By Mr. GASTON: Petitions of the Woman's Christian Temperance Unions of Erie and Waterford, Pa., for the passage of a bill to forbid liquor selling in canteens and in the Army, Navy, post exchange, etc.—to the Committee on Military Affairs.

By Mr. GRAHAM: Petition of the Presbytery of Allegheny, J. L. Milligan, clerk, and the Woman's Christian Temperance Union, of Bellevue, Pa., urging the passage of the Bowersock bill to prevent the sale of liquor in any post exchange, transport, or premises used for military purposes, and against saloons in our new possessions—to the Committee on Military Affairs.

Also, resolutions of Encampment No. 1, Union Veteran Legion, of Pittsburg, Pa., in favor of House bill No. 7094, to establish a Branch Soldiers' Home at Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. HALL: Petition of the Methodist Episcopal Church of Rinersburg, Pa., for the passage of the Bowersock anti-canteen bill—to the Committee on Military Affairs.

By Mr. HEATWOLE: Petition of F. V. Hubbard and other citizens of Redwing, Minn., urging the enactment of the anti-canteen bill—to the Committee on Military Affairs.

Also, petitions of S. Bella Goodhue and others, and J. F. McCullough and others, of Northfield, Minn., urging the establishment of a national park in northern Minnesota—to the Committee on the Public Lands.

Also, petitions of citizens of Grove City, Gibbon, Vermilion, Winsted, Purity, Manannah, Waterville, Jordan, Rosendale, Faribault, and Stewart, Minn., urging the passage of the Grout bill to increase the tax on oleomargarine, etc.—to the Committee on Agriculture.

By Mr. KERR: Petitions of the Kent Street Methodist Episcopal Church and United Brethren Church and citizens of Lorain, Ohio, urging the passage of the Bowersock bill preventing the sale of liquor upon premises used for military purposes—to the Committee on Military Affairs.

By Mr. LAMB: Petition of the Bodeker Drug Company and others, of Richmond, Va., for the repeal of the tax on medicines, perfumery, and cosmetics—to the Committee on Ways and Means.

By Mr. LITTAUER: Petition of Joseph Howland Post, No. 631, Department of New York, Grand Army of the Republic, in favor of the establishment of a Branch Soldiers' Home near Johnson City, Tenn.—to the Committee on Military Affairs.

Also, papers to accompany House bill No. 10260, granting an increase of pension to Ira C. Hall—to the Committee on Invalid Pensions.

By Mr. LONG: Petition of James R. Fulton Post, No. 257, of Garden City, Kans., Grand Army of the Republic, in favor of the establishment of a Branch Soldiers' Home near Johnson City, Tenn.—to the Committee on Military Affairs.

By Mr. LORIMER: Petition of South Side Union, Woman's Christian Temperance Union, of Chicago, Ill., urging the passage of House bill prohibiting the sale of liquor in the Army and in Government buildings—to the Committee on Military Affairs.

By Mr. MIERS of Indiana: Affidavit to accompany House bill No. 4080, for the relief of the helpless children of George W. Arvin, late of Company A, Forty-fourth Indiana Infantry—to the Committee on Invalid Pensions.

Also, paper to accompany House bill No. 3217, for the relief of Malinda McBride—to the Committee on Invalid Pensions.

By Mr. NAPHEN: Petition of the Trades League of Philadelphia, Pa., urging the passage of a bill providing for the early construction of the Nicaragua Canal—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of National Bicycle Workers and Allied Mechanics; also resolutions of Journeymen Horseshoers' Union, of Columbus, Ohio, against the passage of the Grout bill to increase the tax on oleomargarine, etc.—to the Committee on Agriculture.

Also, petition of Green M. Curtain, chief of the Choctaw Nation, and D. H. Johnston, governor of the Chickasaw Nation, Atoka, Ind. T., in opposition to the passage of House bill No. 9995, relative to Atoka agreement—to the Committee on the Territories.

By Mr. PAYNE: Paper to accompany House bill No. 11016, granting a pension to Stephen Chapin, of Rose, N. Y.—to the Committee on Invalid Pensions.

By Mr. ROBINSON of Indiana: Petition of Isaac Knapp Dental Coterie, of Fort Wayne, Ind., favoring the passage of House bill No. 7017, amending the act relating to patents, relieving medical and dental practitioners from unjust burdens imposed by patentees holding patents—to the Committee on Patents.

By Mr. SHERMAN: Petition of Piper Post, No. 273, of Henderson, N. Y., Grand Army of the Republic, in favor of the establishment of a Branch Soldiers' Home near Johnson City, Tenn.—to the Committee on Military Affairs.

Also, petition of the Delaware Tribe of Indians, relating to an equitable distribution of a certain appropriation in which they are interested—to the Committee on Indian Affairs.

By Mr. SHOWALTER: Petitions of the Baptist Church of Sheakleyville, Methodist Episcopal Church of Fredonia, and Christian Church of Sharon, Pa., for the passage of a bill to forbid liquor selling in canteens and in the Army, Navy, post exchanges, transports, or premises used for military purposes—to the Committee on Military Affairs.

By Mr. SIBLEY: Petitions of G. W. Henry and others, of Oil City, Pa., and citizens of Grand Valley, Warren County, Pa., against island saloons and canteens—to the Committee on the Territories.

By Mr. SNODGRASS: Paper to accompany House bill to remove the charge of desertion now standing against David L. Sells, of Company D, Third Regiment Kentucky Volunteers—to the Committee on Military Affairs.

By Mr. SULLOWAY: Petitions of the Woman's Christian Temperance Unions of Concord and Candia, and Congregational Church and Young People's Christian Endeavor Society of Pembrooke, N. H., for the passage of the Bowersock bill against island saloons and canteens—to the Committee on the Territories.

By Mr. TONGUE: Petition of ministers of all denominations in Portland, Oreg., in favor of the Bowersock anti-canteen bill—to the Committee on Insular Affairs.

By Mr. ZIEGLER: Petitions of the Young People's Christian Endeavor Society of the First Presbyterian Church, and Woman's Christian Temperance Union, of York, Pa.; Methodist Episcopal Church, congregation of the Church of God, and Young Men's Christian Association, of Mechanicsburg, Pa., urging the passage of House bill prohibiting the sale of liquor in Army canteens, post exchange, transports, or reservations used by the Government—to the Committee on Military Affairs.

SENATE.

SATURDAY, *April 28, 1900.*

Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Journal of yesterday's proceedings was read and approved.

ELENDER HERRING.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and ordered to lie on the table:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 24th instant (the House of Representatives concurring), I return herewith the bill of the Senate No. 1265, entitled "An act granting a pension to Elender Herring."

WILLIAM McKINLEY.

EXECUTIVE MANSION, *April 27, 1900.*

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10538) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1901, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. WADSWORTH, Mr. HENRY of Connecticut, and Mr. WILLIAMS of Mississippi managers on the part of the House.

The message also announced that the House had passed the following bills:

A bill (S. 342) granting a pension to Eleanor McDevitt;

A bill (S. 474) granting an increase of pension to Isaac Patterson;

A bill (S. 681) granting a pension to Julia D. Richardson;

A bill (S. 752) granting an increase of pension to Isaac E. Comery;

A bill (S. 755) granting a pension to Hannah R. Johnson;

A bill (S. 820) granting an increase of pension to Anna M. Deitzler;

A bill (S. 950) granting a pension to Sarah Ann Fletcher;

A bill (S. 995) granting an increase of pension to Nelly Young Egbert;

A bill (S. 1007) granting a pension to Mary E. Fenn;

A bill (S. 1202) granting an increase of pension to Sarah E. Stubbs;

A bill (S. 1242) granting an increase of pension to Adele W. Elmer;

A bill (S. 1271) granting a pension to Charles Williamson;

A bill (S. 1296) granting a pension to Mary R. Bacon;

A bill (S. 1600) granting an increase of pension to John T. Hayes;

A bill (S. 1754) granting an increase of pension to Burton Packard;

A bill (S. 1787) granting an increase of pension to Joseph P. Pope;

A bill (S. 1804) granting an increase of pension to Rida B. Haskell;

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A bill (S. 1977) granting an increase of pension to Levi Moser;
A bill (S. 2200) granting an increase of pension to Elizabeth W. Murphey;
A bill (S. 2332) granting an increase of pension to Margaret H. Kent;
A bill (S. 2505) granting an increase of pension to James C. Carlton;
A bill (S. 2545) granting a pension to Nellie A. West;
A bill (S. 2863) restoring to the pension roll the name of Francis H. Staples;
A bill (S. 2880) granting an increase of pension to Caroline B. Bradford;
A bill (S. 2943) granting an increase of pension to James J. Holland;
A bill (S. 3004) granting an increase of pension to James H. Stevens;
A bill (S. 3102) granting a pension to Seleder Burnham;
A bill (S. 3125) granting a pension to Emily A. Larimer; and
A bill (S. 3186) granting a pension to Margaretha Lippert.

The message further announced that the House had passed the following bills; in which it requested the concurrence of the Senate:
A bill (H. R. 192) granting an increase of pension to Anna H. Tupper;
A bill (H. R. 359) granting an increase of pension to William M. Walker;
A bill (H. R. 527) granting a pension to Lucy D. Young;
A bill (H. R. 528) granting an increase of pension to Isabel B. Hamilton;
A bill (H. R. 4367) granting an increase of pension to Mary L. Stotsenburg;
A bill (H. R. 5978) granting an increase of pension to Amos Van Nausdle;
A bill (H. R. 8655) granting an increase of pension to Edgar H. Stevens;
A bill (H. R. 8682) granting a pension to Louisa C. Germain;
A bill (H. R. 8801) granting an increase of pension to William H. H. Macdonald;
A bill (H. R. 8888) granting an increase of pension to Henry O'Connor; and
A bill (H. R. 9751) granting an increase of pension to David H. Drake.

ENROLLED BILLS.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution:
A bill (S. 222) to provide a government for the Territory of Hawaii;
A bill (H. R. 2331) granting an increase of pension to Festus Dickinson;
A bill (H. R. 8585) to amend an act entitled "An act to prevent forest fires on the public domain," approved February 24, 1897;
A bill (H. R. 8962) to authorize the New Orleans and Northwestern Railway Company, its successors and assigns, to build and maintain a bridge across Bayou Bartholomew, in the State of Louisiana;
A bill (H. R. 10097) to authorize the Atlantic and Gulf Short Line Railroad Company to build, construct, and maintain railway bridges across the Ocmulgee and Oconee Rivers within the boundary lines of Irwin, Wilcox, Telfair, and Montgomery counties, in the State of Georgia; and
A joint resolution (H. J. Res. 168) for change in location of aids to navigation on Simmons Reef and Lansing Shoal, in Lake Michigan.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented petitions of the Woman's Christian Temperance Union, of the congregation of the Congregational Church, and of the congregation of the Methodist Episcopal Church, all of Montrose, in the State of Colorado, praying for the enactment of legislation to prohibit the importation, manufacture, and sale of intoxicating liquors and opium in Hawaii; which were ordered to lie on the table.

Mr. PENROSE presented a petition of the American Philosophical Society of Philadelphia, Pa., praying for the enactment of legislation to establish a national standards bureau in connection with the United States Office of Standard Weights and Measures; which was referred to the Committee on Mines and Mining.

He also presented a petition of the Trades League of Philadelphia, Pa., praying for the adoption of certain amendments to the postal laws; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Lehigh Grange, No. 782, Patrons of Husbandry, of Pennsylvania, praying for the adoption of certain amendments to the interstate-commerce law; which was ordered to lie on the table.

He also presented a petition of Open Hand Grange, No. 153, Patrons of Husbandry, of Leroy, Pa., praying for the enactment of legislation providing for State control of imitation dairy products; which was referred to the Committee on Agriculture and Forestry.

He also presented petitions of Beach Grove Grange, No. 1089, of Wayne County, and of Summit Grange, No. 1155, of Elk County, all Patrons of Husbandry, in the State of Pennsylvania, praying for the adoption of certain amendments to the interstate-commerce law, for the enactment of legislation to secure protection in the use of adulterated food products, and for the passage of the so-called Loud bill, relating to second-class mail matter; which were referred to the Committee on Agriculture and Forestry.

He also presented petitions of the congregation of the United Presbyterian Church of Sharon, of the Woman's Christian Temperance Union, of the Ladies' Missionary Society of the Nottingham Presbyterian Church, of the Christian Endeavor Society of Nottingham, of the congregation of the Methodist Protestant Church, of the congregation of the Methodist Episcopal Church, of the congregation of the Presbyterian Church, of the congregation of the English Lutheran Church, and of the congregation of Disciples' Church, all of Connellsville, and of the Woman's Christian Temperance Union of Columbia Crossroads, all in the State of Pennsylvania, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in any post exchange, canteen, or transport, or upon any premises used for military purposes by the United States; which were referred to the Committee on Military Affairs.

He also presented a petition of the Retail Merchants' Protective Association of Wilkesbarre, Pa., praying for the retention of the provision in section 6 of House bill No. 9677, for preventing the adulteration and misbranding and imitation of foods, beverages, etc., in the District of Columbia and the Territories, and for regulating interstate traffic therein, and for other purposes; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of sundry citizens of Philadelphia, Pa., praying for the establishment of an Army veterinary corps; which was referred to the Committee on Military Affairs.

He also presented a petition of the Trades League of Philadelphia, Pa., praying for the early construction, control, and ownership of the Nicaragua Canal by the Government; which was ordered to lie on the table.

Mr. ROSS presented a petition of the Woman's Christian Temperance Union of Irasburg, Vt., praying for the enactment of legislation to prohibit the sale of or dealing in any intoxicating liquors in any post exchange, canteen, transport, or upon any premises used for military purposes by the United States; which was referred to the Committee on Military Affairs.

Mr. BARD presented a petition of sundry druggists of East Los Angeles, Cal., praying for the repeal of the stamp tax upon proprietary medicines, perfumeries, and cosmetics; which was referred to the Committee on Finance.

REPORTS OF A COMMITTEE.

Mr. McMILLAN, from the Committee on the District of Columbia, to whom was recommitted the bill (S. 3663) authorizing and requiring the Metropolitan Railroad Company to extend its lines on old Sixteenth street, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4193) to regulate the grades of Twentieth street, and for other purposes, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4426) for the extension of V street NW., reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 3987) to create a permanent commission for condemnation proceedings in the District of Columbia, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. 4307) authorizing the purchase of sites for buildings for the accommodation of the Interior, Treasury, and War Departments of the United States, the District of Columbia, and for other public purposes, in connection with removing the Botanical Garden fence and improving the grounds, together with the development and encouragement of ramie fiber, silk, and flax preparation and manufacture and their production and profitable home market in the United States, under the supervision of the Secretary of the Interior, asked to be discharged from its further consideration and that it be referred to the Committee on Public Buildings and Grounds; which was agreed to.

Mr. SULLIVAN, from the Committee on the District of Columbia, to whom was referred the bill (S. 3917) providing for the

improvement of the navy-yard bridge, Washington, D. C., reported it with amendments, and submitted a report thereon.

STATUE OF GENERAL GRANT.

Mr. WETMORE, from the Committee on the Library, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the exercises appropriate to the reception and acceptance from the Grand Army of the Republic of the statue of Gen. Ulysses S. Grant, to be erected in the Capitol, be made the special order for Saturday, May 19, at 4 o'clock p.m.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 4471) authorizing the Secretary of the Treasury to increase the salaries of certain employees in the department of the custodian of the post-office in cities of the first class; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

He also (by request) introduced a bill (S. 4472) granting pensions to certain civilians injured while serving as employees of the Government of the United States; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 4473) granting a pension to Sarah J. Snook; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 4474) for the relief of Dr. Joseph P. Tunis; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 4475) for the relief of Mary F. B. Grice; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 4476) to authorize the Secretary of War to cause to be investigated and to provide for the payment of all just claims against the United States for private property taken and used in the military service within the limits of the United States during the war with Spain; which was read twice by its title, and referred to the Committee on Claims.

Mr. COCKRELL introduced a bill (S. 4477) granting an increase of pension to Jane E. Hagaman; which was read twice by its title, and referred to the Committee on Pensions.

Mr. McENERY introduced a bill (S. 4478) for the relief of the estate of James R. Young, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. ALLEN introduced a bill (S. 4479) for the relief of George W. McCloughan; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 4480) to correct the record of Robert Ellison, deceased, on the records of the War Department; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 4481) granting a pension to Patrick Welsh;
A bill (S. 4482) granting a pension to William C. Wilson;
A bill (S. 4483) granting a pension to William C. Couch;
A bill (S. 4484) granting a pension to Elliott Loomis;
A bill (S. 4485) granting an increase of pension to Alexander Boltin;
A bill (S. 4486) granting a pension to Mary L. Underhill;
A bill (S. 4487) granting a pension to John Devine;
A bill (S. 4488) granting a pension to Frederick Wright;
A bill (S. 4489) granting a pension to John J. Adams;
A bill (S. 4490) granting an increase of pension to Hiram S. Kingsley; and
A bill (S. 4491) granting an increase of pension to Donald Smith.

Mr. ALLEN introduced a bill (S. 4492) to indemnify Benjamin Longpre for losses sustained through cancellation of timber-culture entry; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURROWS introduced a bill (S. 4493) granting a pension to Maria L. Galligan; which was read twice by its title, and referred to the Committee on Pensions.

RECLAMATION OF ARID LANDS.

Mr. CARTER. I submit a resolution and ask for its present consideration.

The resolution was read, as follows:

Resolved, That the Secretary of the Interior be, and hereby is, directed to transmit to the Senate a statement of the operations of the United States Geological Survey relating to the following items:

The investigations being made of the water resources of the United States, particularly of the arid regions.

The amount of money which has been or will be expended for this purpose in the year ending June 30, 1900.

The character of the information obtained.

What steps are being taken, or should be, to make specific statements of the possibility and cost of the reclamation of certain tracts, mapping the sources of water, location of canals and reservoirs, giving cost of these, location, and extent of lands to be reclaimed?

What specific localities are under consideration for such surveys?

What amount of money will be required for the year ending June 30, 1901, to carry on the investigations of lands reclaimable?

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. SPOONER. Does the Senator object to having it go over? Does he care particularly to have it acted on to-day?

Mr. CARTER. I do not specially care, if the Senator desires that it shall go over.

Mr. SPOONER. I do, not for the purpose of antagonizing it, but I think I might like to amend it, to enlarge it a little.

The PRESIDENT pro tempore. The resolution will go over under the rule.

AFFAIRS IN THE PHILIPPINE ISLANDS.

The PRESIDENT pro tempore. Is there further morning business.

Mr. PETTIGREW. Mr. President——

The PRESIDENT pro tempore. Does the Senator rise to morning business?

Mr. PETTIGREW. I think there is a resolution that comes over from yesterday, and I should like to have it disposed of.

The PRESIDENT pro tempore. The Chair was about to lay it before the Senate after the conclusion of morning business. The morning business is closed, and the Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution submitted yesterday by Mr. PETTIGREW, as follows:

Resolved, That the President be, and he is hereby, requested, if not incompatible with the public interest, to inform the Senate whether General Torres, one of the officers of the Philippine army, came to General Otis with a flag of truce on February 5, 1899, the day after the fighting commenced between our forces and those of the Filipinos, and stated to General Otis that General Aguinaldo declared that fighting had been begun accidentally and was not authorized by him, and that Aguinaldo wished to have it stopped, and that to bring about a conclusion of hostilities he proposed the establishment of a neutral zone between the two armies of a width that would be agreeable to General Otis, so that during the peace negotiations there might be no further danger of conflict between the two armies, and whether General Otis replied that fighting having once begun must go on to the grim end. Was General Otis directed by the Secretary of War to make such an answer? Did General Otis telegraph the Secretary of War on February 9, 1899, as follows: "Aguinaldo now applies for a cessation of hostilities and conference. Have declined to answer?" And did General Otis afterwards reply? Was he directed by the Secretary of War to reply, and what answer, if any, did he or the Secretary of War make to the application to cease fighting?

The President is also requested to inform the Senate whether the flag of the Philippine republic was ever saluted by Admiral Dewey or any of the vessels of his fleet at any time since May 1, 1898. Did Admiral Dewey, at the request of Aguinaldo or any officer under him, send the vessels *Concord* and *Raleigh* to Subig Bay to assist Aguinaldo's forces in the capture of the Spanish garrison at that place? Did said vessels assist in the capture of the Spanish garrison, and after the surrender did they turn the prisoners thus taken over to the Philippine forces?

The PRESIDENT pro tempore. Will the Senate agree to the resolution?

The resolution was agreed to.

AGRICULTURAL APPROPRIATION BILL.

Mr. PROCTOR. I ask the Chair to lay before the Senate the action of the House on the agricultural appropriation bill with a view to the appointment of conferees.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 10538) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1901, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PROCTOR. I move that the Senate insist upon its amendments and agree to the conference asked by the House.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate; and Mr. PROCTOR, Mr. WARREN, and Mr. BATE were appointed.

SOLDIERS' HOME AT HOT SPRINGS, S. DAK.

Mr. PETTIGREW. I ask unanimous consent for the present consideration of Senate bill 2928.

The PRESIDENT pro tempore. The Chair lays the Calendar under Rule VIII before the Senate. The Senator from South Dakota asks unanimous consent that the Senate proceed to the consideration of a bill which will be read to the Senate in full for its information.

Mr. STEWART. If the Senator will give way for a moment, I wish to move to have some additional copies printed——

The PRESIDENT pro tempore. Will the Senator from South Dakota yield?

Mr. PETTIGREW. I should like to have the bill laid before the Senate first. It will take only a moment anyway. It is a

short bill, and a similar bill has passed the Senate two or three times, or four times, I believe.

The Secretary read the bill (S. 2928) for the establishment, control, operation, and maintenance of the Northern Branch of the National Home for Disabled Volunteer Soldiers at Hot Springs, in the State of South Dakota; and the Senate, by unanimous consent, proceeded to its consideration as in Committee of the Whole. It proposes to appropriate $150,000 for the erection of the Northern Branch of the National Home for Disabled Volunteer Soldiers at Hot Springs, in the State of South Dakota, which shall be erected by and under the direction of the Board of Managers of the National Home for Disabled Volunteer Soldiers, which Branch Home, when in a condition to receive members, shall be subject to such rules, regulations, and restrictions as shall be provided by the Board of Managers. But the Branch Home shall be erected on land donated to the United States by the people of Hot Springs, S. Dak., and accompanied with a deed of perpetual lease to one or more of the medical or hot springs for the use of the above-named Home, the location and area of the land and springs of hot water to be selected by the Board of Managers of the National Home for Disabled Volunteer Soldiers or such persons as they may appoint to make the selection of location and hot springs, and that exclusive jurisdiction shall be vested in the Board of Managers over the premises occupied by the Home as over other realty held by the Board until further enactment by the Congress of the United States.

It further proposes to appropriate $20,000, to be used for the transportation to and from the Home of such patients as may be ordered to said Home by the Board of Managers and for equipping and maintaining the Home, subject to the aforesaid rules and regulations of the Board of Managers. But any member of the National Home for Disabled Volunteer Soldiers who shall be certified to the Home by the medical and legal authorities of the Board of Managers shall be admitted and treated thereat until discharged therefrom or returned to some other Branch of the National Home by order of the Board of Managers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC SCHOOLS IN THE DISTRICT OF COLUMBIA.

Mr. STEWART. I desire to ask that a thousand additional copies of the supplemental report on the examination of the public schools of the District of Columbia be printed for the use of the Senate. There is a great demand for it.

The PRESIDENT pro tempore. The Senator from Nevada asks unanimous consent that 1,000 additional copies of the report on the District of Columbia school examinations, a supplemental report, be printed.

Mr. COCKRELL. Those reports ought to be printed, and printed in an accessible form. We have had the first report printed, and it has gone to the document room, and we had the last part printed, and it went, I believe, to the Committee on the District of Columbia.

Mr. STEWART. No; let it be printed for the use of the Senate.

Mr. COCKRELL. Let them both be printed together as one document. We have applications for it, and I have to go and hunt at one place for one and at another place for the other.

Mr. STEWART. I should like to have the whole report printed together for the use of the Senate.

Mr. ALLEN. I should like to know the character of the report.

Mr. SPOONER. What was the investigation?

Mr. STEWART. A school investigation. I only ask for the printing of the supplemental report, which is on the examinations. There appears to be a great demand for it, and the clerk of our committee says he has begged all the copies he can, and he can not answer the letters.

Mr. ALLISON. I ask the Senator if the examination by the committee has been completed?

Mr. STEWART. Yes.

Mr. ALLISON. Then I hope the report will be printed as a document, so that we may see what it is.

Mr. COCKRELL. It ought all to be printed together, so that we can have the whole of it.

Mr. STEWART. Then I move that 1,000 copies of the report and the supplement be printed for the use of the Senate.

Mr. ALLEN. I hope I can have the attention of the Senator from Nevada long enough to have him answer my question. What is the character of this report?

Mr. STEWART. It would take considerable time to state the character of the report. It is in favor of establishing a board of education having a responsible head. The report shows that there is no responsible head.

Mr. ALLEN. Is it the report of an investigation recently made?

Mr. STEWART. Yes; this is a just a supplemental report.

Mr. ALLEN. By whom was the investigation made?

Mr. STEWART. By the Committee on the District of Columbia.

