

3-17-1884

## Report : Claim of J. Fletcher

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IN THE SENATE OF THE UNITED STATES.

MARCH 17, 1884.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 542.]

*The Committee on Claims, to whom was referred the bill (S. 542) for the relief of John Fletcher, have carefully considered the same, and report as follows :*

In May, 1870, the claimant entered into a contract with the United States whereby he agreed to deliver at certain military posts in Kansas and the Indian Territory so much fresh beef as the acting commissary of subsistence at the respective posts might require him to furnish. In November, 1870, while the claimant was en route from Fort Dodge, Kans., to Camp Supply, Ind. Ter. (one of the posts which he had contracted to supply with beef), with 125 head of beef cattle, his cattle were stampeded by Indians, and 69 head of them were driven off by the Indians, and never afterwards recaptured. The claimant asks to be paid the value of the cattle so taken.

It is difficult to see upon what ground such a request can be made. The beeves were to be delivered at the respective posts, and until so received were not the property of, nor within the cognizance of, the Government. It is presumable that in contracting to furnish the beef the claimant took into consideration the risks incident to so doing, and made his prices at a corresponding figure. If he did not do this he was guilty of such gross want of business sagacity that he can hardly ask the United States to make good his losses.

The fact that the beeves were intended for the ultimate use of the Government cuts a figure in the case. Until delivered they were his individual property subject to his own risk. This committee has several times refused, this session, to report favorably upon claims arising from Indian depredations, where the claimants were working for gain in a country known to be dangerous because of hostile Indians at the time of their losses. The United States cannot undertake to insure parties with whom it may contract against possible damage from a foreign or a domestic foe. Parties so contracting are presumed to take into consideration all the risks incident to the performance of their contracts, and to charge the Government accordingly.

The committee think the claim should not be allowed, and report back the bill with recommendation that it do not pass.