

ESTATE OF JAMES H. GRAHAM

MARCH 22, 1926.—Committed to the Committee of the Whole House and ordered to be printed

Mr. CELLER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 3691]

The Committee on Claims, to whom was referred the bill (H. R. 3691) for the relief of the estate of James H. Graham, having considered the same, report thereon with a recommendation that it do pass with the following amendment:

In line 6 strike out the figures "\$700" and insert in lieu thereof "\$664.13."

STATEMENT OF FACTS

In August, 1920, James H. Graham was the owner of a Buick roadster automobile which he had purchased in June, 1920. In August, 1920, this car was stolen in San Antonio, Tex., and on August 27, 1920, it was seized by the customs officers, being then in possession of a party by the name of Pat Love, who had in his possession at that time in the car 55 bottles of liquor. The car was condemned by the Federal judge at the Corpus Christi court, southern district of Texas, and ordered sold by the United States marshal. It brought \$700, and the net amount covered into the Treasury was \$664.13.

Neither the customs officers nor the officers of the court had any knowledge the automobile had been stolen until a long time after the sale, and the said Doctor Graham had no knowledge of the seizure and sale until about a year later, when it was found in the possession of one George B. Hurst, city marshal of McAllen, Tex., who had purchased the car from one C. W. Price, of Alice, Tex., the latter having been the purchaser at the condemnation proceedings.

This car, being the one sold by the Government and which was taken from the said Pat Love, has been fully identified as the same car that was stolen from James H. Graham in the month of August, 1920, by model number, engine number, frame number, and State license number. The Secretary of the Treasury has reported to the committee that the department has no objection to the relief, as provided in the bill, being granted, but recommends that the amount set forth in the bill be amended to cover only \$664.13, the net amount realized from the sale.

TREASURY DEPARTMENT,
Washington, January 30, 1926.

CHAIRMAN COMMITTEE ON CLAIMS,
House of Representatives.

MY DEAR MR. CHAIRMAN: Receipt is acknowledged of your letter of December 21, 1925, with which you transmitted a copy of a bill providing for the payment to the estate of James H. Graham of the sum of \$700, which represents the amount for which the car seized for violation of the United States revenue laws was sold, the net amount covered into the Treasury being \$664.13.

The car in question was seized under the customs laws while being used in the illegal transportation of liquor smuggled from Mexico. From the department's records it appears that neither the customs officers nor the officers of the court had any knowledge the automobile had been stolen until a considerable time subsequent to the sale.

Under date of August 31, 1922, the department advised Mr. J. D. Dodson, attorney for Doctor Graham, that as the amount of the net proceeds of sale had been covered into the Treasury it was without authority to direct a refund of the amount, or any portion thereof, as there was no appropriation available for such a refund at that time.

It appears the car in question was stolen from Doctor Graham and that he was unaware of the seizure prior to sale, and was in such a position as prevented him from knowing of such seizure. In the circumstances, the department has no objection to the relief as provided in the bill, being granted. It is recommended that the amount set forth in this bill be amended to cover only \$664.13, the net amount realized from this sale.

Very truly yours,

A. W. MELLON, *Secretary of the Treasury.*

UNITED STATES CUSTOMS SERVICE,
San Antonio, Tex., January 10, 1925.

Hon. HARRY M. WURZBACH,
Member of Congress, Washington, D. C.

DEAR SIR: This office has just received a communication from the department with reference to bill 10462, introduced by you in the House of Representatives under date of December 6, 1924.

I am inclosing herewith copy of letter which pertains to this matter under date of August 5, 1922, addressed to the honorable Secretary of the Treasury.

Your attention is called to the fact that in this bill it makes mention that the car was sold by the United States marshal of the western district upon court order. As a matter of fact this car was seized in the southern district and sold by the marshal for the southern district. However, it is not believed that this will make any material difference, but your attention is called to this matter for such action as may be necessary, if the circumstances warrant.

