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Bonds of Officers of the United States

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 28, 1895.—Ordered to be printed.

Mr. COCKRELL, from the Joint Commission of Congress to Inquire into the Status of Laws Organizing the Executive Departments, submitted the following

REPORT:

The Joint Commission of Congress to Inquire into the Status of Laws Organizing the Executive Departments, to whom was referred the bill (H. R. 8704) to regulate bonds of officers of the United States, submit the accompanying report of the experts of the commission with reference thereto, for the information of Congress. The provisions of the bill in question were, on the recommendation of the joint commission, substantially incorporated in the legislative, executive and judicial appropriation bill for the fiscal year 1896, as the same passed the House February 12, 1895.

F. M. COCKRELL,
JAMES K. JONES,
Members on the part of the Senate.

ALEXANDER M. DOCKERY,
JAMES D. RICHARDSON,
NELSON DINGLEY, Jr.,

Members on the part of the House of Representatives.

APPENDIX.

[REPORT NO. 15.]

**OFFICE OF THE EXPERTS UNDER THE
COMMISSION TO EXAMINE THE EXECUTIVE DEPARTMENTS,
Washington, D. C., February 6, 1895.**

Hon. A. M. DOCKERY,
Chairman Joint Commission, etc., Washington, D. C.:

DEAR SIR: Your experts, in an examination of the bonds of public officers, the laws applicable thereto, and the amounts thereof, submit the following report and recommendations:

The following is a synopsis of the laws relating to the bonds of public officers:

Character.	Sections or acts.	To whom given and sureties.	By whom approved.	Where filed.	Amount.
Treasurer United States.	301, 302, R. S.	.....	Secretary Treasury and Comptroller.	Comptroller.....	\$150,000.
Assistant Treasurer United States.	303, 3600, R. S.	.....	Solicitor of Treasury.	.....	As Secretary decides.
Collectors, naval officers, and surveyors.	2619, 2620, 3639, R. S.	.....	.....	Comptroller	According to port.
Commissioner of Patents and chief clerk.	479, R. S.	Treasurer .....	.....	.....	\$10,000, \$5,000.
Congressional Printer.	3759, R. S.	2 sureties	Secretary of Interior.	.....	\$80,000.
Consul-general, etc.	1697, R. S.	.....	Secretary of State....	Secretary of Treasury.	Not less \$1,000 nor more \$10,000, nor less annual compensation.
Vice-consul.....	1698, R. S.	.....	do	do	Not less \$2,000 nor more \$10,000.
Marshals, consular courts.	4113, 1700, R. S.	2 sureties	do	Secretary of Treasury, certified copy with office of minister.	\$10,000.
Collectors internal revenue.	3143, R. S.	5 sureties.....	Solicitor of Treasury.	Comptroller	As Commissioner decides.
Disbursing agents....	3144, R. S.	.....	Secretary of Treasury.	.....	As Comptroller decides.
Cigar inspector	3151, R. S.	.....	Secretary Treasury or collector of district.	.....	Not less \$5,000.
Storekeeper.....	3153, R. S.	.....	Commissioner .....	.....	Commissioner decides.
Gauger	3156, R. S.	.....	do .....	.....	Not less \$5,000.
Letter carrier.....	3870, R. S.	.....	Postmaster-General..	.....	.....
Librarian of Congress	4950, R. S.	Treasurer.....	.....	.....	\$5,000.
Marshal.....	783, R. S.	} 2 sureties	Judge	In court	As Attorney-General decides, not more than \$40,000.
	Sup. 65.				
Clerks and deputies ..	795-6, R. S.	}	Court.....	Department of Justice.	As Attorney-General decides, not more than \$20,000.
	Sup. 65.				
Chief clerk Court of Claims.	1055, R. S.	.....	Secretary of the Treasury.	.....	As Secretary of the Treasury decides.
Pension agents	4779, R. S.	.....	Secretary of the Interior.	.....	As Secretary of the Interior decides.
Postmasters	3834, R. S.	.....	Postmaster-General ..	On death or resignation bond delivered to Sixth Auditor.	Postmaster-General decides.
Proprietors of warehouses.	2961, R. S.	.....	Secretary of the Treasury.	.....	Secretary Treasury decides.
Shipping commissioner	4502, R. S.	} 2 sureties	Circuit judge .....	.....	Not less \$5,000.
	June 26, 1884.				
Surveyor-General.....	2215, R. S.	Secretary Interior .....	.....	.....	\$30,000.
Deputy surveyor	2230, R. S.	.....	Surveyor-General.....	.....	Double amount of contract.
Register and receiver.	441, 2236, R.	.....	.....	.....	\$10,000.

