

Rep. No. 677.

HOUSE OF REPRESENTATIVES.

W. H. ROCKAWAY, ADMINISTRATOR DE BONIS NON OF  
THE ESTATE OF JNO. JOHNSTON.

JANUARY 14, 1848.

Laid upon the table.

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

REPORT:

*The Committee of Claims, to whom was referred the petition of W. H. Rockaway, administrator of the estate of John Johnston, deceased, report:*

That upon examination they find this claim is for remuneration for goods taken by the United States troops, under command of Major Holmes, on the 23d day of July, 1814, at St. Mary's, in Michigan. It does not appear that Mr. Johnston, in his lifetime, thought it worth while to press a complaint for this alleged loss with earnestness. Soon after the goods were seized by our troops, he made some feeble effort to reclaim them, but then seemsto have abandoned it, and so the matter continued to his death, in 1828, and so it still remained until 1830, when the late Mrs. Johnston, wife of John Johnston, presented her petition to Congress. It did not receive the favorable consideration of the committees. It has been several times examined since then by different committees, who have always been unfavorable to its payment. Mrs. Johnston at length died, and the claim is now prosecuted by an administrator de bonis non of John Johnston. This committee can see no ground for reversing the decisions of former committees on this subject. On the contrary, it is thought those decisions are fully sustained by the evidence in the case. From that evidence, there is too much reason to suppose that Mr. Johnston himself felt that his conduct had not been such during the war of 1812, as to entitle him to the most favorable consideration of his adopted country; a country adopted by him, it seems, quite as much from motives of gain as any devotion to our institutions or our welfare.

And if, as insisted by the petitioner, he was not, during that cruel contest, where the skill of a nation, accomplished in the art of war, was combined with the ferocity of savages in constant acts of horrible massacre and murder of the frontier settlers, in fact, aiding by his advice in this shocking warfare, he was at least putting into the hands of these savages the tomahawk and scalping knife. It is no excuse for this, to say that such was simply in the line of his business.

The invoice of the goods seized furnished evidence, in itself, of a willingness on the part of Mr. Johnston to supply his customers with such articles as they then needed, without reference to the particular causes existing, to render such supply, by one devoted to our interest, as it is alleged he was, proper or improper. These goods were imported direct from England to Montreal, and there procured by Mr. Johnston. They had, most of them, been received from Montreal during the week in which the seizure took place, and in part were still unbaled. (See the petition and Holiday's affidavit.)

Major Holmes, in his report to Colonel Croghan, of July 27, 1814, says, in speaking of this seizure, "much of the goods we have taken were found in the woods on the American side, and were claimed by the agent of John Johnston, an Indian trader." This fact, the character of the goods, and other circumstances referred to in this report, in the judgment of the committee, would very naturally induce Major Holmes to conclude as he did, that this property was, as he terms it, "*good prize.*"

The irregularity in disposing of this property afterwards by our officers could not give to Mr. Johnston any cause of complaint, unless those irregularities, and not his own conduct, deprived him of his property. If this were so, the petitioner should prove it; and after so great a lapse of time, without an earnest and something like a persevering effort on the part of Mr. Johnston to reclaim this property—such proof ought to be very full and distinct—particularly so, as the reverse is charged in strong terms to be true, in an official report of a government officer, contemporaneous with the fact itself, when everything was fresh in the mind and under his own eye, and he under a high and solemn obligation to report all things truly. No effective steps were then taken to controvert the charge. It was permitted to rest. Johnston died some fourteen years after this, without disturbing the public record of the charge; and now, after many more years have been added to that, letters from respectable and distinguished persons are resorted to, not in fact to disprove this charge directly, but to show generally that Mr. Johnston was a gentlemanly and honorable man in his deportment and bearing, and that he, at a later period of his life, rendered some valuable services to our commissioners, in negotiating treaties with the Indians in his neighborhood. If, however, those treaties are referred to, it will be found that his family secured liberal provisions in its behalf, (he having married an Indian.)

The committee do not see that his good conduct, *after* the power of our government had completely encircled him, driven off the

British, and silenced the Indians, does anything to falsify the official imputations made against him at the time his goods were seized. It can readily be conceived, that under the influence of strongly excited feelings of those engaged in the war, and whilst it was raging, that the conduct of Mr. Johnston may have been exaggerated, perhaps in some respects it may have been misunderstood or misstated; but still, it is believed, there was enough true and well so understood by the actors in the seizure to justify the act or, at least, excuse it. Mr. Johnston himself seems to have yielded this point, by abandoning the prosecution of the demand, soon after it was first and feebly made, as if fearful of pressing it. It is wholly unreasonable to suppose he would have done this, seeing that the sum claimed exceeds twenty-six thousand dollars, had he felt there was any justice in its character. The committee, therefore, report the following resolution:

*Resolved*, That the claim of the legal representatives of John Johnston, of Michigan, for goods seized by order of Major Holmes, on the 23d day of July, 1814, at the Sault St. Marie, is unjust and ought not to be allowed.

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*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

The memorial of the undersigned, widow of the late John Johnston, esq., of the Falls of St. Mary's, in Michigan,

RESPECTFULLY REPRESENTS:

That previous to, and during the late war between the United States and Great Britain, she was a resident, and still continues to be a resident, of the place above indicated. Events which she will proceed to mention, caused aggressions upon and a seizure of private property, of which she is the legal representative, and for which she claims remuneration. In order to set this claim in its proper light, she remarks, that she is the daughter of a Chippewa chief of Lake Superior. Mr. Johnston, her late husband, came to America in 1790, and shortly after settled himself at St. Mary's, in the prosecution of the fur trade. In 1796 the post of Michilimackinac, the key to the country, was surrendered to the American government. No change was, however, made in the course of the fur trade, which continued, as before, to be carried on from Montreal in Lower Canada.

At an early period of the late war between the United States and Great Britain, the post of Michilimackinac was captured by the British troops, and became, as it had been before its occupancy by the American government, the theatre of Indian influence in the upper lakes. A fleet and army under the command of Colonel Croghan, and Commodore Sinclair, was sent from Detroit, in the summer of 1814, to repossess the island. This fleet entered the

river St. Mary's, on its upward bound course, and while anchored off the island of St. Joseph, the troops landed, assaulted and burnt the fort and village, together with the buildings and warehouses of the northwest company, who had been active in promoting the hostility of the northern Indians. At this place an expedition was organized, under the command of Major A. H. Holmes, to proceed up the river in batteaux to the falls, for the purposes of destroying the buildings and vessels of the northwest company at that place. After accomplishing this object, the detachment proceeded across the river to the residence of Mr. Johnston, who was then absent. The officer in command was received by a clerk in charge, (Mr. John Holiday, whose affidavit is among the documentary evidence herewith submitted,) by whom, at the request of the officers, they were conducted through the premises. Your attention will be presently directed to the erroneous impressions under which this visit was made. It will be sufficient to indicate, that the goods and property in store, an invoice of which is hereto annexed, was seized and conveyed on board the boats. An assurance was given that the household property, clothing and family supplies, should remain inviolate. Whether "orders" to this effect were issued is not known, but if so, they were totally disregarded by the soldiery, who completely stripped the premises, and left nothing but the bare walls, or wrecks of mutilation.

Upwards of twenty-one years have now elapsed since these depredations were committed. Mr. Johnston died in 1828, after a strenuous but unsuccessful struggle of fourteen years to recover his former position, leaving your memorialist with seven children to provide for. Time has shed its mellowing influence upon these transactions; death has put his seal upon many of the actors; but it has left the widow and her children as the victims of a loss, which is more and more felt, as years take from the ability of action, and add to the incapacity and uncertainty of age. The period seems to have arrived for the favorable consideration of her claim. Having no longer a protector to look to, having exhausted her ingenuity of resource, and with the infirmities of age fast pressing upon her, she now appeals to Congress for redress.

