

DEFALCATION OF SAMUEL SWARTWOUT.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

*In reply to a resolution of the House of Representatives of 31st ultimo,
in relation to the Defalcation of Samuel Swartwout.*

JANUARY 9, 1839.

Read, and laid upon the table.

TREASURY DEPARTMENT,

January 7, 1839.

SIR: The following report is submitted in reply to a resolution of the House of Representatives adopted on the 31st ultimo, (a copy of which is annexed, (A.)

Respecting the first inquiry, as to the causes why the Secretary of the Treasury could not ascertain the defalcation of the late collector at New York when it first commenced, in A. D. 1830, and at subsequent periods, I would state, that an explanation concerning them has been given, at some length, in the special report recently presented to Congress. One of these causes was, that by the existing laws, the accounting officers of the Government are intended, and are organized, with a view to detect defaults, and not the office of the Secretary of the Treasury. The other was, that "the weekly and monthly returns," with the records referred to, as being in the Secretary's office, are not required by any law for the discovery of defaults. They have been voluntarily directed by the Department in order to have at command information which may often be useful to itself and Congress for various objects connected with commerce and the finances. If these returns, however, are truly made, they would, in the event of a considerable default, excite suspicion with the Secretary, and, on further inquiries elsewhere, a detection might take place. But, in the case of the late collector of New York, as shown in the special report before mentioned, these returns appear, during the whole period, to have concealed, by means of fraud and falsehood, the true state of the collector's accounts, and, consequently, to have thus prevented any apprehension of wrong. For fuller explanations on this point reference is made to that special report.

Thomas Allen, print.

The resolution next calls for a copy of the circular of November, 1835. It is annexed, (B.)

That circular contained no new instructions, but, like a similar one in 1818, was designed to present a recapitulation, or condensation, of the substance of several circulars which had been issued in former years. Some of these, it was supposed, had been lost, by time or accident, at a few of the ports, and others overlooked. It was, therefore, considered useful to recall the attention of all collectors in the United States to the contents of the whole of them. The resolution further requests copies of all the returns made by the collectors of New York, in compliance with the circular; but those returns are so numerous on the files of this and the Register's office, that to copy them would require, for several months, all the clerical force that could be spared from the current business of the two offices. Presuming that the House of Representatives was not aware of this when the resolution passed, I have proceeded to report on the other parts of it without delay, and shall postpone the making of those copies till the wish of the House is signified in respect to them after a knowledge of the facts just mentioned. A letter from the Register on this subject is annexed, (C.) Another inquiry relates to the discontinuance of a practice to enter on the books of this office the sums named in the quarterly accounts received by the First Auditor.

It appears from the statement of the recent acting Auditor, that the head of that office, or his clerks, have omitted to send those accounts to this office to be entered, since November, 1835. The cause of this omission is stated in that office to have been an inconvenient detention of them here. But as the entries here were not required by any act of Congress, were seldom or ever used, and the reason for making them was not known (since the amounts in them, when desired, could always be ascertained by going to the Auditor's room,) the omission to continue the entries was not deemed material by the clerk having charge of them, and was never reported to the head of the Department. I cannot now discern that any practice ever existed in this office to make periodical or other comparisons between the weekly returns and those entries, while they were continued. Some of the clerks, inquired of on this subject, have been here more than twenty years, and never knew one to prevail. Nor can any regulation or circular be found alluding to such a practice. On the contrary, my own usage always has been to examine, personally, when received, every weekly or monthly return; and if any thing suspicious appeared in its face, then to institute such an inquiry in the accounting offices, concerning the balances returned and adjusted there, or in the collector's and receiver's offices, concerning the funds on hand, as the nature of the doubt or apprehension might seem to require, in order to ascertain the real state of the case. I presume that a similar practice was pursued by my predecessors, except that in most cases this examination may have been made by an appropriate clerk rather than in person. But when, in November last, the acting Auditor suggested that the continuance to make those entries, and the institution of a regular comparison between their amounts and the weekly returns might be useful in detecting defaults, I felt disposed to leave nothing undone which might possibly be beneficial in that respect. For this reason, therefore, though, from my own experience, and the statement of the Comptroller and Solicitor in the special report, such a practice would seldom be likely

to lead to any discovery of such defaults as that of the recent collector at New York, I deemed it expedient, among other precautions, till Congress should establish more efficient safe-guards, to require the First Auditor to make returns each week of the balances of the different accounts rendered to him for settlement, and also of the balances each week found to be actually due. The clerk having charge of the weekly and monthly returns was then directed to make a comparison of the proper one with those balances, and report to me any suspicious difference, in order that, in such case, further suitable inquiry might be instituted. This might sometimes lead to a detection. But any information thus obtained, must, in general, be very unsatisfactory and conjectural, independent of the results of the actual settlement by the accounting officers, and of the check at the large ports by the naval officer, because the account as rendered, is seldom adjusted for the same amount; the account as settled, is often closed with suspended claims and vouchers of many thousand dollars, not at first allowed: the vouchers and accounts may be falsified as well as the weekly returns, and, if not so, the comparison must take place in the accounts from the large ports, generally from three to five months after the weekly returns relating to them are made; three months being now given by law to prepare their accounts for settlement, and two months more being often occupied before a settlement is completed.

In answer to the next request, for my opinion whether the late naval officer at New York could have detected the recent default there had he performed his duty as the law requires, I would state, that he probably might have discovered some parts of it, but not the whole.

