55TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1523.

W. H. L. PEPPERELL.

JUNE 7, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

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

REPORT.

[To accompany H. R. 2764.]

The Committee on Claims, to whom was referred the bill (H. R. 2764) for the relief of W. H. L. Pepperell, have had the same under consideration, and report as follows:

A precisely similar bill was favorably reported and passed in the Senate in the Fifty-third Congress upon the following report, which is adopted by your committee as their report upon the bill under consideration:

This claim is for the sum of $1,345 for stamps and $200 in money belonging to the United States, stolen from his possession on October 22, 1887, while he was postmaster at Concordia, Kans.

All the facts are fully set forth in the official correspondence hereto annexed and printed as an addenda to this report.

Your committee exonerate him from personal negligence in the loss, and as it has been a fixed policy with your committee to hold that postmasters were not insurers of Government funds or property in their possession, and to exonerate them from loss, when stolen without personal negligence on their part, to recommend that the Government reimburse or repay them the amount stolen, your committee recommend this bill do pass.

EXHIBIT A.

OFFICE OF THE ASSISTANT ATTORNEY-GENERAL
FOR THE POST-OFFICE DEPARTMENT,
February 6, 1893.

SIR: Referring to your communication of the 4th instant, transmitting bill (H. R. 3663) for the relief of W. H. L. Pepperell, late postmaster at Concordia, Kans., which is herewith returned, I have the honor to transmit copy of a brief prepared by Gen. E. E. Bryant, late Assistant Attorney-General for this Department, in which all the material facts in the case appear to be fully set forth.

At the time the claim was disallowed there was no provision of law by which postmasters could be reimbursed for the loss of postal funds (money received from the sale of stamps, etc.). Since that date the law has been amended (act of May 9, 1888) so as to authorize allowance of credit for postal funds upon the same conditions as for loss of money-order funds, postage stamps, and other stamped paper.

It appears to be reasonably certain that postage stamps of the value of $1,345 and postal funds amounting to $200 were stolen, as set forth in the inclosed brief; it may be that the loss did not result from any fault or negligence on the part of the postmaster, and if the case had come before me *de novo*, it is likely that I should have advised allowance of the claim.

Very respectfully,

JAS. N. TYNER,
Assistant Attorney-General, Post-Office Department.

Hon. C. H. MANSUR, M. C.,
House of Representatives.

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EXHIBIT B.

[Concordia, Cloud County, Kans., W. H. L. Pepperell, postmaster, claims a credit of $1,345 for postage stamps lost by burglary (?) on the 27th day of August, 1887.]

EVIDENCE.

(1) In an affidavit made by the claimant October 22, 1887, he sets forth that on the 27th day of August, 1887, at about 11 15 o'clock a. m., as nearly as he can determine, he sustained a loss of postage stamps, etc., resulting from burglary, and without fault or negligence on his part; that, to the best of his knowledge and belief, the value of the stamps, etc., so lost is $1,345, for which amount he claims credit; that after said loss occurred there remained in his possession postage stamps, stamped envelopes, newspaper wrappers, and postal cards of the total value of $461.49 and no more; and that his belief as to the value of those so lost is based upon the following calculation, viz:

Stamps, etc., on hand July 1, 1887		$2,099.59
Stamps, etc., sold to date of loss	$581.02	
Stamps, etc., on hand after the loss occurred	173.57	
		754.59
Loss		1,345.00

He further states that, in addition to the loss above mentioned, he lost $200 in money accruing from the sale of stamps.

(2) The claimant also files another affidavit made by him, the substance of which is as follows:

* * * * * * *

"I had in my safe in the post-office a large amount of postage stamps, postal cards, moneys, and other property of the United States Post-Office Department. That, to wit, on the 27th day of August, 1887, at about 11 o'clock a. m., the said office was burglariously entered, and stamps of the value of $1,345 and money to the value of $200 was burglariously and feloniously taken and carried away from this affiant without any procurement, fault, or negligence on the part of this affiant. * * *

"That he was in said office until about 10.30 o'clock a. m. of said day, and being obliged to leave said office for a short time to attend to some pressing business, before leaving, called together his assistant postmaster and two clerks, and told them that he was called away on business and would be absent from the office a short time, and charged them to be careful not to leave the office under any circumstances until his return, which assurance each of said clerks gave this affiant. That upon the return of this affiant, about forty minutes thereafter, being called upon to make a payment of money, he discovered that his safe had been burglarized of the amount hereinbefore stated, which had been removed from the upper drawer of his safe. Said affiant immediately summoned his clerks, and, informing them of the fact, they each admitted of leaving the office for a few minutes, going to the front or public door to view a parade that was passing said office.

"Your said affiant immediately examined said office to ascertain the manner of said burglary, and found that entrance had been made by said thief through the back office window in the manner following:

"The day being very sultry, to obtain a little ventilation, the upper sash was lowered 4 or 5 inches, and secured thereby by a stick resting on the lower sash and under the top of the upper sash, both sashes working by pulley. The burglar, evidently by means of a box, reached over the window and removed the stick, gained entrance by raising the lower sash, opened the safe, removed the contents aforementioned, which was but a part of the contents of said safe, making his exit through said window, as appeared from mud on said window sill and box.

