

COPY-
A. D. R.

Cheyenne, Wyo., Nov. 2, 1892.

The Attorney General,
Washington, D. C.

Sir:

In obedience to your letter of Sept. 24th, 1892 directing me to investigate the official conduct of United States Marshal Rankin of Wyoming, and the course that he pursued during the recent disturbances in Johnson county, I have thoroughly informed myself on the subject, and I have the honor to submit my report of the results of my investigation as follows:

From your letter I learn that in the complaints made to you by Senators Carey and Warren, and others, the question of Marshal Rankin's "courage" and "force" and his fitness for the office, is involved.

It is true, "There is much in his course" in the performance of his official duties in connection with this matter that would give color to a charge of lack of courage and force and unfitness for office if all the surroundings circumstances and conditions are not taken into consideration.

For your ready reference I furnish herewith, a copy of the correspondence between Marshal Rankin and the Department of Jus-

tice in this matter, and I have marked it Exhibit A.

I would respectfully invite your attention to the statement of Marshal Rankin, marked Exhibit B., accompanying my report. In connection with this statement I beg to state that I have investigated thoroughly every statement of fact and allegation made by the Marshal which was capable of being investigated, and I do not hesitate to say that he has confined himself strictly to the facts, and that my conclusions, based upon information obtained from men who are thoroughly conversant with the details of the subject, and have a personal knowledge of the conditions and sentiment existing in Johnson county, and elsewhere throughout the state at the time of the trouble, are in perfect accord with the position taken by the Marshal.

The specific instructions in your letter of July 1st for the Marshal to go to Johnson county at the head of "such number of persons as may be necessary", and "to make the attempt to enforce the law", were not followed to the letter, it is true; but whether because of a disposition to intentionally disregard your directions or whether, by reason of a lack of courage or force, or whether by reason of the exercise of his wise discretion, and by well founded fears of unnecessary loss of life based upon his thorough knowledge of the men to be arrested, and of the conditions and sentiment existing at that time, not only in Johnson county but throughout the

state generally, as well as a keen conception as to the real object sought to be accomplished by the parties who have been most industrious in sending complaints to Washington, justified him in the course he pursued, and the judgment that he exercised, is a matter to be left for your consideration and determination.

In order that you may fully understand the situation, and that you may have before you, all the lights upon the subject from a disinterested standpoint, I will state briefly, in addition to what the Marshal has said in his statements, some of the influences which may have governed the Marshal in the course he pursued.

My conclusions are reached as a result of extended and repeated interviews with all classes of men including Senators Carey and Warren; Judge Willis Van Devanter, Ex-U.S. Judge of the Territorial Court and later, Chief Justice of the State of Wyoming; Judge J. W. Blake of the Second Judicial District of Wyoming, which District includes Johnson county, Judge Scott of the First Judicial District of Wyoming; members and ex-members of the State Legislature; candidates for election to the coming Legislature; attorneys at law; special and regular deputy U. S. Marshals ; Ex-sheriff Canton of Johnson county; Sheriff Rogers of Crook county; ex-sheriff Williams of Converse county; Federal officials in other branches of the service; and many citizens who have a personal knowledge of

the facts, whose integrity and reputation for veracity and good judgment cannot be questioned.

My conclusions are formed, and this report is based upon impartial information obtained from those who have personal knowledge of the facts, and of the character of the men who were wanted under warrants, and of the conditions and sentiment existing in Johnson county, and of the bitterness of feeling towards the Marshal entertained by those men at the time of the trouble in question, and the difficulties attending the organization of a posse of competent and reliable men to assist the Marshal in his dangerous work, rather than upon opinions expressed by those who obtained their information from hearsay and rumor.

I am informed that for years, the owners of the larger herds of cattle in Johnson county, many of whom are non-residents of the state of Wyoming, but who are represented by employes, have suffered from the loss of large numbers of cattle by the thieving practices of outlaws, many of whom are fugitives from justice from Indian Territory and Texas. I am perfectly satisfied that Johnson county was, at that time, infested with a band of desperate men who had no regard for human life or the laws of the land.

