LEGISLATIVE
INTENT SERVICE, INC.

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DECLARATION OF JENNY S. LILLGE

I, Jenny S. Lillge, declare:

I am an attorney licensed to practice in California, State Bar No. 265046, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to uncodified section 71 (of which current section 171 of Title 35 of the United States Code is derived), by House of Representatives Bill No. 1714 of 1870 [hereinafter referred to as H.R. 1714]. H.R. 1714 was enacted by Congress as Chapter 230, on July 8, 1870, at 16 United States Statutes 198.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on H.R. 1714 of 1870 as it relates to Title 35, United States Code section 71. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc.

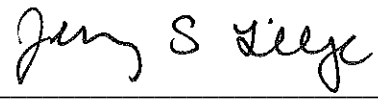
H.R. 1714 (JENCKES-1870), CHAPTER 230:

1. All available versions of H.R. 1714 (Jenckes-1870);
2. Excerpt regarding keywords related to H.R. 1714 from Part II, 35th – 45th Congresses, 1857-1879, *CIS US Serial Set Index* as follows:
   a. Finding Lists,
   b. Subject Lists;
3. All available versions of H.R. 1714 (Jenckes-1870);
4. Excerpt regarding H.R. 1714 from the *Congressional Globe Index*, 41st Congress, Second Session;
5. Excerpt regarding H.R. 1714 from the *Congressional Globe*, 41st Congress, Second Session, as follows:
   a. Senate Debate, April 7, 1870,
   b. Senate Debate, April 13, 1870,
   c. House Debate, April 14, 1870,

d. Senate Debate, April 20, 1870,
e Senate Debate, April 21, 1870,
f. Senate Debate, April 25, 1870,
g. Senate Debate, May 31, 1870,
h. House Debate, June 24, 1870,
i. Senate Debate, June 25, 1870,
j. House Debate, June 29, 1870,
k. Senate Debate, June 29, 1870,
l. Senate Debate, July 2, 1870,
m. House Debate, July 5, 1870,
n. House Debate, July 6, 1870,
o. House Debate, July 8, 1870;

6. Excerpt regarding H.R. 1714 from the 1870 *Journal of the House of Representatives*;
7. Excerpt regarding H.R. 1714 from the 1870 *Journal of the Senate*;
8. Excerpt regarding Representative Thomas Jenckes from the *Congressional Directory*, 1869;
9.. Senate Report No. 101, entitled "Report of the Commissioners Appointed Under Act of June 27, 1866," by the Committee on the Judiciary, Jun 26, 1868;
10. House Report No. 31, entitled "Report of the Commissioners to Revise the Statutes of the United States," by the Committee on the Revision of the Laws, January 26, 1869;
11. Senate Report No. 3, entitled "Report of The Commissioners appointed to Revise and Consolidate the Statutes of the United States Under Acts of June 27, 1866, and May 4, 1870," December 4, 1871;
12. Excerpt regarding Title LX, Patents, Trademarks and Copyrights" from *Revised Statutes of the United States*, 1873-74.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 8th day of June, 2017 at Woodland, California.



JENNY S. LILLGE

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PUBLIC LAWS

OF THE

UNITED STATES OF AMERICA,

PASSED AT THE SECOND SESSION

OF THE

FORTY-FIRST CONGRESS;

1869–1870.

Carefully collated with the Originals at Washington.

EDITED BY

GEORGE P. SANGER,

COUNSELLOR AT LAW.

The rights and interest of the United States in the stereotype plates from which this work is printed are hereby recognized, acknowledged, and declared by the publishers, according to the provisions of the joint resolution of Congress, passed March 3, 1845.

TO BE CONTINUED ANNUALLY.

BOSTON:
LITTLE, BROWN, AND COMPANY.
1870.

of six hundred and seventy-eight thousand three hundred and sixty-two dollars and forty-one cents, in full of said claim; and whereas by an arrangement made by the said State of Massachusetts and the State of Maine, at the time of their separation, in eighteen hundred and twenty, the said State of Maine becomes the owner of one third of this claim; and whereas both of said States have assigned their respective interests in said claim to the European and North American Railway Company of Maine, to aid said company in constructing its line of railway, the Secretary of the Treasury is hereby authorized and directed to pay one third part of the said claim of six hundred and seventy-eight thousand three hundred and sixty-two dollars and forty-one cents to the State of Maine, and the other two thirds part thereof to the State of Massachusetts, by an issue to each of said States for the use and benefit of said European and North American Railway Company, of an amount of United States certificates of indebtedness equal to its share in the whole sum allowed and to be paid; said certificates to be of the denomination of one thousand dollars each, to be made and issued by the Secretary of the Treasury in such form, and signed, attested, and registered as he shall direct, and with or without interest warrants as he may prefer. Each certificate to run five years from its date, to draw interest, payable semiannually, at the rate of four per centum per annum, and to be payable, both principal and interest, in lawful money of the United States, to be hereafter appropriated and provided for by Congress.

One third to be paid to Maine and two thirds to Massachusetts, and all for the benefit of the European and North American Railway Co.

Certificates of indebtedness, form, interest, &c.

All claims by Massachusetts, Maine, &c. for, &c. to be liquidated hereby.

Vol. viii. p. 672.

Sec. 2. *And be it further enacted*, That the acceptance by the said States of Massachusetts and Maine and the said European and North American Railway Company of the amount hereby authorized to be paid to each of said States for the use and benefit of said railway company shall be held and regarded as a full adjustment and payment of any and all claims for interest as aforesaid, and also a complete adjustment, liquidation, and payment of any and all other claims of the said States of Massachusetts and Maine, and of said railway company, or either of them, against the United States for and on account of any matters arising from any money expended by said State of Massachusetts on account of the war with Great Britain, in eighteen hundred and twelve to eighteen hundred and fifteen, or any interest thereon, or on account of any matters arising out of or accruing from the treaty with Great Britain known as the treaty of Washington, or for or on account of any other matters which have been assigned by said States of Massachusetts and Maine to said railway company.

Approved, July 8, 1870.

July 8, 1870.

CHAP. CCXXX.—*An Act to revise, consolidate, and amend the Statutes relating to Patents and Copyrights.*

Patent office attached to Department of the Interior.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be attached to the Department of the Interior the office, heretofore established, known as the patent office, wherein all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

Officers and employees of patent office.

Appointments by the President;

by the Secretary of the Interior upon nomination of commissioner of patents.

Sec. 2. *And be it further enacted*, That the officers and employees of said office shall continue to be: one commissioner of patents, one assistant commissioner, and three examiners-in-chief, to be appointed by the President, by and with the advice and consent of the Senate; one chief clerk, one examiner in charge of interferences, twenty-two principal examiners, twenty-two first-assistant examiners, twenty-two second assistant examiners, one librarian, one machinist, five clerks of class four, six clerks of class three, fifty clerks of class two, forty-five clerks of class one, and one messenger and purchasing clerk, all of whom shall be appointed

by the Secretary of the Interior, upon nomination of the commissioner of patents.

Additional clerks, copyists, and laborers.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior may also appoint, upon like nomination, such additional clerks of classes two and one, and of lower grades, copyists of drawings, female copyists, skilled laborers, laborers, and watchmen, as may be from time to time appropriated for by Congress.

Salaries of officers and employees.

SEC. 4. *And be it further enacted*, That the annual salaries of the officers and employees of the patent office shall be as follows: —

Of the commissioner of patents, four thousand five hundred dollars.

Of the assistant commissioner, three thousand dollars.

Of the examiners-in-chief, three thousand dollars each.

Of the chief clerk, two thousand five hundred dollars.

Of the examiner in charge of interferences, two thousand five hundred dollars.

Of the principal examiners, two thousand five hundred dollars each.

Of the first assistant examiners, one thousand eight hundred dollars each.

Of the second assistant examiners, one thousand six hundred dollars each.

Of the librarian, one thousand eight hundred dollars.

Of the machinist, one thousand six hundred dollars.

Of the clerks of class four, one thousand eight hundred dollars each.

Of the clerks of class three, one thousand six hundred dollars each.

Of the clerks of class two, one thousand four hundred dollars each.

Of the clerks of class one, one thousand two hundred dollars each.

Of the messenger and purchasing clerk, one thousand dollars.

Of laborers and watchmen, seven hundred and twenty dollars each.

Of the additional clerks, copyists of drawings, female copyists, and skilled laborers, such rates as may be fixed by the acts making appropriations for them.

Officers, &c. to take oath.

SEC. 5. *And be it further enacted*, That all officers and employees of the patent office shall, before entering upon their duties, make oath or affirmation truly and faithfully to execute the trusts committed to them.

Commissioner and chief clerk to give bond.

SEC. 6. *And be it further enacted*, That the commissioner and chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their duties, and that they will render to the proper officers of the treasury a true account of all money received by virtue of their office.

Duties of commissioner.

SEC. 7. *And be it further enacted*, That it shall be the duty of the commissioner, under the direction of the Secretary of the Interior, to superintend or perform all the duties respecting the granting and issuing of patents which herein are, or may hereafter be, by law directed to be done; and he shall have charge of all books, records, papers, models, machines, and other things belonging to said office.

Franking privilege.

SEC. 8. *And be it further enacted*, That the commissioner may send and receive by mail, free of postage, letters, printed matter, and packages relating to the business of his office, including patent-office reports.

Annual report of commissioner to Congress.

SEC. 9. *And be it further enacted*, That the commissioner shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the

Contents of report.

condition of the patent office, as may be useful to Congress or the public.

Examiners-in-chief and their duties.

SEC. 10. *And be it further enacted*, That the examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

Assistant commissioner to act as commissioner when, &c.

SEC. 11. *And be it further enacted*, That in case of the death, resignation, absence, or sickness of the commissioner, his duties shall devolve upon the assistant commissioner until a successor shall be appointed, or such absence or sickness shall cease.

Seal of patent office.

SEC. 12. *And be it further enacted*, That the commissioner shall cause a seal to be provided for said office, with such device as the President may approve, with which all records or papers issued from said office, to be used in evidence, shall be authenticated.

Models, &c. to be classified and arranged in rooms;

rooms to be open for inspection.

SEC. 13. *And be it further enacted*, That the commissioner shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in said office; and said rooms and galleries shall be kept open during suitable hours for public inspection.

Certain models may be restored to applicants, or how otherwise disposed of.

SEC. 14. *And be it further enacted*, That the commissioner may restore to the respective applicants such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them after the application has been finally rejected for one year, paying the proceeds into the treasury, as other patent moneys are directed to be paid.

Library.

SEC. 15. *And be it further enacted*, That there shall be purchased, for the use of said office, a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated by Congress for that purpose.

Officers, &c. cannot take any interest in a patent, except, &c.

SEC. 16. *And be it further enacted*, That all officers and employees of the Patent Office shall be incapable, during the period for which they shall hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office.

Patent agents may be refused recognition by commissioner, for, &c.

SEC. 17. *And be it further enacted*, That for gross misconduct the commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

Papers filed in the office to be printed, if not, &c.

SEC. 18. *And be it further enacted*, That the commissioner may require all papers filed in the patent office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

Rules and regulations for business.

SEC. 19. *And be it further enacted*, That the commissioner, subject to the approval of the Secretary of the Interior, may from time to time establish rules and regulations, not inconsistent with law, for the conduct of proceedings in the patent office.

Copies of specifications and drawings, &c. and laws and decisions, &c. may be printed.

SEC. 20. *And be it further enacted*, That the commissioner may print or cause to be printed copies of the specifications of all letters-patent and of the drawings of the same, and copies of the claims of current issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.

Patents, how signed and issued.

SEC. 21. *And be it further enacted*, That all patents shall be issued in the name of the United States of America, under the seal of the patent

office, and shall be signed by the Secretary of the Interior and countersigned by the commissioner, and they shall be recorded, together with the specification, in said office, in books to be kept for that purpose. Patents to be recorded;

SEC. 22. *And be it further enacted*, That every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the said invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof; and a copy of said specifications and of the drawings shall be annexed to the patent and be a part thereof. to contain what; to run for seventeen years. Copies of specifications, &c. to make part of patent.

SEC. 23. *And be it further enacted*, That every patent shall date as of a day not later than six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent; and if the final fee shall not be paid within that period, the patent shall be withheld. Date of patent.

SEC. 24. *And be it further enacted*, That any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented, or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the duty required by law, and other due proceedings had, obtain a patent therefor. Patents may be obtained for what.

SEC. 25. *And be it further enacted*, That no person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country; *provided* the same shall not have been introduced into public use in the United States for more than two years prior to the application, and that the patent shall expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term; but in no case shall it be in force more than seventeen years. Prior patent in a foreign country not to debar from receiving a patent here, &c. Proviso. Proceedings to obtain a patent.

SEC. 26. *And be it further enacted*, That before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the commissioner, and shall file in the patent office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery; and said specification and claim shall be signed by the inventor and attested by two witnesses. Application therefor and description. Specification and claim.

SEC. 27. *And be it further enacted*, That when the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the patent office; and a copy of said drawings, to be furnished by the patent office, shall be attached to the patent as part of the specification. Drawings.

SEC. 28. *And be it further enacted*, That when the invention or discovery is of a composition of matter, the applicant, if required by the commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment. Specimens of ingredients, &c.

SEC. 29. *And be it further enacted*, That in all cases which admit of Models.

representation by model, the applicant, if required by the commissioner, shall furnish one of convenient size to exhibit advantageously the several parts of his invention or discovery.

Oath of applicant;

SEC. 30. *And be it further enacted*, That the applicant shall make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. And said oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent, holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant may be.

before whom may be administered.

Upon filing application and payment of duty, examination to be made.

Patent to issue, if, &c.

SEC. 31. *And be it further enacted*, That on the filing of any such application and the payment of the duty required by law, the commissioner shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the commissioner shall issue a patent therefor.

Applications to be completed within two years of filing petition, or deemed abandoned, unless, &c.

SEC. 32. *And be it further enacted*, That all applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the commissioner that such delay was unavoidable.

Patents may be granted, &c. to assignee.

Proceedings in such case.

SEC. 33. *And be it further enacted*, That patents may be granted and issued or reissued to the assignee of the inventor or discoverer, the assignment thereof being first entered of record in the patent office; but in such case the application for the patent shall be made and the specification sworn to by the inventor or discoverer; and also, if he be living, in case of an application for reissue.

Executor or administrator may obtain patent, when, &c. in trust for the heirs or devisees.

Oath in such cases.

SEC. 34. *And be it further enacted*, That when any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application shall be made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them.

If final fee is not paid within six months from &c. any person interested in the invention, &c. may apply for patent within two years from, &c.

No damages for intermediate use.

In cases of applications rejected or withdrawn, prior, &c. applicant may renew, &c. application.

SEC. 35. *And be it further enacted*, That any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who has failed to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application: *Provided*, That the second application be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent, as aforesaid, was ordered to issue, prior to the issue thereof: *And provided further*, That when an application for a patent has been rejected or withdrawn, prior to the passage of this act, the applicant shall have six months from the date of such passage to renew his application, or to file a new one; and if he

omit to do either, his application shall be held to have been abandoned. Upon the hearing of such renewed applications abandonment shall be considered as a question of fact.

When application held to be abandoned.

SEC. 36. *And be it further enacted*, That every patent or any interest therein shall be assignable in law, by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States; and said assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the patent office within three months from the date thereof.

Patents, &c. assignable.

Exclusive rights.

Assignment, &c. void against subsequent purchaser, &c. unless, &c.

SEC. 37. *And be it further enacted*, That every person who may have purchased of the inventor, or with his knowledge and consent may have constructed any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or sold or used one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

Persons purchasing of inventor, &c. before application for patent, may use, &c. the specific thing purchased without liability.

SEC. 38. *And be it further enacted*, That it shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented, either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

The word "patented," &c. to be affixed to each patented article;

or a label to a package of such articles.

If not so marked, no damages unless upon proof of use after prior actual notice.

SEC. 39. *And be it further enacted*, That if any person shall, in any manner, mark upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee, or his assigns or legal representatives; or shall in any manner mark upon or affix to any such patented article the word "patent" or "patentee," or the words "letters-patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or shall in any manner mark upon or affix to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, he shall be liable for every such offense to a penalty of not less than one hundred dollars, with costs; one moiety of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

Penalty for wrongly marking as patented any unpatented article, or wrongly affixing the words "patent," &c. and how recovered;

one half to go to person suing, and the other to the United States.

SEC. 40. *And be it further enacted*, That any citizen of the United States, who shall have made any new invention or discovery, and shall desire further time to mature the same, may, on payment of the duty required by law, file in the patent office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention; and such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application shall be made within the year by any other person for a patent with which such caveat would in any manner interfere, the commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confl-

Caveat;

where to be filed, and how long operative.

Notice to person filing, of application for a patent with which caveat

would interfere, and subsequent proceedings.

dential archives of the office, and give notice thereof, by mail, to the person filing the caveat, who, if he would avail himself of his caveat, shall file his description, specifications, drawings, and model within three months from the time of placing said notice in the post-office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be indorsed on the notice. And an alien shall have the privilege herein granted, if he shall have resided in the United States one year next preceding the filing of his caveat, and made oath of his intention to become a citizen.

Aliens.

Notice of rejection of claim for patent to be given to applicant with reasons therefor, &c.

Sec. 41. *And be it further enacted*, That whenever, on examination, any claim for a patent is rejected for any reason whatever, the commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant shall persist in his claim for a patent, with or without altering his specifications, the commissioner shall order a re-examination of the case.

Case to be re-examined, if, &c.

Interferences, &c.

Sec. 42. *And be it further enacted*, That whenever an application is made for a patent which, in the opinion of the commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the commissioner may issue a patent to the party who shall be adjudged the prior inventor, unless the adverse party shall appeal from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the commissioner shall prescribe.

Patent to issue to whom.

Affidavits and depositions.

Sec. 43. *And be it further enacted*, That the commissioner may establish rules for taking affidavits and depositions required in cases pending in the patent office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

Subpœnas to witnesses.

Sec. 44. *And be it further enacted*, That the clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the patent office, shall, upon the application of any party thereto, or his agent or attorney, issue [a] subpœna for any witness residing or being within said district or Territory, commanding him to appear and testify before any officer in said district or Territory authorized to take depositions and affidavits, at any time and place in the subpœna stated; and if any witness, after being duly served with such subpœna, shall neglect or refuse to appear, or after appearing shall refuse to testify, the judge of the court whose clerk issued the subpœna, may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience as in other like cases.

Penalty upon witness for refusing to appear as directed.

Witness fees.

Sec. 45. *And be it further enacted*, That every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States, but no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him, nor be deemed guilty of contempt for disobeying such subpœna, unless his fees and travelling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

Witness not compelled to go more than forty miles, &c. unless, &c.;

nor to disclose his own secret invention.

Sec. 46. *And be it further enacted*, That every applicant for a patent

or the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interference[s], in such case to the board of examiners-in-chief, having once paid the fee for such appeal provided by law. Appeals from primary examiner;

SEC. 47. *And be it further enacted*, That if such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the duty required by law, appeal to the commissioner in person. from examiners-in-chief;

SEC. 48. *And be it further enacted*, That if such party, except a party to an interference, is dissatisfied with the decision of the commissioner, he may appeal to the supreme court of the District of Columbia, sitting in banc. from the commissioner.

SEC. 49. *And be it further enacted*, That when an appeal is taken to the supreme court of the District of Columbia, the appellant shall give notice thereof to the commissioner, and file in the patent office, within such time as the commissioner shall appoint, his reasons of appeal, specifically set forth in writing. Practice in cases of appeals to the supreme court of the District of Columbia.

SEC. 50. *And be it further enacted*, That it shall be the duty of said court, on petition, to hear and determine such appeal, and to revise the decision appealed from in a summary way, on the evidence produced before the commissioner, at such early and convenient time as the court may appoint, notifying the commissioner of the time and place of hearing; and the revision shall be confined to the points set forth in the reasons of appeal. And after hearing the case, the court shall return to the commissioner a certificate of its proceedings and decision, which shall be entered of record in the patent office, and govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question. Duty of the court upon such appeals. Its decision not to preclude the right to test validity of patent in any court.

SEC. 51. *And be it further enacted*, That on receiving notice of the time and place of hearing such appeal, the commissioner shall notify all parties who appear to be interested therein in such manner as the court may prescribe. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the commissioner shall furnish it with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the commissioner and the examiners may be examined under oath, in explanation of the principles of the machine or other thing for which a patent is demanded. Practice in the hearing of appeals by the court.

SEC. 52. *And be it further enacted*, That whenever a patent on application is refused, for any reason whatever, either by the commissioner or by the supreme court of the District of Columbia upon appeal from the commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the commissioner to issue such patent, on the applicant filing in the patent office a copy of the adjudication, and otherwise complying with the requisitions of law. And in all cases where there is no opposing party a copy of the bill shall be served on the commissioner, and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not. If a patent on application is refused, applicant may bring bill in equity, &c. Patent to issue, if, &c. Copy to be served upon commissioner, if, &c. Expenses.

SEC. 53. *And be it further enacted*, That whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery Reissues.

Reissues.

more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in the case of his death or assignment of the whole or any undivided part of the original patent, to his executors, administrators, or assigns, for the unexpired part of the term of the original patent, the surrender of which shall take effect upon the issue of the amended patent; and the commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent. And the specifications and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. And the patent so reissued, together with the corrected specification, shall have the effect and operation in law, on the trial of all actions for causes thereafter arising, as though the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

Several patents for separate parts of the thing patented.

Effect of patent so reissued.

No new matter.

Disclaimer;

SEC. 54. *And be it further enacted*, That whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the duty required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; said disclaimer shall be in writing, attested by one or more witnesses, and recorded in the patent office, and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

to be in writing, attested and recorded.

Pending actions not affected.

What courts to have jurisdiction of patent cases.

SEC. 55. *And be it further enacted*, That all actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well in equity as at law, by the circuit courts of the United States, or any district court having the powers and jurisdiction of a circuit court, or by the supreme court of the District of Columbia, or of any Territory; and the court shall have power, upon bill in equity filed by any party aggrieved, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement, the *claimant* [complainant] shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction, and the court shall have the same powers to increase the same in its discretion that are given by this act to increase the damages found by verdicts in actions upon the case; but all actions shall be brought during the term for which the letters-patent shall be granted or extended, or within six years after the expiration thereof.

Injunctions.

Damages for infringements.

Actions to be brought within what time.

Writs of error or appeal to the Supreme Court of the United States.

SEC. 56. *And be it further enacted*, That a writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court, or of any district court exercising the jurisdiction of a circuit court, or of the supreme court of the District of Columbia or of any Territory, in any action, suit, controversy, or case, at law or in equity, touching patent rights, in the same manner and under the same circumstances as in other judgments and decrees of such circuit courts, without regard to the sum or value in controversy.

Written, &c. copies of papers, &c. under the hand and seal of the commissioner to be competent evidence when, &c.

Who entitled to copies.

Foreign letters-patent.

SEC. 57. *And be it further enacted*, That written or printed copies of any records, books, papers, or drawings belonging to the patent office, and of letters-patent under the signature of the commissioner or acting commissioner, with the seal of office affixed, shall be competent evidence in all cases wherein the originals could be evidence, and any person making application therefor, and paying the fee required by law, shall have certified copies thereof. And copies of the specifications and drawings of foreign letters-patent, certified in like manner, shall be prima facie evidence of the fact of the granting of such foreign letters-patent, and of the date and contents thereof.

Suits in regard to interfering patents.

SEC. 58. *And be it further enacted*, That whenever there shall be interfering patents, any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court having cognizance thereof, as hereinbefore provided, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the rights of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

Either patent may be declared void, &c.

Rights of parties to the suit, &c. only affected.

Damages for infringement of patent, how recovered.

SEC. 59. *And be it further enacted*, That damages for the infringement of any patent may be recovered by action on the case in any circuit court of the United States, or district court exercising the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or of any Territory, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict shall be rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

Court may enter judgment for not over three times the amount of actual damages found by verdict and costs.

Patentees may maintain suits for infringements of any material, &c. part of patent, although the specifications are too large.

SEC. 60. *And be it further enacted*, That whenever, through inadvertence, accident, or mistake, and without any wil[l]ful default or intent to defraud or mislead the public, a patentee shall have (in his specification) claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer as aforesaid, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, provided it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the parts so claimed, without right as aforesaid, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the patent office before the commencement of the suit; nor shall he be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to enter said disclaimer.

Plaintiff not to recover costs unless, &c.

In actions for infringements defendant may plead the general issue, and after notice may give in evidence that &c.

Sec. 61. *And be it further enacted*, That in any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove on trial any one or more of the following special matters: —

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the patent office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

Third. That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country, for more than two years before his application for a patent, or had been abandoned to the public.

In notices as to proof of previous invention, &c. defendant to state what.

Costs.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented, or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

Defences in equity.

Patent not to be held void on account of previous use in foreign country, if, &c.

Sec. 62. *And be it further enacted*, That whenever it shall appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

Extension of patents granted prior to March 2, 1861.

Application to set forth what, and when to be filed.

Sec. 63. *And be it further enacted*, That where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of his patent beyond the original term of its limitation, he shall make application therefor, in writing, to the commissioner, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of said invention or discovery. And said application shall be filed not more than six months nor less than ninety days before the expiration of the original term of the patent, and no extension shall be granted after the expiration of said original term.

No extension after expiration of original term.

Commissioner to give notice in certain newspapers of the application for extension, &c.

Sec. 64. *And be it further enacted*, That upon the receipt of such application, and the payment of the duty required by law, the commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

Sec. 65. *And be it further enacted*, That on the publication of such

notice, the commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make to said commissioner a full report of the case, and particularly whether the invention or discovery was new and patentable when the original patent was granted. Case to be referred to the principal examiner in that class.

SEC. 66. *And be it further enacted*, That the commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced, both for and against the extension; and if it shall appear to his satisfaction that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the said commissioner shall make a certificate thereon, renewing and extending the said patent for the term of seven years from the expiration of the first term, which certificate shall be recorded in the patent office, and thereupon the said patent shall have the same effect in law as though it had been originally granted for twenty-one years. Commissioner to hear and decide the question of extension. Patent to be renewed and extended for seven years, if, &c. Effect of renewal.

SEC. 67. *And be it further enacted*, That the benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented to the extent of their interest therein. Benefit of extension to extend to assignees, &c.

SEC. 68. *And be it further enacted*, That the following shall be the rates for patent fees:— Rates for patent fees.

On filing each original application for a patent, fifteen dollars. Application.

On issuing each original patent, twenty dollars. Patent.

On filing each caveat, ten dollars. Caveat.

On every application for the reissue of a patent, thirty dollars. Reissue.

On filing each disclaimer, ten dollars. Disclaimer.

On every application for the extension of a patent, fifty dollars. Extension.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars. Appeals.

On every appeal from the examiners-in-chief to the commissioner, twenty dollars.

For certified copies of patents and other papers, ten cents per hundred words. Copies.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars. Recording.

For copies of drawings, the reasonable cost of making them. Copies of drawings.

SEC. 69. *And be it further enacted*, That patent fees may be paid to the commissioner, or to the treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor. And all money received at the patent office, for any purpose, or from any source whatever, shall be paid into the treasury as received, without any deduction whatever; and all disbursements for said office shall be made by the disbursing clerk of the Interior Department. Patent fees to be paid to whom. Receipt. Money received to be paid over without deduction. Disbursements.

SEC. 70. *And be it further enacted*, That the treasurer of the United States is authorized to pay back any sum or sums of money to any person who shall have paid the same into the treasury, or to any receiver or depositary, to the credit of the treasurer, as for fees accruing at the patent office through mistake, certificate thereof being made to said treasurer by the commissioner of patents. Money paid by mistake to be repaid.

SEC. 71. *And be it further enacted*, That any person who, by his own

Patents for new and original designs, impressions, patterns, prints, &c.;

or new, useful, and original shapes, &c.

industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of wool[l]en, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture, to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, may, upon payment of the duty required by law, and other due proceedings had the same as in cases of inventions or discoveries, obtain a patent therefor.

Models of designs, when may be dispensed with.

Sec. 72. *And be it further enacted*, That the commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

Patents for designs granted for what term.

Sec. 73. *And be it further enacted*, That patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

Patentees of designs issued before March 2, 1861, entitled to extension of patents.

Sec. 74. *And be it further enacted*, That patentees of designs issued prior to March two, eighteen hundred and sixty-one, shall be entitled to extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as are provided for the extension of patents for inventions or discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

Rates of fees in design cases.

Sec. 75. *And be it further enacted*, That the following shall be the rates of fees in design cases:—

For three years and six months, ten dollars.

For seven years, fifteen dollars.

For fourteen years, thirty dollars.

For all other cases in which fees are required, the same rates as in cases of inventions or discoveries.

Same regulations, &c. to apply to patents for designs as to other patents.

Sec. 76. *And be it further enacted*, That all the regulations and provisions which apply to the obtaining or protection of patents for inventions or discoveries, not inconsistent with the provisions of this act, shall apply to patents for designs.

Trade-marks, who entitled to protection for, and how.

Sec. 77. *And be it further enacted*, That any person or firm domiciled in the United States, and any corporation created by the authority of the United States, or of any State or Territory thereof, and any person, firm, or corporation resident of or located in any foreign country which by treaty or convention affords similar privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements, to wit:—

Record in patent office of names of parties, &c.;

First. By causing to be recorded in the patent office the names of the parties and their residences and place of business, who desire the protection of the trade-mark.

merchandise to which trade-mark is to apply;

Second. The class of merchandise and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

description of fac-simile of trade-mark, and how to be applied;

Third. A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been or is intended to be applied and used.

time of use;

Fourth. The length of time, if any, during which the trade-mark has been used.

payment of fee, &c.

Fifth. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

Sixth. The compliance with such regulations as may be prescribed by the commissioner of patents.

Declaration under oath that

Seventh. The filing of a declaration, under the oath of the person, or of some member of the firm or officer of the corporation, to the effect that

the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation has the right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the description and facsimiles presented for record are true copies of the trade-mark sought to be protected.

the parties have the sole right to use the trade-mark, &c.

SEC. 78. *And be it further enacted*, That such trade-mark shall remain in force for thirty years from the date of such registration, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country and in which it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere, and during the period that it remains in force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods: *Provided*, That six months prior to the expiration of said term of thirty years, application may be made for a renewal of such registration, under regulations to be prescribed by the commissioner of patents, and the fee for such renewal shall be the same as for the original registration; certificate of such renewal shall be issued in the same manner as for the original registration, and such trade-mark shall remain in force for a further term of thirty years: *And provided further*, That nothing in this section shall be construed by any court as abridging or in any manner affecting unfavorably the claim of any person, firm, corporation, or company to any trade-mark after the expiration of the term for which such trade-mark was registered.

Trade-mark, how long to remain in force;

its effect.

Application for renewal, when may be made, and how.

Certificate and term of renewal.

Nothing herein to affect the right to trade-mark after expiration of term of registration.

SEC. 79. *And be it further enacted*, That any person or corporation who shall reproduce, counterfeit, copy, or imitate any such recorded trade-mark, and affix the same to goods of substantially the same descriptive properties and qualities as those referred to in the registration, shall be liable to an action in the case for damages for such wrongful use of said trade-mark, at the suit of the owner thereof, in any court of competent jurisdiction in the United States, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of his trade-mark and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful use. The commissioner of patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public: *Provided*, That this section shall not prevent the registry of any lawful trade-mark rightfully used at the time of the passage of this act.

Damages for counterfeiting, &c. and affixing such trade-mark to like goods.

Injunction.

Certain so-called trade-marks not to be received and recorded.

Proviso.

SEC. 80. *And be it further enacted*, That the time of the receipt of any trade-mark at the patent office for registration shall be noted and recorded, and copies of the trade-mark and of the date of the receipt thereof, and of the statement filed therewith, under the seal of the patent office, certified by the commissioner, shall be evidence in any suit in which such trade-mark shall be brought in controversy.

Time of receipt of trade-mark at patent office to be recorded.

Copies under seal, &c. to be evidence.

SEC. 81. *And be it further enacted*, That the commissioner of patents is authorized to make rules, regulations, and prescribe forms for the transfer of the right to the use of such trade-marks, conforming as nearly as practicable to the requirements of law respecting the transfer and transmission of copyrights.

Rules, forms, &c. for transfers of right to use trade-marks.

Damages for fraudulently procuring registry of a trade-mark.

SEC. 82. *And be it further enacted*, That any person who shall procure the *the* registry of any trade-mark, or of himself as the owner thereof, or an entry respecting a trade-mark in the patent office under this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay damages in consequence of any such registry or entry to the person injured thereby, to be recovered in an action on the case before any court of competent jurisdiction within the United States.

Rights or remedies at law or in equity as to wrongful use of trade-mark not affected hereby.

SEC. 83. *And be it further enacted*, That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity, which any party aggrieved by any wrongful use of any trade-mark might have had if this act had not been passed.

Trade-marks used, &c. in unlawful business, &c. or fraudulently obtained, not, &c.

SEC. 84. *And be it further enacted*, That no action shall be maintained under the provisions of this act by any person claiming the exclusive right to any trade-mark which is used or claimed in any unlawful business, or upon any article which is injurious in itself, or upon any trade-mark which has been fraudulently obtained, or which has been formed and used with the design of deceiving the public in the purchase or use of any article of merchandise.

Copyrights to be under whose control and where kept.

SEC. 85. *And be it further enacted*, That all records and other things relating to copyrights and required by law to be preserved, shall be under the control of the librarian of Congress, and kept and preserved in the library of Congress; and the librarian of Congress shall have the immediate care and supervision thereof, and, under the supervision of the joint committee of Congress on the library, shall perform all acts and duties required by law touching copyrights. The librarian shall cause a seal to be provided for said office, with such device as the joint committee on the library may approve, with which all records or papers issued from said office, and to be used in evidence, shall be authenticated.

Seal for office of librarian of Congress.

Additional bond.

He shall also give an additional bond, with sureties, to the Treasurer of the United States, in the sum of five thousand dollars, with the condition that he will render to the proper officers of the treasury a true account of all moneys received by virtue of his office. He shall also make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year. And the librarian of Congress shall receive a yearly compensation of four thousand dollars, to commence when this act shall take effect.

