Communication from Henry R. Schoolcraft, relative to certain private land claims at Sault St. Mary, in the State of Michigan.
COMMUNICATION
FROM
HENRY R. SCHOOLCRAFT,
RELATIVE TO
Certain private land claims at Sault St. Mary, in the State of Michigan.

JULY 9, 1846.

Referred to the Committee on Private Land Claims, and ordered to be printed.

To the honorable the Senators of Michigan in Congress:

GENTLEMEN: I have examined the report on the land claims at Sault Ste. Marie, in Michigan, embraced in Senate document No. 348, (1st session 29th Congress,) in connexion with House document No. 42, (1st session 20th Congress,) to which my attention has been called. My recollections of these claims, and the respective claimants, are clear and distinct. Having landed with the troops ordered to take post there in 1822, as an agent of Indian affairs for the United States, and being at the same time in commission as a justice of the peace under the Territory of Michigan, I was called on as a magistrate to receive the acknowledgment of affidavits and other papers relative to these claims, and requested to examine the locations and improvements upon which they were founded.

The original occupants of St. Mary's were French, or of French descent, of the same mild and urbane habits and manners, though of humble life, and the same habitual deference to established authority, which you have both so long known as characteristics of the French population on that wide frontier. The settlement had been a very ancient one in the interior portions of new France, dating, as one of the early Catholic missions, long anterior to that of Detroit. So far as my reading serves me, the mission of Sault de Ste. Marie had been established prior to the ecclesiastical visit to that region by fathers Marquette and Aloez, in 1668. Detroit was first possessed as a military post in 1701.

We were received by the inhabitants with open hands; and during the entire course of my residence there, of many years, I do not know of an instance of the slightest unfriendliness by them, far less resistance to the laws or authority of the United States, civil or military. On the contrary, it is the result of my observation that this class of inhabitants were more ready to obey an order, law, or a mere request, than the mass of mixed citizens who came to that point within a few years from other quarters of the Union. What had been their course of conduct as an isolated and feeble settlement of a very remote frontier, before the United States had extended its protecting arm to them, could only be judged of.
by rumors, which did not agree, but varied widely as they came from friendly or unfriendly tongues; but nothing in the shape of evidence, touching these claims on this point, was presented to me.

So far as I could learn, the revenue laws came into operation at Michilimackinac about five or six years after the surrender of the lake posts, in 1796. There was evidence in the office of Indian affairs, at Michilimackinac, which afterwards came into my possession in the shape of bonds for licenses granted for the Indian trade, that the principal trader at St. Mary's, the late John Johnston, esq., and some others, had complied with the acts of Congress in this particular. Relations of an official and personal character existed, to some extent, between the leading inhabitants and the chief magistrate at Detroit, at the period of the administration of General Hull, which were resumed and extended, and full authority exercised, under that of General Cass. To some of the land claimants of St. Mary's the government of the United States was indebted, within my own knowledge, for exerting a highly important friendly influence over the hostile Indians on that frontier, in 1820; and to several individuals in the number of these land claimants I owe, as an Indian agent, the exertion of a similar friendly influence over the remote interior tribes on Lake Superior, and the waters of the upper Mississippi, during an official residence at Sault Ste. Marie and Michilimackinac of many years. Not to mention these services and friendly offices, in proceeding to state my opinion on their claims, would be to withhold a just view of their character, and to narrow the grounds from which acts and opinions, and motives, must be judged.

Early as St. Mary's was settled under the French crown, we found no missionary of the Catholic church stationed there, nor any traces, indeed, of the mission house or its appendages, except the burial ground, which had continued, it appeared, to be used to a recent period. The hand of dilapidation was also visible in the foundations or ruinous state of buildings, and especially in a very considerable number of clearings and old fields, partly in grass, and partly overrun with copsewood and shrubbery. These were in some cases interspersed with farms, fields, and lots, still cultivated and fenced, or picketed, and occupied by dwellings. Probably a line of not less than a mile and three quarters, taking in the unbroken woods along the portage path, extended between the most extreme westerly and extreme easterly claim.

The locations had been made in conformity with the general French system of giving a narrow front, running back for quantity. In no case, except one, did the limits of the claims exceed four arpents in front, by eighty in depth. In most of them the field cultivated covered merely the front, extending back towards the hills. Most of the inhabitants had cattle, milch cows, and horses, and the existence of ploughs, carts, and other farming implements, denoted that the enclosed lands were used for agricultural purposes.

