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92-31 SURETY BONDS FOR FEDERAL EMPLOYEES

GOVERNMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON

MANPOWER AND CIVIL SERVICE

OF THE

COMMITTEE ON

POST OFFICE AND CIVIL SERVICE

HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

SECOND SESSION

ON

H.R. 13150

A BILL TO PROVIDE THAT THE FEDERAL GOVERNMENT SHALL
ASSUME THE RISKS OF ITS FIDELITY LOSSES,
AND FOR OTHER PURPOSES

FEBRUARY 29, 1972

Serial No. 92-31

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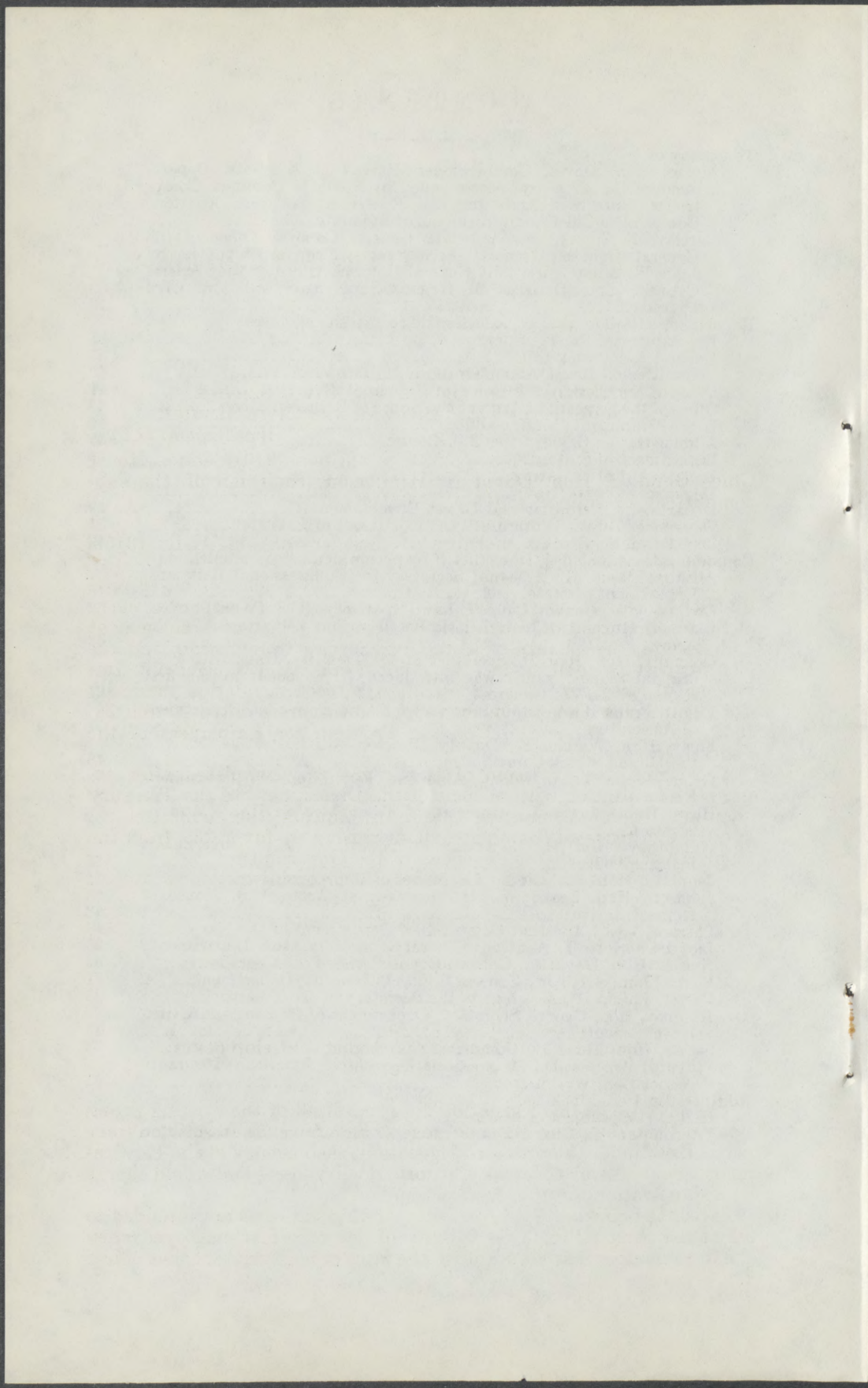
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(B. Benton Bray, Associate Staff Director, Room B-370(b), Rayburn Building—Ext. 2821)

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SURETY BONDS FOR FEDERAL EMPLOYEES

TUESDAY, FEBRUARY 29, 1972

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 10:22 a.m., in room 210, Cannon House Office Building, Hon. David N. Henderson (chairman of the subcommittee), presiding.

Mr. HENDERSON. The committee will come to order.

We are meeting this morning to consider the bill, H.R. 13150, which I cosponsored with Chairman Dulski.

This bill is a revision of the bill, H.R. 8084, which was based on a draft of legislation proposed by the Secretary of the Treasury to carry out a recommendation made by the Director, Office of Management and Budget, the Chairman, U.S. Civil Service Commission, and the Comptroller General under the Joint Financial Management Improvement program. It is identical to a recommendation made by the Comptroller General in his report to Congress dated March 29, 1962, on the "Review of Bonding Program for Employees of the Federal Government."

The committee's revision of H.R. 8084 was completed after extensive consultation with officials of the Department of the Treasury and the General Accounting Office. In addition, the committee requested and received comments, all of which were favorable, from the following departments and agencies of the Government:

1. Chairman, House Committee on Administration;
2. Clerk of the House of Representatives;
3. Sergeant at Arms, House of Representatives;
4. Public Printer;
5. Administrative Office of the United States Courts;
6. Department of State;
7. Department of the Army;
8. Department of the Navy;
9. Department of Housing and Urban Development;
10. Department of Agriculture; and
11. U.S. Postal Service.

The purpose of this legislation is to repeal all of the existing provisions of law requiring the bonding of Federal civilian and military personnel. Under the proposed legislation, each agency of the Government would assume the risks of its own fidelity losses and would charge its appropriation for any uncollectible loss.

I wish to point out, however, that this legislation is not intended to affect the personal financial liability of any officer or employee when the financial loss is attributable to the fault or negligence of that officer

or employee. In such cases, the Government would employ whatever legal procedures are presently available to recoup the amount of the loss from the individual at fault.

The most persuasive argument in support of this legislation is the fact that over the past 14½ years the cost of fidelity bond premiums and accompanying administrative expenses have exceeded the amount of claims filed by \$1.9 million.

Thus, this proposal certainly should result in annual savings to the Government.

I would now appreciate having the witnesses present their views on the bill, H.R. 13150. Mr. David Mosso, Commissioner of Bureau of Accounts, Department of the Treasury is our first witness. We are glad to have you before our subcommittee this morning. You might introduce your colleagues, sir.

STATEMENT OF HON. DAVID MOSSO, COMMISSIONER, BUREAU OF ACCOUNTS, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY STEVE L. COMINGS, COMPTROLLER, BUREAU OF ACCOUNTS, AND WALTER A. PORTEOUS, ASSISTANT COMPTROLLER-CHIEF AUDITOR, BUREAU OF ACCOUNTS

Mr. Mosso. Mr. Chairman and members of the committee, it is a pleasure to appear today on proposed legislation to provide that the Federal Government shall assume the risks of its fidelity losses. As you know, the proposal contained in H.R. 13150 is sponsored by the Treasury Department on behalf of the joint financial management improvement program. Thus, it has the backing not only of the Treasury Department but also the other three leadership partners in the joint program: the General Accounting Office, the Office of Management and Budget, and the Civil Service Commission.

With me today are, on my right, Steve L. Comings, Comptroller of the Bureau of Accounts and Treasury representative on the steering committee for the joint financial management improvement program, and, on my left, Walter Porteous, Assistant Comptroller (chief auditor), who is in charge of our surety company examination work.

EFFECT OF PROPOSED LEGISLATION

Briefly, the bill would repeal all statutory requirements for bonding Federal civilian employees and military personnel who are charged with accountability for public funds or public property, and permit Government to become a self-insurer for fidelity losses. Where losses proved to be uncollectible, agencies could, under regulations issued by the Comptroller General, charge their operating appropriations.

We believe that enactment of the bill would save the Government money and would be in accord with the general policy of self-insurance that the Government has established for most of its activities.

As submitted to the Congress, the proposed legislation took the approach of a blanket repeal of all statutes presently requiring Federal civilian and military employees to be bonded in the performance of their duties. Your committee staff felt, however, that legislation would be more meaningful if the specific statutes requiring fidelity bonding were repealed. We concurred in that approach and believe that the bill as presently drafted is a better bill than the one we submitted.

BACKGROUND

The history of fidelity bonding of Federal employees goes back to the early days of our Government, and there are many statutory requirements, administrative regulations, and decisions which require that certain individuals or positions throughout the Government be bonded.

Before 1955, employees were required to secure their own bonds and to pay the premiums, but in 1955, Public Law 84-323 (6 U.S.C. 14) required the Government to obtain the bonds and to pay the bond premiums for those individuals required to be bonded.

The act required agencies to obtain, under regulations of the Secretary of the Treasury, the most economical type of bond available, usually blanket or position-schedule bonds, and the Secretary of the Treasury was required to report annually to the Congress on the experience of the agencies under the bonding program.

This act, by providing for the Government to purchase bonds for large numbers of employees on a blanket or position-schedule basis, was a vast improvement over the requirement that employees purchase their own bonds individually.

For example, the premiums on bonds purchased by employees in fiscal year 1955 (the last full fiscal year prior to enactment of Public Law 84-323) totaled over \$1.7 million. In fiscal year 1957 (the first full fiscal year after enactment) total premium costs to the Government for fidelity bonds for all employees required to be bonded were \$379,000. Computed annual premiums from 1957 through 1970 averaged \$289,000. On June 30, 1971, the computed annual premium dropped to \$170,000 because the Postal Service, under its independent authority, discontinued fidelity bonding.

SELF-INSURANCE

The objective of any self-insurance plan is to save money, based on the expectation that in the long run the cost of commercial insurance will exceed recoveries from insurance companies on losses. Self-insurance makes sense only if the self-insured entity is able to assume the risks—as with the Federal Government.

Precedent for assumption of its own insurable risks exists throughout the Federal Government. We do not contract with insurance companies for coverage of losses from fire, accident, or other casualties, for example. And even in the shipment of valuables, such as Federal securities, stamps, and currency, the Government has assumed its own losses since 1937 under the Government Losses in Shipment Act.

In the financial area, where bonding is prevalent, the risks are minimized because of the extensive system of internal control, including internal audit, that limits the opportunities for fraud in the handling of Government funds.

Looking at the savings under the self-insurance concept, the estimated cost of the bonding program from 1956 through fiscal year 1971 was \$5.1 million, and the amount of claims filed during the same period was \$3.2 million. The difference of \$1.9 million is a rough approximation of the net cost to the Government, although some allowance has to be made for additional claims to be filed and claims that may be denied or withdrawn.

The figures on premiums, administrative expenses, claims filed and excess of cost over claims are shown, by year, for the period 1956-71 in this table which we offer for the record, Mr. Chairman. The table is attached to the opening statement.

We estimate that additional future savings of over \$100,000 annually can be realized by the Government through self-insurance. This estimate is based on the excess of premiums (and administrative expenses of the agencies in procuring the bonds) over claims paid by the companies.

In the final analysis, bond premium rates are established at a level that will cover not only the cost of the loss payments but administrative expenses of the companies and an allowance for profits.

Therefore, over a period of time, the total cost of coverage for an organization the size of the Federal Government can be expected to exceed the return in terms of indemnification for losses.

The Comptroller General of the United States looked into the subject of fidelity bonding of Federal employees in the past, and in December 1964 indicated that substantial savings would accrue to the Government under a self-insurance program. His recommendation for legislation at that time was not adopted due in part to reservations of the Post Office Department.

However, when the Postal Service was recently created, it reevaluated its position in light of the rapid rise in bond premium rates, and it took prompt action to eliminate bond coverage and adopt the self-insurance concept. Therefore, part of the savings anticipated when we originally proposed this legislation has already been achieved.

The action taken by the Postal Service under its independent authority was motivated by the same consideration that underlies our proposal—anticipated savings.

LIMITED COVERAGE

The fundamental principle of insurance is to protect against large losses. It is common for insurance policies to contain a "deductible" clause which excludes small losses from the coverage of the policy. In that way, the policyholder is a self-insurer for the small, run-of-the-mill losses but is protected from large, financially-crippling losses.

The Federal bonding program is a complete inversion of this fundamental insurance principle. The Government buys insurance to cover the small losses and assumes the risk of large losses itself. Most employees' bonds provide rather limited protection—usually in the range of \$2,500 to \$25,000, whereas the public funds that these individuals have responsibilities for (in terms of safekeeping or disbursing functions) are many times those amounts.

For example, the bond for the director of our Washington Disbursing Center is set at \$25,000; yet annual disbursements in checks signed by the director total over \$25 billion. The cost of increased coverage for positions like this would be impractical in relation to the risk element, but the result is that there is only token coverage in those accountability areas where the potential for the largest monetary losses exists. And this, of course, is tantamount to self-insurance for these areas of maximum exposure.

TREATMENT OF LOSSES

Under the proposed legislation, if and when an agency were faced with an uncollectible fidelity loss stemming from the fault or negligence of an employee, it would be required to charge its operating appropriation for the full amount of the loss (including those amounts now in excess of bond coverage). The appropriations charged would be the same appropriations that now finance the bond premiums.

Agency activities under the proposed legislation would be performed in accordance with regulations of the Comptroller General of the United States to assure compliance with sound principles of internal control. In addition, the Secretary of the Treasury would report to the Congress for each of the 5 full fiscal years following enactment of the proposed legislation on agency experience under the self-insurance program.

CONCLUSION

In conclusion, we believe that H.R. 13150 represents a modern, realistic approach to sound financial management in this area with significant savings to the Government, and for that reason we believe it worthy of favorable consideration by your committee.

Thank you, Mr. Chairman. That concludes my prepared remarks. We would be happy to respond to any questions.

Mr. HENDERSON. Without objection, the table attached to your statement will be made part of the record.

(The table referred to follows:)

ESTIMATED COST OF BONDING PROGRAM, 1956-71

Year	Premiums paid	Administrative expenses	Total cost	Claims filed	Excess of cost over claims
1956.....	\$154,606	\$69,736	\$224,342	0	\$224,342
1957.....	378,858	20,748	399,606	\$74,203	325,403
1958.....	297,953	29,506	327,459	126,585	200,874
1959.....	273,699	26,073	299,772	291,186	8,586
1960.....	280,298	35,643	315,941	213,080	102,861
1961.....	287,857	39,110	326,967	216,912	110,055
1962.....	282,866	45,877	328,743	284,447	44,296
1963.....	284,576	43,732	328,308	210,261	118,047
1964.....	232,138	44,288	276,426	216,419	60,007
1965.....	229,997	45,932	275,929	223,422	52,507
1966.....	242,808	49,318	292,126	219,002	73,124
1967.....	244,621	60,750	305,371	112,733	192,638
1968.....	266,125	71,461	337,586	222,975	114,611
1969.....	317,646	69,253	386,899	297,779	89,120
1970.....	425,753	78,581	504,334	302,534	201,800
1971.....	170,512	92,313	262,825	264,076	(1,251)
Total.....	4,370,313	822,321	5,192,634	3,275,614	1,917,020

Source: Annual reports to the Congress entitled "Reports of Operations in Connection with the Bonding of Government Officers and Employees under the Act of August 9, 1955," as adjusted for certain minor revisions.

Mr. HENDERSON. Mr. Mosso, your annual report on the operation under the bonding program shows that administrative expenses for fiscal year 1971 amounted to \$92,000. What do such expenses represent?

Mr. Mosso. Those represent the cost of procuring the bonds and related costs, but they exclude the costs of investigating losses. They would, then, include the cost of securing bids for the bond and the procedures surrounding the awarding of a bid. They would cover the

administrative operations in keeping the bond up to date in terms of the positions covered, which would mean change at any time that a position title changed or, if it is a name schedule bond, if an individual covered were to change; the cost of filing claims with the company and the correspondence surrounding claims and similar costs; reports to the Treasury; notifying each individual who encumbers one of these positions that he is bonded and the conditions of his bond.

That is generally the kind of thing that is covered in those costs.

Mr. HENDERSON. Will there be more or less administrative expenses if the Government self-insures against fidelity losses?

Mr. Mosso. It should be less by the full amount of the expenses that we have been reporting in the Treasury reports.

In other words, the \$92,000 that you cited should be all saved in the future because those costs do represent basically the expenses in dealing with bonding companies and procuring the bond. They do not include the cost of investigation, which of course, will still be incurred.

Mr. HENDERSON. Now, under the proposed legislation, the agencies of the Government would charge their appropriations for any uncollectible items. Is this requirement feasible or should a separate Government-wide appropriation be provided to cover fidelity losses?

Mr. Mosso. We considered this question before proposing the legislation and decided that it would be best to have each agency charge its appropriations for the losses for which its employees were responsible, basically because we think it is a sound principle that the agency should be responsible for the losses. Agencies are responsible for providing the internal control and the security measures that prevent losses, so that if a loss is incurred, it is proper that it be charged against the agency's appropriation.

It isn't too much different from today's situation in which the premium is charged to the appropriation and losses in excess of bond coverage, generally speaking, would be charged to the appropriation also.

I think the General Accounting Office would be able to testify on that point. But the basic point is that the appropriations are being charged today, and so it would not be a major departure in that principle.

Mr. HENDERSON. Under the current bonding program are uncollectible insured losses and uninsured losses absorbed by the individual agencies?

Mr. Mosso. Yes, sir. Of course, to the extent that a loss is covered by insurance they would look to the bonding company. But if the claim is not within the terms of the bond or if there is not adequate proof of loss, then the company, of course, would reject a claim, in which case the agency would stand the loss, going through relief procedures if that were appropriate or otherwise charging the loss under the claims procedures prescribed by the Comptroller General.

Mr. HENDERSON. Would it be accurate to say that for all practical purposes the Government now self-insures against its fidelity losses since the coverage for most bonded employees is relatively small when compared to the amount of funds for which the employees are responsible?

Mr. Mosso. Yes, sir. That is very true. The bond coverage, typical bond coverage, for a cashier would be \$1,000 to \$2,500. For a disbursing officer with a large volume of transactions it might be \$10,000 or as high as \$25,000.

But these coverages don't begin to cover the total volume of cash handled. If, for example, a cashier has a \$1,000 cash fund, he would typically be bonded for \$1,000, but the risk is much greater than that because that fund is turned over frequently, so if he is inclined to embezzle, then he will not be embezzling \$1,000 at any one time. He will be working on it over a period of time. He could get many times \$1,000.

Thus the risk of losses in excess of bond coverage, where the big money is, we don't have covered at all.

Mr. HENDERSON. It has been said that the fidelity bonding procedures provide a deterrent effect upon employees that would not exist under a self-insurance program. Do you agree with that statement?