Annual report of copyrights.

Salary of librarian.

Subject-matters of copyright.

SEC. 86. *And be it further enacted*, That any citizen of the United States, or resident therein, who shall be the author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and his executors, administrators, or assigns, shall, upon complying with the provisions of this act, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others; and authors may reserve the right to dramatize or to translate their own works.

Copyrights granted for what term;

SEC. 87. *And be it further enacted*, That copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

when and how continued for further term.

SEC. 88. *And be it further enacted*, That the author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to

original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

Copy of record to be published within two months of the renewal.

SEC. 89. *And be it further enacted*, That copyrights shall be assignable in law, by any instrument of writing, and such assignment shall be recorded in the office of the librarian of Congress within sixty days after its execution, in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

Assignments of copyrights; to be void as against, &c. if not recorded within, &c.

SEC. 90. *And be it further enacted*, That no person shall be entitled to a copyright unless he shall, before publication, deposit in the mail a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts, for which he desires a copyright, addressed to the librarian of Congress, and, within ten days from the publication thereof, deposit in the mail two copies of such copyright book or other article, or in case of a painting, drawing, statue, statuary, model or design for a work of the fine arts, a photograph of the same, to be addressed to said librarian of Congress, as hereinafter to be provided.

No person entitled to copyright unless, &c. Printed copy of title, &c. Copies of copyright book, &c.

SEC. 91. *And be it further enacted*, That the librarian of Congress shall record the name of such copyright book, or other article, forthwith in a book to be kept for that purpose, in the words following: "Library of Congress, to wit. Be it remembered that on the ——— day of ———, anno Domini ———, A. B., of ———, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be, or description of the article,) the title or description of which is in the following words, to wit; (here insert the title or description,) the right whereof he claims as author, originator, (or proprietor, as the case may be,) in conformity with the laws of the United States respecting copy rights. C. D., Librarian of Congress." And he shall give a copy of the title or description, under the seal of the librarian of Congress, to said proprietor whenever he shall require it.

Record by librarian of Congress. Copy under his seal to proprietor.

SEC. 92. *And be it further enacted*, That for recording the title or description of any copyright book or other article, the librarian of Congress shall receive, from the person claiming the same, fifty cents; and for every copy under seal actually given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words; and for every copy thereof, ten cents for every one hundred words, which moneys, so received, shall be paid into the treasury of the United States.

Fees for recording title; for copy under seal; for recording assignment.

SEC. 93. *And be it further enacted*, That the proprietor of every copyright book or other article shall mail to the librarian of Congress at Washington, within ten days after its publication, two complete printed copies thereof, of the best edition issued, or description or photograph of such article as hereinbefore required, and a copy of every subsequent edition wherein any substantial changes shall be made.

Two copies of best edition to be sent to librarian of Congress, and a copy of each subsequent edition.

SEC. 94. *And be it further enacted*, That in default of such deposit in the post-office, said proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the librarian of Congress, in the name of the United States, in an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

Penalty in default of deposit, and how collected.

SEC. 95. *And be it further enacted*, That any such copyright book or other article may be sent to the librarian of Congress by mail, free of postage, provided the words "Copyright matter" are plainly written or printed on the outside of the package containing the same.

Copyrights to be free of postage.

Postmaster to give receipts for copyrights and forward without cost.

SEC. 96. *And be it further enacted*, That the postmaster to whom such copyright book, title, or other article is delivered, shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination, without cost to the proprietor.

Actions for infringements of copyright not to be maintained unless, &c.

SEC. 97. *And be it further enacted*, That no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof, or on the face of the substance on which the same shall be mounted, the following words, viz.: "Entered according to act of Congress, in the year ———, by A. B., in the office of the librarian of Congress, at Washington."

Penalty for inserting, &c. notice of copyright in book, &c. not copyrighted;

how distributed.

SEC. 98. *And be it further enacted*, That if any person shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, or other articles herein named, for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Damages for violations of copyrights of books;

SEC. 99. *And be it further enacted*, That if any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or, knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.

maps, charts, prints, &c.;

SEC. 100. *And be it further enacted*, That if any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or, knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such map or other article, as aforesaid, he shall forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof, either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or which have by him been sold or exposed for sale; one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

dramatic compositions.

SEC. 101. *And be it further enacted*, That any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, to be recovered by action in any court of competent jurisdiction; said damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

Damages for printing or publishing any manuscript without consent of author, &c.

SEC. 102. *And be it further enacted*, That any person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, (if such author or proprietor be a citizen of the United States, or resident therein,) shall be liable to said author or proprietor for all damages occasioned by such injury, to be recovered by action on the case in any court of competent jurisdiction.

Printing, sale, &c. of books, &c. made by aliens or non-residents, not prohibited.

SEC. 103. *And be it further enacted*, That nothing herein contained shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

Actions under copyright laws to be commenced in two years.

SEC. 104. *And be it further enacted*, That no action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

Defences to such actions.

SEC. 105. *And be it further enacted*, That in all actions arising under the laws respecting copyrights the defendant may plead the general issue, and give the special matter in evidence.

Circuit and district courts of the United States to have jurisdiction of copyright cases.

SEC. 106. *And be it further enacted*, That all actions, suits, controversies, and cases arising under the copyright laws of the United States shall be originally cognizable, as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or any Territory. And the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

Equity powers.

Writs of error and appeals.

SEC. 107. *And be it further enacted*, That a writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any court, in any action, suit, controversy, or case touching copyrights in the same manner and under the same circumstances as in other judgments and decrees of such courts, without regard to the sum or value in controversy.

Costs.

SEC. 108. *And be it further enacted*, That in all recoveries under the copyright laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon.

Books, maps, &c. received by Department of Interior to be under control of librarian of Congress, who has charge of copyrights.

SEC. 109. *And be it further enacted*, That all books, maps, charts, and other publications of every nature whatever, heretofore deposited in the Department of the Interior, according to the laws regulating copyrights, together with all the records of said department, and all records concerning the same which were removed by the Department of the Interior from the Department of State, shall be removed to and be under the control of the librarian of Congress, who is hereby charged with all the duties pertaining to copyrights required by law.

Clerks of district courts to send to librarian of Congress all books, &c. deposited and now in their offices, and all records of copyrights.

Duplicate copies, how distributed.

SEC. 110. *And be it further enacted*, That the clerk of each of the district courts of the United States shall transmit forthwith to the librarian of Congress all books, maps, prints, photograp[h]s, music, and other publications of every nature whatever, deposited in the said clerk's office, and not heretofore sent to the Department of the Interior, at Washington, together with all records of copyright in his possession, including the titles so recorded, and the dates of record: *Provided*, That where there are duplicate copies of legal, scientific, or mechanical works, one copy of each may be deposited in the library of the patent office, for which a receipt shall be given by the commissioner of patents to the librarian of Congress.

REPEALING CLAUSE AND SCHEDULE.

Repealing clause.

Saving of existing rights and actions;

pending applications for patents;

offences, penalties, and forfeitures.

SEC. 111. *And be it further enacted*, That the acts and parts of acts set forth in the schedule of acts cited, hereto annexed, are hereby repealed, without reviving any acts or parts of acts repealed by any of said acts, or by any clause or provisions therein: *Provided, however*, That the repeal hereby enacted shall not affect, impair, or take away any right existing under any of said laws; but all actions and causes of action, both in law and in equity, which have arisen under any of said laws, may be commenced and prosecuted, and if already commenced may be prosecuted to final judgment and execution, in the same manner as though this act had not been passed, excepting that the remedial provisions of this act shall be applicable to all suits and proceedings hereafter commenced: *And provided also*, That all applications for patents pending at the time of the passage of this act, in cases where the duty has been paid, shall be proceeded with and acted on in the same manner as though filed after the passage thereof: *And provided further*, That all offences which are defined and punishable under any of said acts, and all penalties and forfeitures created thereby, and incurred before this act takes effect, may be prosecuted, sued for, and recovered, and such offences punished according to the provisions of said acts, which are continued in force for such purpose.

Schedule of statutes cited and repealed.

Schedule of Statutes cited and repealed as printed in the Statutes at Large, including such Portions only of the Appropriation Bills referred to as are applicable to the Patent Office.

Patents.

PATENTS.

Act of July 4, 1836, chapter 357, volume 5, page 117.
March 3, 1837, chapter 45, volume 5, page 191.
March 3, 1839, chapter 88, volume 5, page 353.
August 29, 1842, chapter 263, volume 5, page 543.
August 6, 1846, chapter 90, volume 9, page 59.
May 27, 1848, chapter 47, volume 9, page 231.
March 3, 1849, chapter 108, volume 9, page 395.
March 3, 1851, chapter 32, volume 9, page 617.
August 30, 1852, chapter 107, volume 10, page 75.
August 31, 1852, chapter 108, volume 10, page 76.
March 3, 1853, chapter 97, volume 10, page 209.
April 22, 1854, chapter 52, volume 10, page 276.
March 3, 1855, chapter 175, volume 10, page 643.
August 18, 1856, chapter 129, volume 11, page 81.
March 3, 1859, chapter 80, volume 11, page 410.
February 18, 1861, chapter 37, volume 12, page 130.
March 2, 1861, chapter 88, volume 12, page 246.
March 3, 1863, chapter 102, volume 12, page 796.
June 25, 1864, chapter 159, volume 13, page 194.
March 3, 1865, chapter 112, volume 13, page 533.
June 27, 1866, chapter 143, volume 14, page 76.
March 29, 1867, chapter 17, volume 15, page 10.
July 20, 1868, chapter 177, volume 15, page 119.
July 23, 1868, chapter 227, volume 15, page 168.
March 3, 1869, chapter 121, volume 15, page 293.

Copyrights.

COPYRIGHTS.

Act of February 15, 1819, chapter 19, volume 3, page 481.
February 3, 1831, chapter 16, volume 4, page 436.
June 30, 1834, chapter 157, volume 4, page 728.

August 18, 1856, chapter 169, volume 11, page 138.
February 5, 1859, chapter 22, volume 11, page 380.
February 18, 1861, chapter 37, volume 12, page 130.
March 3, 1865, chapter 126, volume 13, page 540.
February 18, 1867, chapter 43, volume 14, page 395.
APPROVED, July 8, 1870.

CHAP. CCXXXV. — *An Act to amend "An Act granting the Right of Way to Ditch and Canal Owners over the public Lands, and for other Purposes."*

July 9, 1870.
1866, ch. 262.
Vol. xiv. p. 251.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act granting the right of way to ditch and canal owners over the public lands, and for other purposes, approved July twenty-six, eighteen hundred and sixty-six, be, and the same is hereby, amended by adding thereto the following additional sections, numbered twelve, thirteen, fourteen, fifteen, sixteen, and seventeen, respectively, which shall hereafter constitute and form a part of the aforesaid act.

Sections to be added to former act.

Placer claims to be subject to entry and patent.

SEC. 12. *And be it further enacted,* That claims, usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent under this act, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims: *Provided,* That where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands, no further survey or plat in such case being required, and the lands may be paid for at the rate of two dollars and fifty cents per acre: *Provided further,* That legal subdivisions of forty acres may be subdivided into ten-acre tracts; and that two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof: *And provided further,* That no location of a placer claim, hereafter made, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

If lands have been surveyed, entry to conform, &c.

Price of lands.

Ten-acre tracts.

Joint entry of contiguous claims.

Placer claim not to exceed one hundred and sixty acres.

Homestead and pre-emption rights not affected.

What evidence of possession, &c. to establish a right to a patent.

SEC. 13. *And be it further enacted,* That where said person or association, they and their grantors, shall have held and worked their said claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this act, in the absence of any adverse claim: *Provided, however,* That nothing in this act shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

Existing liens not affected.

Ex parte affidavits.

SEC. 14. *And be it further enacted,* That all ex parte affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated.

Fees of registers and receivers.

Regulations to carry act into effect.

SEC. 15. *And be it further enacted,* That registers and receivers shall receive the same fees for services under this act as are provided by law for like services under other acts of Congress; and that effect shall be given to the foregoing act according to such regulations as may be prescribed by the commissioner of the general land office.

Part of act 1853, ch. 145, Vol. x. p. 244, repealed.

SEC. 16. *And be it further enacted,* That so much of the act of March third, eighteen hundred and fifty-three, entitled "An act to provide for the survey of the public lands in California, the granting of pre-emption

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PART II

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H.exdoc. 109 (39-2) 1298
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H.exdoc. 96 (40-2) 1333
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H.exdoc. 96 (40-2) 1334
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S.rp. 554 (45-3) 1837
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H.rp. 185 (43-1) 1623
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[Printer's No., 719.

41ST CONGRESS,
2D SESSION.

H. R. 1714.

IN THE HOUSE OF REPRESENTATIVES.

APRIL 7, 1870.

Read twice, ordered to be printed, and recommitted to the Committee on Patents.

Strike out the parts within [brackets] and insert the parts in *italics*.

MR. JENCKES, from the Committee on Patents, reported the following bill:

A BILL

To revise, consolidate, and amend the statutes relating to patents and copyrights.

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PATENTS AND COPYRIGHTS.

CHAPTER I.

OF ORGANIZATION, DUTIES, AND GENERAL PROVISIONS.

SEC.
1. Patent Office established.
2. Officers and employés.
3. Additional employés.
4. Salaries.
5. Oath of office.
6. Official bonds.
7. Duties of Commissioner.
8. Franking privilege.
9. Annual report.
10. Duties of examiners-in-chief.

SEC.
11. Acting Commissioner.
12. Seal of office.
13. Display of models.
14. Restoring models.
15. Library.
16. Employés not to acquire interest in patents.
17. Refusal to recognize agent.
18. Printing papers.
19. Rules and regulations for Patent Office.
20. Printing, specifications, and drawings.

SECTION 1. There shall be [established and] attached to the Department of the Interior [an] *the* office, [to be] *heretofore established*, known as the Patent Office, wherein all

Patent Office established.

4 July, 1836, ch. 357, § 1, v. 5, p. 117.
3 Mar., 1849, ch. 108, § 2, v. 9, p. 395.

records, books, models, drawings, specifications, and other papers and things pertaining to patents, shall be safely kept and preserved.

Officers and employés.

4 July, 1836, ch. 357, § 2, v. 5, p. 118. 3 Mar., 1837, ch. 45, § 11, v. 5, p. 194. 3 Mar., 1839, ch. 88, § 1, v. 5, p. 353. 27 May, 1848, ch. 47, §§ 1, 3, v. 9, pp. 231, 232. 3 Mar., 1851, ch. 32, § 2, v. 9, p. 617. 31 Aug., 1852, ch. 108, § 1, v. 10, p. 96. 3 Mar., 1853, ch. 97, §§ 1, 3, v. 10, pp. 209, 211. 3 Mar., 1855, ch. 175, § 10, v. 10, p. 670. 18 Aug., 1856, ch. 129, § 9, v. 11, p. 91. 2 Mar., 1861, ch. 88, §§ 2, 7, v. 12, pp. 246, 247. 29 Mar., 1867, ch. 17, § 1, v. 15, p. 10. 3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

SEC. 2. The officers and employees of said office shall *continue to* be: one Commissioner of Patents, one Assistant Commissioner and three examiners-in-chief, to be appointed by the President, by and with the advice and consent of the Senate; one chief clerk, one superintendent of [drawing, twenty principal examiners, twenty first-assistant examiners, twenty second-assistant examiners,] *the annual report, one examiner in charge of interferences, twenty-two principal examiners, twenty-two first-assistant examiners, twenty-two second-assistant examiners,* one librarian, one machinist, [one] *five* clerks of class four, six clerks of class three, [eight] *fifty* clerks of class two, *forty-five clerks of class one,* and one messenger and purchasing clerk, all of whom shall be appointed by the Secretary of the Interior, *upon nomination of the Commissioner of Patents.*

Additional employés.

3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

SEC. 3. The Secretary of the Interior may also appoint such additional clerks of classes two and one, and of lower grades, copyists of drawings, female copyists, skilled laborers, laborers, and watchmen, as may be from time to time appropriated for by Congress.

Salaries.

27 May, 1848, ch. 47, § 1, v. 9, p. 231. 31 Aug., 1852, ch. 108, § 1, v. 10, p. 95. 3 Mar., 1853, ch. 97, §§ 1, 3, v. 10, pp. 209, 211. 22 Apr., 1854, ch. 52, §§ 1, 2, v. 10, p. 276.

SEC. 4. The annual salaries of the officers and employees of the Patent Office shall be as follows:

Of the Commissioner of Patents, four thousand five hundred dollars.

Of the Assistant Commissioner, three thousand dollars

Of the examiners-in-chief, three thousand dollars each.

Of the chief clerk, two thousand five hundred dollars.

3 Mar., 1855, ch. 175, §§ 10, 25, v. 10, pp. 670, 674.
2 Mar., 1861, ch. 88, § 4, v. 12, p. 247.
3 Mar., 1869, ch. 121, § 1, v. 15, pp. 287, 293.

[Of the superintendent of drawing, two thousand five hundred dollars.]

Of the examiner in charge of interferences, three thousand dollars.

Of the principal examiners, two thousand five hundred dollars each.

Of the first-assistant examiners, [one] *two* thousand [eight hundred] dollars each.

Of the second-assistant examiners, one thousand six hundred dollars each.

Of the librarian, [one thousand eight hundred] *two thousand five hundred* dollars.

Of the machinist, one thousand six hundred dollars.

Of the clerks of class four, one thousand eight hundred dollars each

Of the clerks of class three, one thousand six hundred dollars each.

Of the clerks of class two, one thousand four hundred dollars each.

Of the clerks of class one, one thousand two hundred dollars each.

Of the messenger and purchasing clerk, [eight hundred and forty] *one thousand* dollars.

Of laborers and watchmen, seven hundred and twenty dollars each.

Of the additional clerks, copyists of drawings, female copyists, and skilled laborers, such rates as may be fixed by the acts making appropriations for them.

Oath of office.

4 July, 1836, ch. 357, § 3, v. 5, p. 118.

SEC. 5. All officers and employees of the Patent Office shall, before entering upon their duties, make oath or affirmation truly and faithfully to execute the trusts committed to them.

Official bonds.

4 July, 1836, ch. 357, § 3, v. 5, p. 118.
31 Aug., 1852, ch. 108, § 1, v. 10, p. 95.

SEC. 6. The Commissioner and chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States; the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their duties, and that they will render, to the proper officers of the treasury, a true account of all money received by virtue of their office.

Duties of Commissioner.

4 July, 1836, ch. 357, § 1, v. 5, p. 117.
3 Mar., 1849, ch. 108, § 2, v. 9, p. 395.

SEC. 7. It shall be the duty of the Commissioner, under the direction of the Secretary of the Interior, to superintend or perform all the duties respecting the granting and issuing of patents which herein are, or may hereafter be, by law directed to be done; and he shall have charge of all books, records, papers, models, machines, and other things belonging to said office.

Franking privilege.

4 July, 1836, ch. 357, § 1, v. 5, p. 117.
27 May, 1848, ch. 47, § 4, v. 9, p. 232.

SEC. 8. The Commissioner may send and receive by mail, free of postage, letters, *printed matter*, and packages relating

to the business of his office, including Patent Office reports.

Annual report.

3 Mar., 1837, ch. 45, § 14, v. 5, p. 195.
3 Mar., 1859, ch. 80, § 4, v. 11, p. 422.
20 July, 1868, ch. 177, § 7, v. 15, p. 119.

SEC. 9. The Commissioner shall lay before Congress, [at the commencement of each annual session,] *in the month of January, annually*, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of the patentees, with their places of residence; a list of all patents which have [expired] *been extended* during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public. [And the printed report of said office, with the plates and drawings necessary to illustrate each subject, shall be in one volume, not to exceed eight hundred pages.]

Duties of examiners-in-chief.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 246.

SEC. 10. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners [in rejected claim, reissue, and] *upon applications for patents, and for reissues of patents, and in* interference cases; and when required by the Commissioner, they shall hear and [determine] *report* upon claims for extensions, and perform such other duties as he may assign them; [and they shall be governed in their action by rules prescribed by him.]

Acting Commissioner.

23 July, 1868, ch. 227, § 3, v. 15, p, 168.

SEC. 11. In case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the [examiner-in-chief oldest in commission,] *Assistant Commissioner* until a successor shall be appointed, or such absence or sickness shall cease.

Seal of office.

4 July, 1836, ch. 357, § 4, v. 5, p. 118.

4 McLean, 371.
2 Blatchf., 12.
14 How., 583.

SEC. 12. The Commissioner shall cause a seal to be provided for said office, with such device as the President may approve, with which all records or papers issued from said office, to be used in evidence, shall be authenticated.

Display of models.

4 July, 1836, ch. 357, § 20, v. 5, p. 125.

SEC. 13. The Commissioner shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in said office; and said rooms and galleries shall be kept open during suitable hours for public inspection.

Restoring models.

2 Mar., 1861, ch. 88, § 5, v. 12, p. 247.

SEC. 14. The Commissioner may restore to the respective applicants, [if demanded within one year from the time of final rejection,] such of the models belonging to rejected applications as he shall not think necessary to be preserved, [and if not so demanded,] *or* he may sell or otherwise dispose of them, paying the proceeds into the treasury, as other patent moneys are directed to be paid.

Library.

4 July, 1836, ch. 357, § 19, v. 5, p. 125.

SEC. 15. There shall be purchased for the use of said office, [under the direction of the Committee on the Library of Congress,] a library of such scientific works and periodicals,

both foreign and American, as may aid the officers in the discharge of their duties.

Employés not to acquire interest in patents.

4 July, 1836, ch. 357, § 2, v. 5, p. 118.

SEC. 16. All officers and employees of the Patent Office shall be incapable, during the period for which they shall hold their appointments, to aquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office.

Refusal to recognize agent.

2 Mar., 1861, ch. 88, § 8, v. 12, p. 247.

SEC. 17. For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the [President] *Secretary of the Interior.*

Printing papers.

2 Mar., 1861, ch. 88, § 8, v. 12, p. 247.

SEC. 18. The Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed, at the cost of the party filing them.

Renting rooms for Patent Office.

20 July, 1868, ch. 177, § 7, v. 15, p. 119.

SEC. 19. [The Commissioner may rent, under the direction of the Committees on Patents of the Senate and House of Representatives, such rooms as may be necessary for the speedy and convenient transaction of the business of his office.] *The Commissioner, subject to the approval of the Secretary of the Interior, may from time to time establish rules and regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.*

SEC. 20. *The Commissioner may print or cause to be printed copies of the specifications of all letters-patent and of the drawings of the same, and copies of the claims of current*

issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.

CHAPTER II

OF PATENTS.

SEC.
21. Issuing, signing, and recording of patents.
22. Contents and grant of patents.
23. Date of patents.
24. What may be patented.
25. Foreign inventions may be patented.
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27. Drawings.
28. Specimen of ingredients.
29. Model.
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31. Examination of application.
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44. Duty of clerk of court.
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65. Case to be referred to examiner.
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67. Extension to benefit assignees.
68. Patent fees.
69. To whom paid; who to disburse money.
70. Additional fees at end of seven and twelve years.
71. Money paid by mistake.

Issuing, signing, and recording of patents.

4 July, 1836, ch. 357, § 5, v. 5, p. 118.
3 Mar., 1849, ch. 108, § 2, v. 9, p. 395.

SECTION [20] 21. All patents shall be issued in the name of the United States of America under the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner, and they shall be recorded, together with the [descriptions,] specification [and drawings] in said office, in books to be kept for that purpose.

SEC. [21] 22. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the applicant, his heirs, executors, administrators, or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the said invention or discovery *throughout the United States and the Territories thereof*, referring to the specification for the particulars thereof; and a copy of said specifications and of the drawings shall be annexed to the patent and be a part thereof.

Contents and grant of patents.

4 July, 1836, ch. 357, § 5, v. 5, pp. 118, 119.
3 Mar., 1837, ch. 45, § 6, v. 5, p. 193.
2 Mar., 1861, ch. 88, § 16, v. 12, p. 249.

Baldwin, 322.
4 Ohio, 310.
7 Pet., 319.
15 Wend., 395.
2 McLean, 178.
3 McLean, 297.
2 Blatchf., 23.
2 Wash., 126.
Pet. C. C., 341.
1 Paine, 450.
Bald., 314.
2 Story, 614, 621.
2 Blatchf., 9.
4 How., 711.
6 How., 478.

SEC. [22.] 23. Every patent shall date as of a day not later than six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, [and whenever the applicant requests it, the patent shall date from the time of filing the specification and drawings, if not more than six months prior to the actual issuing of the patent.]

Date of patents.

4 July, 1836, ch. 357, § 8, v. 5. pp. 120, 121.
3 Mar., 1863, ch. 102, § 3, v. 12, p. 796.

SEC. [23.] 24. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, [before his invention or discovery thereof, and not at the time,] *and not* patented, or described in any printed publication in this or any foreign country, [nor] *before his invention or discovery thereof, and not* in public use or on sale [with his consent] for more than two years prior to his application, [or except] *unless* the

What may be patented.

4 July, 1836, ch. 357, §§ 6, 7, v. 5, pp. 119, 120.
3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.
29 Aug., 1842, ch. 263, § 3, v. 5, pp. 543, 544.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

Pet. C. C., 341, 400.
4 Wash., 12.
1 How., 208.
15 How., 267.
10 How., 496.
1 Gall., 480.
3 Wheat., 516.
2 Story, 411.
15 How., 267.
11 How., 265.
14 How., 175.
2 Wall, jr., 360.
3 Sumn., 518.
Brightley, 99.

4 McLean, 180, 461.
4 Wash., 52.
1 Blatchf., 248, 463, 494.
1 Wash., 171.
3 Wash., 198.
1 Gall., 439, 479.
2 Gall., 53.

same is proved to have been abandoned, may, upon payment of the duty required by law, and other due proceedings had, obtain a patent therefor.

Pet. C. C., 342. 1 Mass., 476. 7 Wheat., 430. 4 Mass., 7. Bald., 314. 2 McLean, 178. 5 McLean, 88. 2 Blatchf., 200, 237, 243, 278. 16 Penn., 352. 1 Curt., 293. 15 How., 122. 6 McLean, 347, 561. 1 Sumn., 487. 2 Story, 194, 411. 1 Story, 281, 597. 4 How., 403. 2 Wood. & Min., 143. 2 Curt., 555. 21 How., 329.

Foreign patents may be patented.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.
3 Mar., 1839, ch. 88, § 6, v. 5, p. 354.

5 McLean, 78, 80.
15 How., 112.

SEC. [24.] 25. No person shall be debarred from receiving a patent for his invention or discovery by reason of his having first patented it in a foreign country; provided the same shall not have been introduced into public [and common] use in the United States prior to the application, and that the patent shall [be limited to seventeen years from the date or publication of the foreign patent] *expire at the same time with the foreign patent, or if there be more than one, at the same time with the one having the shortest term, but in no case shall be in force more than seventeen years.*

Description and specification.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.

3 Wash., 198.
Pet. C. C., 401.
1 Mass., 187, 476.
2 Mass., 118.
4 Wash., 14, 73.
1 Paine, 207, 450.
7 Wheat., 434.
1 Story, 285, 292.
3 McLean, 260, 441, 444, 447.
2 Blatchf., 9.
3 Wood. & Min., 30, 56,
5 McLean, 55.
11 How., 606.
15 How., 119, 267.
5 How., 5.
2 Wall, jr., 363.
2 Brock., 309.
Bald., 314.
24 How., 168.
2 Story, 440.
22 How., 139.
1 Blatchf., 378.
1 Curt., 263.

SEC. [25.] 26. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the several modes in which he has contemplated applying that principle so as to distinguish it from other inventions;

and he shall particularly point out the part, improvement, or combination which he claims as his invention or discovery; and said [description and specification] *specification and claim* shall be signed by the inventor and attested by two witnesses.

Drawings.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.
3 Mar., 1837, ch. 45, § 6, v. 5, p. 193.

4 Mass., 9.
3 McLean, 261.
3 Story, 133.

SEC. [26] 27. When the nature of the case admits of drawings, the applicant shall furnish [them in duplicate, with written references,] one copy [of said drawings,] signed by the inventor *or his attorney in fact*, and attested by two witnesses, *which* shall be filed in the Patent Office; [and the other] *and a copy of said drawings, to be furnished the Patent Office*, shall be attached to the patent as part of the specification.

Specimen of ingredients.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.

SEC. [27] 28. When the invention or discovery is of a composition of matter, the applicant, *if required by the Commissioner*, shall furnish specimens of ingredients, and of the composition, sufficient in quantity for the purpose of experiment.

Model.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.

6 How., 485.
Bald., 314.
20 How., 409.

SEC. [28] 29. In all cases which admit of representation by model, the applicant, *if required by the Commissioner*, shall furnish one of convenient size to exhibit advantageously the several parts of his invention or discovery.

Oath of applicant; before whom taken.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.
3 Mar., 1837, ch. 45, § 13, v. 5, p. 194.
29 Aug., 1842, ch. 263, § 4, v. 5, p. 544,

1 Gall., 433.
6 How., 482.
1 Met., 191.

SEC. [29] 30. The applicant shall make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know [or] *and does not* believe that the same was ever before known or used; and *shall state* of what country

he is a citizen. And said oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commercial agent, holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant may be.

Examination of application.

4 July, 1836, ch. 357, § 7, v. 5, pp. 119, 120.

2 Pet., 18.
2 Blatchf., 34.
1 Wall, jr., 349.
1 Blatchf., 509.

SEC. [30] 31. On the filing of any such application and the payment of the duty required by law, the Commissioner shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

Time to complete applications.

2 Mar., 1861, ch. 88, § 12, v. 12, pp. 248, 249.

SEC. [31] 32. All applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, *or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant,* they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

Patents may issue to assignees.

3 Mar., 1837, ch. 45, § 6, v. 5. p. 193.

1 Blachf., 509.
6 Cra., 327.
1 Gall., 430.

SEC. [32] 33. Patents may be granted and issued *or reissued* to the assignee of the inventor or discoverer, the assignment thereof being first entered of record in the Patent Office; but in such case the application *for the patent* shall be

made and the specification sworn to by the inventor or discoverer; *and, also, if he be living, in case of an application for reissue.*

Patents may issue to legal representatives.

4 July, 1836, ch. 357, § 10, v. 5. p. 121.

SEC. [33] 34. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs-at-law of the deceased, in case he shall have died intestate; [but if otherwise,] *or if he should have left a will,* then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application shall be made by such legal representatives, the oath or affirmation required to be made shall be so varied [as to be applicable to them] *in form that it can be made by them: Provided, That when an application for a patent has been rejected or withdrawn, prior to the passage of this act, the applicant shall have two years from the date of such passage to renew his application, or to file a new one; and if he omits to do either, his application shall be held to have been abandoned.*

Second application in lapsed case.

25 June, 1864, ch. 159, § 1, v. 13, p. 194.
3 Mar., 1865, ch. 112, § 1, v. 13, p. 533.

SEC. [34] 35. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who has failed to make payment thereof within six months from the time at which it was

passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application: *Provided*, That the second application be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent, as aforesaid, was ordered to issue, *prior to the issue thereof.*

Assignm'ts, grants, and conveyances.

4 July, 1836, ch. 357, § 11, v. 5, p. 121.

3 McLean, 428.
2 Blatchf., 50, 148.
5 McLean, 132.
10 How., 494.
14 How., 549.
18 How., 294.
4 Mass., 15.
6 Blatchf., 260.
2 Story, 542, 615.
3 Story, 131.
4 How., 711.
15 Barb., S. C., 315.
19 How., 221.
17 How., 451.

SEC. [35] 36. Every patent or any interest therein shall be assignable in law, by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States; and said assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

Right of purchasers before patent.

3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.

2 Blatchf., 254.
1 How., 208.
4 How., 403.
2 Curt., 555.
3 Story, 406.
1 Wood. & Min., 301.
21 How., 330.
1 Blatchf., 250.
3 Wall, jr., —.

SEC. [36] 37. Every person who may have purchased [or] *of the inventor, or with his knowledge and consent may have* constructed, any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor; [and no patent shall be invalid by reason of such purchase, sale, or use prior to the

application for a patent, except on proof of abandonment of the invention or discovery to the public, or that the purchase, sale, or prior use has been for more than two years prior to such application.]

Patented articles to be marked.

2 Mar., 1861, ch. 88, § 13, v. 12, p. 249.

SEC. [37] 38. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented, either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make or vend the article so patented.

False marking; penalty.

29 Aug., 1842, ch. 263, § 5, v. 5, p. 544.

2 Curt., 506.

SEC. [38] 39. If any person shall, in any manner, mark upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any such patented article the word "patent" or "patentee," or the words "letters-patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the

patentee, without having the license or consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, he shall be liable for every such offense to a penalty of not less than one hundred dollars, with costs; one moiety of said penalty to the person who shall sue for the same, and the other to the use of the United States, *to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.*

Caveats.

4 July, 1836, ch. 357, §§ 8, 12, v. 5, pp. 120, 121.
2 Mar., 1861, ch. 88, § 9, v. 12, p. 247.
6 McLean, 304.
18 How., Pr., 9.

SEC. [39] 40. Any citizen of the United States, who shall have made any new invention or discovery, and shall desire further time to mature the same, may, on payment of the duty required by law, file in the Patent Office a caveat setting forth the design thereof, and its distinguishing characteristics, and praying protection of his right until he shall have matured his invention; and such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application shall be made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person filing the ca-

veat, who, if he would avail himself of his caveat, shall file his description, specification, drawings, and model within three months from the time of placing said notice in the post office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be indorsed on the notice. And an alien shall have the privilege herein granted, if he shall have resided in the United States one year next preceding the filing of his caveat, and made oath of his intention to become a citizen.

Rejected applications.

4 July, 1836, ch. 357, § 7, v. 5, pp. 119, 120.

SEC. [40] 41. Whenever, on examination, any claim for a patent is rejected for any reason whatever, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant shall persist in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

Notice of interference.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.

SEC. [41] 42. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicant, or patentee, as the case may be, *and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who shall be adjudged the prior inventor, unless the adverse party shall appeal from the decision*

of the primary examiner, or of the board of examiners in chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

Affidavits and depositions.

