

LUCY A. SMITH.

[To accompany H. Res. No. 343.]

JUNE 21, 1870.—Ordered to be printed.

Mr. STRONG, from the Committee of Claims, made the following

REPORT.

*The Committee of Claims, to whom was referred the memorial of Lucy A. Smith, widow and administratrix of the estate of her husband, James Smith, praying for relief for losses sustained by the depredations of a band of Cheyenne Indians, on or about August 8, 1864, at or near Plum Creek, in the Territory of Nebraska, beg leave respectfully to report:*

A careful examination of the evidence presented in support of this claim establishes the following state of facts: James Smith, the husband of claimant, in the month of July, 1864, was the owner and possessor of six mules and two wagons, together with the necessary harness and outfit for the same; that on or about July 21, 1864, Smith consummated a contract with C. F. Hendrie & Co., of Council Bluffs, Iowa, to convey as freight sundry pieces of machinery to Denver, Colorado Territory; that on or about July 21, 1864, he started from Council Bluffs with the said two teams and freight pursuant to his contract, and while *en route*, viz, at Plum Creek, in the Territory of Nebraska, was attacked by a band of Cheyenne Indians, Smith, claimant's husband, killed, his property taken and destroyed, and the pieces of machinery which he was transporting as freight scattered about the place of attack. These facts are clearly established by the testimony of three disinterested witnesses, one of whom, Nancy J. Morton, was an eye-witness of the attack of the Indians on the train, a part of which consisted of the two teams of James Smith, the husband of claimant. She swears positively that the outrage and depredation was committed by a band of Cheyenne Indians, who captured her and detained her as a prisoner for six months after her capture. Two witnesses, C. F. Hendrie and John J. Morrell, jr., prove the making of the contract with Smith to freight machinery to Denver, Colorado Territory, Smith's possession of mules, wagons, &c. Sufficient evidence is presented to establish the legal right of the claimant to prosecute her claim, and to show her good character and impoverished circumstances.

In view of the fact that, through the laches of her attorney, she is debarred from prosecuting her claim through the Indian Office of the Interior Department, it not having been presented within three years, as the act of June, 1834, requires, your committee are of the opinion that, this being a meritorious claim, relief should be afforded through the medium of a joint resolution of the two Houses of Congress. This claim involves no appropriation of public money, but is to be paid out of the annuity due the Cheyenne tribe of Indians, as provided for by

section 17 of act of 1834, which enacts that claims of this character shall be paid out of funds in the hands of the government for their use and benefit.

Your committee would call attention to the letter, accompanying this report, of Hon. Ely S. Parker, Commissioner of Indian Affairs, who recommends this claim to the favorable consideration of this committee, in which he states:

Were the case not barred by the statute of limitation, I should feel disposed to recommend favorable action upon it by the Secretary of the Interior, under the law referred to, and the payment of a just amount for the loss sustained out of annuity money due the tribe to which the offenders belong.

This statement fortifies the conclusion at which we have arrived.

Your committee, after a careful scrutiny of the several items of which the claim is composed, recommend the passage of the accompanying joint resolution.