Mr. Mosso. I have never seen any evidence that there was a deterring effect. In any case of serious fraud or wrongdoing, there is a potential jail sentence whether or not the bonding company makes good on the bond. So I would think that that possibility would have more of a deterring effect than the existence of a bond. And that does not deter people at the present time.

Also I suppose if there were any validity to the argument, it would have been more valid when an employee was paying his own bond premium—that is, before 1955. Now he comes into the Government, occupies one of these positions, and is told that he is bonded, but he doesn't pay the bond premium.

And so I don't think that there is a personal association with the bonding concept that would act as a deterrent.

On the other hand, it could actually have the opposite effect. I wouldn't say that it does. But an agency that has coverage could conceivably look to the bonding company rather than to its own internal control procedures to protect itself. So that it is possible that—at least you could argue the other side of the question—that the bond would loosen the controls. I don't so argue, but it is a possibility.

Mr. HENDERSON. Do you believe internal controls are sufficient to deter acts of negligence and fraud on the part of accountable officers?

Mr. Mosso. I think that the control procedures generally—after all, we are talking about thousands of accountable officers throughout the Government, so I would have no doubt that there might be exceptions—but, generally speaking, the procedures that we have in Government are sufficient to deter and they are sufficient to promptly detect. They are not, of course, sufficient to prevent a loss in all cases.

Mr. HENDERSON. These are the questions that I wanted to ask.

Mr. Johnson, do you have a question?

Mr. JOHNSON. Yes. I am looking more to what the situation will be if the bill passes.

Now, let's say I was a Government employee handling large sums of money. I'm harking back now to what we do back in the courts in Pennsylvania in cases where a fellow can post his own bond, doesn't need a bonding company. We require that he sign a personal bond wherein he is bound unto the Commonwealth of Pennsylvania for a certain amount of money without the intervention of a surety company.

And when we want to resort to the bond in case of a loss, we have the bond where the fellow has made a confession of his liability, et cetera.

Now, what type of an instrument would you expect an employee to sign after this becomes law? Will he just have his job and he won't sign a personal bond so that you have something on which to bring an affirmative action in case there is a loss?

Mr. Mosso. Well, the General Accounting Office representatives should comment on that point, Mr. Johnson. The intent of the law is that he would be liable the same as he is now. And whether or not that would require a written statement on his part I can't answer for sure.

But I know that the intent of the law is—and the regulations that will be issued by the General Accounting Office will provide adequately—that the individual is bound by his acts.

Mr. JOHNSON. You say the intent of the law is that.

Mr. Mosso. The intent of the bill I should say.

Mr. JOHNSON. But the law contemplated doesn't have an affirmative statement placing liability on the employee in case of breach of his fidelity relationship.

Mr. Mosso. I believe it says he shall not be relieved of liability. It is not a positive statement, as you say.

Mr. JOHNSON. It does say that?

Mr. Mosso. It says he would not be relieved of liability by virtue of determination being made that the loss would be charged to an appropriation.

Of course, the employee has a written job description. His duties are spelled out in the job basically. And this kind of responsibility would ordinarily be a part of his job description. So it would be adequately covered I think in the employee's mind as to what he was responsible for.

Mr. JOHNSON. Of course, I really personally believe that an employee, once this becomes a law, should be required to sign a personal fidelity bond even though there wouldn't be a surety on it.

For instance, you say here, "We will charge their appropriation for any losses that prove to be uncollectible." Now, let's say there has been a \$10,000 defalcation by an employee without an instrument where he is bound unto the Government for a certain amount of money. I am thinking now of the U.S. attorney who would handle this case. Without an instrument to sue on, let's say, to base his complaint on, he has got to file a complaint in general terms and set out the fact of employment and the fact of the loss, et cetera. Do you see what I mean?

How do you figure that they will then collect deficiencies from the employee in the event this law goes into effect?

Mr. Mosso. Well, I will have to defer to the General Accounting Office on that. I'm sure that the bill as drafted is intended to do exactly what you say in its result on the employee. But as to the procedures that we will follow to have that insurance I think the General Accounting Office would be better able to comment.

Mr. JOHNSON. I personally think those procedures are very important.

Mr. Mosso. Yes, sir.

Mr. JOHNSON. Because I think an employee whether he has a surety or not, if he has signed a personal fidelity bond, will have a psychological admonition to him that he will be bound. And if he has a piece of real estate out here in Arlington, Va., you can get a judgment by virtue of that bond and go after him, don't you see?

Mr. Mosso. Looking at the other side of it, there is a duty to the employee to let him know that he is responsible for this kind of thing, so aside from the Government—protecting the Government's interests—you need to protect the employee so he is aware that these measures will be taken. I would certainly agree with your point.

Mr. JOHNSON. Another statement in Mr. Henderson's preliminary report on this bill says—

However, accountable officers would not be relieved of personal financial liability for any losses resulting from their own negligence.

Commenting on that, a fidelity bond today would not cover losses to the Government by reason of let's say negligence of an employee. Let's say an employee failed to bring a lawsuit on behalf of the Government within a 3-year statute of limitations. By reason of the lapse of the statute of limitations the Government lost \$10,000.

A bond wouldn't cover that I don't imagine. I don't think a fidelity bond would cover that. So you really wouldn't be changing the law any in that category. Isn't that true?

Mr. Mosso. Well, the law covers faithful performance. Again, it becomes a legal question to which the General Accounting Office would be better equipped to respond. But the present bonds cover faithful performance, and I believe that that does embrace—

Mr. JOHNSON. Does cover an element of negligence?

Mr. Mosso. Negligence.

Mr. JOHNSON. It could well be.

Mr. Mosso. Yes, sir. So that the acts that are covered now are not necessarily all deliberately fraudulent acts.

Mr. JOHNSON. I see. I believe that is all, Mr. Chairman.

Mr. HENDERSON. Mr. Derwinski.

Mr. DERWINSKI. Thank you, Mr. Chairman.

I would just, if I may, ask for some clarification of the statement that you attached to your testimony, sir. I note in 1971 there was an excess of claims over cost for the first time or the only time in these figures. Now, I presume that in some way relates to perhaps termination of the Postal Service part of the Federal structure in midyear.

But is there any possibility that a trend may develop that would in effect make the goal of this legislation, which is a saving because of the fact that the claims will not be exceeding cost? Is there a possibility there would be an unfortunate pattern of figures that would run counter to the intended legislation?

Mr. Mosso. I don't believe so, sir. The figure, as you noted, for 1971 is attributable wholly to the fact that the Postal Service discontinued bonding.

It comes about because there isn't in any of these figures a perfect match between the costs that are reported and the claims that are reported for any given fiscal year. And in the case of 1971 the premiums that were reported for the Post Office Department were the premiums in effect for bond coverage on June 30, 1971.

Now, on July 1, 1970, the Post Office had 800,000-some employees covered by a bond, and they had paid the premium for that bond. But when it expired on December 30 they did not renew that coverage. They renewed the coverage only for 39,000 employees. So on June 30, 1971, the premium in effect was much less than it had been before.

At the same time, they had been filing claims under their previous coverage through the first half of the fiscal year and, of course, those claims would tend to lag anyway. There will continue to be claims even after we terminate bonding if the bill should be enacted. The claims will be fileable against a company indefinitely.

So I think the 1971 figure is a temporary phenomenon. Then for the long run I don't think you would have a trend developing because bonding companies, after all, watch their experience very carefully, and, in fact, that has been the problem in the last few years. The experience has not been especially good, and premiums have been going up.

So the premiums, then, would tend to be adjusted to cover whatever the experience had been, and, therefore, I don't think you would likely hit a trend of a long series of losses as showed up in 1971.

Mr. DERWINSKI. Let me touch on one other point. The basic purpose of this legislation is to repeal the statutory requirement for bonding of Federal employees. The bill goes further and provides no agency of the Federal Government may require or obtain surety bond for its civilian employees.

You know, this is a flat prohibition against bonding of all Federal employees. Now, it seems to me that there is a distinction between terminating the program and then in turn flatly prohibiting the issuance of surety bonds.

Mr. Mosso. That is true. But the basis underlying the self-insurance proposal is that you have a spreading of the risks within the organization, a large organization like the Federal Government, and you have the resources to cover them.

So you look at the Government as a whole. And if you had some agencies insuring and some not, then you distort the base on which you are projecting your self-insurance exposure. So I think that the prohibition is in order from the point of view of saying this is something that the Government as a whole, as a matter of policy, wants to do.

Mr. DERWINSKI. I notice, by the way, Mr. Chairman, we don't have a witness scheduled from the Postal Service. But did I understand you to say the Postal Service did renew bonds covering approximately 39,000 of its employees?

Mr. Mosso. Only for the 6 months ending June 30, 1971. At that time it was still the Post Office Department, and they were required by law to have certain positions covered. They insured only the minimum requirement. Previously they had insured all employees.

But on July 1 when it became the Postal Service, they discontinued even the 39,000. They had the new authority beginning July 1.

Mr. DERWINSKI. When the Postal Service was partially detached from the Federal Government and created as it now exists, isn't there a possibility that its ability to function as a self-insurer would be in question?

In other words, your figures and statements have applied to the Federal Government as a whole, and here we take roughly one-quarter of the Federal civilian employees and in effect they are totally a distinct operation. And they are also, as I understand it now, a self-insurer.

I am just wondering if they have the size to in fact be a self-insurer.

Mr. Mosso. Of course, the Postal Service is large enough, I would imagine, to self-insure on their own even if there weren't any other considerations. But they are, of course, still part of the Government, and their money flows through the Treasury, and they receive, at least for the time being, some appropriations. So it is still part of the total Government as we view it. So I would think that the self-insurance principle we are talking about applies to the total Government, including all of its entities that are to some extent independent.

Mr. DERWINSKI. Thank you, Mr. Chairman.

Mr. HENDERSON. Mr. Mills.

Mr. MILLS. Thank you, Mr. Chairman.

In general, do bonding companies assist in surveillance as far as Federal employees are concerned? Or is this left to the General Accounting Office and to the particular department that the employee reports to?

Mr. Mosso. The bonding companies do not assist in surveillance of procedures; no, sir. Their only role is to pay the claim that is filed. And then, of course, they may attempt recovery from the faulting employee. But they do not assist the Federal Government in setting up procedures to prevent losses.

Mr. MILLS. When they attempt recovery, do they do this in conjunction with the effort that is being made by the Federal agency or do they do it as a separate entity?

Mr. Mosso. They do it separately as far as their action against the employee is concerned. But the Federal Government attempts recovery against employees' accrued annual leave, his accumulated salary if he is still on the payroll, through withholding from future salary, even access to the retirement fund in some cases. So that the Federal Government does attempt to collect on these losses, and it, in effect, files a claim with the insurance company only for that portion which it cannot collect through its own efforts.

Mr. MILLS. Do you believe this legislation would cover the managers of the enlisted men's and the officers' service clubs throughout the world?

Mr. Mosso. Well, I would have to defer to the General Accounting Office again on that, but it would be my surmise that it does not. They are not Federal employees, and, therefore, they would not be covered. But I couldn't answer definitively on that.

Mr. MILLS. Thank you, Mr. Chairman.

Mr. HENDERSON. You raise a very pertinent question that we certainly want answered as we consider this legislation.

I have before me a Washington Post article that you may or may not be familiar with. I would like to refer to it and I ask unanimous consent that the article be placed in the record at this point.

(The article follows:)

[From the Washington Post]

ACCOUNTANT IS CHARGED IN FORGERY

A 30-year-old financial officer at the Agriculture Department has been charged with forging \$307,000 in government checks that he allegedly deposited in the local bank account of a dummy corporation.

A government prosecutor told U.S. District Court Judge Charles R. Richey in a hearing Friday that Bernard Canzler, a supervisory fiscal accountant with

the department, had forged three checks made out to the nonexistent "Massin Corp." and had deposited them in an account he set up in the McLachen National Bank.

Secret Service agents arrested Canzler Wednesday night after the bank made inquiries about the validity of a \$200,202 check deposited in the Massin account, the prosecutor said.

Assistant U.S. Attorney Peter Schomber told the Judge that Canzler had used some of the money to pay off a student loan at Georgetown University, where he was studying law, and to buy an airplane. In addition, Schomber said, Canzler had deposited about \$15,000 in a savings account at another bank.

Schomber said all the unspent money has been recovered.

Canzler, a native of this area who has a degree in accounting and who lives on Calvert Street NW, is awaiting the action of a federal grand jury. A \$100,000 bond, set at the time of his arrest, was lowered to \$10,000 by the judge on Friday. It was immediately posted by Canzler's family and he was released.

Mr. HENDERSON. It says that a 30-year-old financial officer at the Agriculture Department has been charged with forging \$307,000 in Government checks that he allegedly deposited in the local bank account of a dummy corporation.

I will not read the rest of it, because the staff has looked into this and has pointed out to me these facts:

The total amount involved was \$301,000. They recovered from the bank \$271,500, and from a special savings account an additional \$15,000. They recovered cash on the employee of \$5,400. The employee had bought a new airplane which was impounded and credit of \$4,600 was given for that. That left an outstanding balance of \$4,500.

In this particular case the employee's bond was only \$5,000, which certainly substantiates the statement that you made that it is not unusual, or, rather, that it is usual that the bond be quite limited.

Here he was able to forge over \$300,000 of checks with only a \$5,000 bond.

Do you have any familiarity with that case? And do you think it proper to comment on it at this time to shed any light on the legislation before us?

Mr. Mosso. I don't have any more information than you have just recited, Mr. Chairman, but it does illustrate the point that we have made, in that the potential loss here far exceeded the bond. So that had all these recoveries not been made, we could have suffered a substantial loss which would not have been covered at all by the bond.

It also illustrates I think the other point that I made that the internal control procedures of the Government are not adequate to prevent this kind of thing, but they do provide some reasonable assurance that they will be promptly detected.

And, of course, apparently what is the bright side of this picture is it was detected promptly enough to be able to recover most of the money and to get, if the figures you cited are correct—

Mr. HENDERSON. But on your first point the article says that the arrest was made after the bank made inquiries about the validity of a \$200,202 deposited check. So I think it was not the internal auditing or the internal controls but rather the alertness of the bank.

Mr. Mosso. Of the bank. Yes, sir. Yes, that is correct. That was not a valid inference that I drew from that.

However, I would assume that the internal control procedures of the department would certainly have turned it up in reasonable time.

But you can't prevent this kind of thing, and you can't prevent losses even larger in some instances. But the present bonding program doesn't protect us from it anyway, so we are really proposing no change.

Mr. HENDERSON. Before the Chair dismisses you, I think that I would like to point out that on page 2 beginning in line 1, section 101(b), the language is—

The personal financial liability to the Federal Government of such employees and personnel shall not be affected by reason of subsection (a) of this section.

This language was intended to insure that the personal financial liability of the employees and military personnel would not be relieved by the enactment of this legislation.

So, clearly, it would seem that all of the rights of the Government against the individual employees or personnel would not be affected by this legislation. At least that is the intent of the language.

Mr. Mosso. Yes, sir. And the assurance on that point will be achieved through the regulations issued by the Comptroller General.

Mr. HENDERSON. Very good.

We thank you and the other witnesses from the Treasury Department.

At this time we will hear from Mr. F. Henry Barclay, Jr., the Associate General Counsel, Office of the General Counsel, in the General Accounting Office.

Gentlemen, we are glad to have you with us this morning. I understand that Mr. Barclay is accompanied by Mr. John W. Moore, an assistant general counsel, and Mr. Douglas B. Hogan, Supervisory Auditor of the Civil Division.

I welcome you, and we will be delighted to hear from you at this time.

STATEMENT OF F. HENRY BARCLAY, JR., ASSOCIATE GENERAL COUNSEL, OFFICE OF THE GENERAL COUNSEL, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JOHN W. MOORE, ASSISTANT GENERAL COUNSEL, OFFICE OF THE GENERAL COUNSEL, AND DOUGLAS B. HOGAN, SUPERVISORY AUDITOR, CIVIL DIVISION

Mr. BARCLAY. Mr. Chairman and members of the committee, I appreciate being invited to testify in connection with H.R. 13150. The General Accounting Office for a number of years has advocated the elimination of all requirements for the fidelity bonding of personnel of the Government, either civilian or military. We have found that the costs of the premiums for such bonds far exceeded the claims filed against the sureties, and it is our belief that the Government would save money by eliminating such bonding and assuming the risks of its fidelity losses.

The principal testimony in favor of this bill has been given by the Treasury Department, which sponsored the proposal contained therein on behalf of the joint financial management improvement program. It is my understanding that the primary purpose of our invitation to testify was for information concerning the procedures now in effect for recovering fidelity losses and how such procedures will be affected by the bill, if enacted.

Briefly, what now occurs is as follows:

A deficiency—either an erroneous payment or a physical loss (burglary, loss, embezzlement, etc.)—is detected in the accounts of an accountable officer by either the administrative office involved or by the General Accounting Office.

Under the provisions of the Federal Claims Collection Act of 1966, the administrative agency has the primary responsibility for collecting debts arising as a result of its activities. Hence, upon detection of such a deficiency—regardless of whether detected by the agency or by the General Accounting Office—the administrative agency, in an erroneous payment case, attempts recovery of such payment from the recipient thereof under the authority of that act and in accordance with the standards established by the joint regulations issued by the Attorney General and the Comptroller General pursuant to the act.

The joint regulations set out in considerable detail the steps to be taken to effect collection, including demand for payment, collection by offset of amounts otherwise due the debtor, personal interview with debtor, contact with debtor's employing agency, suspension or revocation of license or eligibility, liquidation of collateral, collection in installments, exploration of compromise, forwarding of uncollectible debts to the General Accounting Office for further action, and final reference to the Department of Justice for institution of suit in appropriate cases.

If the full amount of the erroneous payment is collected from the recipient, the matter is ended. In the event of failure to collect the full amount from such recipient, or inability to collect any amount from him, or in the case of a physical loss (where the recipient cannot be identified), the administrative agency then turns to the accountable officer.

First, if the administrative agency determines that the officer was free of fault or negligence and otherwise is eligible for relief, relief is requested from the General Accounting Office. If the General Accounting Office concurs with the determination of the administrative agency and grants relief to the accountable officer, that likewise terminates the matter.

If the administrative agency does not request relief, or relief is denied, the same collection actions under the Federal Claims Collection Act of 1966 and the Joint Regulations are instituted against the accountable officer.

Collection of the full amount of the loss from the accountable officer, of course, ends the matter. If the full amount is not so collected, recourse is made to the surety of the accountable officer for the uncollected amount, up to the maximum coverage of the bond.

If H.R. 13150 is enacted, all of the presently existing procedures for recovering fidelity losses will still be available to the Government, except for the last step I mentioned—that is, recourse to the surety under the bond.

As I stated earlier, our studies in this field have indicated that the Government pays out to the surety companies in premiums far more money than it claims from them under the bonds. Hence, it is our belief that enactment of H.R. 13150 will save the Government money through elimination of the payment of bond premiums as well as the administrative costs attendant thereto.

Mr. Chairman, this concludes my statement. My colleagues and myself will be happy to answer any questions you or any other members of the subcommittee may have.

Mr. HENDERSON. Thank you very much.

Under what conditions are accountable officers held personally liable for losses sustained?