3 Mar., 1839, ch. 88, § 12, v. 5, p. 355. 2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

SEC. [42] 43. The Commissioner may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

Duty of clerk of court.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

SEC. [43] 44. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or his agent or attorney, issue subpœna for any witness residing or being within said district or Territory, commanding him to appear and testify before any officer in said district or Territory authorized to take depositions and affidavits, at any time and place in the subpœna stated; and if any witness, after being duly served with such subpœna, shall neglect or refuse to appear, or after appearing shall refuse to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience as in other like cases.

Fees and rights of witnesses.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

SEC. [44] 45. Every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States, but no

witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him, nor be deemed guilty of contempt for disobeying such subpœna, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

Appeal to examiners-in-chief.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 246.
3 Mar., 1837, ch. 45, § 8, v. 5, p. 193.
27 June, 1866, ch. 143, § 1, v. 14, pp. 76, 77.

SEC. [45] 46. [Any applicant, patentee, or caveator, party to a rejected claim, reissue, or interference case, if he is dissatisfied with the final decision of the examiners thereon, may, on payment of the duty required by law, appeal to the board of examiners-in-chief.] *Every applicant for a patent or the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner in such case to the board of examiners-in-chief, having once paid the fee for such appeal provided by law.*

Appeal to Commissioner.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 246.

SEC. [46] 47. If such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the duty required by law, appeal to the Commissioner in person.

Appeal to justice of supreme court of District.

3 Mar., 1839, ch. 88, §§ 10, 11, v. 5, pp. 354, 355.
30 Aug., 1852, ch. 107, § 1, v. 10, p. 75.

[SEC. 47. If such party is dissatisfied with the decision of the Commissioner, he may appeal to the Chief Justice, or *to* any one of the associate justices of the supreme court of the District of Columbia, *at the option of the appellant.*]

When to justice; duty of appellant.

3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.

[SEC. 48. When an appeal is taken to a justice of the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.]

Duty of justice.

4 July, 1836, ch. 357, § 12, v. 5, p. 121.
3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.
30 Aug., 1852, ch. 107, §§ 1, 2, v. 10, p. 75.

[SEC. 49. It shall be the duty of such justice, on petition, to hear and determine such appeal, and to revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as he may appoint, notifying the Commissioner of the time and place of hearing; and the revision shall be confined to the points set forth in the reasons of appeal. And after hearing the case, he shall return all the papers to the Commissioner, with a certificate of his proceedings and decision, which shall be entered of record in the Patent Office, and govern the further proceedings in the case. But no opinion or decision of the justice in any such case shall preclude any person interested from the right to contest the validity of such patent in any judicial court wherein the same may be called in question.

Duty of Commissioner.

3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.

[SEC. 50. On receiving notice of the time and place of hearing such appeal the Commissioner shall notify all parties who appear to be interested therein, in such manner as the justice may prescribe. He shall also lay before the justice all the original papers and evidence in the case, together

with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the justice, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the machine or other thing for which a patent is demanded.]

SEC. 48. *Whenever a patent is refused on application therefor, for any reason whatsoever, the applicant may give notice to the Commissioner of the points and matters concerning which he deems the decision erroneous, by filing his objections in writing thereto, within thirty days from the rendering of such decision; and he may have his remedy against such erroneous decision, by a suit in equity in any circuit court of the United States within whose jurisdiction the Commissioner of Patents, and any of the necessary parties to such suit, may be found; and all persons who may be interested in such application for a patent may be made parties to such suit; and the Commissioner, and all other persons who may be made parties defendant to such suit, may answer the same and avail themselves of all defenses which the law may allow thereto; and the subject-matter of such suit shall not extend to or include any matter not set forth in the objections to the decision of the Commissioner; and the decree rendered thereon shall be confined to the revision of the decision of the Commissioner, and to the determination upon the evidence of what the*

invention or discovery of the applicant, and for which he may be entitled to a patent, actually is.

SEC. 49. *All the testimony, duly taken, certified, and filed before the Commissioner, shall be evidence in such suit in equity, subject to all legal objections thereto; and copies thereof, duly certified, may be filed by either party in such suit; and any new or additional testimony may be taken, and the cause prepared for trial, under the rules of the Supreme Court in equity.*

SEC. 50. *The circuit courts of the United States, and the supreme court of the District of Columbia, are hereby authorized to take jurisdiction of such suits in equity and to hear and determine the same as soon as practicable, and all parties who may have appeared in person or by attorney in the proceedings before the Commissioner may be made defendants in any such suit, and may be notified and required to appear therein in such manner as the court having jurisdiction may direct, and shall be held bound by the final decree therein, the expense of the service of the notice or of a subpœna upon such parties being paid by the complainant; and any and all persons whom such court may deem necessary or proper parties defendant to such suit may be made defendants thereto, in such manner and upon such notice as the court may direct, so that all parties known to be interested in the claim of the complainant to the alleged invention or discovery may be heard before said court.*

SEC. 51. *The several circuit courts of the United States and the supreme court of the District of Columbia are hereby authorized and empowered to determine in any such suit whether the complainant is entitled to the patent for the invention or discovery which he claims, and also to determine what his invention and discovery actually is, upon the evidence submitted in such case, and to order and decree that a patent shall be issued to the complainant and applicant therefor, with the claim in such language as the court may determine, whether it be for the whole or for any part of the invention or discovery as claimed in his application, or for any modification thereof. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent, upon the filing in the Patent Office by the applicant of a copy of the adjudication, and upon his otherwise complying with the requirements of the law.*

SEC. 52. *When the Commissioner of Patents is the only defendant in any such suit, all costs shall be paid by the complainant, and the whole amount of costs taxed against the complainant shall not exceed the sum of twenty-five dollars; and in cases where other parties shall be made defendants and shall appear and answer to the bill of the complainant, the costs shall be taxed according to law, and allowed and paid as the court may direct, except that the Commissioner shall not be liable for any part of such costs. And the adjudication of the court having jurisdiction in any such case shall be final*

and conclusive as against all parties to such suit, in all matters put in issue by the pleadings therein, and against all persons claiming under such parties by title accruing after the commencement of such suit, except as such decision may be modified or reversed by the Supreme Court of the United States on appeal.

Reissues.

4 July, 1836, ch. 357, §13, v. 5, p. 122.
3 Mar., 1837, ch. 45, §8, v. 5, p. 193.

6 Pet., 242.
7 Pet., 314.
14 Pet., 462.
2 Story, 439.
3 Story, 744, 753.
1 Sumn., 488.
4 How., 402, 688.
15 How., 112, 220.
17 How., 83.
3 Wood. & Min., 126.
1 Wood. & Min., 262, 302.
1 Blatchf., 169.
2 Wood. & Min., 138.
2 Wall, jr., 102.
2 McLean, 37, 176.
5 McLean, 166.
11 Cush., 571.

SEC. [52] 53. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient [description or] specification or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent, and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected [description and] specification, to be issued to the patentee, or, in the case of his death or assignment of [any] *the whole or any undivided* part of the original patent, to his executors, administrators, or assigns, for the unexpired part of the term of the original patent, *the surrender of which shall take effect upon the issue of the amended patent, and the Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent.* And the specification [of] *and* claim in every such case shall be sub-

ject to revision and restriction, in the same manner as original applications are. And the patent so reissued, together with the corrected [description and] specification, shall have the effect and operation in law, on the trial of all actions for causes thereafter arising, as though the same had been originally filed in such corrected form; *but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended except each by the other, unless upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.*

Disclaimers.

3 Mar., 1837, ch. 45, §§ 7, 9, v. 5, pp. 193, 194.

Bald., 313.
1 Story, 294, 600.
3 McLean, 349, 44
5 McLean, 56.
5 Denio, 318.
2 Whar. Dig., 413.
1 Blatchf., 245, 450, 461.
3 Blatchf., 199.
2 Blatchf., 198.
14 How., 221.
15 How., 121.
19 How., 106.
20 How., 387.

SEC. [53] 54. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his executors, administrators and assigns, whether of the whole or any sectional interest therein, may, on payment of the duty required by law, make disclaimer of such parts of the thing patented as he shall not *choose to or* claim to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; said disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, and it sha

thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

Actions cognizable by circuit courts.

4 July, 1836, ch. 357, § 17, v. 5, p. 124.

1 Blatchf., 630.
6 Cra., 327.
1 Gall., 430.
4 Mass., 15.
4 Wash., 584.
2 Paine, 246.
1 Wood. & Min., 37.
1 Blatchf., 486, 630.
3 Coms., 14.
14 How., 549.
40 Maine, 434.
20 How., 56, 215.
7 John., 144.
8 Page, 134.
16 Conn., 414.

SEC. [54] 55. All actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well at equity as in law, by the circuit courts of the United States, or any district court having the powers and jurisdiction of a circuit court, *or by the supreme court of the District of Columbia or of any Territory*, and the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; *but all actions shall be brought during the term for which the letters-patent shall be granted or extended, or within six years after the expiration thereof.*

Appeal to the Supreme Court.

4 July, 1836, ch. 357, § 17, v. 5, p. 124.
18 Feb., 1861, ch. 37, § 1, v. 12, p. 130.

1 Blatchf., 544.
6 How., 477.
7 How., 657.
10 How., 101, 346.
15 How., 465, 557.
16 How., 103.
20 How., 56, 204.
14 How., 220.

SEC. [55] 56. A writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court, *or of any district court exercising the jurisdiction of a circuit court, or of the supreme court of the District of Columbia or of any Territory*, in any action, suit, controversy, or case, at law or in equity, touching patent

rights, in the same manner and under the same circumstances as in other judgments and decrees of such circuit courts, without regard to the sum or value in controversy.

Copies of records.

4 July, 1836, ch. 357, § 4, v. 5, p. 118.
2 Mar., 1861, ch. 88, § 15, v. 12, p. 249.
23 July, 1868, ch. 227, § 3, v. 15, p. 168.

3 McLean, 434.
2 Blatchf., 12.
4 McLean, 371.
1 Wood. & Min., 260.
14 How., 583.
9 Wend., 44.

SEC. [56] 57. *Written or printed* copies of any records, books, papers, or drawings belonging to the Patent Office, and [printed copies] of letters-patent under the signature of the Commissioner, or [when the said office shall be vacant, under the signature of the examiner-in-chief oldest in commission] acting [as] Commissioner, with the seal of office affixed, shall be competent evidence in all cases wherein the originals could be evidence, and any person making application therefor, and paying the fee required by law, shall have certified copies thereof. *And copies of foreign letters-patent, certified in like manner, shall be prima facie evidence of the fact of the granting of such foreign letters-patent, and of the date and contents thereof.*

[SEC. 57. Whenever there shall be two interfering patents, any person interested in any such patents, either by assignment or otherwise, may have his remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties, and other due proceedings had, may adjudge and declare either of the patents void, in whole or in part, or inoperative, or invalid in any particular district of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudi-

cation shall affect the rights of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.]

Proceedings in equity in the interfering patents and when suit is brought for infringement.

4 July, 1836, ch. 357, § 16, v. 5, pp. 123, 124.

SEC. 58. *Whenever there shall be interfering patents, or whenever any person shall be sued either at law or in equity for the infringement of any patent, any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, and any defendant in any suit for infringement as aforesaid, may have relief against the interfering patentee and all parties interested under him, and against the plaintiff or complainant, by suit in equity against the owners of the interfering patent, or against the patentee or assignee, or both, of any patent upon which suit may be commenced for the infringement thereof, to be brought in the circuit court of the United States in any district where the patentee or owner of the interfering patent may reside or be found, or within the Territory where the owner of any exclusive right under such patent may reside or be found, or within which the patentee or his assignee or grantee for the whole or any specified portion of the United States or their Territories may reside or be found; and in either case the court having jurisdiction of any such suit by reason of the service of process upon the patentee or any territorial assignee or grantee, or upon any plaintiff or complainant, within its district, may order and require service of its process upon such persons as it may determine to be necessary and proper*

parties defendant to such suit, in any other district of the United States, and service of such process may be made by the marshal of any district of the United States within which such parties may reside or be found, and at no greater cost than if the suit was pending in such district; and whenever all necessary and proper parties shall be brought before the court having original jurisdiction of such suit, the said court shall proceed to hear and determine the same according to the course of equity, and may dismiss such suit, or may adjudge and declare either of the patents void in whole or in part, or inoperative or invalid throughout the United States, or any portion thereof specifically described, or grant such other relief as may be equitable according to the rights of the parties or their several and respective interests in the patent or in the invention patented. But no such adjudication shall affect the rights of any person except the parties to such suit and those deriving title under them subsequent to the commencement thereof. And whenever all the parties interested in any such interfering patents, or patent sued upon, shall be before the court having original jurisdiction of any such suit as aforesaid, by voluntary appearance, or by due service of process thereon as aforesaid, and, upon final hearing in such cause, the patent attacked shall be declared void in whole or in part, such decision shall be final and shall not be subject to review in any other suit, in any court of co-ordinate jurisdiction, but shall be reviewed and overruled only in the Supreme Court of the United States on appeal. The Su-

preme Court may admit new evidence in any such appeal in their discretion, and may make rules for the proper exercise of the jurisdiction herein and hereby conferred upon the courts of the United States. The supreme courts of the District of Columbia and of the Territories shall have the same jurisdiction as that conferred herein upon the circuit courts of the United States in similar cases.

Damages for infringement.

4 July, 1836, ch. 357, § 14, v. 5, p. 123.

1 Story, 341.
3 Story, 136, 410.
3 Wall, jr., —.
3 McLean, 583.
2 Wood. & Min., 147.
2 Blatchf., 38, 201, 494.
1 Blatchf., 245, 406.
1 Wall, jr., 166.
16 How., 489.
15 How., 559.
23 How., 488.

SEC. 59. *Damages for the infringement of any patent may be recovered by action on the case in any circuit court of the United States, or district court exercising the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or of any Territory, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict shall be rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.*

Actions for infringement prior to disclaimer.

3 Mar., 1837, ch. 45, § 9, v. 5, p. 194.

5 McLean, 56, 84.
3 McLean, 449.
2 Story, 621.
1 Story, 294, 600.
1 Blatchf., 245.
2 Blatchf., 198.
15 How., 122.
19 How., 106.
20 How., 387.
5 Denio, 318.

SEC. [59] 60. Whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud or mislead the public, a patentee shall have, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer as aforesaid, every such patentee, his executors,

administrators and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, provided it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the parts so claimed, without right as aforesaid, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or [decree] shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit; nor shall he be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to enter said disclaimer.

Notice of special matter.

4 July, 1836, ch. 357, § 15. v. 5, p. 123.
3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.

Pet. C. C., 348.
7 Wheat., 469.
4 McLean, 179, 371, 525.
3 Wheat., 503.
4 Wash., 74, 705.
14 Pet., 459.
1 Wall, jr., 195.
1 Blatchf., 376.
14 How., 222.
15 How., 110, 141.
23 How., 7.
24 How., 168.
1 Blatchf., 597.
5 McLean, 61.
17 How., 84.
2 Story, 441.

SEC. [60] 61. In any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove on trial any one or more of the following special matters:

First. That for the [manifest] purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another,

who was using reasonable diligence in adapting and perfecting the same; or,

Third. That he was an alien at the time his patent was granted, and had neglected for the space of eighteen months from its date to put and continue on sale to the public, on reasonable terms, his invention or discovery; or,

Fourth. That it had been *patented or* described in some printed publication prior to his supposed invention or discovery thereof; or,

Fifth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Sixth. That it had been in public use or on sale in this country, with his consent, for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state *the names of patentees and the dates of their patents, and when granted, and* the names and residences of the persons alleged to have *invented or to have* had the prior knowledge [thereof] *of the thing patented,* and where and by whom it had been used; and [on satisfactory proof of] *if* any one or more of the special matters alleged *shall be found for the defendant,* judgment shall be rendered for [the defendant] *him,* with costs. *And the like defenses may be pleaded in any suit in equity*

for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

Prior knowledge or use in foreign country.

4 July, 1836, ch. 357, § 15, v. 5, p. 123.
5 McLean, 61.
6 McLean, 313.

SEC. [61] 62. Whenever it shall [satisfactorily] appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been before known or used in a foreign country, if it had not before been patented, or described in a printed publication.

Extension of patent. Duty of applicant.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.
2 Mar., 1861, ch. 88, §§ 12, 16, v. 12, pp. 248, 249.

SEC. [62] 63. Where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of his patent beyond the original term of its limitation, he shall make application therefor, in writing, to the Commissioner, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of said invention or discovery. And said application shall be filed [at least] *not more than six months nor less than* ninety days before the expiration of the original term of

the patent, and no extension shall be granted after the expiration of said original term.

Notice of application to be published.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.
2 Mar., 1861, ch. 88, § 12, v. 12, p. 248.

SEC. [63] 64. Upon the receipt of such application, and the payment of the duty required by law, the Commissioner shall cause to be published in one [or more] newspaper[s] in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

Case to be referred to examiner.

27 May, 1848, ch. 47, § 1, v. 9, p. 231.

SEC. [64] 65. On the publication of such notice, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make to said Commissioner a full report of the case, and particularly whether the invention or discovery was new and patentable when the original patent was granted.

Hearing of case. Granting extension.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.
27 May, 1848, ch. 47, § 1, v. 9, p. 231.

SEC. [65] 66. The Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced, both for and against the extension; and if it shall appear to his [full and entire] satisfaction that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity,

and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the said Commissioner shall make a certificate thereon, renewing and extending the said patent for the term of seven years from the expiration of the first term, which certificate shall be recorded in the Patent Office, and thereupon the said patent shall have the same effect in law as though it had been originally granted for twenty-one years.

Extension to benefit assignees.

4 July, 1836, ch. 357, § 18, v. 5, p. 125.

SEC. [66] 67. The benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented to the extent of their interest therein.

Patent fees.

2 Mar., 1861, ch. 88, § 10, v. 12, p. 248.
27 June, 1866, ch. 143, § 1, v. 14, p. 76.

SEC. [67] 68. The following shall be the rates for patent fees:

On filing each original application for a patent, fifteen dollars.

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

To whom paid. Who to disburse money.

6 Aug., 1846, ch. 90, § 15, v. 9, p. 62. 20 July, 1868, ch. 177, § 7, v. 15, p. 119. 3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

SEC. [68] 69. Patent fees may be paid to the Commissioner, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor. And all money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever; and all disbursements for said office shall be made by the disbursing clerk of the Interior Department.

SEC. 70. *On all patents hereafter granted, there shall be paid the following additional fees, namely: At or before the expiration of the term of seven years from the date of*

the patent, the sum of twenty-five dollars, and at or before the expiration of the term of twelve years from the date of the patent, the further sum of fifty dollars, and in default of the payment of either of the sums aforesaid, within the periods aforesaid, the said patent shall be forfeited, and the invention so patented become public property.

SEC. 71. The Treasurer of the United States is authorized to pay back any sum or sums of money to any person who shall have paid the same into the treasury, or to any receiver or depositary, to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, certificate thereof being made to said Treasurer by the Commissioner of Patents.

CHAPTER III.

OF DESIGN PATENTS.

SEC.
72. Designs may be patented.
73. Models of designs.
74. Term of design patents.
75. Extension of design patents.
76. Fees for design patents.
77. Other provisions to apply to design patents.

Designs may be patented.

29 Aug., 1842, ch. 263, § 3, v. 5, pp. 543, 544.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.
4 McLean, 180.
1 Blatchf., 248.

SECTION [69] 72. Any [citizen of the United States, or any alien who has resided therein one year, and taken the oath of his intention to become a citizen] *person* who, by his own industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics;

any new and original impression, ornament, pattern, print, or picture, to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, *useful,* and original shape or configuration of any [such article,] *article of manufacture,* the same not having been known or used by others before his invention or production thereof, *or patented or described in any printed publication,* may, upon payment of the duty required by law, and other due proceedings had the same as in cases of inventions or discoveries, obtain a patent therefor.

Models of designs.
2 Mar., 1861, ch. 88, § 5, v. 12, p. 247.

SEC. [70] 73. The Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings *or photographs,* [and he may restore to the respective applicants, if demanded within one year from the time of final rejection, such of said models as he shall not think necessary to be preserved, and if not so demanded, he may sell or otherwise dispose of them, paying the proceeds into the treasury as other patent moneys are directed to be paid.]

Term of design patents.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

SEC. [71] 74. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may in his application elect.

Extension of design patents.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

SEC. [72] 75. Patentees of designs shall be entitled to the extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as

are provided for the extension of patents for inventions or discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

Fees for design patents.

2 Mar., 1861, ch. 88, §§ 10, 11, v. 12, p. 248.

SEC. [73] 76. The following shall be the rates of fees in design cases:

For three years and six months, ten dollars.

For seven years, fifteen dollars.

For fourteen years, thirty dollars.

For all other cases in which fees are required, the same rates as in cases of inventions or discoveries.

Other provisions to apply to design patents.

29 Aug., 1842, ch. 263, § 3, v. 5, p. 543.

SEC. [74] 77. All the regulations and provisions which apply to the obtaining or protection of patents for inventions or discoveries, not inconsistent with the provisions of this chapter, shall apply to patents for designs.

CHAPTER IV.

OF TRADE-MARKS.

SEC.
78. Who are entitled to trade-marks, and requirements concerning same.
79. Term for which trade-marks shall remain in force.
80. Remedy for wrongful use of trade-marks.
81. Proof of registration.
82. Rules for transfer of trade-marks.
83. Penalty for fraudulent registration.
84. Common law remedies preserved.
85. No action to be sustained on fraudulent or deceptive trade-marks.

SEC. 78. *Any person or firm domiciled in the United States, and any corporation created by the authority of the United States or of any State or Territory thereof, and any person, firm or corporation resident of or located in any foreign country which by treaty or convention affords similar*

privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements, to wit:

First. By causing to be recorded in the Patent Office the names of the parties and their residences and place of business, who desire the protection of the trade-mark.

Second. The class of merchandise and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

Third. A description of the trade-mark itself, with fac-similes thereof and the mode in which it has been or is intended to be applied and used.

Fourth. The length of time, if any, during which the trade-mark has been used.

Fifth. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

Sixth. The compliance with such regulations as may be prescribed by the Commissioner of Patents.

Seventh. The filing of a declaration under the oath of the person or of some member of the firm or officer of the corporation, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation, has the right to such use,

either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the description and fac-similes presented for record are true copies of the trade-mark sought to be protected.

SEC. 79. *Such trade-mark shall remain in force for thirty years, unless it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere, and during the period that it remains in force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods.*

SEC. 80. *Any person or corporation who shall reproduce, counterfeit, copy, or imitate any such recorded trade-mark and affix the same to goods of substantially the same descriptive properties and qualities as those referred to in the registration, shall be liable to an action in the case for damages for such wrongful use of said trade-mark, at the suit of the owner thereof, in any court of competent jurisdiction in the United States, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of*

his trade-mark and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful use. The Commissioner of Patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public: Provided, That this section shall not prevent the registry of any lawful trade-mark rightfully used at the time of the passage of this act.

SEC. 81. *The time of the receipt of any trade-mark at the Patent Office for registration shall be noted and recorded, and copies of the trade-mark and of the date of the receipt thereof, and of the statement filed therewith, under the seal of the Patent Office, certified by the Commissioner, shall be evidence in any suit in which such trade-mark shall be brought in controversy.*

SEC. 82. *The Commissioner of Patents is authorized to make rules, regulations, and prescribe forms for the transfer of the right to the use of such trade-marks, conforming as nearly as practicable to the requirements of law respecting the transfer and transmission of copy-rights.*

SEC. 83. *Any person who shall procure the registry of any trade-mark, or of himself as the owner thereof, or any entry respecting a trade-mark in the Patent Office under this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay damages in consequence of any such registry or entry to the person injured thereby, to be recovered in an action on the case before any court of competent jurisdiction within the United States.*

SEC. 84. *Nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity, which any party aggrieved by any wrongful use of any trade-mark might have had if this act had not been passed.*

SEC. 85. *No action shall be maintained for the wrongful use of a trade-mark in any unlawful business, or which has been fraudulently obtained, or which has been framed and used with the design of deceiving or misleading the public in the purchase or use of any article of merchandise, or of any article injurious in itself.*

CHAPTER V.

OF COPYRIGHTS.

SEC.
86. Libarian of Congress to have charge of copyrights.
87. What may be copyrighted.
88. Term of copyright.
89. Extension of copyright.
90. Assignment of copyright to be recorded.
91. Recording copyright; duty of applicant.
92. Recording copyright; duty of Librarian.
93. Fees of Librarian.
94. Library of Congress to have copyright articles.
95. Penalty for not delivering.
96. May be sent to library by mail free.
97. Duty of postmaster in regard to.
98. Notice of copyright.
99. Penalty for false notice.
100. Infringement of copyright book.
101. Infringement of copyright map, &c.
102. Infringement of copyright dramatic composition.
103. Infringement of manuscripts.
104. Foreign works may be printed or imported.
105. Limitation of time of action.
106. Pleading.
107. Actions cognizable by circuit court.
108. Appeals to Supreme Court.
109. Full costs to be allowed.
118. —— ——

Patent Office to have charge of copyrights.

5 Feb., 1859, ch. 22, § 8, v. 11, pp. 380, 381.

SECTION [75] 86. All records and other things relating to copyrights, and required by law to be preserved, shall be under the control of the [Secretary of the Interior] *Librarian of Congress,* and kept and preserved in the [Patent Office] *Library of Congress;* and the [Commissioner of Patents] *Librarian of Congress* shall have the immediate care and supervision thereof, and, under the [said Secretary] *supervision of the Joint Committee of Congress on the Library,* shall perform all acts and duties required by law touching copyrights.

The Librarian shall cause a seal to be provided for said office, with such device as the Joint Committee on the Library may approve, with which all records or papers issued from said office, and to be used in evidence, shall be authenticated. He shall also give an additional bond with sureties to the Treasurer of the United States, in the sum of five thousand

dollars, with the condition that he will render to the proper officers of the treasury a true account of all moneys received by virtue of his office.

What may be copyrighted.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.
18 Aug., 1856, ch. 169, § 1, v. 11, pp. 138, 139.
3 Mar., 1865, ch. 126, § 1, v. 13, p. 540.
8 Pet., 662.
14 How., 530.
Hopk., Ch., 351.
1 Blatchf., 625.
1 Story, 17.
3 Story, 778.
4 McLean, 316, 517.
5 McLean. 37.
2 Wood. & Min., 46.
2 Blatchf., 46, 170, 366.
2 Paine, 383.

SEC. [76] 87. Any citizen of the United States, or resident therein, who shall be the author, inventor, or designer of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, *or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts,* and his executors, administrators, or assigns, shall have the sole liberty of printing, reprinting, publishing, *completing, copying, executing, finishing,* and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others.

Term of copyright.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.

SEC. [77] 88. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

Extension of copyright.

3 Feb., 1831, ch. 16, §§ 2, 3, v. 4, pp. 436, 437.
2 Wood & Min. 42.
8 Pet., 663.

SEC. [78] 89. The author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow, or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work *or description of the article* so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such

person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

Assignm't of copyrights to be recorded.

30 June, 1834, ch. 157, § 1, v. 4, p. 728.

8 Wend., 565.
2 Wood. & Min., 42, 510.
5 McLean, 41.
8 Pet., 661.
18 How., 171.

SEC. [79] 90. Copyrights shall be assignable in law, by [an] *any* instrument of writing, [proved or acknowledged in such manner as deeds for the conveyance of land are required by law to be proved or acknowledged in the State or district in which such assignment is made, and they] *and such assignment* shall be recorded in the office [where the original copyright is recorded; and every such instrument not so proved or acknowledged and recorded] *of the Librarian of Congress* within sixty days after its execution, *in default of which it* shall be void, as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

Recording copyright; duty of applicant.

3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

2 Blatchf., 83.
1 Blatchf., 620.
5 McLean, 332.

SEC. [80] 91. No person shall be entitled to a copyright unless he shall, before publication, deposit a printed copy of the title of the book or other article, *or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts,* for which he desires a copyright, in the [clerk's office of the district court of the district wherein the proprietor resides] *Library of Congress,* and, within [three months] *ten days* from the publication thereof, cause [a copy] *two copies* of such copyright book or other article, *or in case of a painting, drawing, statue, statuary, model, or design, for a work of the fine arts, a photograph of the same,* to

be delivered to said [clerk] *Librarian of Congress as hereinafter to be provided.*

Recording copyright; duty of clerk.
3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

SEC. [81] 92. The [clerk of said court] *Librarian of Congress* shall record the name of such copyright book or other article, forthwith in a book to be kept for that purpose, in the words following: ["District of ———] *Library of Congress*, to wit: Be it remembered, that on the —— day of ——, anno Domini ——, A. B., of [the said district,] ——, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be, *or description of the article,*) the title *or description* of which is in the words following, to wit: (here insert the title *or description,*) the right whereof he claims as author, *originator,* (or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., [clerk of the court] *Librarian of Congress.*" And he shall give a copy of the title *or description,* under the seal of the [court] *Librarian of Congress,* to said proprietor, whenever he shall require it.

List of copyrights to Interior Department.
3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

[SEC. 82. The said clerk shall, once in each year, transmit a certified transcript of his records of copyrights, with all the several copyright books or other articles deposited in his office, to the Secretary of the Interior.]

Fees of clerk.
3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.
30 June, 1834, ch. 157, § 2, v. 4, p. 728.
26 Feb., 1853, ch. 80, § 1, v. 10, p. 163

SEC. [83] 93. For recording the title *or description* of any copyright book or other article, the [clerk of the court] *Librarian of Congress* shall receive, from the person claiming the same, fifty cents; and for every copy, under seal, actually

given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words; and for every copy thereof, ten cents for every one hundred words, *which moneys, so received, shall be paid into the treasury of the United States.*

Library of Congress to have copyright articles.

3 Mar., 1865, ch. 126, §§ 2, 4, v. 13, pp. 540, 541.
18 Feb., 1867, ch. 43, § 1, v. 14, p. 395.

SEC. [84] 94. The proprietor of every copyright book or other article shall deliver to the Library of Congress at Washington, within [one month] *ten days* after its publication, [a] *two* complete printed cop[y]*ies* thereof, *or description or photograph of such article as hereinbefore required,* and a copy of every subsequent edition wherein any changes shall be made.

Penalty for not delivering.

18 Feb., 1867, ch. 43, § 1, v. 14, p. 395.

SEC. [85] 95. In default of such delivery, said proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the Librarian of Congress, in the name of the United States, *in an action of debt,* in any district [or circuit] court of the United States within the jurisdiction of which the delinquent may reside or be found.

May be sent to library by mail free.

18 Feb., 1867, ch. 43, § 2, v. 14, p. 395.

SEC. [86] 96. Any such copyright book or other article may be sent to the Librarian of Congress by mail, free of postage, provided the words "copyright matter" are plainly written or printed on the outside of the package containing the same.

Duty of postmaster in regard to.

18 Feb., 1867, ch. 43, § 2, v. 14, p. 395.

SEC. [87] 97. The postmaster to whom such copyright book or other article is delivered shall, if requested, give a

receipt therefor; and when so delivered, he shall see that it is safely forwarded to its destination, without cost to the proprietor.

Notice of copy right.

3 Feb., 1831, ch. 16, § 5, v. 4, p. 437.

1 Blatchf., 620.

SEC. [88] 98. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page, or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, or photograph, [by causing to be impressed on the face;] *or of a painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, upon some portion of the face or front thereof;* or if a volume, then upon the title or frontispiece thereof the following words, viz: "Entered according to act of Congress, in the year ——, by A. B., in the [clerk's office of the district court of ——," (as the case may be)] *office of the Librarian of Congress.*

Penalty for false notice.

3 Feb., 1831, ch. 16, § 11, v. 4, p. 448.

1 Blatchf., 154.

SEC. [89] 99. If any person shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, *or other articles herein named,* for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright book.

3 Feb., 1831, ch. 16, § 6, v. 4. pp. 437, 438.

1 Story, 19.
2 Story, 115.
2 Blatchf., 47, 85.
4 McLean, 315.
4 Wash., 490.
7 How., 811.

SEC. [90] 100. If any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay fifty cents for every sheet thereof which may be found in his possession, either printing, printed, published, imported, or exposed for sale; one moiety thereof to the proprietor, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright map, &c.

3 Feb., 1831, ch. 16, § 7, v. 4, p. 438.

1 Story, 18.
2 Story, 115.
2 Blatchf., 47.
3 Story, 787.
2 Wood. & Min., 512.
4 McLean, 301, 309.

SEC. [91] 101. If any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, *or chromo, or of the description of any painting, drawing, statue, statuary, or model or design, intended to be perfected and executed as a work of the fine arts,* as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or knowing the same to be so printed, published, or imported, shall sell or expose to sale, any copy of such map or other article, as aforesaid he shall,

forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; *and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or which have by him been sold or exposed for sale;* one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright dramatic composition.

18 Aug., 1856, ch. 169, § 1, v. 11, pp. 138, 139.

SEC. [92] 102. Any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, to be recovered by action in any court of competent jurisdiction; said damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

Infringement of manuscripts.

3 Feb., 1831, ch. 16, § 9, v. 4, p. 438.

5 McLean, 41, 332.
22 How. Pr., 207.
8 Pet., 657.
4 McLean, 301.

SEC. [93] 103. Any person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, (if such author or proprietor be a citizen of the United States, or resident therein,) shall be liable to said author or proprietor for all damages occasioned by such injury, to be recovered by action on the case in any court of competent jurisdiction.

Foreign works may be printed or imported.

3 Feb., 1831, ch. 16, § 8, v. 14, p. 438.

SEC. [94] 104. Nothing herein contained shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

Limitation of time of action.

3 Feb., 1831, ch. 16, § 13, v. 4, p. 439.

SEC. [95] 105. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

Pleading.

3 Feb., 1831, ch. 16, § 10, v. 4, p. 438.

SEC. [96] 106. In all actions arising under the laws respecting copyrights the defendant may plead the general issue, and give the special matter in evidence.

Actions cognizable by circuit court.

