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SENATE.

} REPORT
No. 98.

ELDREDGE BROS. LIVE STOCK CO.

JANUARY 31, 1916.—Ordered to be printed.

Mr. SMOOT, from the Committee on Finance, submitted the following

REPORT.

[To accompany S. 53.]

The Committee on Finance, to which was referred the bill (S. 53) for the relief of the Eldredge Bros. Live Stock Co., a corporation, having given the same careful consideration, beg leave to report it back to the Senate with the recommendation that it do pass.

The facts in connection with the payment of the duty which this bill authorizes the Secretary of the Treasury to refund to the Eldredge Bros. Live Stock Co. were presented to the committee in the shape of affidavits executed by officers of the above-named company and letters written by the Treasury Department and the live-stock company. Briefly, the facts presented are as follows: The Eldredge Bros. Live Stock Co. is a corporation doing business in the State of Utah and in the Dominion of Canada. Considerable land is owned by the company in Canada along the American boundary line. During the month of March, 1911, 433 head of cattle, owned by this company and grazed in Canada close to the American line, were about to perish with cold and hunger. The company exhausted the supply of hay and other feed in the neighborhood, and finally, in order to save the lives of the cattle, Mr. James A. Eldredge, president of the Eldredge Bros. Live Stock Co., made arrangements with the Indian agent of the Blackfeet Indian Reservation, Mont., to pasture the cattle on the reservation, where the snow was lighter and the weather less severe.

There can be no doubt but what it was the intention of the company to return the cattle to Canada, as soon as weather conditions would permit. The records of the Treasury Department show that the cattle were imported into the United States March 16, 1911, and returned to Canada July 1, 1911, thus being in the United States about three months and a half. After having made arrangements with the Indian agent of the Blackfeet Reservation, Mr. Eldredge was informed that he must see the United States customs officer about driving the cattle to the American side of the line. This

Mr. Eldredge did and he was told that the regular duty on the cattle would have to be paid, but that he could apply to the Secretary of the Treasury to have the duty refunded. The regular duty of \$2,738.73 was paid and an application for refund submitted to the Treasury Department on July 10, 1911. This application for refund was rejected by the department on July 31, 1911, and the grounds upon which the rejection was based are set forth in a letter, dated July 31, 1911, addressed to Hon. Reed Smoot, United States Senate. This letter is as follows:

TREASURY DEPARTMENT,
OFFICE OF ASSISTANT SECRETARY,
Washington, July 31, 1911.

HON. REED SMOOT, *United States Senate.*

SIR: I have the honor to acknowledge the receipt of your letter of the 25th instant, requesting to be advised, before the matter is finally settled, of my decision on the application of Mr. James A. Eldredge, Salt Lake City, for the refund of the duty on certain cattle claimed to have been imported temporarily to keep them from perishing from cold and hunger.

It appears that the cattle did not drift into this country through stress of weather or hunger, as sometimes happens, but were deliberately driven in for grazing purposes, entered at the customhouse, with payment of duty, and returned to Canada after having been in the United States for three and one-half months.

While the department recognizes the unfortunate circumstances which doubtless caused the importation of the stock, yet it can find absolutely no authority of law for the refund of the duty, and therefore is obliged to deny the application. Congress alone can afford relief.

Respectfully,

J. F. CURTIS, *Assistant Secretary.*

In view of the circumstances which practically compelled the Eldredge Bros. Live Stock Co. to export these cattle into the United States, and inasmuch as there was no intention on the part of the company to keep or sell the cattle in this country, the committee feels that the sum of \$2,738.73, collected as customs duties on the 433 head of cattle exported, should be refunded to the company.

The affidavits and correspondence presented to the committee, which is hereby made a part of this report, follow:

STATE OF UTAH, *County of Salt Lake, ss:*

James A. Eldredge, being first duly sworn, on his oath does say: That he is president of the Eldredge Bros. Live Stock Co., a corporation organized under the laws of Utah.

