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Report : Claim of J. Hanks

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IN SENATE OF THE UNITED STATES.

MARCH 22, 1838.

Submitted, and ordered to be printed.

Mr. YOUNG submitted the following

REPORT:

[To accompany Senate bill No. 302.]

The Committee of Claims, to whom was referred the bill for the relief of Jacob Hanks, of Adams county, Illinois, with the accompanying papers and documents, submit, for the consideration of the Senate, the following report:

That the claim of Jacob Hanks is for compensation for a sorrel mare lost by him in the service of the United States, in the Indian war, on the frontier of Illinois and Michigan, in the year 1832. It appears from the depositions of Hanks, and of Captain Earl Pierce, under whom he served, that in the year 1832, he (Pierce) raised in the county of Adams, and State of Illinois, a company of mounted rangers by volunteer enrolment, under a proclamation issued by Governor Reynolds, of that State, for the defence of the northwestern frontier against an incursion of the Sac and Fox Indians, commanded by the celebrated chief Black Hawk; and that he (Hanks) was a volunteer member of that company and served in the capacity of corporal; that Hanks was mounted and performed service on a sorrel mare, valued at sixty-five dollars, by Samuel Ferguson and Preston Morris, also members of said company, who, it appears from the statement of the captain, were duly authorized to make such appraisement; that Captain Pierce marched with his company from the county of Adams, in said State, on the 8th day of June, 1832, and was mustered into the service of the United States, under the orders of General James D. Henry, who commanded one of the Illinois brigades of volunteers at Fort Wilburn, in LaSalle county, sometime during the same month; that from thence they marched in pursuit of the Indians, to the mouth of Bad Axe river, on the Mississippi river, where the said Hanks, about the 31st of July of the same year, unavoidably abandoned and lost his said mare in consequence of extreme fatigue and exertion, proceeding from a failure on the part of the United States to supply sufficient forage for her subsistence. It appears from the papers that this case has been submitted to the Third Auditor of the Treasury De-

partment for examination and allowance under the act of Congress of the — day of — 183—; and that the claim was rejected on account of a discrepancy between some old affidavits on file in that department, and the depositions now submitted, as to the time and manner of the loss, and an omission on the part of the captain to state the loss on his muster-roll. There is no allegation by Mr. Hagner that Captain Pierce has testified differently on any former occasion from the statements contained in his deposition now submitted, which was sworn to on the 12th of August, 1837. Captain Pierce, who is in no way interested, and in every respect entitled to credit, testifies fully and conclusively to the loss of the mare by Hanks, while in the service of the United States, and states that loss to have happened in consequence of a failure, on the part of the United States, to furnish sufficient forage for her subsistence. The committee are therefore reduced to the necessity of either allowing the claim, or deciding that Captain Pierce has committed perjury; which latter alternative they are by no means disposed to adopt. They have not followed the Third Auditor through his technical discussion of numerous supposed difficulties in the way of this claim; nor have they attempted to answer his logical deductions from supposed premises calculated to defeat the just intentions of Congress in respect to this meritorious class of our citizens; they have simply inquired into the fact of the loss; whether that loss occurred in the military service of the United States; its value; and whether it was occasioned by the fault or negligence of the Government. Having found these facts fully proved by incontestible evidence, the committee report the bill back to the Senate without amendment, and recommend its passage.

STATE OF ILLINOIS, }
 County of Adams. }

The deposition of Earl Pierce, captain of a company of mounted rangers attached to the second regiment of the third brigade of Illinois volunteers taken at the office of Henry Asbury, Esq., in the town of Quincy, on Saturday, the 12th day of August, A. D. 1837:

The said Earl Pierce doth depose and say: That, in the year 1832, he raised, in the said county of Adams, a company of mounted rangers, by voluntary enrolment, under a proclamation issued by his excellency John Reynolds, then Governor of Illinois, for the defence of our northwest frontier against an incursion of the Sac and Fox Indians, under the celebrated chief Black Hawk; that Jacob Hanks was a volunteer member of his company, serving in the capacity of corporal; that the said Hanks was mustered into service with a sorrel mare, valued at \$65, by Samuel Ferguson and Preston Morris, who were duly appointed as appraisers to assess the value of horses in said company; that he (the said Pierce) marched with his company from the said county of Adams, on the 8th day of June, 1832, and was mustered into the service of the United States, under General James D. Henry, at Fort Wilburn, on the Illinois river, and in the county of LaSalle, and State aforesaid, on the — day of June, 1832; that about the 31st day of July, in the same year, the said Jacob Hanks, while at the mouth of Bad Axe river, on the Mississippi river, unavoidably abandoned and lost his said sorrel mare, appraised at \$65, as aforesaid, in consequence of

extreme fatigue and exhaustion, and of the United States failing to supply sufficient forage for its subsistence.

EARL PIERCE, *Captain.*

Subscribed and sworn to before me, the 12th day of August, A. D. 1837.

HENRY ASBURY, [L. s.]

Justice of the Peace in Adams county, Illinois.