Mr. ALLEN. Of the Senate?

Mr. STEWART. Of the Senate.

Mr. ALLEN. I am very thankful to the Senator for the information.

The PRESIDENT pro tempore. Will the Senator from Nevada repeat his exact request?

Mr. STEWART. I move that a thousand additional copies of the report and the supplement be printed together for the use of the Senate.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

RAINY LAKE RIVER DAM.

Mr. NELSON. I ask unanimous consent for the present consideration of the bill (H. R. 7945) to amend an act entitled "An act permitting the building of a dam across Rainy Lake River."

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SURG. JOHN F. BRANSFORD.

Mr. MARTIN. I ask unanimous consent for the present consideration of the bill (S. 2055) for the promotion and retirement of P. A. Surg. John F. Bransford, of the United States Navy.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LIEUT. WILLIAM T. GODWIN.

Mr. PENROSE. I ask unanimous consent to call up the bill (S. 395) to authorize the President to revoke the order dismissing William T. Godwin, late first lieutenant, Tenth Infantry, United States Army, and to place the said William T. Godwin on the retired list with the rank of first lieutenant.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ESTATE OF DARIUS B. RANDALL.

Mr. SHOUP. I ask unanimous consent for the present consideration of the bill (S. 253) to provide for the payment of the heirs of Darius B. Randall, deceased, for certain improvements relinquished to the United States for the use of the Nez Perce Indians.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Indian Affairs with an amendment, to strike out before the word "dollars," in line 4, "three thousand one hundred and sixty-one," and insert in lieu thereof "two thousand four hundred;" so as to make the bill read:

Be it enacted etc., That the sum of $2,400 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay to the heirs of Darius B. Randall, deceased, for certain improvements situated on the Nez Perce Indian Reservation relinquished by said deceased to the United States for the use of the Nez Perce tribe of Indians.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEONARD WILSON.

Mr. ALLEN. I ask unanimous consent to call up the bill (S. 3339) for the relief of Leonard Wilson.

The Secretary read the bill, and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Claims with an amendment, after the word "appropriated," in line 5, to strike out "seven hundred dollars" and insert "six hundred and forty-two dollars and sixty-eight cents," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Leonard Wilson, out of any moneys in the Treasury not otherwise appropriated, $642.68, for services rendered to the United States, in excess of the ordinary number of working hours, in Cuba; at Camp Wikoff, Montauk Point, Long Island, and at Huntsville, Ala., while serving in a civil capacity under the War Department with Maj. Gen. Joseph Wheeler, United States Volunteers, during the war with Spain.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CONGRESS HEIGHTS ENGINE HOUSE.

Mr. SULLIVAN. I ask unanimous consent for the present consideration of the bill (S. 3918) providing for the erection of engine house and the purchase of a chemical engine at Congress Heights, D. C.

The Secretary read the bill, and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on the District of Columbia with amendments, in line 3, after the word "of," to strike out "four" and insert "twenty;" in the same line, after the word "thousand," to strike out "five hundred," and at the end of the bill to add the following proviso:

Provided, That a suitable parcel of ground, satisfactory to the Commissioners of the District of Columbia, be donated to the said District before such sum shall be available.

So as to make the bill read:

Be it enacted, etc., That the sum of $20,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the erection of a suitable house and for the purchase of a chemical engine: *Provided*, That a suitable parcel of ground, satisfactory to the Commissioners of the District of Columbia, be donated to the said District before such sum shall be available.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was rejected.

WILLIAM LEECH.

Mr. BURROWS. I ask unanimous consent for the present consideration of the bill (S. 1336) for the relief of William Leech.

The Secretary read the bill; and, by unanimous consent, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Claims with an amendment to strike out, before the word "thousand," in line 4, the word "ten" and insert the word "five."

The amendment was agreed to.

Mr. BACON. Before the bill is put on its passage I should like to hear it read.

The PRESIDENT pro tempore. The bill will be again read.

The Secretary read the bill as amended, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to pay to William Leech the sum of $5,000 as compensation for injuries received by the said Leech in falling in the elevator shaft of the Treasury building on the 29th day of March, 1893; and an amount sufficient to pay same is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated.

Mr. COCKRELL. Let the report be read in that case. I should like to understand the facts.

The PRESIDENT pro tempore. The report will be read.

The Secretary read the report submitted by Mr. MASON February 7, 1900, as follows:

The Committee on Claims, to whom was referred the bill (S. 1336) for the relief of William Leech, make the following report:

Mr. Leech was an elevator conductor at the United States Treasury building on the morning of March 29, 1893, and had been such prior to that date. His affidavit sets out that he approached the elevator door in the dark, at a few minutes before 8 o'clock a. m., on March 29, 1893, and found it open, as it was usual for it to be at that time, and stepped, as he supposed, into the elevator, but same having been removed, he fell to the bottom of the shaft and injured his back, broke his leg, and received internal injuries.

He states that it was his practice to step into the elevator and turn on the electric light in the elevator, and that no one had any right to interfere with or move the elevator during the morning prior to or at that time (8 o'clock) except himself; that the removal of the elevator was positively against the rules of the Department, and that he had no reason for presuming it had been removed; that he was not late on that morning, and the gas in the hall in front of the elevator was not lighted; that it was not his duty to light the gas in the hall, and that the reason it was not lighted was because the pipe was stopped up with dirt, which fact had been reported, and it was afterwards repaired, and the electric light was also put in in the hall in front of the elevator afterwards.

Your committee, therefore, taking into consideration the circumstances connected with the accident as set forth in Mr. Leech's affidavit, recommend the passage of the bill with the following amendment:

In line 4 strike out the word "ten" and insert in lieu thereof the word "five."

Mr. BACON. I should like to inquire of the committee whether there is any evidence as to the question of permanent injuries? The report, as I understood it, does not give any information upon that subject. That is a very important element.

Mr. McCOMAS. I have just heard the report. It seems to me that when a claim is made upon the Government for injuries by reason of the negligence of its employees there should be some other proof added to the affidavit of the claimant himself. It seems to be there unsupported in respect of the character of the injuries and the ordinary care exercised by the claimant who was injured. I suggest that the bill should go over or be recommitted.

Mr. ALLEN. If the Senator will permit me, I do not know how this bill came before the Senate or who called it up.

The PRESIDENT pro tempore. The Senator from Michigan [Mr. BURROWS] asked for its present consideration.

Mr. ALLEN. I will state the evidence before the committee, as I recollect it. I have seen this applicant and he is certainly disabled for life. His spinal column is injured and he never can be cured. He will be a cripple as long as he lives.

The evidence before the committee, what there was of it, showed clearly a state of facts which would make a private individual or a private corporation liable for negligence. It showed due caution on the part of this man, ordinary caution, and that he exercised ordinary prudence. It showed neglect, if not something worse, upon the part of others in tampering with the elevator.

This claimant is a man of respectable character, a man whose word I would take for almost anything, although he is a comparative stranger to me. He has a good man's face and a good man's ways. I have known him around here for some time.

Of course I do not agree with the Senator from Maryland that it is necessary to have corroborative proof in a civil case. There are criminal cases where you are required to have corroborative proof, but I have never yet known of a civil case, unless it arose upon some statute, where it was necessary to have corroborative proof; and if this evidence were submitted to a jury to form its own conclusion there would be a verdict for the amount of damages the man sustained. The facts were laid before the committee, and the report of the committee was unanimous upon them.

Mr. McCOMAS. Does not the Senator think there should be produced evidence from medical sources to show the extent and probable duration of the injury, and whether the injury was temporary or permanent—I am sure he does—and also whether there ought not to be produced some of the accessible evidence in respect of the conduct of that elevator, the position of the doors, etc.? One man's statement in respect even of his own claim is of very great weight, and it seems to me if the elevator shaft were not lighted, and if the other circumstances were as there stated, there is accessible some proof, and some of it, I think, ought to have been produced.

Mr. ALLEN. If the Senator will permit me, suppose the facts stated in this report were alleged in a declaration and undenied, would not the plaintiff be entitled to recover?

Mr. McCOMAS. Undoubtedly, in the absence of opposing proof; but it seems to me, with such a paucity of statement, there ought to be something more than an ex parte affidavit to justify the Senate in voting to give $5,000 for a personal injury on an allegation that the Government has been negligent.

Mr. ALLEN. I will state to the Senator, if he will permit me right there, that I think this is a very meritorious bill.

Mr. McCOMAS. I do not mean to say it is not.

Mr. ALLEN. I understand the claimant in this case is a man of high character.

Mr. McCOMAS. What is the evidence of the permanent character of the injury?

Mr. ALLEN. The fact is, Mr. President, that that man's spine is permanently injured, and has been for years; and he has been seen daily going about on crutches. A man is not walking on crutches for three or four years unless he is compelled to.

Mr. JONES of Arkansas. Will the Senator from Nebraska allow me to make a suggestion?

Mr. ALLEN. Certainly.

Mr. JONES of Arkansas. The value of this case is its value as a precedent. There have been many of these cases presented to the Committee on Claims, and the committee have generally been very careful only to report such cases as have been properly made out. It may be that the facts in this case would warrant the appropriation asked, but it seems to me the defect in this case is that the facts do not appear as a matter of record. This case may be cited as a precedent for similar appropriations in cases that come hereafter, and yet the facts which make it a good case do not appear in the record and are personally known only to the members of the committee. For that reason I think the case ought to be recommitted, so that the committee may report what are the facts. The Senator from Nebraska says he is satisfied with the facts, but those facts ought to be on the record of the Senate, so that other Senators may see that the reason why the appropriation was made was because the man was injured by the contributory negligence of other employees of the Government and that he has been permanently injured.

Mr. ALLEN. I wish to be permitted to suggest to the Senator from Arkansas that I think the liability of the Government is established by the undisputed facts in the case.

Mr. BURROWS. Mr. President, I called this bill up because the beneficiary is a resident of my State; I know him and know that he is seriously crippled by that accident. The Senator from Illinois [Mr. MASON] who reported the bill is not here to-day, and so I ask that the matter may go over until that Senator is here.

Mr. CHANDLER. I would ask the Senator if there is any objection to recommitting the bill? There ought to be some evidence besides the sufferer's own affidavit as to the extent of his injuries and as to the negligence of the Government. As the bill stands with that report it will not pass the Senate, I am quite sure. If the bill can be recommitted and proper proof be furnished, demonstrating by the evidence of physicians the injuries sustained, and the evidence of other witnesses as to negligence, it might pass.

Mr. BURROWS. I will say to the Senator that I know such evidence exists and is before the committee. I have not, however, any objection to the bill being recommitted for the purpose of the committee making a fuller report.

Mr. CHANDLER. I make that motion.

Mr. CULLOM. I want to say a word before the matter passes from the attention of the Senate.

I have known this gentleman for a good many years, and I know him to be a sober, upright, and industrious man. I am satisfied that the injuries he received in falling down that elevator shaft will result in permanent disability. The man is scarcely able to go about, and I fear he will never be much better. I do not object to further testimony with reference to how it came about that the elevator car was not in the proper place and all that, but it seems to me this is a case in which there ought to be prompt action taken and relief given.

Mr. CHANDLER. The claimant says it was his own elevator and he was bound to take care of it. He went there to get into it, but it had been moved by somebody, and he fell down the shaft. There certainly should be medical evidence as to the extent of the injury.

Mr. PENROSE. I rise to make an inquiry. I have no doubt whatever that this is an extremely meritorious measure; it also, however, strikes me most forcibly as being an unprecedented attempt to take money from the Treasury. I should like to ask the Senator from Michigan, or any other Senator present, whether the proper method would not be to authorize this claim to be referred to the courts of the District of Columbia, so that the merits of the controversy may be tried and the Government of the United States protected, if it has any defense to make to this claim, by the proper law officers of those courts?

Mr. BURROWS. The motion of the Senator from New Hampshire [Mr. CHANDLER] to recommit the bill is perfectly agreeable to me. I hope that will be done, and that will end the matter for the present.

The PRESIDENT pro tempore. The Senator from New Hampshire moves that the bill be recommitted to the Committee on Claims.

Mr. PENROSE. I second the motion.

Mr. ALLEN. Mr. President, I suppose the Senate is a law unto itself. I have seen enough of it to know that that is true. This case is similar to other cases which have been acted upon by the Senate. While I can not mention the names, I can call to mind three or four cases of this kind where we have passed bills making appropriations for persons injured around this Capitol and around other public buildings. If this bill is recommitted to the Committee on Claims, it will not come back to the Senate at this session. It can not come back, as the Calendar of the Claims Committee is crowded beyond comparison. So this bill will simply have to pass over until the next session of Congress while this corroborative evidence is being gathered up.

I have not the slightest interest in this man, and, so far as I am individually concerned, it is a matter of absolute indifference to me, outside of the mere humanitarian view, whether he receives a cent or not; but I want to dissent as strongly and as forcibly as I can from the strange doctrine that the undisputed evidence of a witness of good character must be corroborated in order to entitle him to recover. There is no law book from Starkie, which is a legal classic, down through all the American and English works upon evidence to the present moment—and they are very numerous, as you and I, Mr. President [the President pro tempore in the chair], very well know—in which a rule of that kind is recognized.

Here we propose to ignore the ordinary rules of evidence which control the proceedings of judicial tribunals—we propose to set them aside and compel a man whose evidence and whose character are unimpeached and unimpeachable, so far as this Senate knows, and who is a living evidence of lifelong pain and misery in consequence of this injury, to go back to this committee and furnish corroborative evidence of these facts, which he may or may not be able to corroborate, before he can receive this pittance to which he is entitled.

Mr. PENROSE. I should like to ask the Senator from Nebraska a question, if he will permit me.

Mr. ALLEN. Certainly.

Mr. PENROSE. I should like to ask the Senator who represented the Government when this claim was awarded and the amount of damages defined?

Mr. ALLEN. Mr. President, the Senate of the United States represents the Government, and the House of Representatives will represent it when the bill goes there, and so the Committees on Claims of the respective Houses represent it. They will represent equally the interests of the Government and the interests of the applicant; and I presume the Senator will admit that, at least in the House of Representatives, there are gentlemen capable of caring for the Government's interests.

Mr. PENROSE. I should like to ask the Senator whether any witnesses were summoned before the committee and what was the character and extent of the investigation made into this matter?

Mr. ALLEN. I have never known of witnesses to be examined before the Committee on Claims. The evidence is usually presented in the form of affidavits and statements from reliable sources.

The PRESIDENT pro tempore. The Senator from New Hampshire moves that the bill be recommitted to the Committee on Claims.

Mr. ALLEN. I hope the Senator from New Hampshire will withdraw that motion, because, if adopted, it will amount to a practical denial of justice.

Mr. CHANDLER. No, it will not, let me say to the Senator. The Senator from Illinois [Mr. MASON] who is not now present has made a report, and all he states in that report is that the claimant in his affidavit states so and so. On that mere unsupported statement in the report the bill never can pass Congress.

The Senator from Michigan tells me that he believes there is medical testimony and other testimony before the committee, and he is perfectly willing to have the bill recommitted to have those facts stated in the report. Now, under those circumstances, why should the Senator from Nebraska object to the recommittal?

Mr. ALLEN. I object only because it is like the practice of setting aside a verdict in favor of an injured claimant until he has time to die.

Mr. CHANDLER. The Senator will not say that. He says this man has got his spine injured for life, and I am afraid it is so; but that fact is not proved because he says so, nor because the Senator from Nebraska has seen the man going about this Capitol upon crutches. One of the things to be guarded against in tracing cases of this kind is the simulation of injury. A disability of the kind alleged should be proved by medical testimony.

Mr. ALLEN. I dare say there is not a man living who could simulate an injury in the presence of my friend from New Hampshire, although he is not a physician.

Mr. CHANDLER. If I saw the Senator from Nebraska on crutches, I would not infer that his backbone had been injured for life.

Mr. ALLEN. There are certain physical facts which are open to the common knowledge of the human race. If I see a scar upon a man, I know as well as if I were a physician that it is a scar. I do not have to call in a physician to tell me that is a scar, nor do I have to call in a physician to tell me whether it was made by a sharp instrument or by a blunt instrument. There is the indisputable evidence on the face of the individual. If there were internal injuries claimed as resulting from a wound, then it might be necessary to call in a physician or a surgeon to make the proper examination and to take his evidence as to the character and nature of the injuries, and whether they were or were not permanent.

Mr. BACON. Will the Senator permit me a moment?

Mr. ALLEN. I will.

Mr. BACON. I ask the Senator whether there is any evidence as to whether this unfortunate man has receieved anything from the Government in the way of compensation or in the way of paying for medical bills, or anything of that kind?

Mr. ALLEN. I will simply say that my recollection of the facts in this case is necessarily general, because we have a great many of these claims; but my recollection is that he never had any compensation in any respect; that he was entirely without compensation.

Mr. BACON. I asked the question not for the purpose of taking issue with the Senator, but for the purpose of showing that it was important that there should be testimony upon that point, that it may appear that the Government at the time of this injury, without reference to the question of liability, had the man sent to a hospital, paid his expenses, and everything of that kind, all of which ought to be taken into consideration.

Mr. ALLEN. I have no recollection of it, but I have no doubt the Government did send him to a hospital.

Mr. BACON. That ought to appear, and that ought to be taken into consideration.

Mr. ALLEN. I have no doubt of that fact; but to send this man back by this dilatory process, as a plea in abatement, until he may die is, to my mind, Mr. President, preposterous.

There is not a contradiction in this record anywhere, no man opens his lips to dispute the facts as stated in the report, and the

Government is as silent as the grave in respect of disputing anything asserted by this man. The case is full and complete in all its facts, and no lawyer whose opinion is worth a pinch of bug dust would stand before any tribunal and deny that the facts stated in this report, which are undisputed, entitle this man to a verdict; and yet we propose, in violation of every principle of orderly judicial procedure, to send this man back to the Committee on Claims, so that somebody may be found who will corroborate the undisputed statements he has made.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. ALLEN. Yes.

Mr. SPOONER. Was this bill referred to the Treasury Department?

Mr. ALLEN. I do not know. It would not be so referred if I had anything to do with it.

Mr. SPOONER. Why not?

Mr. ALLEN. I do not know what the Treasury Department has to do with it.

Mr. SPOONER. Would you not refer the matter to the Treasury Department for a report in relation to the case?

Mr. ALLEN. Why should it be referred to the Treasury Department?

Mr. SPOONER. To get at the facts.

Mr. ALLEN. To get at what facts?

Mr. SPOONER. Would you undertake to say that you could get at the facts simply by taking the statement of the claimant?

Mr. ALLEN. You can get at the facts in a variety of ways.

Mr. SPOONER. It seems from the report that the only way the committee resorted to of getting at the facts was by taking the statement of the claimant.

Mr. ALLEN. The committee examined into the facts and took the affidavit of the claimant, which is undisputed.

Mr. SPOONER. I only want to say to the Senator it may seem ridiculous to him; but when I was chairman of the Committee on Claims, nearly all of the bills that came before the committee were referred to the proper Department for report as to the facts.

Mr. ALLEN. I will take a statement from a Department as to the facts, but I will not take their opinion upon the facts.

Mr. SPOONER. But as to the facts in this case, it is stated that the elevator was not lighted because the pipe was filled with dirt; that it was afterwards repaired, and that there was no light in the hall, and all that. According to the old practice of the committee—and my friend from Arkansas, who was a member of the committee at the same time I was, will corroborate me about that—we would refer such a bill as this to the Secretary of the Treasury to investigate the matter in the Department and communicate the facts to the committee. I inquire if that was done in this case?

Mr. ALLEN. I do not know whether it was done or not. It would not have been done with my consent, I know. I want right here, without being diverted too far from what I intended to say, to enter my protest against this namby-pamby practice of a committee sending a bill over to some Department for its opinion about that bill. What are we here for? What is the opinion of a clerk in one of these Departments, where these opinions come from, amount to? Are we to follow their opinions in the enactment of laws or in the repeal of laws? This, Mr. President, is the legislative branch of this Government.

Mr. JONES of Arkansas. Mr. President——

Mr. ALLEN. I will yield to the Senator in a moment.

Senators and Representatives are sent here because they are supposed to represent the wishes of their constituencies. They are supposed to know what the people want enacted into laws, and what laws the people want repealed, and not some clerk who has been living in the dusty atmosphere of a Department for twenty-five or thirty years.

Now I will yield to the Senator from Arkansas.

Mr. JONES of Arkansas. I only want to ask the Senator if he is willing to take the position that the committee should hear the party in interest, who was an employee of the Treasury Department, as to the facts of this case, and then refuse to hear the testimony of everybody connected with the Department who may know the facts?

Mr. ALLEN. No; I did not say anything of the kind.

Mr. JONES of Arkansas. I certainly understood that to be the position of the Senator.

Mr. BURROWS. Will the Senator from Nebraska permit me a moment?

Mr. ALLEN. Yes.

Mr. BURROWS. Mr. President, I have the files of the committee in this case; and as a matter of justice to the claimant I ask that the affidavits which I send to the desk may be read.

The Secretary read as follows:

Statement of E. D. King in regard to matter of William Leech.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

E. D. King, being duly sworn, deposes and says: I was employed in the branch printing office at the Treasury Department. On the morning of the 29th day of March, 1893, came to work, as usual, at about 8 o'clock. I went toward the elevator, intending to take same to the floor where the branch printing office is situated, as was my custom. Mr. William Leech, one of the elevator operators, was just ahead of me. When I reached the elevator the door was open and Leech had fallen through the shaft to the cellar. There was no light in the hall in front of the elevator at the time or in the elevator shaft at the time. The elevator had been taken up to the upper floor by some other person, who had left the door open.

I further state that I have no personal interest in the matter.

E. D. KING.

Sworn to and subscribed before me this 27th day of March, 1896.

[SEAL.] JAS. N. FITZPATRICK, *Notary Public.*

WASHINGTON, D. C., *April 16, 1896.*

I certify that on or about March 30, 1893, I examined Mr. William Leech, who fell down the elevator shaft at the Treasury Department. He was suffering from a fracture of the left leg above the ankle, seriously involving the ankle.

He was also badly injured about the hips and back. I was his family physician, and notwithstanding he had the closest attention of one of our most skillful surgeons he is seriously and permanently disabled, both in the back and ankle.

R. A. NEALE, M. D.,
No. 806 Nineteenth street NW.

WASHINGTON, *April 1, 1896.*

March 29, 1893, I was called to see William Leech, who had met with a serious accident in the elevator at the Treasury Department. He had bad fracture of lower portion of left leg, involving the ankle joint, and also contusion about the hip.

His ankle remains stiff and painful, disabling him to a great extent, and this disability is likely to be permanent.

He has constantly suffered since with pain in the back and left hip.

J. FORD THOMPSON, M. D.,
804 Seventeenth street NW.

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938 K STREET NW., WASHINGTON, D. C., *April 3, 1896.*

I have known Mr. William Leech for more than ten years. About 10 a. m., March 29, 1893, I found him at the Emergency Hospital in a critical condition, suffering from a fall down the shaft or well of the elevator in the United States Treasury building, resulting in the breaking of his left leg below the knee and dislocating one or more of the small bones of the left ankle, and also a severe injury to the left hip joint and back (lumbar region).

Anticipating from what I heard at the hospital that a surgical operation or an amputation might be required to save life, I had Mr. Leech taken to his home and employed Dr. J. Ford Thompson and placed Mr. Leech in his charge.

Mr. Leech is totally disabled for the performance of ordinary manual labor, and, judging from my own experience and his present condition, he never will be.

J. WEED COREY.

Affirmed and subscribed to before me this 3d day of April, 1896.

[SEAL.] JAS. A. FITZPATRICK, *Notary Public.*

Mr. BURROWS. Mr. President, in view of these statements, which seem to supplement the report of the committee and meet the objections which have been made to the bill, I ask the Senator from New Hampshire if he will not withdraw his motion to recommit?

Mr. CHANDLER. No, Mr. President. I have in my hand, among the papers which the Senator from Michigan procured from the committee room, in addition to those which he has had read, the affidavit of the person injured. That affidavit, as already appears, was the only statement reported by the Senator from Illinois, who made the report in favor of this claim. There should have been a report of the evidence which the Senator from Michigan has now put into the case and which has been read. That is not in the report of the committee, which contains nothing but this affidavit.

Mr. ALLEN. The report in this case was made by the Senator from Illinois.

Mr. CHANDLER. The report was made by the junior Senator from Illinois [Mr. MASON]. It is by no means clear from the affidavit of the claimant himself that the Government is liable. I think the case is of such importance that there ought to be a formal report made by the committee, because otherwise we do not know where we are going in this case.

A very sad occurrence will be remembered in the case of Postmaster Willett, of this city. In going into the new Post-Office building he went to one of the elevator openings, but the elevator was not there, and he fell down and was killed. His widow certainly deserves the commiseration of every one, and it may be she ought to have some donation made to her by the Government. It is opening a very wide field to pay money in cases of this kind. True it has been done by several bills heretofore passed. Workmen who have been injured in navy-yards and arsenals, or, in case of their death, their families have been paid; but it has always been done upon a committee report, very carefully stating all the facts; and this report, I submit to the Senator from Michigan, ought to embody all the facts in this case and the deliberate conclusion of the committee upon them. Therefore I do not withdraw my motion.

