

IN THE SENATE OF THE UNITED STATES.

MAY 31, 1882.—Ordered to be printed.

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

R E P O R T :

[To accompany bill S. 1708.]

*The Committee on Claims, to whom was referred the bill (S. 1708) for the relief of James Riley, beg leave to report as follows:*

That in the year 1868 John Corland, second lieutenant of the Sixth Infantry, United States Army, and acting assistant quartermaster, on behalf of the United States, entered into a contract with the said James Riley, of the Choctaw Nation, for the running of a saw-mill belonging to Riley, for the joint benefit of Riley and the United States.

This contract was for the term of six months, and by it Riley was to furnish the mill and pay the engineer and sawyer, and the United States were to furnish all the other labor, and the lumber cut was to be equally divided between Riley and the United States. Very soon after the contract was entered into, and before anything was done by Lieutenant Corland to carry it out, an Indian war broke out in the neighborhood. This war compelled an employment of all the United States troops in that region, so that Corland was unable to furnish the labor as he anticipated and had promised. Riley was notified of this inability, and that Corland would not and could not perform his contract. Nevertheless, Riley employed and paid the engineer and sawyer, and allowed his mill to stand idle for the whole term of six months. Riley having died, his administrator prefers this claim for an adjustment and settlement of the damages he sustained, by a reference of the controversy to the Court of Claims, who are to determine it, in the language of the bill, "on principles of equity and justice."

We do not believe such a reference should be made:

1. Because the contract was entirely null and void, neither Lieutenant Corland, who made it, nor Major Roy, who approved it, having any power to make it.

2. If there was any equity in the claim arising from the ignorance of Riley as to the powers of the above-named officers, it is fully met by the notice given that the contract could not be carried out. It was Riley's duty then to have gone on with the operation of his mill, and thereby prevented any loss or damage from the non-performance of the contract. It is a well-settled principle of law and morals that a party cannot claim damages for the breach of such a contract if they might, by reasonable diligence on his part, have been avoided. In such cases the party cannot sit down, do nothing, and claim compensation for losses which resulted from his own negligence.