Mr. BARCLAY. Mr. Chairman, there are various provisions of law dealing with this matter. But I think a very simplified statement of this can be that actually they are held liable where they are in fact at fault or negligent.

It is stated in different terms for the disbursing and certifying officers, but the net effect of it is lack of good faith and negligence or fault.

Mr. HENDERSON. Do you believe that the fidelity bonds provide a deterrent against negligence and fraud of accountable officers, or are other factors more significant?

Mr. BARCLAY. Well, I believe that the fact that you have a fidelity bond does provide certainly some deterrent. However, I would, on the other hand, believe other factors are probably more significant.

This has been our belief, which I believe we stated in our two audit reports that we rendered in 1962 and 1964. Mr. Hogan, is that correct? We took that position?

Mr. HOGAN. Yes, that is correct. It would seem that the fear of criminal prosecution, loss of career, and loss of retirement and other benefits would perhaps be just as great if not greater than a fidelity bond.

Mr. HENDERSON. What has been your experience with the Justice Department as concerns their willingness to file suits against accountable officers to recover losses not covered by the fidelity bonds?

Mr. BARCLAY. Mr. Chairman, this has come up rather infrequently. However, our experience with the Justice Department in connection with the accountable officers and also in connection with the surety bonds has been that they have been very cooperative in taking action to collect.

As a matter of fact, I know of at least one case at the present time against a surety bond in which they are taking active steps to recover from the surety in a case in which we feel it should be recovered.

Mr. HENDERSON. Can the current pay of an accountable officer be withheld by the employing agency if the loss was sustained while the officer was employed by a different agency?

Mr. BARCLAY. Mr. Chairman, the answer to that is in the negative. His current pay cannot be used to recover the loss regardless of which agency.

Even in his own agency, as far as the accountable officer, there is no recovery from the current pay under existing law that I am aware of.

Mr. HENDERSON. What would be your opinion on requiring the agencies to charge fidelity losses against their own appropriations rather than providing a separate appropriation for such purposes?

Mr. BARCLAY. Our feeling, Mr. Chairman, on this aspect of the legislation is that it is preferable to reflect the cost in the operations of the agency. We believe that a charge against the agency appropriation would tend to better internal control procedures by the agency than if it were by a Government-wide appropriation.

We think it should be charged to the agency. They should stand their own losses.

Mr. HENDERSON. Finally—and this relates back to the first line of questions—does the existing law provide sufficient authority for recovering fidelity losses from accountable officers?

Mr. BARCLAY. We are inclined to believe it does. We have a situation here where we can go against final pay. We can go against his retirement account. We have the detailed collection procedures through the Federal Claims Collection Act of 1966.

And about the only thing that really we could do would be to have a law passed or a new provision that would provide for current pay being used to recover the losses.

I am not prepared to say at this time whether our Office would favor any such provision. I would be inclined to believe we would not. However, this is not a matter we have given any study to in depth at this point.

Mr. HENDERSON. Mr. Johnson, do you have any questions?

Mr. JOHNSON. Yes; just along the line of my previous questioning of Mr. Mosso.

Do you contemplate if this act becomes law that you will still require a type of fidelity bond from an employee? Or will you just resort to the liability that is imposed by general law?

Mr. BARCLAY. As far as any study that we have made at this point, we have been thinking along the line of merely having the liability under the current law as the operating factor here. We did not envision that we would have a statement from the individual employee of the type that you have in mind.

I might point out on that aspect that, in large numbers, we have the certifying officers who are accountable officers but they do not handle any cash. And I believe this is one of the big factors why we would not feel that a fidelity bond was as important as it would be in the type of case you had in mind in Pennsylvania.

Mr. JOHNSON. Of course, if you had a fidelity bond just signed by the employee with a limit of let's say \$10,000 in it, presumptively that would be the limit of his liability to the Government. And I suppose if you wanted to sue him you could only sue him for \$10,000. Whereas if you don't have a surety bond fixing his maximum liability, if he has a \$50,000 defalcation you could sue him for the \$50,000.

Mr. BARCLAY. There is no question about this. I believe that your conclusion is correct. At least it would create a question as to whether his liability could be beyond the \$10,000. And I feel this would be very unfortunate if we placed ourselves in that type of situation.

Mr. JOHNSON. So you will in event of a default resort to the—

Mr. BARCLAY. The Federal Claims Collection Act.

Mr. JOHNSON (continuing). To what you call joint regulations?

Mr. BARCLAY. That is correct.

Mr. JOHNSON. And pursue your remedies there? And then if you can't institute a recovery under that procedure, then I take it you will turn it over to the Department of Justice?

Mr. BARCLAY. We would turn it over to the Department of Justice; yes, sir.

Mr. JOHNSON. I think that is all, Mr. Chairman.

Mr. HENDERSON. All right.

Let me go back to withholding pay for a moment. Section 5512(a) of title 5, United States Code, says that the pay of an individual in arrears to the United States shall be withheld until he has accounted for and paid into the Treasury of the United States such sums for which he is liable.

What does this mean? How does this fit into your interpretation with regard to the withholding of pay?

Mr. BARCLAY. I would like to make a statement first, and then I would like to have Mr. Moore also comment on that.

In a very quick look, I read that provision of law and I have yet to find any instance where that provision has ever been invoked as far as withholding of the current pay. It has been used in connection with the retirement. It has been used in connection with final pay.

However, I could neither find in our decisions nor could I find in the court of claims decisions where it had gone to the next step.

Mr. HENDERSON. Let me at this point get unanimous consent, because we are on a legal point, a legal interpretation, that you be permitted to respond in an unofficial way.

Mr. BARCLAY. Yes, indeed.

Mr. HENDERSON. What you are saying here is not necessarily binding on the General Accounting Office. We just would like to know.

Mr. BARCLAY. Yes, sir.

Mr. MOORE. I would like to point out first that your original question related to withholding pay from the accountable officer, and we don't have any authority to withhold current pay from all accountable officers. This provision relates to a limited number of accountable officers who have public funds entrusted to their possession. If they fail to account for the funds or return the funds, upon demand, we are required to withhold their compensation pending such accounting or return of the funds. There are other provisions of law authorizing us to withhold current pay from employees who have received any erroneous payment.

But as Mr. Barclay said, I don't recall of any situation where we have actually used it.

Mr. HENDERSON. In the case of an employee who has received erroneous pay from one agency and currently is employed in another agency, you could still withhold the pay in the presently employing agency?

Mr. MOORE. That is correct.

Mr. HENDERSON. I believe those are all the questions I have unless you wanted to comment on the Department of Agriculture case that I referred to earlier.

Mr. BARCLAY. Well, Mr. Henderson—

Mr. HENDERSON. My primary purpose for referring to that article was to point out that our bonding requirements are obviously small, and that the Government is a self-insurer beyond those very small amounts for which we have surety bonds.

Mr. BARCLAY. I had read about it in the paper. I had not seen all the details which you stated. But it does seem that in that case the internal controls did not actually stop the shortage from occurring.

As you pointed out, it was the bank, their diligence really, that picked up what was occurring.

It is hoped, of course, that the Department, now that a loss of this type has occurred, will take a look, and I would hope that our

office would too, to see if there is any internal control that need be strengthened to prevent a future situation of this type and that action along those lines will be taken.

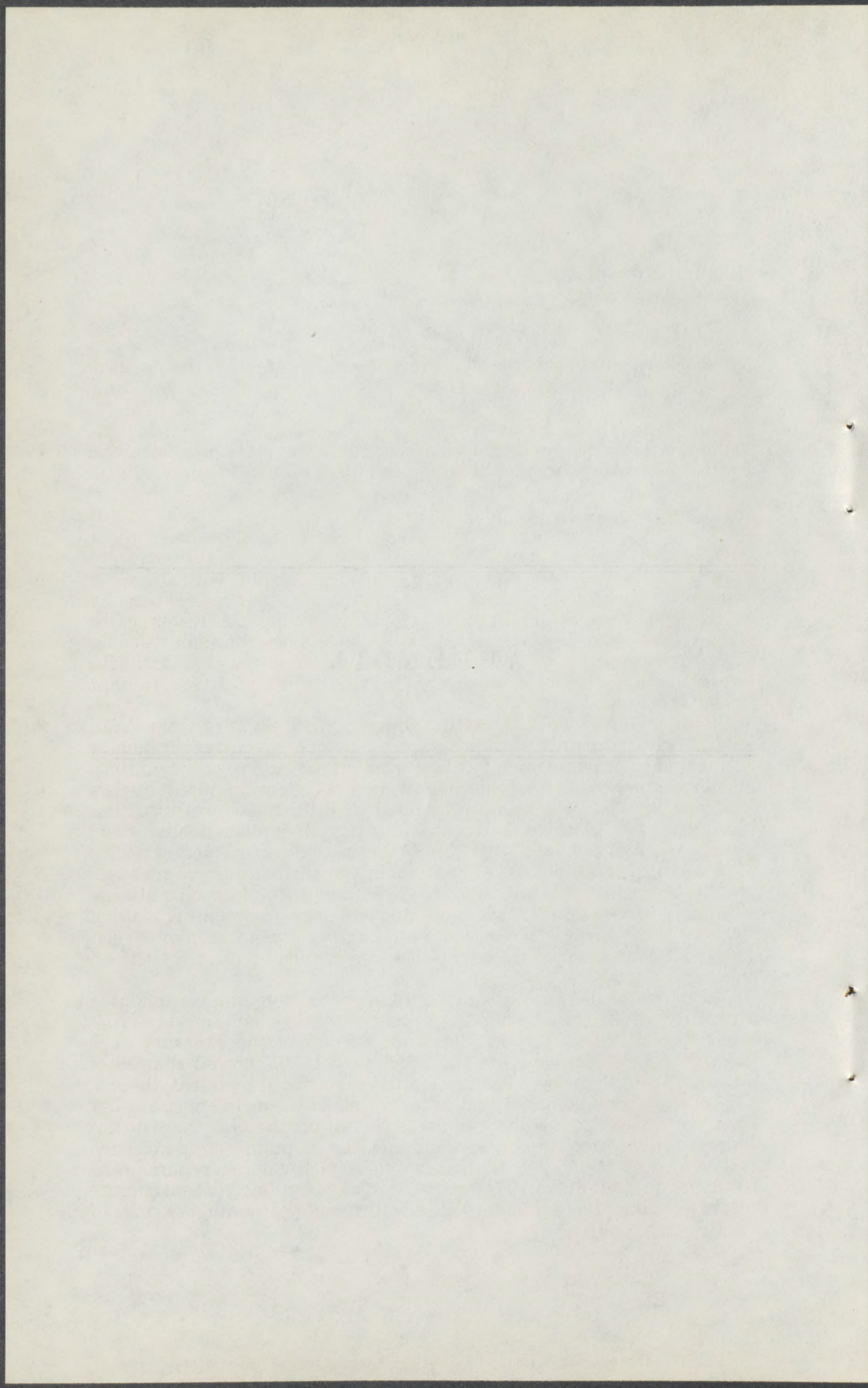
Mr. HENDERSON. Thank you very much, sir. I appreciate very much your appearance because I think that your testimony has answered the inquiries of our subcommittee members quite well. I appreciate your coming.

The subcommittee will adjourn at this time subject to the call of the Chair.

(Whereupon, at 11:25 a.m., the hearing was adjourned, subject to the call of the Chair.)

(Following, as an appendix to this hearing, are reports on H.R. 13150 received from various units of the Government, a reproduction of H.R. 13150, and statements from the American Insurance Association and the American Federation of Government Employees.)

APPENDIX



THE SECRETARY OF THE TREASURY,
Washington, March 31, 1971.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of proposed legislation, to provide that the Federal Government shall assume the risks of its fidelity losses.

The proposed legislation would repeal the statutory requirements for bonding Federal civilian employees and military personnel charged with accountability for public funds or public property, and establish a self-insurance program for the Government's fidelity losses by permitting agencies to charge their appropriations for such losses. Enactment of the legislation would result in savings to the Government since bond premiums have consistently exceeded amounts recovered from surety companies. The proposal is also consistent with the Government's general policy of assuming its own insurable risks—a policy stemming from the fact that the Government has the resources to assume such risks. In the financial area, the risks are minimal because of extensive systems of financial checks and balances that limit the opportunities for fraud or negligence in the handling of Government funds.

Under Public Law 323, 84th Congress (6 U.S.C. 14), the head of each department and establishment in the executive branch is authorized to procure a bond at Government expense to cover military and civilian personnel of his department who are required by law or administrative regulation to be bonded. Prior to enactment of this law these individuals were required to pay their own fidelity bond premiums. During fiscal year 1955, the last full fiscal year prior to enactment of Public Law 323, the amount of the bond premiums paid by Federal employees was \$1,732,748. Although the foregoing statute eliminated this inequity, experience under the law in procuring blanket and position schedule bonds to cover large groups of employees has focused attention on the practical and economical aspects of the requirements for bond coverage.

These experience factors can be highlighted from the consolidated annual reports to the Congress on agency fidelity bonding activities which the above act required of the Secretary of the Treasury. The most recent report, covering the fiscal year 1970, showed that as of June 30, 1970, there were 963,269 employees covered by fidelity bonds; the total computed annual cost of premiums of bonds in effect on that date was \$425,753. For the 14½ fiscal years that the Government has borne the expense of the bond premiums, the premiums have exceeded claims filed by \$1,188,263. The Comptroller General, in a report to the Congress in December 1964 (B-8201) recommending discontinuance of the bonding of Federal employees, estimated that annual savings of

\$190,000 could be achieved thereby. A recent decision by the Post Office Department to significantly reduce the number of their employees covered by bonds would lower this estimate; however, the Department's move in this direction stems from a recognition that the cost of bond coverage is becoming prohibitive, and lends support to the self-insurance concept proposed in the draft bill. Additional savings could be expected from elimination of certain administrative expenses in connection with the procurement of the bonds, and related operations—expenses that have aggregated \$730,008 over the last 14½ fiscal years.

Generally speaking, the only positions required to be bonded are those involving the disbursement and safekeeping of public funds. Individuals assigned to these positions are responsible for public funds far in excess of the coverage provided by the bond. For example, the statutory bonding requirement for the Treasurer of the United States has remained at \$150,000 since establishment of that position in 1789, although the incumbent of that position is responsible, in terms of cash alone, for average balances of approximately \$6 billion in the Treasurer's general account. An accounting and finance officer in a military department is ordinarily bonded for \$10,000, but annually disburses many times this amount. The cost of complete coverage for most disbursing officers would be prohibitive, and in many cases complete coverage would not be available—as a practical matter. Clearly, this situation results in only "token" coverage in those accountability areas where the potential for the largest monetary losses exists. Actually, of the almost \$7 million in total losses incurred since 1956, approximately \$1.9 million of such losses, or about 28 percent, exceeded the limits of the bond coverage.

The proposed legislation would eliminate the requirement for procuring fidelity bonds, thereby saving the Government the net excess of the premiums and other expenses over the net recoveries on claims. Agencies would self-insure against fidelity losses, and, to the extent that any such losses proved to be uncollectible, would charge the applicable appropriation for the amounts of such losses. Agency practices in restoring or adjusting the accounts of any defaulting employee would be performed under regulations promulgated by the Comptroller General of the United States. Agency experience under the self-insurance program would be reported annually to the Congress by the Secretary of the Treasury for the 5 full fiscal years following the date of enactment of the draft bill.

The Director of the Office of Management and Budget, the Chairman of the Civil Service Commission, and the Comptroller General join in sponsoring this proposed legislation under the joint financial management improvement program established under section 111(f) of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 65(f)). I am transmitting the proposal in behalf of this joint program. It would be appreciated if you would lay the proposed bill before the House of Representatives. An identical bill has been transmitted to the President of the Senate.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

JOHN B. CONNALLY.

A BILL To provide that the Federal Government shall assume the risks of its fidelity losses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the Federal Government shall not require or obtain surety bonds for its civilian employees and military personnel in connection with the performance of their official duties. The personal financial liability to the Federal Government of such civilian employees and military personnel shall not be affected.

SEC. 2. Whenever it is necessary to restore or otherwise adjust the account of any accountable officer, or agent thereof, for any loss to the United States due to the fault or negligence of such individual, and the head of the department or agency concerned determines that the amount thereof is uncollectible, such amount shall be charged to the appropriation or fund available for the expenses of the accountable function at the time the restoration or adjustment is effected. Such restoration or adjustment shall not affect the personal financial liability of such accountable officer or agent thereof. The restorations or adjustments authorized by this section shall be made in accordance with regulations issued by the Comptroller General of the United States.

SEC. 3. For each of the five full fiscal years following the date of enactment of this Act, the Secretary of the Treasury shall transmit to the Congress, on or before the following December 31, a report of the experience under the provisions of this Act, in such form as may be necessary to enable the Congress to determine the results of operations thereunder. The departments, agencies and independent establishments of the Federal Government shall furnish to the Secretary of the Treasury such information as may be required by the Secretary to carry out the purposes of this section.

SEC. 4. Section 14 of title 6, United States Code, and all statutes or parts of statutes providing for the bonding of civilian employees and military personnel of the Federal Government are hereby repealed. Any bond or bonds heretofore procured shall remain in full force and effect for the periods provided therein subject to the cancellation provisions in the bond; and any liability of a surety to the Federal Government arising under the terms and conditions of a bond or bonds heretofore so procured shall not be affected by this repeal.

OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

May 12, 1971

Dear Mr. Lockhart:

Mr. Knorr asked me to follow up this week on the Committee's request for a listing of U. S. Code citations of all sections of the current law which would be repealed under the Department's proposed fidelity loss legislation.

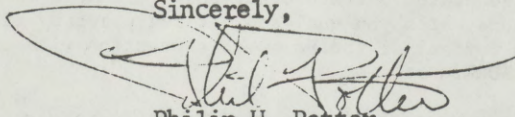
Attached you will find a partial list. I emphasize that this list is partial as we have been advised by our General Counsel's Office that a complete listing is impractical, if not impossible.

It is the opinion of our General Counsel's Office, after a partial research of the 1964 U. S. Code, that a complete and exact compilation of all statutes to be affected would not be possible without inordinate effort. We, therefore, recommend that the general repealer be retained. The partial listing was compiled from research into the 1964 Code Index, with its supplement, under the heading "Bonds." It appears that a fuller search of the Code Index would be necessary to complete the attached list to such an extent that we could be relatively certain that all the statutes were in fact cited. An initial effort was made to conduct such fuller search but the General Counsel's Office feels that it might be necessary to obtain a LITE search of the Code itself, as their past experience indicates that the Index is not exhaustive in its coverage.

If the Committee insists on not using the general repealer provision in the proposed legislation we would strongly recommend that the Committee request such a LITE search. The Committee should be advised, however, that our General Counsel's Office is dubious as to the practical value of such a search as they have been unable to come across a good key word or phrase common to all fidelity or official bond statutes from which

a truly meaningful and selective search could be made. In essence, we feel that even with a LITE search, we could not be assured of repealing all the relevant statutes and a general repealer would still be necessary. If the Committee feels that the LITE search would possibly be useful for informational purposes we would attempt such search. We would be happy to have our General Counsel's Office meet with the Staff or House Legislative Counsel to discuss this matter further if you feel that would be useful.

