

certainty of capture, where the profits, if successful in escaping it, would be proportioned to the extra risk; so that the public would, in fact, be the only possible losers by those mercantile adventurers. As to the absurd argument made use of by some interested in advancing it, that the settlements on the frontier would not be supplied with their various wants, unless some such encouragement of indemnification was held out, it scarcely needs refutation, for a very slight knowledge of the spirit of commercial enterprise must convince every uninterested person, that there is no risk so hazardous, but some will be tempted to embark in it, where the extraordinary profits (as before remarked) hold out such strong inducements. The commissioners, after a long investigation into the circumstances, have thought it right to consider one particular claim which came before them, as an exception to the foregoing general rule, being the case of a vessel which was cut out of Fort Erie by the enemy, it appearing that she had sailed from Amherstburgh *under convoy*, and had been employed on that particular voyage, in conveying American prisoners from thence, and consequently might be considered as being partly engaged in government employ—it should further be remarked, that there was no claim for any cargo on board her.

Among the claims for loss of goods in transitu, is one preferred by Mr. Thomas McCormick, formerly of Queenston, which the commissioners are induced to represent as a special case, and which seems to merit the consideration of the government, from the peculiarity of the causes which led to the loss in question; but the loss itself, being precisely under similar circumstances with those of other claimants, the commissioners themselves would not venture to make it an exception to the general decision of "Inadmissible." The peculiarity of the case is this. The claimant, Thomas McCormick, had, by the irruption of the enemy, been lamentably burnt out of house and former means of livelihood, at Queenston, the store which he kept there, being, with its contents, wholly destroyed. To support his family, he came over to York to set up another store in that

town, and it was the goods destined for it, that were captured in *transitu* on the lake, on their passage from Montreal. It therefore would appear, that it was the destruction by the enemy, in the first instance at Queenston, which drove him to the risk he incurred on the lake, and may therefore be perhaps considered in a different light from speculators who were not in like manner driven by *necessity* thereunto, but merely tempted to increase their ordinary gains by the great inducement which war-prices then held out to them.

The commissioners however cannot go the length of expressing any decided opinion upon the peculiarity of the case in question, but merely, in justice to the individual concerned, thus explain its *dissimilarity* from the others cases in transitu, as far as the *remote causes which led to it* are considered.

The second class which the commissioners have declared inadmissible, are claims for property lost within the territory of the United States of America—upon these the commissioners felt they had no discretionary power, the provincial act which governs their proceedings, having restricted all awards under that act, to losses sustained within the province, in which opinion the commissioners were borne out by that of His Majesty's Attorney General, to whom the case was referred. The commissioners however feel it but justice to some of the claimants thus circumstanced, to represent that there are peculiar cases, under this head, which would doubtless have experienced a different result, but for the restriction above recited.

The third class decided inadmissible, are claims for losses occasioned by Burglaries and other Felonies; these being considered misfortunes not necessarily confined to a state of warfare, and the police laws of the country not being resorted to at the time, to secure and identify the perpetrators before the courts of Justice.—The commissioners after very mature deliberation, could not reconcile it to themselves, to burthen the public with