Mr. BACON. In connection with what the Senator from New Hampshire [Mr. CHANDLER] has said, I think it proper to call the attention of the committee to the fact that it may be necessary that there should be additional evidence upon the question as to whether or not there is the permanent spinal injury to this man

which has been alleged. The reason I make this suggestion is that there is a certificate from Dr. J. Ford Thompson, who is known to be an eminent surgeon, in which he fails to state that fact. He states that he was called upon to treat this unfortunate man, and he makes a careful statement with reference to the injury of his ankle and the permanent result therefrom, but all he says in reference to the spinal injury is that the man suffered with pain in his back. That is a very different thing, as we all know who have had occasion in the practice of the law to try cases involving questions of spinal concussion, from permanent spinal injury.

I do not wish to throw anything in the way of a proper recovery by this unfortunate man; but I do think, in view of the fact that there are a great many cases now pending, as I understand, before the Court of Claims, and in view of the fact that there are a great many which can be brought up, that if we propose to scale the compensation in this case upon the conclusion that there has been a permanent spinal injury, it ought not to be a matter left in doubt.

Mr. President, we have heretofore passed bills for the payment of such injuries. The Senate will remember the case of the collapse of the Ford Theater Building, in which a large number of the employees of the Government were injured. I will say that the compensation meted out in that case, although there was there a clear case of liability on the part of the Government, was not upon the scale proposed in this case.

I have the very greatest respect for the legal opinion of the Senator from Nebraska, and am very loath to fall under his severe condemnation: but I am very frank to say that I think, under the statement made by the parties in these affidavits, there is a very grave question in my mind whether there is any common-law liability; and I know of no statutory liability in this District which makes the Government liable for injuries through the negligence of its employees. That is the question here.

Mr. BURROWS. Will the Senator allow me just a moment before this bill is recommitted?

Mr. BACON. Certainly.

Mr. BURROWS. I understand the Senator from New Hampshire [Mr. CHANDLER] insists upon his motion to recommit the bill, and perhaps that is the best thing to do under the circumstances; but I want the following letter to be read from the then Secretary of the Treasury, Mr. Carlisle.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY.
Washington, D. C., February 15, 1897.

MY DEAR SIR: I herewith return the certificates of Dr. Thompson and Dr. Neale, in the case of William Leech.

The circumstances under which Mr. Leech received the injuries from which he is now suffering, so far as they could be ascertained upon an investigation by the officials of this Department, have heretofore been communicated to the committee.

Mr. Leech is a poor man and is no doubt laboring under a disability as a result of his fall; and if, in the judgment of Congress, he has an equitable claim for remuneration, it is not probable that such action could be seriously objected to in view of what has been done in other cases.

Very truly, yours,

J. G. CARLISLE.

Hon. J. C. BURROWS,
United States Senate.

Mr. SPOONER. I should like to inquire of the Senator if he knows where that report from the Treasury Department is?

Mr. BURROWS. I do not. That communication was sent to me during the last Congress, when I was a member of the Committee on Claims.

Mr. SPOONER. That letter states that the facts resulting from an investigation by the Treasury Department have been communicated to the committee. They have not been communicated to the Senate.

Mr. BURROWS. They ought to be among the papers.

Mr. JONES of Arkansas. They ought to be in the files of the Senate, where they will be accessible for all time to come.

Mr. ALLEN. Before this matter is acted upon—I shall not detain the Senate very long—I wish merely to say that I do not know of anything I have said which would lead the Senator from Georgia to think he has fallen under my condemnation, for certainly I have said nothing in reference to him.

Mr. BACON. I understand there was nothing personal in it; but I understood the Senator to express such very great confidence in the correctness of his legal proposition that under the facts in this case there was a legal liability on the part of the Government, I necessarily felt if I suggested anything to the contrary that I came under the condemnation of the very learned Senator.

Mr. ALLEN. It is true that I had expressed confidence in the legal proposition that this Government, if a private individual or a private corporation, would be liable under this state of facts. That proposition I am perfectly willing to discuss with the Senator from Georgia, if he desires to discuss it.

Mr. BACON. I beg the Senator's pardon.

Mr. ALLEN. It is true as a general proposition that the Government is not liable for the negligence of a servant, but there is another principle equally as well established and applicable to this case, in my judgment, and perhaps in that respect I may fall under the condemnation of the distinguished Senator from Georgia; and that is that wherever the negligence is imputable to the principal or is the result of negligence of conduct of a vice-principal, the principal is liable. That is this case. That is all there is to it. Here was somebody in charge of this elevator, whose duty it was to superintend it during the hours when it was not in operation and to prepare it for this individual when he came to discharge his duties at a certain hour in the morning. That man was a vice-principal. He stood in the attitude toward this Government of vice-principal, and his negligence, I submit to the Senate and to the Senator from Georgia, for whose judgment I have great respect, is the negligence of the Government.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. ALLEN. I am glad to yield.

Mr. SPOONER. Does not the Senator think that that man ought to be interrogated?

Mr. ALLEN. I am not talking about the question whether he ought to be interrogated, but I am simply repelling the idea that the Senator from Georgia with a wave of his hand should say it is not worth consideration.

Mr. BACON. On the contrary, with the utmost diffidence, I expressed my very great humiliation, in view of the fact that I would entertain an opinion that would come in conflict with the very learned Senator and ex-judge from Nebraska. I did not intend to wave it away at all. I deprecated the fact, and was almost ashamed of it, and yet I ventured feebly to express it.

Mr. ALLEN. Since I have known the Senator from Georgia it has been one of the regrets of my life that I did not spend my youth under the shadow of his towering legal intellect.

Mr. CLAY. Mr. President, it strikes me that a case like this ought to be made out under the rules of law which would govern in the trial of a damage case for personal injuries. If the claimant is entitled to recover, it ought to be shown by the testimony. It ought to be shown by the party who was in charge of the elevator why he was there. It ought to be shown how came the door to be open. It is stated in this report that the person who was injured had charge of the elevator; that it was his duty to run it and operate it. He had left the elevator. It may be possible that he put the party in charge of the elevator. He may have been responsible for leaving the door open. This case was considered by the Committee on Claims simply upon two or three letters and an affidavit.

Every single witness who knows anything about the case ought to have been produced and his testimony given to the Senate. To simply take this case, try it, and say, "We will take the letters of two or three physicians and the affidavit of a party who was not cross-examined," is not the proper way to try a case.

It seems to me the bill ought to go back to the committee, the Government ought to be heard, and all the facts in connection with this case ought to be presented to the Senate that we may examine and understand the entire case. For that reason I am unwilling to vote in favor of the bill, and I believe it ought to go back to the committee.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from New Hampshire to recommit the bill to the Committee on Claims.

The motion was agreed to.

EDWIN CULVER.

Mr. SPOONER. I ask unanimous consent for the present consideration of the bill (S. 3505) granting an increase of pension to Edwin Culver.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to place on the pension roll the name of Edwin Culver, late of Company E, First Regiment Wisconsin Volunteer Cavalry, and to pay him a pension of $50 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES M. MILLER, UNITED STATES NAVY, AND OTHERS.

Mr. LODGE. I ask unanimous consent for the consideration of the bill (S. 3734) to authorize Commander James M. Miller, United States Navy; Surg. Oliver D. Norton, United States Navy, and Mr. Edwin V. Morgan, formerly secretary of the legation of the United States at Seoul, Korea, to accept presents tendered to them by His Majesty the Emperor of Germany.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENROLLED BILL SIGNED.

The signature of the President pro tempore was announced to the enrolled bill (S. 222) to provide a government for the Territory of Hawaii, which had previously been signed by the Speaker of the House of Representatives.

SOUTH AFRICAN REPUBLIC.

Mr. PETTIGREW. I ask unanimous consent for the immediate consideration of Senate resolution 133.

The PRESIDENT pro tempore. The Senator from South Dakota asks for the immediate consideration of a resolution, which will be read.

The Secretary read the resolution submitted by Mr. PETTIGREW February 2, 1900, as follows:

Whereas from the hour of achieving their own independence the people of the United States have regarded with sympathy the struggles of other people to free themselves from European domination: Therefore,

Resolved, That we watch with deep and abiding interest the heroic battle of the South African Republic against cruelty and oppression, and our best hopes go out for the full success of their determined contest for liberty.

Mr. LODGE. I ask if the resolution has ever been reported by a committee?

The PRESIDENT pro tempore. It has not.

Mr. LODGE. I think it ought to go to a committee. I move its reference to the Committee on Foreign Relations.

The PRESIDENT pro tempore. The Senator from Massachusetts moves the reference of the resolution to the Committee on Foreign Relations.

Mr. PETTIGREW. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CULBERSON. Let the resolution be read again.

The Secretary again read the resolution.

Mr. PETTUS. I desire to know whether the resolution has been acted upon by any committee.

The PRESIDENT pro tempore. It has not. The question is on agreeing to the motion of the Senator from Massachusetts to refer the resolution to the Committee on Foreign Relations, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BACON (when his name was called). I am paired with the junior Senator from Rhode Island [Mr. WETMORE], who does not appear to be present.

Mr. BURROWS (when his name was called). I am paired with the senior Senator from Louisiana [Mr. CAFFERY].

Mr. CULBERSON (when Mr. CHILTON's name was called). My colleague is paired with the senior Senator from West Virginia [Mr. ELKINS].

Mr. CULLOM (when his name was called). I have a pair with the junior Senator from Virginia [Mr. MARTIN]. If he were present, I should vote to refer.

Mr. HANSBROUGH (when his name was called). I will take the liberty of transferring my pair with the senior Senator from Virginia [Mr. DANIEL] to the senior Senator from Rhode Island [Mr. ALDRICH], and will vote. I vote "yea."

Mr. HEITFELD (when his name was called.) I am paired with the senior Senator from New York [Mr. PLATT]. If he were present, I should vote "nay."

Mr. JONES of Arkansas (when his name was called). I am paired with the Senator from Maine [Mr. HALE]. If he were present, I should vote "nay."

Mr. PROCTOR (when Mr. MALLORY's name was called). I have a pair with the Senator from Florida [Mr. MALLORY]. I transfer it to the senior Senator from Massachusetts [Mr. HOAR], so that the Senator from Alabama [Mr. PETTUS] and I can vote.

Mr. PENROSE (when his name was called). I am paired with the Senator from Delaware [Mr. KENNEY]. Were he present, I should vote "yea."

Mr. RAWLINS (when his name was called). I am paired with the junior Senator from Ohio [Mr. HANNA]. If he were present, I should vote "nay."

Mr. CULLOM. If the Senator from Utah will allow me, if it is agreeable to him, I suggest that he can pair the junior Senator from Virginia [Mr. MARTIN] with the junior Senator from Ohio [Mr. HANNA], so that he and I can both vote.

Mr. RAWLINS. All right; I consent to that arrangement, and will vote. I vote "nay."

Mr. SCOTT (when his name was called). I am paired with the junior Senator from Florida [Mr. TALIAFERRO].

Mr. SPOONER (when his name was called). I have a general pair with the Senator from Tennessee [Mr. TURLEY], who is absent. If I were at liberty to vote, I should vote "yea."

Mr. BATE (when Mr. TURLEY's name was called). My colleague, as has just been stated by the Senator from Wisconsin [Mr. SPOONER], is paired with him. He is absent. I do not know how he would vote.

Mr. TURNER (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. WARREN]. He not being in his seat, I withhold my vote. If he were present, I should vote "nay."

The roll call was concluded.

Mr. BATE (after having voted in the affirmative). I should like to know if the Senator from Kentucky [Mr. DEBOE] has voted?

The PRESIDENT pro tempore. He has not.

Mr. BATE. I withdraw my vote, being paired with him.

Mr. PENROSE. I announced my pair with the Senator from Delaware [Mr. KENNEY], and the Senator from Idaho [Mr. HEITFELD] announces his pair with the Senator from New York [Mr. PLATT]. I suggest that we pair the two absent Senators, so that we may both vote. Then the Senator from New York and the Senator from Delaware will be paired.

Mr. HEITFELD. That is satisfactory to me.

Mr. PENROSE. I vote "yea."

Mr. HEITFELD. I vote "nay."

Mr. SCOTT. I understand that the senior Senator from Washington [Mr. TURNER] is paired with the senior Senator from Wyoming [Mr. WARREN]. I suggest to him that we transfer our pairs, which will enable both of us to vote.

Mr. TURNER. Very well.

Mr. SCOTT. I vote "yea."

Mr. TURNER. I vote "nay."

The result was announced—yeas 31, nays 11; as follows:

YEAS—31.

Allison,	Frye,	McComas,	Perkins,
Baker,	Gear,	McCumber,	Pettus,
Bard,	Hansbrough,	McEnery,	Pritchard,
Carter,	Hawley,	McLaurin,	Proctor,
Clark, Wyo.	Jones, Nev.	McMillan,	Ross,
Clay,	Kean,	Morgan,	Scott,
Cullom,	Lindsay,	Nelson,	Shoup.
Davis,	Lodge,	Penrose,	

NAYS—11.

Allen,	Cockrell,	Pettigrew,	Turner,
Berry,	Culberson,	Rawlins,	Vest.
Chandler,	Heitfeld,	Teller,	

NOT VOTING—45.

Aldrich,	Elkins,	McBride,	Sullivan,
Bacon,	Fairbanks,	Mallory,	Taliaferro,
Bate,	Foraker,	Martin,	Thurston,
Beveridge,	Foster,	Mason,	Tillman,
Burrows,	Gallinger,	Money,	Turley,
Butler,	Hale,	Platt, Conn.	Warren,
Caffery,	Hanna,	Platt, N. Y.	Wellington,
Chilton,	Harris,	Quarles,	Wetmore,
Clark, Mont.	Hoar,	Sewell,	Wolcott.
Daniel,	Jones, Ark.	Simon,	
Deboe,	Kenney,	Spooner,	
Depew,	Kyle,	Stewart,	

The PRESIDENT pro tempore. No quorum has voted. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Allison,	Culberson,	Lodge,	Ross,
Bacon,	Davis,	McComas,	Scott,
Baker,	Deboe,	McCumber,	Shoup,
Bate,	Elkins,	McEnery,	Spooner,
Berry,	Frye,	McLaurin,	Teller,
Burrows,	Hansbrough,	McMillan,	Turner,
Butler,	Hawley,	Morgan,	Vest,
Carter,	Heitfeld,	Nelson,	Wetmore.
Chandler,	Jones, Ark.	Pettus,	
Clay,	Kean,	Pritchard,	
Cockrell,	Lindsay,	Proctor,	

The PRESIDENT pro tempore. Forty-one Senators have responded to the call of the roll. There is no quorum present.

Mr. TELLER. I move that the Senate adjourn.

The motion was agreed to; and (at 1 o'clock and 40 minutes p. m.) the Senate adjourned until Monday, April 30, 1900, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April 28, 1900.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read, corrected, and approved.

BENJAMIN D. GREEN AND OTHERS.

Mr. LIVINGSTON. Mr. Speaker, I want to ask unanimous consent that the report and papers and the letter of the Attorney-General accompanying the report filed yesterday in relation to the Gaynor matter may be printed in the RECORD. The request was made yesterday, but objection was made by a member on this side. It does great injustice to the author of the resolution to keep these letters and papers back. The letters are explanatory

and show that there can be no objection to the adoption of the resolution.

Mr. RAY of New York. Mr. Speaker, I made that request yesterday and it was objected to on the Democratic side of this House. These letters and papers are all printed with the report, or will be, and they can be obtained with the report. They give the information desired. I stated yesterday to the committee that I would ask unanimous consent to have them put in the RECORD, because I thought it was a matter of such general interest that they ought to be there where everybody interested can see them. I so stated yesterday and our Democratic friends saw fit to object.

Mr. TERRY. Will the gentleman permit me right there? I desire to state that it was objected to by a Democrat, but under a misunderstanding, and he told me afterwards that he would withdraw his objection; and if the chairman will not renew his request for unanimous consent, I will do so, in order that the report of the Judiciary Committee may be explained by the accompanying papers.

The SPEAKER. The request has already been made by the gentleman from Georgia.

Mr. TERRY. Well, as a member of the Judiciary Committee, I renew it.

Mr. RAY of New York. Mr. Speaker, I will say in regard to this that a statement has been published in the newspapers, it is alleged at the instigation of some Democratic members of this House, that I am holding up the bill relating to this Gaynor indictment at the request of a Senator from New York. The statement is untrue and was known to the man who from the press gallery of this House sent the dispatch to the city of New York to be untrue. On the bill referred to, a hearing has been fixed for Friday next. Yesterday, in order that the fullest information might be given, I made the request that the report and letters be printed in the RECORD, but it was objected to by a member on the other side——

Mr. TERRY. I want to say——

Mr. RAY of New York. Wait one minute. If this request is to be granted, I want it understood here and to go to the country that the request was made by me——

Mr. TERRY. I ask you to renew it.

Mr. RAY of New York. I will renew it. I want it understood that I have sought the broadest publicity of this matter.

Mr. TERRY. That is the reason I ask you to renew the request.

The SPEAKER. The gentleman from New York asks unanimous consent that there may be published in the RECORD the report he submitted yesterday upon the privileged resolution, and also the papers filed in connection therewith. Is there objection? [After a pause.] The Chair hears none.

The report and accompanying papers are as follows:

The Committee on the Judiciary, to which was referred House resolution 234, a copy of which is annexed, report the same back with the recommendation that it lie on the table.

In view of the information given in the letters and papers, copies of which are annexed, the adoption of such resolution is unnecessary.

The Senate act on the subject has passed that body and is now pending before the Committee on the Judiciary of the House. A hearing thereon is to be had Friday, May 4.

RESOLUTION.

Whereas Benjamin D. Greene, John F. Gaynor, Edward H. Gaynor, and W. T. Gaynor were duly indicted by the grand jury of the United States for the southern district of Georgia, upon presentment to United States District Judge Emory Speer, at Savannah, Ga., for defrauding the Government of the United States of more than $2,000,000 in connection with Capt. Oberlin M. Carter; and

Whereas the said parties were arrested in the city of New York upon the requisition issued out of the district court of the southern district of Georgia, and upon the hearing before United States Commissioner Shields were ordered to be delivered to the custody of the proper officials to be surrendered to the officers of said district court for the southern district of Georgia; and

Whereas Judge Addison Brown, of the United States district court of New York, upon an appeal from said order of Commissioner Shields, overruled said order for the removal of said parties to Savannah, Ga., and ordered their discharge; and

Whereas the Attorney-General of the United States is reported in the public press to have stated that the decision of Judge Brown was "unwarranted by the law and the facts:" Therefore, be it

Resolved, That the Attorney-General be, and he is hereby, directed to inform the House of Representatives what further steps, if any, have been taken to cause Benjamin D. Greene, John T. Gaynor, Edward H. Gaynor, and W. T. Gaynor to be remanded to the jurisdiction of the district court of the southern district of Georgia for trial.

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY-GENERAL,
Washington, D. C., April 12, 1900.

SIR: On December 8, 1899, Benjamin D. Greene, John F. Gaynor, William T. Gaynor, Edward H. Gaynor, Michael A. Connally, and Oberlin M. Carter were indicted by the grand jury of the United States district court of Georgia for conspiring to defraud the United States upon two contracts relating to harbor improvements at Savannah and in Cumberland Sound. The defendant Connally was at Habana, Cuba, and upon requisition upon the War Department was there arrested and brought to Savannah to answer the indictment. The defendant Carter is now in prison under sentence of a military court-martial for offenses committed by him as a captain of engineers, in concert with the other persons named, in violation of the articles of war. The other defendants, Greene and the three Gaynors, do not reside in Georgia, but being found in the city of New York, proceedings were instituted by this Department, pursuant to the provisions of section 1014 of the Revised Statutes of the United States, for their apprehension and removal to Georgia to answer to the indictment. Section 1014 is as follows:

"For any crime or offense against the United States, the offender may, by any justice or judge of the United States, or by any commissioner of a circuit court to take bail, or by any chancellor, judge of a supreme or superior court, chief or first judge of common pleas, mayor of a city, justice of the peace, or other magistrate, of any State where he may be found, and agreeably to the usual mode of process against offenders in such State, and at the expense of the United States, be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States as by law has cognizance of the offense. Copies of the process shall be returned as speedily as may be into the clerk's office of such court, together with the recognizances of the witnesses for their appearance to testify in the case. And where any offender or witness is committed in any district other than that where the offense is to be tried, it shall be the duty of the judge of the district where such offender or witness is imprisoned seasonably to issue, and of the marshal to execute, a warrant for his removal to the district where the trial is to be had."

The application for a warrant of removal was, in this instance, made before a United States commissioner in New York City, and thereupon the four defendants last named appeared before the commissioner, demanded an examination, which was accorded them, and proceedings thereon were, from time to time, had before the commissioner, as will be hereinafter more fully referred to, resulting in an order being made in February by the commissioner for the commitment of the defendants for trial, upon which an order was asked from the judge of the district court for the southern district of New York directing the removal of the defendants to Georgia for trial.

Before the commissioner in New York and before the district judge, it was contended by the defendants that under the phraseology of section 1014 the defendants could only be examined and removed agreeably to the usual mode of process against offenders in such State, as regulated by the New York code, and, basing their demand upon the provisions of the New York statutes, they insisted that the Government was bound, by the production of affirmative proofs, to show aliunde the indictment the probable guilt of the defendants; and not only that, but that the defendants, by the production of evidence on their part, were entitled to rebut the presumption of proof raised by the evidence of the Government.

The commissioner held, in effect, that the certified copy of the indictment, followed by the identification of the defendants, was sufficient to justify their removal, but the district judge overruled the commissioner and held that the certified copy of the indictment was not sufficient to justify an order of removal; that the Government was required, by affirmative proof, to make out a case of probable guilt, and that the defendants were entitled to go fully into their defense, and to produce evidence on their part to rebut the presumption of guilt raised by the proofs of the Government. He distinctly held that the commissioner was bound to ascertain for himself whether, from the proof of facts and circumstances produced before him, there is probable cause to believe the defendants guilty of the offense charged; that the mode of process in such cases is precisely the same whether there is an indictment or no indictment; and that an indictment when offered by the Government is at best but evidence, in no way conclusive, and in truth is but secondary evidence; and that although the copy of an indictment may be treated as an affidavit, it is nevertheless to be judged by the same rules as other affidavits, and given weight only according to the nature and character of its averments, and the facts and circumstances which it sets forth, if any, in a manner sufficient to warrant the conclusion of probable cause to believe the accused guilty.

Holding the law to be as above stated, the learned district judge decided that the application for the removal of the defendants should be denied.

The record of the proceedings before the commissioner in this case covers over 1,100 typewritten pages. Had the testimony of the Government's witnesses and the defendants' rebutting evidence been taken, the record would have been enlarged to many thousand pages more, and months of time would have been consumed in the effort to merely transfer the defendants to the jurisdiction of the court in which they are already duly charged with crime.

It is obvious that if this is the proper construction of the law in the State of New York, it is practically impossible for the United States to secure from that jurisdiction offenders against Federal statutes to answer to indictments in districts where the offenses are committed. So far as I am informed, there is no other State in the Union in which, on the production of a certified copy of an indictment found in a Federal court against a person, duly charging the commission of an indictable offense, the accused will not be surrendered as a matter of course upon the establishment of his identity. The peculiar rule of procedure which seems to be established in the State of New York arises from the provisions of the code of that State which are claimed to be made applicable to proceedings of this nature by virtue of the following phrase in section 1014, to wit, "agreeably to the usual mode of process against offenders in such State."

It is evident that under such a provision of Federal law any State by local enactments can make it impossible to remove a Federal offender who is wanted to answer an indictment in another district. In this particular instance such impossibility is practically effected by the difficulties surrounding the case. The defendants are indicted for frauds upon the Government of the gravest nature and of very large extent, committed in connection with a trusted officer of the Engineer Corps, proofs of which are spread over five or six years of governmental operations at Savannah and Cumberland Sound, and involve also, to a large extent, technical and scientific facts capable of proof only by expert witnesses and accountants and by the production of a vast mass of documentary evidence. The witnesses to substantiate the case are scattered throughout the United States, and it was with exceeding difficulty they were marshaled for the hearing before the grand jury in Georgia, and that their attendance was arranged for at the trial before the petit jury.

To compel the Government to make out a case of probable cause twice, once before a grand jury and afterwards before a local magistrate in another jurisdiction, is imposing a more onerous condition for the punishment of crime than exists under any other form of government. It is usually understood, and such is the history of grand jury procedure, that a presentment by a grand jury is based upon proof of probable cause, that the defendants are not entitled to appear or be heard in rebuttal of the facts submitted to the grand jury, and that the effect of an indictment is not to raise a presumption of guilt, but to require the defendants to submit to a trial before a court and petit jury, where every presumption is in favor of their innocence. A defendant who happens to reside within the district where he is indicted is arrested and put on trial without any further investigation. No good reason can be perceived why the fact that a defendant happens to reside in another judicial district of the United States should entitle him to have the

question of his probable guilt submitted to and passed upon by a local magistrate before any force or effect whatever shall be given to the presentment of the grand jury, which is the legal and constitutional body entitled to present him for trial.