The troops landed on the 6th of July, and encamped on a large open field east of Mr. Johnston's. They afterwards took permanent possession of the ancient chateau, or building, erected by John Baptiste Nolin as the agent of Simon McTavish, of the northwest company, together with the outbuildings and wharf. This building was picketed in, with cedar pickets, in the French style of early times. The most considerable and prominent improvement in the place east of this, and indeed in the village, was that
of Mr. Johnston, a gentleman of the north of Ireland, who had, about 1792, married the daughter of a Chippewa chief, and raised and educated a large family on their native patrimonial soil. This improvement consisted then of a dwelling-house, store, store-house, blacksmith's shop, several dwellings for his clerks and men, with a barn and out houses, a wharf, a large, well cultivated garden, with fruit trees, and about forty acres of land, well fenced, and cultivated in grass, oats, potatoes, turnips, &c., with a stock of cattle. Between these two points was a dwelling house, occupied by a widow named Gadotte, with a potato field and garden in cultivation; and near it a small house, tenanted by John Baptiste Dubois, and another by Leon St. Germain; the two latter standing on the green, and with no adjoining cultivated fields. Above the cantonment was an open, grassy elevation, on which the Indians buried their dead, which had been formerly occupied with extensive buildings. Traces of the figure and foundation of these, with an ancient cart road down the bank, existed. Immediately west there was a dwelling house, and field in cultivation, and fenced, occupied by Antoine La Loncette. East of the field, which has been named as first occupied by the troops, was an old road and an eminence in grass, unfenced, having bramble and woods on its south. Still east of this location were the vestiges of an improvement made by François Nolin. Remains of a large store-house also existed at the extreme head of the portage, but there were no evidences of former cultivation at that point. No census of the inhabitants, or their buildings, products, and stock, was taken. Mr. Johnston had nine buildings, of all sorts. There were in the Nolin lot perhaps three or four, and five dwelling houses in various other parts of the settlement, together with outhouses. The number of inhabitants was, and generally is, under like circumstances, in the Indian country, disproportionately large, from the residence of more than one family in a dwelling-house.

If the land claims founded upon these settlements be numbered according to their position in the report of the commissioners, the testimony offered and testified to before me, or the judge of the district, or otherwise elicited, proves:

That No. 1, a common, had been in use a long but indefinite period. [Not confirmed.]

That No. 2 (Ermatinger) had been occupied from remote French times. In 1788 a Mr. Bertie sold it to Simon McTavish, who put it into the possession of John Baptiste Nolin. The latter occupied it till 1819, when he sold it to C. O. Ermatinger, and removed to Lord Selkirk's colony on Red river. [Confirmed.]

That No. 3 (Johnston) was founded on an ancient French settlement, purchased and occupied by claimant in 1793, who had continued to occupy it, enlarged the quantity of cultivated land, erected buildings, &c. [Confirmed.]

That No. 4 (J. B. Nolin) originated in the erection of a store house by him, at the head of the portage, about 1792 or '93, which had been abandoned after the surrender of the lake posts in 1796, and the erection of buildings by the N. W. Co. on the N. or British side of the falls. [Not confirmed.]

That No. 5 had been the ancient site of extensive buildings, gardens, and fields, which were occupied last by John Sayres, who abandoned or sold them, and left the country for the interior at a date not stated, but
inferred to be subsequent to 1796. No occupancy or buildings existed here on the expedition of Gov. Cass in 1820. [Not confirmed.]

That No. 6 had been occupied from the time of the French post in 1760, between 1788 and 1803, by John Baptiste Cadotte, who died the latter year, leaving it to his sons Michael and John Baptiste. The latter, in 1796, gave it to his daughter, who, 10 or 12 years afterwards, married Leon S. St. Germain; and he, on the 21st March, 1821, deeded it to Lyman M. and Truman A. Warren for 900 livres Quebec currency. [Confirmed.]

That the title to No. 7 descended, in the French manner, from a Mr. Campeau to John Baptiste Dubois, at about 1803, who sold it on the 29th May, 1823, to John Drew, but continued to live on it till his death in 1824 or '25. [Confirmed.]

That No. 8 had been occupied from 1807 by Madam Jeneatte Cadotte, the present occupant. [Confirmed.]

That No. 9 was occupied and cultivated in 1810 by John Baptiste Nolin; that he sowed and raised grain thereon, and kept possession of it till 1819, when C. O. Ermatinger took possession, and he received a deed for it from Nolin, August 14th, 1821. [Confirmed.]

That No. 10 was cultivated and occupied in 1809 by Louis Nolin, who continued the same till 1811, when he sold it to J. Johnston. [Confirmed.]

That No. 11 was cleared and cultivated by Francois Nolin in 1811, and occupied till 1814, when he perished in the Indian country, and the improvement was abandoned. [Not confirmed.]