15 Feb., 1819, ch. 19, § 1, v. 3, p. 481.

5 McLean, 38, 336.
2 Wood. & Min., 27.
4 McLean, 401.
17 How., 455.
4 Duer, 382.

SEC. [97] 107. All actions, suits, controversies, and cases arising under the copyright laws of the United States shall be originally cognizable as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court, *or in the supreme court of the District of Columbia, or any Territory.* And the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

Appeals to Supreme Court.

18 Feb., 1861, ch. 37, § 1, v. 12, p. 130.

SEC. [98] 108. A writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and

decrees of any circuit court, in any action, suit, controversy, or case touching copyrights in the same manner and under the same circumstances as in other judgments and decrees of such courts, without regard to the sum or value in controversy.

Full costs to be allowed.

3 Feb., 1831, ch. 16, § 12, v. 4, pp. 438, 439.

SEC. [99] 109. In all recoveries under the copyright laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon.

REPEALING CLAUSE AND SCHEDULE.

SEC. 110. *The acts and parts of acts set forth in the schedule of acts cited hereto annexed, are hereby, repealed, without reviving any acts or parts of acts repealed by any of said acts, or by any clause or provisions therein: Provided, however, That the repeal hereby enacted shall not affect, impair, or take away any right or remedy existing under any of said laws; but all actions and causes of action, both in law and in equity, which have arisen under any of said laws, may be commenced and prosecuted, and if already commenced, may be prosecuted to final judgment and execution in the same manner as though this act had not been passed, excepting that the remedial provisions of this act shall be applicable to all suits hereafter commenced: And provided also, That all applications for patents pending at the time of the passage of this act, in cases where the duty has been paid, shall be proceeded with and acted on in the same manner as though filed after the passage thereof: And provided further, That all offenses which are defined and punishable under any*

of said acts, and all penalties and forfeitures created thereby, and incurred before this act takes effect, may be prosecuted, sued for, and recovered, and such offenses punished, according to the provisions of said acts, which are continued in force for such purpose.

SCHEDULE OF STATUTES CITED AND REPEALED, AS PRINTED IN THE STATUTES AT LARGE.

PATENTS.

Act of July 4, 1836, chapter 357, volume 5, page 117.
March 3, 1837, chapter 45, volume 5, page 191.
March 3, 1839, chapter 88, volume 5, page 353.
August 29, 1842, chapter 263, volume 5, page 543.
August 6, 1846, chapter 90, volume 9, page 59.
May 27, 1848, chapter 47, volume 9, page 231.
March 3, 1849, chapter 108, volume 9, page 395.
March 3, 1851, chapter 32, volume 9, page 617.
August 30, 1852, chapter 107, volume 10, page 75.
August 31, 1852, chapter 108, volume 10, page 76.
March 3, 1853, chapter 97, volume 10, page 209.
April 22, 1854, chapter 52, volume 10, page 276.
March 3, 1855, chapter 175, volume 10, page 643.
August 18, 1856, chapter 129, volume 11, page 81.
March 3, 1859, chapter 80, volume 11, page 410.
February 18, 1861, chapter 37, volume 12, page 130.
March 2, 1861, chapter 88, volume 12, page 246.
March 3, 1863, chapter 102, volume 12, page 796.
June 25, 1864, chapter 159, volume 13, page 194.
March 3, 1865, chapter 112, volume 13, page 533.
June 27, 1866, chapter 143, volume 14, page 76.
March 29, 1867, chapter 17, volume 15, page 10.
July 20, 1868, chapter 177, volume 15, page 119.
July 23, 1868, chapter 227, volume 15, page 168.
March 3, 1869, chapter 121, volume 15, page 293.

COPYRIGHTS.

Act of February 15, 1819, chapter 19, volume 3, page 481.
February 3, 1831, chapter 16, volume 4, page 436.
June 30, 1834, chapter 157, volume 4, page 728.
August 18, 1856, chapter 169, volume 11, page 138.
February 5, 1859, chapter 22, volume 11, page 380.
February 18, 1861, chapter 37, volume 12, page 130.
March 3, 1865, chapter 126, volume 13, page 540.
February 18, 1867, chapter 43, volume 14, page 395.

[Printer's No., 739.

41ST CONGRESS,
2D SESSION.

H. R. 1714.

IN THE HOUSE OF REPRESENTATIVES.

APRIL 7, 1870.

Read twice, ordered to be printed, and recommitted to the Committee on Patents.

Strike out the parts within [brackets] and insert the parts in *italics*.

APRIL 13, 1870.

Reported back with amendments, ordered to be printed, and recommitted to the Committee on Patents.

MR. JENCKES, from the Committee on Patents, reported the following bill:

A BILL

To revise, consolidate, and amend the statutes relating to patents and copyrights.

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PATENTS AND COPYRIGHTS.

CHAPTER I.

OF ORGANIZATION, DUTIES, AND GENERAL PROVISIONS.

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3. Additional employés.
4. Salaries.
5. Oath of office.
6. Official bonds.
7. Duties of Commissioner.
8. Franking privilege.
9. Annual report.
10. Duties of examiners-in-chief.
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13. Display of models.
14. Restoring models.
15. Library.
16. Employés not to acquire interest in patents.
17. Refusal to recognize agent.
18. Printing papers.
19. Rules and regulations for Patent Office.
20. Printing, specifications, and drawings.

Patent Office established.

SECTION 1. There shall be [established and] attached to the Department of the Interior [an] *the* office, [to be] *heretofore established*, known as the Patent Office, wherein all

4 July, 1835, ch. 357, § 1, v. 5, p. 117.
3 Mar., 1849, ch. 108, § 2, v. 9, p. 395.

records, books, models, drawings, specifications, and other papers and things pertaining to patents, shall be safely kept and preserved.

Officers and employés.

4 July, 1836, ch. 357, § 2, v. 5, p. 118. 3 Mar., 1837, ch. 45, § 11, v. 5, p. 194. 3 Mar., 1839, ch. 88, § 1, v. 5, p. 353. 27 May, 1848, ch. 47, §§ 1, 3, v. 9, pp. 231, 232. 3 Mar., 1851, ch. 32, § 2, v. 9, p. 617. 31 Aug., 1852, ch. 108, § 1, v. 10, p. 95. 3 Mar., 1853, ch. 97, §§ 1, 3, v. 10, pp. 209, 211. 3 Mar., 1855, ch. 175, § 10, v. 10, p. 670. 18 Aug., 1856, ch. 129, § 9, v. 11, p. 91. 2 Mar., 1861, ch. 88, §§ 2, 7, v. 12, pp. 246, 247. 29 Mar., 1867, ch. 17, § 1, v. 15, p. 10. 3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

SEC. 2. The officers and employees of said office shall *continue to* be: one Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, to be appointed by the President, by and with the advice and consent of the Senate; one chief clerk, [one superintendent of [drawing, twenty principal examiners, twenty first-assistant examiners, twenty second-assistant examiners,] *the annual report,*] *one examiner in charge of interferences, twenty-two principal examiners, twenty-two first-assistant examiners, twenty-two second-assistant examiners,* one librarian, one machinist, [one] *five* clerks of class four, six clerks of class three, [eight] *fifty* clerks of class two, *forty-five clerks of class one,* and one messenger and purchasing clerk, all of whom shall be appointed by the Secretary of the Interior, *upon nomination of the Commissioner of Patents.*

Additional employés.

3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

SEC. 3. The Secretary of the Interior may also appoint such additional clerks of classes two and one, and of lower grades, copyists of drawings, female copyists, skilled laborers, laborers, and watchmen, as may be from time to time appropriated for by Congress.

Salaries.

27 May, 1848, ch. 47, § 1, v. 9, p. 231. 31 Aug., 1852, ch. 108, § 1, v. 10, p. 95. 3 Mar., 1853, ch. 97, §§ 1, 3, v. 10, pp. 209, 211. 22 Apr., 1854, ch. 52, §§ 1, 2, v. 10, p. 276.

SEC. 4. The annual salaries of the officers and employees of the Patent Office shall be as follows:

Of the Commissioner of Patents, four thousand five hundred dollars.

Of the Assistant Commissioner, three thousand dollars.

Of the examiners-in-chief, three thousand dollars each.

Of the chief clerk, two thousand five hundred dollars.

3 Mar., 1855, ch. 175, §§ 10, 25, v. 10, pp. 670, 674.
2 Mar., 1861, ch. 88, § 4, v. 12, p. 247.
3 Mar., 1869, ch. 121, § 1, v. 15, pp. 287, 293.

[Of the superintendent of drawing, two thousand five hundred dollars.]

Of the examiner in charge of interferences, three thousand dollars.

Of the principal examiners, two thousand five hundred dollars each.

Of the first-assistant examiners, [one] *two* thousand [eight hundred] dollars each.

Of the second-assistant examiners, one thousand six hundred dollars each.

Of the librarian, [one thousand eight hundred] *two thousand five hundred* dollars.

Of the machinist, one thousand six hundred dollars.

Of the clerks of class four, one thousand eight hundred dollars each

Of the clerks of class three, one thousand six hundred dollars each.

Of the clerks of class two, one thousand four hundred dollars each.

Of the clerks of class one, one thousand two hundred dollars each.

Of the messenger and purchasing clerk, [eight hundred and forty] *one thousand* dollars.

Of laborers and watchmen, seven hundred and twenty dollars each.

Of the additional clerks, copyists of drawings, female copyists, and skilled laborers, such rates as may be fixed by the acts making appropriations for them.

Oath of office.
4 July, 1836, ch. 357, § 3, v. 5, p. 118.

SEC. 5. All officers and employees of the Patent Office shall, before entering upon their duties, make oath or affirmation truly and faithfully to execute the trusts committed to them.

Official bonds.
4 July, 1836, ch. 357, § 3, v. 5, p. 118.
31 Aug., 1852, ch. 108, § 1, v. 10, p. 95.

SEC. 6. The Commissioner and chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States; the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their duties, and that they will render, to the proper officers of the treasury, a true account of all money received by virtue of their office.

Duties of Commissioner.
4 July, 1836, ch. 357, § 1, v. 5, p. 117.
3 Mar., 1849, ch. 108, § 2, v. 9, p. 395.

SEC. 7. It shall be the duty of the Commissioner, under the direction of the Secretary of the Interior, to superintend or perform all the duties respecting the granting and issuing of patents which herein are, or may hereafter be, by law directed to be done; and he shall have charge of all books, records, papers, models, machines, and other things belonging to said office.

Franking privilege.
4 July, 1836, ch. 357, § 1, v. 5, p. 117.
27 May, 1848, ch. 47, § 4, v. 9, p. 232.

SEC. 8. The Commissioner may send and receive by mail, free of postage, letters, *printed matter*, and packages relating

to the business of his office, including Patent Office reports.

SEC. 9. The Commissioner shall lay before Congress, [at the commencement of each annual session,] *in the month of January, annually*, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of the patentees, with their places of residence; a list of all patents which have [expired] *been extended* during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public. [And the printed report of said office, with the plates and drawings necessary to illustrate each subject, shall be in one volume, not to exceed eight hundred pages.]

Annual report.
3 Mar., 1837, ch. 45, § 14, v. 5, p. 195.
3 Mar., 1859, ch. 80, § 4, v. 11, p. 422.
20 July, 1868, ch. 177, § 7, v. 15, p. 119.

SEC. 10. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners [in rejected claim, reissue, and] *upon applications for patents, and for reissues of patents, and in* interference cases; and when required by the Commissioner, they shall hear and [determine] *report* upon claims for extensions, and perform such other duties as he may assign them; [and they shall be governed in their action by rules prescribed by him.]

Duties of examiners-in-chief.
2 Mar., 1861, ch. 88, § 2, v. 12, p. 246.

Acting Commissioner.

23 July, 1868, ch. 227, § 3, v. 15, p. 168.

SEC. 11. In case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the [examiner-in-chief oldest in commission,] *Assistant Commissioner* until a successor shall be appointed, or such absence or sickness shall cease.

Seal of office.

4 July, 1836, ch. 357, § 4, v. 5, p. 118.

4 McLean, 371.
2 Blatchf., 12.
14 How., 583.

SEC. 12. The Commissioner shall cause a seal to be provided for said office, with such device as the President may approve, with which all records or papers issued from said office, to be used in evidence, shall be authenticated.

Display of models.

4 July, 1836, ch. 357, § 20, v. 5, p. 125.

SEC. 13. The Commissioner shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in said office; and said rooms and galleries shall be kept open during suitable hours for public inspection.

Restoring models.

2 Mar., 1861, ch. 88, § 5, v. 12, p. 247.

SEC. 14. The Commissioner may restore to the respective applicants, [if demanded within one year from the time of final rejection,] such of the models belonging to rejected applications as he shall not think necessary to be preserved, [and if not so demanded,] *or* he may sell or otherwise dispose of them, paying the proceeds into the treasury, as other patent moneys are directed to be paid.

Library.

4 July, 1836, ch. 357, § 19, v. 5, p. 125.

SEC. 15. There shall be purchased for the use of said office, [under the direction of the Committee on the Library of Congress,] a library of such scientific works and periodicals,

both foreign and American, as may aid the officers in the discharge of their duties.

Employés not to acquire interest in patents.
4 July, 1836, ch. 357, § 2, v. 5, p. 118.

SEC. 16. All officers and employees of the Patent Office shall be incapable, during the period for which they shall hold their appointments, to aquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office.

Refusal to recognize agent.
2 Mar., 1861, ch. 88, § 8, v. 12, p. 247.

SEC. 17. For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the [President] *Secretary of the Interior.*

Printing papers.
2 Mar., 1861, ch. 88, § 8, v. 12, p. 247.

SEC. 18. The Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed, at the cost of the party filing them.

Renting rooms for Patent Office.
20 July, 1868, ch. 177, § 7, v. 15, p. 119.

SEC. 19. [The Commissioner may rent, under the direction of the Committees on Patents of the Senate and House of Representatives, such rooms as may be necessary for the speedy and convenient transaction of the business of his office.] *The Commissioner, subject to the approval of the Secretary of the Interior, may from time to time establish rules and regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.*

SEC. 20. *The Commissioner may print or cause to be printed copies of the specifications of all letters-patent and of the drawings of the same, and copies of the claims of current*

issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.

CHAPTER II

OF PATENTS.

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Issuing, signing, and recording of patents.

4 July, 1836, ch. 357, § 5, v. 5, p. 118.
3 Mar., 1849, ch. 108, § 2, v. 9, p. 395.

SECTION [20] 21. All patents shall be issued in the name of the United States of America under the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner, and they shall be recorded, together with the [descriptions,] specification [and drawings] in said office, in books to be kept for that purpose.

SEC. [21] 22. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the [applicant,] *patentee*, his heirs, [executors, administrators,] or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the said invention or discovery *throughout the United States and the Territories thereof*, referring to the specification for the particulars thereof; and a copy of said specifications and of the drawings shall be annexed to the patent and be a part thereof.

Contents and grant of patents.

4 July, 1836, ch. 357, § 5, v. 5, pp. 118, 119.
3 Mar., 1837, ch. 45, § 6, v. 5, p. 193.
2 Mar., 1861, ch. 88, § 16, v. 12, p. 249.

Baldwin, 322.
4 Ohio, 310.
7 Pet., 319.
15 Wend., 395.
2 McLean, 178.
3 McLean, 297.
2 Blatchf., 23.
2 Wash., 126.
Pet. C. C., 341.
1 Paine, 450.
Bald., 314.
2 Story, 614, 621.
2 Blatchf., 9.
4 How., 711.
6 How., 478.

SEC. [22.] 23. Every patent shall date as of a day not later than six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, *and if the final fee shall not be paid within that period, the patent shall be withheld.* [and whenever the applicant requests it, the patent shall date from the time of filing the specification and drawings, if not more than six months prior to the actual issuing of the patent.]

Date of patents.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.
3 Mar., 1863, ch. 102, § 3, v. 12, p. 796.

SEC. [23.] 24. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, [before his invention or discovery thereof, and not at the time,] *and not* patented, or described in any printed publication in this or any foreign country, [nor] *before his invention or discovery thereof, and not* in public use or on sale [with his consent] for more than two years prior to his application, [or except] *unless* the

What may be patented.

4 July, 1836, ch. 357, §§ 6, 7, v. 5, pp. 119, 120.
3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.
29 Aug., 1842, ch. 263, § 3, v. 5, pp. 543, 544.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

Pet. C. C., 341, 400.
4 Wash., 12.
1 How., 208.
15 How., 267.
10 How., 496.
1 Gall., 480.
3 Wheat., 516.
2 Story, 411.
15 How., 267.
11 How., 265.
14 How., 175.
2 Wall, jr., 360.
3 Sumn., 518.
Brightley, 99.

4 McLean, 180, 461.
4 Wash., 52.
1 Blatchf., 248, 463, 494.
1 Wash., 171.
3 Wash., 198.
1 Gall., 439, 479.
2 Gall., 53.

same is proved to have been abandoned, may, upon payment of the duty required by law, and other due proceedings had, obtain a patent therefor.

Pet. C. C., 342. 1 Mass., 476. 7 Wheat., 430. 4 Mass., 7. Bald., 314. 2 McLean, 178. 5 McLean, 88. 2 Blatchf., 200, 237, 243, 278. 16 Penn., 352. 1 Curt., 293. 15 How., 122. 6 McLean, 347, 561. 1 Sumn., 487. 2 Story, 194, 411. 1 Story, 281, 597. 4 How., 403. 2 Wood. & Min., 143. 2 Curt., 555. 21 How., 329.

Foreign inventions may be patented.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.
3 Mar., 1839, ch. 88, § 6, v. 5, p. 354.

5 McLean, 78, 80.
15 How., 112.

SEC. [24.] 25. No person shall be debarred from receiving a patent for his invention or discovery by reason of his having first patented it in a foreign country; provided the same shall not have been introduced into public [and common] use in the United States prior to the application, and that the patent shall [be limited to seventeen years from the date or publication of the foreign patent] *expire at the same time with the foreign patent, or if there be more than one, at the same time with the one having the shortest term, but in no case shall be in force more than seventeen years.*

Description and specification.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.

3 Wash., 198.
Pet. C. C., 401.
1 Mass., 187, 476.
2 Mass., 118.
4 Wash., 14, 73.
1 Paine, 207, 450.
7 Wheat., 434.
1 Story, 285, 292.
3 McLean, 260, 441, 444, 447.
2 Blatchf., 9.
3 Wood. & Min., 30, 56.
5 McLean, 55.
11 How., 606.
15 How., 119, 267.
5 How., 5.
2 Wall, jr., 363.
2 Brock., 309.
Bald., 314.
24 How., 168.
2 Story, 440.
22 How., 139.
1 Blatchf., 378.
1 Curt., 263.

SEC. [25.] 26. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the *best mode* [several modes] in which he has contemplated applying that principle, so as to distinguish it from other

inventions; and he shall particularly point out, *and distinctly claim* the part, improvement, or combination which he claims as his invention or discovery; and said [description and specification] *specification and claim* shall be signed by the inventor and attested by two witnesses.

Drawings.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.
3 Mar., 1837, ch. 45, § 6, v. 5, p. 193.
4 Mass., 9.
3 McLean, 261.
3 Story, 133.

SEC. [26] 27. When the nature of the case admits of drawings, the applicant shall furnish [them in duplicate, with written references,] one copy [of said drawings,] signed by the inventor *or his attorney in fact*, and attested by two witnesses, *which* shall be filed in the Patent Office; [and the other] *and a copy of said drawings, to be furnished the Patent Office*, shall be attached to the patent as part of the specification.

Specimen of ingredients.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.

SEC. [27] 28. When the invention or discovery is of a composition of matter, the applicant, *if required by the Commissioner*, shall furnish specimens of ingredients, and of the composition, sufficient in quantity for the purpose of experiment.

Model.

4 July, 1836, ch. 357, § 6, v. 5. p. 119.
6 How., 485.
Bald., 314.
20 How., 409.

SEC. [28] 29. In all cases which admit of representation by model, the applicant, *if required by the Commissioner*, shall furnish one of convenient size to exhibit advantageously the several parts of his invention or discovery.

Oath of applicant; before whom taken.

4 July, 1836, ch. 357, § 6, v. 5, p. 119.
3 Mar., 1837, ch. 45, § 13, v. 5, p. 194.
29 Aug., 1842, ch. 263, § 4, v. 5, p. 544,
1 Gall., 433.
6 How., 482.
1 Met., 191.

SEC. [29] 30. The applicant shall make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know [or] *and does not* believe that the same was ever before known or used; and *shall state* of what country

he is a citizen. And said oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commercial agent, holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant may be.

Examination of application.

4 July, 1836, ch. 357, § 7, v. 5, pp. 119, 120.

2 Pet., 18.
2 Blatchf., 34.
1 Wall, jr., 349.
1 Blatchf., 509.

SEC. [30] 31. On the filing of any such application and the payment of the duty required by law, the Commissioner shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

me to complete applications.

2 Mar., 1861, ch. 88, § 12, v. 12, pp. 248, 249.

SEC. [31] 32. All applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, *or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant*, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

Patents may issue to assignees.

3 Mar., 1837, ch. 45, § 6, v. 5. p. 193.

1 Blachf., 509.
6 Cra., 327.
1 Gall., 430.

SEC. [32] 33. Patents may be granted and issued *or reissued* to the assignee of the inventor or discoverer, the assignment thereof being first entered of record in the Patent Office; but in such case the application *for the patent* shall be made and

the specification sworn to by the inventor or discoverer; *and, also, if he be living, in case of an application for reissue.*

Patents may issue to legal representatives.

4 July, 1836, ch. 357, § 10, v. 5. p. 121.

SEC. [33] 34. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs-at-law of the deceased, in case he shall have died intestate; [but if otherwise,] *or if he shall have left a will,* then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application shall be made by such legal representatives, the oath or affirmation required to be made shall be so varied [as to be applicable to them] *in form that it can be made by them: Provided, That when an application for a patent has been rejected or withdrawn, prior to the passage of this act, the applicant shall have two years from the date of such passage to renew his application, or to file a new one; and if he omits to do either, his application shall be held to have been abandoned, but this provision shall not be held to have revived any application heretofore in fact abandoned.*

Second application in lapsed case.

25 June, 1864, ch. 159, § 1, v. 13, p. 194.
3 Mar., 1865, ch. 112, § 1, v. 13, p. 533.

SEC. [34] 35. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who has failed to make payment thereof within six months from the time at which it was

passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application: *Provided,* That the second application be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent, as aforesaid, was ordered to issue, *prior to the issue thereof.*

Assignm'ts, grants, and conveyances.

4 July, 1836, ch. 357, § 11, v. 5, p. 121.

3 McLean, 428.
2 Blatchf., 50, 148.
5 McLean, 132.
10 How., 494.
14 How., 549.
18 How., 294.
4 Mass., 15.
6 Blatchf., 260.
2 Story, 542, 615.
3 Story, 131.
4 How., 711.
15 Barb., S. C., 315.
19 How., 221.
17 How., 451.

SEC. [35] 36. Every patent or any interest therein shall be assignable in law, by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States; and said assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

Right of purchasers before patent.

3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.

2 Blatchf., 254.
1 How., 208.
4 How., 403.
2 Curt., 555.
3 Story, 406.
1 Wood. & Min., 301.
21 How., 330.
1 Blatchf., 250.
3 Wall, jr., —.

SEC. [36] 37. Every person who may have purchased [or] *of the inventor, or with his knowledge and consent may have* constructed, any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor; [and no patent shall be invalid by reason of such purchase, sale, or use prior to the

application for a patent, except on proof of abandonment of the invention or discovery to the public, or that the purchase, sale, or prior use has been for more than two years prior to such application.]

Patented articles to be marked.
2 Mar., 1861, ch. 88, § 13, v. 12, p. 249.

SEC. [37] 38. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented, either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make or vend the article so patented.

False marking; penalty.
29 Aug., 1842, ch. 263, § 5, v. 5, p. 544.
2 Curt., 506.

SEC. [38] 39. If any person shall, in any manner, mark upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any such patented article the word "patent" or "patentee," or the words "letters-patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the

patentee, without having the license or consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, he shall be liable for every such offense to a penalty of not less than one hundred dollars, with costs; one moiety of said penalty to the person who shall sue for the same, and the other to the use of the United States, *to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.*

Caveats.

4 July, 1836, ch. 357, §§ 8, 12, v. 5, pp. 120, 121.
2 Mar., 1861, ch. 88, § 9, v. 12, p. 247.
6 McLean, 304.
18 How., Pr., 9.

SEC. [39] 40. Any citizen of the United States, who shall have made any new invention or discovery, and shall desire further time to mature the same, may, on payment of the duty required by law, file in the Patent Office a caveat setting forth the design thereof, and its distinguishing characteristics, and praying protection of his right until he shall have matured his invention; and such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application shall be made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person filing the ca-

veat, who, if he would avail himself of his caveat, shall file his description, specification, drawings, and model within three months from the time of placing said notice in the post office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be indorsed on the notice. And an alien shall have the privilege herein granted, if he shall have resided in the United States one year next preceding the filing of his caveat, and made oath of his intention to become a citizen.

Rejected applications.

4 July, 1836, ch. 357, § 7, v. 5, pp. 119, 120.

SEC. [40] 41. Whenever, on examination, any claim for a patent is rejected for any reason whatever, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant shall persist in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

Notice of interference.

4 July, 1836, ch. 357, § 8, v. 5, pp. 120, 121.

SEC. [41] 42. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicant, or patentee, as the case may be, *and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who shall be adjudged the prior inventor, unless the adverse party shall appeal from the decision*

of the primary examiner, or of the board of examiners in chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

Affidavits and depositions.

3 Mar., 1839, ch. 88, § 12, v. 5, p. 355.
2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

SEC. [42] 43. The Commissioner may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

Duty of clerk of court.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

SEC. [43] 44. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or his agent or attorney, issue subpœna for any witness residing or being within said district or Territory, commanding him to appear and testify before any officer in said district or Territory authorized to take depositions and affidavits, at any time and place in the subpœna stated; and if any witness, after being duly served with such subpœna, shall neglect or refuse to appear, or after appearing shall refuse to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience as in other like cases.

Fees and rights of witnesses.

2 Mar., 1861, ch. 88, § 1, v. 12, p. 246.

SEC. [44] 45. Every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States, but no

witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him, nor be deemed guilty of contempt for disobeying such subpœna, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

Appeal to examiners-in-chief.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 246.
3 Mar., 1837, ch. 45, § 8, v. 5, p. 193.
27 June, 1866, ch. 143, § 1, v. 14, pp. 76, 77.

SEC. [45] 46. [Any applicant, patentee, or caveator, party to a rejected claim, reissue, or interference case, if he is dissatisfied with the final decision of the examiners thereon, may, on payment of the duty required by law, appeal to the board of examiners-in-chief.] *Every applicant for a patent or the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner in such case to the board of examiners-in-chief, having once paid the fee for such appeal provided by law.*

Appeal to Commissioner.

2 Mar., 1861, ch. 88, § 2, v. 12, p. 246.

SEC. [46] 47. If such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the duty required by law, appeal to the Commissioner in person.

Appeal to justice of supreme court of District.

3 Mar., 1839, ch. 88, §§ 10, 11, v. 5, pp. 354, 355.
30 Aug., 1852, ch. 107, § 1, v. 10, p. 75.

[SEC. 47. If such party is dissatisfied with the decision of the Commissioner, he may appeal to the Chief Justice, or *to* any one of the associate justices of the supreme court of the District of Columbia, *at the option of the appellant.*]

When to justice; duty of appellant.

3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.

[SEC. 48. When an appeal is taken to a justice of the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.]

Duty of justice.

4 July, 1836, ch. 357, § 12, v. 5, p. 121.
3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.
30 Aug., 1852, ch. 107, §§ 1, 2, v. 10, p. 75.

[SEC. 49. It shall be the duty of such justice, on petition, to hear and determine such appeal, and to revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as he may appoint, notifying the Commissioner of the time and place of hearing; and the revision shall be confined to the points set forth in the reasons of appeal. And after hearing the case, he shall return all the papers to the Commissioner, with a certificate of his proceedings and decision, which shall be entered of record in the Patent Office, and govern the further proceedings in the case. But no opinion or decision of the justice in any such case shall preclude any person interested from the right to contest the validity of such patent in any judicial court wherein the same may be called in question.]

Duty of Commissioner.

3 Mar., 1839, ch. 88, § 11, v. 5, pp. 354, 355.

[SEC. 50. On receiving notice of the time and place of hearing such appeal the Commissioner shall notify all parties who appear to be interested therein, in such manner as the justice may prescribe. He shall also lay before the justice all the original papers and evidence in the case, together

with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the justice, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the machine or other thing for which a patent is demanded.]

[SEC. 51. Whenever a patent on application is refused, for any reason whatever, either by the Commissioner or by a justice of the supreme court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity, and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent, on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requisitions of law. And in all cases where there is no opposing party a copy of the bill shall be served on the Commissioner, and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.]

Refusal to grant patents; remedy in equity.

4 July, 1836, ch. 357, § 16, v. 5, pp. 123, 124.
3 Mar., 1839, ch. 88, § 10, v. 5, p. 354.

SEC. 48. *Whenever a patent or reissue of a patent is refused on application therefor, after appeal to the Commissioner for any reason whatsoever, the applicant may give notice to the Commissioner of the points and matters concerning which he deems the decision erroneous, by filing his objections in writing thereto, within thirty days from the rendering of such decision; and he may have his remedy against such erroneous decision, by a suit in equity in any circuit court of the United States within whose jurisdiction the Commissioner of Patents, and any of the necessary parties to such suit, may be found; and all persons who may be interested in such application for a patent may be made parties to such suit; and the Commissioner, and all other persons who may be made parties defendant to such suit, may answer the same and avail themselves of all defenses which the law may allow thereto; and the subject-matter of such suit shall not extend to or include any matter not set forth in the objections to the decision of the Commissioner; and the decree rendered thereon shall be confined to the revision of the decision of the Commissioner, and to the determination upon the evidence of what the invention or discovery of the applicant, and for which he may be entitled to a patent, actually is.*

Testimony in such case.

SEC. 49. *All the testimony, duly taken, certified, and filed before the Commissioner, shall be evidence in such suit in equity, subject to all legal objections thereto; and copies thereof, duly certified, may be filed by either party in such suit;*

and any new or additional testimony may be taken, and the cause prepared for trial, under the rules of the Supreme Court in equity.

Jurisdiction of courts; who may be parties defendant, and how served.

SEC. 50. *The circuit courts of the United States, and the supreme court of the District of Columbia, are hereby authorized to take jurisdiction of such suits in equity and to hear and determine the same as soon as practicable, and all parties who may have appeared in person or by attorney in the proceedings before the Commissioner may be made defendants in any such suit, and may be notified and required to appear therein in such manner as the court having jurisdiction may direct, and shall be held bound by the final decree therein, the expense of the service of the notice or of a subpœna upon such parties being paid by the complainant; and any and all persons whom such court may deem necessary or proper parties defendant to such suit may be made defendants thereto, in such manner and upon such notice as the court may direct, so that all parties known to be interested in the claim of the complainant to the alleged invention or discovery may be heard before said court.*

What may be determined in such suit.

SEC. 51. *The several circuit courts of the United States and the supreme court of the District of Columbia are hereby authorized and empowered to determine in any such suit whether the complainant is entitled to the patent for the invention or discovery which he claims, and also to determine what*

his invention and discovery actually is, upon the evidence submitted in such case, and to order and decree that a patent shall be issued to the complainant and applicant therefor, with the claim in such language as the court may determine, whether it be for the whole or for any part of the invention or discovery as claimed in his application, or for any modification thereof. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent, upon the filing in the Patent Office by the applicant of a copy of the adjudication, and upon his otherwise complying with the requirements of the law.

Costs, and effect of decision.

SEC. 52. When the Commissioner of Patents is the only defendant in any such suit, all costs shall be paid by the complainant, and the whole amount of costs taxed against the complainant shall not exceed the sum of twenty-five dollars; and in cases where other parties shall be made defendants and shall appear and answer to the bill of the complainant, the costs shall be taxed according to law, and allowed and paid as the court may direct, except that the Commissioner shall not be liable for any part of such costs. And the adjudication of the court having jurisdiction in any such case shall be final and conclusive as against all parties to such suit, in all matters put in issue by the pleadings therein, and against all persons claiming under such parties by title accruing after the

commencement of such suit, except as such decision may be modified or reversed by the Supreme Court of the United States on appeal.

SEC. [52] 53. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient [description or] specification or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent, and the payment of the duty required by law, cause a new patent for the same invention. and in accordance with the corrected [description and] specification, to be issued to the patentee, or, in the case of his death or assignment of [any] *the whole or any undivided* part of the original patent, to his executors, administrators, or assigns, for the unexpired part of the term of the original patent, *the surrender of which shall take effect upon the issue of the amended patent, and the Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent.* And the specification [of] *and* claim in every such case shall be subject to revision and restriction, in the same manner as original applications are. And the patent so reissued, together

Reissues.

4 July, 1836, ch. 357, §13, v. 5, p. 122.
3 Mar., 1837, ch. 45, §8, v. 5, p. 193.

6 Pet., 242.
7 Pet., 314.
14 Pet., 462.
2 Story, 439.
3 Story, 744, 753.
1 Sumn., 488.
4 How., 402, 688.
15 How., 112, 220.
17 How., 83.
3 Wood. & Min., 126.
1 Wood. & Min., 262, 302.
1 Blatchf., 169.
2 Wood. & Min., 138.
2 Wall, jr., 102.
2 McLean, 37, 176.
5 McLean, 166.
11 Cush., 571.

with the corrected [description and] specification, shall have the effect and operation in law, on the trial of all actions for causes thereafter arising, as though the same had been originally filed in such corrected form; *but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended except each by the other, unless upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.*

Disclaimers.

3 Mar., 1837, ch. 45, §§ 7, 9, v. 5, pp. 193, 194.

Bald., 313.
1 Story, 294, 600.
3 McLean, 349, 44
5 McLean, 56.
5 Denio, 318.
2 Whar. Dig., 413.
1 Blatchf., 245, 450, 461.
3 Blatchf., 199.
2 Blatchf., 198.
14 How., 221.
15 How., 121.
19 How., 106.
20 How., 387,

SEC. [53] 54. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his [executors, administrators and] *heirs* or assigns, whether of the whole or any sectional interest therein, may, on payment of the duty required by law, make disclaimer of such parts of the thing patented as he shall not *choose to* claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; said disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, and it shall thereafter be considered as part of the original specifi-

cation to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

Actions cognizable by circuit courts.

