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Report : Claim of A. Westfall

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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. 201.]

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

That the claim of Alfred Westfall is for compensation for a sorrel horse, 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 Westfall, and Beauford S. Morris, late 1st lieutenant in Captain Earl Pierce's company of mounted volunteer rangers, under whom the said Westfall served, that in the year 1832, Captain Earl 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, under the noted chief Black Hawk; that the said Alfred Westfall was a volunteer member of that company; and served in the capacity of a private; that he was mounted and performed service on a sorrel horse, valued at seventy-five dollars, and his equipage at twenty dollars, by appraisers duly appointed to value the horses and equipage belonging to said company; that Captain Pierce marched with his company from the county of Adams, about the 8th day of June, 1832, and was mustered into service, and attached to the second regiment of the third brigade of Illinois mounted volunteer rangers, at Fort Wilburn, in LaSalle county, in said State, about the 16th of the same month; that from thence they marched in pursuit of the Indians into the Wisconsin Territory, on the east side of the Mississippi river, about forty miles above the village of Prairie du Chien; that, on or about the 4th or 5th of August of the same year, the said horse had become so weakened and reduced, in consequence of the failure of the United States to furnish forage for his subsistence, and being remote from any settlement, that both him and his equipage had necessarily to be abandoned, and were lost while in the military employment of the United States. Westfall further states, in his affidavit, that Captain Earl Pierce, under whom he served, is supposed

to have moved to the Republic of Texas, and that Beauford S. Morris was the first lieutenant of the company, and the highest grade of officer left by whom he can prove his services and his loss.

It appears from the papers, that this claim has been recently submitted to the Third Auditor of the Treasury Department for adjustment, and that it has been disallowed, on account of a supposed discrepancy between a former affidavit of Westfall, on file, and the one now submitted, and an omission, by Captain Pierce, to make any mention of this loss on his muster-roll. The Third Auditor proceeds to remark that "other losses, by various members of the company, are mentioned on the muster-roll, but none as to Alfred Westfall; that his name does not appear among those of the members present at the time; but that, opposite to the place for it, there is this note: 'Furlough, August 4, 1832.'" This note, Mr. Hagner contends, manifests that no loss, prior to the granting of the furlough, was known to the Captain. To rebut this presumption, Lieutenant Morris states, in his affidavit, that about the 1st of August, he was detached for a short time from Westfall; that, at the time of their separation, Westfall's horse was very much reduced by reason of the United States having failed to furnish necessary forage for his subsistence; and that, when he (Morris) again joined the party with which Westfall had marched at the time of their separation, about two weeks afterwards, he understood from the party that Westfall's horse had been abandoned, having become too weak to travel; that he did not again see Westfall until he arrived at home, as he (Westfall) had been furloughed and returned home in a steamboat, "in consequence of his horse having been lost." Here, then, is the positive, disinterested testimony of Lieutenant Morris, that Westfall went out upon the campaign against the Indians, with a horse, and that he returned home without one, against the doubts and conjectures of the Third Auditor, which induced him to reject this claim. The committee believe that it was the intention of Congress to compensate those who had actually sustained losses while in the service of their country, and by no means to require that technical nicety as to places, dates, and values, which is never required, even in our most rigid courts of justice. They have, therefore, simply required into the fact of the loss; whether the loss occurred while the claimant was in the military service of the United States; the value of the horse and equipage lost; and whether it was occasioned by the default of the Government to supply forage. Having found these facts sufficiently proved by the deposition of Lieutenant Morris, with the exception of the value, which is proved by the affidavit of Westfall, and the admission of the Third Auditor, the committee report the bill back to the Senate without amendment, and recommend its passage.

STATE OF ILLINOIS, }
Adams county. }

The deposition of Alfred Westfall, of the county of Adams, and State of Illinois, taken this 14th day of November, A. D., 1837:

The said Alfred Westfall 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 State of Illinois; 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 or about the 8th day of June, 1832, and arrived at Fort Wilburn on or about the 16th day of the same month, where he was mustered into the service of the United States under General Henry, on a sorrel horse, valued at seventy-five dollars, and his equipage was valued at twenty dollars, by appraisers duly appointed to value horses and equipage for said company; and that on or about the 4th or 5th of August, then next ensuing, in consequence of the United States failing to supply sufficient forage, his said horse had become so reduced and weakened that he was compelled to abandon him, together with his equipage aforesaid, in consequence of which his said horse and equipage were entirely lost. The said horse and equipage were abandoned on the east side of the Mississippi river, in what this deponent supposes to be Wisconsin Territory, about forty miles above Prairie du Chien, remote from any settlement. The captain of said company has left this place, and it is supposed that he has gone to Texas; that Beauford S. Morris, first lieutenant, is the highest officer of whose proof it is in the power of this deponent to avail himself.

ALFRED WESTFALL.

Subscribed and sworn to before me, this 14th day of November, 1837.

