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THE HEIRS OF JOHN MOTLOW.

MAY 11, 1838.

Read, and laid upon the table.

Mr. E. WHITTLESEY, from the Committee of Claims, made the following

REPORT :

The Committee of Claims, to whom was referred the petition of the heirs of John Motlow, report :

That John Motlow presented his petition to Congress on the 10th of February, 1807, in which he stated that he, with a number of his neighbors in South Carolina, were in a fort in October, 1781, called Fort Jameson, when there came a large party of Indians and Tories, and took the fort, killed several citizens, and made prisoners of the rest. The father and brother of John Motlow were killed, and he was shot through the body. The assailing party carried away three negroes, as he alleges, the property of himself and of his father. These John Motlow claimed, as the only surviving son of his father, and in his own right. He says, as soon as he recovered of his wounds, he went to the nation and demanded his negroes; but they were put out of the way, and could not be got. He states he made frequent applications to the different Indian agents, and that he travelled several times through the nation in search of the negroes, but could never find them; that he was finally told by Colonel Meigs, that the 9th article of the treaty with the Cherokees, of 1793, [1798,] prevented him from getting his property from the Indians. It appears from endorsements on the back of the petition, that it has been referred several times to the Committee of Claims, and to select committees. No report has been made by the Committee of Claims. A select committee reported in favor of granting relief on the 14th of December, 1814.

The ground for subjecting the United States to remunerate for this loss, was, that by the 9th article of the treaty with the Cherokee Indians in 1793, all prior aggressions, plunderings, and thefts, committed by the Indians, were obliterated; and that the property so taken was transferred, by said treaty, from the petitioner to the Indians. The report concluded with a resolution that the petitioner was entitled to relief. It does not appear what sum the committee proposed to pay.

No act was passed to carry into effect the recommendation of the committee.

The claim was revived, in 1830, and in that year the petition was referred to the Committee on Indian Affairs; and it has been referred to the same committee several times since, and no report has been made. The

endorsements are, that the committee moved to be discharged; which is, in effect, a decision against the claim. A long report was submitted by Mr. Haynes, a member of the committee, concluding with a resolution that the petitioners were entitled to relief, on which is the following endorsement: "Tuesday, January 10, 1837. Report overruled by committee, and ordered to ask to be discharged. Signed, C. E. Haynes."

There is no evidence to prove that the negroes have been seen since they were taken; and whether they were killed, or died of diseases, on service, is not known.

This committee do not concur with the select committee that made a report in 1814, in the opinion that the 9th article of the treaty of 1798 imposes any additional obligations on the United States to pay for this property. The negroes were taken by Tories and by Indians. The Indians may not have had the possession of the negroes at all; and the fact that the said John Motlow went several times through the nation and could not find them or hear of them, raises a strong presumption that they were not with the Indians. The depredation was committed before the formation of the General Government, and before the treaty of peace with Great Britain. Any other depredation might as well be claimed of the United States as this.

Every treaty, without reservation, obliterates former difficulties; and if the 9th article of the treaty of 1798 creates an obligation on the United States to pay for this property, every treaty made with any tribe of Indians that has taken the property of our citizens imposes the like obligation; and, consequently, all the Indian depredations are to be paid for. Can any one suppose compensation would have been made by the tribe if the treaty of 1798 had not been made? The injured party had seventeen years, without any interference on the part of the Government, in which to recover his property, or to obtain a compensation therefor; and he was not able, within that time, to learn that the property was with the Indians. The committee recommend the adoption of the following resolution:

Resolved, The petitioners are not entitled to relief.