BONDS OF OFFICERS OF THE UNITED STATES.

Character.	Sections or acts.	To whom given and sureties.	By whom approved.	Where filed.	Amount.
Officers Quartermaster, Subsistence, and Pay Departments, chief medical purveyor, assistant medical purveyor, and all storekeepers.	1191, R. S. Mar. 3, 1883....	.....	President may increase bond. Quartermaster-General not liable for money or property in hands of subordinates.	.....	As Secretary of War directs.
Pay Department (must renew bonds once in four years, or give additional security, or oftener, as President directs).	1192, R. S. ....	.....		
Navy, paymaster.....	1383, R. S.	2 or more sureties....	Secretary of the Navy.	.....	\$25,000.
Navy, passed assistant paymaster.	1383, R. S.	do	do .....	.....	\$15,000.
Navy, assistant paymaster (new bonds when required by section 1384).	1383, R. S.	do	do .....	.....	\$10,000.
Officers acting as storekeepers on foreign stations.	1439, R. S. ....	.....	.....	.....	As Secretary of the Navy decides.
Disbursing clerks, Executive Departments.	176, R. S.	Fourth-class clerks appointed by heads of Executive Departments. Sureties to satisfaction of Solicitor.	Solicitor	Renew, strengthen, or increase, as Secretary of the Treasury requires.	As Secretary of the Treasury decides.
Superintendent, Howard University.	176, R. S. ....	.....	.....	.....	.....
Special disbursing agents other than Army and Navy officers.	3614, R. S. ....	.....	Head of office.....	.....	As head of office decides.
Indian agents, etc., sworn statements of property of sureties filed with Secretary of Interior.	2057, 2075, 3614, 3745, R. S. Sup. 81, R. S. ..	Surety as Secretary of Interior or President require. No money paid to agent till statement of property filed.	.....	.....	As Secretary of Interior or President decides.
Secretary of Senate and Clerk of House.	57, 58, 59 .....					1 or more sureties....	Comptroller .....	Comptroller .....	$20,000.
Sergeant-at-Arms, House of Representatives.	Sup. 877.....	2 sureties not Members of Congress.	do	do	\$50,000.
Disbursing officer of District of Columbia.	Sup. 961.....	.....	Commissioners of District.	.....	\$25,000.
Secretaries of Territories.	.....	.....	.....	.....	Secretary of Treasury requires \$10,000.
Secretary of Interstate Commerce Commission.	.....	.....	.....	.....	\$20,000.
Superintendent of Government Hospital for the Insane.	4830.....	.....	Secretary of Interior.	.....	As Secretary of Interior decides.
Disbursing agent, Columbia Institution for Deaf and Dumb.	Feb. 16, 1857 ..	.....	do .....	.....	.....
Financial clerk, Patent Office.	Mar. 3, 1875....	.....	do .....	.....	As Secretary of Interior decides.
Inspector of Mines in Territories.	Mar. 3, 1891....	.....	do .....	.....	\$2,000.
Custodian, Interior Department.	Mar. 3, 1893....	.....	do .....	.....	As Secretary of Interior decides.
Comptroller of Currency	224, 325, R. S. ....	.....	.....	.....	\$100,000.
Deputy Comptroller of Currency.	327, R. S. ....	.....	.....	.....	\$50,000.
Superintendents of United States Mints.	3496, 3501, R. S. ....	.....	.....	.....	\$100,000.
Inspector of Steam Vessels.	4404, R. S. ....	.....	.....	.....	\$10,000.
Inspector of Hulls and Boilers.	4415, R. S. ....	.....	.....	.....	.....
North American Commercial Co., lease of Seal Islands.	1963, 1964, R. S. ....	.....	.....	.....	\$500,000.
Louisville Trust Co., Am. Printing House for Blind.	Mar. 3, 1879....	.....	.....	.....	\$20,000.
Inspector of Weights and Measures, Treasury Department.	3711, R. S. ....	.....	.....	.....	\$5,000.
Military schools and colleges.	1225, R. S. ....	.....	.....	.....	Double value of property.

