

OLIVER LEE—ADMINISTRATORS OF.

[To accompany bill H. R. No. 233.]

MAY 16, 1850.

Mr. T. B. BUTLER, from the Committee of Claims, made the following

REPORT:

*The Committee of Claims, to whom was referred the petition of Charles H. Lee and Eliza Lee, administrators of the estate of Oliver Lee, deceased, report as follows :*

The petitioner was the owner of the schooner Savannah. In January, 1838, said vessel and her apparel and furniture were seized by Pierre A. Barker, the collector of the port of Buffalo, by the direction or advice of General Winfield Scott, who was then in military command on the Niagara frontier. The petitioner sued the collector before the supreme court of New York. In March, 1839, the United States district attorney for the northern district of New York was directed to defend the suit by the Secretary of the Treasury, on behalf of the United States. He procured the renewal of the cause to the circuit court of the United States, under the act of Congress; a trial was had before the circuit court of the northern district of New York, in June, 1844, the district attorney of the United States appearing and defending the suit, and judgment was recovered, amounting, with the costs, to 580 dollars and 32 cents.

It appears to the committee that the collector and General Scott both acted with proper good faith, and that the Secretary of the Treasury very properly considered that the government should protect their agent, and if the judgment recovered against the collector had been paid by him, the government would have clearly, in accordance with the uniform precedent, considered themselves bound to pay the amount. The collector died insolvent, no part of the judgment having been satisfied.

The evidence is entirely conclusive that the suspicion upon which the vessel was seized, of being employed in aiding the Canadian patriots, contrary to law, was wholly unfounded. General Scott says that he was subsequently satisfied that such was the fact, as will appear by the annexed statement.

The committee recommend the passage of a bill for the relief of the petitioner.

Mr. Lee, now of Buffalo, New York, has shown me a petition he is about to present to Congress, praying indemnity on account of damages

done him, in January and February, 1838, by the detention or seizure of the schooner *Savannah*, his property, in the port of Buffalo—an act done by the collector of the said port, with my approbation, as the commander of the United States troops on that frontier and at that period.

I have no direct memory of the seizure of a schooner of *that name—the Savannah*—but I remember that the collector, (Mr. P. A. Barker,) with whom I was acting at the time in official concert, in maintaining the peace of the frontier and of the United States against an armed body of men within our limits, who were endeavoring to invade the opposite British province, reported to me the seizure of a schooner, and asked for a guard from the troops under my command, to hold the said schooner, and to prevent her from aiding that unlawful enterprise. I remember, further, that, on the suspicions communicated to me by the collector, I thought him at the time fully justified, under the law and his instructions from the Treasury Department, in seizing and detaining the said vessel—no doubt the same mentioned in the said petition; that I furnished the guard asked for by the collector.

From the papers now shown me by Mr. Lee, including a transcript from the record of the court which tried an action for damages brought by him against the said collector, which papers are annexed to the said petition, I am now satisfied that the said schooner was illegally seized and detained by the said collector; or, in other words, that she was, during the said frontier troubles, in no way engaged or employed in violating the neutral obligations of the United States towards a neighboring province belonging to a power at peace with the United States.

Given under my hand, without threat of an action for damages, and without persuasion, this 20th day of January, 1846.

WINFIELD SCOTT.