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### Report : Mr. Cooper

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S. Rep. No. 419, 32nd Cong., 2nd Sess. (1853)

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IN SENATE OF THE UNITED STATES.

FEBRUARY 17, 1853.—Ordered to be printed.

Mr. COOPER made the following

REPORT.

*The Committee on Indian Affairs, to whom was referred the petition of Henry M. Rice, praying remuneration for expenses incurred in subsisting certain Winnebago Indians, and in preventing them from returning to the States of Wisconsin and Iowa, respectfully report :*

That on the 13th day of April, 1850, Henry M. Rice, the petitioner, made and entered into a contract with Orlando Brown, then Commissioner of Indian Affairs, for the removal of a portion of the Winnebago tribe of Indians from the States of Wisconsin and Iowa to the country of the said tribe on the upper Mississippi, in the vicinity of Crow Wing river.

By the terms of the contract Mr. Rice was to be paid for making the removal "*without unnecessary delay,*" upon muster-rolls certified to by the agent for the said tribe; and in no case was payment to be made a second time for any Indian who might be removed to, and afterwards leave, the Winnebago country.

Mr. Rice removed the Indians in accordance with his contract; but the then agent for the tribe, J. E. Fletcher, neglected and refused to give the certificates required.

In consequence of such neglect and refusal, Mr. Rice was compelled to subsist the Indians removed by him until he could obtain such certificates and place the Indians in charge of the proper officer of the government; and if he had not done so, they would either have had to remain where they were, destitute of provisions, or return to Wisconsin and Iowa, whence they had been removed; thus defeating the object of the government, in removing them, and subjecting the contractor to a loss of the sums expended in clothing, feeding, and removing them.

He maintained and subsisted the said Indians as follows, viz :

Three hundred and twenty-three of them from June 3, 1850, (the date of the delivery made to the agent of the tribe according to his contract,) to May 17, 1851.

One hundred and twenty-three of them from August 23, 1850, (the date of delivery made as aforesaid,) to May 17, 1851.

Two hundred and twenty-six of them from November 25, 1850, (the time of their arrival in their own country,) to May 17, 1851.

On the 27th April, 1852, the account of Mr. Rice for these expenses was sent by the Commissioner of Indian Affairs to the Minnesota su-

perintendent, with directions to instruct Mr. Fridley, the then and present agent for the Winnebago tribe, to examine into and report the facts in the case, together with his opinion in regard to the amount, if any, to which Mr. Rice was justly entitled.

Agent Fridley, in his report, confirmed the foregoing facts, and stated, moreover, that "the Indians were assembled during the fall of 1850 and the winter of 1850-'51, awaiting the payment of the annuities then due them, and were, by the expectation of such payment, prevented from hunting or taking any other measures to secure a livelihood, and would have been in a destitute condition but for the subsistence provided by the contractor."

He further says that, "taking into consideration the season of the year, and the distance which supplies were transported, I am of the opinion that Mr. Rice is justly entitled to four dollars per month for the subsistence of each Indian as charged in his account."

The affidavits of David Gilman, Sylvanus B. Lowry, and John Hane, jr., accompanying the report of the agent, state, "that there was great discontent among the Indians removed in consequence of the non-payment of their annuities, and that it is the confident belief of deponents, founded upon personal observation, that if the said Indians had not been so subsisted and furnished with the necessaries of life by Henry M. Rice, the majority of them could not have been prevented from returning to the country whence they came; that the Indians were all present when mustered for inspection by the agent, J. E. Fletcher, and each individual Indian pointed out to him, except ten or twelve of them, who were sick; that the said agent was manifestly unwilling to furnish the necessary certificates and receive the Indians removed, and did all in his power to frustrate the removal."

David Olmsted, another witness, states, "early in the winter of 1850-'51, I was informed by his excellency the Superintendent of Indian Affairs that Mr. Rice would be expected to subsist the Indians which he had removed until they could be finally mustered."

"I have knowledge of Mr. Rice having incurred heavy expenses and much trouble in this regard, and am also aware that the Indians were comfortably, and I believe satisfactorily, subsisted by Mr. Rice until their annuity payment was made them, in the month of May, 1851; and I am satisfied that, had they not been so subsisted, many, if not most of them would have returned to their old haunts in Wisconsin and Iowa."

The committee, therefore, are of opinion that the expenses were incurred by Mr. Rice in the discharge of his duty as agent for, and contractor with, the government; that they necessarily grew out of, and were essential to, the accomplishment of the purposes of the contract, and ought to be reimbursed according to the prayer of his petition. The committee notice, however, that the one hundred and twenty-three Indians were subsisted eight months and twenty-five days, and not ten months and thirteen days, as claimed: the sum asked for must, consequently, be to that extent diminished.

The account, correctly stated, will stand thus:

Subsistence of three hundred and twenty-three Indians from June 3, 1850, to May 17, 1851—being eleven months and fourteen days—at \$4 per month for each Indian.....	\$14,814 66
Subsistence of one hundred and twenty-three Indians from August 23, 1850, to May 17, 1851—being eight months and twenty-four days—at \$4 per month for each Indian.....	4,329 40
Subsistence of two hundred and twenty-six Indians from November 25, 1850, to May 17, 1851—being five months and twenty-two days—at \$4 per month for each Indian.....	5,186 66
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	24,330 72
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Which sum the committee recommend to be placed in the Indian appropriation bill.