Sincerely,

A handwritten signature in dark ink, appearing to read "Philip H. Potter", is written over a large, loopy horizontal flourish.

Philip H. Potter

Deputy Special Assistant to the Secretary
Congressional Relations

Mr. Robert E. Lockhart
Assistant Counsel
Committee on Post Office and Civil Service
House of Representatives
Washington, D. C. 20515

Attachment

cc: Mr. Bill Irvine
Asst. Staff Director

TREASURY DEPARTMENT
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

JUL 16 1971

John H. Martiny, Chief Counsel
Committee on Post Office and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Martiny:

In response to your letter of July 1, I have considered the repealing provisions which you enclosed, as suggested by the Office of the Legislative Counsel of the House in connection with the Treasury bonding bill, H.R. 8084.

With four exceptions this Department is in agreement with the repealing provisions for bonding statutes found in codified titles of the Code. The exceptions are as follows:

1. The title of title 6, United States Code, should be amended so as to read "Title 6. -- Penal Bonds", because all bonding requirements for Government officials are being repealed.
2. The first clause of section 4 of title 6, United States Code, should not be repealed since the requirement of accounting officers to report deficiencies appears nowhere else in the Code. If appropriate in this bill the provision should be transferred to title 31. We suggest that the repeal begin with the words "and it shall be the immediate duty of said head of department to at once notify all obligors upon the bond or bonds" and continue to the end of the section.
3. Section 754 of title 28, United States Code, should be amended by repealing the words ", upon giving bond as required by the court,". This section was omitted from your enclosures although it was included in the Treasury list supplied Assistant Counsel Lockhart with Mr. Potter's May 12 letter.
4. That part of the table of sections of chapter 37, title 28, United States Code, which is to be repealed reads; "564. Bond.", not "Bonds".

We also note that a provision repealing section 1011 of the Foreign Service Act of 1946 (22 U.S.C. 808) will be drafted.

In response to your question concerning the repeal of the language "and premiums of fidelity bonds of employees" in section 4204(4) of title 38, United States Code, our answer is in the affirmative.

I have received your letter of July 14, with its enclosures of a further set of repealing provisions, which are presently under study.

Sincerely yours,

Charlotte T. Lloyd

(Mrs.) Charlotte T. Lloyd
Assistant General Counsel

THE DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

AUG 31 1971

John H. Martiny, Chief Counsel
Committee on Post Office and Civil Service
House of Representatives
Washington, D.C. 20515

Dear Mr. Martiny:

In response to your letter of July 14, I have considered the repealing provisions you enclosed and the citations you submitted for our advice as to repeal or amendment, in connection with the Treasury bonding bill, H.R. 8084.

This Department agrees with the repealing and amending provisions. As to the specific U.S. Code citations concerning which you ask our advice, our views are as follows:

1. 31 U.S.C. 110 should be repealed. The persons referred to in this section are Government employees. Further, it appears that the section is obsolete in view of the 1950 repeal of 31 U.S.C. 109, and the enactment of Public Law 91-375, the Postal Reorganization Act of 1970.
2. 31 U.S.C. 193 should not be repealed. This section includes the giving of bonds to the United States by private individuals.
3. 31 U.S.C. 518 should not be repealed. This section includes the giving of bonds to the United States District Courts by individuals who are not necessarily Government employees and the section's repeal would remove a specific remedy of an aggrieved person.
4. 31 U.S.C. 546 should be amended by striking out the clause ", except to disbursing agents appointed before March 4, 1911, and who have qualified by giving bonds", as there would no longer be such agents appointed before March 4, 1911.
5. 31 U.S.C. 1012 should be repealed. This section is considered obsolete by this Department as the General Counsel of the Treasury has been divested of the means of carrying out its provisions by virtue of the Act of June 25, 1948, 62 Stat. 992, which repealed or omitted as unnecessary 5 U.S.C. 323, 324 and 329, and 28 U.S.C. 487, all in the 1940 edition of the code.
6. 31 U.S.C. 1013 should be repealed. This section is considered obsolete by this Department as the duties of the General Counsel prescribed thereunder, inherited from the

former Solicitor of the Treasury, have been delegated to other Government agencies, and the function of prosecuting claims now rests with the Department of Justice by virtue of §4 of Executive Order 6166.

7. Section 6803(a)(1) should be amended to read as follows:

Each postmaster under paragraph (1) of section 6802 shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of, and render accounts to the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe.

8. 26 U.S.C. 6803(b)(1) should not be repealed as it includes the bonds of state agents under 26 U.S.C. 6802(3).

9. 26 U.S.C. 7402(d) should be amended to read as follows:

The United States district courts, concurrently with the courts of the several states, shall have jurisdiction of any action brought on the official bond of any internal revenue officer or employee required to give bond under regulations promulgated by authority of former section 7803(c).

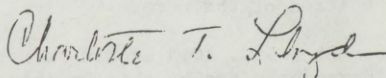
It is necessary to retain this section in its amended form as there is a possibility of suit, in the district court, after the passage of the act, on a previously given bond.

10. 26 U.S.C. 7803(c) should be repealed as it refers to the bonds of Government employees.

I also refer to your August 3, 1971 telephone conversation with Mr. Kilcoyne of my office in which you requested that we re-examine 28 U.S.C. 754 to determine whether the "receivers" therein are Federal employees. This office has concluded that receivers appointed by the District Court are not employees of the Government, and that 28 U.S.C. 754 should not be amended or repealed. This conclusion was reached after a review of titles 11 and 28 of the United States Code and a telephone conversation with Mr. Leon Ulman, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice.

Your July 21, 1971 letter with its further set of repealing provisions is currently under study.

Sincerely yours,



(Mrs.) Charlotte T. Lloyd
Assistant General Counsel

THE DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

SEP 28 1971

Dear Mr. Martiny:

In response to your letter of July 21, 1971, I have considered the repealing provisions you enclosed and the citations you submitted for our advice as to repeal or amendment in connection with the Treasury bonding bill, H.R. 8084. I have also reviewed your proposed repeals of and amendments to sections in Title 2 of the Code, as reflected in your redraft of the bill furnished Mr. Levy of this office by Mr. Carper.

Because those most recent proposals cover a wide range of provisions regarding employees of various agencies other than the Treasury, my comments are offered subject to the views of those other departments or agencies. The comments in my July 16 letter should be read with the same understanding. From your letter to me of July 1 it appears that you have already conferred with the Department of State.

This office agrees in substance with the repealing and amending provisions submitted with your letter with three exceptions:

(1) 12 U.S.C. 5 has already been repealed, Public Law 86-251, sections 1(b), (c)(1), September 9, 1959, 73 Stat. 487, 488.

(2) 12 U.S.C. 6 has also been repealed by Public Law 86-251.

(3) 22 U.S.C. 1199. It appears that your proposed amendment is not sufficiently extensive. Therefore, it is suggested that the provision be amended:

(a) by striking out in the first sentence the comma after the phrase "and for all such damages" and by inserting after that phrase "occasioned before _____ [the effective date or the date of the enactment of H.R. 8084]," and

(b) by inserting after the second sentence a new sentence "For all damages occasioned after _____, any consular officer himself shall be responsible to the full amount."

So amending 22 U.S.C. 1199 would provide for the possibility of suit after the passage of the Act on a previously given bond. However, since this provision concerns consular officers of the Department of State, this office defers to that Department's views as to the proposed amendment.

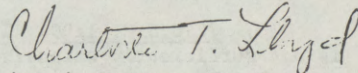
As to the specific United States Code citations concerning which you ask our advice, our views are as follows:

- (1) 11 U.S.C. 78. Section 78(a) should be repealed as the referees in bankruptcy referred to appear to be Federal employees under 11 U.S.C. 68 and the definition of employees as found in 5 U.S.C. 2105(a)(1)(D) and 5 U.S.C. 2101(1). However, we defer to the views of the Department of Justice.
- (2) 12 U.S.C. 284(i) and 12 U.S.C. 306 should not be repealed. We have been advised by the General Counsel's Office of the Federal Reserve Board that the Federal reserve agents and assistants referred to are not considered to be under the civil service laws.
- (3) 12 U.S.C. 614 should not be repealed or amended as the bonds referred to are not bonds of Federal employees.
- (4) 12 U.S.C. 1766(h) should not be repealed or amended as it appears that the bonds referred to are not the bonds of Federal employees. However, we defer to the views of the National Credit Union Administration.
- (5) 19 U.S.C. 1565 should not be repealed as the cartment referred to are not Federal employees.

This office is in agreement with the repealing and amendment provisions concerning Title 2 of the Code as found in pages 9 - 12 of the draft bill submitted by Mr. Carper.

We look forward to receiving a further redraft of the bill, incorporating all the additions and changes to date.

Sincerely yours,



(Mrs.) Charlotte T. Lloyd
Assistant General Counsel

John H. Martiny, Chief Counsel
Committee on Post Office and Civil Service
House of Representatives
207 Cannon House Building
Washington, D. C. 20515

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

FEB 23 1972

The Honorable
Shaddeus J. Dulski, Chairman
Committee on Post Office and
Civil Service
House of Representatives
207 Cannon House Office Building
Dear Mr. Chairman:

This is in reply to your request of November 11, 1971 to Secretary Connally for comments on Committee Print No. 2 of a bill, "To provide that the Federal Government shall assume the risks of its fidelity losses, and for other purposes." You ask particularly whether the Committee print omits any bonding provisions from those which should be identified for repeal, and for views whether the wholly owned Government corporations mentioned in the print are covered by the term "Federal Government" in section 101.

The Committee print constitutes a greatly expanded revision of H.R. 8084, 92nd Congress, which originated with the draft of proposed legislation transmitted to the Speaker by the Secretary on March 31, 1971; the revision reflects an extensive examination of the United States Code to locate and repeal specifically every provision concerning surety bonding of civilian employees and military personnel of the Government. Further, the Committee print includes repeals of existing bonding provisions contained in various statutes covering certain wholly owned Government corporations listed in 31 U.S.C. 846 - on the premise that the term "Federal Government" in section 101 of the print includes such corporations.

We have found no further surety bonding provisions in the United States Code, or in the public laws enacted in 1971 which we have examined, which should be repealed and therefore reply in the negative to your first inquiry.

In answer to your second request, we concur in your assumption that the term "Federal Government" covers the eight wholly owned Government corporations mentioned in the Committee print; those corporations are: Federal Crop Insurance Corporation, Government National Mortgage Association, Commodity Credit Corporation, Tennessee Valley Authority, Overseas Private Investment Corporation, Saint Lawrence Seaway Development Corporation, Virgin Islands Corporation, and Panama Canal Company. They constitute the only corporations now in existence of those listed in 31 U.S.C. 846, whose organic acts include fidelity bonding provisions. Nevertheless, we recommend that section 101 of the Committee print be revised to include a definition of "Federal Government" which documents that assumption, and also makes explicit that that term covers the legislative, executive and judicial branches. The definition would constitute subsection (c) of section 101 and would read:

"(c) For the purposes of this Act, the term 'Federal Government' means the legislative, executive and judicial branches of the Government of the United States, and each entity listed as a 'wholly owned Government corporation' in section 101 of the Government Corporation Control Act, as amended (31 U.S.C. 846)."

The reasons for the foregoing recommendation are the following. 6 U.S.C. 14 is the most basic surety bonding provision requiring repeal. It requires the "head of each department and independent establishment in the executive branch of the Federal Government," in accord with regulations issued by the Secretary of the Treasury, to obtain surety bonds for those persons under his jurisdiction who are required to be bonded. 6 U.S.C. 14 is only permissive as to the legislative and judicial branches, and does not by its terms extend to wholly owned Government corporations. The Treasury's implementing regulations at 31 CFR Part 226 are drafted accordingly; 31 CFR 226.1(a) defines "agency" to mean departments and independent establishments in the executive branch, excluding Government corporations.

The exclusion of Government corporations was also based on an October 1955 opinion of Treasury General Counsel Scribner, after consideration of 6 U.S.C. 14 and of the legislative history of Public Law 323 of the 84th Congress on which that section is based, that Congress did not intend to bring Government corporations within the scope of the Public Law. Further, I am advised that the Steering Committee for the Joint Financial Management Improvement Program, under whose sponsorship the Secretary presented the proposed legislation to the Speaker in March 1971, had not contemplated that Government corporations be covered thereby.

We therefore believe that inclusion in the Committee print of the recommended definition is advisable, and might well avoid future confusion in the application of the bill once enacted.

There are several, more specific comments which we have to offer. They are:

1. Although this Office previously recommended to your Committee staff that the title of the remaining portion of title 6, United States Code, read "Title 6 -- Penal Bonds", we now believe that the better title would be "Title 6 -- Surety Bonds". Section 203(4) of the Committee print should be revised accordingly.

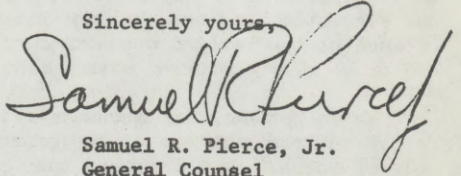
2. Section 230(c) of the print would repeal 26 U.S.C. 7103(e) relating to cross reference to provisions for personnel bonds. 26 U.S.C. 7103(e)(4) should not be repealed, but revised to read:

"(4) For bonds coming within the provisions of section 6802(2), relating to stamps furnished a designated depository of the United States, see section 6803(b)(1)."

This is so because 26 U.S.C. 6803(b)(1) is not being repealed, and also because 26 U.S.C. 6802(3), relating to the supply and distribution of internal revenue stamps to state agents, was repealed by section 601(d)(2) of Public Law 89-44, the Excise Tax Reduction Act of 1965.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,



Samuel R. Pierce, Jr.
General Counsel

COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-8201
B-59149

January 18, 1972

Dear Mr. Chairman:

Your letter of November 11, 1971, transmitted copies of Committee Print No. 2 of a bill entitled "A BILL To provide that the Federal Government shall assume the risks of its fidelity losses, and for other purposes," which would repeal the provisions of law requiring the bonding of Federal civilian and military personnel.

You state that the Committee print is a revision of H.R. 8084, which contained a broad provision repealing all statutes or parts of statutes providing for the bonding of civilian employees and military personnel of the Government, whereas the print lists in detail the statutes and parts of statutes to be repealed or amended. Your letter requests our comments on the Committee print, particularly as to whether any existing bonding provisions may have been omitted, and requests our view as to the propriety of including in the bill the repeal of several statutes pertaining to the bonding of personnel of wholly owned Government corporations.

The General Accounting Office for a number of years has advocated the elimination of all requirements for the fidelity bonding of personnel of the Government, either civilian or military. We submitted two reports to the Congress on the matter, B-8201, December 30, 1964, entitled "Potential Savings To Government If Bonding Of Federal Employees Is Discontinued," and B-8201, March 29, 1962, entitled "Review of Bonding Program for Employees of the Federal Government." These reports disclosed that since the enactment of the act of August 9, 1955, ch. 683, 69 Stat. 618, 6 U.S.C. 14, authorizing heads of executive agencies to obtain and pay the premiums for bonds for the

civilian officers and employees and military personnel of such agencies who are required by law or administrative ruling to be bonded, the costs of such premiums had far exceeded the claims filed against the sureties. In both of these reports, we recommended that, in furtherance of the Government's general policy of assuming its own insurable risks, the Congress enact legislation to repeal the mandatory requirements for fidelity bonding of Federal employees and require each agency to absorb any fidelity losses incurred. H.R. 11900, 87th Congress, was introduced in connection with the recommendation in our 1962 report, incorporating our suggested language, but no action was taken thereon, principally because of the belated opposition of the Post Office Department, which had originally concurred with our view.

We do not normally accumulate information showing the total amounts recovered from sureties or the expense of bonding premiums for accountable officers. We understand that recoveries from sureties are infrequent. The reports submitted to the Congress by the Secretary of the Treasury pursuant to 6 U.S.C. 14(c) show that, during the fourteen and one-half year period ended June 30, 1970, the premiums paid for fidelity bonds by the judicial, legislative, and executive branches of the Government amounted to about \$4.2 million and the administrative costs of the bonding program were about \$700,000, making a total cost of the program to the Government of about \$4.9 million. This total cost exceeded the approximately \$3 million of claims filed against the surety companies by about \$1.9 million, or an average excess cost of about \$130,000 per year.

We strongly support enactment of H.R. 8084, as revised by Committee Print No. 2 (subject to the technical changes suggested in the attachment hereto). Assumption of its fidelity losses would be consistent with the Government's traditional policy of assuming its own insurable risks and, moreover, the reports submitted to the Congress by the Secretary of the Treasury indicate that a saving would result from such assumption. Also, the Post Office Department, which had the largest number of bonded employees of any Government department or agency and was the sole objector to prior proposed legislation eliminating fidelity bonding, and its successor, the Postal Service, discontinued the bonding of all postal officials and employees during calendar year 1971.

We concur with the view expressed in your letter that, for the purposes of the present legislation, wholly owned Government corporations fall within the term "Federal Government" as that term is used in section 101 of the Committee print and that the bill as now written is applicable to such corporations. However, to obviate any question in the matter, we suggest that the following be inserted after the words "Federal Government" in section 101(a): "(which, for the purposes of this act, include wholly owned Government corporations)." Compare 5 U.S.C. 105, which provides that a Government corporation (defined by 5 U.S.C. 103 as a corporation owned or controlled by the Government of the United States) is an Executive agency for the purpose of title 5.

We are not aware of any bonding provisions contained in previously existing statutes which should be repealed but which have been omitted from the Committee print. We note, however, that the Committee print, in addition to the repeal of specific provisions of law, contains a general repealer provision in section 250.

Pursuant to the verbal request of a member of your Committee staff, we examined the provisions of S. 1483 as proposed in Conference Report, House Report No. 92-679, which would continue several organizations in the farmer-owned cooperative Farm Credit System and contains a number of provisions for the bonding of certain employees thereof. Both the Senate and the House of Representatives agreed to the Conference Report on December 10, 1971. S. 1483 was signed by the President on December 10, 1971, and is now Public Law 92-181. By its terms, it may be cited as the "Farm Credit Act of 1971."

Section 1.3 of Public Law 92-181 provides that the Federal land banks established pursuant to section 4 of the Federal Farm Loan Act, as amended, which are defined by 31 U.S.C. 856 as mixed-ownership Government corporations, shall continue as federally chartered instrumentalities of the United States. Section 1.4 provides that each Federal land bank shall be a body corporate and authorizes each such bank among other things, to require surety bonds of its employees or make other provision against losses occasioned by employees. However, section 1.5(b) provides that voting stock shall be held only by the Federal land bank associations and direct borrowers and borrowers through agents who are farmers or ranchers. While section 1.5(d) authorizes issuance of nonvoting stock to the Governor of the Farm Credit Administration, such issuance would render the banks at most mixed-ownership Government corporations. Hence, we do not believe such banks need be considered in connection with the Committee print.