Your memorialist is aware, that in addressing a public legislative body, she deprives herself, in a great measure, of the sympathy which she supposes to be due to the peculiarity of her situation and circumstances. In bringing forward this claim, her reliance is not, however, placed on considerations of sympathetic feeling. Whatever may be due to her on this head, she bases her claim on the ground, that the property taken was exclusively private property—that it was seized contrary to the instructions of the government—and that the circumstances of the seizure were not of a character to justify this species of action in the case. She does not, however, wish to conceal any acts of indiscretion, or bad judgment, which may be advanced in the train of causes leading to these acts; or to withdraw attention from the leading questions connected with them. Why, it may be inquired, was the seizure made? Was the officer in command of the expedition misled in a praiseworthy

zeal to serve his country? Did any feelings, in the excitement of the moment, the novelty of his position on a remote and isolated frontier, and the necessity of immediate action, prompt him to inconsiderate and rash action? Was the bias of personal or commercial rivalry brought to bear unfavorably on the minds of the party, at a moment when the person accused was himself absent? A brief reply to these inquiries will be made.

The troops sent on the expedition against Michilimackinac entered the waters of Lake Huron under circumstances of excitement. The officer in chief command felt the increased expectations of his country, consequent on his recent and brilliant success at Lower Sandusky. He had, under his command, many who had shared in the services and honors of the two arduous campaigns which had been fought for the recovery of the great entrepôts of Indian supply and action, Detroit and Malden. All were burning with a sense of the recent atrocities committed on the river Raisin; and all were anxious, by a successful movement, in the upper lakes, to demonstrate, in the strong hold of Indian power, the strength of the American arms. It was known that Mackinac had fallen, in a state of utter unpreparedness, by a paltry force of the enemy, and without a blow. This post exercised a controlling influence over the Indian population of the region. It was resorted to by great numbers to receive their annual presents, and to prepare themselves, by fresh professions of attachment, for new aggressions on the American frontiers. Hence the reduction of this fortress became an object of great interest, and every object, accessory to the main design, assumed importance.

Under these feelings the boats detached from the fleet at St. Joseph reached St. Mary's, and after visiting with the retributions of war the property of the northwest company, at that place, they landed at the residence of Mr. Johnston, on the opposite or American shore. Mr. Johnston at that time, as well as previous, and subsequent to it, furnished goods to persons carrying on the fur trade in Lake Superior. This trade, as is well known, has ever been a source of eager rivalry. It is only necessary to glance into the history of the northwest, the X Y, and the Hudson's bay companies, to perceive that considerations of interest have triumphed over every finer feeling, and led to outbreaking acts of atrocity. That Mr. Johnston, who carried on a business not only independent of either of these companies, but independent of other individuals engaged in this trade, should have encountered a portion of this fierce spirit of rivalry, is not surprising. It was one of the natural concomitants of the trade; and became, on the 23d of July, 1814, the true cause of the seizure of his property, an event by which he was deprived of the means of sending out his usual outfits, and was, in its effects, thrown out of the control of that department of trade. This is the conclusion sought to be arrived at, by bringing forward these details, which are deemed essential to a true understanding of the subject. Two individuals, one of whom had been formerly employed by Mr. Johnston as a clerk, accompanied the expedition from St. Joseph, and insinuated themselves into the

society and notice of the American officers. By adopting their relations of circumstances, real or suppositional, to the object in view, they succeeded, long ere the boats had reached their destination, in turning an honorable zeal in the cause of their country, against a private individual, himself an emigrant from scenes of tyrannic oppression in Europe, and swept off, by a single act, the accumulated rewards of twenty-four years of persevering industry.

It had been represented to the commander of the American troops, that Mr. Johnston was an agent of the northwest company, and issued supplies to the Indians, which were not to be paid for by them as articles of trade. This assertion was not only unfounded in itself, but it was unsupported by the testimony of a single man of integrity, respectability, or information in the country. So far from it, the independent position he occupied in the country left him wholly without the shield of their protection. Their acts of rapacity, in their interior operations, excited in him a just abhorrence, which he never failed to express himself freely upon; and which, united to his aversion to the principles of copartnercy, led him to avoid connexions with either companies or individuals. The facts with respect to the northwest company, are such as to justify the affirmation, that at no time during any period of his residence in the country, from his arrival in it in 1790, to the day of his death, in 1828, was he an agent, partner, or clerk of this company. Neither did he purchase his supplies from them, nor dispose of his returns to them, being in the practice of dealing with private firms in Montreal, who imported their goods direct from England. The only instance known of his performing any duties, separate from the rites of private hospitality, for that company, was in the character of a commissioner in the case of the surrender of Fort William to the forces under Lord Selkirk, and this was three years after the war. For this service, involving, as it did, a high responsibility, he declined compensation.

Your memorialist mentions these circumstances, as furnishing a response to questions previously stated. She does so, without impeaching the honorable motives of any actor in the scene. But she cannot deem the motive, however praiseworthy, a justification for an unjust action, without examination into the alleged facts, and especially for action leading to an express violation of the orders of government respecting private property. "I am ordered," observes Major Holmes in a note written on the day of the seizure, "to respect private property." "I am happy," is the reply of Commodore Sinclair to an application made fourteen days after, "to have it in my power to say, that my own sense of honor and sense of justice completely accord with the instructions of my government, as relates to individuals and their property, both of which will ever be held sacred."

Yet, notwithstanding these declarations, the property not consumed, or appropriated on the spot, was transported in the public vessels to Detroit, and there sacrificed, without being libelled, and without any notice to the claimant to establish his right.

With these views, which are respectfully submitted to your con-



sideration, your memorialist solicits your attention to the documentary evidence hereunto appended.

SUSAN JOHNSTON, *Administratrix,*  
*For and in behalf of herself and her seven children.*

SAULT STE. MARIE, November 4, 1835.

NO	CHR. CH.	NO	CHR. CH.	U. S.	U. S.		
00 000	00 01	0 00 0					
00 005	00 01	0 00 0					
00 010	00 01	0 00 0					
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00 035	00 01	0 00 0					
00 040	00 01	0 00 0					
00 045	00 01	0 00 0					
00 050	00 01	0 00 0					
00 055	00 01	0 00 0					
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00 085	00 01	0 00 0					
00 090	00 01	0 00 0					
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00 100	00 01	0 00 0					
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00 110	00 01	0 00 0					
00 115	00 01	0 00 0					
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00 475	00 01	0 00 0					
00 480	00 01	0 00 0					
00 485	00 01	0 00 0					
00 490	00 01	0 00 0					
00 495	00 01	0 00 0					
00 500	00 01	0 00 0					

*Invoice of goods, stores, and effects, seized or destroyed by the troops under the command of Major Holmes, at St. Mary's, on the 23d of July, 1814, being the private property of the late John Johnson, Esq., of Michigan.*