Under the doctrine maintained by the district judge in this case, if a bank officer should commit a crime against the national-banking acts in Boston and flee to California, assuming that the laws of California are similar to those of New York, it would be requisite for the United States first to indict the defendant before the grand jury in Boston and then to transport the witnesses to California and indulge in a formal trial there before a local magistrate, whose judgment would not be bound at all by the judgment or action of the grand jury, but would be free to hear the case de novo, and order the defendant either removed or discharged, in accordance with his personal views of the evidence, pro and con, adduced before him. It is respectfully submitted that such a rule of procedure as this would render the judicial power of the Federal Government in criminal cases inoperative and subject, to a large degree, to the control of State legislatures.

The Constitution guarantees, in cases of Federal offenses of the grade of felony, the right to be presented by a grand jury, but it does not guarantee that the action of the grand jury shall be submitted to the review of a local magistrate in another district before the defendant can be removed for trial into the district where he was indicted and where the offense was committed.

No such difficulty as is thus interposed against the United States is encountered where one State desires to bring a fugitive from justice from another jurisdiction to be tried within her own borders; nor in cases of extradition arising under treaties with foreign nations.

The provision of the Constitution which declares that a person charged in any State with treason, felony, or other crime who shall flee from justice and be found in another State shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime is a provision intended to facilitate the administration of justice as between the States and not with the Federal Government. Efficiency was given to that constitutional provision by the act of February 12, 1793, which was substantially reproduced as section 5278 of the Revised Statutes of the United States. Under this statute a person indicted in a State court for a crime will be rendered up for extradition to the State where the indictment is found by the authorities of any other State, upon the production of a duly certified copy of the indictment and the establishment of his identity and presence within the State from which he is demanded.

In such cases no such privileges as, under Judge Brown's ruling, are accorded the defendants in the case now pending can be claimed. No witnesses to prove the offense are required from the demanding State, nor is the defendant allowed, as a matter of right, to produce any proof in rebuttal. The question in all such cases is not whether the person demanded is guilty, but whether he is duly charged with the commission of a crime. Such should be the requirement in Federal cases. Under the sixth amendment to the Constitution, the United States is required to bring the accused to trial in the State and district wherein the crime shall have been committed. That which the Government is thus by its Constitution required to do it should be given adequate power to do.

An indictment found by a grand jury in the judicial district where the crime is committed is the only condition which the Constitution imposes upon the Federal authorities to bring to trial offenders against the laws of the United States. No reason can be suggested why the several States should be permitted, of their own motion, to impose other or more onerous conditions. Effect should be given in all parts of the United States to the solemn presentment of a grand jury in one particular judicial district, and the law should not throw unusual and onerous obstacles about the efforts of the United States to bring criminals to trial after they have been duly charged by a Federal grand jury with criminal offenses. The power of the nation to bring to justice offenders against its laws should be as broad as its territory, and unhampered by any reference to or dependence on State codes.

I have not questioned the technical correctness of Judge Brown's decision so far as it is based upon a construction of the peculiar provisions of the New York code. I prefer to submit the matter to Congress, in order that such provisions of State legislation as may be used, as they have been used in this case, to prevent indicted persons being brought to trial, may be, by the action of Congress, rendered hereafter inoperative.

I deem this matter of so much importance as to justify my calling your attention at length to the subject, and inclosing you a copy of the opinion of Judge Brown in this particular case. I also think the matter is one which calls for legislative relief, and I accordingly have drafted a bill under which any person indicted in a Federal court for a Federal offense may be removed into the district where the indictment is found upon the presentation of a certified copy of the indictment to a Federal justice, judge, or commissioner. I respectfully urge that this bill be introduced and passed, in order that there may be no failure of justice in the case referred to, and in similar cases that are liable hereafter to arise.

There can be no safer asylum for fugitives from justice than would be afforded by the continuance in any State of such a rule of practice as is established by this decision.

I may point out that since this indictment was found, in December last, another defendant, indicted subsequently in a State court in Georgia, has been brought from Morocco and put upon his trial, while these particular defendants, residing in another district in another State of the Union, are not delivered up for trial, notwithstanding the grand jury of Georgia has solemnly found, upon evidence presented to it, that they should be held to answer for the serious offenses with which they are charged.

I also beg to inclose a presentment recently found by the grand jury in the United States district court of Georgia upon this subject.

I have the honor to be, with great respect, yours, etc.,

JOHN W. GRIGGS, *Attorney-General.*

Hon. GEO. W. RAY,
Chairman Judiciary Committee, House of Representatives.

An act to provide for the removal to the proper district for trial of persons indicted for offense against the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where any person, indicted for any crime or offense against the United States, in any district, shall be or be found in any other district, it shall be lawful, and it is hereby made the duty of the district attorney of the district in which such indictment is found, to deliver, or cause to be delivered, a copy of such indictment, certified by the clerk of the court in which the same is pending, to a judge or justice of the United States or a United States commissioner in the district where such indicted person is or may be found; and thereupon it shall be the duty of such judge, justice, or commissioner to issue to the United States marshal of the district a warrant for the arrest of the person named in the indictment, and upon the return of the warrant with the body of the person so named, the judge, justice, or commissioner shall, upon being satisfied that the person arrested is the person indicted, make an order to the marshal directing the removal of such person to the district wherein the indictment is pending, and it shall be the duty of the marshal to execute such order. In bailable cases the judge, justice, or commissioner before whom such proceedings are had may admit the defendant to bail for his appearance at the court to which he is held to answer the indictment.

In the district court of the United States for the eastern division of the southern district of Georgia. In the matter of the grand jury.

Special presentment.

The grand jurors of the United States chosen, selected, and sworn in and for the eastern division of the southern district of Georgia, at the February adjourned term, 1900, respectfully present to the court as follows:

That at the last November, 1899, term of this court, to wit, on December 8, 1899, the grand jurors of the United States for this division and district returned into court a true bill of indictment against Benjamin D. Greene, Edward H. Gaynor, John F. Gaynor, William T. Gaynor, and others, contractors charged with conspiracy with Oberlin M. Carter, engineer officer in charge of river and harbor improvements in this district, through which it is charged the Government has been defrauded to the amount of several million dollars of the moneys appropriated by Congress for the improvement of the harbors of Savannah, Brunswick, and Cumberland Sound.

It further appears from documents of file and examined by this body that the United States district attorney for this district promptly caused to be transmitted to the United States attorney in New York a duly certified copy of said indictment, and that on December 14, 1899, the defendants, Benjamin D. Greene, John F. Gaynor, William T. Gaynor, and Edward H. Gaynor, were arrested, under section 1014, R. S., by the United States marshal for the southern district of New York, under proceedings taken by the district attorney for the southern district of New York before Commissioner John A. Shields, based on said indictment. The disposition of such matters, by requiring the defendants to give bail for appearance at the court where the indictment has been found, or by warrant of removal where bail is not given, has generally been, as this body is advised, a matter simply of identifying the defendants as the persons indicted and examining into the legal sufficiency of the indictment, usually taking but a day or two at most.

This body is informed, however, that the proceedings in New York in this matter have been dragging along now for over three months and a half. The commissioner holding up his finding two months, and since his decision the matter of issuing the warrant of removal having been pending before the district judge there for over six weeks with no decision thereon. In the meantime the defendants are enlarged on bond there in the sums of twenty thousand and ten thousand dollars only, respectively. While it is stated that a careful estimate made by the engineer officer now in charge of the district indicates that the defendants obtained illegally during the years from 1891 to 1897 sums aggregating $2,532,676. If the indictment be valid, there should have been a prompt removal. No court has held the indictment defective. If defective, as it is stated the defendants' claim in opposition to the proceedings for removal, there would seem to be overwhelming reasons why there should have been prompt action on the part of the courts.

It appears upon the face of the indictment that against all the acts charged in the indictment the statute of limitations will have run within three months from this date, and has already run on some of the acts charged. If defective in form, a prompt decision would have enabled another grand jury to make a new presentment. But with the delays already had, three months and a half on the simple proceedings before the commissioner and judge under section 1014, Revised Statutes, and with probable application for habeas corpus, it is probable that if the courts finally conclude the present indictment is defective that the statute of limitations will have run, and the parties charged by a grand jury of the United States with the most gigantic fraud of the century against the Government will escape even arraignment before the bar of justice. It is a matter of public notoriety that since these proceedings were instituted in New York a defendant indicted in a State court in Georgia for embezzling some twenty thousand dollars was arrested in the jurisdiction of the Sultan of Morocco and extradited across the Atlantic Ocean, while all the power of the United States Government, with the best efforts of the Attorney-General and his subordinates, seems unable to bring defendants from the State of New York to Georgia for trial in its own courts.

Whatever be the action which may now or hereafter be taken by the courts in this case, the delays already had with the possibility of a total failure of justice following therefrom in this and similar cases which arise seem to indicate that if the proceedings in this case in New York are justified by law, then the laws of the United States for bringing persons charged with crime from one district to another are so defective that there should be prompt action on the part of Congress to remedy the evil.

We recommend that copies of this special presentment be forwarded to the President, the Attorney-General, and to the Senators and Members of Congress from Georgia for their consideration and appropriate action.

Respectfully submitted.

Jno. J. McDonough, foreman grand jury; George S. Haines, Charles E. Stults, Guillemain Bourquin, Hamp Dreese, James T. Shuptrine, Henry Bartlett, James McGrath, Philip Y. Giles, Wright Hunter, Franklin F. Jones, Ernest A. Armand, Sidney P. Grodwin, W. A. Ketchum, R. H. Polk, W. L. Bourne, Henry Schwald, W. T. Hopkins, J. H. Davidson.

A true copy.
Attest:
[SEAL.]

S. F. B. GILLESPIE, *Deputy Clerk.*

UNITED STATES DISTRICT COURT,
Southern District of New York.

The United States against Benjamin D. Greene, John F. Gaynor, William T. Gaynor, and Edward H. Gaynor, and others.

Indictment—Removal—Section 1014, Revised Statutes.

Henry L. Burnett, Marion Erwin, United States district attorneys, and Ernest E. Baldwin, assistant attorney for the United States.

Abram J. Rose and L. Laflin Kellogg, for defendants.

Brown, J.

The above four defendants, with Michael A. Connally and Oberlin M. Carter, were indicted by the grand jury in the eastern division of the southern district of Georgia on December 8, 1899, for conspiring to defraud the United States upon two contracts, one for improving the harbor at Savannah and the other for work in Cumberland Sound. Upon an affidavit to this effect by one of the assistants of the United States attorney, referring to a certified copy of the indictment, a warrant was issued by a United States commissioner for this district, under section 1014 of the United States Revised Statutes, for the apprehension of the four defendants above named.

The defendant Greene resides at Stamford, Conn.; John F. and W. T. Gaynor in Onondaga County, N. Y., and E. H. Gaynor at Boston, Mass. The defendants, on notice, appeared before the commissioner and demanded an

examination, and proceedings thereon were from time to time had before the commissioner, who, upon finding probable cause that the offenses charged had been committed, ordered the commitment of the defendants for trial. An order is now asked for their removal to the eastern district of Georgia for trial.

The stenographer's notes of the proceedings, returned by the commissioner, consist of about 1,100 pages, showing, however, no other evidence of the commission of the offense than a certified copy of the indictment. Some evidence was given as to the identity of the defendants as the persons charged, and this was not seriously contested. Aside from this and the arguments of counsel, the whole record consists of little except rulings upon the evidence on behalf of the defendants sought to be introduced, and numerous exhibits, all of which, so far as they pertained to the merits or tended to show the innocence of the accused and the want of probable cause, were rejected, mostly upon the ground that the question of guilt or innocence should only be heard and determined upon a trial under the indictment.

Upon this record the defendants object to any order of removal on the ground, first, that the indictment is bad upon its face; second, that it was not properly proved, since neither was the original indictment produced nor was the copy, though certified by the deputy clerk, duly authenticated as an exemplified copy; third, that by reason of its vagueness, its lack of specification of facts and circumstances, and its inconsistencies and contradictions in different parts it is insufficient evidence of probable cause of guilt; fourth, that evidence was improperly rejected tending to show that the grand jury was illegally drawn and constituted, and the indictment, therefore, void; and, fifth, that the defendants were virtually denied a hearing by the rejection of all evidence tending to show their innocence.

As respects procedure, the present case is identical with that of In re Dana (68 Fed., 886), in which this court, upon careful consideration, pointed out the course necessary to be pursued in cases of this character under section 1014 of the United States Revised Statutes and under the law of this State thereby virtually adopted. The views there expressed seem to have been approved by Lacombe, J., in Price's case (83 Fed., 830; 84 Fed., 636; affirmed, 85 Fed., 84, 87), where the course indicated in the Dana case was followed by the examination of several witnesses to show probable cause, as well as the production of an exemplified copy of the indictment. It was also approved in the case of In re Wood (95 Fed., 288), and so far as I am aware, it has not been disapproved in any subsequent reported case.

In view of these decisions, which were repeatedly called to the commissioner's attention, I find it difficult to understand the disregard of them in the rejection of the great mass of competent evidence and exhibits offered in the defendants' behalf. In that decision it was pointed out that the proceeding for commitment and removal under section 1014 is an original proceeding, to be conducted according to the laws of the State in similar proceedings before committing magistrates; that the object of the proceeding is to enable the commissioner to ascertain for himself whether, from the proof of facts and circumstances produced before him, there is probable cause to believe the defendants guilty of the offense charged; that the mode of proceeding in such cases is precisely the same whether there is an indictment or no indictment (see also Price *vs.* McCarthy, 89 Fed., 84, per Wallace, C. J.); and that an indictment, when offered by the prosecution, is at best but evidence, in no way conclusive, and in truth is but secondary evidence (which to a certain extent is admissible on such examinations), and that although the copy of an indictment may be treated as an affidavit, it is, nevertheless, to be judged by the same rules as other affidavits and given weight only according to the nature and character of its averments and the facts and circumstances which it sets forth, if any, in a manner sufficient to warrant the conclusion of probable cause to believe the accused guilty.

By a singular inversion, however, the best reason for the admission of the defendants' proposed evidence, namely, its tendency to show innocence of the charge and the lack of probable cause, was in this instance made the reason for excluding it. A certified copy of the indictment having been received by the commissioner against the defendants' objection, it was thereupon contended by the prosecution, and virtually ruled by the commissioner, that the evidence was closed as respects the question of guilt, and that no evidence disproving it could be allowed, since that would be "trying the issue" here instead of in Georgia. Thus, although the right to show want of probable cause was admitted in form, it was in substance denied, since whatever would disprove the alleged offense was for that very reason excluded.

Precisely opposite was the ruling of this court in the Dana case, where it was shown, as I have said, that by section 1014 (the sole authority in the Federal courts for commitment or removal in such cases) the proceeding before commissioners must be in conformity with the existing State procedure. Mr. Justice Curtis, in United States *vs.* Rundlett (2 Curtis, 41), says:

"My opinion is that it was the intention of Congress by these words to assimilate all proceedings for holding accused persons to answer before a court of the United States to proceedings had for similar purposes by the laws of the State where the proceedings should take place; * * * the prisoner is not only to be arrested and imprisoned, but bailed agreeably to the usual mode of process in the State."

See, also, United States *vs.* Horton's Securities (2 Dillon, 94). Mr. Justice Miller and other eminent judges have confirmed this interpretation. See In re Dana, 86 Fed., 893-894 and cases ante.

In States, therefore, where the accused has no right to examine witnesses in his own behalf before a committing magistrate he can not do so in proceedings under section 1014; but in other States, as in New York, where this right does exist and is in daily practice, it can not be lawfully denied him.

In New York the right of the accused to produce witnesses in his own behalf before committing magistrates was confirmed by express statute more than seventy years ago, and more than forty years before the enactment of section 1014 of the United States Revised Statutes; and such is the uniform course of procedure. The New York Revised Statutes (1828) declare (volume 2, page 708):

"17. After the examination of the prisoner is completed, his witnesses, if he have any, shall be sworn and examined, and he may have the assistance of counsel in such examination."

This practice is ancient. (Dallon's Jus. (1742), chapter 165; 1 Chit. Cr. L., 79.)

The existence of an indictment in another jurisdiction has no bearing upon the application of this statute to proceedings for commitment, or to the course of the examination when an examination is demanded pursuant to the statute, nor upon the commissioner's duty to take whatever competent evidence is offered by the defendant tending to show the want of probable cause; and for that purpose and to that extent the proceeding is, of necessity, like the proceedings before the State magistrates, a partial preliminary hearing on the merits.

It is urged that under section 1014 the similitude to State proceedings may be preserved by treating a Federal indictment from another district as a State indictment found in one county is treated in another county wherein the defendant is arrested. That analogy, however, could only be followed by the indorsement of a bench warrant from the Federal district where the indictment was had by the judge of the district where the accused might be found. But that practice, if ever in use, has been long since abandoned. Besides the authorities opposed to it cited in the Dana case (68 Fed., 893, 894), it was again disapproved by Lacombe, J., in the late case of Price (83 Fed., 830), as oppressive and unauthorized. Section 1014, moreover, plainly contemplates the examination of witnesses and provides for a return of the "recognizances" for their appearance to testify in the case. In proceeding under that section, therefore, the commissioner must receive all evidence touching probable cause of guilt that a State committing magistrate would be bound to take, without reference to any subsequent trial upon indictment.

The objection that this would be trying the "issue" is premature. There is no "issue" as respects the indictment until the defendants are committed, removed, and arraigned, and plead not guilty. The inquiry before the commissioner is for the very purpose of ascertaining whether there is sufficient ground to commit and remove the accused and oblige him to plead and stand trial, and to enable him under the State statute to arrest the proceedings in limine, if he can, by proving that there is no probable cause for the accusation. That was the only "issue" before the commissioner on this hearing.

In New York the statute above cited has been followed in the Code of Criminal Procedure by still further provisions designed to safeguard accused persons from arbitrary, mistaken, or malicious commitments (188-214). And in the absence of some act of Congress expressly dispensing with any other evidence than the indictment itself, as in extradition proceedings, it is impossible that in a proceeding under section 1014, which makes applicable the State laws, the rights of citizens expressly guarded by the State laws can be set aside by a mere indictment in a distant jurisdiction, so that without a word in their own defense citizens could be thereupon transported for trial hundreds or even thousands of miles away from their homes, in contravention of the act of Congress and the laws of the States, which it recognizes and adopts. Such a proceeding would be not merely erroneous, but illegal.

The extradition cases cited on the argument, whether interstate or international, are wholly inapplicable. Both those proceedings are regulated by wholly different statutes or by treaty stipulations. In interstate extradition the acts of Congress as well as the State statutes exclude altogether any inquiry into the guilt or innocence of the accused, the only conditions of the statutory obligation of the executive to return the accused being, first, that there is an indictment or information against him (of which an exemplified copy is sufficient evidence, N. Y. Crim. Code, 827-829), and, second, that the accused is a fugitive from justice (U. S. Rev. Stat., 5278), in re Leary (10 Ben., 197).

It is unnecessary to consider the questions arising on the exclusion of the evidence touching the alleged illegality in the drawing of the Georgia grand jury, or to discuss at much length either the sufficiency of the very complicated indictment as a pleading or its force and weight as evidence. As explained in the Dana case, those two questions are altogether distinct; and while I have some doubt but do not need to pass on the question of the sufficiency of the indictment as a pleading, I have no doubt that, viewed as an affidavit, it is insufficient in its statement of facts and circumstances to justify a removal when, as in this case, an examination has been demanded by the accused and its sufficiency challenged. Witnesses for the prosecution, having at least some knowledge of the facts, were in attendance before the commissioner, but were not examined as to the offense, nor were they allowed to testify for the defendants on cross-examination, so that the facts and circumstances on which the magistrate should form his judgment have not in fact been made known. I add some observations on the indictment as a pleading and as evidence.

2. The gist of the offense of conspiracy is in the illegal combination and intent, and the statute of limitations begins to run from the time the conspiracy is formed. The crime may be complete though the intent was never accomplished. And though the statute offense requires an overt act "to be done by one or more of the parties to the conspiracy," or some act "to effect its object," yet this act, as in the common-law offense of conspiracy, is not regarded as an essential part of the offense itself, the statutory provision being construed as requiring such an act to be proved as a condition of conviction in order to give to the defendants a locus penitentiæ. (United States *vs.* Britton, 108 U. S., 199.) It is held to be sufficient, therefore, if the overt act is "so described as to apprise the defendant what act is intended to be given in evidence as tending to show that the unlawful agreement was put in operation." (United States *vs.* Donan, 11 Blatch., 168; United States *vs.* Boyden, 1 Low., 296; United States *vs.* Sanche, 7 Fed., 715; United States *vs.* Bonson, 70 Fed., 591.)

In the first and principal count the indictment states, in effect, two conspiracies to defraud the United States. The first, not directly charged as a conspiracy, but called a "fraudulent scheme," and set forth by way of inducement, is alleged to have been formed on or about January 1, 1891, and to have been thereafter "in continuous process of execution until October 1, 1897." As an original conspiracy this was evidently outlawed before the indictment was found in December, 1899. The second conspiracy, and the one relied on, is an alleged conspiracy formed January 1, 1897, to defraud the United States "by applying the previous 'fraudulent scheme' to the execution of two contracts previously obtained, it is alleged, by means of said fraudulent scheme on October 6, 1896;" and counts 2, 3, 4, and 5 state certain alleged overt acts done to carry this new conspiracy into effect. These averments of overt acts, however, can not be resorted to in order to aid any defective averments as to the conspiracy itself or as to the means by which it was to be accomplished, which in this case were necessary to be set forth.

As the original fraudulent scheme of conspiracy is alleged to have been in continuous process of execution from January, 1891, to October, 1897, and therefore included the two contracts of October 8, 1896 (the only subjects in the indictment), it is evident that the averment of a new conspiracy on January 1, 1897, to apply the old conspiracy to the execution of the contracts obtained by means of the former one (at a time excluded by the statute of limitations) and already in course of execution is only a pleader's device to avoid the effect of the statute of limitations as against the original fraudulent scheme. But as each new overt act in furtherance of the common purpose becomes in law a new conspiracy, the time of the conspiracy may be laid within the period of the statute of limitations if the overt act was within that period, the prior combination, if established, and the later overt act being evidence from which a jury may infer the new conspiracy. (People *vs.* Mather, 9 Wend., 229; Com. *vs.* Bartilson, 85 Penn. St., 482, 489.)

I have considerable doubt, however, whether the averment of the means by which the conspiracy of January 1, 1897, was to be effected are indicated with such definiteness, clearness, and certainty as seems to be required (see 4 Encycl. of Plead., 722). In Commonwealth *vs.* Hunt (4 Metcalf, 111), in which this subject is fully discussed, Shaw, chief justice, says (page 125):

"Conspiracy is an offense which especially demands the application of that wise and humane rule of the common law that an indictment shall state, with as much certainty as the nature of the case will admit, the facts which constitute the crime intended to be charged.

"This is required to enable the defendant to meet the charge and prepare for his defense, and, in case of acquittal or conviction, to show by the record the identity of the charge, so that he may not be indicted a second time for the same offense. * * * This fundamental rule is confirmed by the declaration of rights, which declares that no subject shall be held to answer for any crime or offense until the same is fully and plainly, substantially and formally

described to him. * * * If the criminality of the offense which is intended to be charged consists in the agreement to compass or promote some purpose not of itself criminal or unlawful, by the use of fraud, force, falsehood, or other criminal or unlawful means, such intended use of fraud, force, falsehood, or other criminal or unlawful means must be set out in the indictment."

In the prior case of Lambert *vs.* The People (9 Cowen, 578) it was also held upon elaborate consideration by Marcy, J., that—

"Where in an indictment for conspiracy the object of the conspiracy is not a legal crime, the means intended to be used must be particularly set forth and show that those means are criminal."

This doctrine has been repeatedly enforced in the decisions of the Supreme Court. (United States *vs.* Cruikshank, 92 U. S., 542, 558; United States *vs.* Britton, 108 U. S., 199; United States *vs.* Carll, 105 U. S., 611; United States *vs.* Hess, 124 U. S., 483; Pettibone *vs.* United States, 148 U. S., 197; Blitz *vs.* United States, 153 U. S., 308, 315; State *vs.* Parker, 43 N. H., 83.)

Now, the only means stated by which the alleged conspiracy of January 1, 1897, was to be carried out is by "applying" the prior "fraudulent scheme to the execution and completion of work under the contracts of October 8, 1896, and in obtaining the money in fraudulent accounts which should be rendered thereunder." But of the fifteen or twenty devices which it is alleged that scheme "contemplated," three-fourths relate to the terms, specifications, and letting out of the contracts themselves, so that most of the scheme could not possibly be "applied" to a conspiracy formed on January 1, 1897, several months after the contracts were let out. Of the remaining means or devices, what ones are meant to be charged is left wholly undefined. This is all the more vague and uncertain since even the original fraudulent scheme itself is only alleged to have contemplated that the conspirators "would use some one, or more, or all of said means and devices, and such additional devices as might become necessary." This is certainly very vague and uncertain as to the means used.

The overt act charged in the second count is irrelevant, since it does not appear to be in any way connected with the conspiracy alleged, nor within any one of the means or devices set forth in the conspiracy count. The overt acts charged in counts 3, 4, and 5 are the presentment of alleged "fraudulent claims" to Captain Carter, of the Corps of Engineers, without any statement how or wherein they were fraudulent. The items of the claims are given, dated July 1, 1897, apparently verbatim, for work and material furnished under the contracts of October 8, 1896. It would be naturally inferred that the charge intended was that these bills were in some way false and not according to the contract; that is, that the work done and the materials supplied were less than was claimed, or that they were of inferior quality, or in some way different from the contract, or that the price was incorrect.