The following table, showing the class, number of bonds, amount, and references to statutory provisions governing bonds, has been arranged so as to show the aggregate applicable to the accounts settled within the jurisdiction of the several auditors of the Treasury Department:

WITHIN THE JURISDICTION OF THE AUDITOR FOR THE TREASURY.

Class.	Number.	Amount.	Law.
Treasurer	1	\$150,000	301, 302, Rev. Stat.
Assistant Treasurer	9	2,560,000	303 and 3600, Rev. Stat.
Comptroller of the Currency	1	100,000	324, 325, Rev. Stat.
Deputy Comptroller of the Currency	1	50,000	327, Rev. Stat.
Superintendent United States mints	4	400,000	3496, 3501, Rev. Stat.
Millers and refiners, United States mints	3	45,000	3496, 3501, Rev. Stat.
Assayer (over 30 commissioners, weighing clerks, assayers, etc., amounts not given)	1	5,000	3496, 3501, Rev. Stat.
Supervising inspectors steam vessels	10	100,000	4404, Rev. Stat.
Boiler, hull, etc., inspectors (30 of these inspectors, amounts not given)	2	6,000	4415, Rev. Stat.
Disbursing clerks and agents, special and other (over 100 bonds of disbursing clerks and agents for court-houses, quarantine stations, Coast and Geodetic Survey parties, etc., amounts not given)	11	267,000	176, 3614, Rev. Stat.
Shipping Commissioner	2	10,000	4501, 4502, Rev. Stats., and Act June 26, 1884.
North American Co. (Seal Islands)	1	500,000	1963, 1964, Rev. Stat.
Louisville Trust Co. (treasurer of American Printing House for Blind)	1	20,000	Act March 3, 1879.
Inspector, measurer, and weigher of fuel for Treasury Department (also large number of bonds to secure contracts for supply of Light-House Board, Life-Saving Service, Revenue-Cutter Service, etc.)	1	5,000	3711, Rev. Stat.
Collectors of customs, etc	152	3,394,000	2619, 2620, 3639, Rev. Stat.
Naval officers	6	70,000	2619, 2620, 3639, Rev. Stat.
Surveyors of customs	9	48,000	2619, 2620, 3639, Rev. Stat.
Total	215	7,730,000	

WITHIN THE JURISDICTION OF AUDITOR FOR THE WAR DEPARTMENT.

Paymasters	29	\$580,000	1171, Rev. Stat.
Quartermasters	57	1,495,000	1171, Rev. Stat.
Commissary	25	352,000	1171, Rev. Stat.
Medical	8	160,000	1171, Rev. Stat.
Treasurers Soldiers' Homes	2	120,000	Act Mar. 3, 1883.
Disbursing clerk, War Department	1	20,000	176.
Auditor disbursing clerk, War Department	1	10,000	176.
Treasurer, Garfield Hospital	1	20,000	176.
Military schools and colleges	137	1,320,531	1225.
Total	261	4,077,531	

WITHIN THE JURISDICTION OF AUDITOR FOR THE NAVY DEPARTMENT.

Pay directors	13	\$325,000	1383, Rev. Stat.
Pay inspectors	13	325,000	1383, Rev. Stat.
Paymasters	40	990,000	1383, Rev. Stat.
Passed assistant paymasters	20	290,000	1383, Rev. Stat.
Assistant paymasters	10	100,000	1383, Rev. Stat.
Special financial agent	1	200,000	1383, Rev. Stat.
Disbursing clerk, Navy Department	1	10,000	1383, Rev. Stat.
Total	98	2,240,000	

WITHIN JURISDICTION OF AUDITOR FOR THE INTERIOR DEPARTMENT.

Disbursing clerk	1	\$50,000	176, Rev. Stat.
Disbursing clerk and 4 special agents, Geological Survey	5	110,000	3614, Rev. Stat.
Superintendent, Hot Springs, Ark	1	20,000	3614, Rev. Stat.
Special disbursing agent, Hot Springs, Ark	1	5,000	3614, Rev. Stat.
Superintendent Government Hospital for the Insane	1	25,000	4839, Rev. Stat.
Commissioner of Patents	1	10,000	479, Rev. Stat.
Chief clerk, Patent Office	1	5,000	479, Rev. Stat.
Treasurer, Howard University	1	10,000	176, Rev. Stat.
Disbursing agent, Columbia Institution for the Deaf and Dumb	1	10,000	Act Feb. 16, 1857.
Financial clerk, Patent Office	1	20,000	Mar. 3, 1875.
Inspectors of mines	3	6,000	Act of Mar. 3, 1891.
Custodian Interior Department	1	5,000	Act Mar. 3, 1893.
Receivers, Land Office	114	2,850,000	441, 2236, Rev. Stat.
Registers, Land Office	114	1,140,000	441, 2236, Rev. Stat.
Receivers as special disbursing agents	114	570,000	3614, Rev. Stat.
Surveyors-general	17	510,000	2215, Rev. Stat.
Deputy surveyors			2230, Rev. Stat.
Pension agents	18	2,150,000	4779, Rev. Stat.
Indian agents	35	750,000	2057, 3614, Rev. Stat.
Special agents, Indian Service	5	125,000	2057, 3614, Rev. Stat.
Inspectors, Indian Service	5	25,000	2057, 3614, Rev. Stat.