Section 1.13 of Pub. L. 92-181 provides that each Federal land bank association chartered under section 7 of the Federal Farm Loan Act, as amended, shall continue as a federally chartered instrumentality of the United States, and that such an association may be organized by any group of ten or more persons desiring to borrow money from a Federal land bank. Section 1.15 provides that each such association shall be a body corporate and authorizes each such association, among other things, to require surety bonds from its employees or make other provision against losses occasioned by employees. However, section 1.16 provides that only borrowers from the bank shall become members and stockholders of the association. Hence, it appears that such associations are privately owned and need not be considered in connection with the Committee print.

Section 2.0 of Pub. L. 92-181 provides that the Federal intermediate credit banks established pursuant to section 201(a) of the Federal Farm Loan Act, as amended, which are defined by 31 U.S.C. 856 as mixed-ownership Government corporations, shall continue as federally chartered instrumentalities of the United States. Section 2.1 provides that each Federal intermediate credit bank shall be a body corporate and, among other things, authorizes each such bank to require surety bonds or make other provision against losses occasioned by employees. However, section 2.2(b) provides that voting stock of each bank shall be held only by the production credit associations. While section 2.2(d) authorizes issuance of nonvoting stock to the Governor of the Farm Credit Administration, such issuance would render such banks at most mixed-ownership Government corporations. Hence, we do not believe such banks need be considered in connection with the Committee print.

Section 2.10 of Pub. L. 92-181 provides that each production credit association chartered under section 20 of the Farm Credit Act of 1933, as amended, shall continue as a federally chartered instrumentality of the United States, and that such associations may be organized by ten or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money under the provisions of title II of the act. Section 2.12 of the act provides that each production credit association shall be a body corporate, and authorizes such associations, among other things, to require surety bonds or make other provisions against losses occasioned by employees. However, section 2.13(b) provides that voting stock may be purchased only by farmers and ranchers, or producers or harvesters of aquatic products, who are eligible to borrow from the association. While section 2.13(c) permits issuance of non-voting stock to the Governor of the Farm Credit Administration and to other investors, issuance of such stock to the Governor would render such associations at most mixed-ownership Government corporations. As such, we do not believe such associations need be considered in connection with the Committee print.

Section 3.0 of Pub. L. 92-181 provides that the banks for cooperatives established pursuant to sections 2 and 30 of the Farm Credit Act of 1933, as amended (including both the central and the regional banks), which are defined by 31 U.S.C. 856 as mixed-ownership Government corporations, shall continue as federally chartered instrumentalities of the United States. Section 3.1 provides that each bank for cooperatives shall be a body corporate, and authorizes each bank, among other things, to require surety bonds or make other provisions against losses occasioned by employees. However, section 3.3(c) provides that voting stock of the banks may be held only by cooperative associations eligible to borrow from the banks and other banks for cooperatives. While section 3.3(e) permits the Governor of the Farm Credit Administration to hold nonvoting investment stock, the holding of such stock by the Governor would at most render the banks mixed-ownership Government corporations. Hence, we do not believe such banks need be considered in connection with the Committee print.

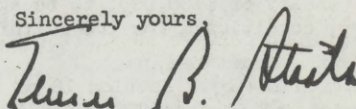
In this connection, section 4.0 of Pub. L. 92-181 authorizes the above-named institutions to issue stock which may be purchased by the Governor of the Farm Credit Administration on behalf of the United States as a temporary investment in the stock of the institution to help one or several of the banks or associations to meet emergency credit needs of borrowers. However, said section further provides that: "The ownership of such stock shall be deemed to not change the status of ownership of the banks or associations, but, during the time such stock is outstanding, the pertinent provisions of the Government Corporation Control Act shall be applicable." This provision firmly supports the view expressed above that the named associations need not be considered in connection with the Committee print. See also section 4.4(c), which provides that the United States shall not be liable or assume any liability directly or indirectly on any obligations of the banks of the System.

Section 5.7 of Pub. L. 92-181 provides that the Farm Credit Administration shall be an independent agency in the executive branch of the Government. Section 5.18(15) authorizes the Administration to: "Require surety bonds or other provision for protection of the assets of the in-

stitutions of the System against losses occasioned by employees." While the provision of section 5.7 would appear to bring the Administration within the meaning of "Federal Government" as that term is used in section 101(a) of the Committee print, it is our view that, inasmuch as the bonds provided for in section 5.18(15) of Pub. L. 92-181 are for the protection of the "institutions of the System" which, as indicated above, are not within the meaning of "Federal Government" as used in the Committee print, repeal of section 5.18(15) is not necessary to sustain the purpose of the Committee print.

Attached are some suggested technical or editorial changes which we believe should be considered by your committee in connection with the Committee print.

Sincerely yours,



Comptroller General
of the United States

Enclosure

The Honorable Thaddeus J. Dulski, Chairman
Committee on Post Office and Civil Service
House of Representatives

Technical or editorial changes suggested
for Committee Print No. 2 of H.R. 8084

Section 220(d). The Stat. citation for sections 4 and 5 of the act of October 1, 1890, proposed to be repealed by this section, should be inserted before (2 U.S.C. 82). Citation is: 26 Stat. 645, 646. Also, 2 U.S.C. 82 shows section 5 of the act entitled "An Act Making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for other purposes," approved March 2, 1895, ch. 177, 28 Stat. 807, as the source thereof, in addition to the statute cited in section 220(d). Consideration should be given to including the latter statute in said section.

Section 222(a). Suggest consideration be given to citing section 50 of the Bankruptcy Act (11 U.S.C. 78), in full as follows: Section 50 of the Act entitled "An Act To establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, ch. 541, 30 Stat. 558, as amended by section 1 of the Act entitled "An Act To amend an Act entitled 'An Act To establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, and Acts amendatory thereof and supplementary thereto; and to repeal section 76 thereof and all Acts and parts of Acts inconsistent therewith," approved June 22, 1938, ch. 575, 52 Stat. 863, 864.

Section 223(a). Proposes to strike out quoted language from Section 326 of the Revised Statutes referring to a \$100,000 bond of the Comptroller of the Currency. R.S. 326 was amended by section 1(d) of Pub. L. 86-251, approved September 9, 1959, 73 Stat. 488, to increase the amount of said bond to \$250,000. We suggest that the amending statute also be cited in section 223(a), and that the \$100,000 figure in the quoted language be replaced by \$250,000.

Section 223(b). Similarly, R.S. 327 was amended by section 1(a) of Pub. L. 86-251, approved September 9, 1959, 73 Stat. 487, to increase the bond referred to in section 223(b) from \$50,000 to \$100,000 and make other changes. We suggest that the amending statute also be cited in section 223(b), and that the quoted language to be stricken from R.S. 327 be changed to read: "and give the United States a surety bond in the penalty of \$100,000, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office."

Section 224(b). Section 10 of the Commodity Credit Corporation Charter Act, 62 Stat. 1073, which is proposed to be amended by this section, was amended by section 4 of the act entitled "An Act To amend the Commodity Credit Corporation Charter Act, and for other purposes," approved June 7, 1949, ch. 175, 63 Stat. 156, to read as it now appears in the U. S. Code, which is slightly different from the wording contained in section 224(b)(2). Since striking out only the language contained in the older act would presumably leave still in force and effect the wording in the later act, it is suggested that the amending act likewise be included in section 224(b) and the appropriate language thereof be stricken.

Section 227(a)(1). We suggest that the words "of the penalty" be included herein to be stricken from the first sentence of R.S. 1735.

Section 228(a). The bonding provision proposed to be stricken from 24 U.S.C. 43 by this section was not contained in R.S. 4816. It was enacted by section 7 of the act entitled "An Act Prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes," approved March 3, 1883, ch. 130, 22 Stat. 565. This section should be changed accordingly.

Section 228(b). There should be added to subsection (3) of this section the words "in the second sentence thereof."

Section 229(c)(1). This section refers to 25 U.S.C. 66. While the language in 25 U.S.C. 66 does appear in the act of April 21, 1904, 33 Stat. 190, 191, cited in the first paragraph of section 229(c), the United States Code attributes the source of section 66 to an act entitled "An Act Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and eight," approved March 1, 1907, 34 Stat. 1020, where the identical language again appears under the general heading "II. General Officers and Employees," and subheading "Indian Agents--Proviso." Inasmuch as striking out the language in the act of April 21, 1904, as proposed by section 229(c), apparently would still leave in full force and effect the identical language repeated in the later act of March 1, 1907, we suggest that the act of March 1, 1907, likewise be cited in section 229(c).

Section 231(aa). The proviso from which language is proposed to be stricken by this section originated in the act entitled "An Act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June thirtieth, nineteen hundred and nineteen," approved April 15, 1918, ch. 52, 40 Stat. 523, under the same heading, and the United States Code so indicates. Since striking out the language in the 1921 act as provided in section 231(aa) apparently would still leave in full force and effect the identical language enacted in the 1918 act, we suggest that the act of April 15, 1918, likewise be cited in section 231(aa).

Section 234. We suggest inserting after "(63 Stat. 352; 48 U.S.C. 1407c(i))" the words "as amended by section 2 of Pub. L. 85-913, approved September 2, 1958, 72 Stat. 1759,". Also, we suggest changing section 234(1) by replacing "to fix and pay" with "without regard to the provisions of any other law,".

NINETY-SECOND CONGRESS

WAYNE L. HAYS, OHIO, CHAIRMAN

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JOHN T. WALKER, STAFF DIRECTOR

Congress of the United States

House of Representatives

COMMITTEE ON HOUSE ADMINISTRATION

SUITE H-326, U.S. CAPITOL

Washington, D.C. 20515

July 16, 1971

Honorable Thaddeus J. Dulski
 Chairman, Committee on Post
 Office and Civil Service
 U. S. House of Representatives
 207 Cannon House Office Building
 Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your letter requesting comments on Committee Print No. 8 and H. R. 8084, relating to a proposal to repeal the statutes requiring bonding of Federal civilian and military personnel.

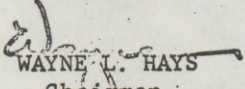
We have studied the material you transmitted and note that in addition to repealing the bonding requirements indicated, the Bill also establishes a self insurance program for the Government's fidelity losses.

The "Statement Showing Bonds in Force as of June 30, 1970," published on page 8 of the print, does not reflect the bonds currently in effect in the House Restaurants. As of June 30, 1970, the House Restaurants held one position schedule bond covering 45 employees which was purchased at an annual premium rate of \$222.00. It is suggested that this information be inserted in the Statement as part of the caption of the House of Representatives.

I have reviewed H. R. 8084 and, subject to the foregoing comments, concur with the objectives and contents of the Bill.

With kind personal regards, I am

Very sincerely yours,


 WAYNE L. HAYS
 Chairman

Office of the Clerk
U. S. House of Representatives
Washington, D. C. 20515

June 8, 1971

Honorable Thaddeus J. Dulski
Chairman
Committee on Post Office
and Civil Service
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

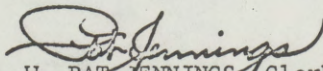
This is in reply to your letter of May 20, 1971 requesting comments on Committee Print No. 8 and H.R. 8084, a proposal to repeal the statutes requiring bonding of Federal civilian and military personnel.

The Clerk of the House has examined Committee Print No. 8 and H.R. 8084 and notes that Bill would repeal the requirements for "surety bonds" but has no effect on other forms of prescribed or existing insurance coverage. The Statement Showing Bonds in Force as of June 30, 1970 does not reflect the surety bonds procured by the Clerk and in force as of that date. The attached statistics reflect the surety coverage procured by the Clerk and in force as of June 30, 1970 and are keyed to the Chart on Page 8 of the Report for insertion under and as part of the caption on the House of Representatives.

The Clerk has reviewed H.R. 8084 and subject to the foregoing comments concurs with the purposes of the proposal and contents of the Bill.

With kindest regards, I am

Sincerely,



W. PAT JENNINGS, Clerk
U. S. House of Representatives

Attachment

SURETY BONDS OF THE CLERK OF THE HOUSE
IN FORCE AS OF JUNE 30, 1970

	<u>POSITION SCHEDULE BONDS</u>				<u>BLANKET BONDS</u>				<u>INDIVIDUAL BONDS</u>				<u>TOTALS</u>			
	NUMBER OF BONDS	NUMBER OF EMPLOYEES	ANNUAL PREMIUM RATE		NUMBER OF BONDS	NUMBER OF EMPLOYEES	ANNUAL PREMIUM RATE		NUMBER OF BONDS	NUMBER OF EMPLOYEES	ANNUAL PREMIUM RATE		NUMBER OF BONDS	NUMBER OF EMPLOYEES	ANNUAL PREMIUM RATE	AGGREGATE PENAL AMOUNTS
Clerk of the House													1	1	\$ 27.00	\$ 20,000
Clerk's Personnel					1	157	\$904.50						1	157	\$904.50	\$7,850,000
Director of Recording Studio	1	1	\$37.50										1	1	\$ 37.50	\$ 20,000
House Post Office Personnel					1	4	\$130.00						1	4	\$130.00	\$ 64,000
Total Clerk	1	1	\$37.50		2	161	\$1034.50		1	1	\$27.00		4	163	\$1099.00	\$7,954,000

ZEAKE W. JOHNSON, JR.
SERGEANT AT ARMS

U.S. House of Representatives
Office of the Sergeant at Arms
Washington, D.C. 20515

June 2, 1971

Honorable Thaddeus J. Dulski, Chairman
Committee on Post Office and Civil Service
U. S. House of Representatives
Washington, D. C.

Dear Mr. Chairman:

Thank you for your letter of May 20, 1971 requesting my comments on H.R. 8084 which proposes the discontinuance of fidelity bonding for government employees.

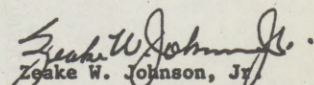
I concur with the objectives of the proposed legislation, because my own operation has shown that such bonding is not necessary. Because of the infrequencies of such losses, I think it would be in the government's interest to self insure itself against such losses.

Because we have large amounts of cash on hand (at times in excess of \$300,000), I would like to request that 2 U.S.C. 81c granting me the authority to insure these funds against robbery on site and in transit be left in effect.

Thank you for advising me of this pending legislation.

With warm personal regards, I am

Sincerely,


Zeake W. Johnson, Jr.
Sergeant at Arms

UNITED STATES GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20401

Received 7-23-71

Mr. John H. Martiny
Chief Counsel
Committee on Post Office and
Civil Service
207 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Martiny:

Thank you for giving me the opportunity to comment on H.R. 8084, a bill to provide that the Federal Government shall assume the risks of its fidelity losses. I favor the enactment of this bill.

Section 4 of the bill repeals section 14 of title 6, United States Code, and all statutes or parts of statutes providing for the bonding of civilian employees and military personnel of the Federal Government. The attachment to your letter outlining the changes to title 44, United States Code, necessary to fulfill the provisions of the bill has been carefully reviewed and appears to cover all of the sections of that title which require the bonding of Government Printing Office employees.

If I can be of any further service, please do not hesitate to call upon me.

Sincerely,

H. J. Humphrey

H. J. Humphrey
Acting Public Printer

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON, D.C. 20544

ROWLAND F. KIRKS
DIRECTOR

WILLIAM E. FOLEY
DEPUTY DIRECTOR

November 17, 1971

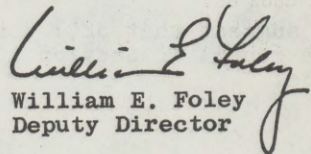
Honorable Thaddeus J. Dulski
Chairman, Committee on Post Office
and Civil Service
House Office Building
Washington, D. C.

Dear Congressman Dulski:

This is in further reference to your letter of May 20, 1971, transmitting for comment a copy of H. R. 8084, a bill to provide that the Federal Government shall assume the risks of its fidelity losses.

The Judicial Conference of the United States at its session on October 28-29, 1971, considered the proposed legislation and voted its approval thereof.

Sincerely,


William E. Foley
Deputy Director



DEPARTMENT OF STATE

Washington, D.C. 20520

May 26, 1971

Honorable Thaddeus J. Dulski, Chairman
Committee on Post Office and
Civil Service
House of Representatives

Dear Mr. Chairman:

Thank you for your letter dated May 4, 1971, giving us the opportunity to comment on the proposal by the Secretary of the Treasury to repeal certain statutes requiring the bonding of Federal civilian and military personnel.

We concur with the legislative change proposed by the Treasury Department as presented in Committee Print No. 8.

At the present time we have a blanket bond, executed in accordance with the provisions of Public Law 84-323, which covers all employees of the Department of State and the Agency for International Development. Personnel include those appointed under the provisions of the Foreign Service Act of 1946, and bonded in accordance with Section 1011 of the Act.

We suggest that SEC. 4 of the proposed Bill also include the repeal of Section 1011 of Title 22, United States Code.

Sincerely yours,

A handwritten signature in cursive script, reading "David Abshire".

David M. Abshire
Assistant Secretary for
Congressional Relations



DEPARTMENT OF THE ARMY
OFFICE OF THE SECRETARY OF THE ARMY
WASHINGTON, D.C. 20310



Honorable Thaddeus J. Dulski
Chairman, Committee on Post Office and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your inquiry concerning Department of the Army views on the proposal to repeal certain statutes requiring the bonding of Federal civilian and military personnel.

Presently a Department of the Army - Department of Defense Position Schedule Bond is procured for all individuals filling an Army position for which surety protection is or may be required. Commanders assure that each designee to a bonded position is eligible to fill the position. The bond is solely in favor of the United States as obligee and is conditioned upon the faithful performance by the bonded individuals of their duties. All installation and activity commanders maintain a record of all individuals occupying positions under their jurisdiction covered by the position schedule bond. These records consist of orders appointing individuals to positions covered by the bond, orders terminating such appointments, and any other records necessary to establish the identity of an individual serving in a bonded position. An annual report is required to obtain new bond coverage, and for the preparation of a comprehensive report to be furnished the Secretary of the Treasury for inclusion in the annual report which must be submitted to Congress.

The Department of the Army has not established a position on this in accordance with the policies of the Office of Management and Budget procedures. However, it appears, insofar as the Department of the Army is concerned, that enactment of this legislation would result in savings to the Department of the Army by eliminating the cost of bonds and the burdensome procedures to administer the bonding program.

I hope this information has been of assistance to you.

Sincerely,

Hugh J. Clausen
HUGH J. CLAUSEN
Colonel, GS

Chief, Legislative Division
Office of the Chief of
Legislative Liaison



DEPARTMENT OF THE NAVY
OFFICE OF THE COMPTROLLER
WASHINGTON, D. C. 20350

IN REPLY REFER TO

MAY 14 1971

Honorable Thaddeus J. Dulski
Chairman, Committee on
Post Office and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

The Secretary of the Navy has asked me to reply to your letter of May 5, 1971, with respect to the Navy position on the proposal included in a Committee Print, "Federal Employee Bonding Requirements." The Print proposes legislation to provide that the Federal Government assume the risks of its fidelity losses.

The Department of the Navy has, in the past, consistently supported proposed legislation brought before it for comment and designed to achieve the objective proposed by the Secretary of the Treasury in the Committee Print. The Department's experience with respect to the mandatory bonding of certain of its personnel bears out the views of the Secretary of the Treasury that repeal of the statutory requirement would result in savings to the Government because bond premiums and related administrative costs consistently exceed amounts recovered from surety companies. For the three-year period ending December 31, 1970, the total cost to the Navy was \$92,163; premiums \$36,242, administrative costs \$55,921. The total recoveries from the insurers for that period were only \$13,197.

