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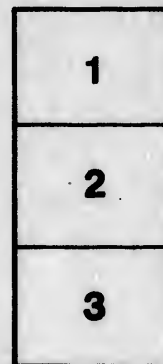
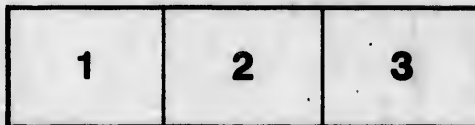
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**S T A T E M E N T**

**OF THE**

**SEIZURE OF THE**

**BRITISH SCHOONER LORD NELSON,**

**BY**

**AN AMERICAN VESSEL OF WAR.**

**ON THE 5th JUNE, 1812.**

**13 DAYS BEFORE THE LATE WAR WITH THE UNITED STATES**

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**HAMILTON:**

**JOURNAL AND EXPRESS OFFICE.**

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**1841.**



# STATEMENT,

&c.

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*To His Excellency H. S. Fox, Her Majesty's Minister at Washington.*

WEST FLAMBORO', 21st May, 1839.

MAY IT PLEASE YOUR EXCELLENCY,—

On the 27th of April last, I had the honor of submitting to your Excellency, through the kindness of His Excellency Sir George Arthur, Lieut. Governor of this Province, a summary respecting the seizure by an United States Vessel of War of a Schooner belonging to myself and my late brother William, now deceased, named the "*Lord Nelson*," so long ago as the year 1812, a short time *before* the declaration of War, which will make manifest to Your Excellency that great and aggravated injustice has been done us, and that although we have never ceased to urge our claim, yet we remain unindemnified to this day.

Finding myself to be as near receiving justice in this matter now as we were 27 years ago, and feeling the utter impossibility of any individual compelling an Independent Government to listen to his claim, I directed the papers connected with it to be sent to me, intending to lay them before the Legislature of this Province, at its last Session, in the hope that they would respectfully represent our case to Her Majesty's Government in England, and through its means be remunerated for a loss which no circumstance connected with it can palliate, and which on the part of the U. S. has no excuse, as in all cases when vessels of its citizens were seized by foreign Governments they gave them no rest till their loss was made up, and for which very large sums of money had been received, as well from France, as from other Countries.

Unfortunately these papers did not reach me till the very close of the Session of the Provincial Parliament, and after I had placed in our excellent Lieut. Governor's hands the summary mentioned above; they were therefore of no use to me, and I now beg leave to transmit them to Your Excellency, not doubting but that upon a perusal of them your Excellency will be of opinion with me, that we have, to say the least of it, been hardly dealt with. During the Session of the Provincial Parliament just closed, an address was carried unanimously in the Legislative Council, representing to Her Majesty the heavy losses sustained by the Inhabitants of this Province during the late incursions from the U. S. more particularly the burning of the Sir Robert Peel steam boat, in which address the "*Lord Nelson*," was also mentioned—and although no doubt is entertained that Her Majesty's Government will warmly espouse the cause of Her loyal subjects in this Province, yet I presume to address myself to Your Excellency, as being at the seat of Gov't. you will be better able, than they are in England, to inform yourself of the circumstances of our case and in the hope that if your Excellency is thereby impressed with the same sense of injustice towards us, that I feel Your Excellency will use



your best endeavours with the U. S. Government to cause immediate and ample justice being done.

I have the Honor to be Your Excellency's

Most obedient and most humble servant,

J. CROOKS.

His Excellency HENRY S. FOX, Her Majesty's Minister Washington.

COPY.

TORONTO, 17th December, 1839.

SIR :

Towards the close of the last Session of the Provincial Parliament, His Excellency the Lieut. Governor did me the favor to address Her Majesty's Minister at Washington, in regard to a claim I have upon the American Government, for the value of a vessel called the Lord Nelson, owned by myself and a brother now deceased, and seized by an armed vessel of the United States, a few days before the declaration of War in 1812, upon Lake Ontario, but it appears by a conversation with Mr. Fox by my son, who repaired to Washington late in the past month, on his way to England, that he (Mr. Fox,) had never received His Excellency's communication, or had forgotten it.

Since the Peace of 1815, I have never ceased to prosecute my claim, and at last obtained the judgment of the United States Court, having jurisdiction of such cases, in my favor, but it was then discovered that the Clerk of the said Court had absconded with this and other monies, so that the amount remains to this day unpaid.

At the Session of Congress before the last a Bill passed the House of Representatives providing for the payment of my claim—also the committee on claims of the Senate, but at the close of the Session it was lost in the Senate by a majority of five.

It is unnecessary to trouble his Excellency the Governor General with the details of this matter, knowing as I do the multiplicity of public business which engages his attention, nor would I have obtruded myself upon his Excellency's attention at this time were it not that my Agent at Washington is again pressing this claim before Congress, and were His Excellency to bring it under the notice of Mr. Fox, who is in possession of all the documents, I do hope that justice will at last be done me : The loss now amounts to 4 or £5000. I do not mean that the ambassador should at present be requested to interfere officially, hoping as I do that his influence with the Executive Government of the United States, who have always thought favorably of the claim, will accomplish the desired result. If, however, I am disappointed in this, the time will have come to claim the interference of Her Majesty's Government in protecting its subjects against Foreign aggression in their lawful dealings ; for it must be evident that no individual, however strong his case, (and that this is one than which none can be stronger) can compel a Foreign Government to do him justice, is too evident to require any argument in support of it.

I beg further to state, that at the last Session of the Legislature of this Province, this matter formed part of an address to Her Majesty from the Legislative Council, passed 25th April last.

I have the Honor to be, Sir, your most obedient humble Servant,

(Signed)

J. CROOKS.

T. W. CLINTON MURDOCH, Esq.,

Chief Secretary to His Excellency the Governor General.

TORONTO, 26th December, 1839.

SIR:

I am commanded by the Governor General to acknowledge the receipt of your letter of the 17th instant, and to inform you in reply that His Excellency has communicated with Her Majesty's Minister at Washington, relative to your claim to indemnity on account of the seizure of the "Lord Nelson," in 1812. His Excellency will apprise you of any information on the subject which he may receive from Mr. Fox in answer to his enquiry.

I have the honor to be, Sir, your most obedient humb'e Servant,

T. W. C. MURDOCH.

The Hon. JAMES CROOKS, &amp;c. &amp;c. &amp;c.

WASHINGTON CITY, 16th April, 1840.

SIR:

Having procured a copy of the Bill which passed the Honorable the House of Representatives, December 14th, 1837, for the relief of myself and my late brother, I beg leave to hand it to you enclosed.

You will perceive that by it no provision was contemplated to indemnify the owners of the Lord Nelson for the heavy expense they have been put to in endeavoring to procure relief, and which, one way or another, amounts to 12 a \$1500. This is the second time I have myself come here on this and no other business, and my late brother came here as often, and my son once. In the first instance, gentlemen of the highest standing at the Bar were employed by us, as the late Mr. Emmett of New York, Mr. Gould of Cooperstown, and others, and I was, immediately after the seizure, obliged to charter a vessel, in conjunction with Judge Porter of Niagara Falls, Manchester, (who had also some vessels seized, but which were restored to him,) to proceed to Sacket's Harbour, but Captain Woolsey refused to give up mine, although I tendered security to abide the issue of any charge that might be produced against her.

I will only further most respectfully remark, that the property having been taken from under our control, and from out of our use without our consent, and that we are placed in our present position by no act of our own, I humbly trust that the liberality of Congress will be evinced by making that reparation to us at this late period, which is so justly our due, in the only way in which it can now be done.

I have the honor to be, Sir, your most obedient humble Servant,

J. CROOKS.

The Hon. HENRY HUBBARD,

Ch'm. of Com. Claims U. S. Senate, Washington.

COPY.

25TH CONGRESS, 2D SESSION.

H. R. 76.

December 14, 1837.

Read twice, and committed to a Committee of the whole House to morrow. M. E. Whitney, from the Committee of Claims, reported the following:

A BILL FOR THE RELIEF OF WILLIAM CROOKS AND JAMES CROOKS.

Be it enacted by the Senate and House of Representatives of the United States of America, assembled, that the Secretary of the Treasury pay to William Crooks and James Crooks, citizens of Canada, or the survivor of them, five thousand dollars, out of any money not otherwise appropriated, the value of a vessel called the Lord Nelson, illegally seized by Lieutenant Woolsey, of the Navy of

the United States on Lake Ontario, on the fifth day of June, eighteen hundred and twelve, and purchased by the United States under an interlocutory decree directing its sale, the avails of which have not been paid to said Crooks, with interest on said sum from the day of seizure until the approval of the act for their relief, by the President of the United States.

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WASHINGTON, Saturday, April 11th.

SIR:

As I am anxious to have some conversation with you upon the subject of your claim upon this Government, perhaps you will be so good as to call here on Monday, about 2 o'clock, or at any time between that and 5, when you will find me at home and very glad to see you.

Your faithful and obedient servant,

H. S. FOX.

HON. JAMES CROOKS.

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WASHINGTON, Thursday, April 30th.