But there is no such averment as respects any of the bills referred to in any of the counts; nor is it stated that any one of them is false; while from other passages in the indictment, as well as from the observations of counsel in the stenographer's report of the proceedings, it would seem that the supposed fraudulent character of the bills was not founded upon anything incorrect in them or in the work, but upon the alleged fraudulent devices contemplated in the preparation and letting of the contracts themselves, no single one of which devices is, however, definitely alleged to have been really employed. Such averments not only do not reasonably apprise the defendants of the nature of the charges they must meet, but are calculated to mislead them. This applies to all the counts except the second.

The conspiracy charged in the sixth count relates wholly to future contracts to be let thereafter—i. e., after January 1, 1897—while the overt acts stated in counts 7 and 8 relate wholly to the prior contracts of October 8, 1896. On this additional ground counts 6, 7, and 8 would seem to be necessarily bad.

Counts 9 and 10 allege conspiracies on July 1, 1897, as respects the same contracts and bills referred to under the conspiracy of January 1, 1897, in counts 1 to 5. As the presentment of false or fraudulent bills for payment to a Government officer is itself a criminal offense (section 5438, Rev. Stat.), I should regard these counts as good had the nature of the fraud been sufficiently indicated.

3. Without passing definitely upon these objections to the indictment as a pleading, they are much more important when the indictment is offered as *evidence* of the facts and circumstances upon which a magistrate, after examination demanded, is called upon to find probable cause of guilt. Mere defects in pleading might be disregarded if a crime was otherwise sufficiently shown to have been committed, since commitment and removal may in proper cases be made without any prior indictment. (In re Price, 89 Fed., 94.) But when there is no evidence of guilt except such as a copy of the indictment itself, considered as an affidavit, affords, there is nothing to cure its defects or its failure to give a consistent, clear, and satisfactory statement of the evidential facts on which the conclusion of probable guilt may be based.

The mere fact that indictment had been found in another jurisdiction, without producing it, is no evidence of probable cause before a committing magistrate; and a mere affidavit of that fact only will not justify even the issuing of the warrant of arrest. (Ex parte Solomon, 1 Abb. N. S., 347; Ex parte Leland, 7 Abb. N. S., 64.) It is only the facts and circumstances stated in the indictment, if any such are properly stated, that are of any value as evidence, and these statements are to be judged and weighed according to what they may be worth.

The present indictment, even more than that in the Dana case, shows that it was drawn and designed as a pleading only, and not as a statement of the facts from which a judicial finding of probable guilt might reasonably be drawn.

(1) Its statement of two separate conspiracies with reference to the same two contracts of October 8, 1896, viz, one on January 1, 1897, and another on July 1, 1897, and both upon the same overt acts, since it appears that all of the seven months' bills were presented for allowance together and at the same time, on July 1, 1896, is most improbable as a fact, though allowable as a pleading, both being evidently adopted, as I have said, to avoid the statute of limitations, which would be applicable to a charge of conspiracy based upon either the original scheme or the contracts of 1896.

(2) The inconsistency in the first count and its consequent vagueness are manifest in alleging that on January 1, 1897, there was a conspiracy to apply the prior "fraudulent scheme" as a whole to past contracts when most of the particulars of that alleged scheme could not possibly be thereafter applied to them; and of the rest there is no definite statement of what devices were to be applied, or that any one was in fact applied.

(3) The mere statement of the presentment of "fraudulent claims," without any indication how or wherein they were fraudulent, which is the basis of all the counts except the second, is not a proper or sufficient statement of any facts or circumstances on which a judicial judgment of probable cause of guilt can be based; it would not be sufficient for an arrest even in a petty civil case.

(4) There is no allegation anywhere in the indictment that the work and materials supplied and the bills presented were not strictly according to contract; that the prices claimed or allowed were exorbitant; that improper work was passed or improper substitutions made, nor are any facts stated showing actual fraud, or that the Government has been defrauded of a dollar. Even if no fuller statement on these points is essential as a matter of pleading, it is indispensable as evidence of probable cause of guilt that some such actual fraud in the overt acts should be shown on the hearing as upon the trial in order to prove that these acts were in truth in pursuance of the alleged conspiracy, and were not done in an honest fulfillment of the contracts referred to, as the defendants had a right to do within the locus penitentiæ which the statute allows.

In most cases, however, the fraudulent or criminal character of the overt acts is the chief if not the only evidence of the unlawful conspiracy (Com. *vs.* Bartilson, 85 Penn. St., 482; 2 Wharton Cr. L., 246). The indictment being the only evidence of guilt that is presented, some facts showing fraud in the overt acts are as necessary to appear there as they would be necessary to be proved at the trial. In this indictment there are charges of fraud and of "fraudulent claims," but not a fact or circumstance is stated from which a magistrate or judge could rightfully find actual fraud or probable cause for forming such a judgment. The indictment, in other words, is purely a charge, a pleading for the purpose of putting the defendants on trial without any evidential facts from which any fraud or conspiracy can be judicially inferred.

(5) The failure of the prosecution to examine the Government witnesses present, Captain Gillette among others, in reference to the offense itself, and the persistent objection to any cross-examination of these same witnesses and to the defendants' examination of others having knowledge of the facts, resulting in the exclusion of all testimony as to the probable guilt of the accused, which is the principal object of such examinations, together with the circumstances above stated, show that the withholding of all evidential facts, both in the indictment and before the commissioner, was designed in consequence of a misapprehension of the proper course of procedure under section 1014 in connection with the statutes of this State and the ordinary practice thereunder.

I know nothing of the probable guilt or innocence of the accused except from the record before me. Considerable evidence which was offered, and under the law should have been received, indicates innocence so far as it goes. Opposed to this is the Georgia indictment alone, which on examination proves to be a bare pleading, barren of any such statement of facts and circumstances as to warrant any judicial finding of probable fraud. Of the eight overt acts alleged two of the principal ones, viz, the issuing of two checks for the whole work referred to under both contracts of October 8, 1896, were done in New York, where the offense, if any, was therefore equally triable. (4 Encycl. Pl. and Pr., 708; People *vs.* Mather, 4 Wend., 229; Com. *vs.* Bartilson, supra.)

The accused, even if guilty, though triable in Georgia also, can only be removed to that jurisdiction by proceedings regularly conducted according to law. To order their removal otherwise would be an illegal act and scarcely distinguishable from virtual abduction under the forms of law.

For the above reasons the application should be denied and the defendants discharged, without prejudice to such other proceedings as may be advised.

APRIL 4, 1900.

APRIL 23, 1900.

DEAR SIR: Will you kindly inform this committee at the earliest practicable day what steps, if any, have been taken to secure the arrest and transfer of Benjamin D. Green, John T. Gaynor, Edward H. Gaynor, and W. T. Gaynor, under indictment in the southern district of Georgia, to that district for trial, since the rendering of the decision of Judge Brown, given in the southern district of New York?

2. Whether or not it is the purpose of the authorities of the United States to proceed under the provisions of existing law and present to the courts or commissioners of the United States courts in the State of New York any evidence showing probable cause to believe the said persons or any of them guilty of the offense charged in the indictment referred to.

3. If such is not the purpose, please give the reasons for not proceeding in conformity to the decision of Judge Brown.

4. Kindly inform this committee whether or not the Attorney-General of the United States has publicly stated, or stated for the public press, that the decision of Judge Brown in such matter was "unwarranted by the law and the facts."

5. If, in your opinion, such decision was not warranted by the law or the facts, may the error be corrected on appeal?

Respectfully, yours,

GEO. W. RAY,
Chairman Committee on the Judiciary.

Hon. JOHN W. GRIGGS,
Attorney-General United States.

OFFICE OF THE ATTORNEY-GENERAL,
Washington, D. C., April 26, 1900.

SIR: I beg to acknowledge receipt of your letter of 23d instant, submitting certain questions relative to the prosecution of the indictment against Benjamin D. Greene, John F. Gaynor, Edward H. Gaynor, and William T. Gaynor, and have the honor to reply as follows:

First. I have not, since the rendering of the decision of Judge Brown, taken any steps to secure the arrest and transfer of the defendants, except to recommend to you, as chairman of the Judiciary Committee of the House, and to the chairman of the Judiciary Committee of the Senate, the passage of a bill which would secure the transfer of these defendants to the district of Georgia in which they are indicted, without putting the Government to the trouble and delay of bringing its witnesses to New York, proving a case of probable cause against the defendants there, and then allowing the defendants to go into their defense.

Second. It is not the purpose of the Department to proceed under the provisions of existing law and present to the courts, or commissioners of the United States courts, in the State of New York, evidence showing probable cause to believe the defendants guilty of the offense charged in the indictment referred to, unless Congress shall fail to pass the legislation which I have recommended.

Third. The reasons for not proceeding in conformity to the decision of Judge Brown, briefly stated, are that to do so would require a very large expenditure of time and money, and great difficulty in securing the attendance of the Government's witnesses, and would require the Government to expose, before the trial, the evidence on which it relies to convict the defendants. An additional reason is that this Department does not believe that the law does require or should require such a course to be taken where defendants have been duly indicted in one district of the United States and take refuge in another.

Fourth. The Attorney-General of the United States did not publicly state, or state for the public press, that the decision of Judge Brown in such matter was unwarranted by the law and the facts, but I am of the opinion that the decision of Judge Brown in overruling the finding and action of Commissioner Shields was unwarranted by the law.

Fifth. Whether such error can be corrected on appeal is a matter of doubt, and certainly is a matter of such great delay as to render the efficient prosecution of the defendants practically impossible.

For a further statement of the views of this Department on this subject, I respectfully refer you to my communication which accompanied the draft of

a proposed bill to remedy the defect in procedure which has caused the embarrassment of the Government in this case.

Very respectfully,

JOHN W. GRIGGS, *Attorney-General.*

Hon. GEORGE W. RAY,
Chairman Judiciary Committee, House of Representatives.

SWEARING IN OF A MEMBER.

Mr. HAY. Mr. Speaker, I understand that the credentials of Francis R. Lassiter, a member-elect from the Fourth Congressional district of Virginia, to fill the unexpired term of Hon. Sydney P. Epes, deceased, are here. I ask that the credentials be read and that Mr. Lassiter be sworn in.

The SPEAKER. The credentials will be read, and also a communication filed with respect thereto.

The Clerk read as follows:

COMMONWEALTH OF VIRGINIA:

This is to certify that at a meeting of the board of State canvassers, held at the office of the secretary of the commonwealth, the 27th day of April, 1900, on an examination of the official abstract of votes on file in that office it was ascertained and determined that at the special election held according to law on the 19th day of April, 1900, Francis R. Lassiter was duly elected a member of the House of Representatives of the United States for the Fourth Congressional district of Virginia to fill the unexpired term of Hon. Sydney P. Epes, deceased.

Given under my hand and under the lesser seal of the Commonwealth, at Richmond, this 27th day of April, A. D. 1900.

[SEAL.] J. T. LAWLESS,
Secretary of the Commonwealth.

The following protest was also read:

A PROTEST.

To the Speaker and Members of the House of Representatives:

GENTLEMEN: I protest against the seating of Major Lassiter as the Representative of the Fourth Congressional district of Virginia on the ground that the election held on the 19th instant is a paper vote and was not actually cast; and, if possible, I shall file a more formal contest to his seat in the said House of Representatives if you should seat him on the face of the returns.

Very respectfully,

JAMES SELDON COWDON,
The candidate receiving the highest acknowledged opposition vote to Major Lassiter.

The SPEAKER. The time has not expired for the party whose communication has been read to file notice of contest, and the Chair sees no reason why the gentleman whose credentials have been read should not be sworn in unless the House desires to take some action in the matter. [A pause.] The gentleman will please come forward and take the oath.

Mr. Lassiter came forward, accompanied by Mr. HAY and Mr. UNDERWOOD, and was duly qualified by taking the oath prescribed by law.

AGRICULTURAL APPROPRIATION BILL.

Mr. WADSWORTH. Mr. Speaker, the agricultural appropriation bill has been returned from the Senate with sundry amendments. I ask that the bill be now taken up, that all the amendments of the Senate be nonconcurred in, and that the House ask a conference with the Senate on the disagreeing votes of the two Houses.

The SPEAKER. In the absence of objection, the request of the gentleman from New York will be granted. The Chair hears no objection.

The SPEAKER announced the appointment of Mr. WADSWORTH, Mr. HENRY of Connecticut, and Mr. WILLIAMS of Mississippi as the conferees on the part of the House.

UNITED STATES COURTS IN NEW YORK.

Mr. RAY of New York. I rise to submit a conference report on Senate bill No. 268.

The SPEAKER. The report will be read.

Mr. RAY of New York. Mr. Speaker, it would be an unnecessary consumption of time to read the report, because without explanation it would not convey to the House the information desired. I therefore ask unanimous consent that the report be printed in the RECORD and that the statement of the House conferees be read.

The SPEAKER. If there be no objection, the report will be printed in the RECORD and the statement of the House conferees will be read.

There was no objection.

The report of the committee of conference is as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the act (S. 268) entitled "An act to amend the Revised Statutes of the United States relating to the northern district of New York, to divide the same into two districts, and provide for the terms of court to be held therein and the officers thereof and the disposition of pending causes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

1. That the Senate recede from its disagreement to the House amendments to section 1 of said act, and agree to the same.

2. That the Senate recede from its disagreement to the House amendments to section 2 of said act, and agree to the amendment in line 18. That both Houses agree to a substitute for the first House amendment to said section, and which amendment, to be inserted after the word "shall," in line 15, page 2, will read as follows: "possess and exercise all the powers conferred by existing law upon the judges of the district courts of the United States, and who shall, as to all business and proceedings arising in said western district as hereby constituted or transferred thereto, succeed to and." The House recedes from its amendment for which the above is a substitute.

3. That the Senate recede from its disagreement to the House amendments, page 2, in lines 24 and 25 of section 3 of said act, and agree to the same.

That the House recede from its amendments to section 3 of said act, in line 3, page 3.

That the Senate recede from its disagreement to the House amendments of section 3, in line 4, page 3, and that the House recede from its amendments in said line of said section and agree to a new amendment, viz: In line 4, page 3, section 3, strike out the word "third" and insert in lieu thereof the word "first;" and strike out the word "January," as proposed by the House amendment, and the word "April," as found in the original act, and insert in lieu thereof the word "December."

That the Senate recede from its disagreement to the House amendments to said section 3, in lines 5 and 6, page 3, and the House recede from its amendments, and that both Houses agree upon new amendments in said lines as follows: In line 5 strike out the word "second" and insert in lieu thereof the word "first," and in line 6 strike out the word "November," being the House amendment, and also the word "September," as found in the act as it passed the Senate, and insert in lieu thereof the word "October," and in the same line strike out the word "last" and leave the word "first," as found in the act as it passed the Senate.

That the Senate recede from its disagreement to the House amendment in line 7, page 3, section 3, and agree to the same, and that the Senate also recede from its disagreement to the amendments of the House in lines 9, 12, and 13, page 3, section 3, and agree to the same.

That the Senate recede from its disagreement to the amendments of the House in lines 17, 18, 19, 20, and 21, page 3, of section 3, and agree to the same.

4. That the Senate recede from its disagreement to the House amendments to section 4, in line 25, page 3, and line 1, page 4, and agree to the same.

That the Senate recede from its disagreement to the House amendments to said section in lines 4, 5, and 6, page 4, and the House recede from its amendment thereto, and that both Houses agree upon new amendments in said lines as follows: Strike out the word "third" in line 4, being the House amendment, and the word "second" as found in the original act, and insert in lieu thereof the word "first;" and strike out the word "January," being the House amendment in said line, and the word "April," as found in the original act, and insert in lieu thereof the word "December." In line 5 strike out the words "last," "in October," and "first," and insert in lieu of the word "last" the word "first," and in lieu of the words "in October" the words "of April," as proposed by the House; and in line 6 strike out the word "third," being the proposed House amendment, and insert in lieu thereof the word "second;" and in the same line strike out "September," being the House amendment, and leave the word "February," as found in the act as it passed the Senate.

That the Senate recede from its disagreement to the House amendments in lines 8 and 9, page 4, section 4, and agree to the same.

5. That both Houses agree to new amendments in section 5 as follows: In line 14, after the word "Buffalo," insert the words "at least two weeks;" and in line 15, after the word "August," insert the words "unless the business is sooner disposed of."

6. That the Senate recede from its disagreement to the House amendment to section 6 and that the House recede from its amendment, and that both Houses agree to a new amendment which amends the House amendment, and which amendment will read as follows: "That the clerk of the circuit court for the northern district of New York in office at the time this act takes effect shall continue to be clerk of the circuit court of the northern district as constituted by this act until his successor shall have been appointed and qualified; and said clerk of said circuit court or his successor shall likewise be clerk of the district court of that district until a clerk of said district court shall be appointed and qualified."

7. That the Senate recede from its disagreement to the House amendments to section 7, and that the House recede from its amendments thereto, and that both Houses agree to a new amendment to said section 7 as follows: Strike out all of said section after the figure "7" and insert in lieu thereof the following: "That the present clerk of the district court for the northern district of New York as heretofore constituted shall be the clerk of the district court of the western district of New York as hereby constituted until his successor is appointed and qualified. He shall also be the clerk of the circuit court in the said western district hereby constituted until a clerk of said circuit court is duly appointed and qualified."

8. That the Senate recede from its disagreement to the House amendments to section 8, page 5, and agree to the same.

9. That the Senate recede from its disagreement to the House amendments to section 8, page 5, in lines 15 to 19, inclusive, and also in lines 24 and 25, same page, and agree to the same with further amendments as follows: In line 21, page 5, after the word "York," insert "as heretofore constituted;" and in line 22, after the word "act," insert "and who reside therein as hereby constituted," and that both Houses agree to such new amendments.

That the Senate recede from its disagreement to the House amendments to section 9, on page 6, and that the House recede from its proposed amendments, and that both Houses agree to a new amendment to said section as follows: Strike out all of said section 9 after the word "compensation," found in line 1, page 6, and insert, after the word "compensation," the words "as heretofore." And also insert the following: "All officers not residing in said northern district as hereby constituted shall cease to be officers of said northern district when their successors, respectively, for the northern district as hereby constituted are duly appointed and qualified. The office of marshal and district attorney in each of said districts, deputy marshals and assistant district attorneys, and all other officers authorized by law and made necessary by the creation of said western district and the provisions of this act, and all vacancies created thereby in either of said districts, shall be filled in the manner provided by existing law. The salaries, pay, fees, and allowances of the judges, district attorneys, marshals, and other officers in said districts, until changed under the provisions of existing law, shall be the same, respectively, as now fixed for such officers in the northern district of New York."

10. That the Senate recede from its disagreement to the House amendment inserting a new section to be known as section 10, and agree to the same when said House amendment is amended as follows: In line 5, page 7, strike out the word "herein" and insert the word "hereby;" and in line 13, page 7, strike out the word "now" and insert the word "heretofore;" and also in line 14, page 7, strike out the comma after the word "part," and also strike out the words "or which have been so far proceeded with as to be ready for argument and submission" and insert in lieu thereof the following: "Before the district judge of the northern district of New York as heretofore constituted, or taken in whole or in part and submitted to and passed upon by the said district judge;" and also further amend said amendment by adding thereto, after the word "act" in line 18, page 7, the following: "*And provided further*, That nothing in the preceding proviso contained shall be held to retain or keep in said northern district, as constituted by this act, any criminal proceeding or prosecution for the reason that questions as to

the validity of the indictment have been raised and disposed of by the judge of said district."

GEO. W. RAY,
D. S. ALEXANDER,
S. W. T. LANHAM,
Managers on the part of the House.

O. H. PLATT,
JOHN C. SPOONER,
A. O. BACON,
Managers on the part of the Senate.

The Clerk read the statement of the House conferees, as follows:

Statement to accompany conference report on the act S. 268, entitled "An act to amend the Revised Statutes of the United States relating to the northern district of New York, to divide the same into two districts, and provide for the terms of court to be held therein and the officers thereof and the disposition of pending causes."

The effect of the report of the conferees is as follows: The amendments to section 1 simply provide that the northern and western districts, which border upon the Great Lakes and the River St. Lawrence, shall include the counties named with the waters thereof. The amendments to section 2 as agreed upon so amends the House amendment as to give the powers conferred by existing law to the district judge and also confer upon said district judge jurisdiction over the business and proceedings arising in and transferred to the western district, and strikes out the provision of the House amendment compelling the judge to keep his chambers in the city of Buffalo. Such a provision might be held to prohibit his holding chambers at any other place.

The amendments to section 3 fix the times for holding courts in said district in accordance with the wishes of the profession and the judges. The same is true of the amendments to section 4.

The new amendment to section 5 provides that regular sessions of the district court in the western district shall be held at least two weeks each month in the city of Buffalo, unless the business is sooner disposed of. This is necessary, because of the great amount of admiralty business arising at that point.

The amendment to the House amendment to section 6 makes it clear that the present clerks are continued in office in their respective districts until their successors are appointed and qualified. The same is the effect of the new amendment proposed to section 7. As these sections stood there was danger that the act continued these clerks in office for life. The amendments to section 8 make it certain that prosecutions for crimes shall be had in the district in which committed.

The amendments to section 9 continue in office with the same pay they now receive the present officers of the northern district of New York, where they reside in that district, and provides for the appointment in the manner prescribed by law of officers to fill vacancies created by the provisions of the act in both districts. As the act stood with House amendments, it was proposed by act of Congress to make the district attorney and the marshal of the present northern district, who happen to reside in what will be the western district, the marshal and district attorney of the western district. This can not be done by act of Congress, as under the Constitution those officers must be appointed by the President and confirmed by the Senate. The amendment as agreed upon also provides that the officers continued in office and the new officers appointed shall receive the same pay and allowances now given by law to the officers of the northern district of New York until the same shall be changed under the provisions of existing law. This is necessary for the reason that they would be without pay or allowance until the Attorney-General should take action, and he may require some little time to determine what is just and equitable in that regard.

The proposed amendments to the new section 10 are to make clear what districts are referred to and are intended to clearly define the business that is transferred to the western district.

No substantial change is made, but the purpose is to leave for final disposition in the northern district of New York as constituted by the act all business where the evidence has been taken in whole or in part before the present district judge of the northern district of New York, and who is to be the district judge of the new northern district, or in which the evidence has been taken in whole or in part and submitted to and passed upon by the said district judge.

GEO. W. RAY,
D. S. ALEXANDER,
S. W. T. LANHAM,
Conferees on the part of the House.

The question being taken, the report of the committee of conference was agreed to.

On motion of Mr. RAY of New York, a motion to reconsider the last vote was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PLATT, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 10538) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1901, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PROCTOR, Mr. WARREN, and Mr. BATE as the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 7599. An act granting an increase of pension to John F. Crawford; and

H. R. 7945. An act to amend an act entitled "An act permitting the building of a dam across Rainey Lake River."

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. BAKER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

H. R. 8962. An act to authorize the New Orleans and Northwestern Railway Company, its successors and assigns, to build and maintain a bridge across Bayou Bartholomew, in the State of Louisiana;

H. J. Res. 168. For change in location of aids to navigation on Simmons Reef and Lansing Shoal, in Lake Michigan;

H. R. 8585. An act to amend an act entitled "An act to prevent forest fires on the public domain," approved February 24, 1897;

H. R. 10097. An act to authorize the Atlantic and Gulf Short Line Railroad Company to build, construct, and maintain railway bridges across the Ocmulgee and Oconee rivers within the boundary lines of Irwin, Wilcox, Telfair, and Montgomery counties, in the State of Georgia; and

H. R. 2331. An act granting an increase of pension to Festus Dickman.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 222. An act to provide a government for the Territory of Hawaii.

BRIDGE ACROSS RED RIVER OF THE NORTH.

Mr. SPALDING. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 9884) authorizing the construction of a bridge across the Red River of the North.

The SPEAKER. The gentleman from North Dakota asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read. It provides that the Cooper Pontoon Bridge Company, of Walsh County, State of North Dakota, a corporation organized under the laws of the State of North Dakota, be, and is hereby, authorized to construct and maintain a pontoon bridge and approaches thereto across the Red River of the North between the State of Minnesota and the State of North Dakota, extending from a point on said river where the section line running east and west between sections 8 and 17, township 157 north, of range 50 west, in Marshall County, State of Minnesota, intersects said river, to a point opposite in the State of North Dakota. Said bridge shall be constructed so as to provide for the passage of wagons and vehicles of all kinds, animals, and foot passengers, and for road travel, for such reasonable rates of toll and under such rules and regulations as may be prescribed by said corporation and approved from time to time by the Secretary of War.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. SPALDING, a motion to reconsider the last vote was laid on the table.

UNITED STATES COMMISSIONER, INDIAN TERRITORY.

Mr. LITTLE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 3018) for the appointment of an additional United States commissioner in the northern judicial district of the Indian Territory.

The SPEAKER. The gentleman from Arkansas asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read, as follows:

Be it enacted, etc., That the judge of the United States court in the Indian Territory presiding in the northern judicial district thereof is hereby authorized and empowered to appoint an additional United States commissioner within said district, who shall be permanently located at Wewoka, in the Seminole Nation, and to prescribe by metes and bounds the portion of the district for which such commissioner is appointed.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. PAYNE. I should like to ask the gentleman if that bill is reported by the Committee on the Judiciary?