That said corporation has been doing business in this State and also have a large herd of cattle in and been doing business in Alberta, Canada, and that it also owns large tracts of ground in that country and kept several hundred head of cattle on their lands near the boundary line between Canada and the United States, but on the Canadian side. Along in the month of March, 1911, when storms were becoming very severe and the snow very deep their cattle were suffering greatly. This condition continued until up into April.

That owing to the fact that the feed had been consumed on the Canadian side and the snow was lighter on the United States side, affiant and his brother went to see the Indian agent of the Blackfoot Indian Agency, there to ascertain if they could not drive a portion of their stock over the line onto the United States side for a short period of time. The Indian agent consented to this arrangement on affiant paying certain fees, and 433 head were driven across the line onto said reservation.

Affiant further says, as above stated, that long before the cattle were driven over he had exhausted every means in his power to save their lives, having bought all the hay and used other feed of all descriptions in that neighborhood, and it was impossible to keep them on the Canadian side any longer.

Affiant further states that there was no intention of driving the cattle on the United States side for the purpose of sale or keeping them there permanently or of disposing of them in any way, but simply a temporary arrangement to save their lives, and they expected to return and did return them as soon as weather conditions permitted.

Affiant further states that immediately after he arranged with the Blackfoot Indian agent to have the cattle grazed he was informed that he must see the custom officer about these animals being on the United States side. He did so and the officer stated to him that he saw no other way than to pay the regular duty and apply to the proper department to have the money refunded. Whereupon affiant paid said officer as duty on said cattle \$2,738.73 on the 12th day of April, 1911.

Affiant further states that he made application to the United States custom officer at Washington on July 10, 1911, for the return of this money on the ground that in moving his cattle over the line he did not intend to keep them permanently in the United States, but it was simply a temporary arrangement, a copy of which letter is hereto attached, marked "Exhibit A," and made a part of this affidavit.

This letter was sent to the customhouse at Great Falls, Mont., and some time early in August, 1911, he received a letter from Mr. Blair, at Great Falls, inclosing a copy of one dated July 31, 1911, from the Hon. J. S. Curtis, Assistant Secretary, which said letter is hereto attached and marked "Exhibit B."

Affiant further states that all fees and charges were paid to the Indian agent for grazing the cattle in accordance with the agreement made at the time the cattle were transported.

Affiant further states that he was delayed in getting the cattle back several weeks because the Indian round-up was put off an account of bad weather and it made it impossible to act sooner.

Further affiant saith naught.

JAS. A. ELDRIDGE.

Subscribed and sworn to before me this 5th day of December, A. D. 1911.

[SEAL.]

OSCAR W. MOYLE, *Notary Public*.

EXHIBIT A.

SALT LAKE CITY, UTAH, *July 10, 1911.*

United States custom officers, Washington, D. C.

GENTLEMEN: A short time before the 12th day of April, 1911, the undersigned, James A. Eldredge and associates, by the permission of the Indian agent, Mr. A. B. McFatridge, of the Blackfoot Agency, Mont., moved a herd of cattle, consisting of some 433 head, across the line from Canada onto the United States side. The circumstances which occasioned this were briefly as follows:

We had had an exceptionally severe winter in Canada. We own quite a large tract of land and had exhausted all the feed on our own premises and purchased all the feed we could purchase in that vicinity, and on about the above-named date our stock was about to perish with the cold and hunger. We went to the Indian agent and told him the circumstances. The feed was a great deal better on the United States side, as for some reason the snow was not so deep. We asked him if we could move our cattle over temporarily and he to report the circumstances and conditions to the proper officers, and that we would do whatever was necessary to do in the premises.

We hoped that we would not be required to pay the regular tariff, as we did not intend to leave our cattle on the United States side, as it was simply a temporary arrangement to save their lives. We intended to and did move them back. In the meantime, however, Mr. McFatridge reported the circumstances to the customhouse port for the district of Montana and Idaho, and we at once looked into the matter, and they said as far as they were concerned it was all right, but we would be required to pay the regular tariff, and we would have to make our application to the proper officers for the return of the money. Of course, this is all we could do, and we made the entry and paid them \$2,738.73 on the 12th day of April.