It is to be remembered, however, that a former Comptroller put a construction on the requirements of the law, as to the duties of the naval officer, different from that which is now put; and, as long ago as 1821, by a circular, gave instructions that the certificate of the naval officer was not required to the correctness of a certain class of expenditures. This opened a door for the escape from detection of various peculations, if attempted, and especially at such a port as New York, where the vast extent of the business must render it very difficult for the naval officer, without an increased number of clerks, to perform all his duties with promptitude and efficiency. But that circular has been recently repealed. A copy of it may be seen in a report to the House of Representatives on the 4th instant, in compliance with another of its resolutions.

The last request is, for copies of any correspondence with William M. Price concerning the official bonds of the late collector at New York, with copies of the bonds themselves. So far as any such correspondence has been found, copies of it are annexed; as are also copies of the bonds, (D and E.)

Respectfully,

LEVI WOODBURY,
Secretary of the Treasury.

HON. JAMES K. POLK,
Speaker of the House of Reps. U. S.

A.

On motion of Mr. CURTIS,

Resolved, That the Secretary of the Treasury be requested to inform the House of Representatives of the causes why it was not in the power of the Secretary of the Treasury to ascertain, by means of the weekly and monthly returns, and other records in his office, the defalcation of the late collector of New York, when it first commenced, or at the different settlements afterwards, before his term of office expired. That the Secretary of the Treasury be requested, also, to communicate to this House a copy of his circular, addressed to the collector of New York in November, 1835, and copies of all the returns made by said collector in compliance with said circular; and also to inform the House of Representatives whether the practice of entering on the books of the Secretary of the Treasury, kept in his own office, the quarterly accounts current of the customs, as soon as received by the First Auditor, has been discontinued, and when discontinued; and whether the practice, by the Secretary of the Treasury, of calling for the account current of the customs received at the office of the First Auditor, and the quarterly accounts of collectors, and of comparing the same with the several returns rendered to the Secretary by collectors, in conformity with the requisitions of his circular of 14th October, 1818, and repeated on the 12th November, 1835, has been discontinued by the Secretary of the Treasury, and when discontinued; and also, whether, if the practice of properly arranging and comparing the said last-mentioned returns of collectors with each other, in the office of the Secretary of the Treasury, has been discontinued, and when discontinued; and that the Secretary of the Treasury also inform this House whether, in his opinion, the defalcation of the late collector of New York could have been concealed from the naval officer of that port, if the said naval officer had "examined the collector's abstracts of duties, and other accounts of receipts, bonds, and expenditures," with ordinary and proper caution, before certifying the same, and had faithfully performed the duties imposed by law upon naval officers; and that the Secretary of the Treasury also communicate to this House copies of all correspondence between the Treasury Department and William M. Price, late district attorney of the United States for the southern district of New York, in relation to any bond or bonds executed by the securities of said Swartwout for the faithful performance of his duties as collector of New York; and also to communicate copies of all bonds executed to the United States by the sureties of said Swartwout.

B.*Circular to Collectors of the Customs.*

TREASURY DEPARTMENT, *November 12, 1835.*

It appearing by inquiries made from time to time, by collectors of the customs, for information in reference to the discharge of their official duties, that the regulations contained in the circular instructions heretofore issued by the Department have been mislaid or overlooked by some of those

officers, it is deemed proper to embody the substance of the most prominent of them into a general circular. In order that more ready reference may be had to them they are arranged under separate heads.

1st. A punctual transmission of the following accounts and returns is required, to wit:

To the accounting officers.—the collector's quarterly account for settlement, within the time required by the 21st section of the collection act, approved 2d of March, 1799.

To the Secretary of the Treasury are to be transmitted, punctually, a weekly return of moneys received and paid at the custom-house, to bear date on the last day of the week, and to include only the whole receipts and payments for the entire week. The bank certificate for any money deposited to the credit of the Treasurer, must accompany the return.

A monthly return of debentures issued during the month for drawback, containing, also, a list of entries made during said period as will, thereafter, entitle the person making the same to either a bounty on pickled fish to be exported, or a bounty on the tonnage of vessels employed in the fisheries.

A monthly abstract of bonds put in suit during the month.

A monthly summary statement of duties collected.

A monthly schedule of bonds taken and liquidated during the month.

A quarterly return of the moneys received and paid under the acts for the relief of sick and disabled seaman. (Oct. 14, 1818.)

Weekly returns of the amount of specie imported and exported, specifying the places from whence imported, or to which exported; the names of the persons importing or exporting; the amount imported or exported by each, and stating whether in coin or bullion. Blank returns need not be transmitted where no import or export has taken place. (March 20, 1834.)

A quarterly transcript of the pay-rolls of the revenue-cutters.

A monthly transcript of the journals of the revenue-cutters.

Annual transcript of the inventories of the cutters' effects, at the close of each year. (October 3, 1834.)

Note.—It is to be observed that the weekly returns before spoken of are only required from the principal ports; from other ports the returns may be made monthly.

2d. No subordinate officers of the customs can be removed or appointed without the approbation of the Secretary of the Treasury previously obtained.

When the removal of any officer is deemed necessary, the collector will report the same to the Secretary of the Treasury, with his reasons; and will at the same time nominate the person whom he desires to employ in his stead, and on receiving the Secretary's approbation will proceed to administer the necessary oath, when the officer will be duly qualified to enter upon the duties of his office, and his compensation commence.