17	pieces strouds .....	£20 0 0	\$80 00	\$1,360 00
30	pair 3 point blankets.....	0 80 0	16 00	480 00
70	" 2½ do.....	0 60 0	12 00	840 00
24	" 2 do.....	0 50 0	10 00	240 00
22	" 1½ do.....	0 40 0	8 00	176 00
28	" 1 do.....	0 30 0	6 00	168 00
122	yards scarlet cloth.....	0 40 0	8 00	976 00
2	pieces swan skin, 80 yards.....	0 7 6	1 50	120 00
5	" Indian calico, 140 yards.....	0 5 0	1 00	140 00
40	pounds net thread.....	0 15 0	3 00	120 00
16	" colored thread.....	0 20 0	4 00	64 00
50	" sturgeon twine.....	0 10 0	2 00	100 00
64	head lines.....	0 12 6	2 50	160 00
23	cod lines.....	0 15 0	3 00	69 00
5000	gunfints.....	0 25 0	5 00	25 00
50	pounds beads assorted.....	0 7 6	1 50	75 00
12	dozen looking glasses.....	0 15 0	3 00	36 00
1½	" large oval gilt do.....	0 12 6	2 50	45 00
125½	pounds assorted worsted.....	0 10 0	2 00	251 00
14	rolls assorted ribbon.....	0 20 0	4 00	56 00
7	pieces bernagons, each 10 hdks.....	0 5 0	1 00	70 00
144	camwood knives.....	0 2 6	0 50	72 00
72	brass inlaid do.....	0 3 4	0 66½	48 00
408	scalpers.....	0 1 3	0 25	102 00
49	rolls gartering assorted.....	0 12 6	2 50	122 50
1	piece green baize.....	15 0 0	60 00	60 00
2	large new Russia sheeting tents.....	7 10 0	30 00	60 00
4	new oil cloths.....	3 0 0	12 00	48 00
144	yards white cotton.....	0 5 0	1 00	144 00
5	pieces striped cotton, 176 yards.....	0 7 6	1 50	264 00
70	pair shoes assorted.....	0 15 0	3 00	210 00
17	razors in cases.....	0 10 0	2 00	34 00
76	pair fine worsted and cotton hose.....	0 10 0	2 00	152 00
20	fine hats for men.....	0 40 0	8 00	160 00
600	cod hooks.....	0 10 0	2 00	12 00
60	capots.....	0 30 0	6 00	360 00
36	calico shirts.....	0 17 6	3 50	126 00
57	cotton do.....	0 15 0	3 00	171 00
1	piece superfine cloth, 17½ yards.....	0 50 0	10 00	177 50
2	" cassimere, 40 yards.....	0 25 0	5 00	200 00
1	" white Russia sheeting.....	16 0 0	64 00	64 00
2	" imitation do.....	12 0 0	48 00	96 00
3	dozen patent blacking.....	0 20 0	4 00	12 00
10	bags.....	0 7 6	1 50	15 00
20	pounds cotton wick.....	0 5 0	1 00	20 00
10	" vermilion.....	0 30 0	6 00	60 00
64	pair beef shoes.....	0 7 6	1 50	96 00
8	portage collars.....	0 7 6	1 50	12 00
930	pounds gunpowder.....	0 10 0	2 00	1,860 00
1120	" shot and ball.....	0 2 6	0 50	560 00
500	" choice tobacco.....	0 14 6	2 90	1,450 00
7000	" fine maple sugar.....	0 1 3	0 25	1,750 00
131	gallons Jamaica spirits.....	0 60 0	12 00	1,572 00
18	" O. L. P. Madeira.....	0 60 0	12 00	216 00
12	" best C. brandy.....	0 60 0	12 00	144 00
2	dozen shrub in bottles.....	7 10 0	30 00	60 00
5	" porter do.....	0 45 0	9 00	45 00
9	gallons W. W. vinegar.....	0 7 6	1 50	13 50
5	kegs salt, (now not to be had for money).....	12 10 0	50 00	250 00
1	cask pepper, 40 pounds.....	0 3 9	75 00	30 00
36	pounds coffee.....	0 5 0	1 00	36 00



## INVOICE—Continued.

80 pounds double refined loaf sugar.....	£0 6 3	\$1 25	\$100 00
82 " green and hyson tea.....	0 15 0	3 00	246 00
1 keg, 80 pounds, rice.....	0 2 6	0 50	40 00
4 " inland pork, 340 pounds.....	0 2 0	0 40	136 00
4 dozen mustard.....	0 20 0	4 00	16 00
6 bottles catsup.....	0 10 0	2 00	12 00
6 " soy.....	0 10 0	2 00	12 00
4 " sweet oil.....	0 10 0	2 00	8 00
3 boxes soap, 195 pounds.....	0 2 6	0 50	97 50
1 " mould candles, 70 do.....	0 5 0	1 00	70 00
3 " raisins } 117 do.....	0 3 9	0 75	140 00
1 keg do }			
1 box window glass.....	10 0 0	40 00	40 00
12 kegs assorted paints.....	0 40 0	8 00	96 00
60 gallons linseed oil.....	0 7 6	1 50	90 00
2 bladders putty.....	2 0 0	5 00	10 00
3 kegs nails, assorted, 450 pounds.....	0 2 0	.....	180 00
2 nests tin kettles.....	5 12 6	22 50	45 00
8 large copper kettles for sugar, 25 pounds each....	0 7 6	1 50	300 00
2 cases iron works for the trade, viz:—			
6 axes.....	0 20 0	4 00	24 00
2 dozen half axes.....	0 10 0	2 00	48 00
4 " tomahawks.....	0 15 0	3 00	144 00
2 " ice cutters.....	0 10 0	2 00	48 00
6 " fish spears.....	0 7 6	1 50	108 00
12 " fire steels.....	0 5 0	1 00	12 00
9 beaver traps.....	0 20 0	4 00	36 00
2 cases northwest guns, 10 each.....	3 15 0	15 00	300 00
10 stock locks.....	0 10 0	2 00	20 00
6 double padlocks.....	0 6 0	1 20	7 20
3 spades.....	0 15 0	3 00	9 00
1 dozen augers (each).....	0 5 0	1 00	12 00
70 pair scissors.....	0 2 6	0 50	35 00
12 packs pins, 6 pounds.....	0 5 0	1 00	6 00
6 pounds nun's and wire cotton thread.....	0 7 6	1 50	9 00
2 pounds sewing silk and twist.....	0 25 0	5 00	10 00
22 dozen buttons assorted.....	0 4 0	0 80	16 00
45 fine martens.....	0 15 0	3 00	135 00
4 otters.....	0 30 0	6 00	24 00
10½ pounds beaver.....	0 25 0	5 00	52 50
300 rats.....	0 1 9	35 00	105 00
55 deer skins.....	0 7 6	1 50	82 50
1 large travelling liquor case, complete.....	15 0 0	60 00	60 00
2 batteaux, newly repaired.....	25 0 0	100 00	200 00
1 boat graplin.....	5 0 0	20 00	20 00
3 sets scales and weights, tin, copper, and wood....	5 0 0	20 00	60 00
Also the following articles in my dwelling house, viz—			
4 pieces Irish tabinetts.....		25 00	100 00
5 " fine muslin.....		24 00	120 00
1 " dimity.....		90 00	90 00
3 " fine calico.....		28 00	84 00
2 " furniture do.....		30 00	60 00
25 damask table cloths.....		12 00	300 00
12 pair Irish linen sheets.....		10 00	120 00
1½ dozen towels.....		9 00	13 50
2 pair 4 point blankets.....		15 00	30 00
5 fine marten caps.....		20 00	100 00
1 double barrel fowling piece.....		60 00	60 00
1 common.....do.....		20 00	20 00
1 silver spoon.....		5 00	5 00
1 piece fine cambric.....	5 0 0	20 00	20 00
3 " linen shirting.....	12 10 0	50 00	150 00
2 " calimanco, 30 yards each.....	0 5 0	1 00	60 00
29 robes and dresses various quality, average.....	2 0 0	10 00	290 00
2-3-12 dozen shirts.....	0 20 0	4 00	108 00

## INVOICE—Continued.

3 dozen pair hose.....	£0 7 6	\$1 50	\$54 00
5 pair prunella shoes, new.....	0 7 6	1 50	7 50
8 pots preserves.....	0 15 0	3 00	24 00
1 crock butter, about 20 pounds.....	0 1 3	0 25	5 00
1½ reams paper.....	0 35 0	7 00	10 50
1½ dozens ink power.....	0 15 0	3 00	4 00
300 quills.....	0 20 0	4 00	12 00
2 double stoves, in use.....	7 10 0	30 00	60 00
			21,584 60
Losses on outstanding debts to traders, caused by the direct action of these seizures.....	1000 0 0	.....	4,000 00
An invoice of provisions on board the schooner Nancy, at Nadawasaging at the time of her capture.....	140 0 0	.....	560 00
			\$26,144 60

*Deposition of John Holiday.*

Be it remembered, that on the seventh day of December, 1835, John Holiday, of the Sault St. Marie, in Michigan, personally appeared before the undersigned, and being duly sworn, deposed and saith: That during the war of 1812, he was a clerk of the late John Johnston, of Sault St. Marie, and as such, was on the premises and witnessed the seizure and destruction of the goods and property mentioned in the invoice hereunto annexed. Having examined the same, item by item, he believes it to be a just and true account, so far as it extends, of property and goods in the store and dwelling-house of the said Johnston, on the 23d of July, 1814, which was, *on that day*, taken and seized by a detachment of troops under the order of Major Holmes. Most of the goods invoiced, had been received from Montreal *during the week*, and were yet unbaled. These goods had been purchased of the house of David David, Montreal, and were exclusively private property, as evidence of which I exhibited to the officers an invoice of purchase. They were intended for the interior trade, and I was under directions to prepare the outfits for that purpose, at the time of seizure. Having been a number of years in the employ of said Johnston, I had constant opportunities of knowing his commercial arrangements, and am enabled to state my belief that he had no connexion at that time, or at any previous or subsequent time, with the northwest company or their agents. He was in business on his own account, and received all his packages of goods to his own address.