SIR:

An accident prevented me from receiving your letter of last week, which came through the post office, until several days after it was written; and I regret that I was not at home when you called upon me on Monday. As I have found that the history of your claim is not fresh in the recollection of the government here, I think the best way in which I can proceed, to serve you, is this: If you will make out a circumstantial statement of the claim, and of what has, up to this time, been done in it, I will present that statement to the Sec'y of State, with a letter from myself strongly urging the claim upon the attention of the Government, and calling upon them in good faith to exert themselves with Congress for its speedy settlement. I would offer to make out such a statement myself, but that you have all the papers, and are of course better acquainted than I can be with the proceedings that have hitherto passed. The statement should particularly specify the date and terms of the former President's message to Congress, and of the two favorable Reports from Committees of the House of Representatives. No mention need be made of the Bermuda case, as that plea seems to have been abandoned. If you agree with me in the propriety of the step above suggested, I shall be glad to present the statement as soon as you can furnish me with it. It will be best that you should send any letter direct to my house, as I do not send every day to the post office. And if it is agreeable to you to call here, you will find me at home, and very glad to see you, either to-morrow (Friday,) or the next day, about 3 o'clock,

Your very faithful and obedient Servant,

H. S. FOX.

HON'BLE JAMES CROOKS.

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*Statement relative to the Seizure of the British Schooner Lord Nelson, in time of Peace, by an American Vessel of War, on Lake Ontario.*

The Schooner Lord Nelson was built at the town of Niagara, in the Province of Upper Canada, in the year 1811. On the 5th of June, the year following, (1812,) she was fired into and seized by the Oneida, an American Brig of the United States, commanded by Lieutenant Woolsey, being first chased and then fired into, whilst on her passage from Prescott, a town also in Upper Canada, at the head of the rapids of the St. Lawrence, being at the time about half way up Lake Ontario, when engaged in her regular trade of carrying the productions of Upper Canada to that place on their way to Quebec, and bringing back to Niagara the manufactures of the country.

Immediately after her seizure was known, one of the owners, repaired to Sacket's Harbour, a port of the U. S., whither she had been conveyed, and al-

though he tendered security to abide the decision of the courts of the U. States, on the pretended charge of her having violated the embargo laws of that country, yet she was refused to be given up, and war having been declared against Great Britain by the United States on the 18th of the same month, (June, 1812,) all intercourse ceased on the subject of said seizure, except that the owners employed counsel to defend their rights, and it is understood that she was taken into the service of the United States, armed with twelve guns, and was sunk in action with the British fleet, under Sir James Yeo: It appears that an interlocutory decree was pronounced by the U. States court under which she was bought by the Government, for \$2,999 25-100, and the money lodged by the court in the hands of its clerk, Theron Rudd: after Peace was restored every effort was made by the owners to have the libel tried, but it was not until July, 1817, that a decree was pronounced in their favor, and an order made by the court for its clerk to pay over the money to the owners, but it was then discovered that the clerk had embezzled that and other monies in his hands to a large amount; whereupon the Government of the U. States sued out an extent, or other process of law, seized all the property of Theron Rudd, and also committed him to prison, where he remained under duress ten years, but no part of the money so made was paid over to the owners of the Lord Nelson as their dividend, although it will be seen by the accompanying statement, that the proceeds of the sale of that vessel was one of the items of the account exhibited against him. The owners, moreover, were never consulted as to the money being placed in Mr Rudd's hands, much less having given their consent thereto. And it may be proper to observe that had the libel been tried immediately after the restoration of Peace in 1815, and not delayed for two and a half years thereafter, the value of the vessel might not then have been jeopardized. It will be also seen that one of the owners proceeded to Washington immediately after the Peace in 1815, to claim an immediate decision of the case, but notwithstanding his endeavours, aided by those of Messrs. Baker and Bagot, His Majesty's then Charge de Affaires, it was delayed for two years and a half thereafter.

When it was found that the money could not be obtained upon the order of the court, Mr. Bagot, in the year 1818, laid the circumstances before the United States Government, and the President in consequence sent a message to Congress when next in session, on 3d February, 1819, recommending that provision should be made to pay the owners of the Lord Nelson, and the senate adopting his recommendation, added a sum of money for that purpose as an amendment to the Bill of supply then before them, but the House of Representatives refused to concur therein, upon the ground, as is understood, that it was a breach of their privileges for the senate to appropriate money in such a way. On the 22d November following, (1819.) Mr. Artobus, who had succeeded Mr. Bagot as Charge de Affaires, again brought the subject under the notice of the United States Government, when the then Secretary of State, Mr. Adams, informed him that since the subject had been before congress the government had received information that the ship Lydia, belonging to citizens of the U. States, captured *during the war*, and condemned at Bermuda, had been ordered in London, to be restored to the owners, that in the mean time, (since the sentence of restitution,) the proceeds, which had been paid into the Bermuda court, were, through the default of the officers of the court, found missing, whence the claimants were likely to sustain a total loss, and invited Mr. Artobus to make the case of the Lydia known to his Government, which it appears by Mr. Artobus' letter of 11th Jan. that year, (1819,) he did, the Sec'y of state, at the same time expressing a doubt that any thing would be done towards indemnifying the owners of the Lord Nelson, unless a pledge was given by His Majesty's Gov't that the principle would be adopted that each would be answerable in similar cases for the malversation of their officers. It further appears that on 22d December, 1822, His Majesty's Minister, Sir Stratford Canning, again addressed a note to Mr. Adams on the subject of indemnifying the

owners of the Lord Nelson, who, in reply, on the 7th June, 1823, assumes it as the sole ground upon which the U. States Government would agree to pay them, that the British Government should adopt the principle of payment being made to citizens of the United States, who had claims of similar nature. On the 13th January, 1831, His Majesty's Minister, Sir Charles Vaughan, again addressed a note to the U. States Government in regard to this subject, and on the 29th of the same month received in reply a communication from the then Secretary of State, Mr. Van Buren, reiterating the grounds before assumed by his predecessor, and insisting upon the ship *Lydia* as being a case in point, and requested to know whether the British Government was ready to adopt the principle before insisted upon of mutual liberality for the malversation of their respective officers, in reply to which His Majesty's Minister informed Mr. Van Buren that he had found among the archives of the Embassy communications clearly indicating that His Majesty's Government refused to accede to the proposal originally made by Mr. Adams in the month of December, 1819.

The owners of the Lord Nelson thereupon desisted from urging their claim for remuneration for several years, until a case occurred very similar to this, that of *Syrenas Hall*, a British subject, residing in Upper Canada, whose vessel had been seized by the collector of customs at Sandusky, one of the ports on Lake Erie, upon an alleged charge of having violated the revenue laws of the U. States, thro' whose neglect she was lost; but the court having decided in favor of Mr. Hall, Congress passed an act to make good his loss, and he received the money in 1832. They immediately thereafter laid their claim before Congress, but until 1836 nothing was done in regard to it. In the session of that year the Committee of Claims of the House of Representatives reported favorably; but considering the sale under the interlocutory decree of the court as no fair criterion of the value of the Lord Nelson, that house passed a resolution directing the Secretary of the Navy to cause an inquiry to be made as convenient to the claimants as possible, and accordingly a committee was sent to Judge Striker of the town of Buffalo, upon whose report a Bill passed that body in the session of 1838, providing for their payment the sum of \$5000 with interest from the day of her capture, but this act of justice was defeated in the Senate by a vote of 4 or 5 towards the close of their session. It is also proper to observe that although this sum would in some measure have indemnified them, yet it did not include a very large outlay, which they have been obliged to make in prosecuting their just claims for so many years, and which exceeds \$1500.

In regard to the ship "*Lydia*" it will be seen that her case is entirely different from and bears no parallel to that of the Lord Nelson. The latter was seized by force in time of peace, carrying on a lawful trade on Lake Ontario, which is common to both nations, and the judgment of the Court of the United States completely establishes that she had violated no law, nor was there any lawful pretence for her seizure, which took place, it is assumed, with the view of increasing the Naval Force of the U. S. in the event of War taking place, as it actually did only thirteen days afterwards: The "*Lydia*" on the contrary was taken during war, and was probably ordered to be restored, (whether by a reversal of the decree of the Vice Admiralty Court of Bermuda, or by an order in Council, is not known,) in consequence of her sailing under a British Licence, against which the U. States enacted the most severe penalties, as not only the vessel and cargo became a good prize to any American Cruiser that might have fallen in with her, but the owners were made liable to the payment of four times their value, and might also be proceeded against us for a misdemeanor: The accompanying extract from the despatch of M. Rush, the American Minister, to his own Government, dated 29th September, 1819 proves that the "*Lydia*" was so sailing under a British Licence, which of itself was a sufficient reason for his making no representation to the British Government on the subject, and it appears by the

same extract that he sought instructions from his own Government whether he was to bring the case officially before it or not, but it also appears by the papers appended to the report of the Committee of Claims of the Senate, dated 28th April last that no such instructions were ever given to M. Rush, nor did the parties interested in the "Lydia" even seek the intervention of their own Government; altho' a period of 26 years has elapsed since her capture, and more than 20 years since it was brought under the notice of the American Ambassador in London, and in answer to inquiries recently set on foot at New York, it is ascertained that the owners are all dead. It may also be proper to state that no evidence has been produced in this country that such a vessel as the "Lydia" was ever built, much less captured, in short not a document to establish a single fact, much less to hold her case up as a set-off against that of the "Lord Nelson."