On arriving home some few days afterwards the undersigned at once addressed a letter to Mr. John A. Kennedy, United States customs officer, who

had this matter in charge, under date of April 25, a copy of which is herewith sent you which pretty well explains itself.

We received a letter from Mr. Kennedy stating that he had referred the matter to Mr. J. G. Blair, of Great Falls, Mont., to whom we wrote immediately, and he said we would have to make application to Washington, but it would have to go through his office.

We now write to state in a general way that we as a company are and have been for some years engaged in the cattle business in Alberta; that we have quite a large amount of cattle; that early in the spring of 1911 we found our cattle were suffering and we made every effort we could to buy feed and did exhaust the feed in that region. Along in April, through big storms and cold weather, we were about to lose a large amount of our stock, and we asked the officers above stated the privilege of moving our cattle across the line temporarily and only for a few days, with the hope that we would not be required to pay the customs duty, but, however, understanding we had that to do if so required.

We now ask, inasmuch as the cattle have been moved back on the Canadian side and that the intention was that they were to be in the United States only temporarily, for a few weeks, and that the damage to the country could be very little, we requested that this money be returned to us, because we believe it to be unjust to be held under the circumstances.

That we did not intend to nor did not sell the cattle on the United States side or dispose of any of them in any way, and we herewith inclose a certificate of exportation which shows that we returned our cattle as we originally intended.

Very truly,

JAS. A. ELDRIDGE.

EXHIBIT B.

TREASURY DEPARTMENT,
Washington, July 31, 1911.

The COLLECTOR OF CUSTOMS, *Great Falls, Mont.*

SIR: I have to acknowledge receipt of your letter of the 17th instant, transmitting the application of Mr. James A. Eldredge, dated the 10th instant, for refund of the duty on 433 head of cattle imported from Canada last spring.

The applicant states that as the stock was about to perish with cold and hunger he arranged with the Indian agent on the Blackfoot Reservation to pasture the cattle, intending to return them to Canada in a short time.

You report that the cattle were imported March 16, 1911, and exported on July 1, 1911, having been grazing in this country during the interval—that is, three and one-half months—and that the entry was liquidated on July 1. You report in another letter dated the 17th instant that these cattle are considered as having been properly subject to duty, as they did not drift into the United States, but were deliberately driven by their owners from Alberta onto the Indian reservation and there grazed at a stipulated sum per head.

The department approves your action in collecting duty on the stock, and can find no authority of law for authorizing a refund of the duty.

The inclosures of your letter are herewith returned.

Respectfully,

J. F. CURTIS, *Assistant Secretary.*

SALT LAKE CITY, UTAH, *April 25, 1911.*

Mr. JOHN A. KENNEDY,

United States Customs Officer, Browning, Mont.

DEAR MR. KENNEDY: Since arriving at home and talking the matter over with my associates, we are still of the opinion that we should not be required to lose the money that we have paid on duty for our cattle crossing the line between Canada and the United States.

It is not necessary that I should reiterate all the circumstances, as you are quite well aware of them, but this much I will say: That we never for a moment intended to move our cattle and permanently keep them on the United States side. It was merely a stress of circumstances; on account of the condition of the weather we ran out of feed and the grass was entirely covered by the snow or eaten up, and we had no other way to save the lives of our stock other than to move them across the line. We did not do this surreptitiously, but we went and saw, as you know, the Indian agent; he, knowing the circumstances, very

kindly allowed us to occupy a portion of the reservation. We expected then and expect now, and indeed more speedily than we did expect, to move our cattle back on the Canadian side not later than the May round-up.

In view of these facts we write to you to ask what is the best way for us to proceed to recover this money we paid, which is about \$2,800.

In talking with you I did understand that they would not cash that check until I had an opportunity of proceeding in the matter, but possibly I may have misunderstood you or you may have misunderstood me, but on arriving at home I found the check had been presented, and in any event I well know that you did your duty and we acknowledge all your courtesies extended to us while there, and ask you to please assist us if you can consistently with your office by telling us, as stated before, how to proceed in the premises.

Very respectfully,

JAS. A. ELDREDGE.