Mr. LITTLE. It is.

Mr. PAYNE. What reason is there for the appointment of a new commissioner, and how much expense does it entail?

Mr. LITTLE. The commissioner is allowed a salary of $1,500 a year, and the fees collected by him are turned into the United States Treasury.

The particular necessity for this bill is this: The northern division of the Indian Territory embraces three tribes of Indians, the Creeks, Cherokees, and Seminoles. The Seminoles are a nation who have never given the Government any trouble. They have met the wishes of the Government as to treaties and allotments and all that sort of thing, but they have no commissioner. This bill was urged not only by the gentlemen known as the Dawes Commission, but Governor Brown, of the Seminole Nation, was before the committee in person and earnestly urged it, saying that they needed a local court which performs the functions of a justice court in a State.

The bill has the unanimous report of the Judiciary Committee of the House as well as of the Senate, and is recommended by the Department of Justice and by the judges of the Indian Territory. The fact is, it has the approval of all persons who are concerned.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

On motion of Mr. LITTLE, a motion to reconsider the last vote was laid on the table.

ARMS AND EQUIPMENT FOR THE MILITIA.

Mr. MARSH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 9510) to amend section 1 of the act of Congress approved February 12, 1887, entitled "An act to amend section 1661 of the Revised Statutes, making an annual appropriation to provide arms and equipments for the militia."

The SPEAKER. The gentleman from Illinois asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read, as follows:

Be it enacted, etc., That section 1 of the act of Congress approved February 12, 1887, entitled "An act to amend section 1661 of the Revised Statutes, making an annual appropriation to provide arms and equipments for the militia," be, and the same is hereby, amended and reenacted so as to read as follows:

"That the sum of $2,000,000 is hereby annually appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms, ordnance stores, quartermaster stores, and camp equipage for issue to the militia."

The following amendment, recommended by the Committee on Militia, was read:

In line 9 strike out the word "two" and insert the word "one."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. STEELE. Mr. Speaker, I should like to have an amendment read which I propose to offer, with the consent of the House. I ask that it may be read for the benefit of the chairman of the Committee on the Militia. It is fair to say that the gentleman asked me for a copy of the amendment, and I should have given it to him.

Mr. MARSH. I have no objection to the gentleman's proposed amendment being read, but I do not accept the amendment, nor will I permit him to offer it as an amendment.

Mr. STEELE. Then I object to the consideration of the bill.

The SPEAKER. Objection is made by the gentleman from Indiana.

BRIDGE ACROSS THE LUMBER RIVER, NORTH CAROLINA.

Mr. BELLAMY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 5056) to authorize the Carolina Northern Railroad Company to construct and maintain a bridge across the Lumber River in or near the town of Lumberton, Robeson County, N. C.

The bill was read. It provides that the Carolina Northern Railroad Company, a corporation created and existing under an act of the general assembly of North Carolina, be, and is hereby, authorized to construct and maintain a railroad bridge for the passage of railway engines and cars across the Lumber River at such point as may be selected by such company and approved by the Secretary of War within the boundary lines of Robeson County, N. C., in or near the town of Lumberton; said bridge to be so constructed as not to obstruct the navigation of said river and to be provided with a suitable draw; provided that any bridge constructed under this act and according to its limitations shall be a lawful structure and shall be known and recognized as a post route, and the same is hereby declared to be a post route; and the United States shall have the right of way for a postal telegraph across said bridge.

The SPEAKER. Is there objection?

There was no objection.

An amendment recommended by the Committee on Interstate and Foreign Commerce was read, and agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. BELLAMY, a motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS THE MISSOURI RIVER AT PIERRE, S. DAK.

Mr. BURKE of South Dakota. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 9559) to provide for the construction of a bridge by the Duluth, Pierre and Black Hills Railroad Company across the Missouri River at Pierre, S. Dak.

The SPEAKER. The gentleman from South Dakota asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read. It provides that the Duluth, Pierre and Black Hills Railroad Company, a corporation duly organized under the general incorporation laws of the State of South Dakota, its successors and assigns, is hereby authorized to construct and maintain a bridge across the Missouri River at or near the city of Pierre, Hughes County, S. Dak., and also to lay on and over said bridge a railway track or tracks for the passage of railway trains; and said corporation may construct and maintain ways for wagons, carriages, and foot passengers, charging and receiving such reasonable tolls therefor as may be approved from time to time by the Secretary of War.

The SPEAKER. Is there objection?

There was no objection.

Sundry amendments, recommended by the Committee on Interstate and Foreign Commerce, were read, and agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. BURKE of South Dakota, a motion to reconsider the last vote was laid on the table.

CONCHO COUNTY, TEX.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 8369) to transfer the county of Concho from the western district of Texas to the northern district of Texas, and for other purposes.

The bill as proposed to be amended by the Committee on the Judiciary was read, as follows:

Be it enacted, etc., That the county of Concho, in the State of Texas, is hereby detached from the western and attached to the northern judicial district of the State of Texas.

SEC. 2. That all offenses heretofore committed in said county of Concho of which the district court of said western judicial district has jurisdiction and upon which proceedings have been taken shall be tried and prosecuted in said western judicial district. Civil suits and proceedings now pending in the circuit or district courts in said State shall not be affected by this act.

SEC. 3. That hereafter all process issued against defendants residing in said county of Concho shall be returned to San Angelo, Tex. All offenses committed in said county in which proceedings have not been begun shall be prosecuted in said northern district.

SEC. 4. That all laws and parts of laws so far as in conflict herewith are hereby repealed.

The SPEAKER. Is there objection?

There was no objection.

The amendment recommended by the Committee on the Judiciary, substituting the above for the original bill, was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

The SPEAKER. The Clerk will report the proposed amendment to the title.

The Clerk read as follows:

Amend the title so as to read: "A bill to detach the county of Concho from the western district of Texas and attach the same to the northern district of Texas, and for other purposes."

Mr. LANHAM. I desire to amend the amendment to the title by inserting after the word "western" the word "judicial;" and also after the word "northern" to insert the word "judicial." That will make the title conform to the bill.

The SPEAKER. The Clerk will report the proposed amendment.

The Clerk read as follows:

Amend the title so as to read: "A bill to detach the county of Concho from the western judicial district of Texas and attach the same to the northern judicial district of Texas, and for other purposes."

The amendment to the amendment was agreed to.

The amendment to the title as amended was agreed to.

CONDEMNED GUNS.

Mr. KNOX. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 6876.

The Clerk read as follows:

A bill (H. R. 6876) providing for the transfer to Post 39, Grand Army of the Republic, of certain guns now in possession of Battery C, Massachusetts Volunteer Militia.

Be it enacted, etc., That the Secretary of War is hereby authorized, under such conditions as he may see fit, to transfer to Post 39, Grand Army of the Republic, at Lawrence, Mass., four 3-inch muzzle-loading steel guns, with limbers, now in possession of Battery C, Massachusetts Volunteer Militia.

The amendments recommended by the committee were read, as follows:

In line 6 strike out the word "steel" and insert the word "field;" and in the same line, after the word "with," insert the words "carriages and."

Mr. PAYNE. I would like to ask the gentleman if these are condemned cannons that they are transferring?

Mr. KNOX. They are obsolete guns. The battery has been supplied recently with new steel modern guns.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAWRENCE. Mr. Speaker, there is an amendment to the title. The word "Saint" is there. I do not know how it got in, but the word should not be there.

The Clerk read as follows:

Strike out the word "Saint," before the word "Lawrence."

The amendment was agreed to.

On motion of Mr. KNOX, a motion to reconsider the vote by which the bill was passed was laid on the table.

SALE OF ISOLATED AND DISCONNECTED TRACTS OF OSAGE TRUST LANDS IN KANSAS.

Mr. LONG. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 10152.

The bill was read, as follows:

A bill (H. R. 10152) to provide for the sale of isolated and disconnected tracts or parcels of the Osage trust and diminished reserve lands in the State of Kansas.

Be it enacted, etc., That the Secretary of the Interior shall cause to be duly proclaimed and offered at public auction, in the manner prescribed for the offering of public lands, all isolated or disconnected tracts or parcels of lands of one-quarter section or less of the Osage trust and diminished reserve lands within the State of Kansas for which no application has been filed under the provisions of existing laws in relation thereto, but not more than one-quarter section shall be sold to any one purchaser under the provisions of this act. Such lands shall be offered for sale by advertisement for not less than thirty days in two newspapers in the proper land district, and by posting in the proper local land office for the same period, and upon the day named in such notice shall be sold for cash to the highest bidder at not less than the price fixed by law: *Provided*, That any settler upon any of said lands shall be permitted, at any time prior to the sale of the particular tract claimed by him, to file his application and submit proof therefor in accordance with existing laws. If any of said lands remain unsold after the offering as aforesaid, they shall be subject to private entry, for cash, in tracts not exceeding one-quarter section by one purchaser.

SEC. 2. That any such tracts or parcels of land that may become isolated or disconnected by the disposal of surrounding lands, after the offering provided for in the preceding section of this act, shall be subject to disposal under the provisions of section 2455 of the Revised Statutes of the United States as amended by the act of February 26, 1895, except that it shall not be necessary that said lands shall have been subject to homestead entry for three years prior to such sale.

The SPEAKER. Is there objection?

Mr. RICHARDSON. I would like to ask the gentleman if this bill has been unanimously reported by the Committee on Public Lands?

Mr. LONG. It has.

Mr. RICHARDSON. Has it the indorsement of the Commissioner of the Land Office?

Mr. LONG. It has.

Mr. RICHARDSON. I could not catch all the objects and purposes of the bill. I would like the gentleman to make some explanation of its details.

Mr. LACEY. If the gentleman will permit me, I will suggest that the bill reported is a substitute bill, prepared by the Commissioner, to cover these little tracts of land left in that reservation. The original bill was the bill H. R. 5558, which was submitted to the Secretary of the Interior, and he reported back favorably a substitute, which was subsequently introduced by the direction of the committee, and it is that substitute that the gentleman from Kansas now calls up.

Mr. RICHARDSON. Where are the lands located?

Mr. CURTIS. In the State of Kansas.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. LONG, a motion to reconsider the vote by which the bill was passed was laid on the table.

FORT SMITH AND WESTERN RAILROAD COMPANY.

Mr. SHELDEN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 7740.

The bill was read at length.

The SPEAKER. Is there objection?

Mr. PAYNE. I would like to hear some explanation of this bill, reserving the right to object.

Mr. SHELDEN. I will ask that the Clerk read the report. It is unanimously reported by the committee and recommended by the Secretary of the Interior.

The report (by Mr. SHELDEN) was read, as follows:

The Committee on Indian Affairs, to whom was referred House bill 7740, beg leave to submit the following report, and recommend that said bill do pass without amendment:

This is a bill enacting that the original bill be so amended as to provide that in lieu of the provisions in the original act "that a map showing the entire line of the road in the Indian Territory shall be filed with and approved by the Secretary of the Interior before the construction of the same shall be commenced," the Secretary of the Interior may approve the first map of 80 miles, in order that construction thereon may commence at once; and provides further that all subsequent approvals of maps may be approved, as provided by the general law, in sections of 25 miles each. The bill further provides authority to construct bridges over the Poteau and the two forks of the Canadian River, subject to the approval of the Secretary of War, and further provides—

"That said railway company can change its located line after the approval of its map by the Secretary of the Interior in such cases where the topography of the country, in the opinion of the president of the railway company, justifies such change; but such change of line shall not vary more than 5 miles in either direction from the location shown on the map so approved, and an additional map showing such change shall be filed with and approved by the Secretary of the Interior before the construction of that portion of the road shall be commenced, and thereupon shall have the same force and effect as if originally filed with and approved by him."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. SHELDEN. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Amend, in line 10, page 2, by striking out the words "the whole."

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. SHELDEN, a motion to reconsider the vote by which the bill was passed was laid on the table.

ORDER OF BUSINESS.

Mr. RICHARDSON. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RICHARDSON. Was there not a special order set for 1 o'clock?

The SPEAKER. Two o'clock.

Mr. RICHARDSON. The RECORD shows 1.

TERM OF UNITED STATES COURT AT WINSTON, N. C.

Mr. LINNEY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 8815.

The bill was read, as follows:

A bill (H. R. 8815) to amend chapter 4, Title XIII, of the Revised Statutes of the United States.

Be it enacted, etc., That chapter 4, Title XIII, of the Revised Statutes of the United States, second edition, 1878, be, and the same is hereby, amended by inserting the words "and at Winston, N. C., on the second Monday in July and January," so that the paragraph in section 572, relating to the regular terms of the district courts for the western district of the State of North Carolina, shall read as follows: "In the western district of North Carolina, at Greensboro, on the first Monday of April and October; at Statesville, on the third Monday of April and October; at Asheville, on the first Monday of May and November, and at Winston, N. C., on the second Monday in July and January."

SEC. 2. That upon the board of commissioners of the county of Forsyth filing with the Secretary of the Treasury of the United States an agreement allowing the said circuit and district courts of the United States to be held in the court-house of Forsyth County, in the city of Winston, with rooms for offices for the marshal and clerks of said courts, without any rent or other cost to the United States, this act shall take effect and be in force.

The amendment recommended by the committee was read, as follows:

Page 2, at the end of line 2, insert the following:

"*Provided*, That the establishment of the court at Winston shall not affect or interfere with the holding of the courts as now established by law at other places in the western district of North Carolina: *Provided further*, That the clerk of the court at Greensboro shall be the clerk of the court at Winston."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. KITCHIN. I would like, with the permission of the gentleman from North Carolina, my colleague, who is, I believe, entitled to the floor, to make a short statement in regard to this pending bill.

Mr. LINNEY. I yield to my colleague.

Mr. KITCHIN. This is a matter over which there was some conflict, and delegations from two towns, one from the town of Winston and the other from Greensboro, appeared before the Committee on the Judiciary in regard to this bill. In fact, they appeared twice, once last session and once this. The proposition at the last session was to remove the court from Greensboro, and this year it is only to establish a court at Winston. This amendment which has been added to the bill by the committee I think meets the approval of the committees that represented both towns; but I want to ask my colleague if he has considered the matter of the court at Charlotte, N. C.? I am not sure but that this bill ought to be further amended by adding the term of the court at Charlotte, N. C., on the second Mondays of June and December. I say I am not sure whether it is necessary to insert it here, but merely ask if the gentleman considered that?

Mr. LINNEY. I have considered that, and I think the amendment fully covers that matter. The amendment makes it certain that it does not interfere with any other courts in the district, either with the times or places of holding the courts. The only effect of this bill is to give another term of court, locating it at Winston, N. C. It does not interfere with the court at Greensboro, in which my friend is interested. It does not interfere with the holding of the other courts in the other places in the district as now provided by law. If the gentleman thinks that it does, and he so desires it, I have no objection to his offering an amendment.

Mr. KITCHIN. I do not desire to offer any further amendment. I noticed that the other courts in the district are enumerated in the bill, and desired to call attention to the omission of the court at Charlotte.

Mr. LINNEY. Yes; but the amendment provides that this shall not interfere with the holding of courts at other places and times as now provided by law.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time; and it was read the third time, and passed.

On motion of Mr. LINNEY, a motion to reconsider the last vote was laid on the table.

CODIFICATION OF THE LAWS OF THE UNITED STATES.

Mr. WARNER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 7844) providing for the revision and codification of the permanent and general laws of the United States, with an amendment.

The Clerk read the bill, as follows:

Be it enacted, etc., That the commissioners heretofore appointed in pursuance of an act of Congress entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes," approved June 4, 1897, to revise and codify the criminal and penal laws of the United States be, and they are hereby, directed to revise and codify, in accordance with the terms and provisions of said act and the acts supplementary thereto, all laws of the United States of a permanent and general nature in force at the time when the same shall be reported.

SEC. 2. That in performing this duty the said commissioners shall bring together all statutes and parts of statutes relating to the same subjects, shall omit redundant and obsolete enactments, and shall make such alterations as may be necessary to reconcile the contradictions, supply the omissions, and amend the imperfections of the original text; and they may propose and embody in such revision changes in the substance of existing law, but all such changes shall be clearly set forth in an accompanying report, which shall briefly explain the reasons for the same.

SEC. 3. That the said commissioners shall arrange such revision under titles, chapters, and sections, or other suitable divisions and subdivisions, with head notes briefly expressive of the matter contained in such division, and with marginal notes so drawn as to point to the contents of the text, and with references to the original text from which each section is compiled, and to the decisions of the courts of the United States explaining or construing the same, and also such decisions of the State courts as they may deem expedient; and they shall provide by an index for an easy reference to every portion of such revision.

SEC. 4. That when the commissioners have completed such revision in accordance herewith, they shall cause a copy of the same, in print, to be submitted to Congress, that the statutes so revised and codified may be reenacted if Congress shall so determine.

With the following amendment recommended by the committee:

Strike out the words, in lines 17 and 18, page 2, "and also to such decisions of the State courts as they may deem expedient."

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BARTLETT. Mr. Speaker, I do not mean to object, but the amendment, as I caught it, strikes out of the bill the decisions of the State courts.

Mr. WARNER. The bill as originally drawn required the commissioner to annotate the decisions of the State courts as well as the Federal courts. We struck out the State courts as being unnecessary.

Mr. BARTLETT. I think you did right. Now, one other question. This work is to be done by the commissioners who are doing the work of codifying the criminal statutes?

Mr. WARNER. The same commission appointed under the act of 1897 to codify the criminal and penal laws.

Mr. BARTLETT. The work is to be reported to Congress and action to be taken by Congress whether the result as reported by this commission shall be the law or not?

Mr. WARNER. Whether it shall be the new Revised Statutes. This commission, appointed under the act of 1897, was to revise and codify the criminal and penal laws of the United States. By a subsequent act they are to codify all laws relating to the organization, jurisdiction, and practice of the courts of the United States. Now, in the revision and codification of the penal laws they have to go over the civil laws to find penal provisions. For instance, in the internal-revenue act it will recite three or four sections and then say that anyone guilty of a violation of these sections shall be punished so and so. If you have a separate revision, they will have to take in a good deal of the civil law. Then they go on and make a second revision of the law, and it will only be a short time before the civil laws will have to be revised and codified, and that would make three distinct and separate revisions of the laws of the United States. It is better to have one all in one revision, as it was in 1873. It can be done without any expense to the Government whatever except printing, and the expense of printing of one revision would be less than the printing of two separate revisions.

The last revision we had only comes up to March 3, 1873. It has been twenty-seven years since we had a revision. There are a lot of laws on the books that are obsolete, adapted to conditions that have long since passed away, and some that are conflicting and redundant.

Now, in 1877, Mr. Boutwell was authorized and required to get up a second edition of the Revised Statutes, and he did that, and it is known as the revision of 1878. Since that time we have had nothing but a supplement, a supplement that brings the session laws down to 1891. It is not a revision but simply a compilation of the laws passed at each session, and from that time until now we have nothing but session laws. It is the session supplement and not a codification of the laws. Now, if a layman or a lawyer wants to look up the law, he is obliged to consult the supplement to 1891, and after that down only the session laws.

Mr. BARTLETT. I do not mean to object to the consideration of this bill nor to vote against the bill. I think it is a step in the right direction. Any legislation looking toward the codification or revision of the laws is proper legislation, and I stand ready to vote for it. I have practiced for some years in the Federal courts, and I know the difficulty that exists in ascertaining what really are the laws of the United States, both criminal and civil. I did not rise for the purpose of objecting to the bill; I do not propose to vote against it. I simply desired to know whether such things were provided for, and especially to know whether this compilation will require action of Congress adopting it before it becomes the law of the United States.

Mr. WARNER. The bill provides that the compilation shall be submitted to Congress, to be adopted if it sees fit.

Mr. LACEY. I should like to know how nearly this commission has gotten through the penal and criminal divisions of the work?

Mr. WARNER. I can not tell.

Mr. RAY of New York. Will the gentleman from Illinois permit me to make a statement? I was waited on very early in the present session by gentlemen of the commission having charge of this revision, and subsequently I was requested to call at their office. I went there. They told me that they had completed the revision so far as it related to the courts and officers, and were just entering upon the work of codifying the criminal and penal statutes. They said frankly, "In our judgment, if we are to go on with this work as we are required to do by existing law, we are wasting time and wasting the money of the United States."

They illustrated their remarks in this way: If you take the Revised Statutes you will find sometimes 3, 4, 5, or 6 pages embracing various sections, in a dozen of which, perhaps, there will be some requirement of action. Then you will find a section saying "Any person or persons offending against the provisions of any section of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished," etc. "Now," they said, "in our revision we have no power to change the language, no power to cut down or leave out anything: we are required simply to pick out these penal statutes, to put them together, and then report them to Congress to be reenacted." This, they said, would require a reenactment of about half or possibly two-thirds of the present Revised Statutes. "Now," they asked, "do you think that Congress would ever enact such a revision into law?" Of course I said, "No." It is ridiculous to think that Congress ever would do it if the revision were put in that form—simply a repetition of the present statutes.

What they want to do in going on with their work is to revise and codify the Revised Statutes so as to put the provisions in proper shape. I think that the bill reported from this committee—I have consulted with my friend from Illinois [Mr. WARNER] about it—is the most sensible, and, indeed, the only sensible, course to be pursued. As I understand, the proposition is to have this work done by the commission of revision already organized.

Mr. WARNER. Yes, sir.

Mr. RAY of New York. I can say, after careful study of the question and after consultation with the members of the commission, that I believe the passage of this bill will accomplish a saving of time and money to the United States.

Mr. BARTLETT. I agree thoroughly with what the gentleman from New York [Mr. RAY] has just stated in regard to the saving of time and money which this bill may be expected to accomplish. I would myself vote for a measure to codify the laws of the United States in the same manner that the laws of various States of the Union have been codified. Most of the States have a code of law and practice, and I see no reason why there should not be a similar code for the United States.

Mr. STEPHENS of Texas. Is it contemplated here to include the penal and the civil statutes in the same revision?

Mr. RAY of New York. It is proposed to have them all in one volume——

Mr. WARNER. The same as in the revision of 1878.

Mr. RAY of New York. And to bring the work down to the present date.

Mr. STEPHENS of Texas. Will these commissioners have authority to change the language of any of the statutes?

Mr. WARNER. No; they will be authorized to suggest changes and report them to Congress with the reasons therefor; and Congress will decide whether such changes shall be made or not.

Mr. STEPHENS of Texas. Then we shall have to reenact the whole compilation?

Mr. WARNER. Yes, sir; just as was done with the first revision of our laws in 1873 and the second in 1878.

Mr. STEPHENS of Texas. I think that is correct.

Mr. RAY of New York. At present, if we want to ascertain what the law is on a given subject, we must first look to the Revised Statutes, edition of 1878, and then at the successive volumes of the Statutes at Large from 1878 down to the present time—a period of more than twenty years; in other words, we must consult more than twenty different volumes.

Mr. STEPHENS of Texas. In making such a search to ascertain what the law is we are frequently without chart or compass.

Mr. RAY of New York. Yes; absolutely at sea. It is time something should be done in the direction proposed by this bill.

Mr. BARTLETT. How long a time does the chairman of the committee think will be occupied by the commissioners in making this compilation or revision?

Mr. WARNER. I think they will do very well if they have the work ready to be submitted to the next Congress.

Mr. BARTLETT. I think so, too.

Mr. WARNER. They think they can get through within two years.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. RAY of New York. I want to add one other suggestion. At present there is much general legislation mixed up with the appropriations in our appropriation bills. That is an additional reason for passing this bill.

There being no objection, the House proceeded to the consideration of the bill.

The amendments reported by the committee were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. RAY of New York, a motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS BACK BAY, BILOXI, MISS.

Mr. McLAIN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 10310) to authorize the construction of a bridge across the Back Bay at Biloxi, Miss.

The SPEAKER. The gentleman from Mississippi asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read. It provides that the mayor and board of aldermen of the town of Biloxi, in the State of Mississippi, and their successors and assigns, be, and hereby are, authorized to construct and maintain a bridge and approaches thereto across the bay, commonly known as the Back Bay, at or near the town of Biloxi, Miss., between the said town of Biloxi, situated on the south side of said bay, to a point on the north side of said bay, said bridge to start at or near what is known as the old ferry point, on the south shore of said bay.

Sundry amendments recommended by the Committee on Interstate and Foreign Commerce were read.

The SPEAKER. Is there objection?

There was no objection.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. McLAIN, a motion to reconsider the last vote was laid on the table.

HOMESTEAD ENTRIES.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 985) providing that those who have heretofore commuted entries or have not perfected title to tracts entered as homesteads may avail themselves of the provisions of the homestead laws.

The SPEAKER. The gentleman from Wyoming asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read, as follows:

Be it enacted, etc., That any person who has heretofore made entry under the homestead laws and commuted same under provisions of section 2301 of the Revised Statutes of the United States and the amendments thereto shall be entitled to the benefits of the homestead laws, as though such former entry had not been made, except that commutation under the provisions of section 2301 of the Revised Statutes shall not be allowed of an entry made under this section of this act.

The SPEAKER. Is there objection?

Mr. DAHLE of Wisconsin. I object.

Mr. RICHARDSON. I should like to get some information on this bill and to understand exactly the effect of it.

