

Calendar No. 1106

69TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 1088

CARROLL MOTOR CO.

JUNE 16, 1926.—Ordered to be printed

MR. TRAMMELL, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 4677]

The Committee on Claims, to whom was referred the bill (H. R. 4677), for the relief of the Carroll Motor Co., having considered the same, report thereon with a recommendation that the bill do pass. The facts are fully set forth in House Report No. 545, which is appended hereto and made a part of this report.

[House Report No. 545, Sixty-ninth Congress, first session]

The Committee on Claims, to whom was referred the bill (H. R. 4677) for the relief of Carroll Motor Co., having considered the same, report thereon with a recommendation that it do pass.

STATEMENT OF FACTS

Provision is made in the bill to pay the Carroll Motor Co. \$700 to compensate it for the loss of one seven-passenger Studebaker automobile, said automobile and five cases of whisky having been seized from one Samuel Saulsbury by prohibition agents at Vero, Fla., on May 10, 1920, and said Saulsbury having been arrested on the charge of transporting intoxicating liquor. The automobile was held in storage in Weather's Garage, Miami, Fla., from June 1, 1920, to November 19, 1920, when said garage discontinued business, and the automobile was turned over to the Dixie Highway Garage, in whose custody it remained until it was sold at public auction by the Federal prohibition director for the State of Florida on June 3, 1922, for \$110. The basis of the claim of the Carroll Motor Co. is a balance of \$864.29, of the total purchase price of \$1,257.17 which Saulsbury agreed to pay the motor company for the automobile, which remained unpaid at the time of the seizure. After the seizure the automobile was appraised at \$700 for the purpose of release under section 26 of the national prohibition act.

As the claim has the approval of the Secretary of the Treasury, your committee recommends favorable consideration.

TREASURY DEPARTMENT,
Washington, March 2, 1926.

HON. CHARLES L. UNDERHILL,
Chairman Committee on Claims,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: I have the honor to acknowledge receipt of your letter of February 1, 1926, transmitting a copy of a bill (H. R. 4677) for the relief of the Carroll Motor Co., and requesting that there be forwarded for the use of the committee all papers or copies thereof on file in the department relating to the claim, with an opinion as to the merits of the claim. The bill provides for the payment to the said motor company of the sum of \$700 to compensate it for the loss of one seven-passenger Studebaker automobile, motor No. 755752.

The records of the department show that the automobile in question and five cases of whisky were seized from Samuel Saulsbury by prohibition agents at Vero, Fla., on May 10, 1920, and that said Saulsbury was arrested on the charge of transporting intoxicating liquor. The automobile was held in storage in Weather's Garage, Miami, Fla., from June 1, 1920, to November 19, 1920, when said garage discontinued business, and the automobile was turned over to the Dixie Highway Garage, in whose custody it remained until it was sold at public auction by the Federal prohibition director for the State of Florida on June 3, 1922, for \$110.

Some confusion arose concerning the identity of the automobile, and several diligent efforts made prior to the sale to locate the automobile under the number 755752 were unsuccessful. It appears that the automobile was originally stored in the Weather Garage under the number 755752, but by some means, which the different investigations have failed to disclose, it was carried on the records of the Dixie Garage as No. 22904. The director for the State of Florida informed the department in a letter dated January 13, 1923, that the automobile and others were sold on June 3, 1922, after consultation with the United States attorney, and states: "It seems now from this investigation that this Studebaker car which was sold as No. 22904 has been properly located as the Samuel Saulsbury car, which was reported as No. 755752, but how the number ever became changed is more than I am able to understand, no case being entered on the Studebaker car No. 22904, and in order to clean up, the car was sold for the sum of \$110."

The national prohibition act, section 26, provides that—

"The court upon conviction of the person so arrested shall order the liquor destroyed, and unless good cause to the contrary is shown by the owner, shall order a sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure and the costs of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor, and shall pay the balance of the proceeds into the Treasury of the United States as miscellaneous receipts."

The criminal case against Saulsbury arising out of the illegal transportation of the five cases of whisky above-mentioned was never tried because Saulsbury forfeited his bail bond, left his residence in Florida, and has not since said time been located or rearrested. The sale of the car on June 3, 1922, appears therefore to have been premature.

The basis of the claim of the Carroll Motor Co. is a balance of \$864.29 of the total purchase price of \$1,257.17, which Saulsbury agreed to pay the motor company for the automobile, which remained unpaid at the time of the seizure.

The automobile was purchased by Samuel Saulsbury from the Carroll Motor Co. on February 21, 1920, under a conditional sales agreement for \$1,257.17. The purchaser made a cash payment of \$314.29, was given credit for \$78.57 for trades-in, and executed 11 notes for \$78.57 each and 1 note for \$77.61, due and payable 1 note each month thereafter until the balance of the purchase price shall have been paid. The car appears, therefore, to have been used about three months at the time of the seizure and the purchaser never paid more than one of the notes representing the deferred payments. After the seizure the automobile was appraised at \$700 for the purpose of release under section 26 of the national prohibition act.

The irregularities in connection with the sale of the automobile appear to have been due to the confusion in the identity of the car, and to the fact that the defendant Saulsbury forfeited his bond and was never rearrested. The indictment against Saulsbury was finally quashed.

In view of all the foregoing the department is of the opinion that the Carroll Motor Co. should be compensated for its loss. The company does not appear to have been responsible in any way for the irregularities, but attempted through counsel to conserve its rights and interests under the law by making an offer in compromise of the liability to forfeiture of the automobile and presenting a petition to the court for the Southern District of Florida for the release of the car. The claim is therefore meritorious, and it is recommended to the favorable consideration of your committee.

The file in the case is voluminous, consisting of a large number of papers and correspondence, which it would be impracticable to copy and transmit for your consideration. The department will, however, send the original file to the committee by an employee for its consideration.

Yours very truly,

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