The cattle owners have frequently sought redress in the local courts, but through a feeling of sympathy or fear of the results, it was almost impossible to get a jury to convict a man for steal-

ing cattle, and I have learned from the Judges themselves, that they have frequently, severely censured juries in the most scathing terms after they had returned a verdict of acquittal when the evidence was conclusively sufficient to convict.

Whatever may have been their grievance, the cattle owners, realizing that they could get no redress in these courts, organized a band of men, including about twenty-five determined men from Texas, and unlawfully invaded Johnson county with this force, well armed and equipped, for the express purpose, as they do not hesitate to say, of driving the thieves out of the country, or killing them. The estimated number of these thieves being not to exceed thirty or forty.

Early in the invasion, two rustlers were killed by the invaders, the details of which are very accurately set out on page 6 of Marshal Rankin's statement. This crime formed the foundation for the rumor which was circulated throughout the entire county, and which was generally believed, that a body of armed men had been sent into the county by the cattle owners to drive the smaller ranchmen from the country. Entertaining this belief, and with the killing of the two ranchmen fresh in their minds, the people of the county rose, en masse, and, joining the Sheriff's posse, marched upon and captured the invaders.

Having failed to accomplish the object thus attempted, the

cattle corporations doing business in the state, but which were organized under the laws of other states, made application to the United States Court for a writ of Injunction restraining the rustlers from holding an unlawful roundup, the conditions and time for holding which were not in accordance with the laws of the state. The application was granted, and notices were properly served by the Marshal on all covered by the complaint. To assist him in this service Marshal Rankin appointed as deputies, three men who are prominently employed by the cattle owners, and by reason of such employment they were the objects of the enmity and hatred of the rustlers. One of these men, Wellman by name, was killed while on his way to meet the Marshal, to receive some of the papers for service.

I am of the opinion that Wellman was assassinated more particularly because he represented the interests of the large cattle owners, and possibly because it had been rumored that he had just been appointed as a deputy United States Marshal; and as some of the men in Johnson county were fugitives from justice from Indian Territory and Texas, they feared arrest and punishment for serious crimes committed elsewhere.

Soon after the killing of Wellman warrants of arrest were issued by U. S. Commissioner Edmund J. Churchill, of Cheyenne, upon complaints made by those representing the interests of the cattle owners, against about twenty-three men, on the charge of conspiracy

to interfere with the rights and privileges of citizens, under the constitution and laws of the United States, and on other charges.

As one of the results of my investigation, I am forced to the conclusion that it was not so much the intention to have the men arrested, as it was to have them driven out of the country, or killed.

I use the term "killed" advisedly, as I have been informed by two of the principal invaders, Mr. Irvine and Mr. Canton, that they certainly intended to dispose of the cattle thieves by driving them from the country, or killing them; another reason for concluding that the arrest of the men was not desired or expected, is the fact that no substantial evidence was laid before the commissioner with the complaints, and I am of the opinion that no good reason existed for the Commissioner to issue warrants of arrest, and incur expenses of handling the prisoners in case service should have been made without first having had some evidence which would warrant him in holding the prisoners, or upon which the United States Attorney would have been justified in commencing prosecution. Commissioner Churchill has exposed himself to criticism, in my opinion, for having issued the warrants for the arrest of these men without having first submitted them to the examination of the United States Attorney. I consider this a reasonable view of the matter because of the action of the United States Attorney upon

examination of the complaints, and the showing made of evidence, in reducing the number of the warrants to be served from twenty-three to ten.

The warrants were handed to the Marshal about June 20th, and was taken by the United States Marshal (as well as the action taken by the Commissioner in issuing the warrants) under the advise of counsel for the cattle owners, which counsel also drafted the telegram which was sent. It appears that nearly everyone in authority, or in official life, was doing just about what the representatives of the cattle owners told them to do, and did not appear to have exercised any personal judgment or discretion of their own.