The state of the country during the war, and particularly during the year 1814, rendered the prices of goods and provisions high; almost *any* price was paid, in the actual state of scarcity for all articles of prime necessity for the Indians, such as blankets, cloths, tobacco, ammunition, iron works, kettles, &c.; and owing to their scarcity, the Indians in the interior suffered very severely, both for food and clothing, and numbers perished. During the season following these seizures, a beaver skin (valued at \$5) was the or-

inary equivalent for two plugs (two-eighths of a pound) of tobacco, and four or five skins (according to their value) for a blanket.

With respect to the property in the dwelling-house, this deponent testifies: that the seizure and pillage embraced the provisions and family stores, liquors, preserves, house linen, clothing, and sundry miscellaneous articles. Several trunks of female and other clothing were embarked on board of the boats. No discrimination appeared to be made between objects intended for the Indian trade and articles of household necessity.

This deponent is free to add, that the late John Johnston conducted his trade with the Indians on fair, open and honorable mercantile principles. He was himself, during a period of twelve years, including the time above referred to, the medium of the traffic, and can therefore testify, *that equivalents in furs were received, or the debt for them incurred*, for all articles which they obtained. Said Johnston was not at that time, nor at any other time while I remained in his employ, the medium of making presents to the Indians for the Canadian government, or any agent thereof, or association of individuals. He is further free to declare, from all that transpired *before, at, and after* the seizure, that it was attributable to misrepresentations of persons who were solicitous to thrust him out of the trade, or had other sinister objects.

JOHN HOLIDAY.

Sworn before me, this 17th day of December, 1835.

ALFD. COLVILL,

*Commissioner of Deeds, City of New York.*

TERRITORY OF MICHIGAN, }  
County of Michilimackinac, } ss.

To all whom it may concern: I, William Keith, do hereby certify, that I was boatswain on board the United States ship Niagara, commanded by Commodore Sinclair, during the late war between the United States and Great Britain, while the said vessel was employed in the expedition against Michilimackinac, in the summer of 1814. In the exercise of my duties on board this ship, I was directed to take charge of the goods and property of the late John Johnston, esq., which was brought down the river in the boats of the expedition to that place under the command of Major Holmes. These goods were placed in my room; no invoice of them, so far as my knowledge extends, was made; they consisted generally of dry goods, sugars, liquor, tobacco, and other articles of merchandise, taken from the stores or dwelling-house of the said John Johnston.

I do further certify, that there was also brought on board of the said vessel, by officers and men, a quantity of clothing and household supplies of several kinds. I observed a trunk of female

wearing apparel, and heard the commodore rebuke the officer who had brought these articles aboard, and direct him to send them to the quarter deck of the ship. No return of these or of any other articles, was, however, made to the others, so far as I heard or believe.

Great liberty of appropriation was exercised by all, respecting the articles thus seized or brought aboard; pieces of cloths and other articles, were, to my knowledge, individually appropriated; and it is my opinion, that a very considerable portion of the property was thus appropriated, or otherwise made way with, before the squadron's reaching Detroit; the remainder was sold with other property, without the formality of a legal examination and decision; no proof was ever sought to establish the fact, whether the property was public or private, or had been legally or illegally seized.

I do further state, as my opinion, then and at present, that these seizures were made chiefly through the instrumentality of British subjects who had participated actively in the war against the United States, and who shielded their own property at St. Mary's under a show of zeal to point out the persons obnoxious to censure, while at the same time, indulging feelings of selfishness or vindiction.

WM. KEITH.

MICHILIMACKINAC, *October 13, 1835.*

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*To all whom it may concern:*

Be it known, that on this sixteenth day of December, in the year of our Lord, one thousand eight hundred and thirty-five, personally came and appeared before me, Alanson Nash, a commissioner of deeds, in and for the city and county of New York, Ramsey Crooks, of the city of New York, merchant, who, being duly sworn, deposes and says: That he has carefully examined an invoice of goods and effects, dated St. Mary's Falls, 25th of August, 1814, signed "John Johnston," and purporting to be the merchandise and other property taken from the said Johnston, at that place, by the troops of the United States, under the command of Major Holmes, in the said year 1814; that having been at Mackinac (by authority of the President of the United States) during a considerable portion of the summer of said year, he had frequent opportunities of seeing merchandise similar to that in Mr. Johnston's invoice, sold by the merchants of that place, at prices rather over than under the rates charged in said invoice for the articles in *specific* quantities; that in some instances Mr. Johnston's valuation is less than the selling prices at Mackinac at the time, and in the case of tobacco, which is charged at \$2 90 per pound, the article was worth more than twice that value. And the said deponent further says, that at that time all the goods for the northwest trade were obtained from Montreal, in the province of Lower Canada, where, in

consequence of the war then existing, all sorts of merchandise were exceedingly dear, which added to the heavy expense incurred for their transportation, by the hazardous route of the Ottawa and French rivers, and Lake Huron, raised the price of everything in the then remote region of the upper lakes to what may now be deemed extravagant, but which did not in reality yield more than a fair profit for the risk and labor then attending the business. The value of goods at St. Mary's and Mackinac were essentially the same, and this deponent further says, that, to the best of his knowledge and belief, the valuations of the merchandise in Mr. Johnston's said invoice are generally correct and proper, and in conformity to the prices charged at that time by other merchants or traders at Mackinac.

And this deponent further says, that while on board the flag ship of Commodore Sinclair, (the Niagara,) on her passage from Mackinac to Detroit, he saw several bales of merchandise which were spoken of and designated by the persons on board as part of the property taken from the premises of the said John Johnston, at St. Mary's aforesaid.

RAMSAY CROOKS.

Sworn before me, this 16th day of December, 1835.

ALANSON NASH,  
Commissioner of Deeds, &c.

TERRITORY OF MICHIGAN,  
County of Michilimackinac, } ss.

To all whom it may concern: I, John Law, a resident of, and an Indian trader at Green bay, do hereby certify, that I resided in the capacity aforesaid, during the time specified in the invoice of losses, by seizure of goods of the late John Johnston, esq., of St. Mary's, a copy of which is hereunto annexed, at Green bay; that I purchased my goods at Michilimackinac, and was familiar with the prices at which goods were bought and sold at the time. Having carefully examined the invoice of goods above referred to, I do further hereby certify, that, to the best of my recollection, several articles therein enumerated are charged below their then current value, and that the entire invoice of Indian goods, are, as a whole, charged at prices which were then deemed the fair market price.

Given under my hand, at Michilimackinac, the 9th day of October, in the year 1835.

JOHN LAW.

In the presence of—  
SAMUEL ABBOTT.

U. S. SLOOP OF WAR NIAGARA,  
*Off Thunder Bay, August 9, 1814.*

SIR: We left Fort Gratiot (head of Strait St. Clair) on the 12th ultimo, and imagined that we should arrive in a few days at Malchadash bay. At the end of a week, however, the commodore, from the want of pilots acquainted with that unfrequented part of the lake, despaired of being able to find out a passage through the islands into that bay, and made for St. Joseph's, where he anchored on the 20th day of July. After setting fire to the fort of St. Joseph's, which seems not to have been recently occupied, a detachment of infantry and artillery, under Major Holmes, was ordered up to Sault St. Mary's, for the purpose of breaking up the enemy's establishment at that place. For particulars relative to the execution of this order, I beg leave to refer you to Major Holmes's report, herewith enclosed. Finding, on my arrival at Michilimackinac, on the 26th ultimo, that the enemy had strongly fortified the height overlooking the old fort of Mackinac, I at once despaired of being able, with my small force, to carry the place by storm, and determined (as the only course remaining) on landing, and establishing myself on some favorable position, whence I could be enabled to annoy the enemy, by gradual and slow approaches, under cover of my artillery, in which I should have the superiority in point of metal. I was urged to adopt this step by another reason, not a little cogent. Could a position be taken and fortified on the island, I was well aware that it would either induce the enemy to attack me in my strongholds, or force his Indians and Canadians (his most efficient, and only disposable force) off the island, as they would be very unwilling to remain in my neighborhood after a permanent footing had been taken.