STATE OF ILLINOIS, }
County of Adams. }

The deposition of Preston Morris, of the county of Adams, and State of Illinois, taken at the office of Henry Asbury, Esq., in the town of Quincy, in Adams county, the 29th day of September, A. D. 1837 :

The said Preston Morris doth depose and say : That he volunteered, as private, in Captain Earl Pierce's company of mounted rangers, and marched from the said county of Adams on the 8th day of June, 1832, for the defence of the northwestern frontier, and was mustered into the service of the United States under the orders of General James D. Henry, at Fort Wilburn, on the — day of June, 1832; that before their arrival at Fort Wilburn, and previous to his being mustered into the service of the United States, he was duly appointed by the members of said company, as appraiser, to value the horses, and saddles, bridles, blankets, and other equipage belonging to said company; that he valued a sorrel mare on which Jacob Hanks was mustered into service, as a corporal in said company, at \$65; and further deponent says not.

PRESTON MORRIS.

Subscribed and sworn to before me, at my office in Quincy, this 29th day of September, A. D. 1837.

HENRY ASBURY, [L. s.]

Justice of the Peace in Adams county, Illinois.

STATE OF ILLINOIS, }
County of Adams. }

The deposition of Jacob Hanks, of the county of Adams, and State of Illinois, taken at the office of Henry Asbury, in Quincy, on Saturday, the 12th day of August, A. D. 1837 :

The said Jacob Hanks doth depose and say : That, in the year 1832, he volunteered, as a mounted ranger, in the company commanded by Captain Earl Pierce, which was raised in the county of Adams, and State of Illinois, under a proclamation issued by his excellency John Reynolds, then Governor of the said State; that said company was attached to the second regiment of the third brigade of Illinois mounted volunteers, in the late expedition against the Indians, on the frontiers of Illinois and Michigan, commanded by the celebrated chief Black Hawk; that he marched from the said county of Adams, on the 8th day of June, 1832, and arrived at

Fort Wilburn, on the Illinois river, on the — day of June, 1832, where he was mustered into the service of the United States under the orders of General James D. Henry, on a sorrel mare, valued at the sum of \$65, by Samuel Ferguson and Preston Morris, who were duly appointed to appraise the value of horses and equipage belonging to said company; that said appraisement was made at the said county of Adams, on the 8th day of June, 1832; that he marched from Fort Wilburn to the mouth of Bad Axe river, on the Mississippi river, at which last mentioned place, about the 31st day of July, 1832, he unavoidably abandoned and lost his said sorrel mare, in consequence of extreme fatigue and exhaustion, and of the United States failing to supply sufficient forage for her subsistence.

JACOB HANKS

Subscribed and sworn to before me, the 12th day of August, 1837.

HENRY ASBURY, [L. s.]

Justice of the Peace in Adams county, Illinois.

STATE OF ILLINOIS, }
County of Adams. } ss.

I, Nicholas Wren, clerk of the county commissioners' court, in and for the county of Adams, and State of Illinois, do hereby certify that Henry Asbury, Esq., whose name is subscribed to each of the foregoing certificates, was, at the times the same were made, an acting justice of the peace in and for the county and State aforesaid, duly commissioned and qualified, and that as such, full faith and credit are, and ought of right to be, given to all of his official acts.

In testimony whereof I have hereunto set my hand, and affixed the seal of the county commissioner court, of said county, at my office [L. s.] in Quincy, this 30th day of September, A. D. 1837, and of the independence of the United States the 62d.

NICHOLAS WREN, Clerk.

TREASURY DEPARTMENT,

Third Auditor's Office, January 30, 1838.

SIR: I have the honor to enclose papers received from you, consisting of a power of attorney from Jacob Hanks, and depositions made by him, Captain Earl Pierce, and Preston Morris. Captain Pierce has testified that Hanks was a corporal of his company, and was mustered into service with a sorrel mare, valued at \$65; that about 31st July, 1832, said Hanks, while at the mouth of Bad Axe river, on the Mississippi river, unavoidably abandoned and lost his mare, in consequence of extreme fatigue and exhaustion, and of the United States failing to supply sufficient forage for its subsistence. Hanks has, in his deposition, given similar testimony, and Morris has testified that he was one of the appraisers appointed to value the horses, &c. of the company, and that the mare of Hanks was valued at \$65. This testimony is all of recent date. On resort to the muster roll of Captain Pierce's company, made out at the time of the discharge, and which and the remarks thereon are certified, he has certified to be accurate and just,

there are found to be remarks as to losses sustained, by various other members of his company, but none as to any loss by Hanks. Among the names of members present, at the time of discharge, that of Hanks does not appear; but, opposite the place for it, there is a note which has been altered in the manner here represented: (*on foot*), "August 4, 1832, (*sick*.) Return home." This indicates that he was absent, and that the captain could not then have known of his having sustained any loss. In 1833, other depositions of the claimant, the captain, and the appraiser, were made, and are now on file in this office; and, according to the one made by the claimant, his horse failed, and gave out near Rushville, on or about 20th August, and died on 22d of that month. Rushville appears to be in Schuyler county, adjoining Adams county, in which the claimant, and other members of the company, appear, by the muster roll, to have resided, and the date at which the horse is declared to have died there, is six days after the time of discharge of the company. This accounts for there being no note of the loss on the muster roll. The United States are under no liability to supply forage in kind for volunteers, while returning home, after discharge, or on furlough; and, of course, there could have been no failure, on their part, in not supplying it in this case. The provisions of the law, as to losses caused by the non-supply of sufficient forage, are limited to cases in which the same were sustained in consequence of the United States failing to supply it.

With great respect,

Your most obedient servant,

P. HAGNER,

Auditor.

Hon. R. M. YOUNG,
Senate.