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James Elder.

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Recommended Citation

H.R. Rep. No. 441, 23rd Cong., 1st Sess. (1834)

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JAMES ELDER.

MAY 2, 1834.

Read, and laid upon the table.

Mr. E. WHITTLESEY, from the Committee of Claims, made the following

REPORT :

The Committee on Claims, to which was referred the petition of James Elder, report,

That the petitioner was employed to transport the baggage of a part of the Cherokee tribe of Indians in North Carolina, that emigrated west of the Mississippi. He says, and it is proven by the deposition of Ruley Jackson, that in crossing Beaver dam creek a tributary of the Hiwapec, he lost two horses by drowning of the value of seventy dollars each. The loss of the horses was reported by Lieutenant J. W. Harris, a disbursing agent of the party aforesaid, so that the fact of the loss may be considered as established. The said agent represents the loss as being one that seriously effects the property of the petitioner, and he expresses a doubt whether it is of the character guarded against by the "regulations concerning the removal of the Indians." The petitioner was employed under a contract, and was paid a specific sum for his services, but whether by the hundred, job, or by the day, does not appear. The clause referred to in the regulations by Lieutenant Harris, is as follows. "The United States will not be responsible for any accidents." He says the contract was not an exception to the clause cited above, but he says that Elder's character is good, and that he had been water-bound at the creek for several days; that the provisions of the party were exhausted, and that in that wilderness of country it was either swim or starve. "He says further, the emigrants who were with the wagon, make some claims he understands for the loss of property caused by the upsetting of the wagon in the creek, and some of these say it was owing to mismanagement that the accident happened, and that it was difficult to find the truth."

The committee think the United States are not holden to give any compensation for the loss. The Secretary of War, out of an abundance of caution, inserted a clause in the regulations, stating in explicit terms that the United States would not be responsible for any accidents. The committee do not see how they could recommend that this property be paid for, without establishing the principle, that the United States are holden, as the insurers of the property of every person employed in their service. They recommend the adoption of the following resolution :

Resolved, That the prayer of the petition of James Elder ought not to be granted.