The Report of the Committee of Claims of the Senate, dated 28th April (ult.) admits the following points, namely :—

1. That the Lord Nelson was captured by Lieut. Woolsey, on Lake Ontario, on the 5th June, 1812.
2. That she was purchased by him for the service of the U. S. for the sum of \$2,999 25-100, upon an interlocutory decree of the Court.
3. That the owners complained of delay in not bringing the libel to trial.
4. That at the July term 1817, a decree of acquittal was rendered in favor of the owners.
5. That the Court gave an order on the Clerk to pay over the money to them.
6. That no money was paid on said order, and that Theron Rudd, the Clerk had become Bankrupt.
7. That the value of the Lord Nelson at the time of her capture was \$5000.
8. That she was captured under instructions from the U. S. Government.
9. That she was not captured from the want of Register, Manifest or other papers : Vessels sailing the Lakes requiring none.
10. That the Court awarded no damages—on the contrary made each pay their own expenses.
11. That the President recommended by Message to Congress dated 3rd February 1819, their attention to the claim for indemnity.
12. That the Senate included a sum of money for that purpose in the Bill of supply the same session, which was rejected by the House of Representatives.
13. That the Lydia was sailing under a British Licence, contrary to the laws of the U. States; and would have been a good prize to any cruizer of the U. States.
14. That Mr. Rush did not, under such a circumstance, entertain the application for his interference.
15. That he was not afterwards instructed by his Government so to interfere, nor does it appear that such instructions were ever given to any succeeding ambassador:
16. That no other claim is attempted to be set up as an off-set to that for the "Lord Nelson"—except the "ship Lydia."

(Signed)

JAMES CROOKS,

Forself and as Executor of the Estate  
of the late William Crooks.

Washington, 20th May, 1840.

WASHINGTON CITY, Wednesday, April 22d. 1840.

SIR:

I would again have done myself the honor of calling upon your Excellency, but from the reluctance I feel to intrude upon your valuable time, and having nothing definite to communicate to your Excellency in regard to the object of my journey hither, I did not do so. The committee on Claims, in the Senate, were, I understood, to have reported yesterday, but this morning I am told the committee have applied to Mr. Poinsett for a copy of the instructions under which Capt. Woolsey seized the Lord Nelson, and also for some information relative to the Treaty of Ghent. What these have to do with my case I confess I do not understand; for if an officer to whom the public force of a country is entrusted, misapplies that force, the Government is liable for his acts, and has the power to punish him for them: but individuals who may be affected can only look to them as an act of the Government.

I submit this information in the hope that, as it is now officially before the Executive Government of this country, your Excellency may deem it a fit time to interfere, and I trust with effect, as I have always believed that the Government of the United States was at all times ready to do the owners of the Lord Nelson justice, did the Legislature second their views.

I have the honor to be &amp;c. &amp;c.

J. CROOKS.

His Excellency HENRY S. FOX, Her Majesty's Minister Washington.

## IN SENATE OF THE UNITED STATES.

April 28, 1840, Submitted, and ordered to be printed.

MR. HUBBARD made the following Report:

*The Committee of Claims, to whom was referred the memorial of William and James Crooks, claiming indemnity for loss sustained by the capture of their vessel, during the late war, report:*

"That, on the 5th of June, 1812, the petitioners were, and now are, subjects of the King of Great Britain; and, on said 5th day of June, were the owners of a vessel on Lake Ontario, called the Lord Nelson; and, on the day last aforesaid, that Lieutenant Woolsey, an officer of the navy of the United States, then commanding on Lake Ontario, seized and captured said vessel, called the Lord Nelson, for a pretended violation of the laws of the United States; and thereafter said vessel was libelled in the district of the circuit court of the United States, in New York, at the August term, 1812. An interlocutory decree was made by the court, directing the sale of the vessel and cargo, and that the avails of the sale be brought into court to abide the event of the suit.

"The vessel was purchased by Lieutenant Woolsey, on behalf of the United States, and was taken into the public service, and armed, and was used against the British during the war.

"By the return of the marshal, the vessel was sold for \$2,939 25, and the cargo at \$1,972 10.

"The libel was not brought to trial until after the district of New York was divided and formed two districts, called the northern and southern districts.

"Complaints were made by the petitioners, then the claimants, under said libel, to the President of the United States, by the delay in bringing said cause to trial.

"The suit was transferred from the city of New York, to the northern district.



"At the July term, 1817, the court in the said northern district, on a hearing, passed a final decree, and therein did adjudge, order, and decree, that the proceeds of the sales of the said schooner, as have been brought into court, upon the sale and order of the said court, be paid over to the claimants, or to their agent, or attorney, duly constituted for that purpose.

"The court gave an order, on the clerk of the southern district, for the payment of the money arising from the sales of said schooner and cargo.

"A controversy then arose, as to the jurisdiction of the court in the northern district of New York, over the subject.

"It was said that the law dividing the circuit, made no provision for removing the causes from the city of New York to the northern circuit.

"No money was paid on the order, and Theron Rudd, the clerk, with whom the money was deposited, became a bankrupt, and a defaulter in a large amount. Soon after the war closed, and peace was restored, the petitioners, by the diplomatic agents of Great Britain, applied to this Government to be redressed in their grievances."

The foregoing may be regarded as a brief statement of the facts of this case.

The committee, entertaining an opinion that important principles are necessarily involved in the consideration and final decision of the claim of these memorialists, have endeavored to ascertain with much precision its history from the period of the seizure of the vessel to the present time.

On referring to the Journals of Congress, it appears that it was first presented to the House of Representatives, on the 29th of May, 1834; and, by order of the House, referred to the Committee on Foreign Affairs. No report was made by that committee, owing, probably, to the circumstance that there was not sufficient time properly to consider the case between the presentment of the memorials and the close of the session. Nothing was done in 1835, but in 1836, the claim was submitted to the Committee of Claims of the House, who reported a resolution on the 24th June, 1836, authorizing the Secretary of the Navy to take testimony for the purpose of ascertaining the value of the vessel and her cargo, at the time of her capture. This was done, and, on the 11th of June, 1837, the then Secretary of the Navy made a report of which the subjoined is a copy:

"NAVY DEPARTMENT, *February* 11, 1837.

"SIR: In compliance with the resolution of the House of Representatives, of the 24th of June, 1836, referring to the Secretary of the Navy the petition and papers of James and William Crooks, "to ascertain (on giving notice to the said James and William Crooks, or to their agent, of the time and place of taking testimony) the value of the vessel called the *Lord Nelson*, captured by Lieutenant Woolsey, on Lake Ontario, on the 5th of June, 1812, at the time of the said capture, and the cargo then on board of said vessel: and that he report the same at the next session of Congress," I appointed the Hon. James Stryker, of the city of Buffalo, in the State of New York, commissioner to take the testimony required by the said resolution; due notice being given to the attorney of James and William Crooks of the time and place of taking such testimony. I also appointed George P. Barker, Esq., of said city, agent on the part of the United States, to be present at the time of the examination of the witnesses, for the purpose of putting such interrogatories to them as might appear to him to be proper and necessary to elicit all the facts and circumstances of the case as connected with the two branches of inquiry specified in the aforesaid resolution.

"The commission was opened in the city of Buffalo on the 10th, and closed on the 20th of January last, and I have now the honor to transmit the depositions taken in the case, numbered from 1 to 7, together with the papers and exhibits



thereto annexed, marked A, B, C, D, E, F, G, H, J, K, L, O. From a careful examination of the evidence contained in these papers I am of the opinion that the value of the Lord Nelson at the time of her capture may be estimated

at	-	-	-	-	-	-	-	\$5,000 00
And the value of her cargo at	-	-	-	-	-	-	-	2,943 76
" Total value of vessel and cargo - - -								7,943 76

" The memorial of William and James Crooks, and the papers referred with it to this department, are now returned,

" I have the honor to be, your obedient servant,

" MAHLON DICKERSON.

" Hon. SPEAKER

*Of the House of Reps. U. S."*

Subsequently a bill was reported from the Committee of Claims of the House for the relief of the memorialists ; but, up to this time, there has been no favorable action of the Senate and of the House, at the same session of Congress in relation to the subject.

The committee, not aware of what had taken place with reference to this claim between the 5th of June, 1812, the time of the seizure of the vessel, and the 29th of May, 1824, when it was, for the first time, presented to the consideration of Congress, concluded to address a communication to the State Department, for the purpose of ascertaining what had passed between the British legation and our own Government, upon the subject of this claim ; and of ascertaining, also, under what instructions Lieutenant Woolsey seized and libelled the vessel. And they particularly requested that the Secretary of State would give to the committee all the information which his department could furnish to enable the committee to come to a correct conclusion upon the claim of the memorialists. The committee have received a copy of the general instructions under which Lieutenant Woolsey made this seizure, which is subjoined :

" NAVY DEPARTMENT, April 8, 1812.

" SIR : You will herewith receive a copy of the ' act laying an emhargo,' &c., passed 4th instant. You will use all the means in your power to enforce this law.

" Advise and co-operate with the collector of the customs.

" The proper objects of seizure, are all vessels acting or found under such circumstances as may satisfy a strong suspicion of their intention to act, in violation of this law.

" In enforcing this law, we are not to violate the territorial jurisdiction of a foreign state.

" All vessels seized under this law are to be sent into port for adjudication ; the papers found on board of them are to be placed in the hands of the district attorney, who will thereupon proceed according to law.

" P. HAMILTON,

" M. T. WOOLSEY, Lieut Commandant,

" Brig Oneids, Sackett's Harbor, New York."

The committee have received from the Secretary of State a communication in answer to their letter, of which the following is a copy :

" DEPARTMENT OF STATE,

" Washington, April 23, 1840.

" SIR : I have received, with accompanying documents, your letter of the 21st instant, asking to be furnished with the views, generally, of this department

upon the propriety of allowing the claim of J. and W. Crooks ; and requesting information upon certain points considered by your committee as important in adjudicating upon the merits of the claim.

"As the information necessary to answer the 1st, 2d, 4th. and 5th queries in your letter can best, if not exclusively, be furnished by the departments, having charge of the military and naval concerns of the country, copies of them have been transmitted to the head of those departments, with request that they would afford such means as they may have to satisfy the inquiry.

"Their answer shall, as soon as received, be communicated to you.

