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

REPORT

[To accompany H. R. 9655]

The Committee on Claims, to whom was referred the bill (H. R. 9655) for the relief of Edward L. Duggan, having considered the same, report thereon with a recommendation that it do pass.

The full facts in the case are stated in the following letter of the Secretary of the Treasury, which is made a part of this report.

TREASURY DEPARTMENT,
Washington, March 16, 1926.

Hon. CHARLES L. UNDERHILL,
Chairman Committee on Claims,
House of Representatives.

MY DEAR MR. UNDERHILL: I have your communication of February 24, with which you inclose a copy of bill H. R. 9655, for the relief of Edward L. Duggan, a deputy collector of internal revenue attached to the office of the collector at Pittsburgh, Pa.

You request that there be forwarded for the use of the committee all papers, or copies of same, on file in this department relating to the claim. You further request that this office express an opinion as to the merits of the bill.

In accordance with your request there is inclosed herewith a copy of a report made by Special Agent Ralph W. Oser, which it is believed will furnish you with complete information in regard to the loss of certain cigar stamps amounting to $220. Briefly the facts are as follows:

Under date of February 14, 1925, Fogle & Long, Berlin, Pa., ordered a quantity of class A cigar stamps, the value of which was $220. The purchasers of the stamps specified on their order that the stamps were to be sent by registered mail, and the upper left-hand corner of the requisition bears evidence of a stamp of some denomination having been attached. The deputy collector states that he failed to find a registry stamp inclosed with the order and that the stamps were sent by ordinary mail.

In view of the specific request that the stamps be sent by registered mail, the deputy should have communicated with the taxpayers and advised them that the registry stamp could not be located and requested further instructions.
The deputy states that he does not doubt the authenticity of the statement of the purchasers to the effect that a registry stamp was attached for the reason that it had been the custom of Fogle & Long in ordering cigar stamps, both prior to the order in question and since that time, to inclose a registry fee. The stamps did not reach Fogle & Long, and a thorough search has not resulted in their location. In view of the circumstances, it has been necessary to hold Deputy Collector Duggan accountable for the loss. However, in so far as this office is able to determine, the lost stamps have not been used by any other cigar manufacturer and the Government has, therefore, not suffered any loss of revenue through the loss of the stamps.

The bill for the relief of Deputy Collector Duggan appears to this department to be meritorious, and it is therefore recommended that it receive your favorable consideration.

In this connection, there is inclosed herewith your communication of February 24, 1926, directed to the Postmaster General, with which you inclosed a copy of bill H. R. 9655. These documents were transmitted to this department by the Postmaster General, with the statement that they were evidently referred to his department in error. It is thought that possibly it was your intention to address the Comptroller General instead of the Postmaster General.

Sincerely yours,

A. W. MELLON, Secretary of the Treasury.

CHIEF, INTELLIGENCE UNIT, Bureau of Internal Revenue, Washington, D. C.:

There is returned herewith the above-numbered case which relates to the loss in the mails of tobacco stamps valued at $220 mailed by Deputy Collector Edward L. Duggan, at Connellsville, Pa., to Fogle & Long, cigar manufacturers, of Berlin, Pa. The case is based on a communication addressed to you by Deputy Commissioner H. F. Mires under date of April 7, 1925. The following report is the result of an investigation made at Pittsburgh, Connellsville, Garrett, and Berlin, Pa., concluded on January 9, 1926.

In an interview with Mr. G. E. Fogle, which is substantiated by an affidavit attached as Exhibit 1, he stated that he is a member of the firm of Fogle & Long, stogie and tobacco manufacturers, located at Berlin, Pa., and on February 14, 1925, he ordered one hundred 50's and five hundred 100's, class A cigar stamps, having a total value of $220, from Deputy Collector Edward L. Duggan, at Connellsville, Pa. Mr. Fogle explained that in ordering the stamps he executed Form 168, showing thereon that the stamps were to be sent by registered mail, and that he attached to the upper left-hand corner of the form a 10-cent stamp to cover the register fee. After the usual time had elapsed and the stamps were not received, Mr. Fogle notified Deputy Collector Duggan and was informed by Mr. Duggan that he mailed the stamps on February 16, and that he (Duggan) was under the impression that they were registered, as it had been their (Fogle & Long’s) custom to inclose a stamp covering the register fee, and, furthermore, the form was marked “Registered,” but that the postmaster at Connellsville informed him that there was no record at that office of the stamps having been registered.