When additional officers are thought necessary, the collector will report fully to the Secretary the ground of such necessity, and the rate of compensation proper to be allowed, and upon receiving the Secretary's approval of the proposed increase, will nominate the person whom he desires to employ.

Where the urgency of the case requires that the employment of an officer be discontinued before the special sanction of the Secretary can be

obtained, the collector will suspend the officer, and report the case to the Department for approval. (July 20, 1829.)

Note.—It is deemed proper to remark, that since the above-stated circular was issued, any further increase of the number of custom-house officers has been prohibited by the following proviso contained in the 3d section of the general appropriation act approved 3d of March, 1835, to wit:

“Provided, That the whole number of custom-house officers in the United States on the 1st of January, 1834, shall not be increased until otherwise allowed by Congress.”

3d. Collectors are enjoined to keep a bond account with each extensive importer, and directed, in all cases, not to accept security which is not deemed by the collector fully ample for the debts intended to be secured; nor to give extensive credits to persons who are liable for large sums as securities on the bonds of others. (June 5, 1829.)

4th. An officer of the customs is required to take charge of each letter-bag before it leaves the ship, and examine it in the presence of the master or other officer commanding the vessel, who may, at his option, take therefrom all letters and packages directed to the owner or consignee. The remaining letters and packages must be replaced in the bag, sealed up, and put into the custody of such officer, and delivered at the post office, and a receipt taken from the postmaster or other person authorized by him, stating when it was delivered at the post office, the condition of the seal at the time; which receipt must be handed to the collector at or before the time when the master makes application to enter the vessel.

All letters or packages suspected of containing articles liable to duty, whether directed to the owner, consignee, or other person, (ministers of foreign Powers excepted,) must be deposited at the custom-house in charge of an officer of the customs, and notice given to the persons to whom they are directed, to cause the same to be opened in the presence of such officer of the customs as the collector may designate for that purpose. (10th August, 1829.)

5th. Collectors are requested to enjoin a strict compliance with the provisions of the act of Congress of the 28th February, 1803, requiring the masters of all vessels bound on a foreign voyage, to deliver to the collector a list containing the names, places of birth, and residence, &c. of his crew, and to require satisfactory evidence of a strict compliance with the law, on the part of the master, before cancelling the bond given by him in accordance with its provisions. (5th April, 1831.)

6th. Where invoices are made out in a currency, the value of which is not fixed by the laws of the United States, the collector will require from the importer a certificate from the United States consul, of the true value of such currency in Spanish or United States silver dollars. This applies to invoices of goods free of duty, as well as to those liable to specific and ad valorem duties. (14th May and 16th August, 1831.)

In default of the production of the foregoing certificate, the owner, importer, or consignee, is to be required to give bond to produce the said certificate, if the same be practicable, within eight months, if the goods were imported from any port or place on this side of the Cape of Good Hope or Cape Horn, and within eighteen months, if from the Cape of Good Hope, or from any port or place beyond the same, or Cape Horn. If the goods be subject to ad valorem duty, then to pay the amount of duty to

which it may appear by such certificate the said goods were liable, over and above the amount of duties which may have been paid, or secured to be paid, on the same. The bond to be taken in these cases will be for a sum equal to the amount of the duties charged, and in the case of free goods, for one hundred dollars. (October 16, 1832.)

7th. Collectors to take care that the verification of invoices prescribed by the 10th section of the act of the 1st of March, 1823, be complied with.

8th. In cases of applications to complete entries for the benefit of drawback, under the act of the 3d March, 1825, the following formalities are required to be observed, to wit:

First. A statement of the applicant, under oath, that the failure to complete the entry was accidental, and without intention to evade the law or defraud the revenue, and was not caused by any negligence on his part; together with a statement of the true causes of omission to complete the entry.

Second. A certificate of the collector of the circumstances attending the transaction within his knowledge.

Third. A certified copy of the entry made at the custom-house, with the usual evidence of the identity of the goods. (November 21, 1825, and 13th April, 1829.)

9th. By the provisions of the 1st section of the act of the 13th of July 1832, no other or greater tonnage duty is to be levied in the ports of the United States on vessels owned wholly by subjects of Spain, coming from a port in Spain, than was paid on American vessels in the ports of Spain previous to the 20th of October, 1817. This duty has been ascertained to have been at the rate of *five cents* per ton, and is to be exacted accordingly.

To ascertain the rate of tonnage duty to be levied under the 2d section of the above act, the collectors will require the production of a certificate from the chief officer of the customs of the Spanish colonial port from whence the vessel shall have last departed, which must be verified by the American consul, (if there be one at the port,) or by the consul of a nation in amity with the United States, showing the rate of tonnage duty at the time of her departure, to which American vessels were liable, and a like duty will be levied on said Spanish vessels.

In default of the production of the certificate mentioned, a duty will be charged according to the last rate exacted, and a bond taken for its production. (October 15, 1832.)

On Spanish vessels owned wholly by Spanish subjects, coming from any of the ports of *Cuba*, either directly or after touching at any other port or place, a tonnage duty of one dollar and fifty cents per ton is to be levied, unless it shall appear by the consular certificate above stated, that a different rate of tonnage is levied on American vessels at the port whence such vessel last departed. (November 8, 1832.)

Besides the foregoing, an exaction of the tonnage duties is required, which are set forth in the circular of the Department of the 23d of February, 1835, accompanying the act of Congress "concerning tonnage duty on Spanish vessels," approved the 30th of June, 1834, coming from the island of Cuba or Porto Rico, either directly or after touching at any port or place, or departing from the United States with a cargo destined directly, or indirectly, for either of said islands.

