29th Congress, 1st Session.

Rep. No. 481.

Ho. of Reps.

JAMES E. RAWLINGS.

March 27, 1846.

Read, and laid upon the table.

Mr. Jacob Thompson, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to whom was referred the petition of James E. Rawlings, the heir and representative of Michael Rawlings, deceased, his father, and Asahel Rawlings, deceased, his grandfather, have had the same under consideration, and ask leave to make the following report:

The petitioner represents that in the month of February, 1792, certain evil-disposed Indians of the Cherokee nation killed one very valuable mare, and stole and carried away seven other horses, the property of his father and grandfather, and that no reparation or payment has in any way been made from that day to this for said horses, either by the Cherokee nation or by the government of the United States.

It does not appear that any demand has ever been made of the Cherokee nation at any time for payment for these depredations, nor has an appeal ever been made to the United States to enforce their rights; and, on account of the time which has elapsed since the theft was committed, being more than fifty-two years, the committee are bound to presume there is some mistake in the statements which have been made. A party who has so long slept upon his rights must be presumed to have either wholly abandoned them, or to have had none in the first instance; and, if all the facts set forth by the petitioner were satisfactorily proven, the committee could not, at this late day, for a moment entertain the proposition of granting relief, though no intermediate treaties had been made materially affecting the claim of the petitioner. Time is always an element which makes against a claim; but time, coupled with no action on the part of the complainant, is absolutely conclusive against him.

But it appears that, on the 2d day of October, 1798, more than six years after the depredation complained of was committed, the United States entered into a treaty with the Cherokee Indians, for the purpose of a more perfect understanding between the people of the United States and the Cherokee Indians, and of strengthening the cords of peace and kind feelings between the two parties. Article 9th of that treaty is in these words:

"It is mutually agreed between the parties, that horses stolen, and not returned within ninety days, shall be paid for at the rate of sixty dollars

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each; if stolen by a white man, citizen of the United States, the Indian proprietor shall be paid in cash; and if stolen by an Indian from a citizen, to be deducted as expressed in the fourth article of the treaty of Philadelphia. This article shall have retrospect to the commencement of the first conferences at this place in the present year, and no further; *and all animosities, aggressions, thefts, and plunderings, prior to that day, shall cease, and be no longer remembered or demanded on either side.*"

Here, then, was a general settlement and a full liquidation of all outstanding demands. If, between 1792 and 1798, the claimants had pressed and proved their demands to the satisfaction of the government, the United States would have caused payment to have been made. But this they failed to do, and it would now be an act of heinous injustice to grant the prayer of the petitioner, even though he had made out his proof, and deduct the amount claimed from the moneys due the Cherokee nation.

The committee, therefore, are unanimous in their opinion that the petitioner is not entitled to relief, and ask to be discharged from the further consideration of the same.