

THOS. W. TAYLOR.

[To accompany bill H. R. No. 34.]

FEBRUARY 29, 1840.

Mr. RUSSELL, from the Committee of Claims, submitted the following

REPORT:

*The Committee of Claims, to whom was referred the petition of Thomas W. Taylor, report:*

The claim of the petitioner in this case was presented at the last session of the 25th Congress, and referred to the Committee of Claims, and a favorable report made thereon, and a bill introduced for the petitioner's relief; but no further action was had thereon.

The committee have reviewed this claim, and approve the report then made thereon, and adopt it as a part of this report; and herewith report a bill for the petitioner's relief.

FEBRUARY 13, 1839.

*The Committee of Claims, to whom was referred the claim of Thomas W. Taylor for the appraised value of a horse, report:*

This claim was presented at the second session of the 24th Congress, and was referred to the Committee of Claims; but there was no report.

There is no petition in the case. The papers consist of depositions, made in April, 1833, by Fielder Parish, Abraham Hathaway, William Bennett, John Foley, and William Hill; a letter dated 4th of June, 1834, from Major Brant to James Baker; a letter dated January 16, 1834, from the claimant to the honorable William L. May; and one from the Third Auditor to the honorable E. Whittlesey.

It is alleged in the deposition of said Parish, that, in March, 1832, the claimant loaned, without hire, to Simeon Kelsey, a bay horse, about fifteen and a half hands high, seven or eight years old, to enable Kelsey to remove himself and family from Fulton county, Illinois, to the lead-mines; that Kelsey arrived in Galena some time in the spring; and that when hostilities commenced with the Indians in the Black Hawk war, the horse of Taylor was pressed into the service of the United States from the possession of Kelsey, and remained in service till the conclusion of the war, when he was sold to Abraham Hathaway at public auction.

Hathaway deposes that, at the sale of horses by order of the Government in the fall of 1832, he purchased, at auction, a horse of the description afore-

said, which was popularly known and called the "Kelsey horse," and sold as the horse taken from Kelsey.

Bennett states that he was one of the appraisers of horses taken into the service of the United States during the Indian disturbances in 1832; that he distinctly recollects two horses, both bays, taken from the possession of Simeon Kelsey, and appraised at \$110 each; that the horses were appraised as the property of said Kelsey; and that he did not know who the real owner was.

The deposition of John Foley refers to those of Parish, Hathaway, and Bennett, and declares that the deponent knew that the horse therein described was taken from Kelsey, and was sold by the deponent at auction to Hathaway, as before stated.

William Hill states that he lived in Lewiston at the time Kelsey left that place for the lead-mines in 1832; that he well knew the horse of T. W. Taylor, described in the foregoing depositions, and heard Kelsey say that the horse belonged to Taylor.

The letter of Major J. B. Brant states that Taylor's claim had been submitted to General Atkinson, who said he was not authorized to act in the case, and recommended a reference of it to the Secretary of War, or the Third Auditor.

The letter of the claimant to Mr. May is dated March 18, 1837, and states that he resided at the Des Moines rapids of the Mississippi; it states the loan of the horse to Kelsey; that it was impressed, and was afterwards sold by order of Brigadier General Atkinson, the United States receiving the pay; and that he had not received any thing for his horse.

The Third Auditor, in a letter to the chairman of the Committee of Claims, dated January 6, 1836, states that no claim had been presented at that office in the name of Kelsey; that there was a book at the office, containing the record of an "abstract of horses taken into the service of the 27th regiment of Illinois militia, during the Indian disturbances in 1832," and that William Bennett was one of the appraisers of the horses; that, in that abstract, there is an entry indicating that a horse of S. Kelsey, a bay, (no marks,) fifteen hands high, and appraised at \$110, was taken into service on the 21st of May; and the abstract appears to have at the end of it a statement, signed by the appraisers, dated September 13, 1832, that the appraisers were appointed by J. M. Strode, colonel commanding the 27th regiment Illinois militia, and as having "examined, measured, and appraised the value of the horses registered in the foregoing list, at the sums severally written opposite the names of the owners and description of the horses." The abstract does not appear to have any other entry in the name of S. Kelsey than that above alluded to. Mr. Hagner says: "With the accounts of Major Brant a return has been found, headed 'Abstract of sales at auction by John Atchison, quartermaster 27th regiment Illinois militia, in the service of the United States in 1832,' having on it a certificate of John Foley as auctioneer, in which there is an entry of the sale of a horse to A. Hathaway for \$28." The abstract contains a column headed "original owner," in which, opposite to the entries as to several of the horses sold, names are set down; but there is no name opposite the sale to Hathaway.

The United States have been credited with the proceeds of these sales.

Upon this evidence the committee are of opinion that the claim ought to be allowed. It would have been more satisfactory had it been supported by the testimony of Kelsey; but the claimant has removed to a great distance

from his place of residence ; it was not required of the claimant by General Atkinson ; and it does not appear that he has been notified of its necessity. The best evidence which can be procured ought generally to be required in the support of claims ; and this rule ought never to be departed from, except for strong reasons and under peculiar circumstances. Such reasons sometimes occur. And, in this case, the committee believe from the depositions, corroborated in the material facts by evidence from the War Department, that a horse of the claimant was taken from the possession of Kelsey into the service of the United States in the spring of 1832 ; that it was appraised at the sum of \$110 ; that it was sold in September following ; that the proceeds were accounted for to the Government ; and that neither Kelsey nor Taylor has received any compensation therefor. Under these circumstances, although the want of Kelsey's testimony is not particularly explained, yet, as the claimant's property was taken from him almost seven years ago, the committee do not think it would be just to delay this case for further evidence ; and they therefore report a bill.