

SAMUEL NEELY.

[To accompany bill H. R. No. 392.]

MAY 28, 1844.

Mr. RUSSELL, from the Committee on Invalid Pensions, submitted the following

REPORT:

The Committee on Invalid Pensions, having had under consideration the petition and papers of Samuel Neely, report:

That the same claims were referred to the Committee on Invalid Pensions of the 27th Congress, who reported favorably thereon, and offered a bill for the relief of the petitioner; which bill passed the House, and in the Senate was referred to the Committee on Pensions, who, by their chairman, (the Hon. Mr. Bates,) made an adverse report thereon, in the words following:

"The Committee on Pensions, to whom was referred the bill (H. R. 456) for the relief of Samuel Neely, report:

"The petitioner states that, in 1792, he enlisted in Captain Alexander Gibson's company, and joined General Wayne's army; at an attack on Fort Recovery, on the 30th of June, 1794, by fifteen hundred Indians, he was wounded by a rifle-ball in the hip, which has disabled him. The only evidence of his enlistment, service, or wound having been received in service, results from his own statement and the testimony of Michael Fee. Fee says the petitioner did serve in Captain Gibson's company, in Major Peters's battalion, and was in the battle on the 30th of June at Fort Recovery, and in that battle was wounded in the hip.

"Two surgeons testify that 'they have examined the cicatrix of the petitioner's wound, and that the wound appears to have been made by a ball entering the hip and passing through one of the large muscles, and making its exit near the hip joint, so as, in a considerable degree, to interfere with his power of laboring for a support.'

"Another witness testifies that 'for twenty-five years the petitioner has been lame in his left leg or hip, and scarcely able to do any work, from the effects of a wound, according to his best knowledge and belief.'

"This is the substance of the testimony. The decisive battle of General Wayne was fought on the 20th of August, 1794, and not at Fort Recovery. Nor is it recollected that any battle was fought at Fort Recovery at the time and of the character stated by the petitioner. The witness Michael Fee does not testify that he was himself in the service, or had a personal knowledge of the infliction of the petitioner's wound. Forty

years elapsed after he received it, before he applied for a pension ; and he assigns no reason for the delay. There is no evidence from any officer of the company, or from the surgeon or superintendent of the wounded, nor is there any evidence from any soldier *known* to have been in the service with the petitioner. His wound notwithstanding, the petitioner says he continued in the service for more than a year after, and was discharged in August, 1795. The evidence is too slight. Wherefore,
 “*Resolved*, That the bill be indefinitely postponed.”

The petitioner has, since said adverse report, furnished additional testimony, the substance of which is as follows: Michael Fee testifies and says that he was in the United States service in the year 1794, in Captain Edward Butler's company, and joined General Wayne's army; that, at an attack on Fort Recovery, on the 30th of June, 1794, "Samuel Neely" was there, in Captain Gibson's company, and was wounded by a rifle-ball in the hip, which disabled him.

David Neely also states, under oath, that he enlisted as a private soldier in the United States army, in the year 1792, in the State of Virginia, in the company of Captain Alexander Gibson; that "Samuel Neely" enlisted, and was in the same service; that on or about the 30th of June, 1794, they were at Fort Recovery; that "Samuel Neely" was one of the number of forty persons who, under the command of Major McMahan, left said fort to reconnoitre; that when a short distance from said fort, they were fired upon by the Indians; that Major McMahan was killed with many others; and that "Samuel Neely" was then and there wounded in the hip by a rifle-ball; and further says that Samuel Neely served three full years, and until he was honorably discharged.

It appears also by a certificate of "A. G. Marchand" that an account is published in the "American Pioneer," vol. 1, p. 294, that on the last day of June, 1794, the Indians attacked Fort Recovery, but were repulsed; that Major McMahan and many others were on that day killed, &c.

After reviewing all the testimony, the committee are of the unanimous opinion that the petitioner is entitled to relief, and report a bill granting the prayer of the petitioner.