

WILLIAMSON SMITH.

MAY 10, 1840.

Read, and with the papers on file in the Clerk's office, referred to the Secretary of War.

Mr. TURNER, from the Committee on the Judiciary, submitted the following

REPORT:

*The Committee on the Judiciary, to whom was referred the memorial of Williamson Smith, make the following report:*

It appears, that on the 24th of October, 1837, the memorialist made a contract with the Government for the transportation of a fixed number of Cherokee Indians; that he was bound to prepare and have ready at a certain time, particular and specified means of transportation, and to remain so prepared and ready until the close of the said emigration, or until regularly notified by the Government. The Government was to furnish the number of emigrants agreed upon in parties of not less than one thousand, and with a view to the mode and extent of the emigration, to be conducted by said Smith, the Government prescribed the description of transportation.

The evidence shows that the memorialist complied fully with his engagement, and in strict conformity with the terms of the contract, and is therefore entitled to compensation for the number of emigrants for which the means and the expense were provided in contemplation of the covenant, after deducting the additional expense which would have been incurred by said Smith, thereby. Considerations of public policy subsequently induced the Government to change the whole mode of operation, and to surrender the guidance of the Cherokee emigration into the hands of John Ross.

The contract of Williamson Smith, together with his claim arising under it, for the expenses and supplies of the means of transportation, which he had incurred by the agreement that he made with and furnished by the requisition of the department, were submitted to the Attorney General for his opinion, who expressed his opinion, after revising the case, that the claimant was entitled to compensation, to the extent of his contract.

The committee, after a careful examination of the whole case, believe that it is a matter exclusively, at present, for the action of that branch of the Executive department of the Government to whom such affairs most properly belong, and with whom it originated. They entertain the opinion that the principles of equity and justice should be applied in this case as well as in all others, for the adjustment of claims between the Government and its citizens.

The committee, therefore, recommend that the memorial of Williamson Smith, together with the accompanying papers, be referred to the Secretary of War, for his report of estimates thereon, and that the committee be discharged from the further consideration thereof.