I am also forced to the conclusion that a point was stretched to bring this matter within Federal jurisdiction for the purpose of utilizing and securing the benefits to the cattle owners the strong arm of the Federal government, with a view to accomplishing thereby what had been attempted by the unlawful invasion, but which proved such a miserable failure, viz. the disposition by one means or another of a class of men that the cattle owners styled as thieves

This conclusion is supported by the statement to me by Mr. Wm. C. Irvine, who represents large cattle interests in Johnson county, and who, together with Mr. Wolcott, led the invasion, that in the service of the injunction orders, and of the warrants by the Marshal's office, it was "hoped and expected" that there would be

serious resistance offered which would enable him, with all propriety, to call for the assistance of the cavalry which was so near at hand, in which case, it was hoped that the object sought to be accomplished by the unlawful invasion would be thus effected. The United States Marshal informs me that Judge Van Devanter, of counsel for the cattlemen, suggested to him to go up to Johnson county and, together with a deputy, ride a distance from the town of Buffalo, and then to return and request military assistance. The Marshal states to me that he could not allow himself to do this. Upon inquiry Judge Van Devanter informs me personally, that the statement of the Marshal on that point is not true, and while he does not wish to impute Marshal Rankin with intentionally saying that which is false, he does not see how it was possible for him to construe anything that was said, in such a manner, and that no suggestion nor thought of this character was ever suggested or entertained. In this connection I will say that I cannot reconcile the difference in the statements of the two gentlemen by reason of the absence of the Marshal from the city on official duties, and it is not probable that he will return for a week or ten days.

Adverting, for a moment, to the killing of the two men by the representatives of the cattlemen early in the invasion, I wish to refer to an incident that is set out by the Marshal on page 9 of

his statement, viz: the carrying away from the state by stealth of the only two witnesses to the killing of Champion and Ray. The people of Johnson county had hoped to use these two witnesses in the prosecution of the invaders on the charge of murder. The witnesses were taken to Crawford, Neb., and then to Chadron, where a warrant was issued by the United States Commissioner at that place, charging them with selling liquor to Indians, the warrant being made returnable before Commissioner Dundy at Omaha, to which place they were taken, being taken away from Chadron on a special train in greatest haste; and upon the hearing, Commissioner Dundy discharged them on their own recognizance, and the men have never been heard of since. The fact that these two men had been spirited away by the use of the United States Marshal's office in Nebraska, was fully published in the papers in Omaha, and those papers scattered freely throughout Johnson county, and the fact that among the men whom the cattlemen brought up from Texas to take part in the invasion were several deputy United States Marshals, and the further fact that two of Marshal Rankin's best known deputies, one of whom had served in Johnson county a number of years, were members of the invading party, and the circulation of the rumor by the thieves

throughout Johnson county that Marshal Rankin had deputized each member of the raiding party, had the effect to arouse the people there to the highest state of excitement, and to create the most intense feeling of bitterness and indignation for and against the Marshal personally, and the Federal authorities generally.

As I have stated before, Marshal Rankin did not comply with your specific instructions to go to Johnson county at the head of a posse for the purpose of attempting to make the arrests of the men for whom warrants had been issued. He states to me that it was by reason of the sentiment existing there, created by circumstances, as set out in the foregoing paragraph, and by reason of numerous threats of the most violent character made to him in person, that caused him to entertain the feeling that he was a special mark for their bullets, and that he felt perfectly justified in not going to the scene of trouble without an adequate force of perfectly reliable men that he could depend upon, which force could not, in my opinion be obtained. I am perfectly satisfied that the Marshal used every effort that he could command to obtain men who had the reputation of being brave and courageous in cases of emergencies, and invariably, these men would decline to go. I have interviewed

a number of men to whom the Marshal applied for assistance in this matter, and I have yet to find but one man who felt that the expedition could have been conducted under competent leadership, with success. I have taken that gentleman's statement, and I respectfully invite your attention to it. It is marked Exhibit C.