"With regard to the question whether restitution has been made by Great Britain, of any property captured from our citizens prior to the 8th of June, 1812, I have to state that no evidence exists in this department of any such restitution having been made.

"The claim of Messrs J. and W. Crooks has before been brought to the notice of this department, by application from the British legation here. I enclose copy of a memorandum made some years since of the correspondence in relation to it, which brings down the case to the last two notes which passed between the Secretary of State and the British minister ; of which copies are likewise enclosed. You will perceive from the last-mentioned papers, that the refusal of the department of any further agency in the matter, rests upon indications furnished by the British minister, of the unwillingness of his Government to make compensation to American citizens, in circumstances similar or analogous to those upon which the claim of Messrs Crooks is founded. Beyond the security given by public officers, for the faithful discharge of their trusts, the Government has no means of securing its own interests, nor is it responsible for the property of citizens which may be committed to the keeping of such officers. If, therefore, it cannot grant relief to its own citizens in such cases, it can recognise no obligation of the same character toward citizens of foreign nations, without express conventional arrangement for reciprocal assumption of such obligations. As Great Britain refused to recognize any principle by which she would be bound to indemnify American citizens, having upon her claims similar to that preferred by Messrs Crooks, the United States are not, in the view of this department, under any obligation to grant indemnity to those gentlemen.

"I return the papers which accompanied your letter.

"I am, Sir, respectfully, your obedient servant,

"JOHN FORSYTH.

"Hon. H. HUBBARD,

"Chairman Committee of Claims Senate."

"MEMORANDUM.

"*Claim of James and William Crooks.*

"The schooner Lord Nelson, belonging to James and William Crooks, British subjects residing at Niagara, was, on the 5th of June, 1812, thirteen days before the declaration of war, captured by Captain Woolsey, of the United States armed brig Cneida, and sent into Sackett's Harbor, where she was libelled in the court of the United States for the district of New York, which district, at that time, embraced the whole of that State. The war breaking out soon after, the vessel and cargo were, by consent of the agent for the claimants, sold at public vendue, and the proceeds, amounting together to \$5,025 30, were deposited in the district court, to await the issue of the libel. The vessel was purchased by Captain Woolsey, on account of the United States, and converted into a man of war.

" Soon after the peace, in 1815, one of the claimants repaired to Washington, and, through Mr. Baker, then his Britannic Majesty's charge d'affaires, preferred a claim of indemnity for the loss sustained by them in consequence of the capture.

" From the letter of Mr. Baker, to the Secretary of State, of the 30th of January, 1816, and the documents accompanying it, beside the facts stated above in relation to the capture of the vessel, it appears :

" 1. That the motive alleged for the seizure of the vessel was a violation of the embargo, or revenue laws of the United States.

" 2. That, of the cargo, no part belonged either to James or William Crooks.

" 3. That no part of the cargo was relanded between the time of the vessel's leaving her port of departure and that of the seizure.

" 4. That the property was sold for its full value.

" 5. That one of the reasons assigned for the capture of the vessel, viz. her having no register, manifest, or clearance, was insufficient, as no such papers were required by the custom regulations of the Canadas.

" To the letter from Mr. Baker, Mr. Monroe, then Sec'y of State, answered on the 5th of March, 1816, that the papers had been submitted to the Attorney General of the United States for his consideration ; and that, as it appeared from those papers that the claimants had, by instituting a suit for the recovery of the value of the property, placed the matter before the judiciary, the interposition of the Executive was not then deemed necessary or proper.

" In a letter dated 13th of May, 1816, Mr. Bagot communicated to Mr. Monroe a letter from Thomas R. Gold, counsel for the claimants, who corrects an error into which the Attorney General of the United States had fallen, in supposing that a suit had been commenced by them. He states that no such suit had been instituted, but that the case was simply one of libel by the United States, which they had, for four years, neglected to bring to a final decision. Mr. Bagot concludes his note by requesting that proper orders may be given, either to bring the libel to a speedy trial, or consent to its being dismissed.

" On the 9th of August, 1816, a letter was addressed to Roger Skinner, Attorney of the United States for the northern district of New York, in compliance with the above, instructing him to expedite the decision of the court ; and, on the same day, Mr. Bagot was informed of the fact.

" A letter from Mr. Skinner, dated 23d of November, 1816, is on file in this department, in which he states that, owing to the illness of Judge Tallmadge, no court had been held at the preceding term ; but that a special term was to be appointed, if the consent of the other judge could be obtained. Mr. Skinner makes some remarks as to the character of the transaction, but which do not appear to affect the merits of the case as it now stands.

" On the 11th day of July, 1817, the United States court for the northern district of New York decreed the payment to the claimants of the proceeds of the sale which had been brought into the court, but no damage for capture or detention, and each party to pay their own costs.

" Of this decree it appears that the department was informed by a letter from Mr. Gold, attorney for the claimants ; and that, on the 21st and 22d of August, directions were given to Jonathan Fisk and Roger Skinner, attorneys of the United States for the southern and northern districts of New York, to facilitate the payment of the money to the claimants, in compliance with the aforesaid decree.

" In a letter dated 25th August, 1817, Jonathan Fisk states that he had informed Mr. Gold that, on producing to the southern district court the decree of restoration issued by the northern district court, together with the evidence on

which it was founded, the former would doubtless make an order for the immediate payment of the money. That the act of 9th of April, 1814, dividing New York into two districts, gave to the northern district court, no jurisdiction over cases pending before the former court. That the judge of the southern district had decided that all cases commenced in the old court must be closed in his own court ; and that the funds deposited in it could not be subject to any decree of the southern judge. The trial had been had upon copies of papers emanating from the northern district ; and that that trial had been *coram non judge*. Mr. Gold had left Mr. Fisk with the impression that he was to follow his suggestion as to the manner of getting the decree of the northern district confirmed by the southern judge, when the money would be paid.

"The foregoing letter was on the 2d October, 1817, communicated to Mr. Bagot.

"On the 15th April, 1818, Mr. Bagot communicated to the Secretary of State a letter from Messrs. Crooks, stating that, on personal application by their agent at New York, to Judge Tallmadge, for the papers necessary to carry the case before the southern district court, agreeably to Mr. Fisk's suggestion, the Judge had positively refused to deliver them, upon reasons which they call of mere etiquette between the Judges of the two districts, respecting the powers of their respective courts. Mr. Bagot concludes by again asking the interference of the Executive in the case.

"In consequence of the foregoing application, the Secretary of State, on the 2d May, 1818, addressed a letter to Mr. Fisk, directing him, in the event of the clerk of the southern district court persisting in his refusal to pay the money, and of his being sustained by the judge, to inform the department whether any other mode, short of an application to Congress, be practicable to obtain relief for the parties.

"To the preceeding letter Mr. Fisk answered on the 7th May, that, by an act of Congress passed the 3d April, 1818, jurisdiction was given to the court for the northern district over all cases circumscribed like that of the Nelson ; and that, consequently, the decree of that court in the case might be considered as final. But another difficulty still existed ; which was, that Theron Rudd, the clerk of the southern court, had, in May, 1817, absconded with all the funds of the court, amounting to about one hundred thousand dollars ; and that, therefore, no funds existed out of which the proceeds of the sale deposited in court could be paid to the claimants. On the 28th October, 1818, Mr. Bagot communicated this information to the Secretary of State, and renewed his appeal to the justice of the Government of the United States.

"This note was accompanied by an exemplification of the certificate of the clerk of the court for the southern district of New York, that the amount of sales of the vessel was \$2,999 25 ; of the cargo, \$1,972 10 ; that the same were paid into court : and that the balance, after deducting costs and charges accruing in that court, \$4,243 32, was paid into the hands of Theron Rudd, remained there when he resigned his office, and had not since been paid over to the order of the court. This certificate is dated 21st September, 1818.

"At the ensuing session of Congress, the President, by message of the 3d February, 1819, recommended to their attention the claim to indemnity, which the legislative authority was alone competent to provide. The message was accompanied by copies of most of the correspondence and documents detailed above.

"The following is the direction which was given in Congress to the subject of the message, and the course by which it arrived at a final rejection of the proposition made in the Senate for the relief of the claimants :

"On the 11th February, 1819, Mr. Goldsborough, of the committee of Claims of the senate, to whom the subject had been referred, reported a bill for the relief

of William and James Crooks; which was twice read by unanimous consent. (This report is not found in the documents.)

"This report was called up on the 17th of the same month, in Committee of the Whole; and, on motion of Mr. Goldsborough, referred to the Committee on Finance, to consider and report thereon.

"It appears that the next step of the Senate in the business was in the shape of an amendment reported by the Committee on Finance, and engrafted upon the general appropriation bill for the support of the Government, making provision for the relief of the claimants. This amendment, with others, was adopted on the 23d of February; and, on the following day, the bill so amended, was returned to the House

"On the 25th February, the amendments were, by the House, referred to the Committee of Ways and Means, who, on the 27th, reported their agreement to all the amendments. These were, on the same day, committed to a Committee of the Whole, who reported their agreement to all those amendments *except one* to which they disagreed.

"The bill was on the same day (27th February) returned to the Senate, with the agreement of the House to all its amendments, except that which proposed an "appropriation of \$4,243, to pay William and James Crooks the amount of the sales of the schooner Lord Nelson, to which they disagreed.

"On the 1st March, the Senate considered the amendment disagreed to by the House of Representatives, and receded from the same.

"On the 22d November, 1819, Mr. Antrobus, charge d'affaires of Great Britain, again called the attention of the department to the claim of Messrs Crooks; referred to the former communications of the legation on the subject; to the message of the President, which he states, owing to the pressure of business at the close of the session of Congress, had not been fully acted on; and asked the interposition of the Secretary to obtain for the claimants the benefit of the decree of the district court in their favor.

