

1-31-1884

Report : Claim of I. Minor

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IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1884.—Ordered to be printed.

Mr. DOLPH, from the Committee on Claims, submitted the following

R E P O R T :

[To accompany bill S. 422.]

The Committee on Claims, to whom was referred the bill (S. 422) for the relief of Isaac Minor, administrator of the estate of John Saf, deceased, having considered the same, and accompanying papers, submits the following report:

John Saf furnished to E. R. Dodge, United States Indian agent at Hoopa Valley Indian Reservation, California, during the first and second quarters of the year 1874, under a contract between himself and said agent, dated January 1, 1874, and approved by the Commissioner of Indian Affairs, Board of Indian Commissioners, and the Secretary of the Interior, 55,838 pounds of beef, and during the third quarter of the same year he also furnished 35,071 pounds of beef, purchased in open market by the said agent. The beef so purchased was taken up and accounted for by said agent in his property account for the first, second, and third quarters of said year.

The said contract of January 1, 1874, contains the following provision, viz:

The said John Saf shall receive nine cents gold coin, or ten cents United States currency per pound for every pound of fresh beef delivered and accepted under this contract.

And in an affidavit of the claimant filed with the papers it is stated that at the date of the contract and at the place of its execution currency was worth but 70 cents on the dollar.

The vouchers for the beef furnished as aforesaid were made out, at the time the beef was furnished, in currency, at 10 cents per pound, it being in the interest of the United States, at the then value of currency, to do so.

The vouchers were for 55,838 pounds of beef, at 10 cents per pound, \$5,583.80; and for 35,071 pounds of beef, at 5 cents per pound, \$1,753.55. These vouchers were not paid for want of funds. The appropriation had been exhausted before the purchases were made.

Prior to the 12th day of May, 1875, said John Saf died, and Isaac Minor was duly appointed administrator of his estate.

Under the act of Congress approved August 7, 1882, authorizing the accounting officers of the Treasury to examine and audit all claims theretofore filed in the Department for services rendered and supplies furnished under direction of the Indian Bureau, or of any of its agents, &c., this claim, amounting in the aggregate to \$7,337.35, was presented

to the proper accounting officers of the Treasury to be examined and audited. The claim was audited for the full amount by the Second Auditor, but when it reached the Second Comptroller it was returned by him to the Second Auditor for restatement, accompanied with a letter, of which the following is a copy:

TREASURY DEPARTMENT,
SECOND COMPTROLLER'S OFFICE,
Washington, D. C., January 5, 1883.

SIR: I have the honor to return herewith the account of John Saf, deceased, for \$7,337.35, reported under act of August 7, 1882, and respectfully invite your attention to the fact that said account is stated for 55,838 pounds beef, delivered under contract at 10 cents per pound, when the contract calls for 9 cents per pound, in coin, in which currency the Government is now prepared to pay.

I would therefore suggest that the claim be restated for amount received under contract at 9 cents per pound, and the open market purchase 35,071 pounds at one-half the contract rate, which is $4\frac{1}{2}$ cents per pound.

The contract is herewith transmitted for your inspection, with request for its return.

Very respectfully,

W. W. UPTON,
Comptroller.

Hon. O. FERRISS,
Second Auditor.

The Second Auditor adhered to his previous statement, but was overruled by the Second Comptroller, and the sum of \$6,603.62 allowed; and \$733.73 disallowed. The reason for the disallowance of said sum of \$733.73 is explained by a statement of differences of which the following is a copy:

Statement of differences arising in the settlement of the accounts of John Saf, deceased, for beef furnished for the Indian service at the Hoopa Valley Agency, California, from January 3 to June 30, 1874, under contract of January 1, 1874, also open market purchase of beef, third quarter, 1874.

Amount claimed	\$7,337 35
Amount allowed	6,603 62
Difference	733 73

Explained as follows:

The contract rate for beef delivered at the above agency was 9 cents per pound net in coin, or 10 cents in currency. The Government being now prepared to pay as per the terms of said contract, 1 per cent. of amount allowed by the Second Auditor will be disallowed, viz: 55,838 pounds at 10 cents per pound, \$5,583.80—1 per cent., \$558.38. The amount allowed by the Second Auditor for 35,071 pounds of beef, purchased in open market at 5 cents per pound, or \$1,753.55, is allowed by this office at one-half the contract coin rate, or $4\frac{1}{2}$ cents per pound net, \$1,578.20, the difference $\frac{1}{2}$ per cent. is disallowed, \$175.35; difference explained, \$733.73.

E. J. DOWLING.

SECOND COMPTROLLER OFFICE.

It appearing that under the express provision of the contract of January 1, 1874, the Government, should it pay for the beef furnished in pursuance of the contract, at its option, might pay for it at the rate of 10 cents per pound in currency, or 9 cents per pound in coin, your committee is unable to perceive that the claimant is entitled to further relief in regard to that portion of its claim.

It does not appear what the precise terms of the contract of purchase in open market were, but in the absence of evidence upon this point the action of the Second Comptroller must be presumed to have been correct.

The amount disallowed upon the vouchers for beef purchased by the

agent in open market was \$175.35.5. In view of the price of currency at the time this beef was purchased, your committee are of the opinion that the claimant has no just cause of complaint on account of the action of the Second Comptroller.

Neither the contract of January 1, 1874, nor the purchase in open market, was authorized by law. Mr. Saf must have understood that the United States was neither a party to his contract with the agent nor bound by it. The United States never became a party to the transaction until the passage of the act of August 7, 1882.

Your committee are further of the opinion that Congress, having provided for the examination and auditing of this claim, and the claimant having presented his claim to the tribunal so provided, and having taken the benefit of its decision, he should abide by it.

Your committee therefore recommend that the bill do not pass.

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