10th. Collectors, in whose districts vessels are licensed for employment in the fisheries, are admonished against taking fees for the following objects, to wit :

For taking and writing out an oath ; for receiving journal of a fishing vessel and oath to the same ; also, for receipts, and giving drafts for the payment of bounties. (December 12, 1832.)

11th. In calculating the duties upon invoices of merchandise made out in francs of French coinage, the franc is to be estimated at 18 cents and $\frac{708}{1000}$ parts of a cent. (February 20, 1833.)

12th. In all cases where forfeitures or penalties may be incurred under the provisions of the "act of Congress regulating passenger-ships and vessels," approved the 2d of March, 1819, judicial proceedings must be instituted previously to receiving the forfeiture or penalty imposed by the law. (July 18, 1833.)

13th. The special attention of the officers of the customs in the States of Alabama, Mississippi, and Louisiana, is called to the provisions of the 3d section of the act of Congress, approved the 2d of March, 1833, providing for the protection of live oak growing on the public lands. (December 28, 1833.)

14th. Collectors to receive in payment of duties the notes of no banks except such as are in good credit and pay specie promptly for their notes, when presented ; and to take none except such as the bank in which they are directed to make deposits will agree to pass to the credit of the United States as cash. (March 26, 1834.)

No notes of less denomination than five dollars are to be received at this time ; and after the 3d of March, 1836, none under ten dollars, (provided Congress in the mean time should make no new provision on the subject.) (6th April, 1835.)

15th. Collectors superintending the direction of revenue-cutters are informed that no wages for fractional parts of a month are to be paid for the time of seamen who may have deserted ; nor is any part of the wages of those on board the cutter, at the end of the month to be withheld, unless retained in the hands of the collector ; in which case a certificate is to be given for the amount so retained, and the same noted on the pay-roll. [7th May, 1835.)

16th. Upon making application to the Department for authority to employ revenue-boats of the description designated in the 101st section of the act of the 2d of March, 1799, the collectors are required to furnish satisfactory reasons for such employment ; also, an estimate of the probable cost of the boat, together with a statement of the number of hands necessary to man it, with the rate of their wages.

Before a new boat or new sails can be procured, or repairs made to boats in service, the sanction of the Department must be first obtained.

17th. Collectors are authorized to retain in their hands only such amount of public money as may be sufficient to pay debentures and defray the current expenditures of their districts, and must deposite the excess at the close of each week in bank, to the credit of the Treasurer of the United States.

18th. Applications to make alterations or repairs to the public buildings, or other public property, should be accompanied with an estimate of the probable expense of the work.

It is deemed proper to remark, in conclusion, that, although the forego-

ing is presumed to contain the substance of the principal and most important circular instructions and official regulations emanating from the office of the Secretary of the Treasury, yet owing to the imperfect state of its records, occasioned by the late conflagration of the Treasury building, some may have been omitted. It is only necessary, therefore, to add, that due regard will be paid by the collectors to the directions contained in any such in their possession, to which reference has not been made in this circular.

LEVI WOODBURY,
Secretary of the Treasury.

C.

TREASURY DEPARTMENT,
Register's Office, January 5, 1839.

SIR: In reply to your note of this morning, inquiring "what probable time it would take to prepare copies of the quarterly accounts and accompanying abstracts, vouchers, and all other returns of papers rendered therewith, by Samuel Swartwout, late collector at New York, between the 12th day of November, 1835, and the last of March, 1838, together with the number of clerks necessary to prepare the same," I beg leave to state, that the estimate has been made by one of the oldest and most experienced clerks of this office, who has charge of the aforesaid papers, and he reports that it would require the time of an expert and accurate copyist, at least seven months, to prepare one quarter; and as there are ten quarters within the period named by you, to accomplish the whole, would occupy one clerk seventy months, or five years and ten months.

Most respectfully, your obedient servant,

T. L. SMITH.

HON. LEVI WOODBURY,
Secretary of the Treasury.

D.

TREASURY DEPARTMENT,
Comptroller's Office, January 3, 1839.

SIR: In obedience to your reference of the resolution of the House of Representatives, passed on the 31st ultimo, to be furnished with such information as may be in this office appertaining thereto, I have the honor to transmit, herewith, certified copies of all the bonds executed by Samuel Swartwout, as collector of customs for the district of New York, to be found on the files of this office.

It is proper to state that no correspondence has taken place between this office and William M. Price, the late district attorney for New York, in relation to said bonds.

I have the honor to be, very respectfully, your obedient servant,

J. N. BARKER, *Comptroller.*

HON. LEVI WOODBURY,
Secretary of the Treasury.

Know all men by these presents that we, Samuel Swartwout, Cadwallader D. Colden, Silas E. Burrows, M. M. Quackenbos, Henry Eckford, Charles L. Livingston, and Benjamin Birdsall, are held and firmly bound unto the United States of America, in the full and just sum of one hundred and fifty thousand dollars, money of the United States; to which payment, well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this twelfth day of May, in the year one thousand eight hundred twenty-nine.

The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed the said Samuel Swartwout to the office of collector of the customs for the district of New York, in the State of New York:

Now, therefore, if the said Samuel Swartwout has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of the said office, according to law; then the above obligation to be void and of none effect, otherwise it shall abide and remain in full force and virtue.