That the title to No. 12 was in Louis Dutaut from 1795 till his death, in 1817; that it passed to his sons Francois and Joseph, who held it till 1819, when they sold it to Antoine La Lorraine; and that the latter continued to live on and cultivate the land till 15th February 1823, when he conveyed it by deed to E. B. Allen. [Confirmed.]

Such was the number and condition of the land claims at Sault Ste. Marie in 1822, the oldest of which was proved, by living witnesses, to have been then in continuous occupation sixty two years. Twenty-four years have elapsed since, during which the occupancy of all the claims has been continued by the claimants, or their descendants, or legal successors, except claims numbered (as above) 2, 9, and a few feet in width of No. 6, which were then taken possession of and have since been occupied by the United States troops at that post; and No. 10 occupied by the Indian department.

What further changes of title have since taken place in the claims not thus excepted, is not particularly known. This discrimination and individuality in the statement of the several claims, the eras and character of settlement, and transfer of titles, has been made from clear recollections, supported by manuscript and printed data, after perusing the vague and ex parte statements, assertions, and opinions, made in two several letters of certain officers of the command stationed at St. Mary in 1823, dated July 29th and August 5th, respectively, and the "protest" of one of the commissioners, who did not concur with a majority of the board, dated October 22d, 1823. [See House Doc. No. 42, 1st sess. 20th Cong., pp. 482 to 487.] In what particulars my statement differs from these letters and communications, will appear by a reference to them.

The claimants at St. Mary's were originally the subjects of a foreign government. They did not profess to be what they were not, at the respective eras of cession. All the inhabitants of Louisiana, and the French
portion of Michigan, were, in this respect, on a footing. By Jay’s treaty of 1796; those who did not remove over the lines, but continued to reside on their plantations and farms in the United States, were deemed to have elected to become citizens, and, upon this principle, their votes were received at elections in upper Michigan, without resort to the naturalization law, when elections were first held in that district. They were too well acquainted with the principles of the American government to fear that rights to houses and lands thus acquired could be forfeited by such cession or change of boundary, and far less could they fear that a military force could enter upon or abrogate such rights without making due compensation therefor. The cession at the falls of St Mary, of the 16th June, 1820, was asked for by the commissioner, in my hearing, and granted by the Chippewas, in my presence, as a recognition of the prior right of France, which had inured to us; and in signing this treaty, the existence of “private rights” (vide art. 3) is recognised. France had not only established a fort and mission at these falls at an early period, but her commander had granted rights to local settlers, and the government made concessions which we were bound to respect.

To a foreigner our naturalization laws provide for the exercise of the rights of citizenship, after five years’ notice of the declaration and residence; but this class of foreigners, if men born on the soil deserve such a title, who came into the Union under treaty provisions, required no such declaration that they might assume their rights to property and other franchises; and they, or their descendants, or a majority of them, have actually resided on the land, by testimony offered, for nearly half a century, prior to the 6th of July, 1822, when the government took formal possession of that district, and nearly a quarter of a century since. That this people, living at St Mary’s, at the foot of Lake Superior, at a distance of 90 miles northeast of Michilimakinac, and 390 northwest of Detroit, could, if ever so much inclined, have maintained the authority of the United States, when they had not even a militia officer, or a justice of the peace to sustain them; that this feeble and isolated village, living by the sufferages of hostile tribes of Indians, should have done this, when even Detroit itself fell before the enemy, and the entire territory of Michigan was surrendered by General Hull, in 1812, and the authority of Great Britain, civil and military, proclaimed, and for a time maintained by the enemy, is a result not to have been expected, even of a homogeneous American population, and certainly not of a recently transferred people thus perilously circumstanced, whatever might have been the feelings of friendship towards the United States, and of patriotism felt by individuals. I have never heard that this people claimed to have taken up arms for the United States thus gratuitously, and situated as they were, far without the pale of her protection. It was not done by a correspondent population, although nearer the point of support, at Prairie du Chien, Green Bay, Michilimackinac, and still lower points of the Indian country; all which places had, however, been more habituated to American rule, and had actually, if I am rightly informed, had magistrates appointed prior to 1812; yet the fact of the inhabitants of these places not being found in arms for the United States at that period has not been urged against, or has not prevented the confirmation of their claims to lands at those places, as will be seen by examining the classes of claims marked Nos. 4, 5, 6, and 8, in House Doc. 42, 1st session 20th Congress.
There is another aspect in which the claims to lands at Sault Ste. Marie deserve to be considered. With the exception of the person (George Er- minger) who occupied the Nobis House, on the arrival of the troops— and he only occupied it for his brother—each of the other original male claimants, or their parents, had formed connexions by intermarriage with the Chippeewa nation, the original possessors and owners of the soil; and, either in themselves or their children, they were bona fide, native born citizens. The policy of the government at least, in the recognition and confirmation of their ancient rights to the houses and lands described in their claims, was a clear one: and if it gave no legal right, it furnished a favorable motive for the consideration of such right, through occupation, descent or purchase. A just and honorable nation should respect such claims.