It will be observed that Mr. Williams, the party making the statement, has no personal knowledge of the facts in the case, and he does not know of any person who would have accompanied him as a posse man, but simply thinks that he would have had the nerve to have conducted an expedition of that character. In this connection it is but proper for me to state to you, for whatever it is worth, that Mr. Williams is an applicant for the office of United States Marshal, should Marshal Rankin's resignation be accepted.

It will also be observed that his last statement is to the effect that he is acquainted with Sheriff Rogers of Crook County, and that he considers him a good man for dangerous work, and that he would give all credit to his opinion or judgment in this matter. Mr. Rogers, the sheriff of Crook county states that for a long time he has had in his hands a warrant for one of the men for whom a warrant has been issued by Commissioner Churchill, but that he considered Johnson county too dangerous a place to go, and that if he

did go, it did not matter how many he would take with him as a posse, he was of the opinion that the criminals could elude capture, by reason of the peculiarities of the country, and the fact that they could get assistance from the ranchmen in any part of the county, whereas, officers of the law would have been denied any assistance, whatever. I respectfully invite your attention to a statement bearing the signature of Sjeriff Rogers, accompanying this report, marked Exhibit D.

Without wishing to cast any reflection upon the character and integrity of any man who has made a statement, or who is interested directly, or indirectly, in the subject under investigation, I cannot help but feel that many of the statements and criticisms made in reference to Marshal Rankin's official conduct have been prompted by prejudice created by personal or pecuniary interests. I have reference particularly to my interview with Mr. Wm. C. Irvine who, together with Major Wolcott was one of the leaders of the invading party. I consider Mr. Irvine embittered and prejudiced in this matter, and being naturally of an impulsive character, I have not the fullest confidence in any statement he may make in reference to it.

I will now take up the charges against Marshal Rankin and

state to you the impressions and conclusions formed by me as a result of the many interviews I have had in connection with the man, and the impartial and unprejudiced inclination which have come to me voluntarily.

During my investigation each successive day has convinced me more strongly that Marshal Rankin was a man of courage, and would not shirk his duty under any circumstances if there was a possibility, in his judgment, or performing it.

The Marshal did not make public his efforts to secure good men to go to Johnson county, and the impression might have been formed in the minds of those who have charged him with cowardice, that he had made an effort to enforce the law. I firmly believe that the Marshal made every effort in his power to secure the best men in the state for the dangerous work he had in hand, and find it impossible to get their assistance, he exercised wise discretion in not attempting to execute the process of the Court with the aid of only a handful of inexperienced and unreliable men.

It may well be argued that if the Marshal had accompanied the posse which went to Johnson county on July 30th, it would probably have had a better effect upon the public mind, and saved him much of the unjust criticism made against him. I do not believe, how-

ever, even if he had gone with them at that time, that the chances for success would have been any more favorable.

With the exception of the statement of John Williams, referred to heretofore, I have not heard any criticism from a reliable source as to his action or courage except that which comes from the members of the invading party, who were as well equipped as fifty men could be, and who were captured in less than forty-eight hours after getting into that county, or from those directly or indirectly interested with the cattlemen, and the object sought to be accomplished by them.

From my interview with Mr. W. C. Irvine, I was strongly impressed that statements made by him and other members of the invading party, while they were imprisoned, were prejudiced, for, from his own lips I learned that statements made by him and sent to Washington were penned in heat of passion, and I consider that charges made under such circumstances were unfair and unjust, and not prompted by the proper motives.

Mr. Rankin did not go at the head of a posse as directed by you, because, as he freely and candidly admits, the danger was such that he was afraid to expose himself to the dangers awaiting him, with the support of men who could not be relied upon in cases of

emergency.

To a man who has lived in this country for twenty years, and who has come in contact, more or less, with the criminal element during that entire period, and who knows so well the character of the people with whom he has to deal, some latitude should be allowed for the exercise of his better judgment and discretion.

