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CASE OF THE HEIRS OF DOCTOR JAMES REYNOLDS.

JANUARY 16, 1836.

Read, and committed to a Committee of the Whole House to-morrow.

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

REPORT:

The Committee of Claims, to whom was referred a resolution of the House of Representatives, instructing them to inquire into the expediency of allowing to the heirs and legal representatives of Doctor James Reynolds, deceased, or to his administrator, the amount of a horse which fell into the hands of the enemy at Detroit, during the last war, immediately after the fall of the said Reynolds, who was killed in battle in that place, report:

That it appears from the evidence, that Doctor James Reynolds acted as a surgeon's mate in a regiment of volunteers, under the command of Colonel Lewis Cass, in the late war.

John Cairns testifies that he served as a private in a company of volunteers, under the command of Joseph Cairns, in said regiment; that he was at the surrender of Detroit, and knows that Doctor Reynolds was killed in said town or fort; and that he possessed, at the time of his death, a horse, saddle, bridle, and martingale, worth one hundred and fifty dollars; and that the Indians belonging to, or engaged by the British, did take and carry with them the above described property.

James Blunt also testifies that he was at the battle of Detroit and surrender of General Hull, on the 16th August, 1812, at which place and time James Reynolds, a surgeon of the regiment under the command of Colonel Lewis Cass, was killed; that he knew Reynolds well, and was present when he died; and that, at the time of his death, he was the owner of a horse and side arms, all which he knows, and believes were taken possession of by the enemy after the surrender of the fort. He also declares that he knew the horse well, and believes him to have been worth from 90 to 100 dollars; and that the saddle, bridle, holsters, martingale, and saddle, were worth fifty dollars.

It will be remarked that, by the resolution submitted to them, the committee are instructed to inquire into the expediency of allowing for the horse alone; and although there is testimony that other property belonging to said Reynolds was also taken, the committee, nevertheless, have confined their inquiry to the horse only.

The second section of the act passed 9th of April, 1816, provides "That any person whether of cavalry, mounted militia, or volunteers, who, in the late war, has sustained damage by the loss of a horse in consequence of the owner being dismounted or separated, and detached from the same by order of the commanding officer, or in consequence of the rider being killed or wounded in battle, shall be allowed and paid the value of such horse at the time he was received into the public service."

The question to be decided is, Has the case been brought within the provision of the law? in other words, did the loss accrue "in consequence of the death" of Reynolds?

It is unnecessary here to go into an inquiry with regard to the unfortunate affair at Detroit. For the purpose of this investigation, it is sufficient to observe that the attack upon the garrison commenced on the evening of the 15th, and the surrender took place on the 16th of August; and it does not clearly appear, from the evidence, whether Reynolds was killed on the day of the attack, or the day of surrender. Cairns declares he was at the surrender, and that Reynolds was killed "in said town or fort;" and Blunt says, "that he was at the battle of Detroit and surrender of General Hull, on the 16th day of August, 1812, at which place and time James Reynolds was killed."

The committee incline, however, to put a construction upon the evidence most favorable to the claimants, and take it as established, that Reynolds was killed on the same day the garrison surrendered; and consequently that the horse in question fell into the hands of the enemy on the day of his death.

The question however, recurs, whether a loss under such circumstances is covered by the law. Was the horse captured "*in consequence of the death of Reynolds?*" The committee are of opinion that it was not in consequence of his death; and, if they are correct in this particular, the claimants cannot recover.

Cairns does not state whether the capture took place before or after the surrender; but Blunt settles the question distinctly. He says that "at the time of his decease, Reynolds was the owner of a horse and side arms, all of which he knows, and believes were taken possession of by the enemy after the surrender of the fort."

Unless, therefore, it can be supposed that the surrender of the fort was in consequence of the death of Reynolds, which is not proved, and which most probably was not the case, it cannot be maintained that the loss of his horse was in consequence of his death.

The committee are of opinion that the horse belonging to Reynolds fell with all the other property in the place in consequence of the surrender, and which was superinduced by other causes than the death of the claimant's ancestor. It follows, therefore, that the case has not been brought within the provisions of the law, and that it must be rejected; and the following resolution is submitted:

Resolved, That the claimants are not entitled to relief.

The STATE OF OHIO, *Madison county*, ss.

Before me, the subscriber, a Justice of the peace in and for said county, personally appeared John Cairns, late a private in the volunteer company

commanded by Joseph Cairns, in the volunteer regiment commanded by Colonel Lewis Cass, who, being duly sworn, do depose and say, that I was at the surrender of Detroit, and was personally knowing that Doctor James Reynolds, a surgeon's mate in said regiment, was killed in said town or fort; and that he possessed, at the time of his death, a horse, saddle, bridle, and martingale, worth one hundred and fifty dollars; and the Indians belonging to, or engaged by the British, did take and carry the above described property away with them.

his
JOHN × CAIRNS.
mark.

Sworn to, and subscribed, this 21st day of April, 1832.

SAM'L THOMPSON, *Justice of the Peace.*

The STATE OF OHIO, *Muskingum county, ss.*

I, John Wilson, jr., clerk of the court of common pleas in and for said county, do hereby certify that Samuel Thompson, esq., before whom the foregoing deposition of John Cairns appears to have been sworn to, and the annexed deposition of James Blunt, was, at the time of taking said depositions, an acting justice of the peace in and for the county of Muskingum aforesaid, duly commissioned and qualified.

In testimony whereof, I hereto set my hand, and affixed the seal of said court, at Zanesville, this 26th day of April, A. D. 1832.

[L. s.]

JNO. WILSON, Jr., *Clerk.*

The STATE OF OHIO, *Muskingum county, ss.*

On this 25th day of April, 1832, before me; the subscriber, a justice of the peace in and for the county of Muskingum aforesaid, personally came James Blunt, a resident of said county, and being duly sworn according to law, doth depose and say, that he was at the battle of Detroit and surrender of General Hull, on the 16th day of August, 1812, at which place and time James Reynolds, a surgeon of the regiment commanded by Colonel Lewis Cass, was killed; that deponent was well acquainted with said Reynolds, and was present when he died; that he, at the time of his decease, was the owner of a horse and side arms, all of which deponent knows, and believes were taken possession of by the enemy after the surrender of the fort; that deponent knew the horse well, and believes him to have been worth from ninety to a hundred dollars; the saddle, bridle, holsters, martingales, and sword, deponent believes was worth fifty dollars.

JAMES BLUNT.

Sworn to, and subscribed before me, this 25th of April, 1832.

SAM'L THOMPSON, *Justice of the Peace.*