On inquiry, I learned, from individuals who had lived many years on the island, that a position, as desirable as I might wish, could be found on the west end, and, therefore, immediately made arrangements for disembarking. A landing was effected on the 4th instant, under cover of the guns of the shipping, and the line being quickly formed, had advanced to the edge of the field spoken of for a camp, when intelligence was conveyed to me that the enemy was ahead, and a few seconds more brought us a fire from his battery, of four pieces, firing shot and shells.

After reconnoitring his position, which was well selected, his line reaching along the edge of the woods, at the further extremity of the field, and covered by a temporary breastwork, I determined on changing my position, (which was now two lines—the militia forming the front,) by advancing Major Holmes's battalion of regulars on the right of the militia; thus to outflank him, and, by a vigorous effort, to gain his rear. This movement was immediately ordered, but, before it could be executed, a fire was opened by some Indians, posted in the thick wood near our right, which proved fatal to Major Holmes, and severely wounded Captain Desha, the officer next in rank. This unlucky fire, by depriving us of the services of our most valuable officers, threw that part of the line into confusion, from which the best exertions of the officers were



unable to recover it. Finding it impossible to gain the enemy's left, owing to the impenetrable thickness of the wood, a charge was ordered to be made by the regulars immediately against the front. This charge, although made in some confusion, served to drive the enemy back into the woods, from whence an annoying fire was kept up by the Indians.

Lieutenant Morgan was ordered up with a light piece, to assist the left, now particularly galled; the excellent practice of this piece brought the enemy to fire at a longer distance. Discovering that this disposition, from whence the enemy had just been driven, (and which had been represented to me as so high and commanding,) was by no means tenable, from being interspersed with thickets, and intersected in every way by ravines, I determined not longer to expose my force to the fire of an enemy deriving every advantage which could be obtained from numbers, and a knowledge of the position, and, therefore, ordered an immediate retreat towards the shipping.

This affair, which cost us many valuable lives, leaves us to lament the fall of that gallant officer, Major Holmes, whose character is so well known to the War Department. Captain Vanhorn, of the 19th infantry, and Lieutenant Jackson, of the 24th infantry, both brave, intrepid young men, fell mortally wounded, at the head of their respective commands.

The conduct of all my officers on this occasion merits my approbation. Captain Desha, of the 24th infantry, although severely wounded, continued with his command until forced to retire, from faintness, through loss of blood. Captains Sanders, Hawkins, and Sturgis, with every subaltern of that battalion, acted in the most exemplary manner. Ensign Bryan, 2d rifle regiment, acting adjutant of the battalion, actively forwarded the wishes of the commanding officer. Lieutenants Hickman, 28th infantry, and Hyde, of the U. S. marines, who commanded the reserve, claim my particular thanks for their activity in keeping that command in readiness to meet any exigency. I have before mentioned Lieutenant Morgan's activity; his two assistants, Lieutenant Pickett and Mr. Peters, conductor of artillery, also merit the name of good officers.

The militia were wanting in no part of their duty; Colonel Cotgreave, his officers, and soldiers, deserve the warmest approbation; my acting assistant adjutant general, Captain N. H. Moore, 28th infantry, with volunteer Adjutant McComb, were prompt in delivering my orders; Captain Gratiot, of the engineers, who volunteered his services as adjutant on this occasion, gave me valuable assistance.

On the morning of the 5th I sent a flag to the enemy to inquire into the state of the wounded (two in number) who were left on the field, and to request permission to bring away the body of Major Holmes, which was also left, owing to the unpardonable neglect of the soldiers in whose hands it was placed. I am happy in assuring you, that the body of Major Holmes is secured and will be buried at Detroit with becoming honors.

I shall discharge the militia to-morrow, and will send them down,

together with two regular companies, to Detroit. With the remaining three companies, I shall attempt to destroy the enemy's establishment on the head of *Naw-taw-wa-sa-ga* river, and, if it be thought proper, erect a post at the mouth of that river.

Very respectfully, I have the honor to remain, sir, your obedient servant,

G. CROGHAN,  
*Lieut. Col. 2d Riflemen.*

HON. J. ARMSTRONG,  
*Secretary of War.*

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ON BOARD THE U. S. SCHOONER SCORPION,  
*July 27, 1814.*

SIR: Pursuant to your orders of the —th instant, I left the squadron with Lieutenant Turner, of the navy, and arrived at the Sault St. Marie at noon the day after. Two hours before, the north-west agent had received notice of our approach and succeeded in escaping with a considerable amount of goods, after setting fire to the vessel above the falls. The design of this latter measure was frustrated only by the intrepid exertions of Mr. Turner, with his own men and a few of Captain Sanders's company. The vessel was brought down the falls on the 25th, but having bilged, Mr. Turner destroyed her. Much of the goods we have taken were found in the woods on the American side, and were claimed by the agent of John Johnston, an Indian trader.

I secured this property, *because* it was good prize, by the maritime law of nations, as recognised in the English courts, (witness the case of Admiral Rodney, adjudged by Lord Mansfield.) Further, *because* Johnston has acted the infamous part of a traitor, having been a citizen and magistrate of Michigan Territory, before the war and at its commencement, and now discharging the functions of magistrate under the British government; *because* his agents armed the Indians from his store-house, at our approach; and, lastly, *because* those goods, or a considerable part, were designed to be taken to Michilimackinac. Pork, salt, and groceries compose the chief part. Johnston himself passed to Michilimackinac since the squadron arrived at St. Joseph.

With high respect,

N. H. HOLMES,  
*Major 32d Infantry.*

Lieut. Col. CROGHAN,  
*2d Rifle, commanding.*

A true copy from the original report.

N. H. MOORE,  
*Acting Adjutant General.*

WASHINGTON CITY,  
January 30, 1836.

DEAR SIR: In answer to inquiries on the subject, I beg leave to state, that the late Mr. Johnston, of the Sault St. Marie, was well known to me during the latter period of his life. Official business took me twice to that place while he was living, and I received all the co-operation in the power of his family to render. Mr. Johnston married, many years since, a very respectable Chippewa woman, with whom he lived till his death, and by whom he had a family who were well educated and highly respectable in life. When I was first at the Sault, the circumstances of my position were rather critical, the Indians in that quarter had then scarcely got over the feelings engendered by the last war, and a great majority of them were hostile to our government. They assumed a very menacing attitude, and I found this family exceedingly useful to me, and prepared to aid me in any resort to which I might have been driven. I attributed the successful result very much to their interposition. Mr. Johnston was a gentleman by education and habit. He had become an Indian trader and connected himself with an Indian woman. He behaved, under these circumstances, like a man of honor, and as his position prevented him from taking a part in the war, his submission to the power which had acquired the authority over the place where he resided, could not be attributed to him as a fault.

He did what every other man, under similar circumstances, must have done. He could not desert his family, and as he remained with them, he necessarily submitted to the authority which the British government established there.

Very respectfully, your obedient servant,

LEWIS CASS.

