

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 their *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 defalcations 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 equity, which should be passed upon by the General Assembly and not by the Governor alone; and, accordingly, I respectfully recommend that you take their memorial into consideration, and extend to them such measure of equitable relief, as upon a review of all the facts and circumstances of the case, shall appear to you to be fair and just.

I notice that the memorial makes no mention of the third bond, and proposes no indemnity to the State for the costs and expenses of the litigation. And therefore, if you shall see fit to grant their application in whole or in part, I suggest that in any bill which you shall pass, provision be made for the payment by the sureties on the third bond of the amount misappropriated subsequent to its approval; and also for full indemnity to the State for the costs of all the suits at law and in equity in the Circuit Court and in the Court of Appeals, and also for proper compensation, out of the sum to be paid by them, to the State's special counsel, for his laborious services in the whole litigation.

The liability upon the third bond is not disputed, I believe, and hence, it seems to me to be only reasonable that the amount covered by it should be paid, together with all the expenses of every kind to which the State has been subjected, throughout the entire controversy, as a condition of any *equitable* adjustment of their responsibility upon the first bond.

FRANK BROWN,  
Governor.