I trust that the information supplied above will meet your requirements.

Sincerely yours,

V. A. LASCARA
REAR ADMIRAL SC USN
ASSISTANT COMPTROLLER,
FINANCIAL MANAGEMENT SERVICES



THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

June 22, 1971

Honorable Thaddeus J. Dulski
Chairman, Committee on Post
Office and Civil Service
House of Representatives
Washington, D. C. 20515

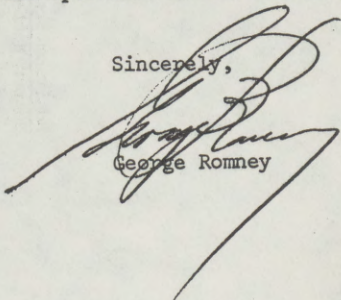
Dear Mr. Chairman:

We have reviewed the committee print of the proposal by the Secretary of the Treasury to repeal certain statutes requiring the bonding of Federal civilian and military personnel. We are entirely in agreement with the proposal and the basic principle that the Government should assume the risks of its fidelity losses.

The amount of the fidelity bond in many instances is obviously negligible compared to the number of dollars which are exposed to potential loss. For example, the certifying officers in HUD are bonded for \$5,000 each. However, the certification of a single letter of credit can authorize disbursements of millions of dollars. We have carefully established and depend upon adequate internal controls, rather than fidelity bonding, as a means of assuring that the Federal Government's assets are properly protected from potential fidelity loss.

The fidelity losses of HUD and its predecessor agencies have been so small that such losses are almost nonexistent. There have been no claims for losses filed in over five years. We, therefore, believe that there is no need for purchasing fidelity bonding, and fully endorse the proposal of the Secretary of the Treasury. Enclosed is the brief report you requested on the operation of our fidelity bonding program.

Sincerely,


George Romney

Enclosure

STATEMENT SHOWING BONDS IN FORCE AND LOSSES

FOR THE PERIOD JUNE 30, 1966 THROUGH JUNE 30, 1970

PROCURED UNDER ACT OF AUGUST 9, 1955

	Position Schedule Bonds			Blanket Bonds			T O T A L S			Losses Covered By Surety Bonds	
	Number of Bonds	Number of Employees	Annual Premium Rate	Number of Bonds	Number of Employees	Annual Premium Rate	Number of Bonds	Number of Employees	Annual Premium Rate		
FY Ended June 30, 1966	2	133	\$ 50.	1	8,828	\$ 616.	3	8,961	\$ 666.	\$26,449,400.	-0-
FY Ended June 30, 1967	1	149	39.	1	8,828	616.	2	8,977	655.	26,465,900.	-0-
FY Ended June 30, 1968	1	109	80.	1	8,441	760.	2	8,550	840.	25,363,400.	-0-
FY Ended June 30, 1969	1	119	80.	1	8,441	760.	2	8,560	840.	25,410,400.	-0-
FY Ended June 30, 1970	1	123	155.	1	8,225	1,525.	2	8,348	1,680.	24,839,400.	-0-



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

June 29 1971

Honorable Thaddeus J. Dulski
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in reply to your letter of May 4, 1971, requesting our views and the justification of our position on "Federal Employee Bonding Requirements," a proposal by the Secretary of the Treasury to repeal certain statutes requiring the bonding of Federal civilian and military personnel.

The Department concurs in the proposal submitted by the Secretary of the Treasury.

We have a single position schedule bond covering every employee of the Department whose duties require him to receive, handle, or have custody of public funds or remittances. Each employee is bonded in a sufficient amount to protect the United States against loss.

The premium cost, covering 13,499 employees bonded for the period January 1, 1970 to December 31, 1971, is \$56,927.00.

For the period January 1, 1956 to June 30, 1970, we filed claims against sureties for \$83,954.16 and recovered \$51,296.75. During this same period, we paid over \$200,000 in premium costs. In addition, administrative costs for surety bond procurement and related operations, including expenses of handling, examining, filing, maintaining records and correspondence average about \$900 per year. The difference between recoveries and losses plus administrative costs indicates we could realize substantial savings if we were not required to bond these employees.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in dark ink, reading "Frank B. Elliott", is written over a light blue horizontal line.

Frank B. Elliott
Assistant Secretary
for Administration



LAW DEPARTMENT
Washington, DC 20260

JUL 28 1971

Dear Mr. Chairman:

This is in response to your request for the views of the Postal Service on a Committee Print, "Federal Employee Bonding Requirements", a proposal by the Secretary of the Treasury to repeal certain statutes requiring the bonding of Federal civilian and military personnel.

The proposal of the Secretary of the Treasury would repeal section 14 of title 6, United States Code, and all statutes or parts of statutes providing for the bonding of civilian employees and military personnel of the Federal Government. In place of these surety bonds the proposal would establish a self-insurance program for the Government's fidelity losses by permitting agencies to charge their appropriations for such losses. Such a program would result in savings to the Government, since bond premiums have consistently exceeded amounts recovered from surety companies.

Section 502 of former title 39, United States Code, required postmasters, acting postmasters, and other officers and employees designated by the Postmaster General, to be bonded in accordance with 6 USC 14. Consistent with the statute, all postal employees were covered by a blanket surety bond prior to December 31, 1970. On December 31 the Postal Service cancelled this bond. The Postal Service then entered into a new bond on January 1, 1971, covering certifying officers, postmasters, acting postmasters, and officers in charge at first, second, third, and fourth class offices. The new bond covered the period January 1, 1971 to June 30, 1971 and contained an option to renew by June 15, 1971.

The Postal Reorganization Act, Public Law 91-375, did not reenact the provisions of former 39 USC 502. Thus, upon commencement of operations of the Postal Service on July 1, 1971, the Postal Service was no longer bound by the bonding requirements of former section 502.

We allowed the surety bond described above to lapse on June 30, 1971, and we are making appropriate corresponding revisions in our regulations. Accordingly, for any fidelity losses occurring after June 30, 1971, the Postal Service will act as its own insurer.

With regard to the proposal of the Secretary of the Treasury we are in accord with its objectives and are putting its principles into effect with regard to postal employees. However, because of the Postal Reorganization Act and in particular section 410(a) of new title 39, which became effective on April 13, 1971, we believe that the Postal Service is no longer subject to the provisions of 6 USC 14.

Accordingly, the Secretary of the Treasury's proposal, which deals with bonding requirements under 6 USC 14, would not affect the Postal Service.

Prior to submitting this report to the Committee, we asked the Office of Management and Budget for its comments on the draft report. That Office made no comment adverse to the report, as drafted.

Sincerely,

David A. Nelson
Senior Assistant Postmaster General
General Counsel

Louis A. Cox

Honorable Thaddeus J. Dulski
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D. C. 20515

By: Louis A. Cox
Deputy General Counsel

LAW DEPARTMENT
Washington, DC 20260

JAN 27 1972

Honorable Thaddeus J. Dulski
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D. C. 20515



Dear Mr. Chairman:

This is in response to your request for the views of the Postal Service on Committee Print No. 2, a revision of a bill, H. R. 8084, to provide that the Federal Government assume the risk of its fidelity losses, and for other purposes.

As we advised you in our letter of July 28, 1971, commenting on the Secretary of the Treasury's proposal to repeal 6 U.S.C. 14, the Postal Service, which has been acting under the authority of the Postal Reorganization Act as its own insurer for fidelity losses after June 30, 1971, is in favor of the purposes both of the Secretary's proposal, and of the Committee Print, which grew out of that proposal. Since, however, by virtue of the Act, the Postal Service would not be affected by the Committee Print if it were enacted, we defer to the views of Congress and the agencies of the Government which would be affected thereby as to the wisdom of its enactment.

You ask whether the Postal Service knows of any bonding provision not in the Committee Print which should be repealed, and whether the second clause of section 6803(a)(1) of title 26 should be reenacted as provided by section 230(a) of the Committee Print.

We are not aware that the Committee Print omits any bonding provision which should be repealed. We also share your doubts about the wisdom of reenacting the second clause of section 6803(a)(1) of title 26. In our opinion, that provision no longer applies to the exercise of the powers of the Postal Service, in view of section 410(a) of title 39. The Postal Service has authority under the Postal Reorganization Act to direct its employees in the discharge of their official duties and to enter into appropriate agreements with other agencies relating to services rendered to the latter by the Postal Service. 39 U.S.C. 401, 411, 1001(e). Because of these and other provisions of the Postal Reorganization Act, section 6803(a) is no longer necessary, appropriate, or applicable to the Postal Service, and it should either be left as it is or, more preferably, repealed in its entirety.

By

Solicitor

Sincerely,

Louis A. Cox
General Counsel

92^d CONGRESS
1ST SESSION

H. R. 13150

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1972

Mr. DULSKI (for himself and Mr. HENDERSON) introduced the following bill;
which was referred to the Committee on Post Office and Civil Service

A BILL

To provide that the Federal Government shall assume the risks of its fidelity losses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—ELIMINATION OF SURETY BONDS FOR
4 FEDERAL CIVILIAN AND MILITARY PER-
5 SONNEL

6 ELIMINATION OF FEDERAL PERSONNEL SURETY BONDS

7 SEC. 101. (a) No agency of the Federal Government
8 may require or obtain surety bonds for its civilian employees
9 or military personnel in connection with the performance of
10 their official duties.

1 (b) The personal financial liability to the Federal Gov-
 2 ernment of such employees and personnel shall not be
 3 affected by reason of subsection (a) of this section.

4 (c) For the purposes of this title, the term "agency of
 5 the Federal Government" means any agency, department,
 6 or other entity of the legislative, executive, and judicial
 7 branches of the Government of the United States, and in-
 8 cludes each entity listed as a "wholly owned Government
 9 corporation" in section 101 of the Government Corporation
 10 Control Act (31 U.S.C. 846).

11 RESTORATIONS AND ADJUSTMENTS OF ACCOUNTS OF AC-
 12 COUNTABLE OFFICERS AND AGENTS FOR LOSSES TO THE
 13 UNITED STATES

14 SEC. 102. (a) Whenever—

15 (1) it is necessary to restore or otherwise adjust
 16 the account of any accountable officer or his agent for
 17 any loss to the United States due to the fault or negli-
 18 gence of such officer or agent, and

19 (2) the head of the agency of the Federal Govern-
 20 ment concerned determines that the amount of the loss
 21 is uncollectable,

22 such amount shall be charged to the appropriation or fund
 23 available for the expenses of the accountable function at the
 24 time the restoration or adjustment is made. Such restoration

1 or adjustment shall not affect the personal financial liability
2 of such officer or agent on account of such loss.

3 (b) The restorations and adjustments provided for by
4 subsection (a) of this section shall be made in accord-
5 ance with regulations which the Comptroller General of the
6 United States shall prescribe and issue.

7 REPORTS OF SECRETARY OF THE TREASURY

8 SEC. 103. (a) For each of the first five full fiscal
9 years following the date of enactment of this Act, the
10 Secretary of the Treasury shall transmit to the Congress,
11 on or before the 31st day of December first following the
12 close of such fiscal year, a report of the experience of agencies
13 of the executive branch under this Act in such form as may
14 be necessary to enable the Congress to determine the results
15 of operations under this Act.

16 (b) Each agency of the executive branch shall furnish to
17 the Secretary of the Treasury such information as the Secre-
18 tary may require to carry out the purposes of subsection
19 (a) of this section.

20 EXISTING SURETY BONDS AND LIABILITIES

21 SEC. 104. Each surety bond procured before the date
22 of enactment of this Act for any of the civilian employees
23 or military personnel of the Federal Government and in
24 effect on such date shall remain in full force and effect
25 for all periods provided in the bond subject to the can-

cellation and other provisions therein. Any change made by this Act in existing law shall not affect—

(1) any liability of a surety to the Federal Government arising under the provisions of any such bond;

(2) any responsibility of a surety upon any such bond of a consular officer under former section 1735 of the Revised Statutes (22 U.S.C. 1199); or

(3) the jurisdiction of the United States district courts, concurrently with the courts of the several States, over any action brought on any such bond of an internal revenue officer or employee.

TITLE II—CHANGES IN EXISTING LAW

PART 1—CHANGES IN TITLES OF THE UNITED STATES

CODE ENACTED AS POSITIVE LAW

TITLE 3, UNITED STATES CODE

SEC. 201. The first sentence of section 109 of title 3, United States Code, relating to the bond required of the employee placed in charge of certain property in the Executive Mansion, is amended by striking out “, and shall, before entering upon the duties of the office, give bond for the faithful discharge thereof, said bond to be in the sum of \$10,000, and to be approved by the Director of the National Park Service”.

TITLE 5, UNITED STATES CODE

SEC. 202. Section 5512 (b) of title 5, United States Code, is amended by striking out “and his sureties”.

1 TITLE 6, UNITED STATES CODE

2 SEC. 203. Title 6, United States Code, relating to offi-
3 cial and penal bonds, is modified as follows:

4 (1) sections 1, 2, 3, 4, 5, and 14 are repealed;

5 (2) the last sentence of section 6 is amended by
6 striking out "Except with respect to bonds obtained
7 under section 14 of this title, no" and inserting in lieu
8 thereof the word "No";

9 (3) the table of sections of such title is amended
10 by striking out the items relating to sections 1, 2, 3,
11 4, 5, and 14; and

12 (4) the title of such title 6 which reads "Title 6—
13 Official and Penal Bonds" is amended to read "Title 6—
14 Surety Bonds".

15 TITLE 10, UNITED STATES CODE

16 SEC. 204. (a) Section 4834, relating to fidelity bonds
17 of commissioned officers of the Quartermaster Corps, United
18 States Army, and section 6026, relating to bonds of officers
19 in the Supply Corps, United States Navy, of title 10, United
20 States Code, are repealed.

21 (b) The table of sections of chapter 453 of such title 10
22 is amended by striking out—

"4834. Fidelity bonds: accountable officers; Quartermaster Corps."

23 (c) The table of sections of chapter 555 of such title
24 10 is amended by striking out—

"6026. Supply Corps officers: bonds."

1 TITLE 17, UNITED STATES CODE

2 SEC. 205. (a) Section 204 of title 17, United States
3 Code, relating to the bond required of the Register of Copy-
4 rights, Library of Congress, is repealed.

5 (b) The table of sections of chapter 3 of such title 17
6 is amended by striking out—

"204. Same; bond."

7 TITLE 28, UNITED STATES CODE

8 SEC. 206. (a) (1) Section 564 of title 28, United States
9 Code, relating to the bonds of United States marshals, is
10 repealed.

11 (2) The table of sections of chapter 37 of such title 28
12 is amended by striking out—

"564. Bond."

13 (b) Section 566 of title 28, United States Code, relat-
14 ing to the default or misfeasance of a deputy in connection
15 with the bond of a deceased United States marshal, is
16 amended—

17 (1) by striking out "(a)"; and

18 (2) by striking out subsection (b) thereof.

19 (c) Section 671 (b) of title 28, United States Code, re-
20 lating to the bond of the Clerk of the Supreme Court, is re-
21 pealed.

22 (d) The last sentence of section 674 (d) of title 28,

1 United States Code, relating to the bond of the librarian of
2 the Supreme Court, is repealed.

3 (e) (1) Section 952 of title 28, United States Code,
4 relating to the bonds of clerks and deputies of Federal
5 courts other than the Supreme Court, is repealed.

6 (2) The table of sections of chapter 57 of such title 28
7 is amended by striking out—

“952. Bonds of clerks and deputies.”.

8 (f) (1) The second paragraph of section 954 of title 28,
9 United States Code, relating to the default or misfeasance
10 of a deputy in connection with the bond of a deceased clerk
11 of a Federal court, is repealed.

12 (2) The section heading of such section 954, and the
13 item relating to such section 954 in the table of sections of
14 chapter 57 of such title 28, each is amended by striking out
15 “and remedies against”.

16 **TITLE 32, UNITED STATES CODE**

17 SEC. 207. Section 708 (b) (1) of title 32, United States
18 Code, relating to the bond required of property and fiscal
19 officers of the National Guard, is repealed.

20 **TITLE 35, UNITED STATES CODE**

21 SEC. 208. (a) Section 5 of title 35, United States Code,
22 relating to the bond required of the Commissioner of Patents
23 and other officers of the Department of Commerce, is
24 repealed.

1 (b) The table of sections of chapter 1 of such title 35
2 is amended by striking out—

“5. Bond of Commissioner and other officers.”.

3 TITLE 38, UNITED STATES CODE

4 SEC. 209. Section 4204 (4) of title 38, United States
5 Code, relating to fidelity bonds of employees of the Veterans’
6 Canteen Service, is amended by striking out “and premiums
7 on fidelity bonds of employees”.

8 TITLE 44, UNITED STATES CODE

9 SEC. 210. (a) (1) The last sentence of section 301 of
10 title 44, United States Code, relating to the bond of the
11 Public Printer, is repealed.

12 (2) The section heading of such section 301 is amended
13 by striking out “; bond”.

14 (3) The item relating to section 301 in the table of
15 sections of chapter 3 of such title 44 is amended by striking
16 out “; bond”.

17 (b) Section 308 (b) of title 44, United States Code, re-
18 lating to the bond of a disbursing officer of the Government
19 Printing Office, is amended—

20 (1) by striking out in the first sentence “, his
21 estate, or the surety on his official bond,” and in-
22 serting in lieu thereof “or his estate”; and

23 (2) by striking out in the second sentence “and

1 the sureties upon his bond are” and inserting in lieu
2 thereof “is”.

3 PART 2—CHANGES IN PROVISIONS OF LAW CONTAINED
4 IN TITLES OF THE UNITED STATES CODE NOT EN-
5 ACTED AS POSITIVE LAW

6 TITLE 2, UNITED STATES CODE

7 SEC. 220. (a) Section 57 of the Revised Statutes (2
8 U.S.C. 65), relating to the bond of the Secretary of the
9 Senate, is repealed.

10 (b) Section 58 of the Revised Statutes (2 U.S.C. 75),
11 relating to the bond of the Clerk of the House of Representa-
12 tives, is repealed.

13 (c) Section 59 of the Revised Statutes (2 U.S.C. 65
14 and 75), relating to the depositing of the bonds of the Secre-
15 tary of the Senate and the Clerk of the House of Representa-
16 tives, is repealed.

17 (d) Sections 4 and 5 of the Act entitled “An Act defin-
18 ing certain duties of the Sergeant at Arms of the House of
19 Representatives, and for other purposes”, approved Octo-
20 ber 1, 1890 (26 Stat. 645, 646; 2 U.S.C. 82), relating to
21 the bond of the Sergeant at Arms of the House of Represent-
22 atives, is repealed.

23 (e) Section 5 of the Act entitled “An Act making ap-
24 propriations for the legislative, executive, and judicial ex-
25 penses of the Government for the fiscal year ending June

1 thirtieth, eighteen hundred and ninety-six, and for other
2 purposes", approved March 2, 1895 (28 Stat. 897, 2 U.S.C.
3 82), is amended by striking out the second, third, and fourth
4 paragraphs.

