

1-11-1858

Report : Mr. Browm

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IN THE SENATE OF THE UNITED STATES.

JANUARY 11, 1858.—Ordered to be printed.

Mr. BROWN made the following

REPORT.

[To accompany Bill S. 52.]

The Committee on Indian Affairs, to whom was referred the petition of William B. Trotter, praying indemnity for losses sustained by him in the year 1831 in executing a contract for supplying a party of Choctaw Indians with provisions, while emigrating under the direction of the United States government, have had the same under consideration, and ask leave to report :

That the United States obliged itself by a treaty with the Choctaw Indians, in 1830, to remove the Choctaw people from the lands which they then occupied in the State of Mississippi to other lands which had been set apart for them in the west. In pursuance of this obligation the government, through its agent, George S. Gaines, esq., contracted with the petitioner to subsist a party of *thirteen hundred and thirty-two* Indians while they should be on their way from the rendezvous to Pearl river, at the rate of six cents per ration. The party set out on October 26, and reached its destination on November 12, 1831. It is shown by the official certificate of the assistant emigrating agent, and by the vouchers filed, that the petitioner executed his contract according to its stipulations. The certificate is in these words: "I do certify, on honor, the above rations (23,976) were issued at *six* cents per ration, and I believe must have cost the contractor TWENTY-SIX cents."

The petitioner complains that he was grossly misled by representations made to him as to the quantity and price of provisions in the country through which he was to pass, and of the truth of this declaration your committee entertain no doubt. It is incredible that any man should agree to sell an article at six cents which was to cost him twenty-six cents.

Petitioner sets forth that he lost a large number of cattle turned out of a pen, where he had them collected, by the Indians, while in charge of the United States agent. For this he makes a charge against the government, on the ground that the Indians, being under the control of the United States officers, and in no way responsible to

him or any one else except the government officers, the government is accountable for their trespasses. This item your committee have totally disallowed.

The petitioner also claims interest, and this your committee likewise disallows.

As regards the first item in the account, your committee do not think it amounts to a legal claim against the United States. But in cases where a party has faithfully performed a contract at a heavy personal sacrifice, it seems equitable and just that the government should bear some part of the loss, and this especially when the contract has been entered into under a manifest misapprehension as to the cost of its execution. A just man would not insist on a rigid fulfilment of such a contract—a just government ought not. Believing that the equities of the case are very clearly on the side of the petitioner, and that the government ought to do in this case what it has repeatedly done in cases of like hardship, your committee report a bill.