SAMUEL SWARTWOUT,	[L. s.]
CADWALLADER D. COLDEN,	[L. s.]
SILAS E. BURROWS,	[L. s.]
M. M. QUACKENBOS,	[L. s.]
H. ECKFORD,	[L. s.]
CHARLES L. LIVINGSTON,	[L. s.]
BENJAMIN BIRDSALL,	[L. s.]

Sealed and delivered in presence of

SAMUEL L. GOUVERNEUR.

Note.—The above bond to be dated, signed, sealed, and witnessed. The sufficiency of the sureties to be certified by the United States district judge or attorney.

May 15, 1829.

I hereby certify that I have inquired into the situation and circumstances of the sureties named in the within bond, and am satisfied of their sufficiency.

JNO. DUER,

Attorney of the U. S. for the Southern District of New York.

TREASURY DEPARTMENT,

Comptroller's Office, May 18, 1829.

Approved on the above certificate.

JOS. ANDERSON, *Comptroller.*

TREASURY DEPARTMENT,

First Comptroller's Office, January 3, 1839.

I do hereby certify that the within bond is a true copy from the original on file in this office.

J. N. BARKER, *Comptroller.*

Know all men by these presents, that we, Samuel Swartwout, Cadwallader D. Colden, Henry Eckford, Silas E. Burrows, Charles L. Livingston, M. M. Quackenbos, and Benjamin Birdsall, are held and firmly bound unto the United States of America, in the full and just sum of one hundred and fifty thousand dollars, money of the United States; to which payment well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this twenty-second day of June, in the year one thousand eight hundred and thirty.

The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed the said Samuel Swartwout to the office of collector of the customs for the district of New York, in the State of New York:

Now, therefore, if the said Samuel Swartwout has truly and faithfully executed and discharged, and shall continue truly and faithfully to execute and discharge all the duties of the said office, according to law, then the above obligation to be void and of none effect; otherwise, it shall abide and remain in full force and virtue.

SAMUEL SWARTWOUT,	[L. S.]
CADWALLADER D. COLDEN,	[L. S.]
H. ECKFORD,	[L. S.]
SILAS E. BURROWS,	[L. S.]
CHAS. L. LIVINGSTON,	[L. S.]
M. M. QUACKENBOS,	[L. S.]
BENJ. BIRDSALL,	[L. S.]

Sealed and delivered in the presence of

HENRY OGDEN.

Note.—The above bond to be dated, signed, sealed, and witnessed. The sufficiency of the sureties to be certified by the United States district judge or attorney.

New York, June 23, 1830.

I certify that the sureties who have executed the within bond are known to me, and that, aggregately, they are sufficient security for the sum mentioned therein.

JAMES A. HAMILTON,
District Attorney U. S.

TREASURY DEPARTMENT,
Comptroller's Office, June 25, 1830.

Approved on the above certificate.

JOS. ANDERSON, *Comptroller.*

TREASURY DEPARTMENT,
First Comptroller's Office, January 3, 1839.

I do hereby certify, that the within bond is a true copy from the original, on file in this office.

J. N. BARKER, *Comptroller.*

Know all men by these presents, that we, Samuel Swartwout, Benjamin Birdsall, Charles L. Livingston, and Mangle M. Quackenbos, of the city of New York, are held and firmly bound unto the United States of America, in the full and just sum of one hundred and fifty thousand dollars, money of the United States; to which payment well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this fourteenth day of May, in the year one thousand eight hundred and thirty-four.

The condition of the foregoing obligation is such, that whereas the President of the United States hath, pursuant to law, appointed the said Samuel Swartwout collector of the customs for the district of New York in the State of New York:

Now, therefore, if the said Samuel Swartwout shall faithfully execute and discharge the duties of his office, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

SAMUEL SWARTWOUT, [L. s.]
 BENJAMIN BIRDSALL, [L. s.]
 CHARLES L. LIVINGSTON, [L. s.]
 M. M. QUACKENBOS, [L. s.]

Sealed and delivered in presence of
 HENRY OGDEN.

UNITED STATES DISTRICT ATTORNEY'S OFFICE,
New York, January 24, 1837.

I certify that the sureties within named afford sufficient security to the United States of America for the performance of this obligation.

WILLIAM M. PRICE.

TREASURY DEPARTMENT,
Comptroller's Office, January 23, 1837.

Approved on the above certificate.

GEORGE WOLF, *Comptroller.*

TREASURY DEPARTMENT,
First Comptroller's Office, January 3, 1839.

I do hereby certify that the within bond is a true copy from the original on file in this office.

J. N. BARKER, *Comptroller.*

E.

OFFICE OF THE SOLICITOR OF THE TREASURY,
January 4, 1839.

SIR: I had the honor to receive the extract referred by you to this office of the resolution of the House of Representatives of the 31st December, 1838, calling for copies of all correspondence between the

Treasury Department and William M. Price, late district attorney of the United States for the southern district of New York, in relation to any bond or bonds executed by the sureties of said Swartwout for the faithful performance of his duties as collector of New York.

In reply, I have to say that there is no correspondence in this office on the subject referred to, except a letter addressed to the late district attorney of New York, dated 12th November last, in which a copy of the last official bond of Mr. Swartwout was enclosed with the warrant of distress, and a letter addressed to the First Comptroller of the Treasury on the 26th November last, requesting that a Treasury transcript of the account of Mr. Swartwout might be prepared in such a way as to exhibit the defalcation that occurred before the expiration of his official term, which ended on the 29th of March, 1834, so that suit might be brought against the sureties on the bond given for that term, in addition to the proceedings on the subsequent bond. Of the first of these letters a copy accompanied the reports in the case of Swartwout (No. 19;) and of the last a copy is herewith transmitted.

