

SCIOTE EVANS.

[To accompany bill H. R. No. 191.]

JANUARY 20, 1836.

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

REPORT:

*The Committee of Claims, to which was referred the petition of Sciote Evans; report:*

The petitioner states that he is a resident of the State of Indiana; that, on the 8th of June, 1832, he was called upon, by Joseph Roberts and Bazil Brown, for a horse, saddle, bridle, and blanket for the service of the United States, in a detachment of mounted volunteers ordered out by the Governor of Indiana, to march into Illinois and Michigan against the hostile Indians; that he understood the said Roberts and Brown were vested with authority to procure horses, &c. for said expedition; that he gave up his horse, saddle, bridle, and blanket, which went into the possession of one Robert Robertson, a volunteer, who marched in said detachment under the command of Col. A. W. Russell; that, after the troops had proceeded some distance on their march, the forage became exhausted, and, by order of the commanding officer, the soldiers turned their horses into the woods and prairies to graze; that his horse strayed off, and could never again be recovered by the said Robertson; that he, the petitioner, has never since recovered either his horse, saddle, bridle, and blanket, or received compensation for them.

It is proved by Joseph Roberts and Bazil Brown, that the petitioner furnished the horse, saddle, bridle, and blanket, for the service aforesaid, and that they were appraised to fifty-five dollars.

Robert Robertson proves that the said horse, saddle, bridle, and blanket, was the property of the petitioner; that they were furnished to him for the use of the United States in the said expedition, and that the horse was lost under the circumstances stated by the petitioner, without any fault or negligence on his, the said Robertson's, part; that, upon receiving orders to march, he was compelled to abandon further search for the horse, and that he deposited the saddle, bridle, and blanket, in a baggage-wagon attached to the detachment, and that they were lost without any negligence on his part.

Henry Brereton swears that he commanded a company in said detachment in which the said Robertson was a private, and that he lost his horse, &c. in the way he states.

The Hon. George L. Kinnard states, that he was an adjutant in said detachment, and fully sustains the statements of the petitioner and his witnesses. Mr. Kinnard further states, that the said Robertson afterwards obtained another horse for the balance of the time he was in service, and this obviates an objection raised by the Third Auditor, that the soldier was paid the usual allowance for a horse for the whole period of the expedition. The petitioner presents his claim to Congress, because it is believed not to come strictly within the provisions of the law of Congress, passed the 30th of June, 1834, that law embracing the property of persons only who were themselves in the service: and this is the construction given by the Third Auditor. The committee are of opinion that it is wholly immaterial whether the property lost was lost by the owner, or by another having the use of it. If it is lost under circumstances that would impose upon the Government an obligation to pay for it, payment should be made to either the owner or the person in whose possession it was, according to the circumstances of the case, taking care not to pay both. In this case, the soldier sets up no claim himself, but shows, so far as his testimony may be relied upon, that the petitioner is entitled to relief.

The committee think the petitioner entitled to relief, and have directed me to report a bill.