WITHIN JURISDICTION OF AUDITOR FOR THE INTERIOR DEPARTMENT—Continued.

Class.	Number.	Amount.	Law.
Superintendent Indian schools.....	1	\$2,000	2057, 3614, Rev. Stat.
Supervisors, Indian Service.....	3	45,000	2057, 3614, Rev. Stat.
Indian school superintendents.....	27	250,000	2057, 3614, Rev. Stat.
Special disbursing agents.....	43	250,000	2057, 3614, Rev. Stat.
Total.....	514	8,943,000	

See also 2075 and 3743 Rev. Stat.

WITHIN THE JURISDICTION OF AUDITOR FOR STATE AND OTHER DEPARTMENTS.

Consuls-general.....	36		1697, Rev. Stat.
Consuls.....	243		1700, Rev. Stat.
Commercial agents.....	39		1700, Rev. Stat.
Vice-consuls-general.....	16		1698, Rev. Stat.
Vice and deputy consuls-general.....	16		1698, Rev. Stat.
Deputy consuls-general.....	10		1698, Rev. Stat.
Vice-consuls.....	161		1698, Rev. Stat.
Vice and deputy consuls.....	85		1698, Rev. Stat.
Deputy consuls.....	23		1698, Rev. Stat.
Vice-commercial agents.....	30		1698, Rev. Stat.
Vice and deputy commercial agents.....	15		1698, Rev. Stat.
Marshals of consular courts.....	7		4113, Rev. Stat.
Disbursing clerk, Department of State.....	1		3614, Rev. Stat.
Total.....	682	*\$2,000,000	
Marshals.....	75	1,720,000	783 and Sup. 65.
Disbursing clerk, Department of Justice.....	1	30,000	176, Rev. Stat.
Chief clerk, Court of Claims.....	1	5,000	1055, Rev. Stat.
J. C. Bancroft Davis.....	1	1,000	
Public Printer.....	1	100,000	3759, Rev. Stat.
Secretaries of Territories.....	4	80,000	
Secretary of Senate.....	1	20,000	57, 58, 59, Rev. Stat.
Disbursing agent—			
Executive Mansion.....	1	10,000	176, 3614, Rev. Stat.
Library of Congress.....	1	20,000	176, 3614, Rev. Stat.
Civil Service Commission.....	1	15,000	176, 3614, Rev. Stat.
Department of Agriculture.....	1	25,000	176, 3614, Rev. Stat.
Court of Claims.....	1	5,000	176, 3614, Rev. Stat.
Smithsonian Institution.....	1	25,000	176, 3614, Rev. Stat.
Clerk House of Representatives.....	1	20,000	57, 58, 59, Rev. Stat.
Special disbursing agent, Smithsonian Institution.....	1	5,000	176, 3614, Rev. Stat.
Disbursing clerk, Department of Labor.....	1	20,000	176, 3614, Rev. Stat.
Secretary Interstate Commerce Commission.....	1	20,000	176, 3614, Rev. Stat.
Governor of Alaska.....	1	4,000	
Sergeant-at-Arms, House of Representatives.....	1	50,000	
Librarian of Congress.....	1	6,000	4950, Rev. Stat.
Special disbursing agent, Fish Commission.....	1	2,000	176, 3614, Rev. Stat.
Disbursing agent, Fish Commission.....	1	30,000	176, 3614, Rev. Stat.
Disbursing officers, District of Columbia:			
Support of convicts.....	1	15,000	176, 3614, Rev. Stat.
Temporary Home, ex-Union Soldiers and Sailors.....	1	1,250	176, 3614, Rev. Stat.
Reform School.....	1	20,000	176, 3614, Rev. Stat.
Association Works of Mercy.....	1	5,000	176, 3614, Rev. Stat.
National Association Colored Women, etc.....	1	9,000	176, 3614, Rev. Stat.
Women's Christian Association.....	1	5,000	176, 3614, Rev. Stat.
German Orphan Asylum.....	1	5,000	176, 3614, Rev. Stat.
Industrial Home School.....	1	5,000	176, 3614, Rev. Stat.
Church Orphanage Association.....	1	1,500	176, 3614, Rev. Stat.
St. Rose Industrial School.....	1	5,000	176, 3614, Rev. Stat.
St. Joseph's Male Orphan Asylum.....	1	4,000	176, 3614, Rev. Stat.
Washington Hospital for Foundlings.....	1	10,000	176, 3614, Rev. Stat.
Board of Children's Guardians.....	1	10,000	176, 3614, Rev. Stat.
Columbia Hospital for Women.....	1	10,000	176, 3614, Rev. Stat.
St. Ann's Infant Asylum.....	1	5,000	176, 3614, Rev. Stat.
Commissioners, District of Columbia.....	2	100,000	176, 3614, Rev. Stat.
National Homeopathic Hospital Association.....	1	10,000	176, 3614, Rev. Stat.
Children's Hospital.....	1	7,000	176, 3614, Rev. Stat.
Women's Union Christian Association.....	1	1,000	176, 3614, Rev. Stat.
Recorder of deeds.....	1	10,000	176, 3614, Rev. Stat.
House of the Good Shepherd.....	1	10,000	176, 3614, Rev. Stat.
Emergency Hospital.....	1	3,000	176, 3614, Rev. Stat.
Total.....	804	4,464,750	