Very respectfully, yours,

H. D. GILPIN,
Solicitor of the Treasury.

HON. LEVI WOODBURY,
Secretary of the Treasury.

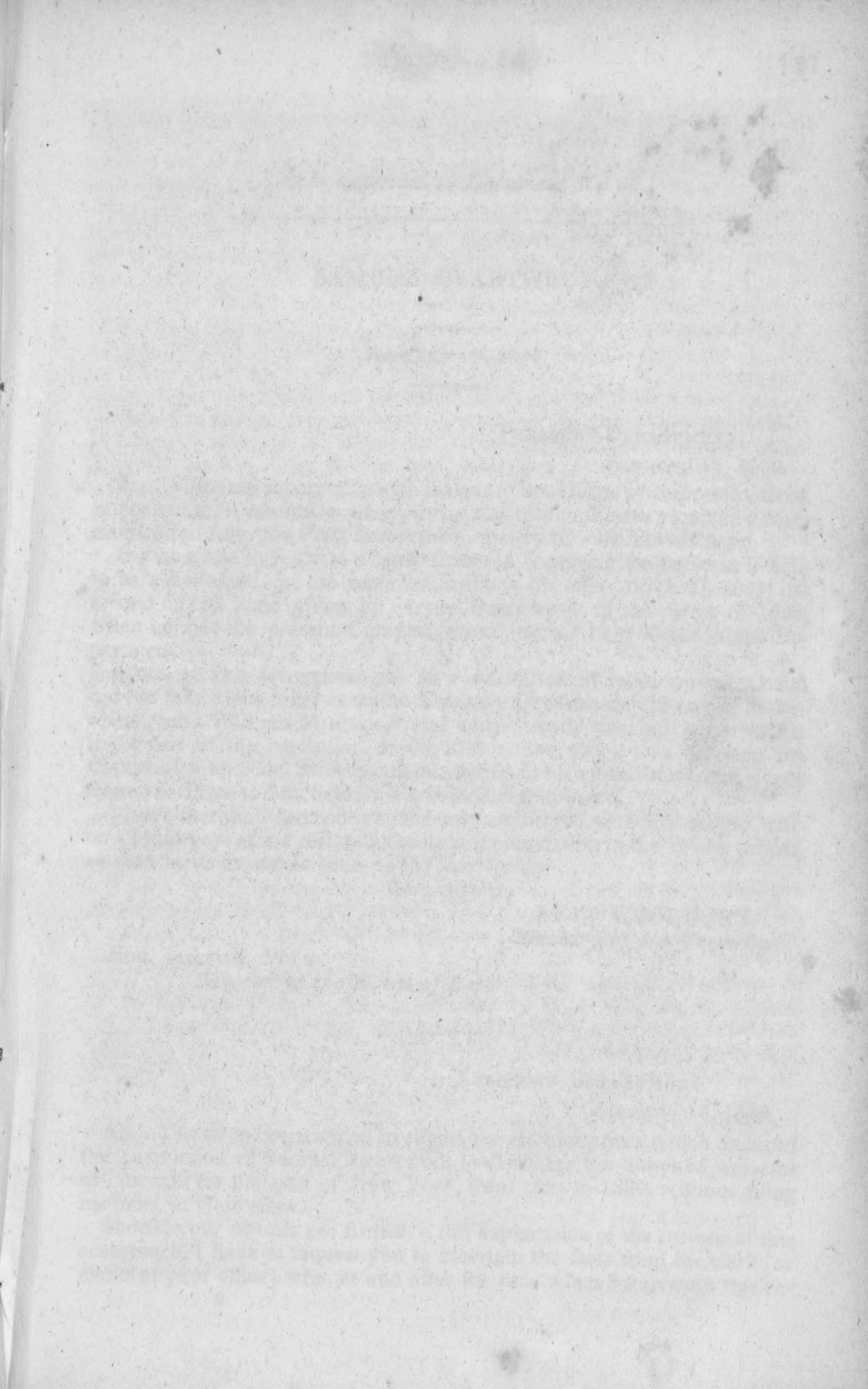
OFFICE OF THE SOLICITOR OF THE TREASURY,
November 26, 1838.