HENRY R. SCHOOLCRAFT, Esq.,  
*Washington City.*

*To all whom it may concern:*

Be it known that, on this sixteenth day of December, in the year of our Lord one thousand eight hundred and thirty-five, personally came and appeared before me, Alanson Nash, a commissioner of deeds, in and for the city and county of New York, Ramsay Crooks, of the city of New York, merchant, who, being duly sworn, deposes and says, that he has carefully examined an invoice of goods and effects, dated St. Mary's Falls, 25th August, 1814, signed "John Johnston," and purporting to be the merchandise and other property taken from the said Johnston, at that place, by the troops of the United States, under the command of Major Holmes, in the said year 1814; that, having been at Mackinac (by authority of the President of the United States) during a considerable portion of the summer of said year, he had frequent opportunities of seeing merchandise, similar to that in Mr. Johnston's invoice, sold by the

merchants of that place, at prices rather over than under the rates charged in said invoice for the articles, in *specific* quantities; that, in some instances, Mr. Johnston's valuation is less than the selling prices at Mackinac, at that time; and, in the case of tobacco, which is charged at \$2 90 per pound, the article was worth more than twice that value. And the deponent further says that, at that time, all the goods for the northwest trade were obtained from Montreal, in the province of Lower Canada, where, in consequence of the war then existing, all sorts of merchandise were exceedingly dear; which, added to the heavy expense incurred for their transportation, by the hazardous route of the Ottawa and French rivers, and Lake Huron, raised the price of everything, in the then remote region of the upper lakes, to what may *now* be deemed extravagant; but which did not, in reality, yield more than a fair profit for the risk and labor then attending the business. The value of goods at St. Mary's and Mackinac were essentially the same. And this deponent further says that, to the best of his knowledge and belief, the valuations of the merchandise in Mr. Johnston's said invoice are generally correct and proper, and in conformity to the prices charged at that time by other merchants or traders at Mackinac.

And this deponent further says that, while on board the flag-ship of Commodore Sinclair, (the Niagara,) on her passage from Mackinac to Detroit, he saw several bales of merchandise which were spoken of and designated by the persons on board as part of the property taken from the premises of the said John Johnston, at St. Mary's aforesaid.

RAMSAY CROOKS.

Sworn before me, this 16th day of December, 1835.

ALANSON NASH,

Commissioner of deeds, &c.

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NEW YORK, January 19, 1836.

SIR: Your favor of 13th instant is this moment received, and I hasten to inform you that I visited Mackinac, in 1814, in the schooner Union, sent as a cartel, under a permission granted by President Madison to Mr. John Jacob Astor, of this city, for the purpose of bringing away his property, which had been in store on the island from 1812.

The cartel left Detroit soon after the return of Colonel Croghan's expedition, and, after a reasonable passage, reached Mackinac; where she was detained till late in the autumn, by the British commandant, who took this method of keeping Commodore Sinclair ignorant of the capture of the two schooners he left on Lake Huron, till the season was so far advanced as to make it hazardous to send a naval force from Lake Erie to recapture them.

The dates I cannot refer to conveniently, at the present moment; but if you desire further particulars, either in reference to me or

the object of my voyage to Mackinac, during the late war, Governor Cass or General Gratiot will furnish the information required.

I am, very respectfully, your obedient servant,

RAMSAY CROOKS.

HON. ELISHA WHITTLESEY,

*Chairman Com. of Claims, Ho. of Reps.,*

*Washington city.*

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MONTREAL, December 30, 1835.

I was intimately acquainted with the late Mr. John Johnston, of Sault St. Mary's, for many years previous to eighteen hundred and fourteen. I was at that time acting as agent for the Northwest Company, at Michilimackinac and at the Sault St. Mary's, and only left the latter place the day before the arrival of the American army. The Northwest Company's establishment was subsequently fired and pillaged. I never knew Mr. Johnston to have any connexion with the Northwest Company, or with any other British commercial company, beyond simple transactions in trade on his own individual account as a private speculator.

C. GOTHIER.

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MONTREAL, January 4, 1836.

I have been acquainted with the late Mr. Johnston, of Sault St. Mary's. As well as I can recollect, I have always understood from him that he traded on his own account, and was not connected with the Northwest Company, or any other establishment.

M. O'SULLIVAN.

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TERRITORY OF MICHIGAN, }  
*County of Michilimackinac,* } ss.

To all whom it may concern: I, William Keith, do hereby certify, that I was boatswain on board the United States ship Niagara, commanded by Commodore Sinclair, during the late war between the United States and Great Britain, while the said vessel was employed in the expedition against Michilimackinac, in the summer of 1814. In the exercise of my duties on board this ship, I was directed to take charge of the goods and property of the late John Johnston, esq., which was brought down the river in the boats of the expedition to that place under the command of Major Holmes. These goods were placed in my room; no invoice of them, so far as my knowledge extends, was made; they consisted generally of dry goods, sugars, liquor, tobacco, and other articles of merchandise, taken from the stores or dwelling-house of the said John Johnston.

I do further certify, that there was also brought on board of the said vessel, by officers and men, a quantity of clothing and house-

hold supplies of several kinds. I observed a trunk of female wearing apparel, and heard the commodore rebuke the officer who had brought these articles aboard, and direct him to send them to the quarter deck of the ship. No return of these or of any other articles, was, however, made to the owners, so far as I heard or believe.

Great liberty of appropriation was exercised by all, respecting the articles thus seized or brought aboard; pieces of cloths and other articles, were, to my knowledge, individually appropriated; and it is my opinion, that a very considerable portion of the property was thus appropriated, or otherwise made way with, before the squadron's reaching Detroit; the remainder was sold with other property, without the formality of a legal examination and decision; no proof was ever sought to establish the fact, whether the property was public or private, or had been legally or illegally seized.

I do further state, as my opinion, then and at present, that these seizures were made chiefly through the instrumentality of British subjects who had participated actively in the war against the United States, and who shielded their own property at St. Mary's under a show of zeal to point out the persons obnoxious to censure, while, at the same time, indulging feelings of selfishness or vindiction.

WM. KEITH.

MICHILIMACKINAC, *October 13, 1835.*

MIDDLETOWN, CONN.,  
*January 27, 1836.*

SIR: Your communication of the 13th instant requesting of me such information as I possess respecting loss of property, sustained by John Johnston, of Sault Ste. Marie, during the last war, came to hand this day. In answer to which, I must say that I have no personal knowledge of the event; all the information I have on the subject has been derived from those who are perfectly acquainted with the transaction. My first acquaintance with Mr. Johnston and his family was in 1825; since which time I have been a resident of Ste. Marie. I often conversed with the said J. Johnston on the subject of his loss of property, which he stated was to the amount of twenty-seven to twenty-eight thousand dollars, which loss reduced him almost to poverty. Mr. J. Holiday, who was clerk for him at the time the property was taken by United States troops, made the same statement to me; also many others, who were living at the Sault at the time of said loss, confirm the said statement. All agree in the circumstance that the goods and property of said J. Johnston was taken from his premises by United States troops, on board of boats, thence to the vessels, and conveyed away. I have been informed, also, by those who were well acquainted with the circumstance, that quite a large proportion of said property was taken to Detroit, and there sold at auction as



United States property; and I have no reason to doubt but the avails were applied for the benefit of the United States. As to the loss of a very large amount of property by the said Mr. John Johnston, I have not the least doubt on my mind; and, from my personal acquaintance with the said family, I do believe that, in consequence of said loss, that the family are left in indigent circumstances.

The widow, Susan Johnston, is a native woman. She has ever exerted her influence to promote the good of our country. I am persuaded that it was through her influence that Governor Cass was enabled to succeed in the treaty at Sault Ste. Marie. She has performed many acts of service in consequence of the influence she possessed in the Chippewa nation. I will close by saying that I regard her claim on government to be just.

I have the honor to subscribe myself your obedient servant,  
JNO. HULBERT.

The Hon. ELISHA WHITTLESEY,  
*Washington.*

TERRITORY OF MICHIGAN,  
*Supreme Court, sitting as a district court, } to wit:*  
*of the United States,*

I, John Winder, clerk of the said supreme court of the Territory of Michigan, the same having the jurisdiction and powers of a district court of the United States, do certify that I have searched the records of said court for the years 1814, 1815, and 1816, and that I find in said records no record of any proceeding against any goods, wares, and merchandise whatever, instituted or prosecuted during that time.

In witness whereof, I have hereunto set my hand and [L. s.] affixed the seal of said court, at the city of Detroit, the fourteenth day of January, in the year of our Lord one thousand eight hundred and thirty-six.