* Estimated.

WITHIN THE JURISDICTION OF AUDITOR FOR POST-OFFICE DEPARTMENT.

Class.	Number.	Amount.	Law.
Postmasters	70,000	*\$110,000,000	3834, 3835, 3836, 3837, 3838, Rev. Stat.
Inspectors	98	490,000	4018, and act June 11, 1880.
Carriers	15,137	15,137,000	3870, Rev. Stat.
Contractors	19,375	*10,000,000	3945, 3946, Rev. Stat.
Disbursing clerk	1	40,000	176, Rev. Stat.
Total	104,611	*135,667,000	

*Estimated.

RECAPITULATION.

Auditor.	Number.	Amount.
Treasury Department	215	\$7,730,000
War Department	261	4,077,531
Navy Department	98	2,240,000
Interior Department	514	8,943,000
State and other Departments	804	4,464,750
Post-Office Department	104,611	135,667,000
Total	106,503	163,122,281

From the foregoing statement it will be seen how confused are the laws governing the approval of bonds and the determination of the amounts of those not fixed by Congress. Further than this, there is no provision made for the examination of bonds at any regular intervals, to determine whether the amount is sufficient or the sureties solvent, except in one instance—that of the paymasters of the Army, the law requiring that they be renewed each four years or oftener by order of the President.

A detailed examination of the bonds that are now on file in the various Auditors' offices, discloses the fact that many of these bonds have been in force from ten to fifteen years and some even longer, without any evidence that any examination has ever been made of them or any attention paid to the question of security.

The determination of the amount for which a bond should be given should rest with the Secretary of the Treasury and with the head of the Department under which the officer acts. The fixing of the amount of a bond is more or less of an administrative act, as the circumstances governing the risk vary with the nature of the business, and, therefore, it is proper that the head of the Executive Department should have a voice in determining the amount, and, as the bond is to cover public funds within the jurisdiction of the Treasury Department, it is proper that the Secretary of the Treasury should also have a voice in determining the amount, and he can call in the assistance of the Auditor, who has the settlement of the official's accounts, to aid him in arriving at a proper conclusion.

This provision should also apply to bonds now fixed by law, as there may be occasion to increase the amount of the bond, and the head of the Department concerned and the Secretary of the Treasury can fix this amount with greater facility than can Congress.

In order to make disposition of the bonds formerly filed with the Commissioner of Customs and approved by him, the act of July 31, 1894, provided that such bonds should be approved by the Comptroller of the Treasury and filed in his office. In order to make the filing of bonds uniform, these bonds should be sent to the Secretary of the Treasury, and the Secretary can direct that they be filed with the Auditors having jurisdiction over the accounts.

