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

ADVERSE REPORT

[To accompany H. R. 4321]

The Committee on Claims, to whom was referred the bill (H. R. 4321) authorizing the redemption by the United States Treasury of 20 war-savings stamps, series of 1918, now held by Dr. John Mack, of Omaha, Nebr., having considered the same, report adversely thereon with the recommendation that the bill be indefinitely postponed.

The facts are set forth in the following letters from the Secretary of the Treasury, which are appended hereto and made a part of this report.

TREASURY DEPARTMENT,
Washington, January 6, 1926.

MY DEAR CONGRESSMAN: I have the honor to acknowledge receipt of your letter of December 21, 1925, inclosing a copy of a bill (H. R. 4321) for the relief of Dr. John Mack on account of a United States war-savings certificate, series of 1918, serial No. 15562325, with 20 stamps affixed, registered in the name of Nick Boten at the post office at Omaha, Nebr., under registration No. 2584, which certificate is said to have been accepted by Mach & Mach, dentists, in payment for professional services rendered the registered owner. (In the correspondence on file in this department in connection with this case the surname of the applicant has been spelled Mach.)

In compliance with your request copies of the papers now on file, relating to this claim, are inclosed herewith.

In accordance with the terms and conditions printed on each war-savings certificate and with the provisions of the circulars under which the certificates were issued, war-savings certificates are not transferable and registered certificates are payable only to the registered owner or his duly authorized representative, except in the event of the death or disability of the owner. There are inclosed for your information in this connection copies of department circulars Nos. 94, dated November 15, 1917, and 108, revised, dated August 1, 1923. The binding nature of these provisions has been affirmed by the United States Supreme Court.

In previous correspondence in connection with this case it is alleged that the above-described war-savings certificate was deposited with Doctor Mach by Nick Boten about the time certain dental work was undertaken by Doctor Mach as security for payment for the work. The receipt form appearing on the
certificate has not been signed and Doctor Mach appears to have no evidence in writing establishing the desire of Nick Boten to transfer the ownership of the certificate, even if such transfer had been possible under the law. Moreover, there is no affirmative evidence whatever that the person leaving the certificate with Mach & Mach was in fact Nick Boten, the registered owner.

While at the present time no claim for loss of this certificate has been presented to the department, it is not impossible that such a claim may be presented in the future, and if at such time it appeared that the patient of Doctor Mach was not in fact the registered owner of the certificate double payment would result, as the obligation of the Treasury is to pay the registered owner and no other person.

Under these circumstances the Treasury is strongly opposed to a favorable report upon the bill in question.

Very truly yours,

A. W. MELLON, Secretary of the Treasury.

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

TREASURY DEPARTMENT,
Washington, January 31, 1925.

MY DEAR CONGRESSMAN: I have the honor to acknowledge receipt of your letter of January 22, 1925, inclosing a copy of a bill (H. R. 11523) for the relief of Dr. John Mack on account of a United States war-savings certificate, series of 1918, serial No. 15562325, with 20 stamps affixed, registered in the name of Nick Boten at the post office at Omaha, Nebr., under registration No. 2584, which certificate is said to have been accepted by Mach & Mach, dentists, in payment for professional services rendered the registered owner. (In previous correspondence with the department the surname has been spelled Mach.)

In accordance with your request there are transmitted herewith copies of all papers on file in this department relating to this claim.

Under the provisions of Treasury Department Circular No. 94, dated November 15, 1917, a copy of which is herewith inclosed, war-savings certificates are not transferable and will be paid only to the registered owners named thereon except in the case of death or disability of any such owner. There is also printed on the certificates themselves a statement to the effect that they are not transferable. This will be found in paragraph 2 of the terms and conditions of the certificates, and the binding nature of these terms and conditions has been affirmed by the United States Supreme Court. Accordingly, registered war-savings certificates are payable only to the registered owner or to his duly authorized representative in case of his death or disability.

In certain exceptional and meritorious cases where persons have accepted registered war savings certificates in trade without intent to violate the law or regulations the department has granted relief to the transferee where he has presented some evidence in writing showing the intention of the registered owner to transfer his right to collect the proceeds of the certificate and where the identity of the registered owner with the person attempting to transfer has been definitely established. In the absence of such evidence the department has consistently refused to grant relief to the alleged transferees of war savings certificates. Any other course would result in a possible double liability on the part of the Government if it should subsequently be established that the certificate had not been intentionally transferred or that the attempted transfer had been made by a person not in fact the registered owner.

I desire to call your especial attention to the letter from Mach & Mach to the postmaster at Omaha, dated March 26, 1923, a copy of which is inclosed. From this it appears that the certificate was deposited with Doctor Mach not as payment for the work done but as security for such payment, this action apparently being taken at about the time the work was undertaken. Evidently, therefore, Doctor Mach had the certificate in his possession for at least an appreciable time before the work done for the patient was completed and had ample opportunity to learn from the certificate itself that it was not transferable.

Moreover, it does not appear that there was an attempt to actually transfer the certificate in payment, the intention being merely to leave it as security for such payment. In other words, the possession of Mach & Mach was for col-
lateral purposes only and not, apparently, with the intent to transfer ownership, even if such transfer had been possible under the law.

Further, there is no affirmative evidence whatever that the person leaving the certificate with Mach & Mach was in fact Nick Boten, the registered owner thereof. While at the present time no claim for loss of this certificate has been presented to the department, it is not impossible that such a claim may be presented in the future, and if at such time it appeared that the patient of Doctor Mach was not in fact the registered owner of the certificate, double payment would result as the obligation of the Treasury is to pay the registered owner and no other person.

Under these circumstances the Treasury is strongly opposed to a favorable report upon the bill in question.

Very truly yours,

A. W. MELLON, Secretary of the Treasury.

Hon. G. W. EDMONDS,
Chairman Committee on Claims,
House of Representatives.

TREASURY DEPARTMENT,
Washington, March 15, 1926.

MY DEAR CONGRESSMAN: Reference is made to your letter dated March 6, 1926, suggesting an amendment to the special bill H. R. 4321, now pending before your committee, for the relief of Dr. John Mack on account of war savings certificate No. 15562325 registered under No. 2584 at Omaha, Nebr., in the name of Nick Boten, which was accepted by Doctor Mack in payment for professional services rendered the registered owner, and inclosing a copy of the bill.

In view of the facts set forth in my letter addressed to you under date of January 6, 1926, there is no basis upon which favorable action can be recommended upon this bill even with the addition of the proposed amendment requiring a bond in the sum of $200 from Doctor Mack, indemnifying the United States against all liability.

War savings certificates are securities of a special nature and were issued under special authority of Congress. All regulations concerning these certificates distinctly provide that they are not transferable and are of value only to the owner thereof, or in the case of his death or disability, to the representative of his estate. These regulations have been upheld by the Supreme Court in the cases of United States v. Paul Sacks (257 U. S. 37) and United States v. Herman Janowitz (257 U. S. 42), and, under date of January 25, 1926, in the case of Sidney Mandelbaum v. United States.

In the case of a registered war-savings certificate, such as the certificate in question on which the receipt form has not been signed by the registered owner, the department has never authorized payment to any person other than the registered owner or the representative of his estate except upon the submission of some evidence in writing, over the signature of the registered owner, establishing his desire that payment be made to some other person, nor has the department ever approved a special bill for relief unless these conditions were present.

I regret that I can not recommend favorable action upon the bill for special relief in this case nor upon the contemplated amendment.

Very truly yours,

A. W. MELLON,
Secretary of the Treasury.