"To this note, Mr Adams answered, on the 7th December, that, since the subject had been before Congress, the Government had received information that the ship Lydia, belonging to citizens of the United States, captured during the war, and condemned at Bermuda, had been ordered, in London, to be restored to the owners; that, since the sentence of restitution, the proceeds, which had been paid into the Bermuda court, were, through the default of the officers of the court, found missing, whence the claimants were likely to sustain a total loss. In assuming the payment of moneys lost by the malversations of an officer, the President could not doubt that, under similar circumstances, the British Government would apply the same principle to citizens of the United States; still, before again submitting the case to Congress, it would be advisable to ascertain the disposition of his Majesty's Government on the subject; and Mr. Antrobus was invited to make the case of the Lydia known to his Government, and to solicit its determination concerning it, presuming that it would be had in time to enable Congress to decide understandingly upon the claim of Messrs Crooks.

"The information to which reference is made in the foregoing note, is derived from Mr. Rush's despatch, No. 93, September 29, 1819. Mr. Rush states that he had received from W. & E. Lawrence of London, a representation respecting the ship Lydia, of New York, belonging to Stephen and George Hathaway and Isaac Waite, captured and condemned as stated, and a request for his interposition. Mr. Rush, who does not think it necessary to trouble the department with his correspondence with Messrs Lawrence, deems it sufficient to state that the vessel, when captured, was sailing under a British licence; and that, therefore, he had declined interfering; "the licence which she had on board

would have rendered her a prize of war, had she fallen into the hands of a cruiser of our own country." Mr. Rush thought proper to say that much, in order to anticipate the representations which might be made by the parties themselves; to whom he stated that if, in withholding his assistance, he had misjudged the merits of the case an appeal to the Department of State was still open to them.

"It does not appear that the claimants have ever applied to the department, nor that any instructions were given to Mr. Rush on the subject of the *Lydia*."

"On the 19th December, 1822, Mr. Canning stated that, in consequence of a renewed application by the claimants, he was under the necessity to call the attention of the department to the case of the *Nelson*. After briefly recapitulating the circumstances of the case, and alluding to Mr. Adams' note of the 7th December, 1819, he presumes that the vessel referred to in that note is the *Lydia*, of New York; of which he knows nothing beyond what is contained in said note. The cases, however, are of a distinct nature: one vessel having been captured before, the other during, the war. He believes that serious difficulties would stand in the way of a general arrangement like that proposed; and that the just and natural way would be to take the cases individually, as they arise, and decide on each according to its merits. From the delay in the trial, and the defective act dividing the New York district, a degree of responsibility devolved on the Government of the United States, which extends beyond the mere delinquency of the clerk, and created circumstances, without which the property might never have been embezzled. He concludes by urging a settlement of the claim."

"Mr. Adams answers, on the 17th June, 1823, that, from the silence of the British Government upon the distinct question stated in his former letter, the inference appears conclusive that the application of the only principle, on which indemnity could be granted, has not been, nor will be, conceded in cases of claims by citizens of the United States; that the distinction made by Mr. Canning, as to the period of capture, is levelled by the decrees of restitution which, in both cases, imply a wrong capture. The renewal of an application to Congress withheld, in consequence of the question whether the indulgence demanded would be extended to citizens of the United States. No affirmative answer having, in three years, been given to that question, the reason which forbade the interposition of the Executive still exists in all its force, and could not but issue in the same determination."

"DEPARTMENT OF STATE, WASHINGTON, January 29, 1831."

"The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of a note which was addressed to him under date of the 13th instant, by the Right Honorable Charles R. Vaughan, his Britannic Majesty's envoy extraordinary and minister plenipotentiary, on the subject of a claim of Messrs. William and James Crooks, of the Province of Upper Canada, arising out of an unsettled account for the seizure of the schooner *Lord Nelson* by the United States brig *Oneida*, on Lake Ontario, in the year 1812."

"Mr. Vaughan, in alluding to the circumstances of the case, and to the proceedings and correspondence to which the demand of Messrs. Crooks growing out of it has given rise between this department and his Britannic Majesty's legation, has made reference to an application of one of his predecessors for the adjustment of the claim, and to the answer which was returned to it by the then Secretary of State of the United States."

"Upon reference to the records of this department, the undersigned finds, in that answer, the following passage, which he begs leave to submit to the perusal of Mr. Vaughan:

"In recommending to Congress, at their last session, the passage of an

act by which the United States would assume the payment of moneys due to British subjects, but lost by the malversation of the public officer intrusted with them, the President could not doubt that, under circumstances of the same character, the benefit of the principle which could alone warrant this assumption, would equally be enjoyed by citizens of the United States, by the dispensation of the British Government.

"The case here referred to appealing, by the statement thus made, to cast a doubt on the question, whether this principle has been, or will be recognized and carried into effect in England, it would be advisable, before submitting the case of the Lord Nelson again to Congress, to ascertain the definite sentiment of your [his Britannic Majesty's] Gov't with regard to this principle and its practical application to the benefit of the citizens of the U. S. I have, therefore, to request you to make known to your Government the case of the ship *Lydia*, and to solicit their determination concerning it; presuming that the information may be obtained in season for Congress to decide, after being possessed of it, upon the claim of Messrs. Crooks, before the close of the present session."

"The undersigned, in more particularly calling the attention of Mr. Vaughan to the concluding part of the foregoing extract, begs leave to advert to the request therein addressed to the then representative of his Britannic Majesty in the U. States, to solicit the determination of his Government as to the applicability of the principle involved in behalf of the claim of Messrs. Crooks, to a case analogous in its circumstances and merits, which had occurred in the island of Bermuda, and which formed the grounds upon which citizens of the United States had raised a demand upon his Britannic Majesty's Government. The files of the Department of State furnish no evidence of its request having been complied with, or attracted the notice by the British charge de affaires to whom it was addressed, and to this circumstance, the undersigned presumes, is to be ascribed the delay which has taken place in the further examination of the subject; nor is any reference made by Mr. Vaughan's note to the request referred to.

"Under the circumstances, the undersigned has to ask the favor of Mr. Vaughan to inform him whether the desire heretofore expressed by this Government in this regard, has been submitted to that of his Britannic Majesty, and, if so, to acquaint him with the decision which may have been made upon it.

"The undersigned has the honor to renew to Mr. Vaughan the assurance of his highest consideration.

"M. VAN BUREN.

"Right Honorable CHARLES R. VAUGHAN,

"His Britannic Majesty's Envoy Extraordinary  
and Minister Plenipotentiary."

WASHINGTON, February 1, 1831.

SIR :

"The undersigned, his Britannic Majesty's envoy extraordinary and minister plenipotentiary, has the honor to acknowledge the receipt of the note of the Secretary of State of the United States, dated the 29th January last, in answer to the claims of Messrs. Crooks, of Upper Canada, arising out of an unsettled account for the capture of the schooner *Lord Nelson*, in 1812, upon Lake Ontario:

"The answer recited in Mr. Van Buren's note, as having been given by the Government of the United States to the claims of Messrs. Crooks, when brought forward by his Majesty's charge de affaires, Mr. Antrobus, in 1819, directed the attention of the undersigned to an examination of the archives of the mission under his charge, in order to ascertain what answer had been given by the British



Government to the proposal contained in the note of Mr. Adams, the Secretary of State of the United States, dated the 7th December, 1819, which amounted to this : that each Government should accede to the principle of holding themselves responsible for sums of money awarded by their courts of law, but lost to the claimants of the respective nations by the malversation of public officers under whose custody it might have been placed.

"The undersigned is assured by Mr. Van Buren, that an answer, on the part of the British Government to the proposal of Mr. Adams, is not to be found in the archives of the Department of State. The undersigned, however, has found, upon examining the archives of the British mission, communications from his Majesty's Government, clearly indicating that the latter refused to accede to the proposal originally made by Mr. Adams in the month of December, 1819.

"The undersigned having ascertained this fact, believes it to be his duty to desist from prosecuting any further the claims of Messrs. Crooks, until he shall receive instructions to renew his application from his Majesty's Government.

"The undersigned has the honor to renew to Mr. Van Buren, the assurance of his highest consideration.

"CHAS. R. VAUGHAN."

"HON. MARTIN VAN BUREN, &c."

The committee fully assent to the views expressed in the foregoing correspondence. From the opinion which the committee entertain of national policy and of the intercourse which ought to prevail between different nations, founded, as they ever should be, upon the immutable principles of justice, they cannot yield their assent to the propriety of providing for the claims of the subjects of a foreign Government, when that Government disregards the claims of one of our own citizens similarly situated. While it is believed that the United States will ever be ready to provide for the just claims of foreign Governments, or of the subjects of foreign Governments, it can never fail to assert the equally just claims of her own citizens. Before the memorialists can successfully prosecute their claim before an American Congress, it must be made to appear that the Government of Great Britain are willing to acknowledge and to satisfy the claims of the owners of the ship *Lydia*. Before the Government of Great Britain can ask justice at the hands of our own Government, for a supposed wrong done to one of her citizens, that Government must admit her readiness to render equal justice to our Government for a like injury done to one of her citizens.

