

office and giving bond within thirty days thereafter, but he did not in fact attempt to qualify or give bond until November 18th, 1889.

On January 9th, 1890, he was elected for a third term and qualified and gave bond on January 30th, 1890.

Upon the first bond given by him a judgment has been recovered by the State for \$60,000.

Upon the second bond the Court of Appeals have decided that the sureties are not liable at all.

The suit upon the third bond has not been tried, but the sureties assert that his defalcations subsequent to its date amount only to \$5,000. Assuming this to be correct, the State's whole claim against his sureties amounts to \$65,000.

According to the regular and orderly course of events, this first bond should have come to an end not later than February 13th, 1888, and been superseded by the bond under his second election of January 13th, 1888, but in consequence of his failure to qualify under his second election, the Court of Appeals have decided that he held over under his first election, and that his first bond was in law responsible for the whole period from February 2d, 1886, down to the 30th January, 1890, when he gave bond under his third appointment.

In other words, they have extended the *legal* liability of his sureties upon his first bond for two years longer than it was originally expected by the sureties that it would be responsible. The bulk of his defalcations occurred during this extended period, and the sureties apply to me to recommend to your Honorable Bodies to relieve them from the strict measure of the *legal* liability thus fixed by the Court of Appeals.

They do not ask, as you will observe, an *entire release* from their responsibility, but tendering themselves ready to pay at once in cash the amount of their principal's defalcation during the period beginning on February 2d, 1886, and ending on February 13th, 1888, they pray to be relieved from all greater liability.

After careful reflection, it seems to me that the case of the sureties on the first bond presents a strong