The oath of office of subordinate officers of customs required to be transmitted to the Commissioner of Customs by section 11 of the act "to amend existing customs and internal revenue laws, and for other purposes" approved February 8, 1875, was, by the act of July 31, 1894, required to be transmitted to the Comptroller of the Treasury instead of to the Commissioner of Customs as heretofore. These oaths of office should be filed with the Secretary of the Treasury, as the Comptroller has no jurisdiction over these subordinate officers.

Again, in order to make consistent the filing of bonds, the bonds of the Secretary of the Senate, the Clerk of the House of Representatives, and the Sergeant-at-Arms of the House of Representatives, now required by law to be approved by and filed with the Comptroller, should be filed with the Secretary of the Treasury or as he may direct.

In order to ascertain if the bond given by an official is sufficient, either as to the amount or as to the sureties thereon, an examination should be made at regular intervals by the officer having the approval of such bonds, say once every two years, and all bonds should be renewed at least every four years after their dates.

It is therefore recommended that the amount of any bond to be given by any officer, employee, depository, agency or agent, or contractor, of the Government of the United States, except where the law now provides a basis for ascertaining the amount by calculation, shall be determined by the head of the Executive Department or establishment concerned and the Secretary of the Treasury jointly, and it is recommended that bonds shall be approved by the head of the Department, court, or other establishment concerned in the performance of the duties or employment for the proper performance of which the bonds are given, and shall be deposited with the Secretary of the Treasury, except that the Secretary may assign to subordinate officers of the Department of the Treasury the duty of approving bonds of officers and others belonging to that Department and not employed at Washington, and that bonds should be examined every two years by the official approving them to determine the sufficiency of the amount and sureties and that all bonds be renewed at least every four years.

Statement of the result of suits instituted by the Post-Office Department against bondsmen, as taken from the record of the Auditor for the Post-Office Department for the five years ending June 30, 1894.

Cases submitted for suit.....	\$479,813.74
Bad debts	255,828.79
Collected	189,251.12
Pending, dismissed, compromised, etc	34,733.83

There is reported by the Post-Office Department as having been collected by the inspectors for shortages, the bulk of which arose in postmasters' accounts, the following sums:

For the year ending June 30—	
1891	\$88,094.93
1892	134,771.19
1893	148,267.39
1894	165,169.04
Total	536,302.55
Average per annum	134,000.00

Assuming that \$100,000 is the average per annum of the amount sued for, being in addition to the foregoing amounts which are recovered in full, dollar for dollar, without any litigation, the aggregate of the shortages for the last four years would average \$234,000 per annum. This indicates that of the shortages which occur the inspectors recover about 57 per cent, leaving 43 per cent to be sued on, of which about one-half or, say, 21½ per cent of the whole, is never recovered.

Statement of the result of suits brought by the Solicitor of the Treasury on bonds other than those for the Post-Office Department for the ten years ending January 1, 1895.

Cases submitted for suit.....	\$1,616,685.27
Bad debts	164,376.83
Collected	144,382.41
Pending	\$805,053.23
Dismissed, compromised, etc	502,872.80
	1,307,926.03

Of the total bad debts and collections over one half, say 53 per cent, are losses.

It can not be said that all of the cases upon which suits have been brought are fairly due to the Government, except to clear the accounting, for in many instances the differences sued on are technical, like the want of proper vouchers which may be supplied in court, or other evidence of expenditure.

From the foregoing statements it will be seen that there is an average loss of about a quarter of the amount due from bondsmen on bonds of the Post-Office Department, and about one-half for the sureties on bonds given in other Departments. Of the suits pending, amounting to \$805,053.23, as shown above, many have been pending for years, the detailed statement showing some large cases pending even as long as ten years. This is a very unsatisfactory showing, and it would seem wise to apply some remedy.

By the act approved August 13, 1894, entitled "An act relative to recognizances, stipulations, bonds, and undertakings, and to allow certain corporations to be accepted as surety thereon," it was provided that the Government could take as security the bonds of corporations organized for that purpose and complying with the conditions required by the act. The evident intention of this act was to provide a better class of bondsmen than the Government now has, and the history of these companies bears out the conclusion that the bonds of surety companies are much more valuable than individual sureties in that they pay the losses when due. It would seem wise to encourage the use of surety-company bonds, and there is no reason why a citizen or a number of citizens should be called upon to be responsible for an official of the Government doing his duty.