The committee cannot but regard the case of the memorialists, and the case of the owners of the ship *Lydia*, as a proper subject for negotiation between the two Governments. Up to 1831, it was so treated, and properly so treated in the opinion of the committee ; and, as nothing has occurred since Mr. Vaughan's letter to Mr. Van Buren, copies of which are given, with reference to the action of the Government of Great Britain in relation to the case of the *Lydia*, it would seem to the committee to be manifestly unjust to our own citizens to make any provision for the claim of these memorialists, so long as the claim of the owner of the *Lydia* shall remain unarranged and unsatisfied. In closing this report, the committee do not, by any means, intend to admit that, under the circumstance of this case, they would be prepared to report in favor of the claimants, were the case freed from the embarrassments to which they have adverted.

They do not intend to say that the memorialists are or are not barred by the preliminary proceedings of the court, so far as the sale of the *Nelson* was made and its proceeds placed with the clerk of the court with their assent to abide the event of the suit. Upon this point they express no opinion. But finding difficulties in their view insurmountable, to any definite and final action of Congress upon



the case of the memorialists as it now exists, the committee recommend the adoption of the following resolution :

*Resolved*, That the committee be discharged from the further consideration of this memorial.

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*Remarks on the Report of the Committee of the Hon'ble the Senate to whom was referred the claim of W. & J. Crooks.*

At the very commencement the report states that the vessel for which they claim indemnity, was captured "during the late war." The war was not declared till the 18th June 1812, and the Lord Nelson was seized on the 5th of that month, thirteen days antecedent.

The case of the Lydia was far otherwise than a parallel one. By Mr. Rush's despatch of 29th September 1819, it will be seen that that vessel, if seized at all, was so during war carrying on Trade under a British Licence, contrary to the laws of the United States, which, as Mr. Rush observes "would have rendered her a prize of war had she fallen into the hands of a cruiser of our own," country and he (Mr. R) considered the application made to him so frivolous that he would not entertain it, unless directed so to do by the Government of the U. States, which direction was never given, nor did the parties interested, ever apply for its interference.

The whole statement, moreover, regarding the Lydia appears to be ex-parte, not a single voucher or document of any kind being produced to substantiate any part of it. Neither has the parties interested sought, at any time, the assistance of their own Government to procure their indemnification, although upwards of twenty-six years has elapsed since her supposed capture, and more than twenty years since Mr. Rush was applied to on the subject, a period which, even in regard to Real Estate, would have completely barred the ejectment of a Tenant in possession, and three times that in which actions in regard to personal property is barred by the limitations of the laws of most countries ; It is also understood from, enquiries recently set on foot at New York, that the owners of the "Lydia" are all dead.

That the British Government should have declined giving the pledge alluded to in the report, is not to be wondered at, as, in point of fact, there was no case before them to which it was applicable.

There is evidently an error in the report of the committee as to the time when Messrs. Crooks' claim was first brought before the notice of Congress, (1834,) as the report itself states that the President of the United States on the 3rd February 1819, sent a message to Congress recommending the passage of an Act for their indemnification : It is also in evidence that the U. States seized all the property they could find belonging to Mr. Rudd, and also incarcerated him in Gaol, or kept him under duress for a period of ten years, and that the sum deposited with him, as the avails of the sale of the Lord Nelson under the interlocutory decree of the court, was one of the items contained in the amount brought against him, and although some money must have been made out of his effects, yet no dividend was paid to the owners of the Lord Nelson, who never assented to the money being placed in his (Rudd's) hands, nor, indeed, were they consulted at all in the matter.

In the report the sum for which the Lord Nelson was sold, is stated at \$2, 999 25 : It is hardly necessary to state that a vessel capable of carrying twelve guns must have been worth a great deal more money, more particularly a new

vessel—for she was built only the year before—and the evidence taken at Buffalo in 1837, establishes that she cost at least \$5000, indeed, could not then be built for less than \$8000.

In the year 1817 a vessel belonging to Cyrenius Hall, a subject of Great Britain, residing in Upper Canada, was seized at Sandusky, a port on Lake Erie, for a supposed violation of the revenue laws of the United States, and when ordered to be restored by a judgment of the District Court, it was found that she had been lost by the neglect of the collector, whereupon Mr. Hall petitioned the Government, and an act was passed in Congress for his relief, and he received his money in 1833 : This vessel was named the "Julia,"

When the Lord Nelson was seized by Captain Woolsey, one of the owners proceeded to Sackett's Harbour, whither she had been carried, and tendered security to abile the issue of any charge that might be preferred against her in the courts of the United States, but he refused to give her up.

Among the papers submitted to Congress is a statement by which it appears that the sum of upwards of \$9000 was found in one of the Banks, which the U. S. appropriated to itself as a part of Rudd's debt.

May, 1840.

WASHINGTON, May, 9th, 1840.

DEAR SIR :

I inclose to you the correspondence, as far as it has gone, that I have had with the Secretary of State upon the subject of your claim. You will see that no final answer is yet given : but from what has passed, and from verbal information from Mr. Forsyth, I have much reason to think that the answer and decision of the Government here, (as far as they may take upon themselves to decide the case at all,) will not at present be favourable. In this event, and if the decision of Congress should be also unfavourable, the only course left will be to bring the whole claim, with the history of it from its origin down to the present time, officially under the consideration of our Government at home, who will then I should hope furnish me with suitable instructions, for the claim appears to me to be one of clear and indisputable justice. I do not at present understand, either from the printed papers, or from what I can find in the archives of the mission, in what form, or when, or whether at all, the claim has been brought officially under the consideration of H. M. Government. At any rate, as the business is of old standing, it will be best to make out a very complete statement to be sent home, and upon this I shall be most happy to consult with you, and to give the best assistance I can. I presume that in 3 or 4 days, or sooner, I shall have Mr Forsyth's further answer. The papers which I now send, you can return to me at your leisure.

Your very faithful and obedient servant.  
H. S. FOX.

Hon'ble James Crooks.

WASHINGTON, May 5, 1840.

SIR :

Mr. James Crooks of Upper Canada, one of the claimants before Congress for indemnity from the United States Government for loss sustained through the illegal capture of a British vessel called the "Lord Nelson" by a ship of war of the United States, on the 5th June, 1812, previously to the declaration of war, in re-

ference to which claim various correspondences have heretofore passed between the United States Government and his Majesty's legation, has directed my attention to a fresh report upon the subject, submitted to the Senate on the 28th ult. from the Committee of Claims, to whom the case has once more been referred during the present session of Congress.

I find annexed to this report a communication addressed by you to the Chairman of the Committee of Claims on the 23d ult. together with a memorandum furnished by the Department of State, of the correspondence and proceedings in relation to the claim in question from its origin down to the year 1831.

If the unfavorable report now offered by the Committee of Claims of the Senate, upon grounds, as appears to me, unsatisfactory and insufficient, should be adopted and affirmed by Congress, and by the Government of the United States, it will then remain for the claimants to bring the history and merits of the case under consideration of his Majesty's Government at home. But I deem it my duty in the mean time to offer to you the following remarks, in the hope that a reconsideration of the circumstances of the case may induce the United States Government to recommend to Congress a different and more favorable decision.

It will be seen from the concluding paragraph of the report of the committee that the recommendation to refuse the indemnity claimed for the British ship, "Lord Nelson," is there mainly, indeed solely, grounded upon the imagined refusal of the British Government to satisfy the claims of the owners of the American ship *Lydia*. But the case of the American ship "*Lydia*" had been already admitted by the U. States authorities themselves to be in no respect similar to the case of the "Lord Nelson." The "*Lydia*" when captured, was sailing with a British licence, under circumstances that would have rendered her a prize of war to a cruiser of her own country, therefore, as rightly stated in the memorandum above referred to, neither Mr. Rush the United States Envoy, at the time in London, nor the Government of the United States since, did ever in fact bring that case under the consideration of the British Government; nor could they in reason or justice have done so. The case then of the "*Lydia*" ought assuredly to be laid out of the question altogether.

I find however, that other and different grounds for refusal are recommended in the letter addressed by you to the Chairman of the Senate's Committee of Claims on the 23d April. It appears from the observations contained in that letter, that the United States Government are not prepared to hold themselves accountable for wrongs and losses sustained by foreign claimants through the default or malversation of public officers of the United States, unless a distinct allegation is beforehand recognized by the foreign Government of whom those claimants are the subjects, that it will grant to citizens of the United States the same redress under similar circumstances.

But as such circumstances can only be presumed to arise out of the fraud or delinquency of public officers, it cannot justly be expected that a foreign Government should consent to give a hypothetical pledge as to the manner in which it will grant redress, whenever such acts of fraud or delinquency on the part of its officers shall be committed. It is surely more reasonable and correct that every case of such description should be treated separately, upon its own merits, according as they may happen to arise. The reciprocal obligation could not properly be recognized by Great Britain, because no case in fact was before the British Government to which such obligation would apply.

It is further to be observed that in the case of the defaulter, Theron Rudd, Clerk of the United States Circuit Court, through whose bankruptcy the present claim arose, the United States seized all the property that could be found belonging to him; the sum deposited in his hands, as the proceeds of the sale of the

Lord Nelson, being only one out of many items brought against him. The claimants had never assented to the money being placed in Mr. Rudd's hands; they never were, nor could they have been, consulted upon the subject.

I have the honor to be, &c., &c.,

(Signed)

H. S. FOX.

DEPARTMENT OF STATE,  
Washington, May 7th, 1840.

SIR :

I have the honour to acknowledge the receipt of your note of 5th instant relating to the claim of the Messrs. Crooks on the government of the United States, in the case of the British vessel "Lord Nelson," captured by an American ship-of-war on the 5th June 1812, and before replying, have to request that you will be pleased to inform me whether the representations therein made, in behalf of this claim for indemnification, are urged under renewed instructions from her Britannic Majesty's Government, or merely as an argument to be used in favor of the claimants in the event of future action on the merits of the case by any branch of this Government.