JNO. WINDER, *Clerk.*

MICHIGAN TERRITORY, }  
*Wayne county,* } *ss.*

Conrad Ten Eyck of said county, being duly sworn, says: that in the year 1814, he was a quartermaster in the service of the United States, and in that capacity accompanied in that year the expedition to Mackinaw, under Colonel Croghan, and that to the Sault Ste. Marie, under Major Holmes and Commodore Sinclair; that at the latter place a large quantity of goods were taken by the troops composing said command, belonging to the late John Johnston, which were placed in the hands of this deponent and brought to the city of Detroit; that at the last mentioned place he deliv-

ered the same to Commodore Sinclair or to James McCloskey, the acting quartermaster at Detroit; that there was no prosecution of said goods and no judicial proceedings, trial, or adjudication in respect to the same, but the same were disposed of without any such proceedings.

CONRAD TEN EYCK.

MICHIGAN, }  
Wayne county, } ss.

On this 26th day of December, A. D. 1835, personally came before me, Conrad Ten Eyck, to me personally known, and made solemn oath, that the matters and things set forth in the above affidavit, by him subscribed, are true, according to the best of his knowledge and belief.

GEO. E. HAND,  
Judge of Probate.

*From Commodore Sinclair, United States navy.*

U. S. SLOOP OF WAR NIAGARA,  
Off Michilimackinac, August 6, 1814.

SIR: Your letter of this day's date has just been handed me by Mr. Crawford. I am happy to have it in my power to say in reply, that my own sense of honor and sense of justice completely accord with the instructions of my government, as relates to individuals and their property, both of which will ever be held sacred. I have given Mr. Crawford an extract of my instructions to the naval officer who participated in the expedition to St. Mary's, which must at once assure you that it is my determination to comply, most strictly, with what I here profess. Colonel Croghan's, I know, were very similar, as his instructions from the War Department are precisely such as mine are from the navy.

Major Holmes, who commanded the troops sent to St. Mary's, brought some goods, which he officially reported to Colonel Croghan to be good prize, agreeable to the laws of nations, as stated in the case of Admiral Rodney, adjudged by Lord Mansfield. But as neither of us can judge in the present case, as it has been represented to us by the above named officer in his official report, we can only assure you that the strictest justice shall be done the individual, should it appear that it is such property.

I have had an accurate inventory taken of all the property brought on board my squadron, and I assure you, a just and proper representation shall be made to the court which adjudges it, and an immediate return made accordingly.

I have the honor to remain, with respect, sir, your obedient servant,

A. SINCLAIR.

Lieutenant Colonel McDONALL,  
Commanding at Michilimackinac.

I certify that the foregoing is an accurate and true copy of Commodore Sinclair's reply to the late Mr. Johnston's application on the subject of his property, *made fourteen days after the seizure*, agreeably to a copy in possession of the family.

HENRY R. SCHOOLCRAFT.

WASHINGTON, *February 1, 1836.*

MICHIGAN TERRITORY, }  
Wayne County, } ss.

John McDonnell, of the city of Detroit, in said county, being duly sworn, says that, in the year 1814, a considerable quantity of goods, wares and merchandise were brought by the troops which went upon the expedition in that year to Mackinac and the Sault Ste. Marie, to the city of Detroit, which were taken, as this deponent was informed and believes to be true, from the late John Johnston; that there was no prosecution of said goods, wares and merchandise, and no judicial proceeding, trial or adjudication in respect to the same, but that said goods, wares and merchandise, having been so brought to the city of Detroit, were disposed of without any such proceeding.

JOHN McDONNELL.

Sworn and subscribed this 11th day of January, A. D. 1836, at Detroit.

GEO. E. HAND,

*Judge of Probate, Wayne county, M. T.*

WASHINGTON, *January 20, 1836.*

SIR: In reply to your note of the 13th instant, received on the 17th, informing me that the petition of Susan Johnston, administratrix of John Johnston, deceased, late of St. Mary's, in Michigan, on behalf of herself and children, with accompanying documents, had been referred to the Committee of Claims of the House of Representatives; and requesting to be informed whether I had any knowledge that the property, said in the abovementioned petition to have been seized and carried away by the American army, during the late war with Great Britain, was taken by order of an officer belonging to the army of the United States, for sustaining said army, or for the success of the expedition against the enemy in the upper country, commanded by Colonel Croghan; or whether any part of the said property was sold, and the avails thereof applied to the benefit of said expedition, or the treasury of the United States, I have the honor to state, that, not having been in the country at the time referred to, I cannot affirm anything in relation to this matter, as coming under my own observation; yet, from everything I have heard said, during a residence of about fourteen years in Michigan territory, and an intimate acquaintance with several per-

sons who either belonged to the military expedition under Colonel Croghan, or were residents of the upper country when the expedition was carried into effect, I have no doubt the narrative of facts, in the petition of Mrs. Johnston, is strictly correct. I have always understood that store-goods, and other property to a large amount, was taken from Colonel Johnston, by order of Major Holmes, or by one of the captains of his command, with his knowledge, and that a part of said property was distributed among the troops of the expedition to supply their immediate wants, and part of it taken to Detroit, and sold for the benefit of the treasury of the United States, without the formality of a legal condemnation.

I enclose, herewith, the testimony of John Holiday, Esq., one of the partners of the American Fur Company, (who is now in this city,) proving that part of Colonel Johnston's goods were used to supply the wants of the troops of the expedition; and I will further state that I am well acquainted with all the persons whose testimony is appended to Mrs. Johnston's petition, and know them to highly respectable and credible witnesses.

I have the honor to be, very respectfully, your obedient servant,

LUCIUS LYON.

HON. ELISHA WHITTLESEY,

*Chairman Com. of Claims of the Ho. of Reps.*

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TREASURY DEPARTMENT,  
*Third Auditor's Office, January 18, 1836.*

SIR: I have the honor to return the letter of the Hon. E. Whittlesey, and accompanying printed document, in relation to a claim of Susan Johnston, administratrix of John Johnston, referred to me on Saturday by you for a report. The letter inquires whether any of the property therein mentioned was sold, and its avails used to the benefit of the United States; and to learn whether this office can furnish information on that head, is presumed to be the object of the reference to me. Resort has been had to the accounts of such of the officers in the quartermaster's department as were supposed, in case the property had been sold for the benefit of the United States, likely to afford information on the subject, and none can be found therein.

With great respect, your most obedient servant,

PETER HAGNER, *Auditor.*

The Hon. LEWIS CASS,

*Secretary of War.*

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Be it remembered that, on the nineteenth day of January, 1836, John Holiday, of Michigan, personally appeared before me, the subscriber, a justice of the peace for the county of Washington, in

the District of Columbia, and, being duly sworn, testifies as follows, namely:

That with regard to the authority from the government of the United States for the seizure of goods and property, an invoice of which is given in printed document No. 47, (24th Congress, 1st session, House of Representatives,) this deponent was present on the day referred to in the petition in said document, being the 23d July, 1814, and heard orders issued by the officer in command, whose name is unknown to this deponent, for the taking and seizure of the same.

This deponent further testifies that, on the said 23d day of July, 1814, he witnessed the consumption of a portion of the *provisions and stores* mentioned in the invoice by said troops; and also the appropriation and use of part of the *clothing and house and store goods* by both officers and men of said army. The article of *capots* (a blue cloth frock coat peculiar to the country) was put on and worn by the officers of said detachment. He also witnessed the use of shoes by the soldiery, some of whom were apparently without that article; also hats, metosses, (a kind of cloth wrapper or leggin,) calico shirts, fur caps.

The condition of the country, at that period, was such that all goods used in the Indian trade, which were imported from England, were scarce and high, and especially woollens. It was difficult to procure the article of blankets for the army employed on the northwestern frontiers, and cotton furnished, to some extent, an inadequate substitute for woollens, particularly blankets. The articles of this kind found *unbaled* were appropriated; and this deponent has reason to believe that similar articles embarked *in bulk*, and others of daily necessity to the expedition, were, to a greater or less extent, used by the troops to the furtherance of the service and the benefit of the treasury of the United States. Of this description he deems the items of powder, shot, ball, guns, flints, tents, the two batteaux taken from the wharf, oil cloths, kettles, axes, and stationery. Among the articles used for the subsistence of said troops, on said 23d of July, 1814, this deponent specifies, as coming within his observation, provisions in open barrel in store, salt, liquors, preserves, butter. Tobacco was dealt out to the men.