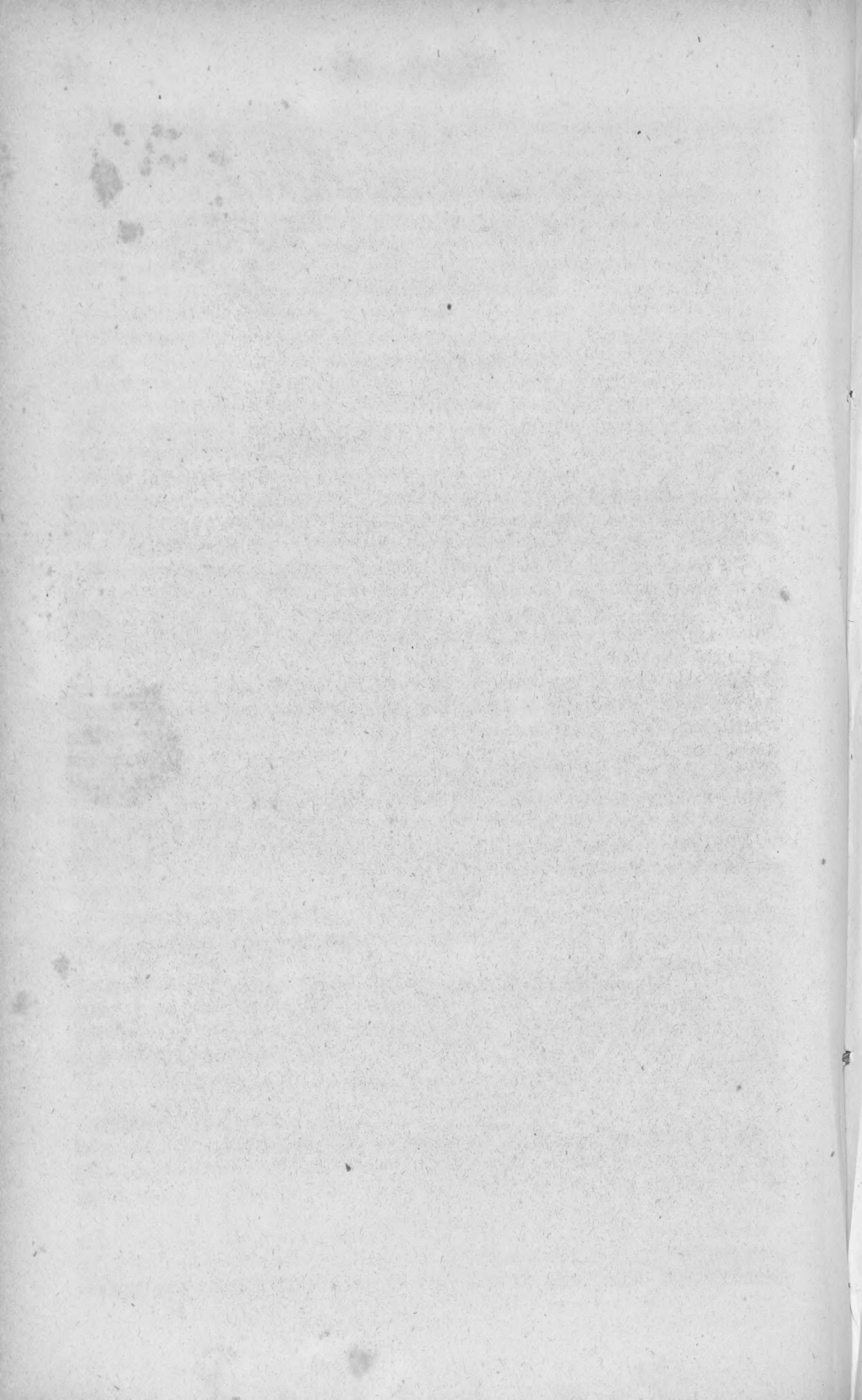
SIR: The bond of Samuel Swartwout, late collector of customs, New York, dated 22d June, 1830, which was transmitted from your office on the 13th instant, is for the official term of Mr. Swartwout, which expired on the 29th March, 1834. I shall be obliged by your having such a transcript of the account prepared as will exhibit the defalcation which occurred before the expiration of that term, in order that suit may be brought against the sureties to recover the amount.

Very respectfully, yours,

H. D. GILPIN,
Solicitor of the Treasury.

J. N. BARKER, Esq.,
First Comptroller of the Treasury.





[To be appended to Document No. 69.]

SAMUEL SWARTWOUT.

JANUARY 19, 1839.

TREASURY DEPARTMENT,

January 17, 1839.

SIR: Since my report of the 7th instant to the House of Representatives, in answer to its resolution adopted the 31st ultimo, I have received a communication from the First Comptroller, a copy of which is annexed.

It was made in reply to a letter from me, inquiring the reasons, if able to be ascertained, for the omission to file in his office, till A. D. 1837, the second official bond given by Samuel Swartwout, in the spring of 1834, when neither the present Comptroller nor myself held offices in this Department.

Although the correspondence now submitted in relation to that bond did not take place "between the Treasury Department" or any of its bureaux "and William M. Price," and consequently does not come within the words of the resolution of the 31st ultimo, yet it was between the Comptroller and Mr. Swartwout, in relation to his official bond, and a note from Mr. Price to Mr. Swartwout is included in it.

I have therefore deemed it sufficiently connected with the subject-matter of that part of the call to make its communication to the House proper, as soon as its existence came to my knowledge.

Respectfully,

LEVI WOODBURY,

Secretary of the Treasury.

HON. JAMES K. POLK,

Speaker of the House of Reps.

TREASURY DEPARTMENT,

January 16, 1839.

SIR: I have to request you to report the circumstances which induced the permission of Samuel Swartwout to discharge the duties of collector of customs for the port of New York, from 1834 to 1837, without filing his bond in your office.

Should your records not furnish a full explanation of the reasons of this occurrence, I have to request you to ascertain the facts from the clerk [or clerks of your office] who, at and after the time when Swartwout was re-

commissioned in 1834, was particularly charged with that branch of duty, in order that your report may contain all the facts bearing upon the subject which may be attainable.

I am, sir, very respectfully, your obedient servant,

LEVI WOODBURY,

JAMES N. BARKER, Esq.,

Secretary of the Treasury.