[L. s.]

ROBERT R. WILLIAMS, J. P.,
Adams county, Illinois.

STATE OF ILLINOIS, }
Adams county. }

The deposition of Beauford S. Morris, first lieutenant of a company of mounted rangers, attached to the second regiment of the third brigade of the military mounted rangers or volunteers of the State of Illinois:

The said Beauford S. Morris doth depose and say: That, in the year 1832, about the 8th day of June, a company of mounted volunteers was raised in Adams county, Illinois, which was attached to the regiment and brigade above named; and that about the 16th of the same month, said company was mustered into the service of the United States, in the late expedition against the Sac and Fox Indians, under the celebrated chief Black Hawk; that Alfred Westfall was attached to said company; that some time about the 1st of August, then next ensuing, this deponent was detached from said Alfred Westfall; that when said Westfall left said deponent, his (Westfall's) horse was very much reduced, by reason of the United States having failed to furnish necessary forage. When this deponent joined the party with which Westfall marched, at the time he became detached from said Westfall, (about two weeks after,) he understood, from the party, that said Westfall's horse had been abandoned, having become too weak to travel. He did not see said Westfall until he arrived at home, as Westfall was furloughed, and came home by steamboat, in consequence of his horse having been lost. The horse on which Westfall was mounted, was a sorrel horse; but do not recollect the appraised value of said horse.

BEAUFORD S. MORRIS.

Subscribed and sworn to before me, a justice of the peace for Adams [L. s.] county, Illinois, this 14th day of November, A. D., 1837.

ROBERT R. WILLIAMS, J. P.

STATE OF ILLINOIS, } ss :
Adams county, }

I, Nicholas Wren, clerk of the county commissioners' court, in and for the county of Adams, and State of Illinois, do hereby certify, that Robert R. Williams, Esq., whose name is subscribed to the foregoing certificate, was, at the time the same was 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 his official acts.

In testimony whereof, I have hereunto set my hand, and affixed the seal of the county commissioners' court of said county, at my office, in [L. s.] Quincy, this fourteenth day of November, in the year of our Lord one thousand eight hundred and thirty-seven.

NICHOLAS WREN,
*Clerk of the County Commissioners' Court of
 Adams county, and State of Illinois.*

TREASURY DEPARTMENT,
Third Auditor's Office, January 30, 1838.

SIR: I have the honor to return the power of attorney of Alfred Westfall, and depositions of him and Lieutenant Beauford S. Morris, received from you.

Westfall, in his deposition, has testified that, in 1832, he volunteered in the company of Captain Earl Pierce, and was mustered into the United States service at Fort Wilburn, on a sorrel horse valued at \$75 and equipage at \$20; that, about 4th or 5th August, in consequence of the United States failing to supply sufficient forage, his horse became so reduced and weakened, that he was compelled to abandon it, together with his equipage, on the east side of the Mississippi river, about 40 miles above Prairie du Chien, remote from any settlement; that the captain has, it is supposed, gone to Texas, and that Morris, 1st lieutenant, is the highest officer whose proof it is in the power of the deponent to avail himself. The lieutenant, in his deposition, has testified, that Alfred Westfall was attached to the company; that some time about 1st August, he, the lieutenant, was detached from Westfall; that when Westfall left the deponent his horse was very much reduced, by reason of the United States having failed to furnish necessary forage; that when the deponent joined the party, with which Westfall marched about, two weeks after, he understood, from the party, that Westfall's horse had been abandoned, having become too weak to travel; that he did not see Westfall until he arrived at home, as Westfall was furloughed and came home by steamboat, in consequence of his horse having been lost; that the horse was a sorrel, and that he does not recollect its appraised value.

These depositions appear to have been made on the 14th November last, and that of the lieutenant evinces the most material point of his testimony to rest on information, and not on any actual knowledge of the loss.

On reference to the muster-roll of Captain Pierce's company, made out at the time of discharge, and which, and the remarks thereon are certified

by him to be accurate and just, there are found to be upon it remarks as to losses by various members of his company, but none as to any by Alfred Westfall. His name does not appear amongst those of the members present at the time, but opposite the place for it, there is this note: "Furlough, August 4, 1832." This manifests that no loss by him, prior to the granting of the furlough, was known of by the captain; and Westfall, it is found, in May, 1831, made a deposition which is now on file in this office, containing testimony as to the time and place of the loss, varying from that contained in the deposition received from you, it being described as having happened near Fort Dixon, about 15th August, 1832, eleven days, it will be seen, after he received his furlough. For a loss sustained by a claimant, while on furlough, no allowance can be made.

The United States were under no liability to supply forage in kind to a volunteer while on furlough, and of course there could have been no failure on their part in not supplying it.

With great respect,
Your most obedient servant,
P. HAGNER, *Auditor*.

Hon. R. M. YOUNG, *Senate*.