"That the combination to said safe was only known to this affiant and his assistant. That it was necessary for the accommodation of the public, as a large amount of business is transacted by this affiant as postmaster, to have the stamps, moneys, and other articles of demand at easy command, and for said reason the safe, during the principal business hours, was left unlocked, but the door closed.

"That the post-office building is in the middle of a business block, and fronts north, with no side openings. The back door was, on said day, as on all other days when not in use, locked for the protection of said office. The windows in the back of said office are high, and the top can only be reached by means of assistance, and the lowering of the top sash was the only means of ventilation and comfort on said day.

"That a short time prior to said day [he] purchased a new safe for the protection of the Government funds, and did on said day, as well as at all other times, use the

utmost care for the protection of the property of the Government. That said loss was in nowise due to any carelessness nor negligence of this your affiant." * * *

(3) The claimant files the affidavits of Alvis Ramsey, Michael Peltier, and Ruby S. Paradis, all clerks in the post-office, and all of whom state that on the morning of the date named, between the hours of 10 and 11 o'clock, the postmaster called them together and, after informing them that he would be absent for a short time on business, enjoined them to be careful and not to leave the office during his absence; that shortly after the postmaster had gone a circus parade passed the office, and, as no one was in the office at the time, all of them went to the front door to see the parade. The affiant Paradis says:

"I was not gone to exceed five minutes, when, attracted by a noise, I immediately returned to the office, and, everything appearing as usual, suspicioned nothing wrong, nor did I until five or ten minutes thereafter, when the postmaster returned and went to the safe for something and cried out, 'My God, where are my stamps?' and immediately called us for an explanation.

"I examined, with the postmaster, the means of entrance of said burglar, and found he had, by means of a box, reached the stick that was holding the upper sash of the back window, which was lowered 4 or 5 inches for ventilation, and thereby gained entrance by raising the lower sash, opening the safe, which was closed but not locked, taking the contents, consisting of money and stamps from the upper drawer, again closing the safe.

"I further say that a large amount of business is done at this office, and it is impossible to keep the safe locked, as we are compelled to visit it from twenty to fifty times each day for additional stamps or money. I further say that the postmaster has repeatedly cautioned us to be very careful as to care and management of the office; and *had we done as instructed by him, and which we should* have done, said burglary would not have occurred."

The other two clerks also state that if the instructions given them by the postmaster had been obeyed the loss would not have occurred.

(4) There are also filed the affidavits of A. A. Carnahan, receiver of public moneys and disbursing agent of the United States land office at Concordia, and of L. N. Houston, clerk of Cloud County, Kans., both of whom testify in stong terms to the trustworthy character of the postmaster and to his careful business habits. The latter says that the postmaster was for a number of years his agent "in caring for the property and the loaning of the money of this affiant; that during the time the said Pepperell was agent for me he loaned several thousand dollars for me on his own judgment, and cared for said loans and for the money, notes, and other property of this affiant, all of which he cared for and protected in a prudent and safe manner; and your affiant trusted said Pepperell without bond or other security of protection."

Both affiants state that the postmaster informed them of the loss at about 11.20 or 11.30 a. m. on the date of its occurrence; that he was greatly disturbed thereby; that they examined the premises, and are satisfied that the loss occurred as above stated, and that the clerks in the office freely admitted their carelessness and said that the loss would not have occurred if they had obeyed the postmaster's instructions.

(5) The Third Assistant Postmaster-General furnishes the following estimate:

Stamps, etc., reported on hand June 30, 1887		$2,556.30
Stamps, etc., furnished to date of loss		45.00
Total to be accounted for		2,601.30
Reported on hand September 30, 1887	$1,283.54	
Amount required for sales from date of loss to September 30	501.20	
	1,784.74	
Deduct supplies sent subsequent to date of loss	1,310.70	
Estimated amount on hand after the loss occurred	474.04	
Estimated sales from June 30 to date of loss	816.24	
		1,290.28
Estimated loss		1,311.02

It is evident from the above that the claimant's estimate includes only such articles as were stolen and makes no account of stamped envelopes, postal cards, newspaper wrappers, etc., which are included in the Department estimate.

(6) The report of Tom Baine, post-office inspector, dated November 17, 1887, confirms the statements of the claimant and his witnesses in all important particulars as to the manner in which the loss occurred, and inclosed with it are affidavits of all the persons in the office, which do not differ materially from those noted above. The report contains the following details concerning the arrangements of the office, etc.:

"Owing to the arrangement of the office furniture the clerks, from their positions,

could not gratify their curiosity to see the parade, and, no one being in the office to demand their attention, they went to the front, followed, in a short while, by the assistant postmaster. The latter says she locked the back door before going out; that she staid out about five minutes and returned upon hearing a slight noise in the rear of the post-office. The high and deep nests of boxes running clear across the room obstructs a view of the rear, so she could not have seen the office proper. * * *

"The safe rests against the rear wall of the post-office building, and immediately to its right is a window. Postmaster and assistant state that it was customary to leave the lower sash of this window down and secured by a stout stick braced crosswise from the top of the lower sash to the upper portion of the window frame. They state that the window was so arranged when postmaster left the office, and, furthermore, that the upper sash on rollers, was lowered for ventilation. When the loss was discovered the lower sash was raised 18 or 20 inches and the brace removed. It is supposed that the thief stood upon a box outside (one was lying close by), reached over the lowered upper sash, and removed the brace.