The SPEAKER. Objection is made.

UNITED STATES DISTRICT COURTS, IOWA.

Mr. HEPBURN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 2537) to create the central division of the southern district of Iowa for judicial purposes and to fix the time and place for holding court therein.

The SPEAKER. The gentleman from Iowa asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read, as follows:

Be it enacted, etc., That the counties of Lucas, Clarke, Union, Adair, Adams, Montgomery, Fremont, Page, Taylor, Ringgold, Decatur, Wayne, and Appanoose shall constitute the central division of the southern judicial district of Iowa; and a term of a circuit and district court for said district shall be held in said division hereby created at Creston, in Union County, on the third Monday of May and the fourth Monday of September of each year, each of said terms to continue so long as necessary to dispose of the business at any time pending in said court.

SEC. 2. That all civil suits which shall hereafter be brought against a defendant or defendants who reside in said central division of said district shall be brought in said central division; but if there are two or more defendants residing in different divisions of said district, such suit may be brought in either division of said district in which any defendant or defendants reside; and all mesne and final process subject to the provisions of this act issued in either of the divisions of the central district of Iowa may be served and executed in either or all of the divisions.

SEC. 3. That all crimes and offenses against the laws of the United States hereafter committed within the counties comprising the central division of said district shall be prosecuted, tried, and determined at the terms of the circuit and district courts herein provided for.

SEC. 4. That the clerks of the circuit and district courts for said southern district and the marshal of said district shall each appoint a deputy, who shall reside and maintain an office at Creston, in Union County, each of whom, in the absence of the clerk and marshal, shall exercise all of the powers and perform all of the duties of his principal within the division for which he shall be appointed: *Provided*, That the appointment of such deputy shall be approved by the court for which they shall be respectively appointed, and they may be removed by such court at pleasure; and the clerk and marshal shall be responsible for the official acts and neglects of all their deputies.

SEC. 5. That all the grand jurors and all jurors for the trial of civil and criminal causes in the division hereby created shall be selected from citizens residing in the division created by this act.

The following amendments, recommended by the Committee on the Judiciary, were read:

Page 1, line 4, strike out the word "Montgomery."

Page 1, line 5, strike out the word "central" and insert in lieu thereof the word "southern."

Page 1, line 11, at the end of the line insert the following:

"*Provided, however*, That suitable rooms and accommodations are furnished for the holding of said courts free of expense to the Government of the United States."

In sections 2 and 3 strike out the word "central" wherever it appears and insert in lieu thereof the word "southern."

Page 2, line 9, strike out the word "hereafter."

Page 2, at the end of line 12, insert the following:

"*Provided, however*, That all prosecutions begun and pending at the taking effect of this act shall be proceeded with and finally determined as if this act had not passed."

Page 2, line 13, strike out the word "clerks" and insert in lieu thereof the word "clerk."

The SPEAKER. Is there objection?

Mr. RICHARDSON. Mr. Speaker, I have not seen the bill and have only heard it as it was read at the desk. Does it provide for the appointment of a new judge?

Mr. HEPBURN. No, it does not.

Mr. RICHARDSON. Will the gentleman please make some explanation of it, so that we can understand it?

Mr. HEPBURN. It is simply the authorization of another division of the southern district of Iowa. It provides for no new offices except a deputy clerk and deputy marshal. It creates no additional expense. It provides that rentals and expenses of that kind shall involve no charge upon the United States, and it is simply an attempt to bring the court to the people instead of carrying the people to the court.

The SPEAKER. Is there objection?

There was no objection.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

By unanimous consent, the title was amended so as to read:

A bill to create the southern division of the southern district of Iowa for judicial purposes, and to fix the time and place for holding court therein.

On motion of Mr. HEPBURN, a motion to reconsider the vote by which the bill was passed was laid on the table.

CLERK TO COMMITTEE ON LOUISIANA CENTENNIAL.

Mr. JOY. I ask present consideration of a privileged resolution which I send to the desk.

The SPEAKER. The gentleman from Missouri presents a privileged report, which will be read to the House.

The Clerk read as follows:

Resolved, That the chairman of the Special Committee on the Centennial of the Louisiana Purchase is hereby authorized to appoint a clerk to said committee for the remaining portion of the sessions of the present Congress, to be paid out of the contingent fund of the House of Representatives, at the rate of $6 per day.

The resolution was agreed to.

BRIDGE ACROSS SNAKE RIVER AT NOME CITY, ALASKA.

Mr. JONES of Washington. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 2869) authorizing the Cape Nome Transportation, Bridge, and Development Company, a corporation organized and existing under the laws of the State of Washington and authorized to do business in the Territory of Alaska, to construct a traffic bridge across the Snake River at Nome City, in the Territory of Alaska.

The SPEAKER. The gentleman from Washington asks unanimous consent for the present consideration of a bill which the Clerk will report.

The bill was read. It provides that the Cape Nome Transportation, Bridge, and Development Company, a corporation organized and existing under the laws of the State of Washington and authorized to do business in the Territory of Alaska, is hereby authorized and empowered to construct, operate, and maintain a general traffic bridge across the Snake River, to be located at such point within or near the corporate limits of the city of Nome, in

said Territory of Alaska, as shall be approved by the Secretary of War; provided that said bridge shall be constructed as a draw-bridge, and the draw shall be opened promptly, upon reasonable signal, for the passage of boats; and, whatever kind of bridge is constructed, the owners thereof shall maintain thereon, at their own expense, from sunset to sunrise, such lights or other signals as the Light-House Board shall prescribe; that such bridge shall be constructed so as to provide for the passage of vehicles and pedestrians, upon the payment of a reasonable compensation for such use.

The SPEAKER. Is there objection?

Mr. RICHARDSON. I should like to ask the gentleman if this bill has been reported by one of the committees of the House?

Mr. JONES of Washington. This bill has passed the Senate unanimously and has been unanimously reported by the Interstate and Foreign Commerce Committee.

Mr. RICHARDSON. Is it unanimously reported by that committee of the House after investigation and examination?

Mr. JONES of Washington. Yes.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

On motion of Mr. JONES of Washington, a motion to reconsider the last vote was laid on the table.

ANDREW GEDDES.

Mr. JETT. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 41) to authorize the President to place Andrew Geddes on the retired list with the rank of captain.

The SPEAKER. The gentleman from Illinois asks unanimous consent for the present consideration of the bill which the clerk will report.

The bill was read, as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to revoke his order of December 3, 1880, confirming the sentence of dismissal in the case of Capt. Andrew Geddes, Twenty-fifth United States Infantry, and to disapprove the sentence and to revoke and set aside General Court-Martial Orders No. 64, Headquarters of the Army, Adjutant-General's Office, Washington, December 4, 1880, approving the pending sentence in the said case and ordering his dismissal to take effect December 31, 1880, and to order and cause to be issued to said Geddes an honorable discharge as of date December 31, 1880, and to nominate and, by and with the advice and consent of the Senate, appoint said Geddes a captain of infantry in the United States Army, and place him upon the retired list with the rank of captain, the retired list being increased for that purpose only: *Provided*, That no pay, compensation, or allowance shall accrue by reason of this act for any cause prior to its passage.

The SPEAKER. Is there objection?

Mr. CALDERHEAD. I object.

Mr. COX. I should like to ask the gentleman if that bill does not promote this man to the position of captain and then put him on the retired list before he reaches the age required by law?

Mr. JETT. I will say to my colleague that I suppose it does put him on the retired list before he reaches the age required by law. It removes the penalty of court-martial proceedings, the findings of which I think were most unjust. The bill passed the Senate in the Fifty-fifth Congress, and was reported favorably by the House Committee on Military Affairs in that Congress. It passed the Senate again in this Congress, and has been favorably reported by the House Military Affairs Committee.

Mr. WHEELER of Kentucky. What was the court-martial for?

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. CALDERHEAD. I object.

The SPEAKER. Objection is made by the gentleman from Kansas.

GALLANTRY IN REVENUE-CUTTER SERVICE.

Mr. CORLISS. Mr. Speaker, I ask unanimous consent for the present consideration of the Senate joint resolution 51, recognizing the gallantry of Frank H. Newcomb, commanding the revenue cutter *Hudson*; of his officers and men; also retiring Capt. Daniel B. Hodgsdon, of the Revenue-Cutter Service, for efficient and meritorious services in command of the cutter *Hugh McCulloch* at Manila.

The resolution was read, as follows:

Resolved, etc., That the thanks of Congress be, and are hereby, extended to First Lieut. Frank H. Newcomb, of the Revenue-Cutter Service, commanding the revenue cutter *Hudson*, his officers, and the men of his command, for their intrepid and heroic gallantry in the action at Cardenas, Cuba, on the 11th day of May, 1898, when the *Hudson* rescued the U. S. naval torpedo boat *Winslow* in the face of a most galling fire from the enemy's guns, the *Winslow* being disabled, her captain wounded, her only other officer and half her crew killed. The commander of the *Hudson* kept his vessel in the very center of the hottest fire of the action, although in constant danger of going ashore on account of the shallow water, until finally he got a line made fast to the *Winslow* and towed that vessel out of range of the enemy's guns. In commemoration of this signal act of heroism it is hereby enacted that the Secretary of the Treasury be authorized and directed to cause to be prepared and to present to First Lieut. Frank H. Newcomb, Revenue-Cutter Service, a gold medal, and to each of his officers a silver medal, and to each member of his crew a bronze medal.

That in recognition of the efficient and meritorious services of Capt. Daniel B. Hodgsdon, United States Revenue-Cutter Service, while in command of the U. S. revenue cutter *Hugh McCulloch*, under the orders and in cooperation with the fleet commanded by Rear-Admiral George Dewey, United States Navy, at the battle of Manila, on May 1, 1898 (the said officer being now in the sixty-third year of his age, and having served continuously for thirty-seven years as an officer of the Revenue-Cutter Service), he be placed on the permanent waiting orders or retired list of the Revenue-Cutter Service on the duty pay of his grade.

That the sum of $1,000, or so much thereof as may be necessary, be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for the medals above specified.

The SPEAKER. Is there objection?

Mr. CORLISS. Before the question is propounded I desire to state that I wish to eliminate the provisions that are objectionable—the thanks of Congress—by an amendment, and I am sure that there will be no objection then.

The SPEAKER. That will come up after unanimous consent is given.

Mr. BARTLETT. May I ask, before unanimous consent is given, what the bill does after you strike out that part of it?

Mr. CORLISS. It simply recognizes the gallantry by giving the crew of Captain Newcomb certain medals, and puts Captain Hodgsdon on the retired list, he having served thirty-odd years in the Revenue-Cutter Service. It is recommended not only by the Navy Department, but by a special communication from the President of the United States to Congress. And I have in my hand a special letter from Admiral Dewey speaking of Captain Hodgsdon's service. This is simply extending a recognition, with the amendment I propose to offer, of gallantry at a time when the country recognized their service.

Mr. BARTLETT. Then do I understand you to say that this bill does not retire an officer?

Mr. CORLISS. It puts Captain Hodgsdon on the retired list.

Mr. McCLELLAN. Is he not a revenue officer?

Mr. CORLISS. He is in the Revenue-Cutter Service.

Mr. McCLELLAN. There is no retired list for the Revenue-Cutter Service, and this creates a retired list for his benefit.

Mr. CORLISS. It places him on waiting orders. He is impaired in health; it has been recommended by the President of the United States, and I have in my possession here a letter from Admiral Dewey calling special attention to his services in the harbor of Manila, and asking Congress to pass a bill placing him on the retired list, and I trust there will be no objection to that recognition.

Mr. BARTLETT. Mr. Speaker, there are a number of men who might be recognized by giving medals to those who served gallantly in the recent war and won distinction at the fight at Manila and in the war that is now going on in the Philippines. Let us pass a law to meet all of those. I think it is unfair to single out one or two men in the service and give him or them a medal in recognition of services when there are numbers of others who occupy the same position. It makes a retired list also, and puts a man on the retired list when there is no law for the retirement for an officer in that service.

Mr. ROBINSON of Indiana. Let me call the attention of the gentleman from Michigan to the fact that for men in the Regular Army there are provisions for the recognition of such gallantry by the President.

Mr. CORLISS. In the Revenue-Cutter Service there is no such power to extend this recognition for gallant services. There was no man in the Spanish war who served his country more bravely than the men mentioned here; and so peculiarly gallant was it that the President and the Secretary of War have communicated to Congress twice upon this subject, and particularly asked this recognition, and I hope the Congress of the United States will not deny to men proving themselves so brave and heroic as they did on these occasions the little honor of receiving a medal at the hands of Congress, and the retirement of a Revenue-Cutter Service officer who would be entitled to be retired and could be retired if in the Regular Army service.

Mr. MADDOX. Will the gentleman allow me to ask him a question?

Mr. CORLISS. Certainly.

Mr. BARTLETT. I am not going to object to giving these officers and men the medals. They no doubt have earned them, and probably others have earned them just as much and ought to have them. It is not necessary for me to specify, but I could specify a number of men, who are on the records of the Army and Navy, who gave valiant service as officers and men.

Mr. ROBINSON of Indiana. If the gentleman will permit me a suggestion, in view of the statement made by the gentleman from Michigan, it would seem to suggest the passage of a general law.

Mr. CORLISS. I have no objection to it.

Mr. ROBINSON of Indiana. But you call up these special cases.

Mr. CORLISS. We have already passed some bills recognizing some special acts.

Mr. ROBINSON of Indiana. We could pass some general law like the law which enables the President and the Department to

give medals in recognition of services rendered during the civil war.

Mr. CORLISS. These are of such a character, so well known in our country, the service and name of Captain Hodgsdon and the service of Captain Newcomb upon the vessels named, the *Winslow*, the *Hudson*, and the *McCulloch*, the boat that Captain Hodgsdon was in charge of in Manila Bay, are household words, their deeds are known to our people, and I submit the recognition of this House of their gallantry ought to be granted unanimously. I have eliminated the only objectionable feature, I think. Are you willing to deny that any recognition shall be given to these men? I trust not.

Mr. MADDOX. Is not this a new departure?

Mr. CORLISS. Not at all. We have repeatedly granted men such recognition.

Mr. MADDOX. Does not this set a precedent not established heretofore?

Mr. CORLISS. I will say to my friend from Georgia that I have been on the committee three terms of Congress, and we have repeatedly passed measures like this.

Mr. MADDOX. For the revenue service?

Mr. CORLISS. Yes; for the recognition of gallantry.

Mr. MADDOX. Oh!

Mr. CORLISS. And extending medals. That is right. And there is a general law authorizing the Secretary of War and the President to grant medals in certain cases, and the House has made it general.

Mr. MADDOX. Well, what I want to get at is this: You want to make this exception and allow the Secretary of War and the President to grant this recognition to an officer of the Revenue-Cutter Service?

Mr. CORLISS. The great service of these men justifies this recognition.

Mr. MADDOX. That is exactly what I am driving at. You are opening another class.

Mr. CORLISS. We have repeatedly done so within the history of our country.

Mr. MADDOX. What committee reported this bill?

Mr. CORLISS. The Committee on Interstate and Foreign Commerce, and it has passed the Senate.

Mr. MADDOX. The Interstate and Foreign Commerce Committee of the House reported it?

Mr. CORLISS. Unanimously, and I have repeatedly asked for its consideration since the bill was reported.

Mr. COX. How does the Committee on Interstate and Foreign Commerce get hold of the question?

Mr. CORLISS. It passed the Senate, came to the House, and was referred to the committee which has charge of the revenue-cutter matters. I have a letter from Admiral Dewey, dated April 7, this very month, appealing to me to pass this measure, and in his closing remarks he says:

> I had occasion to report on his excellent services while in command of the *McCulloch* while in the squadron under my command at the Philippines, and I think he should have the reward for his long and faithful services to the Government. If my indorsement will be of any service to you, you are at liberty to use my name.
>
> GEORGE DEWEY.

That was written on the 7th of April. I did not ask for the communication or suggest it to Admiral Dewey, but I did ask unanimous consent of the House for this recognition, and it was denied. I never could understand why it was denied.

The SPEAKER. Is there objection to the present consideration?

Mr. SIMS. I would like to ask the gentleman one question. So far as the retirement is concerned, is not this a new question?

Mr. CORLISS. Not at all.

Mr. SIMS. Is it not new with reference to officers of the Revenue Cutter?

Mr. CORLISS. It places him on waiting orders.

Mr. SIMS. Are they not retired on pay?

Mr. CORLISS. No; simply put on waiting orders.

Mr. SIMS. Will not this retire this officer on pay?

Mr. CORLISS. No; it simply places him on waiting orders.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question is on the amendment which the Clerk will report.

The Clerk read as follows:

> Amend, in lines 3 and 4, on page 1, by striking out the following words: "the thanks of Congress be, and are hereby, extended to" and inserting in lieu thereof the words "in recognition of the gallantry of."

The amendment was agreed to.

The joint resolution was ordered to be read a third time; and it was read the third time.

Mr. WHEELER of Kentucky. Mr. Speaker, a parliamentary inquiry. Does not the title of the bill extend the thanks of Congress to these officers and men?

Mr. CORLISS. It does not. It recognizes the gallantry of the men. The title does not say anything about the thanks of Congress.

The joint resolution was passed.

On motion of Mr. CORLISS, a motion to reconsider the last vote was laid on the table.

PHEBE S. RILEY.

The SPEAKER laid before the House the bill (H. R. 5970) granting a pension to Phebe S. Riley, with the following Senate amendment:

> In line 9 strike out "fifteen" and insert "twelve."

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

WILLIAM H. EDMONDS.

The SPEAKER laid before the House the bill (H. R. 4335) granting a pension to William H. Edmonds, with the following Senate amendment:

> Line 9, strike out "fourteen" and insert "twelve."

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

EZRA A. BENNETT.

The SPEAKER laid before the House the bill H. R. 4267, with the following Senate amendments:

> Line 3, after "and," insert "he;" line 6, strike out "C" and insert "E."

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendments.

The motion was agreed to.

MARY M'CARTHY.

The SPEAKER laid before the House the bill H. R. 856, entitled "An act granting a pension to Mary McCarthy," with the following Senate amendment:

> Line 6, before "mother," insert "dependent."

Mr. SULLOWAY. Mr. Speaker, I move that the House concur in the Senate amendment.

The motion was agreed to.

ARTICLE VII—TREATY WITH SPAIN.

The SPEAKER. The Chair calls attention of the House to the fact that 2 o'clock was set apart as a special order to consider Senate bill 2799, to carry into effect the stipulations of Article VII of the treaty between the United States and Spain concluded on the 10th day of December, 1898, which the Clerk will report.

The Clerk began the reading of the bill.

Mr. HAUGEN (interrupting the reading). I ask unanimous consent that the first or formal reading of the bill be dispensed with.

Mr. RAY of New York. I object.

The Clerk resumed the reading of the bill.

Mr. RAY of New York (again interrupting the reading). Mr. Speaker, I do not know but the time might be better used in the discussion of this bill than in reading it. I think the attention of members has already been called to the vicious character of the bill; and I will therefore, if in order, withdraw my objection to the request of the gentleman from Iowa, that the first reading of the bill be dispensed with.

The SPEAKER. Is there further objection?

Mr. SHEPPARD. I object.

The SPEAKER. Of course the House understands that if the first reading of the bill be dispensed with, it will immediately be taken up and read by sections.

Mr. SHEPPARD. Then I withdraw my objection.

The SPEAKER. Is there further objection? The Chair hears none. The Clerk will now proceed to read the bill by sections, unless general debate is desired. Does the gentleman from Iowa [Mr. HAUGEN] desire to be recognized for general debate?

Mr. HAUGEN. I do not think general debate is necessary. During the reading of the bill by sections we can discuss the provisions of the bill as we go along.

Mr. RAY of New York. I do not propose that this bill shall go through without any general discussion. I desire to oppose the bill.

The SPEAKER. Does the gentleman from Iowa desire now to make any observations in the way of general debate, or does he reserve his time?

Mr. HAUGEN. I will reserve my time.

The SPEAKER. Does the gentleman from New York [Mr. RAY] rise to oppose the bill?

Mr. RAY of New York. I do.

Mr. MAHON. This bill, as I understand, is on the Union Calendar and should receive its first consideration in Committee of the Whole.

Mr. HAUGEN. As I understand, the bill was made a special order for this time, to be considered in the House as in Committee of the Whole.

The SPEAKER. That is correct. Does the gentleman from New York [Mr. RAY] desire to oppose the bill?

Mr. RAY of New York. That is my purpose.

The SPEAKER. The gentleman in charge of the bill reserves his time. The gentleman from New York is recognized.

Mr. RAY of New York. Mr. Speaker, only a short time—a few minutes since—was my attention called to this bill. It proposes to constitute a new court or commission, to consist of three persons—in the language of the bill, "three suitable persons learned in the law, who shall constitute a commission," etc. They are to receive each the sum of $5,000 per annum; and then we are to have another assistant attorney-general, who is also to receive the sum of $5,000 per annum; and then we are to have a clerk, who is to receive $3,500 per annum; and then we are to have a number of assistant district attorneys—I have forgotten how many——

A MEMBER. The number is unlimited.

Mr. RAY of New York. Yes; I think the number is unlimited. That is my recollection. We are to have an unlimited number of assistant district attorneys, who are to be employed at the rate of $200 a month each for the time of actual employment. Of course when these officers are once appointed they will be employed without intermission. We need not be concerned about that. Also one or more—the number is unlimited—commissioners to take evidence, at an annual salary of $5,000; and then we are to have messengers and stenographers and typewriters at salaries of $1,200 per annum.

Now, Mr. Speaker, I should not object to the compensation to the messengers, the stenographers, and typewriters at the sum of $1,200 per annum if they were necessary, but there is no earthly necessity for the creation of this commission or the appointment of these assistant attorneys-general or the clerks or the assistant attorneys.

Now, what is the excuse or alleged excuse for this? In our treaty with Spain it was stipulated that—

the United States and Spain mutually relinquish all claims for indemnity, national and individual, of either kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

The article then declares that—

the United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

That is all there is of it. The United States is to adjudicate and settle the claims of its citizens against Spain relinquished by this article of the treaty. In other words, such claimants are to have no claim against Spain, but their claims are transferred against and assumed by the United States and are now claims against this Government.

Now, we have a Court of Claims already established. That court is composed of gentlemen learned in the law; they are not overworked; they are as fat and healthy-looking a set of gentlemen as I ever met, and they will not die of overwork nor become insane because of too much mental exertion if we give them jurisdiction of these claims. If they are not competent for the work, they had better be out and some one else appointed; but I think they are fit for it. I have every confidence in them.

We have now a large corps of assistant attorneys-general and an abundance of assistant district attorneys. They are paid well; they have an abundance of time to do this work.

Now, you say, of course, in reply to that, that the Senate would not have passed this bill had there not been necessity for it. There is, of course, necessity for having these claims adjudicated by a proper tribunal—we have assumed them and must pay them—but we have the proper tribunal already of sufficient ability. What is the necessity for all this addition of officials and all this expense? Is there a word in the report of the committee that points out any such necessity? Not at all. The President, of course, would have the appointment of all these gentlemen. The Senate would have the confirmation, and the Senators would have a chance to get some more of their hungry constituents into office. That, in my judgment, is the only excuse or justification that can be offered for the enactment of this bill into law. How many of these claims are there? Will this committee tell me? Does the gentleman know? If he does, let him tell the House now.

Mr. HAUGEN. I do not know the exact number, but there are a great many claims——

Mr. RAY of New York. How many have been presented?

Mr. HAUGEN. I will state for the information of the gentleman——

Mr. RAY of New York. Does the gentleman know? That is the question. If he does, then let him tell me how many.

Mr. HAUGEN. I may state for the benefit of the gentleman that before the Committee on War Claims to-day we have bills running up into the hundreds and thousands, bills that have been pending before this Congress for the last thirty or forty years. These people have been knocking at the doors of Congress; their claims are meritorious, and I see no reason why this Government should not pay its debts.

Mr. RAY of New York. Well, I have not yielded to the gentleman for a speech.

Mr. HAUGEN. The sooner these debts are paid the better. A commission appointed for this purpose can better determine what these claims are and what their merits are than the courts to which the gentleman has referred can.

Mr. RAY of New York. Now, Mr. Speaker, the inadvisability of this bill is demonstrated by the answer of the gentleman who has it in charge. I asked him how many claims assumed by the United States under this treaty had been presented, and his answer is that we have hundreds and thousands of them that have been pending here for the last thirty years.

Mr. MAHON. Will the gentleman allow me——

Mr. RAY of New York. In just a moment. Let me finish this idea. This whole question arises over claims that were assumed by the Government of the United States under the treaty of 1898, and the gentleman demonstrates almost perfectly that he does not know what he is talking about and that he does not understand the principles involved in this bill when he talks about hundreds and thousands of these claims that have been pending here for thirty years. Why, they can not have been pending for over two years. We did not assume them until the treaty of peace.

Mr. LACEY. Will the gentleman allow me?

Mr. RAY of New York. Certainly; but I have promised to yield to the gentleman from Pennsylvania [Mr. MAHON]. Let me yield to the gentleman from Pennsylvania first.

Mr. MAHON. The gentleman misunderstood your question, probably.

Mr. RAY of New York. Then will you tell me?

Mr. MAHON. These claims are filed in the State Department, under the treaty with Spain, and none of them are filed with the committee.