4 July, 1836, ch. 357, § 17, v. 5, p. 124.

1 Blatchf., 630.
6 Cra., 327.
1 Gall., 430.
4 Mass., 15.
4 Wash., 584.
2 Paine, 246.
1 Wood. & Min., 37.
1 Blatchf., 486, 630.
3 Coms., 14.
14 How., 549.
40 Maine, 434.
20 How., 56, 215.
7 John., 144.
8 Page, 134.
16 Conn., 414.

SEC. [54] 55. All actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well at equity as in law, by the circuit courts of the United States, or any district court having the powers and jurisdiction of a circuit court, *or by the supreme court of the District of Columbia or of any Territory*, and the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; *but all actions shall be brought during the term for which the letters-patent shall be granted or extended, or within six years after the expiration thereof.*

Appeal to the Supreme Court.

4 July, 1836, ch. 357, § 17, v. 5, p. 124.
18 Feb., 1861, ch. 37, § 1, v. 12, p. 130.

1 Blatchf., 544.
6 How., 477.
7 How., 657.
10 How., 101, 346.
15 How., 465, 557.
16 How., 103.
20 How., 56, 204.
14 How., 220.

SEC. [55] 56. A writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court, *or of any district court exercising the jurisdiction of a circuit court, or of the supreme court of the District of Columbia or of any Territory*, in any action, suit, controversy, or case, at law or in equity, touching patent

rights, in the same manner and under the same circumstances as in other judgments and decrees of such circuit courts, without regard to the sum or value in controversy.

Copies of records.

4 July, 1836, ch. 357, § 4, v. 5, p. 118.
2 Mar., 1861, ch. 88, § 15, v. 12, p. 249.
23 July, 1868, ch. 227, § 3, v. 15, p. 168.

3 McLean, 434.
2 Blatchf., 12.
4 McLean, 371.
1 Wood. & Min., 260.
14 How., 583.
9 Wend., 44.

SEC. [56] 57. *Written or printed* copies of any records, books, papers, or drawings belonging to the Patent Office, and [printed copies] of letters-patent under the signature of the Commissioner, or [when the said office shall be vacant, under the signature of the examiner-in-chief oldest in commission] acting [as] Commissioner, with the seal of office affixed, shall be competent evidence in all cases wherein the originals could be evidence, and any person making application therefor, and paying the fee required by law, shall have certified copies thereof. *And copies of the specifications and drawings of foreign letters-patent, certified in like manner, shall be prima facie evidence of the fact of the granting of such foreign letters-patent, and of the date and contents thereof.*

[SEC. 57. Whenever there shall be two interfering patents, any person interested in any such patents, either by assignment or otherwise, may have his remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties, and other due proceedings had, may adjudge and declare either of the patents void, in whole or in part, or inoperative, or invalid in any particular district of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the rights of any person except the parties

to the suit and those deriving title under them subsequent to the rendition of such judgment.]

Proceedings in equity in the interfering patents and when suit is brought for infringement.

4 July, 1836, ch. 357, § 16, v. 5, pp. 123, 124.

SEC. 58. *Whenever there shall be interfering patents, or whenever any person shall be sued either at law or in equity for the infringement of any patent, any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, and any defendant in any suit for infringement as aforesaid, may have relief against the interfering patentee and all parties interested under him, and against the plaintiff or complainant, in any such suit, by suit in equity against the owners of the interfering patent, or against the patentee or assignee, or both, of any patent upon which suit may be commenced for the infringement thereof, to be brought in the circuit court of the United States in any district where the patentee or owner of the interfering patent may reside or be found, or within the Territory where the owner of any exclusive right under such patent may reside or be found, or within which the patentee or his assignee or grantee for the whole or any specified portion of the United States or their Territories may reside or be found; and in either case the court having jurisdiction of any such suit by reason of the service of process upon the patentee or any territorial assignee or grantee, or upon any plaintiff or complainant, within its district, may order and require service of its process upon such persons as it may determine to be necessary and proper parties defendant to such suit, in any other district of the*

United States, and service of such process may be made by the marshal of any district of the United States within which such parties may reside or be found, and at no greater cost than if the suit was pending in such district; and whenever all necessary and proper parties shall be brought before the court having original jurisdiction of such suit, the said court shall proceed to hear and determine the same according to the course of equity, and may dismiss such suit, or may adjudge and declare either of the patents void in whole or in part, or inoperative or invalid throughout the United States, or any portion thereof specifically described, or grant such other relief as may be equitable according to the rights of the parties or their several and respective interests in the patent or in the invention patented. But no such adjudication shall affect the rights of any person except the parties to such suit and those deriving title under them subsequent to the commencement thereof. And whenever all the parties interested in any such interfering patents, or patent sued upon, shall be before the court having original jurisdiction of any such su as aforesaid, by voluntary appearance, or by due service of process thereon as aforesaid, and, upon final hearing in such cause, the patent attacked shall be declared void in whole or in part, such decision shall be final and shall not be subject to review in any other suit, in any court of co-ordinate jurisdiction, but shall be reviewed and overruled only in the Supreme Court of the United States on appeal. The Su-

preme Court may admit new evidence in any such appeal in their discretion, and may make rules for the proper exercise of the jurisdiction herein and hereby conferred upon the courts of the United States. The supreme courts of the District of Columbia and of the Territories shall have the same jurisdiction as that conferred herein upon the circuit courts of the United States in similar cases.

Damages for infringement.

4 July, 1836, ch. 357, § 14, v. 5, p. 123.

1 Story, 341.
3 Story, 136, 410.
3 Wall, jr., —.
3 McLean, 583.
2 Wood. & Min., 147.
2 Blatchf., 38, 201, 494.
1 Blatchf., 245, 406.
1 Wall, jr., 166.
16 How., 489.
15 How., 559.
23 How., 488.

SEC. 59. *Damages for the infringement of any patent may be recovered by action on the case in any circuit court of the United States, or district court exercising the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or of any Territory, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict shall be rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.*

Actions for infringement prior to disclaimer.

3 Mar., 1837, ch. 45, § 9, v. 5, p. 194.

5 McLean, 56, 84.
3 McLean, 449.
2 Story, 621.
1 Story, 294, 600.
1 Blatchf., 245.
2 Blatchf., 198.
15 How., 122.
19 How., 106.
20 How., 387.
5 Denio, 318.

SEC. [59] 60. Whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud or mislead the public, a patentee shall have, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer as aforesaid, every such patentee, his executors,

administrators and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, provided it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the parts so claimed, without right as aforesaid, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit; nor shall he be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to enter said disclaimer.

Notice of special matter.

4 July, 1836, ch. 357, § 15. v. 5, p. 123.
3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.

Pet. C. C., 348.
7 Wheat., 469.
4 McLean, 179, 371, 525.
3 Wheat., 503.
4 Wash., 74, 705.
14 Pet., 459.
1 Wall, jr., 195.
1 Blatchf., 376.
14 How., 222.
15 How., 110, 141.
23 How., 7.
24 How., 168.
1 Blatchf., 597.
5 McLean, 61.
17 How., 84.
2 Story, 441.

SEC. [60] 61. In any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove on trial any one or more of the following special matters:

First. That for the [manifest] purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another,

administrators and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, provided it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the parts so claimed, without right as aforesaid, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit; nor shall he be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to enter said disclaimer.

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3 Mar., 1839, ch. 88, § 7, v. 5, p. 354.

Pet. C. C., 348.
7 Wheat., 469.
4 McLean, 179, 371, 525.
3 Wheat., 503.
4 Wash., 74, 705.
14 Pet., 459.
1 Wall, jr., 195.
1 Blatchf., 376.
14 How., 222.
15 How., 110, 141.
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Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another,

for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

Prior knowledge or use in foreign country.

4 July, 1836, ch. 357, § 15, v. 5, p. 123.

5 McLean, 61.
6 McLean, 313.

SEC. [61] 62. Whenever it shall [satisfactorily] appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been [before] known or used in a foreign country, *before his invention or discovery thereof*, if it had not [before] been patented, or described in a printed publication.

Extension of patent. Duty of applicant.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.
2 Mar., 1861, ch. 88, §§ 12, 16, v. 12, pp. 248, 249.

SEC. [62] 63. Where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of his patent beyond the original term of its limitation, he shall make application therefor, in writing, to the Commissioner, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of said invention or discovery. And said application shall be filed [at least] *not more than six months nor less than* ninety days before the expiration of the original term of

the patent, and no extension shall be granted after the expiration of said original term.

Notice of application to be published.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.
2 Mar., 1861, ch. 88, § 12, v. 12, p. 248.

SEC. [63] 64. Upon the receipt of such application, and the payment of the duty required by law, the Commissioner shall cause to be published in one [or more] newspaper[s] in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

Case to be referred to examiner.

27 May, 1848, ch. 47, § 1, v. 9, p. 231

SEC. [64] 65. On the publication of such notice, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make to said Commissioner a full report of the case, and particularly whether the invention or discovery was new and patentable when the original patent was granted.

Hearing of case. Granting extension.

4 July, 1836, ch. 357, § 18, v. 5, p. 124.
27 May, 1848, ch. 47, § 1, v. 9, p. 231.

SEC. [65] 66. The Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced, both for and against the extension; and if it shall appear to his [full and entire] satisfaction that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity,

and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the said Commissioner shall make a certificate thereon, renewing and extending the said patent for the term of seven years from the expiration of the first term, which certificate shall be recorded in the Patent Office, and thereupon the said patent shall have the same effect in law as though it had been originally granted for twenty-one years.

Extension to benefit assignees.

4 July, 1836, ch. 357, § 18, v. 5, p. 125.

SEC. [66] 67. The benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented to the extent of their interest therein.

Patent fees.

2 Mar., 1861, ch. 88, § 10, v. 12, p. 248. 27 June, 1866, ch. 143, § 1, v. 14, p. 76.

SEC. [67] 68. The following shall be the rates for patent fees:

On filing each original application for a patent, fifteen dollars.

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

To whom paid. Who to disburse money.

SEC. [68] 69. Patent fees may be paid to the Commissioner, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor. And all money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever; and all disbursements for said office shall be made by the disbursing clerk of the Interior Department.

6 Aug., 1846, ch. 90, § 15, v. 9, p. 62. 20 July, 1868, ch. 177, § 7, v. 15, p. 119. 3 Mar., 1869, ch. 121, § 1, v. 15, p. 293.

Additional fees at end of seven and twelve years.

SEC. 70. *On all patents hereafter granted, there shall be paid the following additional fees, namely: At or before the expiration of the term of seven years from the date of*

the patent, the sum of twenty-five dollars, and at or before the expiration of the term of twelve years from the date of the patent, the further sum of fifty dollars, and in default of the payment of either of the sums aforesaid, within the periods aforesaid, the said patent shall be forfeited, and the invention so patented become public property.

Money paid by mistake.

SEC. 71. The Treasurer of the United States is authorized to pay back any sum or sums of money to any person who shall have paid the same into the treasury, or to any receiver or depositary, to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, certificate thereof being made to said Treasurer by the Commissioner of Patents.

CHAPTER III.

OF DESIGN PATENTS.

SEC.
72. Designs may be patented.
73. Models of designs.
74. Term of design patents.
75. Extension of design patents.
76. Fees for design patents.
77. Other provisions to apply to design patents.

Designs may be patented.

29 Aug., 1842, ch. 263, § 3, v. 5, pp. 543, 544.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.
4 McLean, 180.
1 Blatchf., 248.

SECTION [69] 72. Any [citizen of the United States, or any alien who has resided therein one year, and taken the oath of his intention to become a citizen] *person* who, by his own industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics;

any new and original impression, ornament, pattern, print, or picture, to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, *useful*, and original shape or configuration of any [such article,] *article of manufacture*, the same not having been known or used by others before his invention or production thereof, *or patented or described in any printed publication*, may, upon payment of the duty required by law, and other due proceedings had the same as in cases of inventions or discoveries, obtain a patent therefor.

Models of designs.
2 Mar., 1861, ch. 88, § 5, v. 12, p. 247.

SEC. [70] 73. The Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings *or photographs*, [and he may restore to the respective applicants, if demanded within one year from the time of final rejection, such of said models as he shall not think necessary to be preserved, and if not so demanded, he may sell or otherwise dispose of them, paying the proceeds into the treasury as other patent moneys are directed to be paid.]

Term of design patents.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

SEC. [71] 74. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may in his application elect.

Extension of design patents.
2 Mar., 1861, ch. 88, § 11, v. 12, p. 248.

SEC. [72] 75. Patentees of designs shall be entitled to extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as

are provided for the extension of patents for inventions or discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

Fees - for design patents.

2 Mar., 1861, ch. 88, §§ 10, 11, v. 12, p. 248.

SEC. [73] 76. The following shall be the rates of fees in design cases:

For three years and six months, ten dollars.

For seven years, fifteen dollars.

For fourteen years, thirty dollars.

For all other cases in which fees are required, the same rates as in cases of inventions or discoveries.

Other provisions to apply to design patents.

29 Aug., 1842, ch. 263, § 3, v. 5, p. 543.

SEC. [74] 77. All the regulations and provisions which apply to the obtaining or protection of patents for inventions or discoveries, not inconsistent with the provisions of this chapter, shall apply to patents for designs.

CHAPTER IV.

OF TRADE-MARKS.

SEC.
78. Who are entitled to trade-marks, and requirements concerning same.
79. Term for which trade-marks shall remain in force.
80. Remedy for wrongful use of trade-marks.
81. Proof of registration.
82. Rules for transfer of trade-marks.
83. Penalty for fraudulent registration.
84. Common law remedies preserved.
85. No action to be sustained on fraudulent or deceptive trade-marks.

Who entitled to trade-marks, and requirements concerning same.

SEC. 78. *Any person or firm domiciled in the United States, and any corporation created by the authority of the United States or of any State or Territory thereof, and any person, firm or corporation resident of or located in any foreign country which by treaty or convention affords similar*

privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements, to wit:

First. By causing to be recorded in the Patent Office the names of the parties and their residences and place of business, who desire the protection of the trade-mark.

Second. The class of merchandise and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

Third. A description of the trade-mark itself, with facsimiles thereof and the mode in which it has been or is intended to be applied and used.

Fourth. The length of time, if any, during which the trade-mark has been used.

Fifth. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

Sixth. The compliance with such regulations as may be prescribed by the Commissioner of Patents.

Seventh. The filing of a declaration under the oath of the person or of some member of the firm or officer of the corporation, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation, has the right to such use,

either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the description and fac-similes presented for record are true copies of the trade-mark sought to be protected.

Term for which trade-marks shall remain in force.

SEC. 79. *Such trade-mark shall remain in force for thirty years from the date of such registration, unless it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere, and during the period that it remains in force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods.*

Remedy for wrongful use of trade-marks.

SEC. 80. *Any person or corporation who shall reproduce, counterfeit, copy, or imitate any such recorded trade-mark and affix the same to goods of substantially the same descriptive properties and qualities as those referred to in the registration, shall be liable to an action in the case for damages for such wrongful use of said trade-mark, at the suit of the owner thereof, in any court of competent jurisdiction in the United States, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of*

his trade-mark and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful use. The Commissioner of Patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public: Provided, That this section shall not prevent the registry of any lawful trade-mark rightfully used at the time of the passage of this act.

Proof of registration.

SEC. 81. *The time of the receipt of any trade-mark at the Patent Office for registration shall be noted and recorded, and copies of the trade-mark and of the date of the receipt thereof, and of the statement filed therewith, under the seal of the Patent Office, certified by the Commissioner, shall be evidence in any suit in which such trade-mark shall be brought in controversy.*

Rules for transfer of trade-marks.

SEC. 82. *The Commissioner of Patents is authorized to make rules, regulations, and prescribe forms for the transfer of the right to the use of such trade-marks, conforming as nearly as practicable to the requirements of law respecting the transfer and transmission of copy-rights.*

Penalty for fraudulent registration.

SEC. 83. *Any person who shall procure the registry of any trade-mark, or of himself as the owner thereof, or any entry respecting a trade-mark in the Patent Office under this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay damages in consequence of any such registry or entry to the person injured thereby, to be recovered in an action on the case before any court of competent jurisdiction within the United States.*

Common law remedies preserved.

SEC. 84. *Nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity, which any party aggrieved by any wrongful use of any trade-mark might have had if this act had not been passed.*

No action to be sustained on fraudulent or deceptive trade-marks.

SEC. 85. *No action shall be maintained* [*for the wrongful use of a trade-mark in any unlawful business, or which has been fraudulently obtained, or which has been framed and used with the design of deceiving or misleading the public in the purchase or use of any article of merchandise, or of any article injurious in itself.*] *under the provisions of this act, by any person claiming the exclusive right to any trade mark, which is used or claimed in any unlawful business, or upon any article which is injurious in itself, or upon any trade mark which has been fraudulently obtained, or which has been formed and used with the design of deceiving the public in the purchase or use of any article of merchandise.*

CHAPTER V.

OF COPYRIGHTS.

SEC.
86. Libarian of Congress to have charge of copyrights.
87. What may be copyrighted.
88. Term of copyright.
89. Extension of copyright.
90. Assignment of copyright to be recorded.
91. Recording copyright; duty of applicant.
92. Recording copyright; duty of Librarian.
93. Fees of Librarian.
94. Library of Congress to have copyright articles.
95. Penalty for not delivering.
96. May be sent to library by mail free.
97. Duty of postmaster in regard to.
SEC.
98. Notice of copyright.
99. Penalty for false notice.
100. Infringement of copyright book.
101. Infringement of copyright map, &c.
102. Infringement of copyright dramatic composition.
103. Infringement of manuscripts.
104. Foreign works may be printed or imported.
105. Limitation of time of action.
106. Pleading.
107. Actions cognizable by circuit court.
108. Apppeals to Supreme Court.
109. Full costs to be allowed.
110. Transfer of books, &c., to Library of Congress.

Librarian of Congress to have charge of copyrights.

5 Feb., 1859, ch. 22, § 8, v. 11, pp. 380, 381.

SECTION [75] 86. All records and other things relating to copyrights, and required by law to be preserved, shall be under the control of the [Secretary of the Interior] *Librarian of Congress*, and kept and preserved in the [Patent Office] *Library of Congress;* and the [Commissioner of Patents] *Librarian of Congress* shall have the immediate care and supervision thereof, and, under the [said Secretary] *supervision of the Joint Committee of Congress on the Library*, shall perform all acts and duties required by law touching copyrights.

Shall have seal.

The Librarian shall cause a seal to be provided for said office, with such device as the Joint Committee on the Library may approve, with which all records or papers issued from said office, and to be used in evidence, shall be authenticated.

Give bond.

He shall also give an additional bond with sureties to the Treasurer of the United States, in the sum of five thousand

dollars, with the condition that he will render to the proper officers of the treasury a true account of all moneys received by virtue of his office. He shall also make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year.

And make annual report.

What may be copyrighted.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.
18 Aug., 1856, ch. 169, § 1, v. 11, pp. 138, 139.
3 Mar., 1865, ch. 126, § 1, v. 13, p. 540.

8 Pet., 662.
14 How., 530.
Hopk., Ch., 351.
1 Blatchf., 625.
1 Story, 17.
3 Story, 778.
4 McLean, 316, 517.
5 McLean, 37.
2 Wood. & Min., 46.
2 Blatchf., 46, 170, 366.
2 Paine, 383.

SEC. [76] 87. Any citizen of the United States, or resident therein, who shall be the author, inventor, or designer of any book, map; chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, *or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts,* and his executors, administrators, or assigns, shall, *upon complying with the provisions of this act,* have the sole liberty of printing, reprinting, publishing, *completing, copying, executing, finishing,* and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others.

Term of copyright.

3 Feb., 1831, ch. 16, § 1, v. 4, p. 436.

SEC. [77] 88. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

Extension of copyright.

3 Feb., 1831, ch. 16, §§ 2, 3, v. 4, pp. 436, 437.

2 Wood & Min. 42.
8 Pet., 663.

SEC. [78] 89. The author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow, or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work *or description of the article* so secured a second time, and complying with all

other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

Assignm't of copyrights to be recorded.

30 June, 1834, ch. 157, § 1, v. 4, p. 728.

8 Wend., 565.
2 Wood. & Min., 12, 510.
5 McLean, 41.
8 Pet., 661.
18 How., 171.

SEC. [79] 90. Copyrights shall be assignable in law, by [an] *any* instrument of writing, [proved or acknowledged in such manner as deeds for the conveyance of land are required by law to be proved or acknowledged in the State or district in which such assignment is made, and they] *and such assignment* shall be recorded in the office [where the original copyright is recorded; and every such instrument not so proved or acknowledged and recorded] *of the Librarian of Congress* within sixty days after its execution, *in default of which it* shall be void, as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

Recording copyright; duty of applicant.

3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

2 Blatchf., 83.
1 Blatchf., 620.
5 McLean, 332.

SEC. [80] 91. No person shall be entitled to a copyright unless he shall, before publication, deposit a printed copy of the title of the book or other article, *or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts,* for which he desires a copyright, in the [clerk's office of the district court of the district wherein the proprietor resides] *Library of Congress,* and, within [three months] *ten days* from the publication thereof, cause [a copy] *two copies* of such copyright book or other article, *or in case of a painting, drawing, statue, statuary, model, or de-*

sign, for a work of the fine arts, a photograph of the same, to be delivered to said [clerk] *Librarian of Congress as hereinafter to be provided.*

Recording copyright; duty of Librarian.

3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.

SEC. [81] 92. The [clerk of said court] *Librarian of Congress* shall record the name of such copyright book or other article, forthwith in a book to be kept for that purpose, in the words following: ["District of ———] *Library of Congress,* to wit: Be it remembered, that on the —— day of ——, anno Domini ——, A. B., of [the said district,] ——, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be, *or description of the article,*) the title *or description* of which is in the words following, to wit: (here insert the title *or description,*) the right whereof he claims as author, *originator,* (or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., [clerk of the court] *Librarian of Congress.*" And he shall give a copy of the title *or description,* under the seal of the [court] *Librarian of Congress,* to said proprietor, whenever he shall require it.

[List of copyrights to Interior Department.

3 Feb., 1831, ch. 16, § 4.v. 4. p. 437.]

[SEC. 82. The said clerk shall, once in each year, transmit a certified transcript of his records of copyrights, with all the several copyright books or other articles deposited in his office, to the Secretary of the Interior.]

Fees of clerk.

3 Feb., 1831, ch. 16, § 4, v. 4, p. 437.
30 June, 1834, ch. 157, § 2, v. 4, p. 728.
26 Feb., 1853, ch. 80, § 1, v. 10, p. 163

SEC. [83] 93. For recording the title *or description* of any copyright book or other article, the [clerk of the court] *Librarian of Congress* shall receive, from the person claiming the same, fifty cents; and for every copy, under seal, actually

given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words; and for every copy thereof, ten cents for every one hundred words, *which moneys, so received, shall be paid into the treasury of the United States.*

Library of Congress to have copyright articles.

3 Mar., 1865, ch. 126, §§ 2, 4, v. 13, pp. 540, 541.
18 Feb., 1867, ch. 43, § 1, v. 14, p. 395.

SEC. [84] 94. The proprietor of every copyright book or other article shall deliver to the Library of Congress at Washington, within [one month] *ten days* after its publication, [a] *two* complete printed cop[y]*ies* thereof, *of the best edition issued, or description or photograph of such article as hereinbefore required,* and a copy of every subsequent edition wherein any changes shall be made.

Penalty for not delivering.

18 Feb., 1867, ch. 43, § 1, v. 14, p. 395.

SEC. [85] 95. In default of such delivery, said proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the Librarian of Congress, in the name of the United States, *in an action of debt,* in any district [or circuit] court of the United States within the jurisdiction of which the delinquent may reside or be found.

May be sent to library by mail free.

18 Feb., 1867, ch. 43, § 2, v. 14, p. 395.

SEC. [86] 96. Any such copyright book or other article may be sent to the Librarian of Congress by mail, free of postage, provided the words "copyright matter" are plainly written or printed on the outside of the package containing the same.

Duty of postmaster in regard to.

18 Feb., 1867, ch. 43, § 2, v. 14, p. 395.

SEC. [87] 97. The postmaster to whom such copyright book or other article, is delivered shall, if requested, give a

receipt therefor; and when so delivered, he shall see that it is safely forwarded to its destination, without cost to the proprietor.

Notice of copy right.

3 Feb., 1831, ch. 16, § 5, v. 4, p. 437.

1 Blatchf., 620.

SEC. [88] 98. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page, or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, [by causing to be impressed on the face;] [*or of a*] *painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, upon some portion of the face or front thereof;* [or if a volume, then upon the title or frontispiece thereof] the following words, viz: "Entered according to act of Congress, in the year ——, by A. B., in the [clerk's office of the district court of ——," (as the case may be)] *office of the Librarian of Congress, at Washington.*

Penalty for false notice.

3 Feb., 1831, ch. 16, § 11, v. 4, p. 448.

1 Blatchf., 154.

SEC. [89] 99. If any person shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, *or other articles herein named,* for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright book.

3 Feb., 1831, ch. 16, § 6, v. 4. pp. 437, 438.

1 Story, 19.
2 Story, 115.
2 Blatchf., 47, 85.
4 McLean, 315.
4 Wash., 490.
7 How., 811.

SEC. [90] 100. If any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay fifty cents for every sheet thereof which may be found in his possession, either printing, printed, published, imported, or exposed for sale; one moiety thereof to the proprietor, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright map, &c.

3 Feb., 1831, ch. 16, § 7, v. 4, p. 439.

1 Story, 18.
2 Story, 115.
2 Blatchf., 47.
3 Story, 787.
2 Wood. & Min., 512.
4 McLean, 301, 309.

SEC. [91] 101. If any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, *or chromo, or of the description of any painting, drawing, statue, statuary, or model or design, intended to be perfected and executed as a work of the fine arts,* as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or knowing the same to be so printed, published, or imported, shall sell or expose to sale, any copy of such map or other article, as aforesaid he shall,

forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; *and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or which have by him been sold or exposed for sale;* one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

Infringement of copyright dramatic composition.

18 Aug., 1856, ch. 169, § 1, v. 11, pp. 138, 139.

SEC. [92] 102. Any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, to be recovered by action in any court of competent jurisdiction; said damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

Infringement of manuscripts.

3 Feb., 1831, ch. 16, § 9, v. 4, p. 438.

5 McLean, 41, 332.
22 How. Pr., 207.
8 Pet., 657.
4 McLean, 301.

SEC. [93] 103. Any person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, (if such author or proprietor be a citizen of the United States, or resident therein,) shall be liable to said author or proprietor for all damages occasioned by such injury, to be recovered by action on the case in any court of competent jurisdiction.

SEC. [94] 104. Nothing herein contained shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

Foreign works may be printed or imported.
3 Feb., 1831, ch. 16, § 8, v. 14, p. 438.

SEC. [95] 105. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

Limitation of time of action.
3 Feb., 1831, ch. 16, § 13, v. 4, p. 439.

SEC. [96] 106. In all actions arising under the laws respecting copyrights the defendant may plead the general issue, and give the special matter in evidence.

Pleading.
3 Feb., 1831, ch. 16, § 10, v. 4, p. 438.

SEC. [97] 107. All actions, suits, controversies, and cases arising under the copyright laws of the United States shall be originally cognizable as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court, *or in the supreme court of the District of Columbia, or any Territory.* And the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

Actions cognizable by circuit court.
15 Feb., 1819, ch. 19, § 1, v. 3, p. 481.
5 McLean, 38, 336.
2 Wood. & Min., 27.
4 McLean, 401.
17 How., 455.
4 Duer, 382.

SEC. [98] 108. A writ of error or appeal to the Supreme Court of the United States shall lie from all udgments and

Appeals to Supreme Court.
18 Feb., 1861, ch. 37, § 1, v. 12, p. 130.

decrees of any circuit court, in any action, suit, controversy, or case touching copyrights in the same manner and under the same circumstances as in other judgments and decrees of such courts, without regard to the sum or value in controversy.

Full costs to be allowed.

3 Feb., 1831, ch. 16, § 12, v. 4, pp. 438, 439.

SEC. [99] 109. In all recoveries under the copyright laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon.

Transfer of books, &c., to Library of Congress.

SEC. 110. *All books, maps, charts, and other publications of every nature whatever, heretofore deposited in the Department of the Interior, according to the laws regulating copyrights, together with all the records of said department, and all records concerning the same which were removed by the Department of the Interior from the Department of State, shall be removed to and be under the control of the Librarian of Congress, who is hereby charged with all the duties pertaining to copyrights required by law.*

Repeal and its effect.

REPEALING CLAUSE AND SCHEDULE.

SEC. 111. *The acts and parts of acts set forth in the schedule of acts cited hereto annexed, are hereby, repealed, without reviving any acts or parts of acts repealed by any of said acts, or by any clause or provisions therein: Provided, however, That the repeal hereby enacted shall not affect, impair, or take away any right or remedy existing under any of said laws; but all actions and causes of action, both in law and in equity, which have arisen under any of said laws, may be commenced and prosecuted, and if*

already commenced, may be prosecuted to final judgment and execution in the same manner as though this act had not been passed, excepting that the remedial provisions of this act shall be applicable to all suits hereafter commenced: And provided also, That all applications for patents pending at the time of the passage of this act, in cases where the duty has been paid, shall be proceeded with and acted on in the same manner as though filed after the passage thereof: And provided further; That all offenses which are defined and punishable under any of said acts, and all penalties and forfeitures created thereby, and incurred before this act takes effect, may be prosecuted, sued for, and recovered, and such offenses punished, according to the provisions of said acts, which are continued in force for such purpose.

SCHEDULE OF STATUTES CITED AND REPEALED, AS PRINTED IN THE STATUTES AT LARGE, INCLUDING SUCH PORTIONS ONLY OF THE APPROPRIATION BILLS REFERRED TO AS ARE APPLICABLE TO THE PATENT OFFICE.

PATENTS.

Act of July 4, 1836, chapter 357, volume 5, page 117.
March 3, 1837, chapter 45, volume 5, page 191.
March 3, 1839, chapter 88, volume 5, page 353.
August 29, 1842, chapter 263, volume 5, page 543.
August 6, 1846, chapter 90, volume 9, page 59.
May 27, 1848, chapter 47, volume 9, page 231.
March 3, 1849, chapter 108, volume 9, page 395.
March 3, 1851, chapter 32, volume 9, page 617.
August 30, 1852, chapter 107, volume 10, page 75.
August 31, 1852, chapter 108, volume 10, page 76.
March 3, 1853, chapter 97, volume 10, page 209.
April 22, 1854, chapter 52, volume 10, page 276.
March 3, 1855, chapter 175, volume 10, page 643.
August 18, 1856, chapter 129, volume 11, page 81.

Act of March 3, 1859, chapter 80, volume 11, page 410.
February 18, 1861, chapter 37, volume 12, page 130.
March 2, 1861, chapter 88, volume 12, page 246.
March 3, 1863, chapter 102, volume 12, page 796.
June 25, 1864, chapter 159, volume 13, page 194.
March 3, 1865, chapter 112, volume 13, page 533.
June 27, 1866, chapter 143, volume 14, page 76.
March 29, 1867, chapter 17, volume 15, page 10.
July 20, 1868, chapter 177, volume 15, page 119.
July 23, 1868, chapter 227, volume 15, page 168.
March 3, 1869, chapter 121, volume 15, page 293.

COPYRIGHTS.

Act of February 15, 1819, chapter 19, volume 3, page 481.
February 3, 1831, chapter 16, volume 4, page 436.
June 30, 1834, chapter 157, volume 4, page 728.
August 18, 1856, chapter 169, volume 11, page 138.
February 5, 1859, chapter 22, volume 11, page 380.
February 18, 1861, chapter 37, volume 12, page 130.
March 3, 1865, chapter 126, volume 13, page 540.
February 18, 1867, chapter 43, volume 14, page 395.

41ST CONGRESS,
2D SESSION.

H. R. 1714.

IN THE SENATE OF THE UNITED STATES.

APRIL 25, 1870.

Read twice and referred to the Committee on Patents.

AN ACT

To revise, consolidate, and amend the statutes relating to patents and copyrights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be attached to the Department of the Interior the office, heretofore established, known as the Patent Office, wherein all records, books, models, drawings, specifications, and other papers and things pertaining to patents, shall be safely kept and preserved.

SEC. 2. *And be it further enacted,* That the officers and employees of said office shall continue to be: one Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, to be appointed by the President, by and with the advice and consent of the Senate; one chief clerk, one examiner in charge of interferences, twenty-two principal examiners, twenty-two first-assistant examiners, twenty-two second-assistant examiners, one librarian, one machinist, five

clerks of class four, six clerks of class three, fifty clerks of class two, forty-five clerks of class one, and one messenger and purchasing clerk, all of whom shall be appointed by the Secretary of the Interior, upon nomination of the Commissioner of Patents.

SEC. 3. *And be it further enacted,* That the Secretary of the Interior may also appoint, upon like nomination, such additional clerks of classes two and one, and of lower grades, copyists of drawings, female copyists, skilled laborers, laborers, and watchmen, as may be from time to time appropriated for by Congress.

SEC. 4. *And be it further enacted,* That the annual salaries of the officers and employees of the Patent Office shall be as follows:

Of the Commissioner of Patents, four thousand five hundred dollars.

Of the Assistant Commissioner, three thousand dollars.

Of the examiners-in-chief, three thousand dollars each.

Of the chief clerk, two thousand five hundred dollars.

Of the examiner in charge of interferences, two thousand five hundred dollars.

Of the principal examiners, two thousand five hundred dollars each.

Of the first-assistant examiners, one thousand eight hundred dollars each.

Of the second-assistant examiners, one thousand six hundred dollars each.

Of the librarian, one thousand eight hundred dollars.

Of the machinist, one thousand six hundred dollars.

Of the clerks of class four, one thousand eight hundred dollars each.

Of the clerks of class three, one thousand six hundred dollars each.

Of the clerks of class two, one thousand four hundred dollars each.

Of the clerks of class one, one thousand two hundred dollars each.