I have the honor to be, with high consideration,

Your obedient servant,

(Signed)

JOHN FORSYTH.

Henry S. Fox, Esq. &c. &c.

WASHINGTON, May 8th, 1840.

SIR :

I have the honor to inform you, in reply to your letter of yesterday's date, with reference to the claim before Congress of Messieurs Crooks of Upper Canada, that my previous letter upon that subject of the 5th instant, was not written under renewed instructions from her Majesty's Government at home, to whose attention I believe the case has not been of late years presented by the claimants, as they had not relinquished the hope that it would be favourably decided upon in this country without the renewed intervention of their own Government being required : The representations which I deemed it my duty to make to you, were urged with a view to promote if possible such a result, and in consequence of strong recommendations in behalf of the claimants, addressed to me by the Provincial Government of Upper Canada, and by the Governor General of British North America.

I have the honor to be, &c. &c.

(Signed)

H. S. FOX.

The Hon'ble John Forsyth.

WASHINGTON, 12th May, 1840.

SIR,

I owe you many thanks for the letter your Excellency has favored me with of date 9th instant, and for the accompanying correspondence with the Secretary of State of this Government relative to the "Lord Nelson," which I beg leave to return herewith.

In the year 1831, being then in England, the late Mr. John Galt, at my instance, addressed a letter to Lord Palmerston requesting an answer to statements relative to the "Lord Nelson" by him previously made at the request of the own-

ers, when his Lordship declined any further interference, as will be seen by their letter addressed to Mr. Galt by Mr. Backhouse, his Lordship's Secretary, which is not in my possession at present, but which I will procure and transmit to your Excellency before I leave this city.

I have good reason for believing that his Lordship was, at the time, not aware of the circumstances under which the "Lydia" was captured and that his refusal to entertain the subject proceeded solely from the abstract principle of indemnity for the misconduct of the officers of either Government being insisted upon by that of the U. States; and I am the more inclined to this opinion as in point of fact, so far as we know the case of the "Lydia" had never been submitted for his Lordship's consideration. I confess that I was myself entirely ignorant upon the subject till I saw the extract from Mr. Rush's despatch of 29th Sep. 1819, and it was not till Mr. Hall's success in 1833 or 1834, that we were encouraged to renew our application for indemnity, as his case was an obvious departure by Congress from the principle before insisted upon, and which seems now to be the great difficulty in procuring that justice which has been so long withheld, and which is so justly our due.

I beg to trouble your Excellency with a statement of the facts connected with the seizure of our vessel; in which I will be happy to make any alterations therein or additions thereto that you may suggest. The documents connected with this case cannot be obtained till it is disposed of by the Senate: It was called up yesterday morning and the report of its committee of claims adopted, but upon motion of the Hon'ble Mr. Clay it was, I understand, laid on the table for reconsideration.

Should Your Excellency have received Mr. Forsyth's answer to your last letter addressed to him, I will feel extremely obliged by your communicating it to me, and will have great pleasure in waiting upon Your Excellency at any time that will be convenient to you.

I have the honor to be, &c. &c.

J. CROOKS.

The Hon'ble H. S. FOX.

WASHINGTON, May 14, 1840.

SIR :

Since I had the honor of addressing your Excellency on Tuesday last (12th instant,) the two reports enclosed, the one being on the case of Mr. Hall, dated 24th April, 1832, and the other that of the Lord Nelson, dated 14th December, 1837, have come into my possession, and although they were among the papers submitted to you by my agent, Mr. Clarke, which are now before the Senate, yet as reference to them at this time may be useful, I beg leave to hand them to you.

It appears to me that they fully establish the position, that Congress in indemnifying Mr. Hall, (whose case was by no means so strong as ours is,) departed from the principle, before and now insisted upon by the Executive Gov't. of the United States, and that when the two last paragraphs of the report are duly considered they cannot fail to have great weight in bringing this affair to a speedy and favorable issue.

I beg leave also to enclose the copy of a letter addressed by me to Mr. Hubbard, Chairman of the Committee of Claims of the Senate, soon after my arrival at this place, claiming to be allowed our expenses, to which he made no reply—also a copy of the Bill passed by the House of Representatives in 1837 for our relief, but which was rejected in the Senate by a very small vote.

I have honor to be, &c., &c.,

J. CROOKS.

His Excellency the Hon. H. S. FOX.

WASHINGTON, May 21, 1840.

SIR:

I beg leave to state that the case of the "Lord Nelson" came up in the Senate yesterday, and was continued to-day, when upon a motion made by the Chairman of the Committee of Claims, it was postponed indefinitely. I shall endeavor to furnish your Excellency (through a friend,) with a certified copy of the decision, but I am afraid that a standing order of the Senate precludes me from withdrawal of the papers which accompanied my claim; but this is of the less consequence, as the report of the Committee admits the main points connected with it. I shall, however, do all I can to have them also, and place them in your Excellency's hands.

The motion that prevailed was moved as an amendment to one made by Mr. Clay yesterday, that the report be referred back to the Committee, with instructions to report a Bill for the relief of the claimants, against which two arguments were attempted to be used, firstly, that the United States Government were not liable for monies placed by the court in the hands of their clerks,\* and secondly, that if even it were so, the case of the "Lydia," being a similar one, no indemnification ought to be made to the owners of the "Lord Nelson," until the British Government agreed to pay for her.

Under this circumstance, I have earnestly to beg the favor of your Excellency to forward the enclosed statement of the case of the Lord Nelson to England, at your earliest convenience, accompanied with your own observations thereon, and the report of the Committee of Claims of the Senate, which being official; will, I hope, enable her Majesty's Government to make it the subject of communication with that of the United States; and will deem it a very great favor would your Excellency communicate to me any thing that may occur in consequence; for which purpose I annex my address to this letter.

I have only further to express my regret for the trouble I have given, and to beg your Excellency's acceptance of my best thanks for the assistance you have so freely afforded me.

I have the honor to be, &amp;c. &amp;c.

J. CROOKS.

His Excellency the Hon. H. S. FOX, &amp;c. &amp;c. &amp;c.

## SHIP LYDIA—FITZGERALD, MASTER.

It appears by the records of the court of Admiralty, of Bermuda, that this vessel was owned at New York by Stephen Hathaway, jr. and Isaac Waite, merchants of that city, and was sailing under a British Licence. On her voyage from New York aforesaid, to Charleston, South Carolina, in the United States of America, to take cargo for Cadiz, she was captured by H. M. ship Poictiers, Sir John P. Beresford, Kn't. Captain, and others, and brought to Bermuda, where she was condemned by the Vice Admiralty Court as prize to the captors.

H. SPENCER, Dep'y Reg.

ST. GEORGES, BERMUDA, Feb. 5, 1841.

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\*Against which position Mr. Webster quoted an act of Congress, passed in the year 1814, making it the duty of the courts to place all such monies in some chartered bank, or other safe place of deposit. Also another act passed in 1817, enforcing the former.

WEST FLAMBOROUGH, June 9, 1840.

SIR :

After an attendance at Washington of six weeks in prosecution of my claim for indemnity for the value of the schooner Lord Nelson, seized in 1812, (thirteen days before the declaration of war,) by an American vessel of the United States, I regret to say that I failed in that object.

His Excellency the Governor General having done me the favor during the past winter, to address to his Excellency the British Ambassador at Washington, in regard to this claim, and his Excellency Sir Geo. Arthur having also favored me with an introduction to Mr. Fox, I found that talented gentleman deeply impressed with a sense of the injustice with which I had been treated, and every effort to obtain indemnification failing, he has been so kind as to transmit to her Majesty's Government in England, a statement of the case ; and as his Excellency the Governor General was pleased to take an interest in the matter, at the time above alluded to, I entertain the hope that he will further grant me his favor and assistance in obtaining that justice which has been so long and so cruelly withheld, by a strong representation to her Majesty's Government in England in my behalf, in aid of those made by Mr. Fox, when I cannot doubt of success. As by the documents accompanying this letter, I feel assured that his Excellency will perceive that no claim could be more just than mine is.

I would further beg leave to represent to his Excellency that from the great value of the British shipping now navigating the Canadian lakes, and their importance, as well to the security as prosperity of these Provinces, it is at this time a matter of the greatest consequence that no infraction of the rights of her Majesty's subjects should be permitted on the part of the only foreign Government which from its local situation can invade them, and humbly hope that the readiness of the mother country, so magnanimously evinced on all occasions to protect the maritime rights of her subjects, wherever resident, will not be withheld on the present occasion.

I have the honor to be, &amp;c. &amp;c.

J. CROOKS.

T. W. CLINTON MURDOCK, Esq.

Chief Secretary to his Excellency the Gov. General.

GOVERNMENT HOUSE, Montreal, 18th June, 1840.

SIR :

I am commanded by the Governor General to acknowledge the receipt of your letter of the 9th inst., and to inform you that his Excellency has transmitted a copy of it and of the accompanying documents to the Secretary of State, with a request that her Majesty's Government will make such a representation to the Government of the United States, as may insure a favorable consideration of your claim to indemnity on account of the seizure of your vessel the "Lord Nelson."

I have the honor to be, Sir,

Your obedient servant,

T. W. C. MURDOCK, Chief Secretary

Hon'ble J. Crooks, West Flamboro', U. C.



GOVERNMENT HOUSE, Montreal, 12th October, 1840.