The testimony of the people generally, in Wyoming, is to the effect that Marshal Rankin's record as a brave and honest man, is one of which he may well be proud, and it stands untarnished until the charges were made against him, which occasioned this investigation.

The legal representatives of the cattle owners are among the most influential and most reputable citizens in the state, and the Marshal, in following their advise, had perfect confidence in them, and never questioned their motives which prompted their suggestions. I mention this in expkanation of the premature request for military aid in executing the process of the Court. In my opinion, the onl time when it was expedient to ask for the assistance of the Federal troops during this entire affair, was when Gov. Barber asked for aid to save the lives of the men who had unlawfully invaded Johnson county. It does not seem just that the responsibility for

the error in asking for Federal troops should rest entirely upon the shoulders of Marshal Rankin when it is known that such request was formulated and sanctioned by the legal advisers of the cattle-owners.

The Marshal is a man of limited education, but he possesses honor and integrity, which traits of character are fully as important, if not more so, in the western country. I have yet to hear one word reflecting upon Marshal Rankin's uprightness and honorable dealings, or upon his position as a man among men, from any source whatsoever.

The insinuations to the effect that Marshal Rankin has displayed, in any degree, cowardice or lack of courage is resented with abundance of warmth by fully ninety per cent. of the people with whom I have come in contact in Wyoming, and they do not hesitate to say that there must be some other cause prompting a desire or request for his removal from office. This sentiment is fairly represented by the expressions in the communications I hand to you herewith marked Exhibit E.

For your information I will state that these communications are from the very best class of men in the state, and whose words and opinions can be relied upon, and whose only motives are that justice be meted out to Marshal Rankin.

In Exhibit D. you will find a comprehensive statement which is worthy of fullest belief and credit over the signatures of J. L. Stotts, Register of the Land Office; J. W. Rogers, Sheriff of Crook county; A. C. Settle, Clerk of Crook Co. Court; L. M. Stone, stock raiser; M. Nicols, Prosecuting Atty. for Crook Co.; T. M. Pettigrew, Cash. of the First National Bank at Sundance; G. M. Stotts, stockgrower.

Exhibit E contains communications from Hon. C. D. Clark, Member of Congress from Wyoming, Dr. Grimes, physician at Cheyenne, De Forrest Richards, Pres. of the 1st Nat. Bank at Douglas, Hon. Wm. H. Parker, attorney at law, T. J. Carr, ex-U. S. Marshal for Wyoming, John McCormic, State Senator, Frank Hunter, Commission-merchant, John Manning, ex-sheriff, T. B. Hicks, Pres. 1st Nat. Bank, Cheyenne, Hon. O. P. Kellogg, ranchman, N. J. O'Brien, special agent U. S. Land office, R. S. Van Tassel, stock-grower.

These communications not only refer to Marshal Rankin's record for the entire period of twenty years, but refer also to the facts in a very clear and comprehensive manner connected with this invasion, setting out the danger attending any attempt to make arrests in Johnson county, and the difficulties which prevented Marshal Rankin from securing a posse of men to assist him, that could be

relied upon in cases of emergency.

The papers that I hand to you in connection with this investigation represents only a small portion of the persons interviewed by me, but they fairly represent the sentiment entertained by all who are not interested, directly or indirectly, with the cattlemen.

In conclusin, I beg to offer the suggestion that the criminals who were wanted under the warrants issued by the commissioner, have fled the country, and the lives of men have been saved, and much bloodshed prevented by the judicious course pursued by Marshal Rankin. I am firmly of the opinion that, had the Marshal gone to Johnson county and made an attempt to make arrests, under the circumstances, that many lives would have been lost unnecessarily, and much bloodshed, and that the expedition would have proved a failure

In this report I have endeavored to confine myself to the facts, and to give such information as would enable you to act justly in this matter.

I have the honor to be,

Very respectfully,

Frank B. Crosthwaite,

Examiner.

Attention is respectfully invited to statement of Maj. ___ Walcott
Marked Exhibit F.