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United States Western District Court of  
Arkansas records, 1839-1908

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**1877 August 31: Voucher, to Edward Burns, of Fort Smith, Arkansas, for assisting J.C. Wilkinson, U.S. deputy marshal, in U.S. v. Commodore Owens, violation of internal revenue laws; Stephen Wheeler, clerk; D.P. Upham, U.S. marshal**

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The United States of America,

1877

To Ed Burns Dr.

For 31 days' services as posse comitatus, from July 24 to August 24, 1877, both days inclusive, at \$3.00 per day, \$ 93.00

UNITED STATES OF AMERICA, Western District of Arkansas.

I, Ed Burns, of Fort Smith, in the County of Sebastian and District aforesaid, being duly sworn, depose and say, that on the 24 of July 1877, I was employed under and by virtue of the third section of the Act of Congress of June 14, 1858, by J. C. Wilkinson, U. S. Deputy Marshal for said District, at my usual place of residence, as one of his posse comitatus, to assist in executing the following capias writs, to-wit:

Commodore Owens charged with violating the Internal Revenue Law one Dollate and one Brown and Callis May charged with Larceny and Carolina Gason et al charged with Murder

issued by Stephen Wheeler, U. S. Commissioner for the Western District of Arkansas, within the jurisdiction of the said District, returnable to the office of said Commissioner, at Fort Smith in Sebastian County, Arkansas, Smithworth, 1877; and that as such posse

comitatus, I immediately proceeded in company with said Marshal to Cherokee Nation were on the 24th July we served the Pa on M. Angel near Fort Smith and on the 25th we served the Pa on John E. Welch near Dorembergs store. On the 26th we proceeded to Daleguah were on the 26th we subpoenaed Richard Fields we then proceeded to Lake Creek C.M. were we subpoenaed George Little and David Little we then went to Seneca C.M. were we subpoenaed on the 31st of July witnesses against Thomas West et al and on the 2nd of August we served the Pa on Isaac Johnson et al and on the 3rd of August at Timba we served subpoena on Ellen Allen in Taylor Case we then proceeded to Big Creek C.M. were we subpoenaed M. Day in the Richard Lawson case we then went to Lane C.M. were on the 8th of August we subpoenaed Phelip McCoy and Wacohe against Thos Allen we then went to Oage Agency and on the 9th we served subpoenas on Thos Adams and others to appear before the grand jury and on the same day we arrested Commodore Owens we then proceeded to Pashum Creek were on the 12th we arrested Saml Dollate and on the 13th we arrested Callis May near Biffwell we then went to Padigurs were on the 15th we served subpoenas on Thos Callis May first and on the 16th we subpoenaed Henry Benson in the same case we then went to Timba were on the 18th we subpoenaed witnesses in the Jesse Cochran case we then proceeded to near Gibson Station were on the 21st we arrested Carolina Gason et al we then returned to Fort Smith were we arrested on the 24th of August

to before the U. S. Commissioner; that no posse comitatus could have been employed at a nearer point to the place where the said Deputy informed me he expected to find the said Commodore Owens one Dollate and one Brown Callis May and Carolina Gason to wit: Cherokee and Oage Nations

than my place of residence aforesaid; that I actually traveled from my said residence to said place of arrest for the purpose aforesaid 80 1/2 miles, and in the transportation of said defendants, and was actually and necessarily employed 31 days, as set out in the foregoing account as posse comitatus, solely in the execution of said processes and transportation of the said defendants as aforesaid; that I furnished the means of or actually paid for my own travel or transportation, and that I have received from said Marshal and signed duplicate receipts therefor, the sum of dollars, in lawful currency of the United States, in full satisfaction and payment of my said expenses and services; that I have never received or been paid, or agreed to receive, or expect to be paid any other compensation, remuneration or consideration what ever for said expenses and 31 days' services, from any other person or persons, or sources whatever; So help me God.

Subscribed and sworn to before me this 31st day of August 1877, by the above named Edward Burns who personally appeared before me and was by me known to be the identical person he represents himself.

Edward Burns Stephen Wheeler Clerk U. S. Dist. Court West. Dist. Ark.

O.K. H. Williams

I, J. C. Wilkinson do solemnly swear that I am duly and regularly commissioned as a Deputy U. S. Marshal for said district, that the employment of a posse comitatus at Fort Smith under the act of Congress of June 14, 1858, was actually and indispensably necessary to enable me to serve the warrants in my possession, and that I could not without great peril have attempted to serve the warrants entrusted to me without the assistance of a posse comitatus; that I have examined the within account and certify that the services were performed and actually rendered as therein stated, and that the amount charged therefor is reasonable and just, and that I have no interest in the same.

Sworn to and subscribed before me this 30<sup>th</sup> day of August, A. D. 1877, by the above named J. C. Wilkinson, who personally appeared and was by me known to be the identical person he represents himself.

J. C. Wilkinson  
Deputy U. S. Marshal.

Stephen Wheeler  
Clerk U. S. Dist. Court West. Dist. Ark.

I, D. P. UPHAM, U. S. Marshal for the Western District of Arkansas, do certify that I have <sup>carefully</sup> inquired into the matters set forth in the foregoing affidavits, and that the matters and things therein set forth are true and the services of the posse comitatus employed by my Deputy were absolutely necessary to the due and proper service and execution of said warrants; and that a posse comitatus could not have been obtained any nearer than the place said posse comitatus was employed.

D. P. Upham  
U. S. Marshal Western District of Arkansas.

Received payment of D. P. UPHAM, U. S. Marshal for the Western District of Arkansas, in the sum of \_\_\_\_\_ dollars, in full of the within account.

Edward Burns

VOUCHER NO. 4

—TO—

ABSTRACT NO. 6.

Term, 187

Refer to Voucher No. 12 Abstract 4.

FILLED

SEP 1877

*Abstracts*  
CLERK

D. P. UPHAM,  
U. S. Marshal Western Dist. Arkansas.