

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1873.—Ordered to be printed.

Mr. LOGAN submitted the following

REPORT:

[To accompany bill S. 46.]

*The Committee on Military Affairs, to whom was referred House resolution No. 23, to enable the Secretary of War to pay the expenses incurred in suppressing the Indian hostilities in the Territory of Montana, in the year 1867, having had the same under consideration, respectfully submit the following report:*

The report submitted to the House May 24, 1872, by Mr. Donnan, from the Committee on Military Affairs, is very full, giving a clear statement of the evidence and points involved in the case, showing the examination by the committee of the House was very thorough.

It is also accompanied by the report of General James A. Hardie, Inspector-General Military Division of the Missouri, who was appointed to make an examination, and report as to the amounts justly due on these claims. An examination of this report shows that General Hardie has performed this duty with great care and thoroughness, and an evident desire to do justice to all those presenting proper claims sustained by satisfactory evidence. But in the performance of this important duty he has been compelled, by a sense of justice to the Government, to reject quite a number of claims, and to make a considerable deduction from others. In a number of cases the evidence showed that the articles were charged largely in excess of the usual prices; this excess ranging from 20 to over 100 per cent.

The whole amount of awards up to the time of General Hardie's reconstructed report, (the original having been destroyed during the Chicago fire,) May 11, 1872, was \$456,504.21, as against \$821,886.21 demanded. Vouchers to the amount of \$50,868.25 have not been reported upon for want of information. It is stated in the House report that vouchers amounting to nearly \$7,000 of this last item have come in since March 11, 1872, and have been deposited with other papers, accompanied by a supplemental report of General Hardie. (This supplemental report does not appear among the papers on file.) If the report of General Hardie is taken as the basis of settlement, and the whole of the last-mentioned amount should be established, the total amount will then be \$507,372.46. Accompanying the report of the House committee is a list of all the claims presented, with the amount awarded on each, where an award was made.

The first important question that arises in the investigation of these

claims—for they are all based upon the same general fact—is whether the Government, in equity and justice, is under obligation to pay any of these expenses.

Section 10 of the act of July 15, 1870, is as follows:

SEC. 10. That the Secretary of War be, and he is hereby, authorized and required to ascertain, or cause to be ascertained, the amount of expense necessarily incurred by the territorial authorities of Montana for arms and supplies of the volunteer forces called out to suppress Indian hostilities in the Territory of Montana in the year 1867, and report to Congress, at the next session, the names of persons entitled to relief, together with a statement of the facts and sums upon which such report may be based.

It is evident that this section only authorized the ascertaining of the amount of the necessary expenses incurred for arms and supplies and the names of persons entitled to relief, the object thereof evidently being to obtain a basis for further action, and to have some fixed amount in case Congress should decide to make an appropriation. It therefore furnishes no grounds for a claim against the Government.

The obligation of the Government to pay these claims, if any exists, must depend upon the authority granted by the General Government to the civil authorities of Montana or the necessity for immediate action occasioned by the imminent danger of Indian hostilities.

After examining the facts bearing upon this important point, we are inclined to concur in the decision of the House committee—

That there was, at least, such a recognition of the calling out and subsisting of troops as to justify private parties in furnishing the absolutely necessary supplies, in the full belief that Government intended to pay for the same.

Yet we are of opinion that the action of the authorities was hasty, and that great carelessness, and even recklessness, was manifested in obtaining supplies and arms, and that only fair and reasonable prices should be paid for such as were absolutely necessary.

The second important question is, how shall the amounts of these proper claims be ascertained? As before stated, we believe the 10th section of the act of July 15, 1870, was intended to accomplish this step in the progress of settlement. We therefore are of the opinion that the report of General Hardie forms the best possible basis of settlement now to be obtained. It is true that many of the papers in the possession of General Hardie, as well as his original report, were destroyed in the Chicago fire; yet, in a great majority of cases, the original vouchers, after being inspected by General Hardie, were returned to the claimants. A list of the claims, memoranda of many awards, and a schedule of prices were saved. General Hardie in person has been before this committee, and, from the statements made by him, and what is presented in his report and the appendix to the House report, we are decidedly of the opinion that his awards, and the facts in his report, constitute the only safe basis of settlement which can now be adopted.