

SOUTHERN CITIZEN.

WHAT DO WE LIVE FOR, BUT TO IMPROVE OURSELVES AND BE USEFUL TO ONE ANOTHER?

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PUBLIC DEFAULTERS.

Extract from the Report of the Investigating Committee, on the subject of Public Defaulters, communicated to the House of Representatives on Thursday the 28th ult.

(Concluded.)

THE CAUSES OF MR. SWARTWOUT'S DEFALCATIONS.

Cause I. The irresponsibility of Mr. Swartwout in pecuniary character at the time of his appointment to office.

Conclusions of the Committee.

1st. That at the time of Mr. Swartwout's appointment, and of his reappointment to office, he was wholly irresponsible in pecuniary reputation, and was involved in debt.

2d. That at the time of his appointment and of his reappointment, and for the whole period he was in office, he was notoriously engaged in large and hazardous speculations, and deeply embarrassed by them.

3d. That his pecuniary responsibility and consequent involvements by hazardous speculations, constitute one of the primary causes of his defalcations to the Government.

Cause II. Culpable disregard of law, and neglect of official duty, by the late naval officer at New York.

Conclusions of the Committee.

1st. That the late naval officer at the port of New York, throughout the term of his service, from 1829 to 1838, wholly disregarded the requirements of law respecting the duties of his office.

2d. That said naval officer, for the same period, wholly disregarded the instructions of the Comptroller of the Treasury of November 10, 1821.

3d. That said naval officer, by so disregarding the requirements of law and the instructions of the Treasury Department, culpably neglected to keep the accounts and records appertaining to his office, and thereby rendered the office nugatory as a check on the accounts of the collector.

4th. That if the duties of said naval officer, as authorized and directed by existing laws, had been executed with proper care and vigilance, they would have rendered it impracticable for any fraud or error in any of the accounts of the collector of said port to escape immediate detection.

5th. That the culpable disregard of the plain requirements of law and of Treasury instructions prescribing the duties of naval officers, by said naval officer, and his continued neglect of official duty, is a primary cause of the immense defalcations of the late collector of New York.

Cause III. Culpable disregard of law and neglect of official duty by the First Auditor of the Treasury.

Conclusions of the Committee.

1st. That the First Auditor of the Treasury has been guilty of culpable

disregard of law, and neglect of duty, in examining and certifying the correctness of the accounts of the late collector at New York without having compared them thoroughly with the vouchers accompanying the same; and also in transmitting said accounts to the First Comptroller, certified, for revision, while the most important vouchers therefor were retained in his own office.

2d. That no fraud practised by the said collector in his weekly returns of cash to the Secretary of the Treasury could affect the just and true settlement of the accounts of said collector at the Auditor's office, as said weekly returns form no part of the basis of the settlement of said quarterly accounts by the Auditor; and therefore furnish no apology for the neglect of the Auditor to examine the same thoroughly.

3d. That, without the aid of the register of bond accounts of collectors, required by law and Treasury circular to be kept by the Auditor, to enable him to detect frauds and defalcations, if any exist, the said Auditor could have thoroughly examined said Swartwout's quarterly accounts during any quarter said Auditor has been in office, inasmuch as the original quarterly accounts were retained in office, and furnished the same means of comparison as a register would have furnished.

4th. That, in the culpable disregard of law and neglect of duty, as aforesaid, by said Auditor, is found a primary cause why the defalcations of said Swartwout in 1837, and subsequently, escaped early detection, and have resulted in the probable loss of the public Treasury.

Cause IV. Culpable disregard of law and neglect of duty by the late and present Comptrollers of the Treasury.

Conclusions of the Committee.

1st. That the late Comptroller of the Treasury, George Wolf, Esq., now collector of the port of Philadelphia, was guilty, while in said office of Comptroller, of culpable disregard of law and neglect of duty, both in regard to the bonds of collectors filed in his office, and the records thereof required by law, and in settling and certifying to the Register the accounts of Samuel Swartwout, late collector, without having transmitted to him the vouchers therefor required by positive injunctions of law.

2d. That the present Comptroller of the Treasury has been guilty of culpable disregard of law and neglect of duty in settling and certifying to the Register the quarterly accounts of Samuel Swartwout, late collector, without having transmitted to him the vouchers therefor required by positive injunction of law.

3d. That said Comptroller is also guilty of culpable disregard of law and neglect of duty—1st. In not having sought and ascertained from the "invoices and appraisements" at the customhouse, either through the Solicitor of the Treasury or otherwise, the true amount of Swartwout's claim upon the \$201,000, retained by him in going out of office, as suggested in the letter of the district attorney that was before him, dated April 25, 1838. 2dly. In causing the accounts of said Swartwout to be forthwith stated, or instituting measures therefor, immediately on the neglect of said Swartwout to return and settle his accounts at the expiration of the time allowed him by law for that purpose, to wit: in the early part of July, 1838.—3dly. In continuing the same neglect, and forbearing to issue warrants of distress against said Swartwout and his sureties from the 31st of August, 1838, when apprized by the letter of the First Auditor that said accounts still remained unsettled until the month of November, when the detection of Swartwout's large defalcation was communicated from New York.