There should be a provision in all bonds allowing, say upon six months' notice, a bondsman to withdraw from a bond, he being responsible for all acts of the principal up to the time of the cancellation of the bond. This ought not to cause any complications, as the surety would not desire to withdraw unless for reasons affecting the general standing of the person bonded, and when the surety obtains such information and gives such notice, the United States, through its proper administrative officer, will be advised of the facts that it should know, and that administrative officer will determine, upon

these facts, whether the person bonded should be retained in his position; and if he decides in the affirmative, then he will simply give the person notice to file a new bond, and six months is more than sufficient time in which to obtain such new bond. The Government will be protected under the canceled bond for prior defaults and under the new bond for subsequent developments. It has been held in general practice in the Government Departments that where an employee files a new bond and it is accepted, the liability on the old one ceases from that date for any defaults of the employee incurred during the life of the second bond. This operates as a cancellation, and yet it does not give the surety the right to withdraw, as should be the case.

There should be a reduction in the amounts for which bonds are required. They are out of all proportion to the responsibility or risk incurred. There seems to be no good reason for requiring a bond for \$500,000 of the assistant treasurer at New York, or \$150,000 of the Treasurer in Washington. If the amounts involved in their respective offices are to be considered, the amounts of their bonds should be reversed; but, as a matter of fact, neither of these officials could get away with any money of the Government. They have no more access to it than has the Secretary of the Treasury. In the few instances where defalcations have occurred in the Treasurer's Office by the subordinates of the Treasury, the Treasurer has been relieved by Congress. Subordinates handling money should be bonded direct to the Government.

It seems unwise, and certainly unfair, to require officials in responsible positions to become insurers to the Government for the dishonesty of subordinate employees compensated by the Government. A regular scale of bonds for subordinate employees should be adopted, requiring them to give bonds in certain amounts direct to the United States. No question of discipline is affected by such a course, because the head of an office would have the same pride in conducting his office as he now has, and the loss of position consequent upon negligence upon his part is sufficient guaranty that the general management would be looked after.

Take, for example, the case of the postmaster at New York. He is required to give a very large bond to the United States, say \$500,000. Every employee of the New York post-office is compensated by the United States and not by the postmaster. The postmaster or his associates should not be required to assume liability for losses incurred by the dishonesty of subordinate employees of that office. Under such circumstances the bond of the postmaster at New York could be made \$25,000, and would then be quite sufficient. The cashier might be bonded \$25,000 or \$50,000. The bond of the superintendent of the money-order division might be fixed at \$25,000 or less. Other clerks could be bonded \$5,000 or smaller sums, according to their responsibility, and the Government would be thereby reasonably protected. As it is, if some subordinate should default, Congress would probably "relieve" the postmaster and his bondsmen and so lose the money which it would save under the plan suggested.

The bonds in all cases, both for officials and subordinates, should be conditioned that the sureties should make good the losses of money or property through fraud, forgery, larceny, embezzlement, or misapplication of public funds or property on the part of such official or employees.

The words "faithful performance of duty" should be eliminated from bonds, because it is quite impossible to define what these words mean when applied to the various acts of the persons bonded. When an individual is asked by an official who is required to give bond whether he will act as surety, he considers only the question whether there is any probability that he will be called upon to pay a loss caused by the defalcation of the official. He must measure the chances of his being called upon to pay by what he knows of that official's general standing and by his department, and that general standing and past department is his guaranty that he runs no risk in signing as surety. If he thought he would be called upon to pay he would not sign. Suppose he signs a bond conditioned for the "faithful performance of duty," and it happens that a loss occurs through the dishonesty of a subordinate of the person bonded. The attorney for the United States who passes upon the question of the responsibility of the surety determines that the words "faithful performance" mean an accounting by the official, and that he must produce the money misapplied by his subordinate or stand properly charged with the amount thereof. The official can not pay. Then recourse is had to the surety, who discovers that an interpretation has been given to the bond quite at variance with that given by him, and, regarding it as unfair, he contests. It is probable that if people who are asked to sign bonds fully understood beforehand what construction would be given to the words "faithful performance," there would be few who would act as sureties. It is on account of this effort, so frequently made, to

hold the sureties for more than they thought they should reasonably be charged with, that so many suits are brought to recover, with such frequent failures on the part of the Government to collect; and in many cases where losses have occurred through accident or by the dishonesty of a subordinate the official and his bondsmen are relieved by acts of Congress.

