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J. Loranger vs the U.S.

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IN THE SENATE OF THE UNITED STATES.

DECEMBER 10, 1857.—Received.

DECEMBER 18, 1857.—Referred to the Committee on Claims.

The COURT OF CLAIMS submitted the following

REPORT.

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

The Court of Claims respectfully presents the following documents as the report in the case of

JOSEPH LORANGER *vs.* THE UNITED STATES.

1. The petition of the claimant.
2. Opinion of the Court on the petition adverse to the claim.

By order of the Court of Claims.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Washington, this seventh day of
[SEAL.] December, A. D. 1857.

SAMUEL H. HUNTINGTON,
Chief Clerk Court of Claims.

IN THE UNITED STATES COURT OF CLAIMS.

To the honorable the judges of the Court of Claims :

The petition of Joseph Loranger, of the county of Wayne, State of Michigan, respectfully sheweth :

That at the commencement of the late war with Great Britain, and for a considerable time prior to that event, your petitioner was established at the Rapids of the Maumee river successfully prosecuting the business of a merchant and Indian trader, and where he became the owner and proprietor of a dwelling-house, store, and out-houses, which were of the value of two thousand dollars and upwards ; that during the prosecution of the war it became necessary to deposit provisions at this point for the use of the army under the command of General Hull,

and your petitioner's said buildings were freely appropriated by the agent of the army contractors to that purpose, and a large quantity of provisions were accordingly stored in them. That immediately after the capitulation of Detroit all the buildings were, in consequence of the well known public use to which they had been applied, burnt and totally destroyed by the Indians attached to the British army, by which your petitioner sustained a total loss of said buildings.

That in consequence of this disaster your petitioner was compelled to abandon the place, whereupon he removed to Frenchtown, on the river Raisin, where he recommenced on a scale corresponding with his then reduced circumstances; and he converted the greatest portion of his goods to the purchase of provisions, such as flour, wheat, corn, and oats, which he felt solicitous to keep for the use of the American army, in anticipation that they should be required. That he had them safely stored at Frenchtown in January, 1813, and a few days previous to Gen. Winchester's defeat, when the officers of a detachment of British militia and Indians, then occupying Frenchtown, applied to your petitioner and offered to purchase and pay for said provisions for the use of the British forces, but your petitioner disregarded the liberal offers made him, and the urgent entreaties of these officers, (which gave them great offence;) and your petitioner was influenced in coming to this determination by information, which about this time reached him, that the American army were in great want of provisions; that immediately after General Winchester's defeat, and when the savages commenced the massacre of the Raisin, your petitioner fled, with many other inhabitants, and left all his property (embracing the provisions aforesaid) to the mercy of the enemy. Strongly attached to the American government, and desirous of placing himself in the ranks of his country's defenders, he sought the camp of General Harrison at Upper Sandusky, and tendered his services in whatever line he might be useful. That no sooner did your petitioner leave Frenchtown than his stock of goods, the provisions aforesaid, and the rest of his personal property, to the value of fifteen hundred dollars, were taken, pillaged, and destroyed by the enemy, British and Indians, and they were wholly lost to your petitioner. In consequence of those misfortunes he was impoverished in his circumstances, and he has hitherto obtained no relief for his repeated losses. That your petitioner is sole owner of said claim, and that the action of Congress thereon has been, so far as he is informed, as follows: In the 1st and 2d sessions of the 23d Congress, the petition was presented. On the 7th April, 1834, it was referred to Committee on Claims. On 10th December, 1834, referred to Committee on Claims. In the 33d Congress, 2d session, April 16, 1838, it was, in the Senate, referred to the Committee on Claims, and April 17, the committee were discharged. In 1852, December 13, referred to Committee on Claims. In 1854, December 20, referred to Committee on Claims, and February 1, 1855, a favorable report was made. Wherefore, he prays that relief may be extended to him in the premises. And your petitioner, as in duty bound, &c.

JOSEPH LORANGER,
By P. J. LORANGER.

A. H. LAWRENCE,
Attorney for Petitioner.

DISTRICT OF COLUMBIA,
Washington county, ss.

On this tenth day of July, A. D. 1855, before me, a justice of the peace in and for said county, personally appeared Philip J. Loranger, a son of the within petitioner, and made oath that the facts therein stated are true, to the best of his knowledge and belief.

J. H. GODDARD, *J. P.*

JOSEPH LORANGER vs. THE UNITED STATES.

Judge BLACKFORD delivered the opinion of the court.

The petition relies upon two claims against the government. The first claim is as follows:

That the claimant, at the commencement of the war with Great Britain, in 1812, was a merchant and Indian trader at the Rapids of the Maumee river; that he owned there a dwelling-house, store, and out-houses, of the value of 2,000 dollars; that it became necessary to deposit provisions at that point for the use of the American army; that said buildings were freely appropriated by the agent of the army contractors to that purpose, and that a large quantity of provisions was accordingly stored in the buildings. The petition also states that immediately after the capitulation of Detroit, (in 1813,) the buildings were, in consequence of the well-known public use to which they had been applied, burned and destroyed by the Indians attached to the British army.

The following is the second claim:

That after said disaster the claimant removed to Frenchtown, on the river Raisin, where he commenced business and purchased provisions, such as flour, wheat, corn, and oats, which he was solicitous to keep for the use of the American army; that these provisions were safely stored at Frenchtown, in January, 1813; that the claimant, a few days before General Winchester's defeat, refused to sell said provisions to British officers and Indians, he being influenced by information that the American army was in great want of provisions; that immediately after said defeat (in January, 1813) the claimant, with many others, fled, leaving all his property (including said provisions) to the enemy; and that no sooner had he left Frenchtown than his said provisions and other personal property, of the value of 1,500 dollars, were destroyed by the enemy.

There is no ground for either of these claims.

The first claim is for the value of the buildings burned by the Indians. The complaint is, that the army contractors had stored provisions for the use of our army in the buildings, which caused them to be afterwards burned by the hostile Indians. The general doctrine is, that a government does not insure the property of its citizens, in time of war, against injuries committed by the enemy. We consider the law to be, that if the government, by its authorized agent, take possession of a private building, and make use of it as a military depot or as barracks, and the enemy, in consequence of such possession and

use, destroy the building while it is so used, the government would be liable to the owner for the value of the building. There would be reason for saying, in such case, that the government had given a character to the property, which, by the usage of civilized warfare, would justify the enemy in destroying it. But it is not shown by the petition before us that the government ever had anything to do with the buildings. The agent of the army contractors was not an agent or officer of the government, with authority to convert a private building into a public military establishment. Besides, it does not appear how the buildings were occupied, or by whom, at the time they were burned, or that they were occupied at all at that time.

There was a statutory provision on this subject enacted in 1816 and amended in 1817, but it required the claims under it to be exhibited within two years after its enactment. That provision was very similar to the general law as we have above stated it to be. (3 Stat. at Large, 263, 397.)

With regard to the second claim, which is for the value of the aforesaid flour, wheat, corn, and oats, the charge amounts to nothing more than that the private personal property of the claimant was in his absence destroyed by the enemy. In such a case as that, it has never been supposed that the injured individual can call upon his government for redress. (Vattel's Law of Nations, book 3, chap. 15, sec. 232; Cassius M. Clay's case in this court.) Such wanton destruction of private property by the enemy is one of the unavoidable calamities of war to which the citizens of an invaded country are subject. The government, by acknowledging its liability for such injuries, would take from its citizens one of the strongest inducements they have to protect their property, and furnish the enemy with an additional reason for destroying it.

An order to take testimony in this case is refused.