4th. That the administration of it is marked with such signal inefficiency, as well as neglect of duty, as render nugatory many of the most important checks upon the First Auditor, and collectors, receivers, and disbursers of the public moneys, which the laws creating and regulating its duties contemplated and have sufficiently provided.

5th. That, in said disregard of law and neglect of duty by the said Comptroller, and inefficiency of the office as now administered, is to be found a primary cause of the immense defalcations

of the late collector at the port of New York, and consequent loss of public money.

Cause V. The discontinuance of the use of banks as depositories of the public moneys, and permitting the same to accumulate in the hands of Mr. Swartwout.

Cause VI. The negligence and failure of the Secretary to discharge his duty, as the head of the Treasury Department, charged by law with the superintendence of the collection of the revenue.

Conclusions of the Committee.

1st. That, of late years, important books of records, designed to contain a condensed statement of the accounts and liabilities of collectors of customs, weekly, monthly, and quarterly, have been permitted to fall into disuse in the Department of the Secretary of the Treasury, and thereby render nugatory many of the essential checks upon the defalcations of that class of officers arising from existing laws and Treasury regulations.

2d. The negligence and failure of the Secretary of the Treasury to discharge his duty, as the head of the Treasury Department, charged by law with the superintendence of the collection of the revenue, and his want of a correct appreciation of the before-named records in the superintendence of the collection of the public revenues, and the consequent neglect to continue and complete them, are justly regarded as a primary cause of the escape from detection, for so long a period, of the immense defalcations of the late collector at the port of New York.

3d. That the Secretary of the Treasury has been wanting in a proper discharge in his duty in office, permitting Samuel Swartwout, late collector of New York, quietly to retain the sum of \$201,000 after being out of office, under pretext of indemnifying himself against claims of importers for duties paid him under protest, and liable by him to be refunded, while it was known to the Secretary of the Treasury, within a few weeks thereafter, that said Swartwout was neglecting to refund such protest money, as he claimed to do, and that the same were being refunded, from necessity, out of other accruing resources of the Government by said Swartwout's successor in office.

4th. That the Secretary of the Treasury has been wanting in a proper discharge of his duty in office, in permitting the present collector at New York to retain under his own control, and subject to his own use, commingled with said collector's private funds, large and accumulating sums of the public money collected for duties paid under protest, and against the declared opinion of said Secretary, and the declared opinion of the Attorney General of the United States on the subject, also against the former usages of the Department, and instead of causing the same to be paid into the Treasury of the United States.

PART II. THE DEFALCATIONS OF WILLIAM M. PRICE.

Conclusions of the Committee.

1st. That William M. Price, as district attorney, is a defaulter to the Government in a large sum.

2d. That his defalcations are attributable to the notorious irresponsibility and want of character of said Price at the period of his appointment and reappointment, and during his entire term of office, and the confirmed neglect of a proper and efficient discharge of duties at the office of Solicitor of the Treasury by the late and present incumbents of that office.

PART III. THE CORRECTNESS OF THE RETURNS WHICH HAVE BEEN MADE BY THE PRESENT COLLECTOR AND NAVAL OFFICER OF THE PORT OF NEW YORK, RESPECTFULLY.

Conclusions of the Committee.

1st. That the returns of the collector of customs at the port of New York have not been correct, as they have not at all times embraced, as paid into the public Treasury, the moneys received by him for unascertained duties, and at no time for duties paid under protest.

2d. That said collector, in his returns has violated the instructions of the Treas-

ury Department; has put at defiance the duties assigned to him by the Secretary of the Treasury; has repudiated the official decision of the responsible law-officer of the Executive department; and is guilty of an illegal retention and use of the public money, in the amount then held by him for protest and unascertained duties.

3d. That the committee has been prevented from ascertaining what is the extent of the illegal retention and use of the public money by the present collector of the port of New York, either in funds collected under protest, or for unascertained duties, or in other funds collected by him, because of his refusal to exhibit his own book of cash deposits in bank, or to permit the banks used by him as depositories to exhibit their accounts of his deposits.

4th. That the public moneys received by said collector are mingled with his own moneys on deposit, and are not kept by him, nor by his banks of deposit, distinct and separate from the individual moneys of the collector and of his "professional clients;" and his returns, therefore, be founded upon them as a separate and independent fund, belonging to the Government, though in his keeping.

5th. That, as appears by the letter of Gorham A. Worth, the Cashier of the city bank, the present collector has deposited public moneys in his hands with a bank which could not, under the law prohibiting the selection of any bank as a depository which has issued notes under the denomination of five dollars, be selected by the Secretary of the Treasury, himself as a depository of moneys carried to the credit of the Treasurer of the United States.