Of the messenger and purchasing clerk, one thousand dollars.

Of laborers and watchmen, seven hundred and twenty dollars each.

Of the additional clerks, copyists of drawings, female copyists, and skilled laborers, such rates as may be fixed by the acts making appropriations for them.

SEC. 5. *And be it further enacted,* That all officers and employees of the Patent Office shall, before entering upon their duties, make oath or affirmation truly and faithfully to execute the trusts committed to them.

SEC. 6. *And be it further enacted,* That the Commissioner and chief clerk, before entering upon their duties, shall

severally give bond, with sureties, to the Treasurer of the United States; the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their duties, and that they will render, to the proper officers of the treasury, a true account of all money received by virtue of their office.

SEC. 7. *And be it further enacted,* That it shall be the duty of the Commissioner, under the direction of the Secretary of the Interior, to superintend or perform all the duties respecting the granting and issuing of patents which herein are, or may hereafter be, by law directed to be done; and he shall have charge of all books, records, papers, models, machines, and other things belonging to said office.

SEC. 8. *And be it further enacted,* That the Commissioner may send and receive by mail, free of postage, letters, printed matter, and packages relating to the business of his office, including Patent Office reports.

SEC. 9. *And be it further enacted,* That the Commissioner shall lay before Congress, in the month of January, annually a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such pat-

cnts; an alphabetical list of the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public.

SEC. 10. *And be it further enacted,* That the examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

SEC. 11. *And be it further enacted,* That in case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the Assistant Commissioner until a successor shall be appointed, or such absence or sickness shall cease.

SEC. 12. *And be it further enacted,* That the Commissioner shall cause a seal to be provided for said office, with such device as the President may approve, with which all records or papers issued from said office, to be used in evidence, shall be authenticated.

SEC. 13. *And be it further enacted,* That the Commis-

sioner shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in said office; and said rooms and galleries shall be kept open during suitable hours for public inspection.

SEC. 14. *And be it further enacted,* That the Commissioner may restore to the respective applicants, such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them, after the application has been finally rejected for one year, paying the proceeds into the treasury, as other patent moneys are directed to be paid.

SEC. 15. *And be it further enacted,* That there shall be purchased for the use of said office, a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties.

SEC. 16. *And be it further enacted,* That all officers and employees of the Patent Office shall be incapable, during the period for which they shall hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office.

SEC. 17. *And be it further enacted,* That for gross misconduct the Commissioner may refuse to recognize any per-

son as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

SEC. 18. *And be it further enacted,* That the Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed, at the cost of the party filing them.

SEC. 19. *And be it further enacted,* That the Commissioner, subject to the approval of the Secretary of the Interior, may from time to time establish rules and regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

SEC. 20. *And be it further enacted,* That the Commissioner may print or cause to be printed copies of the specifications of all letters-patent and of the drawings of the same, and copies of the claims of current issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.

SEC. 21. *And be it further enacted,* That all patents shall be issued in the name of the United States of America under the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner, and they shall be recorded, together with the specification in said office, in books to be kept for that purpose.

SEC. 22. *And be it further enacted,* That every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs, or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the said invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof; and a copy of said specifications and of the drawings shall be annexed to the patent and be a part thereof.

SEC. 23. *And be it further enacted,* That every patent shall date as of a day not later than six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, and if the final fee shall not be paid within that period, the patent shall be withheld.

SEC. 24. *And be it further enacted,* That any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented, or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale, for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment

of the duty required by law, and other due proceedings had, obtain a patent therefor.

SEC. 25. *And be it further enacted,* That no person shall be debarred from receiving a patent for his invention or discovery by reason of his having first patented it in a foreign county; provided the same shall not have been introduced into public use in the United States prior to the application, and that the patent shall expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term; but in no case shall be in force more than seventeen years.

SEC. 26. *And be it further enacted,* That before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his in-

vention or discovery; and said specification and claim shall be signed by the inventor and attested by two witnesses.

SEC. 27. *And be it further enacted*, That when the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of said drawings to be furnished the Patent Office, shall be attached to the patent as part of the specification.

SEC. 28. *And be it further enacted*, That when the invention or discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients, and of the composition, sufficient in quantity for the purpose of experiment.

SEC. 29. *And be it further enacted*, That in all cases which admit of representation by model, the applicant, if required by the Commissioner, shall furnish one of convenient size to exhibit advantageously the several parts of his invention or discovery.

SEC. 30. *And be it further enacted*, That the applicant shall make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he

does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. And said oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commercial agent, holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant may be.

SEC. 31. *And be it further enacted,* That on filing of any such application and the payment of the duty required by law, the Commissioner shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

SEC. 32. *And be it further enacted,* That all applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the

satisfaction of the Commissioner that such delay was unavoidable.

SEC. 33. *And be it further enacted,* That patents may be granted and issued or re-issued to the assignee of the inventor or discoverer, the assignment thereof being first entered of record in the Patent Office; but in such case the application for the patent shall be made and the specification sworn to by the inventor or discoverer; and, also, if he be living, in case of an application for reissue.

SEC. 34. *And be it further enacted,* That when any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs-at-law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application shall be made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them: *Provided,* That when an application for a patent has been rejected or withdrawn, prior to the passage of this act, the applicant

shall have two years from the date of such passage to renew his application, or to file a new one; and if he omits to do either, his application shall be held to have been abandoned; but this provision shall not be held to have renewed any application heretofore in fact abandoned.

SEC. 35. *And be it further enacted*, That any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who has failed to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application: *Provided*, That the second application be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent, as aforesaid, was ordered to issue, prior to the issue thereof.

SEC. 36. *And be it further enacted*, That every patent or any interest therein shall be assignable in law, by an instrument in writing; and the patentee or assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States; and said assignment, grant, or conveyance shall be

void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

SEC. 37. *And be it further enacted,* That every person who may have purchased of the inventor, or with his knowledge and consent may have constructed, any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or sold, or used one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

SEC. 38. *And be it further enacted,* That it shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented, either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make or vend the article so patented.

SEC. 39. *And be it further enacted,* That if any person shall, in any manner, mark upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any such patented article the word "patent" or "patentee," or the words "letters-patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, he shall be liable for every such offense to a penalty of not less than one hundred dollars, with costs; one moiety of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

SEC. 40. *And be it further enacted,* That any citizen of the United States, who shall have made any new invention or discovery, and shall desire further time to mature the same, may, on payment of the duty required by law, file in the Patent Office a caveat setting forth the design thereof,

and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention; and such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof, and if application shall be made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person filing the caveat, who, if he would avail himself of his caveat, shall file his description, specification, drawings, and model within three months from the time of placing said notice in the post office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be indorsed on the notice. And an alien shall have the privilege herein granted, if he shall have resided in the United States one year next preceding the filing of his caveat, and made oath of his intention to become a citizen.

SEC. 41. *And be it further enacted*, That whenever on examination, any claim for a patent is rejected for any reason whatever, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and

references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant shall persist in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

SEC. 42. *And be it further enacted,* That whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicant, or patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who shall be adjudged the prior inventor, unless the adverse party shall appeal from the decision of the primary examiner, or of the board of examiners in chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

SEC. 43. *And be it further enacted,* That the Commissioner may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

SEC. 44. *And be it further enacted,* That the clerk of any court of the United States, for any district or Ter-

ritory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or his agent or attorney, issue subpœna for any witness residing or being within said district or Territory, commanding him to appear and testify before any officer in said district or Territory authorized to take depositions and affidavits, at any time and place in the subpœna stated; and if any witness, after being duly served with such subpœna, shall neglect or refuse to appear, or after appearing shall refuse to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience as in other like cases.

SEC. 45. *And be it further enacted,* That every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States, but no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him, nor be deemed guilty of contempt for disobeying such subpœna, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

SEC. 46. *And be it further enacted,* That every applicant for a patent or the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interference, in such case to the board of examiners-in-chief, having once paid the fee for such appeal provided by law.

SEC. 47. *And be it further enacted,* That if such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the duty required by law, appeal to the Commissioner in person.

SEC. 48. *And be it further enacted,* That whenever a patent or re-issue of patent is refused on application therefor, after appeal to the Commissioner, for any reason whatsoever, the applicant may give notice to the Commissioner of the points and matters concerning which he deems the decisions erroneous, by filing his objections in writing thereto, within thirty days from the rendering of such decision; and he may have his remedy against such erroneous decision, by a suit in equity in any circuit court of the United States within whose jurisdiction the Commissioner of Patents, and any of the necessary parties to such suit, may be found; and all persons who may be interested in such application for a patent may be made parties to such suit; and the Commissioner, and all other persons who may

be made parties defendant to such suit, may answer the same and avail themselves of all defenses which the law may allow thereto; and the subject-matter of such suit shall not extend to or include any matter not set forth in the objections to the decision of the Commissioner; and the decree rendered thereon shall be confined to the revision of the decision of the Commissioner, and to the determination upon the evidence of what the invention or discovery of the applicant, and for which he may be entitled to a patent, actually is.

SEC. 49. *And be it further enacted,* That all the testimony, duly taken, certified, and filed before the Commissioner, shall be evidence in such suit in equity, subject to all legal objections thereto; and copies thereof, duly certified, may be filed by either party in such suit; and any new or additional testimony may be taken, and the cause prepared for trial, under the rules of the Supreme Court in equity.

SEC. 50. *And be it further enacted,* That the circuit courts of the United States, and the supreme court of the district of Columbia, are hereby authorized to take jurisdiction of such suits in equity and to hear and determine the same as soon as practicable, and all parties who may have appeared in person or by attorney in the proceedings before the Commissioner, may be made defendants in any such suit, and may be notified and required to appear therein in such manner as the court having jurisdic-

tion may direct, and shall be held bound by the final decree therein, the expense of the service of the notice or of a subpœna upon such parties being paid by the complainant; and any and all persons whom such court may deem necessary or proper parties defendant to such suit may be made defendants thereto, in such manner and upon such notice as the court may direct, so that all parties known to be interested in the claim of the complainant to the alleged invention or discovery may be heard before said court.

SEC. 51. *And be it further enacted,* That the several circuit courts of the United States and the supreme court of the District of Columbia are hereby authorized and empowered to determine in any such suit whether the complainant is entitled to the patent for the invention or discovery which he claims, and also to determine what his invention and discovery actually is, upon the evidence submitted in such case, and to order and decree that a patent shall be issued to the complainant and applicant therefor, with the claim in such language as the court may determine, whether it be for the whole or for any part of the invention or discovery as claimed in his application, or for any modification thereof. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent, upon the filing in the Patent Office by the appli-

cant of a copy of the adjudication, and upon his otherwise complying with the requirements of the law.

SEC. 52. *And be it further enacted,* That when the Commissioner of Patents is the only defendant in any such suit, all costs shall be paid by the complainant, and whole amount of costs taxed against the complainant shall not exceed the sum of twenty-five dollars; and in cases where other parties shall be made defendants and shall appear and answer to the bill of the complainant, the costs shall be taxed according to law, and allowed and paid as the court may direct, except that the Commissioner shall not be liable for any part of such costs. And the adjudication of the court having jurisdiction in any such case shall be final and conclusive as against all parties to such suit, in all matters put in issue by the pleadings therein, and against all persons claiming under such parties by title accruing after the commencement of such suit, except as such decision may be modified or reversed by the Supreme Court of the United States on appeal.

SEC. 53. *And be it further enacted,* That whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent, and

the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in the case of his death or assignment of the whole or any undivided part of the original patent to his executors, administrators, or assigns, for the unexpired part of the term of the original patent, the surrender of which shall take effect upon the issue of the amended patent; and the Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent. And the specification and claim in every such case shall be subject to revision and restriction, in the same manner as original applications are. And the patent so reissued, together with the corrected specification, shall have the effect and operation in law, on the trial of all actions for causes thereafter arising, as though the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended except each by the other, unless upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

SEC. 54. *And be it further enacted*, That whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the duty required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; said disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

SEC. 55. *And be it further enacted*, That all actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well at equity as in law, by the circuit courts of the United States, or any district court having the

powers and jurisdiction of a circuit court, or by the supreme court of the District of Columbia or of any Territory; and the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; but all actions shall be brought during the term for which the letters-patent shall be granted or extended, or within six years after the expiration thereof.

SEC. 56. *And be it further enacted*, That a writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court, or of any district court exercising the jurisdiction of a circuit court, or of the supreme court of the District of Columbia or of any Territory, in any action, suit, controversy, or case, at law or in equity, touching patent rights, in the same manner and under the same circumstances as in other judgments and decrees of such circuit courts, without regard to the sum or value in controversy.

SEC. 57. *And be it further enacted*, That written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of letters-patent under the signature of the Commissioner, or acting Commissioner, with the seal of office affixed, shall be competent evidence in all cases wherein the originals could be evidence, and any person

making application therefor, and paying the fee required by law, shall have certified copies thereof. And copies of the specifications and drawings of foreign letters-patent, certified in like manner, shall be prima facie evidence of the fact of the granting of such foreign letters-patent, and of the date and contents thereof.

SEC. 58. *And be it further enacted,* That whenever there shall be interfering patents, or whenever any person shall be sued either at law or in equity for the infringement of any patent, any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, and any defendant in any suit for infringement as aforesaid, may have relief against the interfering patentee and all parties interested under him, and against the plaintiff or complainant in any such suit, by suit in equity against the owners of the interfering patent, or against the patentee or assignee, or both, of any patent upon which suit may be commenced for the infringement thereof, to be brought in the circuit court of the United States in any district where the patentee or owner of the interfering patent may reside or be found, or within the Territory where the owner of any exclusive right under such patent may reside or be found, or within which the patentee or his assignee or grantee for the whole or any specified portion of the United States or their Territories may reside or be found; and in either case the court

having jurisdiction of any such suit by reason of the service of process upon the patentee or any territorial assignee or grantee, or upon any plaintiff or complainant within its district, may order and require service of its process upon such persons as it may determine to be necessary and proper parties defendant to such suit, in any other district of the United States, and service of such process may be made by the marshal of any district of the United States within which such parties may reside or be found, and at no greater cost than if the suit was pending in such district; and whenever all necessary and proper parties shall be brought before the court having original jurisdiction of such suit, the said court shall proceed to hear and determine the same according to the course of equity, and may dismiss such suit, or may adjudge and declare either of the patents void in whole or in part, or inoperative or invalid throughout the United States, or any portion thereof specifically described, or grant such other relief as may be equitable according to the rights of the parties or their several and respective interests in the patent or in the invention patented. But no such adjudication shall affect the rights of any person except the parties to such suit and those deriving title under them subsequent to the commencement thereof. And whenever all the parties interested in any such interfering patents, or patent sued upon, shall be before the court having original jurisdiction of any such suit

as aforesaid, by voluntary appearance, or by due service of process thereon as aforesaid, and, upon final hearing in such cause, the patent attacked shall be declared void in whole or in part, such decision shall be final and shall not be subject to review in any other suit, in any court of co-ordinate jurisdiction, but shall be reviewed and overruled only in the Supreme Court of the United States on appeal. The Supreme Court may admit new evidence in any such appeal in their discretion, and may make rules for the proper exercise of the jurisdiction herein and hereby conferred upon the courts of the United States. The supreme courts of the District of Columbia and of the Territories shall have the same jurisdiction as that conferred herein upon the circuit courts of the United States in similar cases.

SEC. 59. *And be it further enacted*, That damages for the infringement of any patent may be recovered by action on the case in any circuit court of the United States, or district court exercising the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or of any Territory, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict shall be rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not ex-

ceeding three times the amount of such verdict, together with the costs.

SEC. 60. *And be it further enacted,* That whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud or mislead the public, a patentee shall have, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer as aforesaid, every such patentee, his executors, administrators and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, provided it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the parts so claimed, without right as aforesaid, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit; nor shall he be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to enter said disclaimer.

SEC. 61. *And be it further enacted,* That in any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove on trial any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reesonable diligence in adapting and perfecting the same; or,

Third. That he was an alien at the time his patent was granted, and had neglected for the space of eighteen months from its date to put and continue on sale to the public, on reasonable terms, his invention or discovery; or,

Fourth. That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

Fifth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Sixth. That it had been in public use or on sale in this

country, with his consent, for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him, with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

SEC. 62. *And be it further enacted,* That whenever it shall appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented, or described in a printed publication.

SEC. 63. *And be it further enacted,* That where the

patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of his patent beyond the original term of its limitation, he shall make application therefor, in writing, to the Commissioner, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of said invention or discovery. And said application shall be filed not more than six months nor less than ninety days before the expiration of the original term of the patent, and no extension shall be granted after the expiration of said original term.

SEC. 64. *And be it further enacted,* That upon the receipt of such application, and the payment of the duty required by law, the Commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that

any person may appear and show cause why the extension should not be granted.

SEC. 65. *And be it further enacted,* That on the application of such notice, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make to said Commissioner a full report of the case, and particularly whether the invention or discovery was new and patentable when the original patent was granted.

SEC. 66. *And be it further enacted,* That the Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced, both for and against the extension; and if it shall appear to his satisfaction that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the said Commissioner shall make a certificate thereon, renewing and extending the said patent for the term of seven years from the expiration of the first term, which certificate shall be recorded in the Patent Office, and thereupon the said patent shall have the same effect in law as though it had been originally granted for twenty-one years.

SEC. 67. *And be it further enacted,* That the benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented to the extent of their interest therein.

SEC. 68. *And be it further enacted,* That the following shall be the rates for patent fees:

On filing each original application for a patent, fifteen dollars.

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under,

one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

SEC. 69. *And be it further enacted*, That patent fees may be paid to the Commissioner, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor. And all money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the treasury as received, without any deduction whatever; and all disbursements for said office shall be made by the disbursing clerk of the Interior Department.

SEC. 70. *And be it further enacted*, That the Treasurer of the United States is authorized to pay back any sum or sums of money to any person who shall have paid the same into the treasury, or to any receiver or depositary, to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, certificate thereof being made to said Treasurer by the Commissioner of Patents.

SEC. 71. *And be it further enacted*, That any person who, by his own industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture,

bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture, to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, may, upon payment of the duty required by law, and other due proceedings had the same as in cases of inventions or discoveries, obtain a patent therefor.

SEC. 72. *And be it further enacted,* That the Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

SEC. 73. *And be it further enacted,* That patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may in his application elect.

SEC. 74. *And be it further enacted,* That patentees of designs shall be entitled to the extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as are provided for the extension of patents for inventions or

discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

SEC. 75. *And be it further enacted*, That the following shall be the rates of fees in design cases:

For three years and six months, ten dollars.

For seven years, fifteen dollars.

For fourteen years, thirty dollars.

For all other cases in which fees are required, the same rates as in cases of inventions or discoveries.

SEC. 76. *And be it further enacted*, That all the regulations and provisions which apply to the obtaining or protection of patents for inventions or discoveries, not inconsistent with the provisions of this chapter, shall apply to patents for designs.

SEC. 77. *And be it further enacted*, That any person or firm domiciled in the United States, and any corporation created by the authority of the United States or of any State or Territory thereof, and any person, firm or corporation resident of or located in any foreign country which by treaty or convention affords similar privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such law-

ful trade-mark by complying with the following requirements, to-wit:

First. By causing to be recorded in the Patent Office the names of the parties and their residences and place of business, who desire the protection of the trade-mark.

Second. The class of merchandise and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

Third. A description of the trade-mark itself, with facsimiles thereof and the mode in which it has been or is intended to be applied and used.

Fourth. The length of time, if any, during which the trade-mark has been used.

Fifth. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

Sixth. The compliance with such regulations as may be prescribed by the Commissioner of Patents.

Seventh. The filing of a declaration under the oath of the person or of some member of the firm or officer of the corporation, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation, has the right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the

description and fac-similes presented for record are true copies of the trade-mark sought to be protected.

SEC. 78. *And be it further enacted,* That such trade-mark shall remain in force for thirty years from the date of such registration, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country and in which it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere, and during the period that it remains in force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods: *Provided,* That six months prior to the expiration of said term of thirty years, application may be made for a renewal of such registration, under regulations to be prescribed by the Commissioner of Patents, and the fee for such renewal shall be the same as for the original registration; certificate of such renewal shall be issued in the same manner as for the original registration, and such trade-mark shall remain in force for a further term of thirty years: *And provided further,*

That nothing in this section shall be construed by any court as abridging or in any manner affecting unfavorably the claim of any person, firm, corporation, or company to any trade-mark after the expiration of the term for which such trade-mark was registered.

SEC. 79. *And be it further enacted*, That any person or corporation who shall reproduce, counterfeit, copy, or imitate any such recorded trade-mark and affix the same to goods of substantially the same descriptive properties and qualities as those referred to in the registration, shall be liable to an action in the case for damages for such wrongful use of said trade-mark, at the suit of the owner thereof, in any court of competent jurisdiction in the United States, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of his trade-mark and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful use. The Commissioner of Patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for regis-

tration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public: *Provided*, That this section shall not prevent the registry of any lawful trade-mark rightfully used at the time of the passage of this act.

SEC. 80. *And be it further enacted*, That the time of the receipt of any trade-mark at the Patent Office for registration shall be noted and recorded, and copies of the trade-mark and of the date of the receipt thereof, and of the statement filed therewith, under the seal of the Patent Office, certified by the Commissioner, shall be evidence in any suit in which such trade-mark shall be brought in controversy.

SEC. 81. *And be it further enacted*, That the Commissioner of Patents is authorized to make rules, regulations, and prescribe forms for the transfer of the right to the use of such trade-marks, conforming as nearly as practicable to the requirements of law respecting the transfer and transmission of copyrights.

SEC. 82. *And be it further enacted*, That any person who shall procure the registry of any trade-mark, or of himself as the owner thereof, or any entry respecting a trade-mark in the Patent Office under this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay damages in consequence of any such registry or entry to the person in-

jured thereby, to be recovered in an action on the case before any court of competent jurisdiction within the United States.

SEC. 83. *And be it further enacted,* That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or equity, which any party aggrieved by any wrongful use of any trade-mark might have had if this act had not been passed.

SEC. 84. *And be it further enacted,* That no action shall be maintained under the provisions of this act by any person claiming the exclusive right to any trade-mark which is used or claimed in any unlawful business, or upon any article which is injurious in itself, or upon any trade-mark which has been fraudulently obtained, or which has been formed and used with the design of deceiving the public in the purchase or use of any article of merchandise.

SEC. 85. *And be it further enacted,* That all records and other things relating to copyrights and required by law to be preserved, shall be under the control of the Librarian of Congress, and kept and preserved in the Library of Congress; and the Librarian of Congress shall have the immediate care and supervision thereof, and, under the supervision of the Joint Committee of Congress on the Library, shall perform all acts and duties required by law touching copyrights. The Librarian shall cause a seal to be provided for said office, with such device as the Joint

Committee on the Library may approve, with which all records or papers issued from said office, and to be used in evidence, shall be authenticated. He shall also give an additional bond with sureties to the Treasurer of the United States, in the sum of five thousand dollars, with the condition that he will render to the proper officers of the treasury a true account of all moneys received by virtue of his office. He shall also make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year. And the Librarian of Congress shall receive a yearly compensation of thirty-five hundred dollars, to commence when this act shall take effect.

SEC. 86. *And be it further enacted*, That any citizen of the United States, or resident therein, who shall be the author, inventor, or designer of any book, map, chart, dramatic, or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary and of models or designs intended to be perfected as works of the fine arts, and his executors, administrators, or assigns, shall, upon complying with the provisions of this act, have the sole libery of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or

represented by others, and others may reserve the right to dramatize or to translate their own works.

SEC. 87. *And be it further enacted*, That copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

SEC. 88. *And be it further enacted*, That the author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow, or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

SEC. 89. *And be it further enacted*, That copyrights shall be assignable in law, by any instrumennt of writing, and such assignment shall be recorded in the office of the Librarian of Congress within sixty days after its execution in default of which it shall be void, as against any subsequent purchaser or mortgagee for a valuable consideration, wihout notice.

SEC. 90. *And be it further enacted,* That no person shall be entitled to a copyright unless he shall, before publication, deposit a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts, for which he desires a copyright, in the Library of Congress, and, within ten days from the publication thereof, cause two copies of such copyright book or other article, or in case of a painting, drawing, statue, statuary, model, or design, for a work of the fine arts, a photograph of the same, to be delivered to said Librarian of Congress, as hereinafter to be provided.

SEC. 91. *And be it further enacted,* That the Librarian of Congress shall record the name of such copyright book, or other article, forthwith in a book to be kept for that purpose, in the words following: "Library of Congress, to wit: Be it remembered, that on the ——— day of ———, anno Domini ———, A. B., of ———, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be, or description of the article,) the title or description of which is in the following words, to wit: (here insert the title or description,) the right whereof he claims as author, originator, (or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., Librarian of Congress." And he

shall give a copy of the title or description, under the seal of the Librarian of Congress, to said proprietor, whenever he shall require it.

SEC. 92. *And be it further enacted,* That for recording the title or desription of any copyright book or other article, the Librarian of Congress shall receive, from the person claiming the same, fifty cents; and for every copy, under seal, actually given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words; and for every copy thereof, ten cents for every one hundred words, which moneys, so received, shall be paid into the treasury of the United States.

SEC. 93. *And be it further enacted,* That the proprietor of every copyright book or other article shall deliver to the Library of Congress at Washington, within ten days after its publication, two complete printed copies thereof, of the best edition issued, or description or photograph of such article as hereinbefore required, and a copy of every subsequent edition wherein any changes shall be made.

SEC. 94. *And be it further enacted,* That in default of such delivery, said proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the Librarian of Congress, in the name of the United States, in an action of debt,

in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

SEC. 95. *And be it further enacted,* That any such copyright book or other article may be sent to the Librarian of Congress by mail, free of postage, provided the words "copyright matter" are plainly written or printed on the outside of the package containing the same.

SEC. 96. *And be it further enacted,* That the postmaster to whom such copyright book or other article is delivered shall, if requested, give a receipt therefor; and when so delivered, he shall see that it is safely forwarded to its destination, without cost to the proprietor.

SEC. 97. *And be it further enacted,* That no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof the following words, viz: "Entered according to act of Congress, in the year ——, by A. B., in the office of the Librarian of Congress, at Washington."

SEC. 98. *And be it further enacted*, That if any person shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, or other articles herein named, for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

SEC. 99. *And be it further enacted*, That if any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay fifty cents for every sheet thereof which may be found in his possession, either printing, printed, published, imported, or exposed for sale; one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

SEC. 100. *And be it further enacted*, That if any person, after the recording of the title of any map, chart,

musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design, intended to be perfected and executed as a work of the fine arts, as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or knowing the same to be so printed, published, or imported, shall sell or expose to sale, any copy of such map or other article, as aforesaid, he shall, forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or which have by him been sold or exposed for sale; one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

SEC. 101. *And be it further enacted,* That any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent

of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, to be recovered by action in any court of competent jurisdiction; said damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

SEC. 102. *And be it further enacted,* That any person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, (if such author or proprietor be a citizen of the United States, or resident therein,) shall be liable to said author or proprietor for all damages occasioned by such injury, to be recovered by action on the case in any court of competent jurisdiction.

SEC. 103. *And be it further enacted,* That nothing herein contained shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

SEC. 104. *And be it further enacted,* That no action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

SEC. 105. *And be it further enacted,* That in all actions arising under the laws respecting copyrights the defendant

may plead the general issue, and give the special matter in evidence.

SEC. 106. *And be it further enacted*, That all actions, suits, controversies, and cases arising under the copyright laws of the United States shall be originally cognizable as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or any Territory. And the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

SEC. 107. *And be it further enacted*, That a writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court, in any action, suit, controversy, or case touching copyrights in the same manner and under the same circumstances as in other judgments and decrees of such courts, without regard to the sum or value in controversy.

SEC. 108. *And be it further enacted*, That in all recoveries under the copyright laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon.

SEC. 109. *And be it further enacted*, That all books, maps,

charts, and other publications of every nature whatever, heretofore deposited in the Department of the Interior, according to the laws regulating copyrights, together with all the records of said department, and all records concerning the same which were removed by the Department of the Interior from the Department of State, shall be removed to and be under the control of the Librarian of Congress, who is hereby charged with all the duties pertaining to copyrights required by law.

REPEALING CLAUSE AND SCHEDULE.

SEC. 110. *And be it further enacted,* That the acts and parts of acts set forth in the schedule of acts cited hereto annexed, are hereby repealed, without reviving any acts or parts of acts repealed by any of said acts, or by any clause or provisions therein: *Provided, however,* That the repeal hereby enacted shall not affect, impair, or take away any right existing under any of said laws; but all actions and causes of action, both in law and in equity, which have arisen under any of said laws, may be commenced and prosecuted, and if already commenced, may be prosecuted to final judgment and execution in the same manner as though this act had not been passed, excepting that the remedial provisions of this act shall be applicable to all suits and proceedings hereafter commenced: *And provided also,* That all applications for patents pending at the time of the passage of this act, in cases where the duty has been paid, shall be proceeded with and acted on in the same man-

ner as though filed after the passage thereof: *And provided further*, That all offenses which are defined and punishable under any of said acts, and all penalties and forfeitures created thereby, and incurred before this act takes effect, may be prosecuted, sued for, and recovered, and such offenses punished, according to the provisions of said acts, which are continued in force for such purpose.

SCHEDULE OF STATUTES CITED AND REPEALED, AS PRINTED IN THE STATUTES AT LARGE, INCLUDING SUCH PORTIONS ONLY OF THE APPROPRIATION BILLS REFERRED TO AS ARE APPLICABLE TO THE PATENT OFFICE.

PATENTS.

Act of July 4, 1836, chapter 357, volume 5, page 117.
March 3, 1837, chapter 45, volume 5, page 191.
March 3, 1839, chapter 88, volume 5, page 353.
August 29, 1842, chapter 263, volume 5, page 543.
August 6, 1846, chapter 90, volume 9, page 59.
May 27, 1848, chapter 47, volume 9, page 231.
March 3, 1849, chapter 108, volume 9, page 395.
March 3, 1851, chapter 32, volume 9, page 617.
August 30, 1852, chapter 107, volume 10, page 75.
August 31, 1852, chapter 108, volume 10, page 76.
March 3, 1853, chapter 97, volume 10, page 209.
April 22, 1854, chapter 52, volume 10, page 276.
March 3, 1855, chapter 175, volume 10, page 643.
August 18, 1856, chapter 129, volume 11, page 81.
March 3, 1859, chapter 80, volume 11, page 410.
February 18, 1861, chapter 37, volume 12, page 130.
March 2, 1861, chapter 88, volume 12, page 246.
March 3, 1863, chapter 102, volume 12, page 796.
June 25, 1864, chapter 159, volume 13, page 194.
March 3, 1865, chapter 112, volume 13, page 533.
June 27, 1866, chapter 143, volume 14, page 76.
March 29, 1867, chapter 17, volume 15, page 10.
July 20, 1868, chapter 177, volume 15, page 119.
July 23, 1868, chapter 227, volume 15, page 168.
March 3, 1869, chapter 121, volume 15, page 293.

COPYRIGHTS.

Act of February 15, 1819, chapter 19, volume 3, page 481.
February 3, 1831, chapter 16, volume 4, page 436.
June 30, 1834, chapter 157, volume 4, page 728.
August 18, 1856, chapter 169, volume 11, page 138.
February 5, 1859, chapter 22, volume 11, page 380.
February 18, 1861, chapter 37, volume 12, page 130.
March 3, 1865, chapter 126, volume 13, page 540.
February 18, 1867, chapter 43, volume 14, page 395.

Passed the House of Representatives April 21, 1870.

Attest: EDWARD McPHERSON, *Clerk.*

By CLINTON LLOYD, *Chief Clerk.*

1870—APRIL 25.—Read twice and referred to the Committee on Patents.

41ST CONGRESS,
2D SESSION.

H. R. 1714.

IN THE SENATE OF THE UNITED STATES.

APRIL 25, 1870.

Read twice and referred to the Committee on Patents.

MAY 31, 1870.

Reported by Mr. WILLEY with amendments, viz: Strike out the parts in [brackets,] and insert the parts printed in *italics*.

AN ACT

To revise, consolidate, and amend the statutes relating to patents and copyrights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be attached to the Department of the Interior the office, heretofore established, known as the Patent Office, wherein all records, books, models, drawings, specifications, and other papers and things pertaining to patents, shall be safely kept and preserved.

SEC. 2. *And be it further enacted*, That the officers and employees of said office shall [continue to] be: one Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, to be appointed by the President, by and with the advice and consent of the Senate; one chief clerk, one examiner in charge of interferences, twenty-two principal

examiners, twenty-two first-assistant examiners, twenty-two second-assistant examiners, one librarian, one machinist, five clerks of class four, six clerks of class three, fifty clerks of class two, forty-five clerks of class one, and one messenger and purchasing clerk, all of whom shall be appointed by the [Secretary of the Interior, upon nomination of the] Commissioner of Patents.

SEC. 3. *And be it further enacted,* That the [Secretary of the Interior] *Commissioner of Patents* may also appoint, [upon like nomination,] such additional clerks of classes two and one, and of lower grades, copyists of drawings, female copyists, skilled laborers, laborers, and watchmen, as may be from time to time appropriated for by Congress.

SEC. 4. *And be it further enacted,* That the annual salaries of the officers and employees of the Patent Office shall be as follows:

Of the Commissioner of Patents, four thousand five hundred dollars.

Of the Assistant Commissioner, three thousand dollars.

Of the examiners-in-chief, three thousand dollars each.

Of the chief clerk, two thousand five hundred dollars.

Of the examiner in charge of interferences, two thousand five hundred dollars.

Of the principal examiners, two thousand five hundred dollars each.

Of the first-assistant examiners, one thousand eight hundred dollars each.

Of the second-assistant examiners, one thousand six hundred dollars each.

Of the librarian, one thousand eight hundred dollars.

Of the machinist, one thousand six hundred dollars.

Of the clerks of class four, one thousand eight hundred dollars each.

Of the clerks of class three, one thousand six hundred dollars each.

Of the clerks of class two, one thousand four hundred dollars each.

Of the clerks of class one, one thousand two hundred dollars each.

Of the messenger and purchasing clerk, one thousand dollars.