The type and character of the patriotism which actuated some of the officers who came to St. Mary's with the troops, (it did not embrace all) and wrote the letters before referred to, in disparagement of these claims may be left to others to inquire into. That this patriotism was local—very local—that it did not extend to other posts in the upper country, garnished by the same regiment, where these examinations of claims were going forward, and where even American citizens, who had been traitors to their country in 1812, had claims, (see page 8, Doc. 42.) but that it took much of its "shape and pressure" from extraneous circumstances, i. who knew the moral caliber and stamp of each signer to the two communications of the 29th July and 8th August, 1823, above referred to, had repeated opportunities of judging. The truth was, they were at odds with American citizens, recently located on some of these claims by rent or purchase, who had set up "shops and sold liquor to the noons, and were foiled in an attempt to rule this portion of the settlement by the bayonet, instead of the law book. To relieve the command of this confessed evil, and (so far as the dealing in this article was concerned) to attain a desirable and worthy end, they pursued, however, a wrong means, persevered in it, when (by a decision of courts) found wrong, and made strenuous efforts to defeat the confirmation of the entire claims by affixing then names, in a military capacity, to statements and assertions, (see page 485, Doc. 42,) some of which were wholly gratuitous, and contrary to the facts in evidence, as printed, (see claims No. 7,) and which might have been easily investigated, and set in their proper light, by a little severity of inquiry. To the original cause of difficulty, thus noticed, as existing between the military and citizens, further impulse was given early by one of the citizens declining to lend a considerable sum of money, without security, to one of the subaltern officers signing these communications—an officer already in debt, who never paid, and was intemperate. This request for security, with a proffer of the money on these terms, was considered, or affected to he considered, by the officer and some of his comppeers, as an indignity. Another cause arose, at a subsequent time, from a suit for trespass against the commanding officer, brought by another citizen, for which, on trial of the case in the county court, a fine was imposed, and the practice checked. Whatever effects these and other incidents had on the minds of the letter writers, they furnished grounds for the opinion, generally entertained at the time, that a patriotism which could find any degree of its aliment in such local and personal sources was not of the most exalted and noble kind.

That the dissenting commissioner (page 482) who lived at Detroit, some
390 miles distant, with Lake Huron interposed, and had never visited the place, should have been swayed by these hasty communications, made in bitter blood, when he had testimony of another kind, in a legal form, before him; and that, departing from the grave position he occupied as a judge of rights, he should have not only taken up with these *ex parte* assertions, but added thereto vague street rumors and opinions, some of which are wholly irreconcilable with each other, and in fact puerile, is the most remarkable incident I find in the documents; and is the more remarkable, when it is added that they appear to conflict with the ordinary moral reputation of the man. Perhaps it may be stated, as a like instance of the influence of the *prestige* of position, that the late Mr. Graham of the land office should have been so essentially carried away by his “protest” and these military letters, as to have supposed that he had authority to direct the commissioners in matters which the laws of Congress, and the actual testimony under them, must have necessarily governed.

For the due deference with which the several papers, which I have felt constrained to comment on, were received by the commissioners at Detroit, and their weight and influence before the board when put in the legal balances and weighed, and particularly for the clear and conclusive manner in which the final opinions and decision of the board (who confirmed *eight* out of *twelve* claims) are expressed, the report drawn up by Mr. Woodbridge (vide p. 18, Doc. 42) presents an unanswered and unanswerable argument, and I very respectfully beg leave to call your attention to it.

I have thus expressed my opinion, and recorded my testimony upon each of the claims referred to, and upon their general character and merits. Not to have entered into this particularity would have detracted from the value of my statements; and to have avoided allusion to the military letters and “protest” would have appeared either to shrink from just responsibility, or to lack candor. The task has not been voluntarily assumed, as you will bear me witness. Many years have elapsed since I removed from St. Mary’s, and many since I have even visited it: but, having opened up the subject by your request, and unsealed, as it were, old reminiscences, I have been led into a fuller view of the matter than I purposed.

I have given it the best examination I am able. I attach no importance whatever to any legal opinions I have advanced. Upon that branch I know nothing. Upon any other point commented on, as of my own knowledge,* if I knew of any fact or opinion misstated, I would, on a review, and before adding my signature hereto, most cheerfully alter it.

Very respectfully,

HENRY R. SCHOOLCRAFT.

NEW YORK, May 7, 1846.

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*The number of mistakes in the spelling of names—English as well as French—in Doc. 42, and some dates, &c., are such as should never occur in a public document.*