sureties will fuse in presence of a bond, there's no such chemical absurdity as dispersing them again with an oath.

Item 16, Witness Pay Roll, is palpably wrong. The form used from the foundation of Government contains three folios besides the entering and certificate, and the fee for original and duplicate is therefore \$1.85, and not 30 cents, as stated.

In your ardent zeal for the defeat of lawful fees it seems to have escaped your observation that there never was any foundation whatever for item 17; the *originals*, and not "*copies of process*," being sent up to Court.

It has been generally understood among the Commissioners that the allowance of this item was in the nature of a tub to the whale, to keep him quiet on folioage for testimony recorded, and sent up at the request and for the use of the District Attorney in each case, which you refuse to pay; or else a beggarly compensation for taxation of costs, and docketing and indexing. As the first is unquestionably lawful costs, and the last *ought* to be so, it would seem unnecessary to chase the devil around the stump with a supposititious switch while a genuine cat-o-nine-tails lay handy.

Your form contains much detail matter of information not required by law in a bill of costs, and manifestly irrelevant. I refer to the historical record of each case at the top, the chronological data in the middle, and tabulated report at the bottom.

I beg leave to number the items on the form prescribed for our use, and to comment upon the defective items as follows:

Item 0.	Fee for History of the case (at top) 1 folio, omitted,	.15
Item 1.	" " Certifying oath to complaint, omitted,	.15
Item 4.	" " Entering, omitted,	.15
Item 5.	" " Acknowledgment of sureties (usually two), omitted,	.50
Item 9.	" " Entering and filing, omitted,	.25
Item 10.	" " Acknowledgment of sureties (usually two), omitted,	.50
Item 12.	" " Entering and filing, omitted,	.25
Item 13.	" " Acknowledgment of sureties (if any), omitted,	.25
Item 16.	" " Two folios each; certificates and entering omitted, adding	1.05
Item 17.	" " Three certificates (provided there ever was any authority in law or fact for this item), omitted,	.45
Item 18.	" " Tabulated Report of witnesses and sureties at bottom omitted,	.15

Total scalp in every bill of costs in which the items occur, \$3.85

These items, barring No. 17, the History at the top and the Tabulated Report at the bottom, are just as necessary, and quite as lawful, as any one of those contained in your form. The scant courtesy which the Commissioners have experienced at your hands and those of the Auditor has not been such as should induce you to ask, or encourage you to expect, much gratuitous service from them, and I doubt your receiving it; nor can I believe they will submit without protest to this last dictation as to their fees. You have pursued them with diabolical cunning and persistence, notably in the matter of taxation of costs and docket fees. You violated the plain letter of the law and drove them into the courts. When your rulings were reversed by the Court of last resort you refused to respect the authority until each individual case had passed the same expensive ordeal, by which you effectually defrauded ninety-nine-hundredths of the Commissioners who kept dockets. Finally, you procured the passage of an Act of Congress forbidding docket fees to Commissioners, without change as to Clerks in like cases. Having emasculated the Commissioners of all power

to keep a docket, you now propose to sponge upon them for information which nothing but a well-kept docket can show! Milking a he-goat through a sieve was never profitable. The little fluid obtained by stripping don't stick, nor prove palatable. Moreover, the goat is liable to tire, and when an old he-goat gets tired it is time to suspend further operations in that quarter.

As for myself, having read your learned disquisition in the Scoggins case, I don't feel any very irresistible impulse to furnish you in a bill of cost, a minute biographical and chronological history of the defendants, witnesses, sureties, informers and marshals in every case had before me beyond the requirements of law, and I don't purpose to do so without payment. *I am tired.*

I am confirmed in this determination by the Scoggins case, above cited, wherein you had the distinguished honor of reversing the Honorable, the Chief Justice of the United States, the Circuit and District Judge, and escheating to the Government as just a claim as ever was presented, in a mouthful of words on the Genesis of Truth and the Revelation of Fraud. You could send a Special Agent into the mountains of North Carolina to whoop up Ku-klux evidence against poor Scoggins' claim; and when he reported the claim a just one, which ought to have been paid fifteen years ago, you could trundle him back to reverse his report on peril of his situation, but you couldn't pay lawful docket fees!

When he had returned with a report *reversing himself*, on a lot of *ex parte*, irrelevant twaddle and mush, which the Circuit Court set aside upon full hearing and argument, you could repudiate its decree in a style befitting the Almighty *at your age*, but you can't pay for information which your own arbitrary ruling has made otherwise impossible to obtain!

You can sit down on the original stated account of the Scoggins claim, which you refuse to pay, and, like a human dog-in-a-manger, growl "impracticable" when a copy is asked through the Secretary in the form prescribed by law, to file in a suit brought to set aside your star chamber edict, but you will hardly get the Commissioners to lay aside their printed forms and pay for new ones at twice their cost, merely to furnish you gratuitously with the means of feeding them out of the same spoon.

However, I have an abiding faith in the whirligig of Time, and am of the opinion that you will both *eat* and *pay* for that crow when the courts get through with it; but you may console yourself with the reflection that it is likely to come too late to detract much from your well-earned reputation as The Skinflint of the National Treasury!

I saw a private letter from a Commissioner who was in receipt of one of your Amended Fee Bills, to-day. He couldn't understand the failure of the Commissioners and printers at the State Capital to prepare the form of a Bill of Costs that would stand the crucial test of the Department for two successive Terms without a revision and reprint. Happy man! whose insular position renders him blissfully ignorant of the fact that the ruling upon an item in a Bill of Costs at one Term, may resemble that of its predecessor or successor as a horse-chestnut resembles a chestnut horse!

Another correspondent gravely suggested that "Jesse Holmes" might find lucrative employment in the Treasury Department; and he hadn't read your ruling in the Scoggins case, either! I trust, however, that the mild *bolus* prescribed by the late Congress for removing the surplus conceit of usurpious government officials\* may effect a cure without a resort to heroic remedies.

The sublime attribute of Clemency has long enjoyed a cumulative state of "innocuous desuetude" among the accounting officers of the Treasury. Permit me in conclusion to invoke it, with befitting homage, genuflexion and salaam, for a suspension of the torture of the Commissioners until you or the Auditor can *acknowledge receipt* of my account for the Fall Term, 1887.

Very truly yours,

A. W. SHAFFER.

\*The Act authorizing the creditors of the government to sue in her courts.

"Folwed" in by return mail.