

Report No. 266.

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HOUSE OF REPRESENTATIVES.

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JAMES FOSTER.

FEBRUARY 29, 1848.

Laid upon the table.

Mr. SIMPSON, from the Committee on Commerce, made the following

REPORT:

*On the claim of James Foster for indemnity for the seizure of a vessel and cargo by the authorities of the British province of Upper Canada:*

The statement of facts as made by the petitioner, set forth that in 1829, he owned half of the schooner Lake Serpent, of Cleveland, Ohio, of 25 tons; was the master, consignee, and part owner of cargo; cleared from Cleveland, Ohio, May 8, 1829, for Red river, Upper Canada; arrived there May 15, 1829, and was immediately boarded by an officer and armed men from the port of Sandwich, who seized the vessel as forfeited for a violation of the revenue laws of the British province of Upper Canada, proceeded to sell some of the cargo, and had the vessel and balance of cargo taken back to Sandwich. Petitioner then applied to the inspector general of revenue at Toronto, Upper Canada, and through him obtained an order for the delivery to petitioner of the vessel and cargo on his paying the regular duties. Petitioner returned to Sandwich and complied with said order, but the cargo had been partly sold and destroyed, and the vessel much damaged. For this damage he sought indemnity from the authorities of Upper Canada, then through our government from the British government, without success; and he now makes application to Congress to be paid his losses.

From the petitioner's own showing, he cleared at Cleveland, Ohio, for the Red river, in Upper Canada, with a cargo. It is known that the authorities of Upper Canada have established a port of entry and appointed a collector at Sandwich, opposite to the town of Detroit, on Detroit river, on the Canadian side of the

river through which he had to pass from Cleveland to Red river, Upper Canada. Here it was the duty of the petitioner, and all other commanders of vessels trading from the United States with the British possessions above this port of entry, to enter and pay duties. He acknowledges he did not do so; yet gives no reason why he did not; and of course your committee cannot frame one for him.

If a British vessel, in defiance of the laws of the United States, were to pass the port of entry at New York, and proceed up to Albany with her cargo of domestic manufactures, the vessel would most assuredly be seized, and whatever penalty the law of the United States imposes on such a violation of its revenue laws, would not only fall on said vessel, but what is more, the British government would have to admit that the penalty of the revenue laws was justly inflicted, for their attempted violation.

Believing, in this instance, that the damages suffered by the petitioner was in consequence of a violation of the revenue laws of the British province of Upper Canada, he has no right to claim that Congress should reimburse him; and therefore recommend that his claim be rejected.