

IN SENATE OF THE UNITED STATES.

MAY 22, 1840.

Submitted, and ordered to be printed.

Mr. HUBBARD made the following

REPORT :

[To accompany bill S. No. 349.]

The Committee of Claims, to whom was referred the bill for the relief of Edward Criddle, report :

That, accompanying the papers, there is a letter from the Third Auditor of the Treasury, giving a detailed statement of the facts in this case as exhibited by the evidence, and the reasons why the petitioner's claim could not be allowed by that officer.

The committee concur fully in opinion with the Third Auditor as to the general principles he has adopted in adjudicating upon claims of this description, and also as to the insufficiency of the evidence adduced by the petitioner to substantiate his claim, in accordance with those principles. They, therefore, recommend the printing of the Third Auditor's communication in connexion with this report, and submit the following resolution :

Resolved, That the bill be indefinitely postponed.

TREASURY DEPARTMENT,
Third Auditor's Office, April 20, 1840.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, enclosing additional testimony in support of a claim of Edward Criddle, heretofore transmitted by you, and requesting my decision on the case as early as possible.

The new testimony is contained in further depositions of himself and John Roy, and in another deposition of Governor Cannon. The claimant has testified that he was a private in Captain Newton Cannon's company of Tennessee volunteers in the first campaign against the Creek Indians in the fall of 1813; that the regiment to which he was attached was, at first, commanded by Colonel John Coffee; that, soon after the arrival in the Indian country, the regiment was divided into two, under the command of said Coffee as brigadier general; that one of the regiments was commanded by Colonel Alcorn, and the other, to which the claimant was attached as quartermaster, was commanded by said Cannon; that, a few days previous to the subdivision of the regiment, there being no food in

camp for the horses, they had to be subsisted in the best manner that the natural resources of the country afforded; that the claimant lost his horse when grazing; that the morning after the loss John Roy, the messmate of the claimant, was ordered to remain with him and aid in endeavoring to regain the horse; that they remained hunting the horse until the officer left in command ordered them to proceed and join the army, and abandon the further pursuit of the horse; that, not having been long in the army, he did not know the name of the officer who ordered him and Roy to give up looking for the horse; that in 1813 he was a single man, in 1814 he married, and in 1815 removed to Missouri, where he has continued to reside ever since; that in 1816, when the act of Congress passed to pay for lost horses, he was remote from his former residence and old associates, by whom he could establish all the facts necessary to entitle him to pay for his horse, and was also young and careless about it; but that his principal reason for not applying sooner was, that he understood it would be necessary to prove, by an officer, that he was ordered to abandon his horse, and he was then, and still is, unable to name the officer who ordered him and Roy to abandon the further looking for it; that the officer was a stranger to him, and he had no particular reason to inquire his name or recollect it; that he lost his horse in consequence of the Government failing to furnish forage; that the loss occurred sometime in October, 1813, the precise day he cannot state; and that he has not received from any officer or agent of the United States any horse in lieu of the one he lost in the service in 1813, nor any compensation for the same in any manner whatsoever.

In the deposition of John Roy, he has declared that Edward Criddle moved to Missouri in 1815; that he lost a horse in the first campaign against the Creek Indians; that the horse was once owned and sold by the deponent to Criddle's half brother, Alexander Smith, for \$75 or \$85, he does not recollect which; that it proved to be a better horse than they expected, and was, he thinks, richly worth \$100; that he knows a great many of the facts contained in Edward Criddle's affidavit of the 16th May, 1838, to be true, and verily believes every thing stated therein to be true; that the deponent remained under the command of Newton Cannon as colonel, and knows not why his name is not on the same roll with Criddle's; that he was wounded in the battle of Talledaga, and returned home; and that he afterward became a substitute for John S. Butler, and went to the Creek war and fought under Captain William Martin at the battle of the Horse-shoe.

The additional certificate of Governor Cannon is dated 5th June, 1838, and in it he has declared that he has examined Criddle's affidavit, and believes his statements to be substantially correct; that Criddle was first a private in his company in the first campaign of the Creek war in 1813, and, after the organization of the regiment of mounted riflemen he (the Governor) commanded, acted as quartermaster by his appointment; that it has been so long since these things transpired that he (the Governor) cannot recollect every particular circumstance referred to, and had none of the muster-rolls, papers, or documents, relating to the same; that John Roy was a private in his company, and continued in that situation during the campaign; that he was badly wounded in the second battle with the Indians at Talledaga, and is, and ever has been, reputed to be a man of veracity; that Major Criddle lost his horse; that the particulars and cir-

umstances attending the loss the Governor cannot now distinctly remember, it not having been brought to his notice until a few months ago; that Major Criddle left the State of Tennessee shortly after the campaign, and that he (the Governor) has not seen him since, nor heard from him on this subject until perhaps sometime during the past year.

The company the Governor in the first instance commanded was not registered under his name, but that of his successor; and hence the former search as to any service by him as captain, and as to the service of Criddle and Roy as members of his company, proved unsuccessful. It has now been found, that the successor of Governor Cannon in command of the company was Captain William Martin; and, on the rolls of that company, the Governor and Criddle are found to have been mustered from the 24th September to the 29th October, 1813, and Roy from the former date to the end of the service. As regards the horse, however, the additional testimony, as well as that previously adduced, is deemed to be quite inadequate to justify any award under the law I have to administer.

To render admissible by me a claim for the loss of a horse by its having been turned out to graze, it is necessary, as is signified in my former letter on the subject, to have clear proof that the loss was sustained without any fault or negligence on the part of the claimant, in consequence of the horse having been, *by order of the officer in the immediate command*, turned out to graze because the Government failed to supply sufficient forage. According to the claimant's deposition, the loss occurred before his appointment as quartermaster, and of course while serving as a member of the company then commanded by Captain Cannon. The Governor has not testified that any such order was issued by him; and his certificate declares explicitly that he cannot now remember the particulars and circumstances relating to the loss. The claimant does not allege that the turning of the horse out to graze was by the order of Captain Cannon, or any other officer; but has alluded to an order of some unknown officer for abandoning the search for it after its loss, respecting which no evidence would be available. On testimony given from memory after so great a lapse of time, and so uncertain and defective in its character as that herein noticed, no allowance can be made by me. Had the loss, in a manner provided for by law, been satisfactorily proved, the claim would have been liable to heavy deductions. As already indicated, the loss happened before the claimant's appointment as quartermaster. All the allowances he received while acting in that capacity, and between the time of the loss and his appointment, for the use of the horse at forty cents a day, and for forage for it, would have had to be deducted.

The papers received in your last letter, as well as the testimony previously transmitted, are herewith returned.

With great respect, your most obedient servant,

PETER HAGNER, *Auditor.*

Hon. L. F. LINN, *Senate.*