"In a burglar-proof vault (burglar proof when locked), inside the safe, postmaster kept the unbroken packages of stamps, postal funds, and registered letters.

"There were stamps worth $1,345 done up in several packages, and about $316 in money. Two hundred ($200) of the money was rolled together, and lay directly in front of the stamps; and a little out of view was a box containing $116. This box and contents were not disturbed. Postmaster consulted his friends and was advised to say as little as possible about the robbery, a quiet search for the theives being deemed best. The Department was promptly notified, and the postmaster made an effort to detect the burglars, but without success. Nothing has been seen or heard of the stamps.

"Postmaster's story, though doubted by some, as hereinafter explained, is plausible, and, I think, entitled to full credit. He explained satisfactorily the business that called him from the office. The special caution enjoined upon his clerks is not singular, for a circus and hundreds of strangers were in the town, and an ordinarily careless person would take precautions on such an occasion. It is natural that the clerks (youths) should disregard postmaster's injunction, especially as there was no one in the office to be waited upon, the circus having caused a momentary suspension of business. It was not a difficult matter for a sneak thief to enter the office, in the manner described, nor did it require much time to unbolt the vault door, grab the packages of stamps and roll of money, and get out of the office. The fact that the back street or alley was deserted at this time made it easy to escape without attracting attention.

"Postmaster had just bought the safe, and explained that he did not keep the vault on the day lock because at the time he did not know there was such a convenience, and to go through the entire combination whenever he had occasion to open the vault was impracticable.

"A newspaper printed at Concordia intimated that the loss did not occur as claimed, and vaguely hinted at collusion on the part of postmaster. I learn that this newspaper is addicted to sensationalism and is unreliable; furthermore, that one of the editors is not on good terms with postmaster. I am told by reliable men, who believe postmaster is truthful and honest, that the few who think with the newspaper are postmaster's personal and political enemies. I have talked with one of the editors, and he was unable to give any good reason for making the charge.

"Before the robbery postmaster had on hand $1,823.29 of stamped paper, estimated from monthly statement made three days later. Postmaster is positive that the stamps stolen were of the denominations and amounts named in his affidavit herewith. Nothing but the $1,345 in stamps and the $200 in postal funds were stolen.

"At the close of the month (August) postmaster borrowed money and remitted to this depository the entire amount sold and stolen during the month, less his salary and other authorized disbursements. Postmaster said he knew of no other course to pursue, and that he did not intend this as a relinquishment of his claim.

"I made careful inquiry into the postmaster's business habits, and even his enemies could not deny that he is industrious and careful. A few weeks before the loss the postmaster replaced a very good safe with a large, new, burglar-proof affair, that Government property might be more securely kept; and I believe that, otherwise, postmaster exercised due diligence to avoid loss. The loss is due wholly to the disobedience and negligence of his clerks, for whose acts postmaster is responsible; and, as hard as the loss will fall upon the latter, I recommend that the entire claim be disallowed."

Following is an extract from the affidavit of the claimant, to which the inspector refers, and which is inclosed with his report, viz:

"I swear, furthermore, that before leaving said office at the time and in the manner above mentioned there were, to the best of my knowledge and belief, in said safe, vault, and about the post-office, stamped paper to the value of $1,823.29 and money derived from the sale of stamps, etc., amounting to $316.41, and that, upon

counting and invoicing the postal money and stamped paper as soon after my return as possible, there remained but $478.29 in stamps and $116.41 in postal money, $200 in money, $1,200 in ordinary 2-cent stamps, $15 of 5-cent postage stamps, $30 of 15-cent postage stamps, $50 of 10-cent postage stamps, $30 of 30-cent postage stamps, and $20 of special-delivery stamps, a total of $1,545, having been stolen at the time and in the manner above described."

OPINION.

Loss by burglary of stamps to the amount of $1,345 claimed. These stamps, if taken as claimed, were taken at about the hour of 11 o'clock in the daytime. The assistant postmaster and clerks in the office left the post-office room to view the passing of a circus parade, and while so absent the safe in the post-office was left unlocked and a window open near the safe. It is supposed that the burglar entered and took the stamps while the clerks were absent. In view of the circumstances, I can not advise allowance of the claim. It is admitted that the clerks were careless. The taking of the stamps in the daytime was not technically a burglary, and I can not regard it as an unavoidable casualty.

E. E. BRYANT,
Assistant Attorney-General, Post-Office Department.

Your committee recommend that the bill (S. 250) do pass.