Mr. RAY of New York. How many of them are on file at the State Department?

Mr. MAHON. I do not know. They are filed in the State Department and the committee have no knowledge of them.

Mr. RAY of New York. Are you able to say that there are ten of them?

Mr. MAHON. I do not know anything about it. They are in the State Department.

Mr. RAY of New York. The gentleman says he does not know anything about it, and yet a bill is brought in here to create a commission, with a dozen or more new officers, with large salaries, to dispose of business and claims made against this Government, when the committee does not know there is any necessity for it.

Mr. MAHON. Let me say to the gentleman——

Mr. RAY of New York. Can you assure me that there is one?

Mr. MAHON. I do not want you to mislead the House, and I will not permit you to do it if I am here.

Mr. RAY of New York. Well——

Mr. MAHON. These claims are filed in the State Department and not in the War Claims Committee, under the treaty with Spain. They are filed with the Secretary of State, under the treaty of Paris. The Department wants this bill or some bill for the adjudication of these claims, under the treaty with Spain. The War Claims Committee have no jurisdiction over the matter.

Mr. RAY of New York. I did not yield to have you tell me what any Department wanted or wants.

Mr. MAHON. Well, I know, but there are a good many things that the gentleman does not know.

Mr. RAY of New York. I want to know whether the gentleman from Pennsylvania knows that there is a single claim now on file with the Secretary of State?

Mr. MAHON. Oh, yes; I know there are claims there, but I do not know, and the gentleman does not know, how many there are or what they amount to. There are a great many things that the gentleman does not know in regard to this matter. [Laughter.]

Mr. RAY of New York. I thank the gentleman. Now, does the gentleman from Pennsylvania know how many claims are pending at the State Department?

Mr. MAHON. No, sir; and you do not, either.

Mr. RAY of New York. Have you made any inquiry?

Mr. MAHON. No, sir; and I do not intend to.

Mr. RAY of New York. Can you tell me why you do not?

Mr. MAHON. Because it is not my business. It is the business of this House to provide a remedy——

Mr. RAY of New York. A remedy for what? To create a commission for what?

Mr. MAHON. Yes; just as this Government has done during its existence a dozen times.

Mr. RAY of New York. Create a commission—a new court?

Mr. MAHON. Yes.

Mr. RAY of New York. With a dozen new officers, drawing salaries all the way from $1,200 a year up to $5,000 a year, with no limitation upon it, to do what? Adjudicate claims!

Mr. MAHON. Now, if the gent'eman——

Mr. RAY of New York. To adjudicate what claims? "I don't know." Are you sure that any are on file there? "I think there are some." Have you made any inquiry to know? "We have not."

Mr. KING. And he says they do not intend to.

Mr. RAY of New York. Is any information given this House as to whether there is one or a do.en or a hundred? "No; but we bring in our bill here to create this court with these officers and these big salaries, without any knowledge that there is any necessity for it."

Is there any secret about these claims? I desire to say that if I were going to bring such a bill as this before the House, if it were suggested to the Committee on the Judiciary that we report such a bill, the very first step I would take would be to send a communication to the Secretary of State inquiring how many claims of this character, if any, have been made, how much, if anything, was involved, and ascertain first whether there is any necessity for an additional court, and if satisfied of that, then recommend the legislation.

Mr. MAHON. Will you allow me to interrupt you there?

Mr. RAY of New York. Yes: if you will not say again that I do not know anything. [Laughter.]

Mr. MAHON. Now, a number of claims have been filed, how many or by whom I do not know, but the Secretary of State and the President of the United States have recommended the passage of a bill of this kind, in order that they can be adjudicated.

Mr. RAY of New York. Where are their recommendations?

Mr. HAUGEN. Here is the recommendation of the President of the United States, and I will read it.

Mr. RAY of New York. Let me read it.

I have the honor to recommend that appropriate legislation——

Mr. MAHON. That is what we are trying to do.

Mr. RAY of New York. That is what the President recommends—"appropriate" and not "inappropriate and unnecessary legislation." [Applause.]

I would recommend appropriate legislation in order to carry into execution Article VII of the treaty of peace with Spain, by which the United States assured the payment of certain claims for indemnity of its citizens against Spain.

Now, Mr. Speaker, the President is a good man and an honest and able man. If he had said in the message that it was necessary to have three commissioners, at $5,000 a year; to have an unlimited number of assistant district attorneys and commissioners, a lot of typewriters, clerks, and stenographers, and to hold a new court to take care of these claims, I would have taken some stock in the bill; but he does not state any such thing or intimate any such thing. Now, what do we have? Already we have a Court of Claims. What is it for? To listen to and adjudicate claims made by citizens of this Government against the Government. What are these claims mentioned in the message of the President, mentioned in the treaty? Simply claims of citizens of the United States against the Government of the United States, precisely the same class of claims that already go to the Court of Claims——

Mr. RICHARDSON. Will the gentleman yield to me for a moment?

Mr. RAY of New York. Certainly.

Mr. RICHARDSON. If I understand these claims, they are of the same nature as the claims that are called the French spoliation claims, and are assumed now by the Government of the United States, or the Government pledges itself under this seventh article of the treaty with Spain to adjudicate or settle them in some way. I would like to ask the gentleman how he thinks claimants should have their remedy—in what way? I am in sympathy with the gentleman in opposition to commissions; but if these claims are not adjudicated now, while they are fresh, and are permitted to run as the old French spoliation claims have been, does not the gentleman think it likely they will grow in the coming years, and that in fifty years from this time they will be larger than now? That has been the history of the French spoliation claims.

Mr. RAY of New York. We are always exposed to the danger that claims will grow.

Mr. RICHARDSON. For that reason I think they ought to have a forum in which they can be speedily adjudicated.

Mr. RAY of New York (continuing). And there is sometimes opportunity afforded for them to grow; but I do not know that it necessarily follows that the courts of the United States should grow and keep pace with them. I do not think that it follows, because here are claims against the Government of the number we are uninformed, of the amount involved we are uninformed, that we are to constitute a new and costly tribunal with all the machinery of a court for the purpose of settling and adjudicating them.

Mr. RICHARDSON. As the chairman of the Committee on the Judiciary, the gentleman being a great lawyer, I wanted him to suggest some forum in which they could be adjudicated speedily. That was my object in the matter.

Mr. RAY of New York. Why can they not be speedily adjudicated in the Court of Claims?

Mr. HITT. Will the gentleman allow me to call his attention to one fact?

Mr. RAY of New York. Certainly.

Mr. HITT. Because I see he is in pursuit of truth. As a matter of fact, claims generate claims: they propagate each other. It has been found that these claims against foreign governments are the most rapidly multiplied of any, and all the devices to cut off the claims industry have been found inefficient except to have commissions, with a provision such as this:

All claims shall be filed as aforesaid within six months from the date of the first meeting of the commission, and every claim not filed within such time shall be forever barred.

I remember well the claims against Mexico about twenty years ago which were being filed in the State Department; and after a time it appeared that it was a manufacturing business, that it was an extensive industry for a class of the legal profession. At last, when the Mexican commission was organized, the claims presented amounted to several hundred millions of dollars. They were investigated and the awards were not 3 per cent of the claims; and of the awards one of the largest, the Weil claim, was sheer invention, pure villainy, as was found out afterwards; and another very large one, the La Abra, was also bad.

Mr. DALZELL rose.

Mr. RAY of New York. Well, all I care to do is to reserve some of my time.

Mr. HITT. I beg the gentleman's pardon; I did not want to take up his time.

Mr. DALZELL. Let me ask my friend from Illinois would not the difficulty he suggests be remedied by putting into a bill conferring upon the Court of Claims jurisdiction to adjudicate these claims the provision which he read—that all such claims should be filed within six months or be forever barred?

Mr. HITT. With the consent of the gentleman from New York, I will answer the gentleman from Pennsylvania. I would like to have that proposition considered by his committee. I know the gentleman from Pennsylvania is himself a distinguished lawyer, and his seems to me a reasonable suggestion.

Mr. RAY of New York. Why, Mr. Speaker, can it be that this bill to create a new court, with a large number of officers with large salaries, is necessary in order to put up the bar of the statute of limitations against these claims? To my mind, that suggestion has no weight or force whatever. We can confer jurisdiction upon the Court of Claims; we can provide, as the gentleman from Pennsylvania [Mr. DALZELL] has suggested, that they must all be presented within one, two, or three years, and if not presented they shall be forever barred.

But I want to call the attention of this House to another fact in this same connection. How futile is the adoption of a statute of limitations. During my twelve years' service in this House—and I started in on the Committee on Claims—we have been continually considering bills to remove the bar of statute of limitations and extending the time when claims might be presented. It is only a few weeks ago that I had the audacity to stand here in opposition to one of the committees of this House and oppose a measure where, thirty-five years after the accruing of the alleged claim, amounting to over a million, it was proposed to remove the bar of the statute of limitations. You can not get rid of claims in any such way as this, by the creation of a new court.

Mr. SHEPPARD. Does the gentleman know the condition of the docket of the Court of Claims, whether it is crowded or not?

Mr. RAY of New York. I presume there are enough claims on that docket, but you allow these claims to be presented to that court and put them on the docket and put up the bar of the statute of limitations and the court will get through them quick enough. They always get to these claims quickly when the lawyers and the litigants come and ask to be heard. There is no trouble about that.

Now, I want to call attention to section 8 of this bill. We should have a merry old time with the Treasury of the United States, I think, under the provisions of this bill.

SEC. 8. That all reports, affidavits, records, proceedings, and other documents now on file or of record in the Department of State, or in any other Department, or certified copies thereof, relating to any claims prosecuted before the said commission under this act shall be furnished to the commission upon its order, made of its own motion or at the request of the claimant or of the attorney representing the United States before said commission, and shall be given such weight as evidence as the said commission shall think just: but the commission is authorized to require other evidence, and the claimants and the United States are authorized to introduce other evidence in support of or in opposition to any claim.

Why, Mr. Speaker, do such rules as that apply in any State court? Do any such rules of evidence apply in any of the courts of the United States? What do you think of it? That would let in everything; they would not be required to bring the originals.

Mr. MAHON. Will the gentleman allow me?

Mr. RAY of New York. Yes.

Mr. MAHON. I want to suggest to the gentleman that I have on my table a substitute which eliminates all these objectionable features.

Mr. RAY of New York. Well, I am glad to hear that. That demonstrates the unwisdom of this whole proposition. Here is this bill before the House, set as a special order for to-day, and now up for consideration. It creates these new offices, which will cost this Government thousands upon thousands of dollars. Now, the moment some man rises on the floor of this House to oppose the original measure, up rises my genial and jovial and learned friend from Pennsylvania, the chairman of the committee that reports this bill, and says, "I have a substitute for it which I am going to offer." What is the substitute? What are its provisions? What is the character of it? What do we know about it? What do I know about it? What will any gentleman of this House know about it when he comes to vote upon it? Is that the way we should legislate when we create new courts, costing the Government thousands of dollars each year—courts that may adjudicate claims running into the millions? Or should such proposed legislation be considered carefully and then brought forward and sustained by facts?

Mr. CANNON. Will the gentleman allow me a moment?

Mr. RAY of New York. Certainly.

Mr. CANNON. I am quite in harmony with what the gentleman, as I understand, is suggesting—the propriety in a well-considered bill of referring all these claims to the Court of Claims, under proper limitations. But I want to call his attention, in the first place, to line 12, page 1, and the top of page 2, where I find it provided that this commission "shall adjudicate certain claims according to the merits of the several cases, the principles of equity, and of international law." Now, I do not know what that language means. I understand what "the merits of the several cases" may be, and "the principles of international law." But the phrase "the principles of equity" I do not understand, as used here, although the general term "principles of equity," as known to the profession of the law, is not unfamiliar to me.

I do not see how equity jurisprudence could in any way apply to this class of claims. If words "the principles of equity" mean according to the discretion of somebody as to what he conceives to be right or wrong, in the popular sense, I do not know that I am in favor of that limitation. It may be that it is right; but if the gentleman or some one else can not say what that first limitation means, it seems to me there ought to be further investigation and report. That is one matter to which I call the gentleman's attention; and when my inquiry is met on that point, I would be glad afterwards to have his opinion about one or two other matters.

Mr. RAY of New York. I would be glad to have the gentleman call my attention to any points which he considers deserving of comment, because I certainly have had no time to study this proposition. It was brought to my attention only a short time before the bill came up.

The gentlemen has called my attention to the provision beginning at the bottom of page 1, providing that this commission "shall adjudicate certain claims according to the merits of the several cases, the principles of equity and of international law." In connection with that I turn to page 5, the section I have already read, containing this language:

> That all reports, affidavits, records, proceedings and other documents now on file or of record in the Department of State or in any other Department, or certified copies thereof, relating to any claim prosecuted before the said commission under this act, shall be furnished to the commission upon its order, etc., and shall be given such weight as evidence as the said commission shall think just.

Here is a provision conferring jurisdiction upon three men to take a lot of evidence as to the justice of claims in the form of affidavits or certified copies, and then, guessing at the merits of the claims, without any cross-examination, without any means provided for getting at the truth of the matter, give judgment against the United States.

Of course the principles of equity jurisprudence are pretty well understood; that is, that the court—I will not go into a lengthy explanation—that the court, when it comes to consider a case brought in equity, may do about what it thinks is right, restrained, of course, by certain defined rules in regard to that particular case.

Mr. CANNON. I do not understand that to be the definition of equity.

Mr. RAY of New York. Nor do I; but in a given case, where the court has jurisdiction to administer equity under certain limitations and rules, it has practically the power to do about what it thinks is right. The only limitation upon the power of the court in such a case is that if its discretion in the administration of equity is abused, some higher court may set its action aside. But if the court acting in the first instance has any ground to stand upon, and does not violate any established rule of law, its action becomes effective and operative.

Mr. CANNON. Then it seems to me that the words "principles of equity" ought to be stricken out, because they are very loose when used in this connection. The gentleman admits that what we understand ordinarily by equity jurisprudence could in no way apply to this class of claims.

Mr. RAY of New York. It probably should not.

Mr. CANNON. It seems to me those words might well be stricken out.

Now, this bill appropriates $50,000 a year as a permanent appropriation for this service. I must confess in a general way, upon a hasty reading of this bill, that the gentleman's remarks would indicate the propriety of a committal of the bill to the law committee of the House. In other words, it would appear that we should let this matter be considered by the Committee on the Judiciary, who, after full consideration, should report a bill for the action of the House.

Mr. RAY of New York. I yield a moment to the gentleman from Iowa [Mr. HEPBURN].

Mr. HEPBURN. The gentleman from Illinois [Mr. CANNON] has suggested that the words "the principles of equity" should be stricken out. It seems to me that a very great injustice would be done by striking out those words. It is to be remembered that the claimants in this class of cases have no claim against the United States; their claim is against Spain. Yet the Government of the United States, by the seventh article of the treaty of Paris, has assumed perhaps responsibility for these claims, but not to the claimant. It has done that in a general treaty. Now, if we strike out those words, "the principles of equity," and do not give the claimant such status in court as equity would give him under such circumstances, we offer him no remedy at all, because he has none at law against the United States.

Mr. RAY of New York. Well, I should like to know why.

Mr. HEPBURN. Simply because the claims were claims against Spain, and are only claims against the United States now because of the seventh article of the treaty.

Mr. RAY of New York. That is new doctrine to me. Now, if they were legal claims against Spain, what has the Government of the United States done for a good and valuable consideration, having full power in the premises?

Mr. MANN. Will the gentleman yield to me for a question?

Mr. RAY of New York. Wait a moment until I get through with this and I will.

Mr. MANN. I beg the gentleman's pardon. I thought he had concluded.

Mr. RAY of New York. The seventh article of the treaty with Spain says:

> The United States and Spain mutually relinquish all claims for indemnity, national and individual, of either kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war. The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

Now, that in law and equity gives citizens who had any claim against Spain the same claim against the Government of the United States, and I am astonished to hear my friend from Iowa [Mr. HEPBURN] make the assertion that he made. It shows the necessity for having this bill and the alleged necessity upon which it is based properly investigated and then a proper bill reported. Now I will yield to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Speaker, I would like to ask the gentleman a question upon the same point.

Mr. RAY of New York. You will first give me credit for not being thoroughly posted on this bill. I have had no time to study it. It came to my attention only a short time ago.

Mr. MANN. I understand the situation. It has occurred to me, however, if the gentleman will permit me——

Mr. RAY of New York. Certainly.

Mr. MANN. That a case might very readily arise in which the principles of equity jurisprudence would have to be invoked.

Mr. MAHON. And the law of nations.

Mr. MANN. I want to ask the gentleman a question.

Mr. RAY of New York. Well, do not understand me as saying that the rules of equity jurisprudence should not be applied in some cases.

Mr. MANN. I understood the gentleman from New York [Mr. RAY], in answer to the suggestion of my colleague from Illinois, to say that he thought those words ought to be stricken out of the bill.

Mr. RAY of New York. I assented, perhaps.

Mr. MANN. Suppose a piece of property was mortgaged and in some way was destroyed, and the owner of the property had a claim against the Government under the treaty. Under the bill how would the mortgagee have any claim, unless you could invoke the principles of equity jurisprudence? It is the mortgagee in that case who wants to be protected. Would not that be the case?

Mr. RAY of New York. Well, not necessarily so. It might be.

Mr. MANN. I mean it might be the case.

Mr. RAY of New York. There might be cases where it would apply; not necessarily so.

Mr. MANN. So that it would be necessary to include this clause in the bill, would it not, in order to have a complete bill?

Mr. RAY of New York. Well, it might be.

Mr. MANN. Now, I want to direct the gentleman's attention to another point.

Mr. RAY of New York. I will give you the best answers I can.

Mr. MANN. With reference to the use of certified copies of documents in the State Department. I had supposed when I read that provision in the bill that it was done for the protection of the United States more particularly than for the benefit of the claimant, and that where the Government has collected testimony and has it on hand in the State Department or other Departments it might use it in defense.

Mr. RAY of New York. No.

Mr. MANN. Well, that is what the bill says.

Mr. RAY of New York. Oh, no; the gentleman is mistaken.

Mr. MANN. It says both parties, but it permits the Government to use that evidence in defense, which it could not do unless it was so provided in the bill.

Mr. RAY of New York. Oh, the gentleman is mistaken.

Mr. MANN. Very possibly.

Mr. RAY of New York. The gentleman seems to be apprehensive that the Government of the United States, making a fight against a claim presented by a citizen, will find itself so poor that it will be unable to get evidence to met the evidence of the claimant, and will be driven to the necessity of using some papers on file. Now, the gentleman is perfectly familiar with the doctrine that if I bring suit in a court, whether of equity or of law, and bring witnesses or put in documents as evidence, the evidence being competent, the other party has the right, without any statute, to put in any pertinent document, signed by any witness or by the party, which tends to contradict the proof given by the other party. So far as that is concerned there is not the slightest necessity for that provision. It is not there for any such purpose. It is there for the purpose of allowing the claimant to make out his case against the Government of the United States simply by presenting some affidavits taken ex parte, and if they do not happen to be contradicted then his case is proved.

Mr. MARSH. Will the gentleman yield to me?

Mr. RAY of New York. Certainly.

Mr. MARSH. The claims that are the subject-matter of this bill, as I understand, are claims on the part of citizens of the United States against the Kingdom of Spain?

Mr. RAY of New York. They were so originally.

Mr. MARSH. Which claims the United States has agreed to pay by virtue of the seventh article of the treaty of Paris?

Mr. RAY of New York. That is right.

Mr. MARSH. Now, in the adjudication of these claims and in the determination of their validity is there any other law that should be resorted to than international law and the law of Spain? In other words, if we had not put ourselves in this position of assuming these claims, they would be claims against Spain, and would depend upon international law and the law of Spain, and hence——

Mr. RAY of New York. That would seem to be correct.

Mr. MARSH. And hence, we having assumed the duty of paying these claims, it occurs to me that the only law under which they can be adjudicated and allowed is international law and the law of Spain in existence at the time when these claims originated.

Mr. RAY of New York. That would certainly seem to be true, for the reason that they were claims against the Government of Spain. Now, the legality or validity of those claims would necessarily have to be determined by the law of Spain.

Mr. MARSH. And international law——

Mr. RAY of New York. Well, where there was——

Mr. MARSH. Now, the law of equity, as understood in this country, might not apply.

Mr. RAY of New York. That is true.

Mr. MARSH. Consequently those words probably ought not to be in the bill.

Mr. RAY of New York. Now, we having assumed the payment of the claims, that fact should not change the rules of evidence nor the principles applicable in their adjudication.

Mr. MARSH. As against Spain.

Mr. RAY of New York. The mode of procedure might vary, but the rules of law applicable to the determination of their validity or invalidity should remain the same, and therefore it would seem that this bill is prescribing a new ground of liability.

Mr. MARSH. Exactly.

Mr. RAY of New York. That is, it might. I do not say it would, but it might; and that matter ought to be thoroughly considered and deliberated upon.

Mr. GAINES. Will my friend permit an inquiry?

Mr. RAY of New York. Certainly.

Mr. GAINES. In section 13, page 7, of the bill I find these words:

That either the claimant or the United States may appeal from any final decision of the commission allowing or rejecting any claim, where the amount in controversy is more than $5,000, to the court of appeals of the District of Columbia as are now provided by law for appeals to the said court of appeals from the supreme court of the District of Columbia, and as near as may be upon like conditions and limitations provided by law for appeals to said court of appeals.

Do you think that "more than $5,000" limitation is just or good policy?

Mr. RAY of New York. Why, no; and I do not know what the District of Columbia should have to do with it anyhow.

Mr. GAINES. It seems to me that a man who had a claim for $3,000 has just as much right of an appeal to a higher court as a man having "more than $5,000."

Mr. RAY of New York. That is another evidence of a loose bill. These are claims of citizens against the United States. Now, I feel that in creating a court or sending these claims to the Court of Claims, if an appeal is taken the appeal should be taken in the regular way and from courts already provided. Why put them into the court of appeals of the District of Columbia? Is it done so that claimants may get at this court, so that they will have one here that they can surround with influence?

Mr. POWERS. Where do appeals go from the Court of Claims?

Mr. RAY of New York. I think they go to the supreme court of the District of Columbia in the first instance. They certainly may go to the Supreme Court of the United States.

Mr. POWERS. You can not take an appeal to that court unless the amount in controversy is $5,000.

Mr. RAY of New York. I think not.

Mr. POWERS. This is exactly like that.

Mr. RAY of New York. But the question the gentleman raises is this: If a man has a claim of $5,000, and it is adjudicated upon by this tribunal, that is an end of it. Does it say $5,000—$4,990? That is an end of it. But if he has got one for $10 more, he can go up on appeal.

Mr. POWERS. Is not that true also with any case of a similar character?

Mr. RAY of New York. I understand that is the rule that has been applied to many of our citizens, but the question of the gentleman from Tennessee was, What was the necessity or the propriety of applying any such rules to these claims? They are limited in number—must be.

Mr. GAINES. Will my friend allow me a moment to call his attention to the phraseology, "where the amount in controversy is more than $5,000" appeals can be had? It seems like that would be rather an invitation to inflate claims, make them to "more" than $5,000, to get the benefit of appeals to higher courts.

Mr. RAY of New York. They will not need any temptation to inflate them. [Laughter.]

Mr. GAINES. I agree with you in that; but I am going on the idea that we have with us yet some honest people.

Mr. RAY of New York. Mr. Speaker, how much more time have I?

The SPEAKER. The gentleman has thirteen minutes remaining of his time.

Mr. RAY of New York. I think I will reserve that, Mr. Speaker.

Mr. HAUGEN. Mr. Speaker, I will excuse the gentleman from New York. He has admitted that he has not read the bill. If he had read the bill I am certain he would be for the bill.

Mr. RAY of New York. The gentleman is mistaken; I do not admit any such thing. I have read it twice.

Mr. HAUGEN. That was your statement made here a few minutes ago.

Mr. RAY of New York. I said I had not had time to study it.

Mr. HAUGEN. Now, Mr. Speaker, as to this bill; this measure was recommended in the annual message of the President. The bill was drawn by the chairman of the Committee on Foreign Affairs of the Senate, who was a member of the Peace Commission at Paris, and it is possible that he had some knowledge of the law, and it is also possible that all knowledge of the law had not been absorbed by the gentleman from New York.

Now, it is a simple bill. It provides:

That the President of the United States shall appoint, by and with the advice and consent of the Senate, three suitable persons learned in the law, who shall constitute a commission, whose duty it shall be, and it shall have jurisdiction, to receive, examine, and adjudicate all claims of citizens of the United States against Spain, which the United States agreed to adjudicate and settle by the seventh article of the treaty concluded between the United States and Spain on the 10th day of December, A. D. 1898. It shall adjudicate said claims according to the merits of the several cases, the principles of equity, and of international law. One of said persons shall be designated by the terms of his appointment to be the president of said commission.

* * * * * * *

SEC. 2. That each of the members of said commission, the Assistant Attorney-General, the assistant attorneys, and the clerk provided for by this act shall be citizens of the United States, and shall take the oath of office prescribed by law to be taken by officers of the United States.

SEC. 3. That the said commission shall, within thirty days after the appointment of the members thereof, meet, and it shall thereafter hold its sessions in the city of Washington. * * *

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