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SENATE

} REPORT
No. 507

UNION TRUST CO., PROVIDENCE, R. I., AND NATIONAL BANK OF COMMERCE, PHILADELPHIA, PA.

MARCH 6 (calendar day, MARCH 9), 1928,—Ordered to be printed

Mr. SMOOT, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 10954]

The Committee on Finance, to whom was referred the bill (H. R. 10954) to authorize the Secretary of the Treasury to execute agreements of indemnity to the Union Trust Co., Providence, R. I., and the National Bank of Commerce, Philadelphia, Pa., having had the same under consideration, report it back to the Senate without amendment and recommend that the bill do pass.

The Finance Committee adopts the report of the Ways and Means Committee of the House, which is as follows:

[House Report No. 700, Seventieth Congress, first session]

The Committee on Ways and Means, to whom was referred the bill (H. R. 10954) to authorize the Secretary of the Treasury to execute agreements of indemnity to the Union Trust Co., Providence, R. I., and the National Bank of Commerce, Philadelphia, Pa., having had the same under consideration, report it back to the House without amendment, and recommend that the bill do pass.

The legislation herein proposed authorizes the Secretary of the Treasury to execute and deliver to the Union Trust Co., of Providence, R. I., and the National Bank of Commerce, of Philadelphia, Pa., agreements of indemnity, so as to enable the Treasury Department to collect the sum of \$18,482.71, representing the aggregate amount of two certified checks accepted by the Navy Department in 1921 and 1922, in payment for sales of surplus Government property and lost after receipt.

A similar bill, H. R. 16391, was reported favorably and passed the House in the closing days of the Sixty-ninth Congress. The need for this legislation was fully set forth at that time in a letter from the Secretary of the Treasury, as follows:

TREASURY DEPARTMENT,
Washington, January 13, 1927.

MY DEAR MR. CHAIRMAN: I am inclosing herewith copy of a suggested draft of legislation which, if enacted, will enable the Treasury to make collection of \$18,482.71 representing the aggregate amount of two certified checks accepted by the Navy Department in the calendar years 1921 and 1922 in payment for sales of surplus Government property and lost after receipt.

2 AUTHORIZATION TO EXECUTE AGREEMENTS OF INDEMNITY

In letter of June 21, 1924, addressed to the Treasury, the Secretary of the Navy States in part:

"So far as known, these checks were lost on delivery by messenger from the navy yard, Washington, D. C., to the Bureau of Supplies and Accounts of this department, and it is believed that through inadvertence and before they reached the hands of any responsible officer of the department they were thrown into waste-paper receptacles and have been destroyed."

As you know, receivers and collectors of public moneys are required to accept certified checks in payment of all public dues under regulations issued by the Secretary of the Treasury, pursuant to the provisions of the act approved March 2, 1911, as amended by the act approved March 3, 1913. I am also inclosing in this connection a copy of the Treasury's regulations as embodied in department circular No. 11, dated March 27, 1913. In cases where certified checks accepted for public dues are lost through negligence of receiving or collecting officers it has been the custom to require such officers to furnish bonds of indemnity in order to obtain duplicates of the checks. In the cases under consideration, however, the Secretary of the Navy states that it is impossible to fix responsibility for the loss upon any responsible officer of the Navy Department.

There were 11 certified checks included in the lot which was lost but the Treasury has been able to make collection of nine such checks on the representation that, in the event the checks were subsequently presented under such circumstances that the certifying banks would be required to pay them, the matter would be submitted to the Congress with the request for legislation for their relief. In the remaining two cases, however, the banking institutions have repeatedly refused to make payments without indemnity protection. Existing provisions of law require bonds of indemnity to the United States before issuance of duplicates of checks of disbursing officers of the Government, and it is the general practice of commercial banking institutions to require bonds of indemnity before issuance of duplicates of checks certified by them.

Inquiry as to the legal rights of the Government against the banking institutions concerned was made of the Attorney General, and while advice was received to the effect that suits could be brought, doubt was expressed of the successful result of litigation, due in part to the lack of evidence in the Government's records as to these items and also to the question of the general principle involved.

The Attorney General suggested the matter should be submitted to Congress.

Very truly yours,

A. W. MELLON,
Secretary of the Treasury.

HON. WILLIAM R. GREEN,
*Chairman Ways and Means Committee,
House of Representatives.*

[Acceptance of certified checks in payment of all public dues, including special customs deposits. Department Circular No. 11. Division of Public Moneys]

TREASURY DEPARTMENT,
Washington, March 27, 1913.

To Collectors of Customs and of Internal Revenue and others concerned:

The act of Congress approved March 2, 1911, provides as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for collectors of customs and of internal revenue to receive for duties on imports and internal taxes certified checks drawn on National and State banks, and trust companies during such time and under such regulations as the Secretary of the Treasury may prescribe. No person, however, who may be indebted to the United States on account of duties on imports or internal taxes who shall have tendered a certified check or checks as provisional payment for such duties or taxes, in accordance with the terms of this act, shall be released from the obligation to make ultimate payment thereof until such certified check so received has been duly paid; and if any such check so received is not duly paid by the bank on which it is drawn and so certifying, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for the amount of such check upon all the assets of such bank; and such amount shall be paid out of its assets in preference to any or all other claims whatsoever against said bank, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank.

"SEC. 2. That this act shall be effective on and after June 1, 1911."

The foregoing act was amended by the act of March 3, 1913, reading as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for collecting officers to receive certified checks drawn on national and State banks and trust companies, during such time and under such regulations as the Secretary of the Treasury may prescribe, in payment for duties on imports, internal taxes, and all public dues, including special customs deposits; and the act of March 2, 1911, entitled 'An act to authorize the receipt of certified checks for duties on imports and internal taxes,' is hereby amended accordingly."

It is hereby directed that in accordance with the provisions of the act referred to, which provides that certified checks shall be received under such regulations as the Secretary of the Treasury prescribes, the acceptance of certified checks shall be subject to the provisions contained in the act of March 2, 1911, which provides that:

"No person, however, who may be indebted to the United States on account of duties on imports or internal taxes who shall have tendered a certified check or checks as provisional payment for such duties or taxes, in accordance with the terms of this act, shall be released from the obligation to make ultimate payment thereof until such certified check so received has been duly paid; and if any such check so received is not duly paid by the bank on which it is drawn and so certifying, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for the amount of such check upon all the assets of such bank; and such amount shall be paid out of its assets in preference to any or all other claims whatsoever against said bank, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank."

Receivers and collectors of public money will, therefore, until further advised, accept in payment for all public dues of whatever description certified checks when drawn in favor of the receiver, or collector, on National and State banks and trust companies located in the same city as the depository with which the deposits are to be made, and such "out of town" certified checks as can be cashed by them without cost to the Government.

Article 1345, Customs Regulations of 1908, and Internal Revenue Regulations No. 2 of 1908 are hereby amended accordingly.

This circular supersedes Department Circular No. 25 of April 18, 1911.

W. G. McADOO, *Secretary.*

