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Report : Mr. Wright

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IN SENATE OF THE UNITED STATES.

DECEMBER 31, 1833.

Read, and ordered to be printed.

Mr. WRIGHT made the following

REPORT:

The Committee of Claims, to which has been referred the petition of Daniel Bradley, claiming compensation for a horse lost by him while in the service of the United States, respectfully report:

That the petitioner states that, while a major in the service of the United States, in the year 1798, the regiment of Col. Butler, to which he belonged, was stationed at Southwest Point, in the State of Tennessee; that he was detached by his Colonel, with a party, to a place called Powell's valley, to remove intruders from the lands of the Cherokee nation of Indians in the neighborhood of the said valley; that they removed the intruders from the lands of the Indians, and thereby excited their hostility against the petitioner and his party; that, during the absence of the petitioner upon this service, his horse, estimated to be worth two hundred dollars, was stolen from him, as he thinks, by some of the intruders who had been removed by him and his party from the Indian lands; that the horse being missed, he sent out a party of men in search of him, and that he was found by them upon the Cumberland mountain, having been shot.

To verify the facts set forth in the petition, the affidavit of the petitioner is produced, reiterating, substantially, the facts stated in the petition; and a certificate bearing date "Powell's valley, March 24, 1798," signed "Francis Johnson, lieutenant 4th U. S. regt.," and "Daniel Davis, surgeon's mate 4th U. S. regt." is also produced. This certificate states that the petitioner had a bay horse about five or six years old; that the horse was missing on or about the 17th of March, 1798; that about the 22d of the same month, the subscribers went with a party of men, by request of the petitioner, in search of the horse, and found him, in a private place in Cumberland mountain, dead; that he had been shot with a musket or rifle ball; and that it was the opinion of the subscribers that the horse had been shot by some of the intruders on the Indian lands, to be revenged on Major Bradley for acting as commander of the party who had removed them from those lands. The certificate further states that, in the opinion of the subscribers to it, the horse was worth two hundred dollars.

This is the whole case as presented by the petitioner. The committee do not consider it as coming within the rule which has governed allowances for

horses killed or lost by officers and soldiers while in the military service of the Government. This horse, as is expressly stated in the petition, and as is to be inferred from all the other papers, was *stolen*. The petitioner, and the persons who sign the certificate before mentioned infer that the theft was committed by some of the persons whom the party had removed from the Indian lands, and that the inducement to the crime was the ill will excited in the minds of these persons against the petitioner because he had commanded the party which had removed them from the lands; but both these positions are mere inferences, in the minds of the witnesses, from the facts stated, and not facts which they know, or which are proved before the committee.

The committee do not, however, intend to be understood as giving an intimation that these positions, if established by proof, would affect the conclusion to which they have arrived as to the allowance of the claim. They are not aware that the Government has ever granted indemnity for thefts committed upon the property of the officers and soldiers in its employ, nor does the reason suggest itself to them why it should do so. These persons, equally with other citizens, are liable to such depredations, and the laws upon which other citizens must depend for redress are equally open to them. The case is, so far as the knowledge of the committee extends, new in principle, and they believe, although the claim is small in amount, that the precedent would be dangerous, and ought not to be established. They therefore offer to the Senate the following resolution:

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