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Report : Petition of W. Wootten

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S. Doc. No. 434, 27th Cong., 2nd Sess. (1842)

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IN SENATE OF THE UNITED STATES.

AUGUST 22, 1842.

Ordered to be printed.

Mr. GRAHAM submitted the following

REPORT :

The Committee of Claims, to whom was referred the petition of William Wootten, report :

That the petitioner alleges that, on the 9th May, 1836, he was the owner of a wagon, team, and a negro driver, which were thrown out of employment by the outbreak of Indian hostilities in Russell county, Alabama, where he resided. That he placed said wagon, team, and driver, under the control of John Wooten, a brother of petitioner, to whom he alleges, that he gave directions not to permit it to be hired in the military service, because he apprehended that his driver would not be valued, when taken into service, and because he supposed he might be restored to his farm in time to work a portion of his crop of that season, and would need his horses for that purpose.

The petitioner further alleges, that, he being twenty-eight miles from Columbus, Georgia, whither his wagon had gone in search of employment from individuals, his wagon, team, and driver, were impressed into the service of the United States, and immediately ordered off to Roanoke, some thirty or forty miles below Columbus, and seventy miles from the temporary residence of the petitioner. That the wagon, team, and driver, being thus taken out of the reach of the petitioner, he never saw them again. He admits that he saw one William Townes, who is shown by other evidence to have been a quartermaster, to whom the wagon and team were hired, after his property was thus taken, but did not make any demand from him, because, "he had learned that the wagon was then out of his reach," and because he knew that Townes was too much a subaltern to make restitution, and that if he followed the army he could not prove his property.

And he therefore prays that he may be paid the sum of seventeen hundred dollars, the value affixed to his property by disinterested persons.

The petitioner also produces the affidavit of his brother, John Wootten, who admits his agency as before alleged, and that he had instructions not to hire the property in the public service. He also states, that believing it not to be a violation of instructions, he did hire the said wagon, team, and driver, to the said William Townes, quartermaster, as aforesaid, to transport some army baggage, for one day only, that day being the 20th of June. That he did not enrol the wagon in the service of the United States. "That he knew not that the wagon, team, and driver, were in the United States service until some days afterward. It was then at a distance from Columbus, and deponent's engagements would not permit him to

follow ; nor did he believe that he could have obtained them. He further swears, that William Wootten did not see his wagon and team from the time it was taken into service until it was *destroyed by lightning*. Nor had deponent until the day before, or some very short time before."

Petitioner also exhibits an affidavit of E. J. Ingram, who says, that he was present when William Wootten demanded pay of William Townes, who was or seemed to be acting by authority for the army of the United States, for certain horses, wagon, and negro man, a driver, destroyed by lightning, the same having been by him, Townes, impressed into the service of the United States. That Townes at first denied that he had impressed William Wootten, wagon, and team, and driver, but that he had hired the same from said Wootten's son, John Wootten. That John Wootten was then brought forward, and Townes acknowledged that he did not make said contract with John Wootten, but with John Wootten's brother ; John Wootten having no brother, &c. This being stated, the said Townes frankly confessed that he put it into the service of his own accord, and that he had John Wootten's name recorded on the books of the Department from information derived from the negro. That he heard William Wootten before the impressment, and long before the destruction, that he had instructed his agent in Columbus not to suffer them to go into the public service, and knowing it was contrary to his wishes, he spoke to the agent, who said it was contrary to his wishes, and without any agency of his.

The deposition of William Wootten is then produced, who states that he was employed in June, 1836, to assist Major Wait, quartermaster, to procure wagons from the service of the United States. That on or about the 15th of June, deponent was ordered by the major general from Camp Georgia to a place a little below Columbus, Georgia. That it became thereby necessary to effect transportation of baggage to employ some wagons additional to those already in service. That those were engaged for one day only. That ten or a dozen wagons were employed for that day at from five to eight dollars each. That the wagon of William Wootten was employed at five dollars. That after performing the agreement for one day, this wagon was continued in the service by this deponent, it being needed. That this continuance was at first without the knowledge or consent of the said William Wootten, he being absent from Columbus at that time. That however, the said William Wootten returned in a few days, and said nothing to deponent, by way of either objecting or acquiescing in relation to his wagon as aforesaid. Deponent also states, that a few days before the retention aforesaid, William Wootten applied to enter his wagon, and team, and driver, into the service, and so this deponent thought a continuance in service would meet his approbation. He also proves that the destruction was by lightning, and in the town of Columbus.

In view of the whole of this evidence, the committee are of opinion that petitioner was cognizant of the employment of the wagon, and team, and driver, in the public service, and acquiesced therein ; and that the destruction complained of, taking place at Columbus, where his agent resided, and where he himself was for several days beforehand, without making objection, was an accident unavoidable. The consequences of which must be borne by the owner of the property.

They therefore recommend the adoption of the following resolution :

Resolved, That the prayer of the petitioner ought not to be granted.