5 (f) The last sentence in the fourth paragraph under
6 the center heading "Library of Congress" and with the side
7 heading "Custody, Care, and Maintenance of Library Build-
8 ing and Grounds" in the first section of the Act entitled "An
9 Act making appropriations for the legislative, executive, and
10 judicial expenses of the Government for the fiscal year end-
11 ing June thirtieth, eighteen hundred and ninety-eight, and
12 for other purposes", approved February 19, 1897 (29 Stat.
13 546; 2 U.S.C. 136, second sentence), relating to the bond
14 of the Librarian of Congress, is repealed.

15 (g) The last paragraph under the heading "Senate" in
16 the First Deficiency Act, fiscal year 1926 (84 Stat. 810;
17 2 U.S.C. 64a), relating to the bond of the Financial Clerk
18 of the Senate in case of the death, resignation, or disability
19 of the Secretary of the Senate, is amended by striking out
20 " , under his bond as Financial Clerk, ".

21 (h) That part of the Act entitled "An Act to abolish
22 the office of administrative assistant and disbursing officer in
23 the Library of Congress and to reassign the duties thereof",
24 approved May 11, 1928 (45 Stat. 497; 2 U.S.C. 142a),
25 which reads " : *Provided*, That the person who shall disburse

1 the appropriations for the Library of Congress and the Bo-
 2 tanic Garden shall give bond payable to the United States
 3 in the sum of \$30,000, with sureties approved by the Secre-
 4 tary of the Treasury for the faithful discharge of his duties",
 5 is repealed.

6 (i) Section 7 of the Legislative Branch Appropriation
 7 Act, 1943 (56 Stat. 350; 2 U.S.C. 75a), relating to the
 8 bond of the Clerk of the House of Representatives and the
 9 disbursing clerk of the House, is amended—

10 (1) by striking out in the third sentence " , his
 11 estate, or the sureties on his official bond," and insert-
 12 ing in lieu thereof "or his estate";

13 (2) by striking out in such third sentence "but
 14 such disbursing clerk and his sureties shall be re-
 15 sponsible therefor under their bond" and inserting in
 16 lieu thereof "but such disbursing clerk shall be responsi-
 17 ble therefor"; and

18 (3) by striking out the last two sentences which
 19 read as follows:

20 "The bond for the disbursing clerk of the House of Repre-
 21 sentatives shall be in the same amount as the bond required
 22 of the Clerk of the House of Representatives. The Secre-
 23 tary of the Treasury may, from time to time, require such
 24 disbursing clerk to renew his bond to the United States."

25 (j) Section 105(n) of the Legislative Branch Appro-

1 priation Act, 1957 (70 Stat. 372; 2 U.S.C. 123b (n)), re-
 2 lating to the bonds of the Director of the House Recording
 3 Studio and the Director of the Senate Recording Studio, is
 4 repealed.

5 (k) Clause (2) of that part of the first section, preced-
 6 ing the first proviso in that section, of the Act entitled "An
 7 Act to fix the responsibilities of certifying officers and dis-
 8 bursing officer of the Library of Congress", approved June
 9 13, 1957 (71 Stat. 81; 2 U.S.C. 142b) , which reads "(2)
 10 be required to give bond to the United States, with good and
 11 sufficient surety approved by the Secretary of the Treas-
 12 ury, in such amount as may be determined by the Librarian
 13 of Congress, pursuant to standards prescribed by the Secre-
 14 tary of the Treasury, and under such conditions as may be
 15 prescribed by the Secretary of the Treasury;" , is repealed.

16 TITLE 7, UNITED STATES CODE

17 SEC. 221. (a) Section 524 of the Revised Statutes (7
 18 U.S.C. 2216) , relating to the bond of the chief clerk of the
 19 Department of Agriculture, is repealed.

20 (b) Section 507 (a) of the Federal Crop Insurance Act
 21 (52 Stat. 73; 7 U.S.C. 1507 (a)) , relating to the personnel
 22 of the Federal Crop Insurance Corporation, is amended—

23 (1) by inserting "and" immediately before "dele-
 24 gate"; and

25 (2) by striking out " , require bond of such of them

1 as he may designate, and fix the penalties and pay the
2 premiums of such bonds”.

3 TITLE 11, UNITED STATES CODE

4 SEC. 222. (a) Section 50 of the Bankruptcy Act (30
5 Stat 558; 11 U.S.C. 78), relating to the bonds of referees,
6 receivers, and trustees, is amended—

7 (1) by striking out subsection (a), relating to the
8 bonds of referees;

9 (2) by striking out “referees,” in subsection (g);

10 (3) by striking out “referees,” in subsection (h);

11 (4) by striking out “referee,” in subsection (k);

12 and

13 (5) by striking out subsection (l), relating to the
14 period during which proceedings may be brought upon
15 referees’ bonds.

16 (b) Notwithstanding the amendment made by subsec-
17 tion (a) (5) of this section, proceedings upon referees’ bonds
18 procured before the date of enactment of this Act and in
19 effect on such date may be brought at any time during the
20 period ending two years after the alleged breach of the bond,
21 but not thereafter.

22 TITLE 12, UNITED STATES CODE

23 SEC. 223. (a) Section 326 of the Revised Statutes (12
24 U.S.C. 3), relating to the oath and bond of the Comptroller
25 of the Currency, is amended by striking out “; and he shall

1 give to the United States a bond in the penalty of \$250,000,
2 with not less than two responsible sureties, to be approved
3 by the Secretary of the Treasury, conditioned for the faith-
4 ful discharge of the duties of his office”.

5 (b) Section 327 of the Revised Statutes (12 U.S.C. 4),
6 relating to the Deputy Comptroller of the Currency, is
7 amended by striking out “, and give the United States a
8 surety bond in the penalty of \$100,000, to be approved by
9 the Secretary of the Treasury, conditioned for the faithful
10 discharge of the duties of his office,”.

11 (c) Section 309(d) of the National Housing Act
12 (68 Stat. 621; 12 U.S.C. 1723a(d)), relating to the
13 personnel of the Government National Mortgage Association,
14 is amended by striking out “Bonds may be required for the
15 faithful performance of their duties, and the Association
16 may pay the premiums therefor.”.

17 TITLE 15, UNITED STATES CODE

18 SEC. 224. (a) Section 5(a) of the Small Business Act
19 (72 Stat. 385; 15 U.S.C. 634(a)), relating to the general
20 powers of the Small Business Administration, is amended by
21 striking out “to provide bonds for them in such amounts as
22 the Administrator shall determine;”.

23 (b) Section 10 of the Commodity Credit Corporation
24 Charter Act (62 Stat. 1073; 15 U.S.C. 714h), relating to

1 the executive staff of the Commodity Credit Corporation, is
2 amended by striking out—

3 (1) “, require that such of them as he may desig-
4 nate be bonded and fix the penalties therefor”; and

5 (2) “The Corporation may pay the premium of any
6 bond or bonds.”

7 TITLE 16, UNITED STATES CODE

8 SEC. 225. (a) Section 3 of the Tennessee Valley Au-
9 thority Act of 1933 (48 Stat. 59; 16 U.S.C. 831b), relating
10 to personnel of the Tennessee Valley Authority, is amended
11 by striking out “require bonds of such of them as the board
12 may designate,”.

13 (b) Section 4 (f) of such Act (48 Stat. 60; 16 U.S.C.
14 831c(f)), relating to the bonds of the treasurer and as-
15 sistant treasurers of the Tennessee Valley Authority, is
16 amended by striking out “, which treasurer and assistant
17 treasurers shall give such bonds for the safekeeping of the
18 securities and moneys of the said Corporation as the Board
19 may require”.

20 TITLE 19, UNITED STATES CODE

21 SEC. 226. Sections 2619 and 2620 of the Revised
22 Statutes (19 U.S.C. 31, 32), relating to the bonds of cus-
23 toms officers and authorizing regulations therefor, are
24 repealed.

TITLE 22, UNITED STATES CODE

SEC. 227. (a) Section 1735 of the Revised Statutes (22 U.S.C. 1199), relating to the liability of consular officers for neglect or malfeasance generally, is amended—

(1) by striking out “and his sureties upon his official bond” and “of the penalty” in the first sentence thereof; and

(2) by striking out “, under such bond,” in the last sentence thereof.

(b) Section 35 of the Act entitled “An Act for the grading and classification of clerks in the Foreign Service of the United States of America, and providing compensation therefor”, approved February 23, 1931 (46 Stat. 1216; 22 U.S.C. 813), is amended—

(1) by striking out “bonded” immediately before “officers” in the fourth sentence thereof; and

(2) by striking out the sixth sentence thereof which reads as follows:

“Said district accounting and disbursing officers and their agents shall be bonded respectively to the United States for the faithful performance of their duties in such penal amounts as the President may require.”.

(c) Section 1011 of the Foreign Service Act of 1946 (22 U.S.C. 808), relating to bonds of officers and employees of the Foreign Service, is repealed.

1 (d) Section 239 (d) of the Foreign Assistance Act of
 2 1961, as added by the Foreign Assistance Act of 1969 (83
 3 Stat. 816; 22 U.S.C. 2199 (d)), relating to the general
 4 powers of the Overseas Private Investment Corporation, is
 5 amended by striking out "to require bonds of officers, em-
 6 ployees, and agents and pay the premiums therefor;"

7 TITLE 24, UNITED STATES CODE

8 SEC. 228. (a) Section 7 of the Act entitled "An Act
 9 prescribing regulations for the Soldiers' Home located at
 10 Washington, in the District of Columbia, and for other pur-
 11 poses", approved March 3, 1883 (22 Stat. 565; 24 U.S.C.
 12 43), relating to the bond of the treasurer of the Soldiers'
 13 Home, is amended by striking out " , and the treasurer of the
 14 home shall be required to give a bond in the penal sum of
 15 \$20,000 for the faithful performance of his duty".

16 (b) Section 4839 of the Revised Statutes (35 Stat. 592;
 17 24 U.S.C. 165), relating to the bonds of the superintendent
 18 and disbursing clerk of Saint Elizabeths Hospital, is
 19 amended—

20 (1) by striking out " , and shall give bond for the
 21 faithful performance of his duties in such sum and with
 22 such securities as may be required by the Secretary of
 23 Health, Education, and Welfare" in the first sentence
 24 thereof; and

25 (2) by striking out "who shall give a bond satis-

1 factory to the Secretary of Health, Education, and Wel-
 2 fare," in the second sentence thereof.

3 (c) The second paragraph under the subheading "Saint
 4 Elizabeths Hospital" under the general heading "Depart-
 5 ment of the Interior" in the Act entitled "An Act making
 6 appropriations for sundry civil expenses of the Government
 7 for the fiscal year ending June 30, 1921, and for other pur-
 8 poses", approved June 5, 1920 (41 Stat. 920; 24 U.S.C.
 9 166), is amended by striking out "who shall give a bond
 10 satisfactory to the Secretary of Health, Education, and Wel-
 11 fare, and".

12 TITLE 25, UNITED STATES CODE

13 SEC. 229. (a) Section 2075 of the Revised Statutes
 14 (25 U.S.C. 51), which reads "Sec. 2075. The President
 15 may, from time to time, require additional security, and in
 16 larger amounts, from all persons charged or trusted, under
 17 the laws of the United States, with the disbursement or appli-
 18 cation of money, goods, or effects of any kind, on account of
 19 Indian affairs.", is repealed.

20 (b) Section 4 of the Act entitled "An Act to legalize
 21 the deed and other records of the Office of Indian Affairs,
 22 and to provide and authorize the use of a seal by said of-
 23 fice", approved July 26, 1892 (27 Stat. 273; 25 U.S.C.
 24 7), is amended by striking out "who shall give bond in the
 25 sum of one thousand dollars,".

1 (c) The Act entitled "An Act making appropriations
2 for the current and contingent expenses of the Indian De-
3 partment and for fulfilling treaty stipulations with various
4 Indian tribes for the fiscal year ending June thirtieth, nine-
5 teen hundred and five, and for other purposes", approved
6 April 21, 1904 (33 Stat. 191; 25 U.S.C. 66, 52a), is
7 amended—

8 (1) by striking out, in the twenty-fifth paragraph
9 under the center heading "Current and Contingent Ex-
10 penses", the sentence relating to the bond of superin-
11 tendents of Indian training schools which reads "And the
12 superintendent upon whom such duties devolve shall
13 give a bond as other Indian agents."; and

14 (2) by striking out, in the thirty-second para-
15 graph under the center heading "Current and Contingent
16 Expenses", the proviso which reads "*: Provided,*
17 *That hereafter when it becomes necessary to make*
18 *large per capita payments to Indians, the Commissioner*
19 *of Indian Affairs, with the approval of the Secre-*
20 *tary of the Interior, is hereby authorized to require*
21 *any disbursing officer of the Indian Department to*
22 *file a special bond in such amount as may be necessary*
23 *to make such payment in one installment, the expenses*
24 *incurred in procuring such special bond to be paid by*
25 *the United States from this appropriation"*.

1 (d) Title II of the Act entitled "An Act making ap-
2 propriations for the current and contingent expenses of the
3 Indian Department, for fulfilling treaty stipulations with
4 various Indian tribes, and for other purposes, for the fiscal
5 year ending June thirtieth, nineteen hundred and eight",
6 approved March 1, 1907 (34 Stat. 1020; 25 U.S.C. 66),
7 is amended by striking out in the first paragraph thereof the
8 following: "And the superintendent upon whom such duties
9 devolve shall give a bond as other Indian agents."

10 (e) The second paragraph under the subheading "Sec-
11 retary" under the general heading "I. General Provisions"
12 in the Act entitled "An Act making appropriations for the
13 current and contingent expenses of the Indian Department,
14 for fulfilling treaty stipulations with various Indian tribes,
15 and for other purposes, for the fiscal year ending June
16 thirtieth, nineteen hundred and nine", approved April 30,
17 1908 (35 Stat. 71; 25 U.S.C. 52), which reads—

18 "Hereafter when the Secretary of the Interior deems
19 a new bond necessary he may, in his discretion, require any
20 disbursing officer under the jurisdiction of the Commissioner
21 of Indian Affairs to execute a new bond, with approved
22 sureties, in such amount as he may deem necessary, and when
23 accepted and approved by the Secretary of the Interior the
24 new bond shall be valid and the surety or sureties of the
25 prior bond shall be released from liability for all acts or

1 defaults of the principal which may be done or committed
2 from and after the day on which the new bond was ap-
3 proved." is repealed.

4 (f) The proviso in the second paragraph under the
5 center heading "Advertisement for Sale of Indian Lands
6 (Reimbursable)" in the Act entitled "An Act making
7 appropriations for the current and contingent expenses
8 of the Bureau of Indian Affairs, for fulfilling treaty stipu-
9 lations with various Indian tribes, and for other purposes,
10 for the fiscal year ending June 30, 1921", approved Febru-
11 ary 14, 1920 (41 Stat. 414; 25 U.S.C. 53), is amended—

12 (1) by striking out "the official bond given by
13 the disbursing agent to the United States shall be held
14 to cover and apply to the acts of the employees author-
15 ized to act in his place, who shall give bond to the
16 disbursing agent in such sums as the latter may re-
17 quire, and with respect to any and all acts performed
18 by him while acting for his principal, shall be subject
19 to all the liabilities and penalties prescribed by law for
20 official misconduct of disbursing agents."; and

21 (2) by inserting in lieu thereof "such clerk, while
22 acting for his principal, shall be subject to all the liabili-
23 ties and penalties prescribed by law for official miscon-
24 duct of disbursing agents."

1 TITLE 26, UNITED STATES CODE

2 SEC. 230. (a) Section 6803 (a) of the Internal
3 Revenue Code of 1954, relating, in part, to bonds for post-
4 masters who are furnished certain stamps and other devices,
5 is repealed.

6 (b) Section 7101 of such Code, relating to the form of
7 certain bonds, is amended by striking out "sections 7485 and
8 6803 (a) (1)" and by inserting in lieu thereof "section
9 7485".

10 (c) Section 7103 (e) of such Code, relating to cross
11 references to provisions for personnel bonds, is repealed.

12 (d) Section 7402 (d) of such Code, relating to actions
13 brought on the official bond of certain internal revenue offi-
14 cers or employees, is repealed.

15 (e) Section 7803 (c) of such Code, relating to the
16 bonds of internal revenue officers and employees, is repealed.

17 TITLE 31, UNITED STATES CODE

18 SEC. 231. (a) The first sentence of section 176 of the
19 Revised Statutes (31 U.S.C. 492-1), relating to the bonds
20 of disbursing clerks of executive departments, is amended
21 by striking out "; and shall each give a bond to the United
22 States for the faithful discharge of the duties of his office ac-
23 cording to law in such amount as shall be directed by the
24 Secretary of the Treasury, and with sureties to the satisfac-
25 tion of the General Counsel for the Department of the

1 Treasury; and shall from time to time renew, strengthen,
2 and increase his official bond, as the Secretary of the Treas-
3 ury may direct”.

4 (b) Section 302 of the Revised Statutes (31 U.S.C.
5 142), relating to the bond of the Treasurer of the United
6 States, is repealed.

7 (c) Section 304 of the Revised Statutes (49 Stat. 1238,
8 68 Stat. 496; 31 U.S.C. 144), is amended by striking out
9 “: *Provided, however,* That no appointments shall be made
10 under the provisions of this section until the official bond
11 given by the Treasurer shall be made in terms to cover and
12 apply to the acts and defaults of every person appointed
13 hereunder”.

14 (d) Section 375 of the Revised Statutes (31 U.S.C.
15 1012), relating to false reports of collectors with respect
16 to bonds delivered for suit, is repealed.

17 (e) Section 378 of the Revised Statutes (31 U.S.C.
18 1013), relating to the report of the General Counsel for the
19 Department of the Treasury to the officer from whom a bond
20 was received, is repealed.

21 (f) Section 3501 of the Revised Statutes (31 U.S.C.
22 270), relating to the bonds of certain officers, assistants,
23 and clerks in the Bureau of the Mint, Department of the
24 Treasury, is repealed.

25 (g) Section 3555 of the Revised Statutes (31 U.S.C.

1 281), relating to officers of the New York assay office,
2 Bureau of the Mint, is amended by striking out "the oaths
3 to be taken, and the bonds and sureties to be given by them,"
4 and inserting in lieu thereof "and the oaths to be taken,".

5 (h) Section 3600 of the Revised Statutes (31 U.S.C.
6 475), relating to the bonds of officers in mints or assay
7 offices authorized by law to act as depositaries, is repealed.

8 (i) Section 3613 of the Revised Statutes (31 U.S.C.
9 480), relating to certain deputies in the Department of the
10 Treasury, is amended by striking out the second sentence
11 thereof which reads as follows: "The official bond given by
12 the principal of the office shall be held to cover and apply to
13 the acts of the person appointed to act in his place in such
14 cases.".

15 (j) Section 3614 of the Revised Statutes (31 U.S.C.
16 481), relating to the bonds of special agents employed by
17 departments, is repealed.

18 (k) Section 3625 of the Revised Statutes (31 U.S.C.
19 506), relating to distress warrants against sureties of certain
20 officials who receive public moneys and fail to render proper
21 account and payment, is amended—

22 (1) by striking out "and his sureties" wherever
23 such words occur in the first sentence thereof;

24 (2) by striking out, in such first sentence, the

1 word "reside" and inserting in lieu thereof the word
2 "resides";

3 (3) by amending the second sentence thereof to
4 read as follows:

5 "Where the officer resides in a district other than that in
6 which his estate may be, which it is intended to take and
7 sell, then such warrant shall be directed to the marshals
8 of such districts, respectively."