6th. That the mode adopted and practised by the said collector, of keeping and making returns of the public money collected by him for unascertained duties and under protest, in the language of the present Attorney General of the United States, "could never have been the intention of Congress;" and being "tolerated," it has made it, in the language of the same high officer "the interest of the collector to postpone the ascertainment of duties, as in the mean time he would have the uncontrolled use of the money." It has, also, in fulfillment of the reasoning of the Attorney General, increased "the danger of faithlessness in the collector, by permitting large amounts of money to remain with him, and under his individual control, instead of being in the treasury of the United States."

7th. That, in the language of the Attorney General, "the tenor and spirit of all our revenue laws seem to inculcate the idea that the intention of Congress has at all times been, that money collected for revenue should be promptly placed in the Treasury, & not be permitted to remain in the hands of the collector."

8th. That the returns of the naval officer in New York have not been correct, as it is found in the testimony of the present deputy naval officer, "that the naval officer, under its existing system, is not enabled, either to determine what amount of bonds have been taken by the collector for duties in any quarter, or who are the parties in said bonds, or when they are payable, or when such bonds are paid, or whether the collector does or does not account truly for such bonds."

PART IV. DEFALCATIONS AMONG RECEIVERS OF THE PUBLIC MONEYS.

The Committee, in fulfillment of that portion of the duty assigned them, by which they were directed to inquire into "any defalcations among receivers, &c. which may now exist," report to the House, that the limited period which they had for a thorough investigation of the subjects with which they were charged, and the time necessarily consumed in the examination of the cases of the late collector and district attorney of New York, have prevented a minute investigation of the extent, nature and causes of the defalcations of receivers of public moneys, arising from the sales of public lands. The committee have, however, prepared, from reports made by the Secretary of the Treasury at the last and present session of Congress, a tabular statement,

exhibiting the names of such defaulters, the amount due from each, when due, the penalties of their official bonds, respectively; also, the correspondence had between the Treasury department and fifteen of the individuals whose names appear on said statement—the Committee having called for, and been furnished by the Department, with the answers of the receivers to the letters of the Secretary of the Treasury as contained in House document No. 207. These fifteen cases are reported specially, as examples merely of the manner in which the President of the United States and the Secretary of the Treasury have executed the laws in respect to the public money and other property of the United States in the hands of this class of public officers, and in respect to their official duty.

The law provides for the appointment by the Executive, with the concurrence of the Senate, of a receiver of public moneys at each of the places respectively where the public and private sales are to be made, who shall give bond, with approved security, for the faithful discharge of his trust; who shall transmit, within thirty days, in case of public sale, and quarterly in case of private sale, an account of all the public moneys by him received, to the Secretary of the Treasury, and to the registers of the land offices, as the case may be. He is allowed a salary of five hundred dollars per annum, and a commission of one per centum on the moneys received; but his salary shall not exceed for any one year \$3,000.—The Secretary of the Treasury may allow to the several receivers of the public money at the several land offices, a reasonable compensation for transporting to and depositing such moneys in any bank or any other place of deposit that may from time to time be designated by the Secretary of the Treasury for that purpose. He is also authorized to prescribe such further regulations in the manner of keeping books and accounts by the several officers in the land offices, as to him may appear necessary and proper. It is made his duty, at least once in every year, to cause the books of the officers of the land offices to be examined, and the balance of public moneys in the hands of the several receivers to be ascertained.

The foregoing synopsis of the law relative to land receivers, and the correspondence with a portion of those who have proved defaulters and faithless to their trusts, are submitted, without further comment than that the facts and circumstances here exhibited show such a dereliction of duty on the part of the Executive department as calls loudly for searching examination into this branch of the public service, and for a thorough reform.

The practice which the foregoing correspondence exhibits, of retaining men in office after gross and repeated violations of the law in keeping and using the public moneys for private speculations, and the character of the correspondence itself, but too clearly point to the inference that such officers were retained in place because they possessed extensive political influence, and were useful and active partisans.—Whether such mal-administration constitutes official corruption in those superior officers of the Executive departments who know of and permitted in their subordinates the conduct which has been referred to, is a question which the Committee submit to the house and the country to decide.

PART V. FACTS CONNECTED WITH THE FOREGOING DEFALCATIONS, AND DEEMED MATERIAL TO DEVELOP THEIR TRUE CHARACTER.

In conclusion, the Committee cannot forbear remarking, that, during their whole investigation, they have not found the case to which the laws, as they already exist, do not apply, or in which they are defective. The permanent provisions of the laws constitute every necessary check upon collectors, receivers, and disbursers of the public money; and the checks which, by law, have been and may be created, in the discretion of the Executive, have only to be attended to and applied by those whose duty it is to superintend the ex-