Comptroller of the Treasury and

Commissioner of the Customs.

TREASURY DEPARTMENT,

Comptroller's Office, January 16, 1839.

SIR : I have the honor to acknowledge the receipt of your letter of this day's date, requesting me "to report the circumstances which induced the permission of Samuel Swartwout to discharge the duties of collector of customs for the port of New York, from 1834 to 1837, without filing his bond ; and, should the records not furnish a full explanation of the reasons of this occurrence, you request me to ascertain the facts from the clerk or clerks of this office, who, at or after the time when Swartwout was recommissioned in 1834, was particularly charged with that branch of duty, in order that my report may contain all the facts bearing upon the subject which may be attainable.

In compliance with the above instructions, I have enclosed herewith the correspondence had with Mr. Swartwout, in relation to his bond, which will in part explain the cause of the bond in question, bearing the date of Governor Wolf's approval, as dated 23d January, 1837 ; and to state, that on instituting the inquiries above directed, I learn from the gentleman now having charge of this branch of the duties of this office, (to which he was assigned on the resignation of the clerk having had this desk, in the year 1835,) that the neglect of Mr. Swartwout to render this bond was accidentally discovered by him in January, 1837, in complying with your instructions of the 16th October, 1835, in which it is made the duty of the Comptroller to advise the *sureties* on the bonds of collectors who neglect to render their quarterly accounts in due time. A delinquency of this kind having been reported by the First Auditor on the 4th of January, 1837, in order to ascertain the names of the *sureties* a reference to the bond was made ; it was not on the files ; and he was induced to go through all the files to see if there were any other bonds missing, when the bond of Mr. Swartwout was discovered to be missing ; and Governor Wolf, on being informed of the fact, addressed to him the enclosed letter, dated the 9th of January, 1837. The day after, Mr. Swartwout reached Washington, and called at this office, and had the interview with Mr. Laub referred to in his reply of the 24th January. This bond should have been received at this office on or before the 29th June, 1834 ; and in accordance with the practice of this office, he should then have been notified of its non-receipt ; and if he failed to render it immediately, the Secretary of the Treasury should have been notified of the neglect.

I have the honor to be, with great respect, your obedient servant,

J. N. BARKER,

Comptroller.

HON. LEVI WOODBURY,

Secretary of the Treasury.

TREASURY DEPARTMENT,

Comptroller's Office, January 9, 1837.

SIR: On an examination of the files in this office, it appears that your last bond has been mislaid, and cannot be found. I have therefore to request that you will be pleased, at your earliest convenience, to execute another bond, to which you will procure the certificate of the United States judge, or district attorney, touching the sufficiency of the sureties.

Very respectfully, your obedient servant,

GEORGE WOLF,
Comptroller.

SAMUEL SWARTWOUT, Esq., *Collector at New York.*

COLLECTOR'S OFFICE,

New York, January 24, 1837.

SIR: I have the honor to enclose herewith my official bond, with the district attorney's certificate, and a note from him in explanation of the delay.

The bond was executed and witnessed in May, 1834; but as I was called to Washington very suddenly, and kept there for nine or ten weeks in attendance upon the committees of Congress, in relation to our custom-house concerns, I forgot it, and never dreamed of its not having been forwarded, until I saw Mr. Laub two weeks ago in Washington. Mr. Ogden, our cashier, informs me, that after it was executed, during my absence, he put it away in the iron chest, where it has lain ever since.

I return the bond which was enclosed in your letter of the 9th instant, and am, with great respect,

Your obedient servant,

SAMUEL SWARTWOUT,
Collector.

GEORGE WOLF, *Comptroller, Washington.*

JANUARY 24, 1837.

MY DEAR SIR: I had intended yesterday to have gone to my office, for the purpose of certifying the sufficiency of your sureties on your bond, but my youngest son has not been expected to live during the last two days, and we are in the deepest distress. I hope you will receive it in season for this day's mail.

I am, truly,

WILLIAM M. PRICE.

SAMUEL SWARTWOUT, Esq., *Custom-house, New York.*

On an examination of the files in this office it appears that your last bond has been mislaid, and cannot be found. I have therefore to request that you will be pleased at your earliest convenience to execute another bond to which you will procure the certificate of the United States Judge or district attorney, touching the sufficiency of the sureties. Very respectfully, your obedient servant.

GEORGE WOLF,

Comptroller.

SAMUEL SWARTWOUT, Esq., Collector at New York.

I have the honor to enclose herewith my official bond with the district attorney a certificate, and a note from him in explanation of the delay. The bond was executed and witnessed in May 1834, but as I was called to Washington very suddenly, and kept there for time or two weeks in attendance upon the committees of Congress in relation to our custom-house concerns, I forgot it, and never dreamed of its not having been forwarded, until I saw Mr. Laid two weeks ago in Washington. My friend, our cabinet, informed me that after it was executed, during my absence, he put it away in the iron chest, where it has been ever since. I retain the bond which was enclosed in your letter of the 11th instant, and am, with great respect,

Your obedient servant,

SAMUEL SWARTWOUT,

Collector.

George Wolf, Comptroller, Washington.

I had intended yesterday to have gone to my office for the purpose of certifying the sufficiency of your sureties on your bond, but my youngest son has not been expected to live during the last two days, and we are in the deepest distress. I hope you will excuse it in season for this day's mail.

I am, truly,

WILLIAM M. PRICE,

SAMUEL SWARTWOUT, Esq., Custom-house, New York.