Of laborers and watchmen, seven hundred and twenty dollars each.

Of the additional clerks, copyists of drawings, female copyists, and skilled laborers, such rates as may be fixed by the acts making appropriations for them.

SEC. 5. *And be it further enacted*, That all officers and employees of the Patent Office shall, before entering upon their duties, make oath or affirmation truly and faithfully to execute the trusts committed to them.

SEC. 6. *And be it further enacted,* That the Commissioner and chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States; the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their duties, and that they will render, to the proper officers of the treasury, a true account of all money received by virtue of their office.

SEC. 7. *And be it further enacted,* That it shall be the duty of the Commissioner, under the direction of the Secretary of the Interior, to superintend or perform all the duties respecting the granting and issuing of patents which herein are, or may hereafter be, by law directed to be done; and he shall have charge of all books, records, papers, models, machines, and other things belonging to said office.

SEC. 8. *And be it further enacted,* That the Commissioner may send and receive by mail, free of postage, letters, printed matter, and packages relating to the business of his office, including Patent Office reports.

SEC. 9. *And be it further enacted,* That the Commissioner shall lay before Congress, in the month of January, annually a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses;

a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public.

SEC. 10. *And be it further enacted,* That the examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

SEC. 11. *And be it further enacted,* That in case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the Assistant Commissioner until a successor shall be appointed, or such absence or sickness shall cease.

SEC. 12. *And be it further enacted,* That the Commissioner shall cause a seal to be provided for said office, with such device as the President may approve, with which all

records or papers issued from said office, to be used in evidence, shall be authenticated.

SEC. 13. *And be it further enacted,* That the Commissioner shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in said office: and said rooms and galleries shall be kept open during suitable hours for public inspection.

SEC. 14. *And be it further enacted,* That the Commissioner may restore to the respective applicants, such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them, after the application has been finally rejected for one year, paying the proceeds into the treasury, as other patent moneys are directed to be paid.

SEC. 15. *And be it further enacted,* That there shall be purchased for the use of said office, a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, *not exceeding the amount annually appropriated by Congress for that purpose.*

SEC. 16. *And be it further enacted,* That all officers and employees of the Patent Office shall be incapable, during the period for which they shall hold their appointments, to

acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office.

SEC. 17. *And be it further enacted,* That for gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

SEC. 18. *And be it further enacted,* That the Commissioner may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed, at the cost of the party filing them.

SEC. 19. *And be it further enacted,* That the Commissioner, subject to the approval of the Secretary of the Interior, may from time to time establish rules and regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

SEC. 20. *And be it further enacted,* That the Commissioner may print or cause to be printed, copies of the specifications of all letters-patent and of the drawings of the same, and copies of the claims of current issues, and copies of such laws, decisions, rules, regulations, and circulars as may be necessary for the information of the public.

SEC. 21. *And be it further enacted,* That all patents shall be issued in the name of the United States of America, under

the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner, and they shall be recorded, together with the specification in said office, in books to be kept for that purpose.

SEC. 22. *And be it further enacted,* That every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs, or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the said invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof; and a copy of said specifications and of the drawings shall be annexed to the patent and be a part thereof.

SEC. 23. *And be it further enacted,* That every patent shall date as of a day not later than six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, and if the final fee shall not be paid within that period, the patent shall be withheld.

SEC. 24. *And be it further enacted,* That any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented, or described in any printed publi-

cation in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale, for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the duty required by law, and other due proceedings had, obtain a patent therefor.

SEC. 25. *And be it further enacted,* That no person shall be debarred from receiving a patent for his invention or discovery by reason of his having first patented it in a foreign country; provided the same shall not have been introduced into public use in the United States *for more than two years* prior to the application, and that the patent shall expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term; but in no case shall be in force more than seventeen years.

SEC. 26. *And be it further enacted,* That before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use

the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle so as to distinguish it from other inventions; and he shall particularly point ont and distinctly claim the part, improvement, or combination which he claims as his invention or discovery; and said specification and claim shall be signed by the inventor and attested by two witnesses.

SEC. 27. *And be it further enacted,* That when the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of said drawings to be furnished *by* the Patent Office, shall be attached to the patent as part of the specification.

SEC. 28. *And be it further enacted,* That when the invention of discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

SEC. 29. *And be it further enacted,* That in all cases which admit of representation by model, the applicant, if required by the Commissioner, shall furnish one of convenient size to exhibit advantageously the several parts of his invention or discovery.

SEC. 30. *And be it further enacted,* That the appli-

cant shall make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. And said oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commercial agent, holding commission under the government of the United States, or before any notary public of the foreign country in which the applicant may be.

SEC. 31. *And be it further enacted,* That on filing of any such application and the payment of the duty required by law, the Commissioner shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

SEC. 32. *And be it further enacted,* That all applications for patents shall be completed and prepared for examination within two years after the filing of the petition, and in default thereof, or upon failure of the applicant to prosecute the same

within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

SEC. 33. *And be it further enacted*, That patents may be granted and issued or re-issued to the assignee of the inventor, or discoverer, the assignment thereof being first entered of record in the Patent Office; but in such case the application for the patent shall be made and the specification sworn to by the inventor or discoverer; and also, if he be living, in case of an application for reissue.

SEC. 34. *And be it further enacted*, That when any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs-at-law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application shall be made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them; [*Provided*,

That when an application for a patent has been rejected or withdrawn, prior to the passage of this act, the applicant shall have two years from the date of such passage to renew his application, or to file a new one; and if he omits to do either, his application shall be held to have been abandoned; but this provision shall not be held to have renewed any application heretofore in fact abandoned.

SEC. 35. *And be it further enacted*, That any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordreed to issue upon the payment of the final fee, but who has failed to make payment thereof within six months from the time at which it was passed and allowed, and notice teereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application: *Provided*, That the second application be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent, as aforesaid, was ordered to issue, prior to the issue thereof.

SEC. 36. *And be it further enacted*, That every patent or any interest therein shall be assignable in law, by an instrument in writing; and the patentee or assigns or legal representative may in like manner, grant and convey an exclusive right

under his patent to the whole or any specified part of the United States; and said assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

SEC. 37. *And be it further enacted,* That every person who may have purchased of the inventor, or with his knowledge and consent may have constructed, any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or sold, or used one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

SEC. 38. *And be it further enacted,* That it shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented, either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damage shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringe-

ment, and continued, after such notice, to make, *use*, or vend the article so patented.

SEC. 39. *And be it further enacted*, That if any person shall, in any manner, mark upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any such patented article the word "patent" or "patentee," or the words "letters-patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or shall, in any manner, mark upon or affix to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, he shall be liable for every such offense to a penalty of not less than one hundred dollars, with costs; one moiety of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

SEC. 40. *And be it further enacted*, That any citizen of the United States, who shall have made any new invention or discovery, and shall desire further time to mature the

same, may, on payment of the duty required by law, file in the Patent Office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention; and such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof, and if application shall be made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person filing the caveat, who, if he would avail himself of his caveat, shall file his description, specification, drawings, and model within three months from the time of placing said notice in the post office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be indorsed on the notice. And an alien shall have the privilege herein granted, if he shall have resided in the United States one year next preceding the filing of his caveat, and made oath of his intention to become a citizen.

SEC. 41. *And be it further enacted,* That whenever on examination, any claim for a patent is rejected for any reason whatever, the Commissioner shall notify

the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant shall persist in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

SEC. 42. *And be it further enacted,* That whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or *applicant and* patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who shall be adjudged the prior inventor, unless the adverse party shall appeal from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

SEC. 43. *And be it further enacted,* That the Commissioner may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

SEC. 44. *And be it further enacted,* That the clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or his agent or attorney, issue subpœna for any witness residing or being within said district or Territory, commanding him to appear and testify before any officer in said district or Territory authorized to take depositions and affidavits, at any time and place in the subpœna stated; and if any witness, after being duly served with such subpœna, shall neglect or refuse to appear, or after appearing shall refuse to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience as in other like cases.

SEC. 45. *And be it further enacted,* That every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States, but no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him, nor be deemed guilty of contempt for disobeying such subpœna, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to

disclose any secret invention or discovery made or owned by himself.

SEC. 46. *And be it further enacted,* That every applicant for a patent or the re-issue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interference, in such case to the board of examiners-in-chief, having once paid the fee for such appeal provided by law.

SEC. 47. *And be it further enacted,* That if such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the duty required by law, appeal to the Commissioner in person.

[SEC. 48. *And be it further enacted,* That whenever a patent or re-issue of patent is refused on application therefor, after appeal to the Commissioner, for any reason whatsoever, the applicant may give notice to the Commissioner of the points and matters concerning which he deems the decisions erroneous, by filing his objections in writing thereto, within thirty days from the rendering of such decision; and he may have his remedy against such erroneous decision, by a suit in equity in any circuit court of the United States within whose jurisdiction the Commissioner of Patents, and any of the necessary parties to such suit, may be found; and all persons who may be interested in

such application for a patent may be made parties to such suit; and the Commissioner, and all other persons who may be made parties defendant to such suit, may answer the same and avail themselves of all defenses which the law may allow thereto; and the subject-matter of such suit shall not extend to or include any matter not set forth in the objections to the decision of the Commissioner; and the decree rendered thereon shall be confined to the revision of the decision of the Commissioner, and to the determination upon the evidence of what the invention or discovery of the applicant, and for which he may be entitled to a patent, actually is,]

[SEC. 49. *And be it further enacted,* That all the testimony, duly taken, certified, and filed before the Commissioner, shall be evidence in such suit in equity, subject to all legal objections thereto; and copies thereof, duly certified, may be filed by either party in such suit; and any new or additional testimony may be taken, and the cause prepared for trial, under the rules of the Supreme Court in equity.]

[SEC. 50. *And be it further enacted,* That the circuit courts of the United States, and the supreme court of the District of Columbia, are hereby authorized to take jurisdiction of such suits in equity and to hear and determine the same as soon as practicable, and all parties who may have appeared in person or by attorney in the proceedings before the Commissioner, may be made defend-

ants in any such suit, and may be notified and required to appear therein in such manner as the court having jurisdiction may direct, and shall be held bound by the final decree therein, the expense of the service of the notice or of a subpœna upon such parties being paid by the complainant; and any and all persons whom such court may deem necessary or proper parties defendant to such suit may be made defendants thereto, in such manner and upon such notice as the court may direct, so that all parties known to be interested in the claim of the complainant to the alleged invention or discovery may be heard before said court.]

[SEC. 51. *And be it further enacted,* That the several circuit courts of the United States and the supreme court of the District of Columbia are hereby authorized and empowered to determine in any such suit whether the complainant is entitled to the patent for the invention or discovery which he claims, and also to determine what his invention and discovery actually is, upon the evidence submitted in such case, and to order and decree that a patent shall be issued to the complainant and applicant therefor, with the claim in such language as the court may determine, whether it be for the whole or for any part of the invention or discovery as claimed in his application, or for any modification thereof. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue

such patent, upon the filing in the Patent Office by the applicant of a copy of the adjudication, and upon his otherwise complying with the requirements of the law.]

[SEC. 52. *And be it further enacted,* That when the Commissioner of Patents is the only defendant in any such suit, all costs shall be paid by the complainant, and whole amount of costs taxed against the complainant shall not exceed the sum of twenty-five dollars; and in cases where other parties shall be made defendants and shall appear and answer to the bill of the complainant, the costs shall be taxed according to law, and allowed and paid as the court may direct, except that the Commissioner shall not be liable for any part of such costs. And the adjudication of the court having jurisdiction in any such case shall be final and conclusive as against all parties to such suit, in all matters put in issue by the pleadings therein, and against all persons claiming under such parties by title accruing after the commencement of such suit, except as such decision may be modified or reversed by the Supreme Court of the United States on appeal.]

SEC. 48. *And be it further enacted, That if such party is dissatisfied with the decision of the Commissioner, he may appeal to the supreme court of the District of Columbia.*

SEC. 49. *And be it further enacted, That when an appeal is taken to the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commis-*

sioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

SEC. 50. *And be it further enacted, That it shall be the duty of said court, on petition, to hear and determine such appeal, and to revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint, notifying the Commissioner of the time and place of hearing; and the revision shall be confined to the points set forth in the reasons of appeal. And after hearing the case, the court shall return all the papers to the Commissioner, with a certificate of its proceedings and decision, which shall be entered of record in the Patent Office, and govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.*

SEC. 51. *And be it further enacted, That on receiving notice of the time and place of hearing such appeal, the commissioner shall notify all parties who appear to be interested therein, in such manner as the court may prescribe. He shall also lay before the court all the original papers and evidence in the case, together with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons*

of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the machine or other thing for which a patent is demanded.

SEC. 52. *And be it further enacted, That whenever a patent on application is refused, for any reason whatever, either by the Commissioner or by the supreme court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner, to issue such patent, on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requisitions of law. And in all cases where there is no opposing party a copy of the bill shall be served on the Commissioner, and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.*

SEC. 53. *And be it further enacted,* That whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming

as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent, and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specifications, to be issued to the patentee, or, in the case of his death or assignment of the whole or any undivided part of the original patent, to his executors, administrators, or assigns, for the unexpired part of the term of the original patent the surrender of which shall take effect upon the issue of the amended patent; and the Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters-patent. And the specification and claim in every such case shall be subject to revision and restriction, in the same manner as original applications are. And the patent so reissued, together with the corrected specification, shall have the effect and operation in law, on the trial of all actions for causes thereafter arising, as though the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended except each by the other, [unless upon

proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.]

SEC. 54. *And be it further enacted*, That whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, [his heirs or assigns,] *or his legal representatives*, whether of the whole or any sectional interest therein, may, on payment of the duty required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; said disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

SEC. 55. *And be it further enacted,* That all actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well [at] *in* equity as [in] *at* law, by the circuit courts of the United States, or any district court having the powers and jurisdiction of a circuit court, or by the supreme court of the District of Columbia or of any Territory; and the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; *and upon a decree being rendered in any such case for an account, the complainant shall be entitled to recover the damages he has sustained, and the court shall have the same powers to increase the same that are given by said act to increase the damages found by verdicts in actions upon the case;* but all actions shall be brought during the term for which the letters-patent shall be granted or extended, or within six years after the expiration thereof.

SEC. 56. *And be it further enacted,* That a writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any circuit court, or of any district court exercising the jurisdiction of a circuit court, or of the supreme court of the District of Columbia or of any Territory, in any action, suit, controversy, or

case, at law or in equity, touching patent rights, in the same manner and under the same circumstances as in other judgments and decrees of such circuit courts, without regard to sum or value in controversy.

SEC. 57. *And be it further enacted,* That written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of letters-patent under the signature of the Commissioner, or acting commissioner, with the seal of office affixed, shall be competent evidence in all cases wherein the originals could be evidence, and any person making application therefor, and paying the fee required by law, shall have certified copies thereof. And copies of the specifications and drawings of foreign letters-patent, of record in the Patent Office, certified in like manner, shall be prima facie evidence of the fact of the granting of such foreign letters-patent, and of the date and contents thereof.

SEC. 58. *And be it further enacted,* [That whenever there shall be interfering patents, or whenever any person shall be sued either at law or in equity for the infringement of any patent, any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, and any defendant in any suit for infringement as aforesaid, may have relief against the interfering patentee and all parties interested under him, and against the plaintiff or complainant in any such suit,

by suit in equity against the owners of the interfering patent, or against the patentee or assignee, or both, of any patent upon which suit may be commenced for the infringement thereof, to be brought in the circuit court of the United States in any district where the patentee or owner of the interfering patent may reside or be found, or within the Territory where the owner of any exclusive right under such patent may reside or be found, or within which the patentee or his assignee or grantee for the whole or any specified portion of the United States or their Territories may reside or be found; and in either case the court having jurisdiction of any such suit by reason of the service of process upon the patentee or any territorial assignee or grantee, or upon any plaintiff or complainant within its district, may order and require service of its process upon such persons as it may determine to be necessary and proper parties defendant to such suit, in any other district of the United States, and service of such process may be made by the marshal of any district of the United States within which such parties may reside or be found, and at no greater cost than if the suit was pending in such district; and whenever all necessary and proper parties shall be brought before the court having original jurisdiction of such suit, the said court shall proceed to hear and determine the same according to the course of equity, and may dismiss such suit, or may adjudge and declare either of the patents void in whole or in

part, or inoperative or invalid throughout the United States, or any portion thereof specifically described, or grant such other relief as may be equitable according to the rights of the parties or their several and respective interests in the patent or in the invention patented. But no such adjudication shall affect the rights of any person except the parties to such suit and those deriving title under them subsequent to the commencement thereof. And whenever all the parties interested in any such interfering patents, or patent sued upon, shall be before the court having original jurisdiction of any such suit as aforesaid, by voluntary appearance, or by due service of process thereon as aforesaid, and, upon final hearing in such cause, the patent attacked shall be declared void in whole or in part, such decision shall be final and shall not be subject to review in any other suit, in any court of co-ordinate jurisdiction, but shall be reviewed and overruled only in the Supreme Court of the United States on appeal. The Supreme Court may admit new evidence in any such appeal in their discretion, and may make rules for the proper exercise of the jurisdiction herein and hereby conferred upon the courts of the United States. The supreme courts of the District of Columbia and of the Territories shall have the same jurisdiction as that conferred herein upon the circuit courts of the United States in similar cases.] *That whenever there shall be interfering patents, any person interested in any*

such patents, either by assignment or otherwise, may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties, and other due proceedings had, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the rights of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

SEC. 59. *And be it further enacted,* That damages for the infringement of any patent may be recovered by action on the case in any circuit court of the United States, or district court exercising the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or of any Territory, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict shall be rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

SEC. 60. *And be it further enacted,* That whenever, through inadvertence, accident, or mistake, and

without any willful default or intent to defraud or mislead the public, a patentee shall have, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer as aforesaid, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, provided it shall be a material and substantial part of the thing patented, and be definitely distinguishable from the parts so claimed, without right as aforesaid, notwithstanding the specifications may embrace more than that of which the patentee was the original or first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit; nor shall he be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to enter said disclaimer.

SEC. 61. *And be it further enacted,* That in any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attor-

ney, thirty days before, may prove on trial any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

[Third. That he was an alien at the time his patent was granted, and had neglected for the space of eighteen months from its date, to put and continue on sale to the public, on reasonable terms, his invention or discovery; or,]

[Fourth.] *Third.* That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

[Fifth.] *Fourth.* That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

[Sixth.] *Fifth.* That it had been in public use or on sale in this country, [with his consent,] for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him, with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

SEC. 62. *And be it further enacted,* That whenever it shall appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoveror of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented, or described in a printed publication.

SEC. 63. *And be it further enacted,* That where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an exten-

sion of his patent beyond the original term of its limitation, he shall make application therefor, in writing, to the Commissioner, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of said invention or discovery. And said application shall be filed not more than six months nor less than ninety days before the expiration of the original term of the patent, and no extension shall be granted after the expiration of said original term.

SEC. 64. *And be it further enacted,* That upon the receipt of such application, and the payment of the duty required by law, the Commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

SEC. 65. *And be it further enacted,* That on the [ap

plication] *publication* of such notice, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make to said Commissioner a full report of the case, and particularly whether the invention or discovery was new and patentable when the original patent was granted.

SEC. 66. *And be it further enacted,* That the Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced, both for and against the extension; and if it shall appear to his satisfaction that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the said Commissioner shall make a certificate thereon, renewing and extending the said patent for the term of seven years from the expiration of the first term, which certificate shall be recorded in the Patent Office, and thereupon the said patent shall have the same effect in law as though it had been originally granted for twenty-one years.

SEC. 67. *And be it further enacted,* That the benefit of the extension of a patent shall extend to the assignees and

grantees of the right to use the thing patented to the extent of their interest therein.

SEC. 68. *And be it further enacted*, That the following shall be the rates for patent fees:

On filing each original application for a patent, fifteen dollars.

On issuing each original patent, twenty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every apeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

SEC. 69. *And be it further enacted*, That patent fees may be paid to the Commissioner, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor. And all money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the treasury as received, without any deduction whatever; and all disbursements for said office shall be made by the disbursing clerk of the Interior Department.

SEC. 70. *And be it further enacted*, That the Treasurer of the United States is authorized to pay back any sum or sums of money to any person who shall have paid the same into the treasury, or to any receiver or depositary, to the credit of the Treasurer, as for fees accruing at the Patent Office through mistake, certificate thereof being made to said Treasurer by the Commissioner of Patents.

SEC. 71. *And be it further enacted*, That any person who, by his own industry, genius, efforts, and expense, has invented or produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics;

any new and original impression, ornament, patern, print, or picture, to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, may, upon payment of the duty required by law, and other due proceedings had the same as in cases of invention or discoveries, obtain a patent therefor.

SEC. 72. *And be it further enacted,* That the Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

SEC. 73. *And be it further enacted,* That patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may in his application elect.

SEC. 74. *And be it further enacted,* That patentees of designs *issued prior to March two, eighteen hnndred and sixty-one,* shall be entitled to the extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as are provided for the extension of patents for inventions or discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

SEC. 75. *And be it further enacted,* That the following shall be the rates of fees in design cases:

For three years and six months, ten dollars.

For seven years, fifteen dollars.

For fourteen years, thirty dollars.

For all other cases in which fees are required, the same rates as in cases of inventions or discoveries.

SEC. 76. *And be it further enacted,* That all the regulations and provisions which apply to the obtaining or protection of patents for inventions or discoveries, not inconsistent with the provisions of this [chapter] *act,* shall apply to patents for designs.

[SEC. 77. *And be it further enacted,* That any person or firm domiciled in the United States, and any corporation created by the authority of the United States, or of any State or Territory thereof, and any person, firm, or corporation resident of or located in any foreign country which, by treaty or convention, affords similar privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements, to wit:

[First. By causing to be recorded in the Patent Office

the names of the parties and their residences and place of business, who desire the protection of the trade-mark.

[Second. The class of merchandise and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

[Third. A description of the trade-mark itself, with fac-similes thereof and the mode in which it has been or is intended to be applied and used.

[Fourth. The length of time, if any, during which the trade-mark has been used.

[Fifth. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

[Sixth. The compliance with such regulations as may be prescribed by the Commissioner of Patents.

[Seventh. The filing of a declaration, under the oath of the person, or of some member of the firm or officer of the corporation, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation has the right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the description and fac-similes presented for record are true copies of the trade-mark sought to be protected.]

[SEC. 78. *And be it further enacted*, That such trade-

mark shall remain in force for thirty years from the date of such registration, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country and in which it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere, and during the period that it remains in force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods: *Provided,* That six months prior to the expiration of said term of thirty years, application may be made for a renewal of such registration, under regulations to be prescribed by the Commissioner of Patents, and the fee for such renewal shall be the same as for the original registration; certificate of such renewal shall be issued in the same manner as for the original registration, and such trade-mark shall remain in force for a further term of thirty years: *And provided further,* That nothing in this section shall be construed by any court as abridging or in any manner affecting unfavorably the claim of any person, firm, corporation, or company to any trade-

mark after the expiration of the term for which such trade-mark was registered.]

[SEC. 79. *And be it further enacted,* That any person or corporation who shall reproduce, counterfeit, copy, or imitate any such recorded trade-mark and affix the same to goods of substantially the same descriptive properties and qualities as those referred to in the registration, shall be liable to an action in the case for damages for such wrongful use of said trade-mark, at the suit of the owner thereof, in any court of competent jurisdiction in the United States, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of his trade-mark and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful use. The Commissioner of Patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public: *Provided,* That this section shall not prevent the registry of any lawful

trade-mark rightfully used at the time of the passage of this act.]

[SEC. 80. *And be it further enacted,* That the time of the receipt of any trade-mark at the Patent Office for registration shall be noted and recorded, and copies of the trade-mark and of the date of the receipt thereof, and of the statement filed therewith, under the seal of the Patent Office, certified by the Commissioner, shall be evidence in any suit in which such trade-mark shall be brought in controversy.]

[SEC. 81. *And be it further enacted,* That the Commissioner of Patents is authorized to make rules, regulations, and prescribe forms for the transfer of the right to the use of such trade-marks, conforming as nearly as practicable to the requirements of law respecting the transfer and transmission of copyrights.]

[SEC. 82. *And be it further enacted,* That any person who shall procure the registry of any trade-mark, or of himself as the owner thereof, or any entry respecting a trade-mark in the Patent Office under this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay damages in consequence of any such registry or entry to the person injured thereby, to be recovered in an action on the case before any court of competent jurisdiction within the United States.]

[SEC. 83. *And be it further enacted,* That nothing in

this act shall prevent, lessen, impeach, or avoid any remedy at law or equity, which any party aggrieved by any wrongful use of any trade-mark might have had if this act had not been passed.]

[SEC. 84. *And be it further enacted,* That no action shall be maintained under the provisions of this act by any person claiming the exclusive right to any trade-mark which is used or claimed in any unlawful business, or upon any article which is injurious in itself, or upon any trade-mark which has been fraudulently obtained, or which has been formed and used with the design of deceiving the public in the purchase or use of any article of merchandise.]

SEC. [85] 77. *And be it further enacted,* That all records and other things relating to copyrights and required by law to be preserved, shall be under the control of the Librarian of Congress, and kept and preserved in the Library of Congress; and the Librarian of Congress shall have the immediate care and supervision thereof, and, under the supervision of the Joint Committee of Congress on the Library, shall perform all acts and duties required by law touching copyrights. The Librarian shall cause a seal to be provided for said office, with such device as the Joint Committee on the Library may approve, with which all records or papers issued from said office, and to be used in evidence, shall be authenticated. He shall also give

an additional bond with sureties to the Treasurer of the United States, in the sum of five thousand dollars, with the condition that he will render to the proper officers of the treasury a true account of all moneys received by virtue of his office. He shall also make an annual report to Congress of the number and description of copyright publications for which entries have been made duriug the year. And the Librarian of Congress shall receive a yearly compensation of thirty-five hundred dollars, to commence when this act shall take effect.

SEC. [86] 78. *And be it further enacted*, That any citizen of the United States, or resident therein, who shall be the author, inventor, [or] designer, *or proprietor* of any book, map, chart, dramatic, or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary and of models or designs intended to be perfected as works of the fine arts, and his executors, administrators, or assigns, shall, upon complying with the provisions of this act, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others, and others may reserve the right to dramatize or to translate their own works.

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SEC. [86] 78. *And be it further enacted*, That any citizen of the United States, or resident therein, who shall be the author, inventor, [or] designer, *or proprietor* of any book, map, chart, dramatic, or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary and of models or designs intended to be perfected as works of the fine arts, and his executors, administrators, or assigns, shall, upon complying with the provisions of this act, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others, and others may reserve the right to dramatize or to translate their own works.

cation, deposit a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statue, statuary, or model or design for a work of the fine arts, for which he desires a copyright, in the Library of Congress, and, within [ten] *twenty* days from the publication thereof, cause two copies of such copyright book or other article, or in case of a painting, drawing, statue, statuary, model, or design, for a work of the fine arts, a photograph of the same, to be delivered to said Librarian of Congress, as hereinafter to be provided.

SEC. [91] 83. *And be it further enacted,* That the Librarian of Congress shall record the name of such copyright book, or other article, forthwith in a book to be kept for that purpose, in the words following: "Library of Congress, to wit: Be it remembered, that on the ——— day of ———, anno Domini ———, A. B., of ———, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be, or description of the article,) the title or description of which is in the following words, to wit; (here insert the title or description,) the right whereof he claims as author, originator, (or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., Librarian of Congress." And he shall give a copy of the title or description, under the seal of

the Librarian of Congress, to said proprietor, whenever he shall require it.

SEC. [92] 84. *And be it further enacted,* That for recording the title or description of any copyright book or other article, the Librarian of Congress shall receive, from the person claiming the same, fifty cents; and for every copy, under seal actually given to such person or his assigns, fifty cents; and for recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words; and for every copy thereof, ten cents for every one hundred words, which moneys, so received, shall be paid into the treasury of the United States.

SEC. [93] 85. *And be it further enacted,* That the proprietor of every copyright book or other article shall deliver to the Library of Congress at Washington, within [ten] *twenty* days after its publication, two complete printed copies thereof, of the best edition issued, or description or photograph of such article as hereinbefore required, and a copy of every subsequent edition wherein any *substantial* changes shall be made.

SEC. [94] 86. *And be it further enacted,* That in default of such delivery, said proprietor shall be liable to a penalty of twenty-five dollars, to be collected by the Librarian of Congress, in the name of the United States, in an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

SEC. [95] 87. *And be it further enacted*, That any such copyright book or other article may be sent to the Librarian of Congress by mail, free of postage, provided the words "copyright matter" are plainly written or printed on the outside of the package containing the same.

SEC. [96] 88. *And be it further enacted*, That the postmaster to whom such copyright book or other article is delivered shall, if requested, give a receipt therefor; and when so delivered he shall [see that it is safely forwarded] *mail it* to its destination, without cost to the proprietor.

SEC. [97] 89. *And be it further enacted*, That no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof, *or on the face of the substance on which the same shall be mounted*, the following words, viz: "Entered according to act of Congress, in the year ——, by A. B., in the office of the Librarian of Congress, at Washington."

SEC. [98] 90. *And be it further enacted*, That if any per-

son shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, or other articles herein named, for which he has not obtained a copyright, every person so offending shall forfeit and pay one hundred dollars; one moiety thereof to the person who shall sue for the same, and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

SEC. [99] 91. *And be it further enacted*, That if any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay [fifty cents for every sheet thereof which may be found in his possession, either printing, printed, published, imported, or exposed for sale; one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action] *such damages as may be recovered in a civil action by such proprietor* in any court of competent jurisdiction.

SEC. [100] 92. *And be it further enacted*, That if any person, after the recording of the title of any map, chart,

musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design, intended to be perfected and executed as a work of the fine arts, as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or knowing the same to be so printed, published, or imported, shall sell or expose to sale. any copy of such map or other article, as aforesaid, he shall, forfeit to the said proprietor all the plates on which the same shall be copied, and every sheet thereof either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or which have by him been sold or exposed for sale; one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action in any court of competent jurisdiction.

SEC. [101] 93. *And be it further enacted,* That any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent

of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, to be recovered by action in any court of competent jurisdiction; said damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

SEC. [102] 94. *And be it further enacted,* That any person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, (if such author or proprietor be a citizen of the United States, or resident therein,) shall be liable to said author or proprietor for all damages occasioned by such injury, to be recovered by action on the case in any court of competent jurisdiction.

SEC. [103] 95. *And be it further enacted,* That nothing herein contained shall be construed to prohibit the printing, publishing, importation, or sale of any book map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

SEC. [104] 96. *And be it further enacted,* That no action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

SEC. [105] 97. *And be it further enacted,* That in all actions arising under the laws respecting copyrights the defendant

may plead the general issue, and give the special matter in evidence.

SEC. [106] 98. *And be it further enacted,* That all actions, suits, controversies, and cases arising under the copyright laws of the United States shall be originally cognizable, as well in equity as at law, whether civil or penal in their nature, by the circuit courts of the United States, or any district court having the jurisdiction of a circuit court, or in the supreme court of the District of Columbia, or any Territory. And the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by said laws, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

SEC. [107] 99. *And be it further enacted,* That a writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any [circuit] court, in any action, suit, controversy, or case touching copyrights in the same manner and under the same circumstances as in other judgments and decrees of such courts, without regard to the sum or value in controversy.

SEC. [108] 100. *And be it further enacted,* That in all recoveries under the copyright laws, either for damages, forfeitures, or penalties, full costs shall be allowed thereon.

SEC. [109] 101. *And be it further enacted,* That all books

maps, charts, and other publications of every nature whatever, heretofore deposited in the Department of the Interior, according to the laws regulating copyrights, together with all the records of said department, and all records concerning the same which were removed by the Department of the Interior from the Department of State, shall be removed to and be under the control of the Librarian of Congress, who is hereby charged with all the duties pertaining to copyrights required by law.

REPEALING CLAUSE AND SCHEDULE.

SEC. [110] 102. *And be it further enacted,* That the acts and parts of acts set forth in the schedule of acts cited hereto annexed, are hereby repealed, without reviving any acts or parts of acts repealed by any of said acts, or by any clause or provisions therein: *Provided, however,* That the repeal hereby enacted shall not affect, impair, or take away any right existing under any of said laws; but all actions and causes of action, both in law and in equity, which have arisen under any of said laws, may be commenced and prosecuted, and if already commenced, may be prosecuted, to final judgment and execution in the same manner as though this act had not been passed, excepting that the remedial provisions of this act shall be applicable to all suits and proceedings hereafter commenced: *And provided also,* That all applications for patents pending at the time of the passage of this act, in cases where the duty has

been paid, shall be proceeded with and acted on in the same manner as though filed after the passage thereof: *And provided further*, That all offenses which are defined and punishable under any of said acts, and all penalties and forfeitures created thereby, and incurred before this act takes effect, may be prosecuted, sued for, and recovered, and such offenses punished according to the provisions of said acts, which are continued in force for such purpose.

SCHEDULE OF STATUTES CITED AND REPEALED, AS PRINTED IN THE STATUTES AT LARGE, INCLUDING SUCH PORTIONS ONLY OF THE APPROPRIATION BILLS REFERRED TO AS ARE APPLICABLE TO THE PATENT OFFICE.

PATENTS.

Act of July 4, 1836, chapter 357, volume 5, page 117.
March 3, 1837, chapter 45, volume 5, page 191.
March 3, 1839, chapter 88, volume 5, page 353.
August 29, 1842, chapter 263, volume 5, page 543.
August 6, 1846, chapter 90, volume 9, page 59.
May 27, 1848, chapter 47, volume 9, page 231.
March 3, 1849, chapter 108, volume 9, page 395.
March 3, 1851, chapter 32, volume 9, page 617.
August 30, 1852, chapter 107, volume 10, page 75.
August 31, 1852, chapter 108, volume 10, page 76.
March 3, 1853, chapter 97, volume 10, page 209.
April 22, 1854, chapter 52, volume 10, page 276.
March 3, 1855, chapter 175, volume 10, page 643,
August 18, 1856, chapter 129, volume 11, page 81.
March 3, 1859, chapter 80, volume 11, page 410.
February 18, 1861, chapter 37, volume 12, page 130.
March 2, 1861, chapter 88, volume 12, page 246.
March 3, 1863, chapter 102, volume 12, page 796.
June 25, 1864, chapter 159, volume 13, page 194.
March 3, 1865, chapter 112, volume 13, page 533.
June 27, 1866, chapter 143, volume 14, page 76.
March 29, 1867, chapter 17, volume 15, page 10.
July 20, 1868, chapter 177, volume 15, page 119.
July 23, 1868, chapter 227, volume 15, page 168.
March 3, 1869, chapter 121, volume 15, page 293.