Mr. Fogle further stated that, in addition to notifying Mr. Duggan, he immediately informed the postmaster and their mail delivery man at Berlin of the fact that he had ordered stamps and failed to receive same and at the same time requested them to keep on the lookout for the stamps and, if it was not too much trouble, to keep a record of their (Fogle & Long’s) mail deliveries.

Mr. Fogle further stated that their firm is composed of Mr. G. W. Long and himself, and that Mr. Long employs all of his time in the managing and shipping end of the business, while his duties are confined to the clerical end; that they have no office employees and that he opens all mail delivered at their office.

In an affidavit, attached as Exhibit 2, Deputy Collector Edward L. Duggan states, in substance, that he received an order for class A cigar stamps amounting to $220 from Fogle & Long, Berlin, Pa., on Saturday morning, February 14, 1925; that the stamps were placed in an official franked envelope, size 14 by 10 or 11 1/2 by 8 1/2, and personally mailed as ordinary mail by him about 1 p. m. on the same date (February 14, 1925). The deputy states that he deposited the
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$220 received from Fogle & Long with the Colonial National Bank of Connellsville, using National Bank Form No. 15, C. D. No. 1732, on February 16, and turned over a duplicate certificate of deposit to the collector at Pittsburgh on the same date; that on February 19 he received a letter from Fogle & Long advising that the cigar stamps had not been received and also that they had attached a stamp to cover register fee to Form 168. Mr. Duggan stated that he did not doubt the authenticity of their statement (that register fee was attached) for the reason that it had been their custom in ordering cigar stamps, both prior to the order in question and since that time, to enclose register fee.

Mr. Duggan explained that immediately upon receipt of the notice from Fogle & Long that the stamps were not received, he communicated with the collector and brought the matter to the attention of the postmasters at Connellsville, Garrett, and Berlin, Pa., and also wrote to other cigar manufacturers for whom he had filled a stamp order on the same date as Fogle & Long, inquiring whether or not they had received stamps by mistake, which resulted in answers that they had not.

Attached to this report as Exhibit 3 is the Form 168 executed by Fogle & Long on February 14, 1925, which was procured from the collector's office. It will be noted that the form specifies "To be sent by registered mail," and that the upper left-hand corner bears evidence of a stamp of some denomination having been attached. Mr. Duggan stated in his affidavit that he mailed the cigar stamps in question Saturday, February 14, about 1 p.m. The form was executed that date, and it is not believed that it could pass through three post offices and be delivered in time for him to fill the order and mail at 1 p.m. Furthermore, the form (Exhibit 3) is stamped as having been received by Mr. Duggan on February 16, therefore it is my opinion that the stamps were mailed on the afternoon of the 16th instead of the 14th. However, I believe that Mr. Duggan was sincere in giving the statements contained in his affidavit, as he did not have access at this time to the form, which shows the date it was received at his office, by which to refresh his memory.

The postmaster at Connellsville stated that the records of that office do not show that the stamps in question were registered, and that on being notified by Deputy Collector Duggan of the apparent loss he, in turn, notified the post-office inspector located in that division, and to date has heard nothing further regarding the matter.

Attached as Exhibit 4 is a communication from the postmaster at Garrett, Pa., in which it is reported that all mail received on February 16 and 17 was received in good condition, and there were no tobacco stamps found loose in the mails at that office.

A communication from the chief clerk, Railway Mail Service, Baltimore, Md., attached as Exhibit 5, shows that the trip reports of February 16 and 17 were carefully looked over and that there was no report of any internal-revenue stamps being found loose in the mails.

It will be seen from the foregoing that Mr. Fogle contends that in ordering the cigar stamps in question he specified on Form 168, "To be sent by registered mail," and attached the necessary register fee. Exhibit 3 shows that he was correct in his statement as to how the stamps were to be sent and bears evidence that a stamp of some denomination was attached. Mr. Duggan admits that he mailed the cigar stamps as ordinary mail and further states that he has no reason to doubt the authenticity of Mr. Fogle's statements, for the reason that it has been the custom of this firm in ordering stamps, both prior to the order in question and since that time, to enclose register fee; therefore in this case the failure to register the stamps seems to be a result of carelessness in the conduct of official duty on the part of Mr. Duggan. It can be stated in his favor, however, that since the loss of these stamps were reported he is keeping a record showing the following: Date, name, address, 100's, 50's, filled by, checked by, registered, postage.

In view of the foregoing, it is recommended that Deputy Collector Edward L. Duggan be required to pay the collector at Pittsburgh $220, and the collector in turn furnish Fogle & Long, of Berlin, Pa., with class A cigar stamps in that value.

RALPH W. OSLER, Special Agent.