This deponent is unable to specify the amount of store goods, provisions and property, consumed or applied to the comfort and succor of said expedition while in the river St. Mary's, or after the troops joined the main army under Colonel Croghan, before Michilimackinac. But he believes, as is stated in the testimony of Capt. Keith of the navy, (vide document,) that "a very considerable portion of the property was thus appropriated."

JOHN HOLIDAY.

Sworn and subscribed in presence of

WILLIAM THOMPSON, J. P.

HOUSE OF REPRESENTATIVES.—March 25, 1836.

*The Committee of Claims to whom was referred the petition of Susan Johnston, administratrix of her late husband, John Johnston, deceased, report :*

That the petitioner states in her petition, as the foundation of the claim presented by her, that the said John Johnston, before and during the late war, lived at the falls of St. Mary's, in Michigan : that in the summer of 1814, an expedition of American troops, under the command of Major A. H. Holmes, came to the residence of Mr. Johnston, who was then absent: that said soldiers seized and took away the goods in the store, and property in the house, and conveyed the same on board a boat; that Mr. John Holliday, who was the clerk of Mr. Johnston, was present when this was done.

Major Holmes makes an official report of this transaction to Lieutenant Colonel Croghan, under date of 27th July, 1814. He states that about two hours before he arrived there with his men, the northwest agent had received notice of their approach, and had succeeded in escaping with a considerable amount of goods, after setting fire to the vessel at the falls. That the design of this measure was frustrated by the intrepid exertions of Mr. Turner, with his own men and a few of Captain Saunders's company. The vessel was brought down the falls on the 25th, but having bilged, was destroyed by Mr. Turner. That much of the goods which they took was found in the woods, on the American side, and were claimed by the agent of John Johnston, an Indian trader. That he secured this property, 1st. Because it was lawful prize, according to the law of nations; 2d. Because Johnston had acted the infamous part of a traitor; having been a citizen and magistrate of the Michigan Territory before the war, and at its commencement; and at the time of said seizure discharged the functions of a magistrate under the British government; 3d. Because his agents armed the Indians from the store-house at his approach; and 4th. Because these goods, or a considerable portion of them, were designed to be taken to Michillimackinac, where Johnston had gone.

Commodore Sinclair, in his report, dated the 6th of August, 1814, to Lieutenant Colonel McDonall, states that Major Holmes, who commanded the troops sent to St. Mary's, brought some goods, which he officially reported to Colonel Croghan to be good prize; that as neither of them could determine or judge of that matter, and as it was officially reported, he gave assurances that the strictest justice should be done the individuals, if it should appear to be such property; that an accurate inventory had been taken of the goods; and that a just and proper representation should be made to the court which should adjudge the case, and an immediate return be made accordingly.

It does not appear that any judicial proceeding was ever had in regard to these goods. The committee believe that no such proceeding was ever had in relation to them.



It does not appear that any part of the avails of these goods ever went into the treasury of the United States; nor is there any proof of what ultimately became of them.

The petitioner has exhibited proof to us, that Mr. Johnston was not, at the time of this transaction, nor at any other time, the agent of the "North-west Company."

The testimony of John Holiday, who was the clerk of Mr. Johnston, has been taken by the petitioner, and laid before the committee. He states that he was present, and saw the whole transaction: that the seizure, removal, and destruction of the goods took place on the 23d of July, 1814; that the goods had been brought from Montreal the week before; that he showed the invoice of the purchase to the officers; that the goods were intended for the interior trade; that provisions were taken and eaten by the men; that clothes, shoes and hats, were taken and worn by both officers and men.

The testimony of William Keith was also submitted to the committee. He states that the goods were brought on board the United States ship Niagara, on which he then was: that great liberality of appropriation was exercised by all respecting the articles brought on board; pieces of cloths, and other articles, were individually appropriated; that a considerable part of the goods was thus appropriated, or otherwise made way with, before the squadron reached Detroit; that the residue of the goods was sold.

Mr. Hagner, in his letter, which is made part of this report, states that he has caused an examination to be made, and that the records do not furnish any evidence that the property had been sold for the benefit of the United States.

The committee believe that there is no proof which tends to establish the fact, that this property was, by an order of an officer of the army of the United States, in any way applied in aid of the expedition against the enemy in the Michigan country, commanded by Colonel Groghan; nor do they believe that said property was sold, and the avails applied to the use of the government, or paid into the treasury of the United States.

Nor does the property appear to have been taken by public authority, for the use or subsistence of the army. The property was taken by the order of an officer, but not for the use or subsistence of the army. This appears evident from the report of the officer who ordered the goods to be taken. This report is official, and made at the time; and is therefore entitled to credit. He states the reasons which induced him to make the seizure, and the purpose for which it was made. His entire report negatives all and every pretence that the goods were taken by his order for the use or subsistence of the army.

That the goods were afterwards, in part, consumed or used by the men, does not vary the case. This consumption or use was not by the order of an officer, for the use or subsistence of the army. It was not taken for and in lieu of rations, and a credit given to the government for the same; nor was the cloth and clothing

taken in lieu of clothing to be furnished by the government to the soldiers, and a credit given to it by them for that which was used. This appropriation and use was improper, and probably illegal, but it was not such an use or application of the goods as brings the government under any obligation to pay their price. It is not every taking or use of the goods of an individual by the officers or soldiers of the army, that fastens upon the government an obligation to pay. The goods must be taken by public authority, for the use or subsistence of the army, or no liability is incurred by the government. In this case the goods were not so taken and used, and the government ought not to pay for them.

If the goods were the property of an enemy at the time of seizure, the government would not be bound to pay for them. From the report of the officer it would appear that this was his opinion, at the time he took them into his possession. He has, in his report, given in detail the reasons upon which this opinion was formed. Some consideration is certainly due to the official reports of our public officers. They are made at the time of the transactions, which may be the subject matter of their report. They are made in strict discharge of their public duties: and form an important part of the recorded history of the country.

The petitioner has furnished us with a letter from the Hon. Lewis Cass, in which he states that the petitioner is a highly respectable lady, and that the family of Mr. Johnston was well educated, and also highly respectable. He also states that he found Mr. Johnston the active and ardent friend of this country, and that he rendered him valuable services when in that quarter of the country. The letter is made part of this report.

This case was presented at the 1st session of the 21st Congress, and referred to the Committee of Claims. A report was then made against the claim.

The committee have now examined that report, which is made part of this report, and fully concur in the principles there laid down, and the conclusions to which the committee then came.

Under this aspect of the case, and for the reasons stated in this report, the committee believe that the petitioner has not made out a case entitling her to relief, and submit the following resolution:

*Resolved*, That the claim should be rejected.

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MARCH 2, 1830.

*The Committee of Claims, to which was referred the petition of Susan Johnston, report:*

That the petitioner states her late husband, John Johnston, was a resident of St. Marie, in the county of Chippewa, in the Territory of Michigan, in the year 1814, and carrying on a trade in such goods as found a market there; that the place was visited by Major Holmes, in that year, at the head of a detachment of Ame-

rican troops, and the dwelling-house and store-house of said Johnston, was, by the said detachment, and by the order of the said Holmes, sacked, and the goods and property of the said Johnston, not excepting small articles of household furniture and family clothing, carried off or destroyed, under a pretence that said Johnston was an agent for the Northwest Company.

A schedule of the property said to have been taken or destroyed, accompanies the petition, amounting to £9,035 14s, Halifax currency. Several depositions were taken to prove that the goods did not belong to the Northwest Company. It appears, however, that they had been then lately purchased or brought from Montreal.

The committee have endeavored to ascertain from the Treasury Department, whether the goods were libelled and condemned, or any account rendered of them at the treasury; and the answer of the Secretary is, that no information of the kind is found.

A letter was addressed to Captain St. Clair, who was in the expedition, but he has no recollection of the transaction. The committee has been furnished with the copy of a letter from Lieut. Turner to Capt. St. Clair, making a report of his proceeding, wherein it appears that the property taken was Indian goods, and he says that all private property was respected.

If the goods were private property, and not subject to capture, the party owning them had his remedy against the officer taking them for the trespass.

If they were public property they were liable to seizure; in no event would the United States be liable, unless the seizure was unlawful, and the treasury had been enriched thereby.