Modifying the law as suggested would increase the number of bonds given by surety companies, and in addition to providing better security to the Government would improve the public service by eliminating the influence of the individual bondsmen. The companies make a more careful investigation of the character, etc., of the official and are a greater check upon any tendency to dishonesty than can be individual bondsmen, by reason of the vigilance of the corporations in prosecuting delinquents.

The recommendations that are made herein will facilitate the business with surety companies, but in nowise impair the security to the Government under individual bonds.

The following is a copy of a letter written by Hon. T. O. Howe, Postmaster-General, July 15, 1882, addressed to Hon. David Davis, Senate Chamber, Washington, D. C.:

JULY 15, 1882.

SIR: I beg leave to submit a few considerations in support of a bill "to enable corporations to become sureties on official bonds," now before the Judiciary Committee of the Senate.

Corporations now exist for the express purpose of furnishing such security. They exist in New York; in Canada; they are quite common in some countries of Europe. Railway companies already furnish employment for them, by requiring their ticket agents, conductors, and other bonded agents, to get such a corporation to underwrite for them. It is perhaps not safe to say that such sureties might not be received upon official bonds under the law as it now stands. So far as I know they have not been so received heretofore. Unless expressly authorized by law, departmental officers will probably be reluctant to accept such security.

In many ways I am confident it would profit the Government if such suretyship could be employed. Officials are now obliged to appeal to their friends to sign their bonds. Under the existing system of inspection it is impossible to avoid, in all cases, the acceptance of irresponsible security. Such security is, in fact, accepted in quite too many cases. But if sureties are responsible at the time of acceptance they are not sure to be so when called upon to respond; or, if they are able to respond, attorneys are not always vigilant to prosecute, nor are marshals to collect; and almost always great pressure is applied to the accounting officers to effect a compromise.

If a corporation whose solvency is guarded by wholesome laws, and which underwrites for a consideration, should give the security all these difficulties would disappear. Such a company could no more refuse to respond to a loss by defalcation than to a loss by fire. There is also reason to believe that the supervision of such an underwriter over the habits and conduct of officers would tend to secure a better class of servants.

The fact that railway companies seek such sureties upon the bonds of their employees affords a business example which I think the Government might safely follow if its affairs are to be conducted upon business principles.

For these and for other reasons I hope the Judiciary Committee will be able to commend that bill to the favorable consideration of the Senate.

I am, very respectfully, your obedient servant,

T. O. HOWE, *Postmaster-General.*

Hon. DAVID DAVIS,
Senate Chamber, Washington, D. C.

While the principle involved in the benefits to be derived from surety companies were the same in 1882 as they are now, the practical conditions, so far as the security to the Government is concerned, are very much improved, for the business of the surety companies has very largely increased, which has resulted in a number of companies being formed with large capital and extensive facilities.

It is recommended that the bonds be reduced to a reasonable amount, and that every bond required by the United States should include a clause allowing the surety to withdraw from it by giving six months' notice in writing, said surety remaining liable for all or any default which may have been committed by the principal up to the date of such termination, which shall be six months after the receipt of said notice; and that the words "faithful performance of duty" should be eliminated from bonds.

In order to protect the Government more fully than is done by the act of August 13, 1894, allowing the Government to accept surety-company bonds—

It is recommended that provision be made by law requiring that all surety companies doing business with the Government should deposit with the Secretary of the Treasury Government bonds for an amount, say 1 per cent of all official bonds given by the said companies in force, provided that said 1 per cent shall not be less than \$100,000. It should be provided that such deposit shall be used to make good all loss or damage to the Government ascertained by judgment, agreement, or otherwise, for protection against which the bond shall have been given.

If the amount of the bonds were reduced to what would be reasonable and necessary, the premium that would have to be paid to the companies for issuing bonds would

be so small that it would not be a hardship upon the public officeholders, and would probably increase the number of applicants for such offices, as many now are deterred from applying for offices on account of the difficulty oftentimes of giving large bonds.

The discontinuance of personal bonds, and the substitution therefor of bonds by companies organized to do this character of business, would result in an annual saving to the Government of at least, say \$68,000. This estimate is made on the average of the losses in the Post-Office Department for the last five years, and in other cases for the last ten years, as indicated by the preceding statements, without attempting to estimate what will be the loss on cases that are now pending.

Respectfully submitted.

C. W. HASKINS,
E. W. SELLS,
Experts.