SIR :

I am directed by the Governor General to transmit to you, with reference to your claim to be indemnified by the Government of the United States for the seizure of your vessel the "Lord Nelson," prior to the declaration of war between that Government and Great Britain, the accompanying copies of a despatch and enclosures which his Excellency has recently received from the Secretary of State for the Colonies on the subject,

I am to express to you his Excellency's regret that the opinion of the Queen's Advocate on the case should be such as to preclude her Majesty's Government from making a representation thereon to the United States Government.

I have the honor to be, Sir,

Your obedient servant,

T. W. C. MURDOCK, Chief Secretary.

The Hon'ble J. Crooks, West Flamboro', U. C.

COPY, No. 220.

DOWNING STREET, 7th Sept. 1840.

MY LORD :

I have received your Lordship's despatch, 121, of the 17th June, submitting the claim of Mr. James Crooks, to be indemnified by the Government of the United States for the seizure of his vessel the "Lord Nelson" on Lake Ontario, previously to the declaration of war between Great Britain and the United States.

Having forwarded the papers to Viscount Palmerston, with a request that his Lordship would make such a representation to the United States Government on the subject as the circumstances of the case might seem to require, I have received from his Lordship the reply, of which a copy is enclosed for your information.

I have the honor to be &c.,  
(Signed)

J. RUSSELL

To Lord Sydenham.

COPY.

FOREIGN OFFICE, 13th August, 1840.

SIR :

Having laid before Viscount Palmerston your letter to Mr. Backhouse of the 23d ultimo, transmitting a copy of a letter from the Governor General of Canada, enclosing the claim of Mr. Crooks of Upper Canada, for indemnification from the Government of the United States of America for the seizure of his vessel the "Lord Nelson," in 1812, before the declaration of war between the United States and Great Britain, I am directed by Viscount Palmerston to acquaint you for the information of Lord J. Russell, that previously to making any communication to the American Government on this subject, his Lordship, caused your letter and its enclosures to be referred to H. M. Advocate General and I herewith transmit to you for Lord J. Russell's consideration, a copy of the Report of that Officer thereupon. His Lordship will observe that the Queen's Advocate is of opinion that it would not be advisable to press the claim of Mr. Crooks any further upon the American Government.

I have the honor to be &c.  
(Signed)

LEVESON.

To James Stephen, Esq.



DOCTORS' COMMONS, 10th August, 1840.

MY LORD:

I am honored with your Lordship's commands signified in Lord Leveson's letter of the 5th instant, stating that he was directed to transmit to me the accompanying letter from the Colonial Office, enclosing a copy of a despatch from the Governor General of Canada, submitting the claim of Mr. Crooks of Upper Canada on the American Government, for the seizure of his vessel the Lord Nelson, in 1812, before the declaration of war between the United States and Great Britain, and to request that I would take this case into consideration and report to your Lordship my opinion thereupon.

Having in obedience to your Lordship's commands, taken the papers into consideration, I think that I cannot better discharge my duty than by sending to your Lordship the following copy of the King's Advocate's Report, dated 28th July 1823, to Mr. Canning, then Secretary of State for Foreign Affairs, on this very case:—

"SIR: I am honoured by your commands signified in Lord F. Conyngham's letter of the 26th instant, transmitting a despatch from H. M. Minister in America on the subject of the "Lord Nelson" schooner, the proceeds of which after restitution of the vessel had been decreed by sentence of the District Court of the State of New York, were embezzled by the Clerk of the Court, and for which hitherto the exertions of H. M. Minister at Washington, have been unavailing to procure indemnification for the parties.

"And you are pleased to request that I would report to you my opinion as to the further instructions which it may be expedient to H. M. Minister at Washington, upon this case.

"In obedience to your commands I have the honor to report that the Government is not strictly responsible for losses occasioned by the default of the regular officers of the Court; the remedy of the party is against the individual under the laws of the Country, on the same terms and conditions as would belong to any subject of the country having similar claims upon him.

"The events of the late war having obliged H. M. Government to act on that principle in several instances, in declining such responsibility, and it would not be advisable to press this claim further.

(Signed)

CHRISTR. ROBINSON."

I beg leave to add that I entirely concur in the above report, and that I find the same principle has been applied to similar cases, amongst others to that of the "Mahi" reported upon to Lord Castlereagh, on the 1st Sept. 1814, and to the Lords of the Treasury in Nov. 1817, and also on the 4th July, 1814.

I have the honor to be,

(Signed)

J. DODSON.

WEST FLAMBOROUGH, 16th November, 1840.

SIR:

I have the honor to acknowledge the receipt of your letter dated 12th of the present month, communicating copies of certain opinions of Her Majesty's law officers in England, in reference to the claim made by me for indemnification for the loss of the Schooner Lord Nelson in 1812, previous to the declaration of war between Great Britain and the United States of America, and expressing the regret of His Excellency the Governor General that those opinions are unfavorable to the prosecution of my claim.

I beg you will express to His Lordship the Governor General, my grateful acknowledgments for the trouble he has taken in my behalf, at the same time I hope he will permit me to state that I cannot consider the opinions referred to above as bearing with much, if any force, upon the case of the Lord Nelson, more particularly as those opinions were given so long ago as 1814, before the war was yet ended, and repeated in 1817, the same year that the court of the United States for the northern division of the State of New York, decided that the said vessel should be restored.

In regard to the opinion that individuals must look to the officer of the court personally for the money embezzled by him, I beg leave to dissent from, and to state that even were such opinion the correct one, still it does not apply to the case of the Lord Nelson, inasmuch as the United States has assumed the value of that vessel in their account against Mr. Rudd, while they rejected others, thus making a decided distinction in my favor, and of which amount they (the U. S.) received a part,—in one instance, nearly \$10,000 from one Bank and I am unable to say how much from his other property and personal effects, without paying over to me any proportion of it—and, moreover, kept him under duress for 10 years. Had all the money been made, how could I individually have compelled the payment of my proportion?

In the discussion which took place in the Senate of the United States at its last Session, at which I was present, less stress was laid upon the responsibility of the officer who embezzled the money, than upon the case of the Lydia being a parallel one—indeed a prominent member of that body read in his place an act of Congress passed in 1814 making it the duty of the Courts of Justice in which money was deposited, to “invest the same in some chartered Bank, or some other safe place of deposit,” which act was reinforced by another passed in 1817. The case of the Lydia was stated at length in the papers heretofore submitted, so that it is unnecessary again to trouble his Lordship with it. But as by the statement of their own minister at the court of London (Mr. Rush) it is made manifest that that vessel had forfeited her national character by sailing under a British Licence, a representation from her Majesty’s Government, through the ambassador at Washington, to that effect, would, I have well founded hopes, secure my indemnification.

I can easily imagine that to press a case so trifling in amount upon the consideration of Her Majesty’s Ministers, cannot be otherwise than irksome, still to me, who lost so much more than I received, by the war, besides giving up my business and serving in the Militia for three Campaigns, it is of material importance, and the question must for ever recur “what are the Inhabitants of these provinces to do to recover their just rights when deprived of them by a foreign nation, if our own decline interfering”. I did hope that I had made out a strong case of individual hardship and injustice, and so thought the Legislative Council, who in the Session of 1839, represented it in an address to Her Majesty, but in the answer thereto, dated 27th June 1839, Her Majesty’s Ministers make no reference to it whatever. The address and answer I have the honor to enclose, and shall for the present content myself with suggesting that, if principles of public policy deter Her Majesty’s Government from making a question of it with that of the United States, it is due to those who may suffer, as in the case of the Lord Nelson, that they should be indemnified by our own Government.

I have the honor to be, Sir, your most  
Obedient, Humble Servant,

JAMES CROOKS.

T. W. CLINTON MURDOCH Esq. &c. &c. &c.

GOVERNMENT HOUSE, Montreal, 30th November, 1840.

SIR :

I am commanded by the Governor General to acknowledge the receipt of your letter of the 17th instant, controverting the opinion of the Queen's Advocate, in regard to your claim to indemnification from the United States Government ; on account of the seizure in 1812 of the Lord Nelson Schooner—His Excellency desires me to say that he will transmit your letter to the Secretary of State, in order that the arguments adduced by you may be laid before the Queen's Advocate, for his consideration.

I have the honor to be, Sir,  
your most obedient Servant,

T. W. C. MURDOCH, Chief Secretary.

The Hon'ble JAMES CROOKS, West Flamborough, U. C.

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GOVERNMENT HOUSE, Montreal, 8th March, 1841.

SIR :

Your further communication of the 17th Nov. last, on the subject of your claim to compensation for the loss of the Schooner Lord Nelson in 1812, having been forwarded to the Secretary of State for the Colonies, I am directed by the Governor General to transmit for your information the enclosed copy of the Despatch which His Excellency has recently received in reply, from which it appears that the Queen's advocate sees no reason to depart from his former opinion on the case.

I have the honor to be, Sir,  
Your obedient Servant,

T. W. C. MURDOCH, Chief Secretary,

Hon'ble JAMES CROOKS, West Flamborough, U. C.

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(COPY)

DOWNING STREET, 7th February, 1841.

MY LORD :

I have received your Lordship's Despatch, No. 198 of the 30th November, inclosing the copy of a further letter from Mr. James Crooks, urging his claims to the assistance of Her Majesty's Government, in obtaining compensation for the loss of his vessel "Lord Nelson," which was seized by the Americans at the commencement of the war in 1812.

Having communicated your despatch and Mr. Crooks' letter to Viscount Palmerston, His Lordship has informed me that they have been referred for the consideration of the Queen's Advocate, who has reported that "he does not see any thing in these papers, to induce him to depart from his former opinion on this case."

You will have the goodness to express to Mr. Crooks my regret, that I am unable to return a more favorable answer to his representation.

(Signed)

J. RUSSELL.

GORD SYDENHAM

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