

HILL & MCGUNNEGLE.

MARCH 23, 1860.—Ordered to be printed.

Mr. OLIN, from the Committee on Military Affairs, made the following

REPORT.

*The Committee on Military Affairs, to whom was referred the memorial of Hill & McGunnegle, praying to be allowed interest on a claim heretofore allowed by act of Congress, passed the 1st session of the 34th Congress, having had the same under consideration, report :*

That in 1832, John Reynolds, then governor of Illinois, entered into a written contract with petitioners to furnish certain commissary stores for the use of the Illinois militia, suddenly called into service in what was known as the Black Hawk war. That at the time of making such contract for supplies, some uncertainty existed as to whether the general government would sanction the act of Governor Reynolds, and still more uncertainty as to the time of payment for such supplies. The general government, however, sanctioned the acts of Governor Reynolds and assumed the conduct of the war, and Colonel Joshua B. Brant, assistant quartermaster, was, by order of Brigadier General H. Atkinson, directed to "adjust, settle, and pay accounts growing out of the Black Hawk war."

It appears that the supplies furnished by the petitioners, at the contract price agreed upon with Governor Reynolds, amounted to \$18,703 84. That the quartermaster adjusted and paid to the petitioners the sum of \$16,421 17, making a deduction from the contract price of \$2,282 67. On the application of the petitioners, an act of Congress was passed at the first session of the thirty-fourth Congress, directing the payment of the sum last named to the petitioners, and they now ask that a further act be passed directing the payment of interest on the sum of \$2,282 67 from May, 1832, up to the present time, amounting to upwards of \$3,600.

It appears by the papers on file in the Third Auditor's office, that appended to the vouchers taken by Acting Quartermaster Brant, on the first payment made by him to Hill & McGunnegle in 1832, was the following memorandum, viz: "On proceeding in accordance with the above order (referring to the general order of Brigadier General H. Atkinson to settle and pay accounts growing out of the Black Hawk

war) to settle the account of Messrs. Hill & McGunnegle for supplies furnished to Enoch C. March, brigade commissary of subsistence, Illinois militia, who acted under the instruction of Governor Reynolds, I found that the prices agreed on were based on the supposition that a long time, perhaps ten or twelve months, would have elapsed before an appropriation would be made to cover the purchases, even should the general government sanction the acts of the governor and his agents, which was then a subject of some doubt; influenced by these views, the rates proposed and accepted by the parties were considerably in advance of the regular market prices. When, however, it was ascertained that not more than a month or two would pass before payment would be made, the *furnishing party consented to have the first agreement set aside and a new graduation of prices made more in accordance with cash rates.* The prices fixed upon, including as they do the cost, drayage, risk and transportation of the articles to the several points designated, are deemed reasonable; especially when it is considered that at the time of purchase the market here contained a very limited supply of means of the heavy articles, and moreover that these were the only persons, at the time, who would run the risk of furnishing on the responsibility offered. Viewed under these circumstances, I trust the course pursued will meet the approbation of the department. Assistant quartermaster's office, St. Louis, June 30, 1832."

It is hardly probable that the existence of the memorandum above quoted was brought to the knowledge of the committee which reported the bill allowing the claim upon which interest is now asked, or to Congress which passed it.

Nothing is more certain, if the facts stated in the memorandum are true, that the petitioners had no claim in equity or justice to the moneys which Congress appropriated for their use. It is expressly stated, that when they found the general government would assume the responsibility and promptly pay for the supplies furnished, they, Hill & McGunnegle, consented that the written contract should be set aside and a new graduation of prices made more in accordance with cash rates.

No one can fail to perceive that the entire latter part of the memorandum was an apology to the department for the high prices actually allowed to the petitioners by the acting quartermaster. Upon the state of facts here presented, it is no matter of surprise that the Third Auditor should have refused to pay the moneys appropriated by the act of Congress before mentioned, until directed by the Secretary of the Treasury so to do.

In a statement made under oath by Acting Quartermaster Brant, accompanying the memorial in this case, he says the memorandum before quoted in nowise conflicts with the facts in the case as he believes; and yet, strange to say, he enters into a disquisition to show that when he said in that memorandum they, Hill & McGunnegle, *consented to set aside the written agreement*, that means he, Brant, set it aside against their consent. There is no obscurity or ambiguity in the language of the memorandum. It needs no comment or explanation; all who read can understand it.

Upon the rules adopted and the policy which governs the allowance of interest on claims against the general government, the case must be one of peculiar hardship to justify it, and it will be some time we trust before interest is allowed upon claims which are clearly seen to have little or no foundation in either law or equity.

*Resolved*, That the claim of Hill & McGunnegle for interest be rejected; that the report be printed; the committee be discharged from the further consideration of the subject.