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### Report : Petition of R. Ross

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IN THE SENATE OF THE UNITED STATES.

APRIL 25, 1882.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT :

[To accompany bill S. 1102.]

*The Committee on Military Affairs, to whom was referred the bill (S. 1102) for the relief of Rufus Ross, have duly considered the same, and submit the following report :*

This bill directs the Secretary of the Treasury to pay Rufus Ross, or his heirs, the pay and allowances of second lieutenant of Company H, Second Regiment Indiana (Indian) Home Guards, from September 26, 1863, to May 5, 1864. Your committee referred the bill to the Secretary of War for information and report, and received from him the following :

WAR DEPARTMENT,  
Washington City, April 19, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, inclosing S. 1102, Forty-seventh Congress, first session, a bill directing payment to be made to Rufus Ross, or his heirs, of the pay and allowances of a second lieutenant of Company H, Second Regiment of Indiana (Indian) Home Guards, from September 26, 1863, to May 5, 1864; also inclosing petition of Rufus Ross, dated in 1874, and a letter dated January 31 last, from some person who says he was the colonel of the regiment, said letter not bearing the signature of the writer.

In reply to your request to be furnished with the military history of Rufus Ross, and to be advised as to what action, if any, has been taken by this department on the claim, I beg to invite your attention to the inclosed report, dated April 18, 1882, from the Adjutant-General, which contains the information requested.

In accordance with your request, I return herewith the inclosures to your letter.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,  
Secretary of War.

Hon. F. M. COCKRELL,  
Of Committee on Military Affairs, United States Senate.

WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
Washington, D. C., April 18, 1882.

SIR: I have the honor to return herewith the communication of Hon. F. M. Cockrell, of Committee on Military Affairs, United States Senate, inclosing S. bill No. 1102, for the relief of Rufus Ross, and papers relative to his claim for recognition as second lieutenant Company H, Second Regiment Indian Home Guards, and to report as follows:

The records of this office show that the second regiment Indian Home Guards was raised under authority of the Secretary of War, communicated by letter dated April 4, 1862, from the Adjutant-General of the Army to Major-General Halleck, commanding Department of the Mississippi, for the purpose of restoring their lands to the loyal

Indians, and affording them protection while planting their crops. This regiment, composed of Osage and Cherokee Indians, was organized at Big Creek and Five Mile Creek, Kansas, from June 22 to July 18, 1862 (on which latter date John Ritchie was mustered in as its colonel), to serve three years. The original Company E, composed of Osage Indians, deserted in September, 1862, and a new company of Cherokee Indians was organized November 11, 1862, for three years, and assigned to this regiment as Company E. The regiment was mustered out May 31, 1865, per Special Orders No. 110, Department of Arkansas, May 8, 1865.

Under the provisions of War Department General Orders No. 48, of 1863, a person commissioned or appointed to be an officer must, as a preliminary to muster in on his commission or appointment, have been in receipt of such commission or appointment from competent authority, have been physically qualified for the duties thereof, and have been present with his command; and under section 20 of the act of Congress approved March 3, 1863, and War Department General Orders No. 182, of 1863, based thereon (copy herewith), no person could enter upon duty as a second lieutenant in a company reduced below the minimum strength.

The records of this office show that Rufus Ross was never appointed second lieutenant, Second Regiment Indian Home Guards, and, further, that an application made by the commanding officer of the regiment in January, 1864, for his appointment as such, and forwarded through the commanding general of the department in which the regiment was serving, was returned not approved.

There is no record evidence that Mr. Ross rendered any service whatever as a second lieutenant in Company H, Second Regiment Indian Home Guards, as his name does not appear on any of the duly certified rolls of that company and regiment on file in this office. The records also show that during the period from September 1, 1863, to May 5, 1864, the company (H) was greatly reduced below the minimum strength, and therefore was not entitled under the law to an officer of the grade of second lieutenant.

The claim of Mr. Ross for recognition as of the grade and regiment mentioned was rejected by the department for the reasons stated, and the adverse decision communicated to him by letter from this office dated February 19, 1867.

There is nothing of record in the department which would sustain the action proposed by this bill.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,  
*Adjutant-General.*

The honorable the SECRETARY OF WAR.

The report of the Adjutant-General is conclusive of this application for relief. Under the law and orders, no appointment of a second lieutenant for Company H, Second Regiment Indian Home Guards could have been legally made at any time from September 26, 1863, to May 5, 1864, by any authority. In fact, no appointment was ever made of Rufus Ross as second lieutenant. Major Wright, commanding said regiment on January 17, 1864, recommended Rufus Ross for appointment as second lieutenant Company H, which recommendation was duly forwarded to the Secretary of War, and was duly disapproved March 19, 1864, and returned to the regiment. In 1867 the War Department properly refused to recognize said Ross as a lieutenant or to pay him as such. The company rolls do not show that Ross ever performed services as lieutenant. Even if he did, it was without proper authority and without sanction of the law.

Your committee report the bill back to the Senate, with the recommendation that it be indefinitely postponed, and the claim be not allowed, and this report be approved.