The San Antonio district for judicial proceedings comprises the counties in the western and southern districts.

There can be no question of this car being stolen from Doctor Graham and later seized by the customs officers for being used in the transportation of smuggled liquor.

With kindest personal regards,

Yours truly,

ED COTULLA, *Assistant Collector.*

UNITED STATES CUSTOMS SERVICE,
San Antonio, Tex., July 31, 1922.

Hon. R. A. HAYNES,
Prohibition Commissioner, Washington, D. C.

DEAR MR. HAYNES: Referring to your letter of July 19 to our mutual friend, F. E. Scobey, Director of the Mint, pertaining to a seizure of a car belonging to Dr. J. H. Graham, of this city, I wish to state that the car in question—a Buick roadster—was seized by the customs officers on August 27, 1920, being then in possession of a party by the name of Pat Love, who had in his possession at that time, in the car, 55 bottles of liquor.

As the value of this car exceeded \$500, it was necessary for condemnation proceedings to be had. This car was condemned by the Federal judge at the

Corpus Christi court and ordered sold by the marshal. The proceeds of the sale were evidently deposited to the treasurer as miscellaneous receipts.

The car was seized by this department a long time after it had been stolen from Doctor Graham. The numbers were changed and the doctor had no means of knowing from the newspapers advertising the sale of the car that the car belonged to him, but secured this information later.

Doctor Graham is a good citizen of San Antonio, and under the circumstances I believe that the amount received for the car, less the expenses, should be returned to him, and I hope that you will so rule.

I also wish to state that this customs division is cooperating with your department to the fullest extent.

With kindest personal regards from the writer, I am,

Yours truly,

ROY CAMPBELL, *Collector of Customs.*

UNITED STATES CUSTOMS SERVICE,
San Antonio, Tex., August 5, 1922.

The SECRETARY OF THE TREASURY,
Division of Customs, Washington, D. C.

SIR: This office has the honor to acknowledge receipt of the department's memorandum dated August 1, 1922, No. 108200, inclosing a letter from Prohibition Commissioner R. A. Haynes, which is in regard to one Buick roadster, motor No. 638025, seized by Customs Officers White, Brown, and Hines on or about August 25, 1920.

I have to respectfully advise the department this car was seized by the customs officers mentioned and was in possession of a party by the name of Pat Love, who was transporting at the time 59 bottles of liquor.

As the value of this car exceeded \$500, it was necessary to report same to the United States district attorney for the southern district of Texas. At a regular term of court at Corpus Christi this car was condemned and ordered to be sold by the United States marshal. Same was sold by the deputy marshal and purchased by C. W. Price at Alice, Tex., for \$700.

At the time of condemnation proceedings there was no knowledge of the car having been stolen, but this, however, was learned a considerable time thereafter, that the car in question had been stolen here in San Antonio. The owner of said car had no knowledge of the seizure and sale or that the car that was sold was his car.

It appears to this office that under the circumstances the owner of the car should be entitled to the net proceeds derived from the sale of this car.

I am inclosing herewith copy of letter addressed to Mr. R. A. Haynes from this office under date of July 31, 1922.

The department inclosures are also herewith returned.

Respectfully,

ED COTULLA,
Special Deputy Collector.

THE STATE OF TEXAS,
County of Bexar:

I, H. H. Bryant, a resident of Bexar County, Tex., upon my oath say:

That during the year 1920, continuously since that time, and now, I was, have been, and am engaged in the automobile business in San Antonio, Bexar County, Tex., under the trade name of San Antonio Buick Co.

That I was personally acquainted with James H. Graham during his lifetime, and during the month of June, 1920, I sold to him one certain new Buick roadster and that subsequent to the purchase of said automobile by the said James H. Graham, and until the month of August, 1920, I frequently saw said automobile and was familiar with its condition and general appearance; that said car was stolen in San Antonio, Tex., during the month of August, 1920, and that said car was located many months thereafter, during the year 1921, in the possession of George B. Hurst, city marshal of McAllen, Tex.; that I made a trip to McAllen, Tex., for the purpose of identifying and procuring possession of said car for Mr. Graham.