9 (l) Section 3628 of the Revised Statutes (31 U.S.C.
10 509), relating to the execution of a distress warrant against
11 the sureties of a delinquent finance officer, is repealed.

12 (m) Section 3629 of the Revised Statutes (31 U.S.C.
13 510), relating to liens on lands of delinquent officers and
14 their sureties, is amended by striking out "and his sureties"
15 and "or them".

16 (n) Section 3630 of the Revised Statutes (31 U.S.C.
17 511), relating to the sale of lands of delinquent officers
18 and their sureties, is amended by striking out "or his sure-
19 ties," and "and his sureties".

20 (o) Section 3631 of the Revised Statutes (31 U.S.C.
21 512), relating to the validity of the conveyance by a United
22 States marshal of lands of a delinquent officer and his sure-
23 ties, is amended by striking out "or his sureties".

24 (p) Section 3632 of the Revised Statutes (31 U.S.C.
25 513), relating to the return to a delinquent officer or his

1 surety of moneys in excess of amounts needed to satisfy dis-
 2 tress warrants, is amended by striking out "or surety, as the
 3 case may be".

4 (q) Section 3634 of the Revised Statutes (31 U.S.C.
 5 516), applying the distress warrant provisions of the Revised
 6 Statutes to all Government officers charged with disburse-
 7 ment of public money and to their sureties, is amended—

8 (1) by striking out "and to their sureties,"; and

9 (2) by striking out "they" and inserting in lieu
 10 thereof "he".

11 (r) Section 3639 of the Revised Statutes (31 U.S.C.
 12 521), relating to the duties of officers who are custodians
 13 of the public money, is amended by striking out the last
 14 sentence thereof which reads as follows: "The President is
 15 authorized, if in his opinion the interest of the United States
 16 requires the same, to regulate and increase the sums for
 17 which bonds are, or may be, required by law, of all United
 18 States attorneys, collectors of customs, comptrollers of cus-
 19 toms, and surveyors of customs, Navy agents, Quartermaster
 20 General, registers of public lands, paymasters in the Army,
 21 and by all other officers employed in the disbursement of the
 22 public moneys, under the direction of the Department of the
 23 Army or the Navy Department."

24 (s) (1) Section 3646 (a) of the Revised Statutes (31
 25 U.S.C. 528 (a)), relating to issuance by the Secretary of the

1 Treasury of duplicate checks for lost, stolen, destroyed, mutilated, or defaced original checks, is amended by striking out
 2 "or his sureties" wherever such words occur in the proviso
 3 contained therein.
 4

5 (2) The last sentence of section 3646 (c) of the Revised Statutes (31 U.S.C. 528 (c)) is amended by striking out
 6 "or his sureties" wherever such words occur in such
 7 sentence.
 8

9 (t) The second proviso under the heading "United States Courts" and with the side heading "Payment of fees in postal cases" contained in the Act entitled "An Act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for prior years, and for other purposes", approved February 26, 1896 (29 Stat. 25; 31 U.S.C. 110), which reads "*Provided further*, That hereafter all fees for United States attorneys, marshals, clerks of courts and special counsel necessarily employed in prosecuting civil suits instituted by the Auditor for the Post Office Department through the Solicitor of the Treasury against the sureties on the official bonds of late postmasters, as provided for by section two hundred and ninety-two, Revised Statutes of the United States, shall be paid from the appropriations for expenses of the United States Courts", is repealed.
 24

25 (u) The second proviso under the heading "Miscellaneous

ous" and with the side heading "Silk Investigations" contained in the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and three", approved June 3, 1902 (32 Stat. 303; 31 U.S.C. 533), which reads "*And provided further*, That advances of public money from the appropriations for the Department of Agriculture shall be made by the Secretary of Agriculture only to such chiefs of field parties, agricultural explorers, special agents, and others as shall have given bonds in such sums as the Secretary of Agriculture shall direct", is repealed.

(v) That part of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine", approved May 23, 1908 (35 Stat. 259; 31 U.S.C. 534), relating to bonds required of chiefs of field parties who are advanced public moneys for fighting forest fires, which is under the heading "Forest Service" and with the side caption "General Expenses, Forest Service", and which reads "and hereafter advances of money under any appropriation for the Forest Service may be made to the Forest Service and by authority of the Secretary of Agriculture to chiefs of field parties for fighting forest fires in emergency cases, who shall give bond under such rules and regulations and in such sum as the Secretary of Agriculture may direct,

1 and detailed accounts arising under such advances shall be
 2 rendered through and by the Department of Agriculture to
 3 the General Accounting Office;" is amended by striking out
 4 ", who shall give bond under such rules and regulations and
 5 in such sum as the Secretary of Agriculture may direct,".

6 (w) Section 8 of the Act entitled "An Act making
 7 appropriations for sundry civil expenses of the Government
 8 for the fiscal year ending June thirtieth, nineteen hundred
 9 and ten, and for other purposes", approved March 4, 1909
 10 (35 Stat. 1027; 31 U.S.C. 494), relating to the bond of
 11 an acting disbursing officer in case of sickness or absence of
 12 disbursing clerk or disbursing agent, is amended—

13 (1) by striking out the second sentence thereof
 14 which reads as follows:

15 "The official bond given by the principal of the office shall
 16 be held to cover and apply to the acts of the person appointed
 17 to act in his place in such cases.";

18 and

19 (2) by striking out in the third sentence thereof
 20 the following: ", and such acting officer shall be re-
 21 quired by the head of the department, independent
 22 bureau, or office, to give bond to and in such sum as the
 23 disbursing clerk or disbursing agent may require".

24 (x) The paragraph under the heading "Treasury Depart-
 25 ment" and the sideheading "Offices of disbursing clerks"

1 in the Act entitled "An Act making appropriations for the
 2 legislative, executive, and judicial expenses of the Govern-
 3 ment for the fiscal year ending June thirtieth, nineteen
 4 hundred and eleven, and for other purposes", approved June
 5 17, 1910 (36 Stat. 487; 31 U.S.C. 1015), relating to the
 6 bond of the deputy disbursing clerk of the Treasury Depart-
 7 ment, is amended—

8 (1) by striking out "he shall give bond to the
 9 disbursing clerk in such sum as the said disbursing
 10 clerk may require,"; and

11 (2) by striking out " , and the official bond of
 12 the disbursing clerk executed hereunder shall be made
 13 to cover and apply to the acts of the deputy disbursing
 14 clerk".

15 (y) The first paragraph immediately above the center
 16 heading "Life Saving Service" and with the sideheading
 17 "Compensation for disbursements restricted to bonded ap-
 18 pointees" contained in the Act entitled "An Act making
 19 appropriations for sundry civil expenses of the Government
 20 for the fiscal year ending June thirtieth, nineteen hundred
 21 and twelve, and for other purposes", approved March 4, 1911
 22 (36 Stat. 1387; 31 U.S.C. 546), is amended by striking out
 23 "and who have qualified by giving bonds".

24 (z) The first proviso under the heading "Department
 25 of Commerce" and under the subheading "Coast and Geo-

1 detic Survey" in the Act entitled "An Act making appro-
 2 priations for sundry civil expenses of the Government for
 3 the fiscal year ending June thirtieth, nineteen hundred and
 4 nineteen, and for other purposes", approved July 1, 1918
 5 (40 Stat. 688; 31 U.S.C. 550), relating to the bond re-
 6 quired of chiefs of parties under the Coast and Geodetic
 7 Survey who are advanced public moneys, is amended by
 8 striking out " , who shall give bond under such rules and
 9 regulations and in such sum as the Secretary of Commerce
 10 may direct,".

11 (aa) The Act entitled "An Act making appropriations
 12 for the Diplomatic and Consular Service for fiscal year end-
 13 ing June thirtieth, nineteen hundred and nineteen", approved
 14 April 15, 1918 (40 Stat. 523; 31 U.S.C. 535), and the Act
 15 entitled "An Act making appropriations for the Diplomatic
 16 and Consular Service for the fiscal year ending June 30,
 17 1922", approved March 2, 1921 (41 Stat. 1210; 31 U.S.C.
 18 535), relating to the bond required of the commissioner on
 19 the part of the United States who is advanced public moneys
 20 in connection with activities regarding the United States-
 21 Canada boundary, which is under the heading "Boundary
 22 Line, Alaska and Canada, and The United States and
 23 Canada", are each amended by striking out in the first pro-
 24 visio thereto the following: " , who shall give bond under

1 such rules and regulations and in such sum as the Secretary
2 of State may direct.”.

3 (bb) The Act entitled “An Act to authorize disburs-
4 ing officers of the Army, Navy, and Marine Corps to des-
5 ignate deputies”, approved July 3, 1926 (44 Stat. 888; 31
6 U.S.C. 103a), is amended—

7 (1) by striking out “and the consent of their surety
8 or sureties, if any”; and

9 (2) by striking out “: *Provided*, That every deputy
10 so designated for a disbursing officer who is bonded
11 shall, if not already under bond, give bond as required
12 by the head of the department concerned”.

13 (cc) Section 2 of the Act entitled “An Act to fix the
14 responsibilities of disbursing and certifying officers, and for
15 other purposes”, approved December 29, 1941 (55 Stat.
16 875; 31 U.S.C. 82c), is amended by striking out “(2) be
17 required to give bond to the United States, with good and
18 sufficient surety approved by the Secretary of the Treasury,
19 in such amount as may be determined by the head of the
20 department, agency, or establishment concerned, pursuant
21 to standards prescribed by the Secretary of the Treasury, and
22 under such conditions as may be prescribed by the Secretary
23 of the Treasury; and (3)” and inserting in lieu thereof “and
24 (2)”.

25 (dd) The Act entitled “An Act to provide for the

1 orderly transaction of the public business in the event of the
2 death or of the resignation or separation from office of the
3 Chief Disbursing Officer", approved December 24, 1942
4 (61 Stat. 717; 31 U.S.C. 1014), is amended—

5 (1) by striking out in the third sentence "his
6 estate, or the surety on his official bond" and insert-
7 ing in lieu thereof "or his estate";

8 (2) by striking out in such third sentence " , and
9 his surety," and "under his bond"; and

10 (3) by striking out the last two sentences which
11 read as follows:

12 "The bond of the Acting Chief Disbursing Officer or acting
13 regional disbursing officer shall be an amount at least equal
14 to the minimum amount of the bond required of the Chief
15 Disbursing Officer or the regional disbursing officer, re-
16 spectively. The Secretary of the Treasury may, from time
17 to time, require the Assistant Chief Disbursing Officer, or
18 the assistant regional disbursing officer, to renew and in-
19 crease his bond to the United States."

20 (ee) The first proviso in the Act entitled "An Act
21 to limit the time within which the General Accounting
22 Office shall make final settlement of the monthly or quarterly
23 accounts of fiscal officers, and for other purposes", approved
24 May 19, 1947 (61 Stat. 101; 31 U.S.C. 82i), is amended
25 by striking out "or his surety".

1 (ff) The Act entitled "An Act to provide for the orderly
2 transaction of the public business in the event of the death,
3 incapacity, or separation from office of a disbursing officer of
4 the military department", approved July 31, 1953 (67 Stat.
5 296; 31 U.S.C. 103b), is amended—

6 (1) by striking out in the third sentence "his
7 estate, or the surety on his official bond," and inserting
8 in lieu thereof "or his estate";

9 (2) by striking out in such third sentence "and his
10 surety," and "under his bond"; and

11 (3) by striking out the last two sentences thereof
12 which read as follows:

13 "The bond of the deputy disbursing officer shall be an
14 amount at least equal to the minimum amount of the bond
15 required of the disbursing officer. The Secretary of the mili-
16 tary department concerned may, from time to time, require
17 the deputy disbursing officer to renew and increase his bond
18 to the United States."

19 (gg) The proviso contained in the first section of the
20 Act entitled "An Act to provide for sundry administrative
21 matters affecting the Federal Government, particularly the
22 Army, Navy, Air Force, and State Department, and for
23 other purposes", approved June 4, 1954 (68 Stat. 176; 31
24 U.S.C. 95b), is amended by striking out "disbursing officer,

1 agent, or surety of the United States" and inserting in lieu
2 thereof "disbursing officer or agent of the United States".

3 TITLE 33, UNITED STATES CODE

4 SEC. 232. Section 4 (a) (7) of the Act entitled "An
5 Act for creation of the Saint Lawrence Seaway Development
6 Corporation to construct part of the Saint Lawrence Seaway
7 in United States territory in the interest of national security;
8 authorizing the Corporation to consummate certain arrange-
9 ments with the Saint Lawrence Seaway Authority of Canada
10 relative to construction and operation of the seaway; em-
11 powering the Corporation to finance the United States share
12 of the seaway cost on a self-liquidating basis; to establish
13 cooperation with Canada in the control and operation of the
14 Saint Lawrence Seaway; to authorize negotiations with
15 Canada of an agreement on tolls; and for other purposes",
16 approved May 13, 1954 (68 Stat. 94; 33 U.S.C. 984 (a)
17 (7)), relating to the power of Corporation to require fidelity
18 bonds of its employees, is amended—

19 (1) by inserting "and" immediately before "dele-
20 gate"; and

21 (2) by striking out " , require bonds of such of
22 them as the Administrator may designate, and fix the
23 penalties and pay the premiums on such bonds".

24 TITLE 47, UNITED STATES CODE

25 SEC. 233. The Act entitled "An Act to authorize pay-

1 ment of expenses of the Washington-Alaska Military Cable
 2 and Telegraph System out of receipts of such system as an
 3 operating expense", approved May 20, 1926 (44 Stat. 576;
 4 47 U.S.C. 16), is amended by striking out "; and the ex-
 5 penses of procuring necessary official bonds, as determined
 6 by the Secretary of the Army, of enlisted men employed in
 7 connection with such money transfers, shall be paid out of
 8 the receipts of such system as an operating expense".

9 TITLE 48, UNITED STATES CODE

10 SEC. 234. Section 4 (i) of the Virgin Islands Corpora-
 11 tion Act (63 Stat. 352; 48 U.S.C. 1407c (i)), relating to
 12 personnel of the Virgin Islands Corporation, is amended—

13 (1) by inserting "and" immediately before "without
 14 regard to the provisions of any other law," and

15 (2) by striking out "; and to require bonds from
 16 such of them as the Corporation may designate, the
 17 premiums therefor to be paid by the Corporation".

18 TITLE 50 APPENDIX, UNITED STATES CODE

19 SEC. 235. Section 6 of the Act entitled "An Act to
 20 define, regulate, and punish trading with the enemy, and
 21 for other purposes", approved October 6, 1917 (40 Stat.
 22 415; 50 App. U.S.C. 6), relating to the bond of the alien
 23 property custodian, is amended by striking out "The alien
 24 property custodian shall give such bond or bonds, and in such

1 form and amount, and with such security as the President
2 shall prescribe.”.

3 PART 3—CHANGES IN PROVISIONS OF LAW CONTAINED
4 IN THE CANAL ZONE CODE

5 TITLE 2, CANAL ZONE CODE

6 SEC. 240. Section 121 (a) of title 2 of the Canal Zone
7 Code (76A Stat. 15; 2 C.Z.C. 121 (a)), relating to the
8 bonds of certain personnel of the Panama Canal Company, is
9 amended—

10 (1) by inserting “and” after the semicolon in para-
11 graph (1);

12 (2) by striking out paragraph (2); and

13 (3) by redesignating paragraph (3) as paragraph
14 (2).

15 PART 4—GENERAL REPEAL PROVISION

16 GENERAL REPEALER

17 SEC. 250. All laws or parts of laws not amended or re-
18 pealed by part 1, 2, or 3 of this title and providing for
19 surety or fidelity bonds for civilian employees and military
20 personnel of the Federal Government for the faithful per-
21 formance of their duties are repealed.

1 PART 5—REENACTMENT OF FORMER PROVISION OF TITLE
2 6, UNITED STATES CODE

3 NOTIFICATION OF DEFICIENCIES INCURRED BY FEDERAL
4 OFFICIALS

5 SEC. 260. Whenever any deficiency is discovered in the
6 accounts of any official of the United States or in the ac-
7 counts of any officer disbursing or chargeable with public
8 money, the accounting officers making such discovery shall
9 notify immediately the head of the department having con-
10 trol over the affairs of such official or officer of the nature
11 and amount of such deficiency.

AMERICAN INSURANCE ASSOCIATION,
Washington, D.C., March 2, 1972.

Hon. DAVID N. HENDERSON,
*Chairman, Subcommittee on Manpower and Civil Service, Committee on Post Office
and Civil Service, Cannon House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: As an association of more than 100 property-casualty insurance companies, many of which underwrite fidelity, public official and employee bonds throughout the United States, we have read with concern H.R. 13150.

The proposed legislation would repeal statutory requirements for bonding Federal civilian employees and military personnel charged with accountability for public funds or property, and substitute a program for fidelity losses whereby Federal agencies would charge such losses to their appropriations.

We fear that Congress may be misled by the description of this proposal as "self-insurance." It could be more accurately portrayed as "no-insurance."

An insurance contract provides coverage from inception against future hazards which, although probable, are unpredictable. By paying annual premiums, the insured stabilizes the economic impact of any future losses.

In return for total premiums of \$426,000 on fidelity bonds in effect as of June 30, 1970, the Federal government received coverage of \$3,489,348,850 on 963,269 employees at an average cost of 44¢ per employee.

No rational man would conclude that he does not need fire insurance because his house has not yet caught fire, yet this same reasoning underlies H.R. 13150. It is impossible to predict in this period of crime and inflation what future embezzlement losses the Federal government might sustain.

Surety companies not only provide a means of spreading risks to policyholders, but also proven procedures for recovering losses, and strong deterrents against negligence and short cuts by bonded employees. Congress must consider the cost to our government of replacing those incidental services.

We hope your committee will consider carefully the above facts, and not approve H.R. 13150.

Yours very truly,

WALTER D. VINYARD, Jr.,
Associate Counsel.

STATEMENT OF JOHN F. GRINER, NATIONAL PRESIDENT, AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees is pleased to go on record in support of H.R. 13150 which was cosponsored by Congressmen Dulski and Henderson. This bill, if passed, will repeal all of the statutory requirements for bonding of Federal employees who are accountable for public funds or property. It would replace this current practice of bonding with the Federal Government's own self-insurance program to cover Federal fidelity losses.

Present law calls for heads of executive branch agencies to purchase a commercial bond to cover employees statutorily required to be bonded. This has proven to be a costly procedure. In the 14½ years that this practice has been in effect, the Government has paid out \$4.9 million in premium and administrative expenses while only \$3 million in claims have been filed. This excessive cost points up the need for a self-insurance program. Therefore, we support H.R. 13150 and believe that it would result in a savings to the Government.

I would also like to point out that, although the Government would absorb its own fidelity losses, individual officers would still be held personally and financially liable for losses resulting from their own negligence.

We urge the committee to act favorably on H.R. 13150.

