

DANIEL SHERWOOD.

MARCH 24, 1836.

Read, and laid upon the table

Mr. E. WHITTLESEY, from the Committee of Claims, made the following

REPORT:

The Committee of Claims, instructed by a resolution of the House of Representatives on the 18th of February last, among other matters, to inquire into the expediency of allowing compensation to Daniel Sherwood for a horse lost by him during the late Indian disturbances in Illinois, report:

That said Sherwood deposes that he was classed off from one of the companies in Fulton county, for the purpose of standing a draft in the late Indian war on the frontiers of Illinois and Michigan; that he furnished a horse, appraised at fifty dollars by John Tharp, Stephen McGulee, and John Farnis, which was rode by Hiram Johnston, and lost during said campaign; that he was to look to the United States if the said horse was lost, and not to said Johnson. He says he has not received any compensation for said horse, nor is he entitled to any, except from the United States.

Hiram Johnston deposes: He was a soldier in said war, in a company commanded by Captain John Sain; that he rode a horse that belonged to Daniel Sherwood; that said horse was lost or stolen from his possession, without any fault or negligence; and that he never has received any compensation for said horse, nor is he liable to said Sherwood for said horse.

This claim, with others, was presented to the Third Auditor by William Elliott, jr. in June, 1835, for examination and allowance. The Third Auditor examined the roll of Captain Sain, and a list of horses which said Captain Sain had returned, that had died or were missing, and on neither of said documents was it noted that the said Johnston had lost a horse.

When Mr. Elliott presented this claim, with others, he accompanied it with a roll of said company, as made out by Lieutenant Burington.

The committee requested the Third Auditor to send both of the rolls; which were furnished.

The roll made out by Captain Sain is in the form ordinarily used in the military services of the United States, presenting the name and rank of the officers and non-commissioned officers, and the name of each private, and the time of service. A column of remarks shows who were on extra duty, or furloughed, and also the loss of the horses, or their being abandoned. The roll exhibits a full complement of officers and non-commissioned officers, and forty-five privates.

There was also a recapitulation, presenting the state and condition of the company, made in the usual form. Captain Sain certifies as follows:

"I certify, on honor, that this muster roll exhibits a true state of Captain Sain's company of the odd battalion of rangers of Illinois volunteers, in the service of the United States, for the period herein before mentioned; that the remarks set opposite to the name of each officer and soldier are accurate and just; and that the recapitulation exhibits, in every particular, the true state of the company.

JOHN SAIN,
Commanding the Company."

The adjutant and inspector general signed the following certificate:

"I certify, on honor, that I have carefully examined this muster roll; and that I have this, the 4th day of December, 1832, mustered out of the service of the United States, the above mentioned company of the odd battalion of mounted rangers.

E. S. BERRY,
Adjutant and Inspector General."

General Atkinson certifies the company served on the frontiers and, he presumes, is entitled to pay.

The name of Hiram Johnston is borne on this roll, as having served ninety days, the time said company was out; but nothing is said about his having lost a horse.

Mr. Hagner also furnished the committee with a schedule of the property taken into the service by said company. On which stands the name of "Hiram Johnston; horse valued at 50 dollars. The horse belongs to Daniel Sherwood."

The roll presented by Mr. Elliott to the Third Auditor, made out by Lieutenant Burington, is headed as follows:

"I, Levings Burington, of the county of Fulton, and State of Illinois, of lawful age, do depose, and on oath declare, that the following list of names is a correct roll of the volunteer company under the command of Captain John Sain, engaged in the late Indian war on the frontier of the State of Illinois and Michigan Territory. That said Captain Sain has, since the campaign, deceased; and that I was the first lieutenant, under said Captain Sain, of said company in said war."

Then follow forty-eight names, without any designation of rank or the time of entering or leaving the service, and without any column of remarks. Among the names is that of Hiram J. Johnston. At the foot of the list is the following:

"And I here further testify, that said horse went off in the night, with many others, from some unknown panic; and that said horse was lost without any negligence of the said Hiram J.

"Witness my hand and seal, this sixth day of November, A. D. 1834.

LEVINGS BURINGTON, [L. S.]"

"Subscribed and sworn to before me, this 6th day of November, 1834.

JOHN P. BAIN, J. P."

The whole number of officers, non-commissioned officers, and privates, borne on the roll made by Captain Sain is fifty-six, while the entire number on the roll made by Lieutenant Burington is forty-eight.

On comparing the two rolls, it was found the names were not the same, except in a few instances.

The committee, having doubted whether they related to the same period of service, requested Mr. Hagner to state whether Captain Sain and Lieutenant Burington were out for more than one tour. His answer is, they were not.

Lieutenant Burington's list contains but eight names that are on the list made out by Captain Sain. It presents a most remarkable instance of discrepancy, and is well calculated to create a distrust of official returns, even when accompanied by an oath.

The statement made by Lieutenant Burington is very imperfect; but it is evident he designed to state that Hiram Johnston lost a horse in said service, without any fault or neglect on his part.

The weight of the testimony sustains the accuracy of Captain Sain's roll, rather than that of Lieutenant Burington's. It is made out in form, and details the state and condition of the men and their horses, when horses are missing or disabled, with minuteness. It bears on the face evidence of accuracy. It has the official certificate of Captain Sain, and of Adjutant and Inspector General Berry, made at the time.

The company was paid by that roll, and no want of accuracy has been alleged. The committee therefore think the claim of Daniel Sherwood is not in the least strengthened by the statement made by Lieutenant Burington.

The claim rests alone on the testimony of Hiram Johnston; for although Mr. Sherwood testifies the horse was lost in said service, he must have made his statement from hearsay, as he could have known nothing personally. Hiram Johnston testifies the horse was lost or stolen, without any fault or negligence on his part; but he gives none of the attending circumstances, nor time or place.

In the opinion of the committee the roll of Captain Sain is much higher evidence than the testimony that sustains the claim.

The following resolution is submitted:

Resolved, The claimant is not entitled to relief.