That when I reached McAllen, Tex., I inspected the car then in possession of the said George B. Hurst and identified the same as being the car sold by me to James H. Graham, the identification being made by checking the factory frame number, the model number, the engine or motor number and by the State license

number issued to James H. Graham, being a license plate bearing the number 479296, said original license number having been removed from the front of the car and placed in the rear of the body of the car; I was also familiar with the general appearance of the car when same was in the possession of Mr. Graham and recognized the car at McAllen, Tex., in the possession of Mr. Hurst, as being the car sold to Mr. Graham and owned by him at the time same was stolen. However, after a lapse of practically six years, I am unable to enumerate what particular marks or conditions of the car entered into my identification at that time, other than the matters hereinabove enumerated.

I did not recover possession of the car from Mr. Hurst for the reason that I was informed by Mr. Hurst and was shown legal papers transferring the same to him from C. W. Price, of Alice, Tex., and also papers showing the transfer of the car to Mr. Price by a sale made to the said Price under condemnation proceedings instituted by the United States Government for the southern district of Texas.

My attention has been called to an apparent discrepancy between the engine number of the Graham car, as stated in Mr. Graham's application for refund of the proceeds from the sale of said car, and the engine number shown by the records of the condemnation proceedings, the engine number as stated in Mr. Graham's claim being 628025 and the engine number shown in the condemnation proceedings being 638025. I have looked through my old records, but am unable to find my sales records prior to 1921, therefore can not swear positively whether the engine number was 628025 or 638025, but I do know that I had in my possession and with me my sales record on the car sold to Mr. Graham at the time I inspected and identified the car in the possession of Mr. Hurst at McAllen, Tex., and that I checked the model number, engine number, frame number, and State license number issued to Mr. Graham, as shown by my sales record with said car then in the possession of Mr. Hurst, and know that the numbers on the car checked with the numbers shown by my sales record and that it was the James H. Graham car.

H. H. BRYANT.

Subscribed and sworn to before me, this 11th day of March, A. D. 1926.

[SEAL.]

PAUL Y. NUIANT,

Notary Public in and for Bexar County, Tex.

THE STATE OF TEXAS,

County of Bexar:

I, Ed Cotulla, a resident of Bexar County, Tex., and deputy collector of customs for the southern district of Texas, upon my oath say:

That after the arrest of one Pat Love and the seizure of an automobile then in his possession, and which said automobile was later condemned in the United States District Court for the Southern District of Texas, in condemnation proceedings *U. S. v. One Buick Roadster*, Corpus Christi, D. L. No. 41, that I saw and inspected the automobile so seized and condemned; that said automobile was a practically new Buick roadster and is the car described in said condemnation proceedings as bearing State license No. 351450 and engine No. 638025; that I did not check the numbers on said car or the engine number, but I do know that in examining the car I found in the rear of the body a license plate number different from the license number attached to the car in the regular way, but that I have no record or memorandum of the number shown on said license plate on the inside of the car.

That I was not familiar with the car owned by Mr. Graham in August, 1920, and did not know at that time and until after the condemnation proceedings above referred to that a car had been stolen from him; that at some time after the condemnation proceedings Mr. Graham came to my office to examine the records in said condemnation proceedings, and that before being shown such records, in conversation with him, he gave me such information and description of his car that I was enabled at that time to identify the car that was seized from Pat Love and that I had seen and inspected, being the car that was sold through said condemnation proceedings, as being the car that was stolen from the said James H. Graham.

ED COTULLA.

Subscribed and sworn to before me this 10th day of March, A. D. 1926.

[SEAL.]

M. S. ALGEE,

Notary Public in and for Bexar County, Tex.