Act of February 15, 1819, chapter 19, volume 3, page 481.
February 3, 1831, chapter 16, volume 4, page 436.
June 30, 1834, chapter 157, volume 4, page 728.
August 18, 1856, chapter 169, volume 11, page 138.
February 5, 1859, chapter 22, volume 11, page 380.
February 18, 1861, chapter 37, volume 12, page 130.
March 3, 1865, chapter 126, volume 13, page 540.
February 18, 1867, chapter 43, volume 14, page 395.

Passed the House of Representatives April 21, 1870.

Attest: EDWARD McPHERSON, *Clerk*,

By CLINTON LLOYD, *Chief Clerk*.

THE CONGRESSIONAL GLOBE:

X re H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

LIS - 4

HOUSE OF REPRESENTATIVES.

HOUSE BILLS.

H. R. No. 1—
To reduce into one act and to amend the laws relating to internal revenue.—[*By Mr. Schenck.*]
Made special order, 1009.

H. R. No. 9—
Extending the time for revising and consolidating the statutes of the United States.—[*By Mr. Poland.*]
Passed Senate with amendment, 2971; concurred in, 3101; enrolled, 3109; approved, 3229.
In Senate: Reported, 1127; passed with amendments, and title amended, 2944; agreed to by House, 3094; enrolled, 3134.

H. R. No. 13—
To create the office of chief veterinary surgeon of the United States Army.—[*By Mr. Banks.*]
Reported and laid on the table, 365.

H. R. No. 15—
For the relief of Barnabas Leach.—[*By Mr. Ward.*]
Reported adversely and tabled, 647.

H. R. No. 17—
To increase the pension of George H. Blackman.—[*By Mr. Ward.*]
Reported adversely and tabled, 1571.

H. R. No. 18—
For the relief of George J. Langworthy.—[*By Mr. Ward.*]
Referred anew, 1571.

H. R. No. 19—
To authorize the building of a military and postal railway from Washington to New York.—[*By Mr. Kelsey.*]
Reported, 1666; discussed, 1666, 1801, 1844, 1999; motion to take up, 3726; passed over, 4961, 5598.

H. R. No. 28—
For the relief of Robert L. D. Burchfield.—[*By Mr. Jones, of North Carolina.*]
Reported and passed, 1043.
In Senate: Received from House, 1039; referred, 1073; reported, 2303; passed over, 3063; report printed, 3971.

H. R. No. 29—
For the relief of George C. Haynie.—[*By Mr. Jones, of North Carolina.*]
Referred anew, 1571.

H. R. No. 38—
To establish a police court for the District of Columbia.—[*By Mr. Welker.*]
Reported and passed, 2075; passed Senate with amendments, 3930; conference, 3959, 3969, 3990; conference report, 4313; agreed to by House, 4313; by Senate, 4375; correction of conference report, 4363; enrolled, 4437; approved, 4529.
In Senate: Received from House, 2084; referred, 2088; reported, 2332; passed over, 3063; discussed, 3907; passed with amendment, 3911; conference, 3971, 3972, 4074; conference report, 4390; agreed to by Senate, 4390; by House, 4390; enrolled, 4453.

H. R. No. 40—
To confirm the title of William M. Garvey to a certain tract of land.—[*By Mr. Lawrence.*]
Reported and passed, 2353; passed Senate with amendment, 3233; concurred in, 3262; enrolled, 3314; approved, 3368.
In Senate: Received from House, 2388; referred, 2400; reported, 3013; passed with amendment, 3175; concurred in by House, 3242; enrolled, 3298.

H. R. No. 46—
For the relief of Samuel H. Moore, late a private in company G, fifty-seventh regiment Ohio veteran volunteer infantry.—[*By Mr. Mungen.*]
In Senate: Reported adversely and indefinitely postponed, 4804.

H. R. No. 49—
To create a new judicial district in the State of Kentucky.—[*By Mr. Beck.*]
Reported adversely and tabled, 4313.

H. R. No. 58—
To prevent the further sale of the public lands except as provided for in the preëmption and homestead laws and the laws for disposing of town sites and mineral lands.—[*By Mr. Julian.*]
Reported and postponed, 822; motion to reconsider, 833.

H. R. No. 59—
To extend the provisions of the homestead act to the orphan children of deceased soldiers who are under the age of twenty-one years.—[*By Mr. Julian.*]
Reported and passed, 1481.
In Senate: Received from House, 1498; referred, 1533.

H. R. No. 60—
To close the land system in certain States.—[*By Mr. Julian.*]
Reported and passed, 1294.
In Senate: Received from House, 1322; referred, 1352.

H. R. No. 66—
To forbid the conveyance of Indian reservations by treaty or any other grantees than the United States.—[*By Mr. Julian.*]
Reported and discussed, 5126; passed, 5127.
In Senate: Received from House, 5112; referred, 5144.

H. R. No. 76—
To grant a pension to Jacob Shy, of Illinois.—[*By Mr. Burr.*]
Referred anew, 1571; reported adversely, 3868; report withdrawn, 3868.

H. R. No. 80—
To amend an act relating to *habeas corpus*, and regulating judicial proceedings in certain cases, and an act to amend said act, approved March 11, 1866.—[*By Mr. Boyd.*]
Reported, 1154.

H. R. No. 89—
For the relief of Major Lucien J. Barnes.—[*By Mr. Boles.*]
Reported adversely and tabled, 3120.

H. R. No. 112—
To authorize a settlement of the claims of the State of Kansas for services of the troops called out by the Governor of that State upon the requisition of Major General Curtis to repel the invasion of General Price.—[*By Mr. Clarke, of Kansas.*]
Reported and recommitted, 866, 3182.

H. R. No. 115—
Authorizing the appointment of a commission and the settlement of claims of the citizens of Kansas.—[*By Mr. Clarke, of Kansas.*]
Referred anew, 1042.

H. R. No. 116—
For the relief of William D. Matthews.—[*By Mr. Clarke, of Kansas.*]
Reported adversely and tabled, 2352.

H. R. No. 1714—
To revise, consolidate, and amend the statutes relating to patents and copyrights.—[*By Mr. Jenckes.*]
Reported and recommitted, 2502, 2650; reported, 2679; discussed, 2679, 2854, 2872; passed, 2880; passed Senate with amendments, 4849; conference, 4858, 4973; conference report, 5136; agreed to by House, 5136; by Senate, 5143; enrolled, 5241; approved, 5356.
In Senate: Received from House, 2941; referred, 2941; reported, 3941; discussed, 4819; passed with amendments, 4827; conference, 4978, 4979; conference report, 5113; concurred in by Senate, 5114; by House, 5205; enrolled, 5270.

H. R. No. 1715—
To provide for the election of Representatives to the Forty-Second Congress.—[*By Mr. Paine.*]
Referred, 2517.

H. R. No. 1718—
For the relief of A. A. Vance, postmaster at Morristown, New Jersey.—[*By Mr. Tyner.*]
Reported and passed, 2518.
In Senate: Received from House, 2606; referred, 2635; reported, 2862; passed over, 3146.

H. R. No. 1719—
Repealing acts prohibiting postmasters from depositing Government money in bank.—[*By Mr. Poland.*]
Referred, 2584.

H. R. No. 1720—
To repeal the payment of extra wages upon the discharge of seamen.—[*By Mr. Buffinton.*]
Referred, 2584; referred anew, 3220.

H. R. No. 1721—
For the relief of J. Alden Rathbun, postmaster of Mystic Bridge, Connecticut.—[*By Mr. Starkweather.*]
Referred, 2584; reported and passed, 4590; passed Senate with amendment, 5415; agreed to, 5593; enrolled, 5604; approved, 5657.
In Senate: Received from House, 4573; referred, 4620; reported, 5303; passed with amendment, 5394; agreed to, 5557; enrolled, 5563.

H. R. No. 1722—
For the relief of Henry C. Pearson, of the twenty-first regiment Pennsylvania cavalry.—[*By Mr. Cessna.*]
Referred, 2584.

H. R. No. 1723—
Granting a pension to Julia McLaughlin.—[*By Mr. Reading.*]
Referred, 2584.

H. R. No. 1724—
To authorize a subscription by the corporate authorities of Washington to the capital stock of the Alexandria, Loudon, and Hampshire Railroad Company of Virginia, or the Washington and Ohio Railroad Company, as the case may be.—[*By Mr. McKenzie.*]
Referred, 2585; reported and passed, 2735.
In Senate: Received from House, 2741; referred, 2753.

H. R. No. 1725—
To amend section one hundred and three of an act to provide internal revenue for the support of the Government, to pay interest on the public debt, and for other purposes, approved July 13, 1866.—[*By Mr. McKenzie.*]
Referred, 2585.

H. R. No. 1726—
For the relief of Thomas Foster, clerk in the Third Auditor's office.—[*By Mr. Milnes.*]
Referred, 2585; reported adversely and tabled, 4669.

H. R. No. 1727—
To amend the fourteenth section of an act to establish a uniform system of bankruptcy.—[*By Mr. Porter.*]
Referred, 2585.

H. R. No. 1728—
For the relief of John A. Boyden, late assistant assessor of internal revenue for the third collection district of North Carolina.—[*By Mr. Dockery.*]
Referred, 2585.

H. R. No. 1729—
For the relief of Captain Hogshead's mounted company.—[*By Mr. Jones, of North Carolina.*]
Referred, 2585.

H. R. No. 1730—
To protect the free exercise of the elective franchise.—[*By Mr. Lawrence.*]
Referred, 2585.

H. R. No. 1731—
To relieve Robert C. Foster 3d, of Nashville, and G. H. Mason, of Robertson county, Tennessee, of their legal and political disabilities.—[*By Mr. Prosser.*]
Referred, 2585.

H. R. No. 1732—
To relieve sundry citizens of Tennessee of political disabilities.—[*By Mr. Stokes.*]
Referred, 2585.

H. R. No. 1733—
To relieve a certain citizen of political disabilities.—[*By Mr. Smith, of Tennessee.*]
Referred, 2585.

H. R. No. 1734—
For the relief of Beauford Webb.—[*By Mr. Coburn.*]
Referred, 2585.

H. R. No. 1735—
For the relief of Delos Root.—[*By Mr. Coburn.*]
Referred, 2585.

H. R. No. 1736—
To relieve James Watt Harris, Warren A. Kirr, and Lewis Tumlin from disabilities.—[*By Mr. Kerr.*]
Referred, 2585.

H. R. No. 1737—
For the relief of John C. Hanson.—[*By Mr. Tyner.*]
Referred, 2585.

H. R. No. 1738—
To establish a post route from Yorkville to Winooka, Illinois.—[*By Mr. Cook.*]
Referred, 2585.

H. R. No. 1739—
For the relief of F. B. Boynton.—[*By Mr. Burchard.*]
Referred, 2585.

H. R. No. 1740—
Granting a pension to John Greenwalt.—[*By Mr. Burchard.*]
Referred, 2585.

H. R. No. 1741—
To establish a mail route from Marble Hill to Perryville, in Missouri.—[*By Mr. McCormick, of Missouri.*]
Referred, 2585.

H. R. No. 1742—
To repeal the joint resolution approved March 2, 1867, prohibiting the payment of claims to certain persons therein named.—[*By Mr. Rogers.*]
Referred, 2585.

H. R. No. 1743—
To relieve certain persons therein named from legal and political disabilities.—[*By Mr. Rogers.*]
Referred, 2585.

H. R. No. 1744—
For the relief of William S. Johnson.—[*By Mr. Boles.*]
Referred, 2585.

H. R. No. 1745—
Granting lands to aid in perfecting an inland passage and navigation from the St. John's river to Cedar Keys, Florida.—[*By Mr. Hamilton.*]
Referred, 2585.

H. R. No. 1746—
Extending the limitation of the grants of land made to the State of Florida in aid of certain lines of railroad.—[*By Mr. Hamilton.*]
Referred, 2585.

H. R. No. 1747—
Granting land in aid of the Suwannee and Inland Railroad Company, in Florida.—[*By Mr. Hamilton.*]
Referred, 2585.

H. R. No. 1748—
To provide for an appropriation of $100,000 for a survey and the removal of obstructions and improvement of navigation in Sabine river, Texas.—[*By Mr. Whitmore.*]
Referred, 2585.

H. R. No. 1749—
To provide for an appropriation of $100,000 for a survey and the removal of obstructions and improvement of the navigation of Trinity river, in Texas.—[*By Mr. Whitmore.*]
Referred, 2585.

H. R. No. 1750—
To establish a post route from Knoxville, Iowa, via Star and Coloma, to Hammondsburg.—[*By Mr. Loughridge.*]
Referred, 2585.

H. R. No. 1751—
To provide for fixing the times for holding the terms of the district and circuit courts of the United States.—[*By Mr. Loughridge.*]
Referred, 2586.

H. R. No. 1752—
Imposing a tax on brandy distilled from apples, peaches, and grapes, and regulating the distillation thereof.—[*By Mr. Sargent.*]
Referred, 2586.

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

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moved to amend so as to make the duty $3 per pound and 50 per cent. *ad valorem*. The gentleman from Massachusetts [Mr. WASHBURN] moves to amend my amendment by striking out "$3" and inserting "$2 50" as the duty per pound. I prefer my amendment as I have moved it, and shall therefore vote against the amendment to the amendment.

The committee again divided upon the amendment of Mr. WASHBURN, of Massachusetts, to the amendment of Mr. STRONG; and the tellers reported that there were—ayes 81, noes 36.

So the amendment to the amendment was agreed to.

Mr. MYERS. I will withdraw my motion to strike out this paragraph of the bill.

The question was upon the amendment of Mr. STRONG, as amended by the adoption of the amendment of Mr. WASHBURN, of Massachusetts.

Mr. SCHENCK. As this will probably lead to further debate, I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. SCOFIELD having taken the chair as Speaker *pro tempore*, Mr. WHEELER reported that the Committee of the Whole on the state of the Union, according to the order of the House, had had under consideration the state of the Union generally, and particularly the bill (H. R. No. 1068) to amend existing laws relating to the duty on imports, and for other purposes, and had come to no resolution thereon.

Mr. RANDALL. I move that the House do now adjourn.

The motion was agreed to; and accordingly, (at four o'clock and fifty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BANKS: The memorial of G. H. Preble, a captain of the Navy, for "leave pay" as a commodore in the Navy from October 12, 1862, to February 23, 1863.

Also, a memorial and resolution adopted by the Mechanics' State Council of Maryland and the District of Columbia, relating to the eight-hour law.

By Mr. BUCKLEY: The petition of A. F. Given, esq., and 33 others, merchants of Montgomery, Alabama, asking for the free importation of pig lead from foreign countries.

By Mr. BUFFINTON: The memorial of Messrs. Gifford & Allen and 10 others, citizens of New Bedford, Massachusetts, praying that a law be passed allowing pig lead to be imported from foreign countries free of duty.

By Mr. BUTLER, of Massachusetts: The petition of Mrs. Ellen J. Brosman, of Washington, for compensation for stock of goods taken by the second Army corps in 1863 and 1864.

Also, the petition of John F. Hildrith, for redress for injuries received at the Spanish legation.

By Mr. CHURCHILL: The petition of C. G. Shead and 25 others, citizens of Oswego, New York, praying that the importation of pig lead be permitted free from duty.

By Mr. CLARKE, of Kansas: The petition of J. C. Brewer and others, of Leavenworth, Kansas, relating to the collection of the tax on distilled spirits produced within the United States.

By Mr. LASH: The petition of Daniel G. Griffin, a citizen of Forsyth county, North Carolina, and a soldier of the war of 1812, for a pension.

By Mr. SAWYER: The petition of James Meiklejshu, and 52 others, citizens of Little Wolf, Waupaca county, Wisconsin, asking that lands be granted to the Green Bay and Lake Pepin Railroad Company.

By Mr. STILES: The petition of B. H. Wright, of the State of New York, praying to be relieved from the payment of a succession tax in the twenty-first district of New York.

By Mr. STRICKLAND: The memorial of James F. Brown and numerous others, citizens of East Saginaw, against the passage of the funding bill of the Senate.

Also, the memorial of James L. Hicks and numerous other memorialists, praying that the present duty on lumber be retained.

Also, of James Shearer and others, with like request.

By Mr. UPSON: The petition of Thomas Reily for bounty.

Also, the petition of Anna Schott for arrears of pension.

By Mr. WASHBURN, of Wisconsin: The petition of W. H. Vesey, late consul at Aix-la-Chapelle.

By Mr. WINCHESTER: A memorial from the Cigar-Maker's Association of Louisville, Kentucky, praying for certain changes of the internal revenue law.

Also, a memorial from the Liquor-Dealers' Association of Louisville, Kentucky, praying for certain modifications of the internal revenue law of July 20, 1868.

IN SENATE.

THURSDAY, *April* 7, 1870.

Prayer by the Chaplain, Rev. J. P. NEWMAN, D. D.

On motion of Mr. EDMUNDS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. POMEROY. I have the honor to present a memorial from the National Association for the Relief of Colored Women and Children of the District of Columbia, and with the memorial I also present the annual report of that association. Congress last year made an appropriation of $5,000 for the support of this institution, and they have also received voluntary contributions to a large amount. This memorial sets forth these facts, and the annual report shows the expenditures of the institution. The memorial closes by asking an appropriation of $10,000 for the next fiscal year. I move that it be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. POMEROY. I am charged with and have the honor to present a petition numerously and very respectably signed by citizens of this District asking that there may be established here a probate court. I move its reference to the Committee on the District of Columbia.

The motion was agreed to.

Mr. POMEROY. I have also a petition addressed to the two Houses of Congress signed by citizens of the State of Michigan, remonstrating against the continuance of inequalities among citizens of the United States in regard to the question of suffrage. They ask that it may be made equal among citizens both male and female. I move the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. SPENCER. I present the petition of the heirs-at-law of James A. Torbert, who was the assignee of the legal representatives of Thomas H. Boyles, deceased, who represent that an act of Congress passed June 30, 1834, entitled "An act for the relief of the legal representatives of Thomas H. Boyles, deceased," authorized them to locate six hundred and forty acres of land on public lands then located in the State of Alabama; that such location was made at the land office at St. Stephen's, Alabama, in pursuance of that act of Congress, and afterward the Commissioner of the General Land Office refused to issue a patent on the ground of prior location and that the said lands had been located prior to that time. These petitioners therefore pray that they may be authorized to make other locations of land in lieu of land authorized by the act of June 30, 1834. I move the reference of this petition to the Committee on Public Lands.

The motion was agreed to.

Mr. LEWIS presented the petitions of William Cherry, Nansemond county, Virginia; of John H. Timberlake, Mechum's River, Virginia; of F. C. Beverly, Spottsylvania, Virginia, and of Edward James, Princess Anne county, Virginia, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

Mr. SCOTT. I have a petition addressed to the Senators of the State of Pennsylvania and its Representatives in Congress, to be presented to Congress, from the officers of the Washington Artillery, of Pottsville, Pennsylvania; the Ringgold Light Artillery, of Reading, Pennsylvania; the Allentown Infantry, and the Logan Guards of Lewistown, setting forth that they were the first troops to arrive at the capital at the beginning of the rebellion, closing with this suggestion:

"It has been suggested that Congress might properly take cognizance of that service, beyond the resolution of thanks adopted in July, 1861, by the presentation to each man who participated in that movement of a testimonial which he can wear with honor during his lifetime, and at his death hand down with pride to his children, or be kept in his family as an heir-loom"—

and requesting that this subject be brought to the attention of Congress. As my colleague introduced a resolution on this subject a day or two ago, which was referred to the Committee on Military Affairs, I move that this petition have the same reference.

The motion was agreed to.

Mr. JOHNSTON presented the petitions of Jones W. Kirk, Granville Carson, Isom Cox, Byran Ballard, and J. W. Parsons, Grayson county, Virginia; of Joseph N. Atkinson, Isle of Wight county, Virginia; of J. H. Macrae, Richmond, Virginia; of James W. Burgess, Rockingham county, Virginia, and of Hiram W. Wall, Lunenburg county, Virginia, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HOWE, it was

Ordered, That the memorial and papers of the Milwaukee and Rock River Canal Company be taken from the files of the Senate and referred to the Committee on the Revision of the Laws.

Mr. KELLOGG. I submit the following order, and ask for its adoption:

Ordered, That the petition and papers in the case of George F. Brock be taken from the files of the Senate and referred to the Committee on Claims, accompanying the memorial of Brock & Davis.

The petition of George F. Brock has been reported on adversely, but there is a petition now before the committee referred a day or two since on behalf of Brock & Davis. I now ask that the papers relating to the case of Brock be referred to that committee to be considered in connection with the petition of Brock & Davis.

The VICE PRESIDENT. Additional papers have been filed?

Mr. KELLOGG. Yes, sir.

The order was adopted.

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 568) for the relief of Thomas P. Edwards, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of John Graham, of the town of College Point, county of Queens, State of New York, praying compensation for carrying the mails from New Orleans to Key West for the quarter commencing April 10 and ending June 30, 1855, submitted a report, and asked to be discharged from the further consideration of the petition.

There yet remains to be paid at Washington on account of salaries of ministers who draw on the Secretary of State the sum of $52,875 for the last half of the current year, to meet which there remains only the sum of $4,791 47. This latter sum I may safely assume will be required to meet outstanding drafts and small balances remaining unpaid.

The amount of salaries payable in London is $214,000; and I may safely assume that at least one fourth of this sum, $53,500, is unprovided for. An appropriation, therefore, of $106,375 will not more than meet the demands of the current fiscal year.

I am, sir, very respectfully, yours,

R. W. TAYLER, *Comptroller.*

Hon. HAMILTON FISH, *Secretary of State.*

Mr. DAWES demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HAMLIN, one of its clerks, notifying the House that that body had passed a bill (H. R. No. 1346) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1870, and for other purposes, with sundry amendments, in which he was directed to ask the concurrence of the House.

It further announced that that body had passed without amendment a bill (H. R. No. 1123) to remove political disabilities from Francis A. Shober.

It announced, in conclusion, that that body had passed a resolution (S. R. No. 165) extending the time for the completion of the first section of twenty miles of the Cairo and Fulton railroad, in which the concurrence of the House was requested.

REVISION OF PATENT LAWS.

Mr. JENCKES, by unanimous consent, from the Committee on Patents, reported a bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copy-rights; which was read a first and second time, ordered to be printed, and recommitted.

TARIFF BILL.

Mr. SCHENCK. Before I move that the House resolve itself into Committee of the Whole on the tariff bill I will state that if gentlemen are willing to remain here until five o'clock we shall not ask for an evening session to-night. Otherwise it will be the duty of the committee to make that request. I shall also, pending the motion to go into Committee of the Whole, move that all debate shall cease on the paragraph in relation to cigars in fifteen minutes after the consideration of the bill is resumed in committee.

The motion was agreed to.

Mr. SCHENCK. I move that the rules be suspended, and the House resolve itself into Committee of the Whole upon the special order.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. WHEELER in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1068) to amend existing laws relating to the duty on imports, and for other purposes.

The CHAIRMAN. The Clerk will report the pending paragraph and the amendment pending thereto.

The pending paragraph was the following:

On cigars, cigarettes or cheroots, of all descriptions made of tobacco, or any substitute for tobacco, and on paper cigars and cigarettes, including wrappers, $2 per pound, and in addition thereto 25 per cent. *ad valorem.*

The pending amendment was that offered by Mr. STRONG, as amended on the motion of Mr. WASHBURN, of Massachusetts, as follows:

Strike out "2" and insert "2½," and strike out "25" and insert "50."

Mr. SCHENCK. After consultation this morning, the Committee of Ways and Means have determined that I should move, as chairman of the committee, to strike out from the bill the paragraph with regard to cigars, leaving the law to stand as it is in that respect. I will state why that motion is submitted. Gentlemen have misapprehended entirely the purpose, objects, and motives of the Committee of Ways and Means in regard to this whole matter. There are several members of the Committee of Ways and Means who themselves represent constituencies largely engaged in cigar-making. I represent such a constituency myself. It was not, therefore, in hostility to the cigar interest of this country, or with the view of taking away from it any of the protection or any of the advantages it is now supposed to have under the existing law, that an amendment was proposed; because the committee were satisfied—as the House, or a majority of the members of the Committee of the Whole do not seem to be—that instead of being injured the cigar-makers of this country would probably be benefited by some further lowering of the duty on cigars.

Looking back over the figures this morning we found that when the law was changed on the 20th of July, 1868, coming down from the tariff of $3 per pound and 50 per cent. *ad valorem* to $2 50 per pound and 25 per cent. *ad valorem*, the effect was not to diminish the revenue at all or to injure the home trade or home manufacture. We cannot show how far smuggling was prevented by taking away the temptation, but we can in no other way account for the fact that there was a greater number of cigars brought through the custom-house so as to pay duty, without affecting, however, the home manufacturer. So many more cigars paid duty as to keep the revenue up to what it was when the higher rate prevailed, and yet the home manufacturer did not seem to be affected by the additional introduction of cigars. The indication is, therefore, irresistible that the Treasury officers are right when they tell us that the effect mainly was not to increase the number of cigars that paid duty by an actual increase of the number that came into the country, but by an actual increase of the number that passed through the custom-house. All the cigars that came in did not affect in any way prejudicially the home manufacturer. On the contrary, under the reduced duty the home manufacture still went on increasing in prosperity; and in the year 1868–69, as I have already informed the gentleman from Massachusetts, nearly twice as many cigars were made and paid internal tax as paid in the previous year when the tariff was high.

But gentlemen are not satisfied with this reasoning of the committee. They suppose that it would affect the home interest to alter the law. We do not believe that it would. They think that it would be prejudicial to the interests of the cigar manufacturers in the United States. We do not believe it would. We believe, on the contrary, that just such results, in something like the same proportion, would follow the taking off the 50 cents per pound as followed the taking off the 50 cents a pound and one half of the *ad valorem* tax in 1868. But as those representing the cigar interest here are of opinion that the duty should not be reduced, though we cannot, as a committee, with our views consent to or vote for any increase of the tax, yet if it be agreeable to the Committee of the Whole we are perfectly willing to strike out all that there is in this bill on the subject of cigars. And for that purpose I renew the amendment which was offered yesterday by the gentleman from Pennsylvania, [Mr. MYERS.] That gentleman after moving the amendment withdrew it, or did not at the time insist upon it. But I believe that on the whole it is the best motion that could be made, and I am authorized by the Committee of Ways and Means to make it.

Mr. UPSON. Mr. Chairman, I am opposed to the reduction of the duty upon imported cigars which is proposed by the Committee of Ways and Means. If there is any tax which is free from every reasonable objection it is a tax levied upon articles of luxury which can be manufactured in our own country; for while such a tax adds to the revenue it protects the labor of this country against foreign competition, and is paid by those who can well afford to pay it. If we examine every item of this bill we shall not find one article named in it upon which there is better reason for levying the highest rate of duty short of one that will amount to prohibition. The consumers of these costly foreign cigars have not presented to us any petitions for a reduction of this duty, nor do I believe that the gentleman from Indiana, [Mr. KERR,] who made an appeal to us in their behalf, was authorized to appear as their advocate. But the cigar-makers throughout the country have sent to us earnest petitions for the protection of their interests, and they ask for nothing but what is just and reasonable. I have presented many of these petitions from the cigar-makers of my district, and it is in their behalf that I oppose the reduction of this duty and advocate the restoration of the duty provided by the tariff law of 1866. Under that law the manufacturers of cigars were able to realize fair and reasonable profits; but since that law has been changed the business has been depressed, and to a great extent broken down. A just regard to the interests of the cigar-makers and every consideration of public policy require that the proposed amendment should be adopted.

The question recurred on Mr. STRONG's amendment as amended.

Mr. ALLISON. I move to amend the amendment by striking out "50" and inserting "25," so that it will read "$2 25 per pound and 25 per cent. *ad valorem;*" which is precisely the existing law. Now, if the amendment proposed by the gentleman from Connecticut [Mr. STRONG] shall prevail it will raise the duty on cigars $7 50 a thousand. The duty was fixed a year and a half ago, in 1868, at $2 50 a pound and 25 per cent. *ad valorem*, and I believe all portions of the cigar trade in this country are satisfied with the existing rate of duty, and it is certainly high enough for purposes of revenue and certainly high enough for purposes of protection.

Mr. WASHBURN, of Massachusetts. I wish to ask the gentleman, if that is the fact, why petitions are coming here from every cigar manufacturer in the country to have the tariff increased?

Mr. ALLISON. The answer is found in the fact that a larger number of domestic cigars were made last year than ever before. Another answer is found in the fact that the Committee of Ways and Means reported a reduction of the duty, and it is perfectly natural for every interest to endeavor to maintain the existing rate of duty. I do not believe that either in the interest of revenue or in any other interest it is our policy to increase the duty upon these articles or upon any other articles.

Mr. CESSNA. I rise to a point of order. The proposition in the bill is 50 per cent. *ad valorem.* The gentleman from Connecticut [Mr. STRONG] moved to strike out "50" and insert "25." The gentleman from Iowa [Mr. ALLISON] now moves to amend it by striking out "25" and inserting "50." That is, to restore the original bill, and therefore the amendment of the gentleman from Iowa cannot be in order.

The CHAIRMAN. The point of order is well taken.

Mr. ALLISON. But that does not happen to be my amendment.

Mr. DAWES. I wish to correct the gentle-

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TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

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abrogation of the income tax, as unnecessary, unequal, and oppressive.

By Mr. LASH: The petition of Elijah Auberry, a citizen of Surry county, North Carolina, and a soldier of the war of 1812, for a pension.

Also, the petition of Thomas C. Foust, a citizen of Alamance county, North Carolina, for removal of disabilities.

Also, the petition of William A. Lash, a citizen of Stokes county, North Carolina, for removal of disabilities.

By Mr. MUNGEN: The remonstrance of Henry Day and others, against changing the route of the Amboy, Lansing, and Traverse Bay Railroad Company, in the State of Michigan.

By Mr. PACKARD: The petition of W. S. Cutshall and others, citizens of Fulton county, Indiana, for the abolition of the duties on tea and coffee, and their reduction on sugar and molasses.

IN SENATE,

WEDNESDAY, *April* 13, 1870.

Prayer by the Chaplain, Rev. J. P. NEWMAN, D. D.

The VICE PRESIDENT. The Secretary will read the Journal of yesterday.

Mr. McCREERY. I move that the reading of the Journal be suspended until the Republican caucus is over.

The VICE PRESIDENT. The Senator from Kentucky moves that the reading of the Journal be dispensed with. It requires unanimous consent.

Mr. CASSERLY and Mr. CORBETT. I object.

Mr. McCREERY. I do not move that the reading be dispensed with. I move that it be suspended until the Republican caucus discharges its business. [Laughter.]

The VICE PRESIDENT. It requires unanimous consent, and the Senator from California objects.

The Journal of yesterday was read and approved.

HOUSE BILLS REFERRED.

The bill (H. R. No. 513) to provide for holding annual terms of the United States circuit and district courts for the northern district of New York at Elmira, New York, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 1718) for the relief of A. A. Vance, postmaster at Morristown, New Jersey, was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

The bill (H. R. No. 1766) in relation to the Iowa river in the State of Iowa was read twice by its title, and referred to the Committee on Commerce.

PETITIONS AND MEMORIALS.

Mr. JOHNSTON presented the petitions of J. M. McCall, Jonas Huddle, Obed Funk, G. B. Wallace, and E. G. Davidson, of Virginia, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

Mr. CARPENTER. There is a bill pending before the Senate in relation to the establishment of a police court for the District of Columbia and also in relation to some changes in the form of the supreme court of the District. I have here three statements of statistics showing the amount, nature, and kind of business done in the courts, which I think it important should be laid before the Senate. I present them and ask that they may be treated as a memorial, and printed.

The VICE PRESIDENT. They will be printed and referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Claims, to whom was referred the bill (H. R. No. 1611) for the relief of Friend A. Brainard, reported it without amendment.

Mr. DAVIS, from the Committee on Claims, to whom was referred the bill (H. R. No. 1667) for the relief of Janes, Fowler, Kirtland & Co., reported it without amendment.

BILLS INTRODUCED.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 787) for the better organization of the medical department of the Navy of the United States; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 788) for the relief of the widows and orphans of the officers, seamen, and marines of the United States vessel of war Oneida, and for other purposes; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

JOINT INDIAN COMMITTEE.

The VICE PRESIDENT. If there be no further bills or joint resolutions the introduction of Senate resolutions is in order.

Mr. RAMSEY. There seems to be no other morning business.

The VICE PRESIDENT. The morning business is concluded, and the concurrent resolution in regard to Indian policy is before the Senate, upon which the Senator from California [Mr. CASSERLY] is entitled to the floor.

Mr. RAMSEY. With the consent of the Senator from California, I move to postpone that resolution and all other business with a view of taking up the bill for the protection of settlers on the Fort Ridgely military reservation.

Mr. EDMUNDS. I must object. Let us go on with the regular order of business.

Mr. RAMSEY. This bill was up once before.

The VICE PRESIDENT. It requires unanimous consent, and the Senator from Vermont objects.

Mr. EDMUNDS. I want to finish the Indian resolution this morning.

The VICE PRESIDENT. The concurrent resolution in regard to Indian policy is before the Senate. The Senator from California rose when the morning hour was concluded yesterday to move an amendment to the resolution, as the Chair understood.

Mr. CASSERLY. The amendment that I desire to move to the concurrent resolution for the constitution of a joint special committee of both Houses on Indian matters is to insert at the end of the resolution these words:

Provided, That to constitute a majority of said committee a majority of the members chosen from each House shall be necessary.

The intention of that is obvious; it is to place this committee on the footing of a conference committee, so that neither House shall be at the mercy of the other.

Mr. NYE. I should like to hear the resolution read as it will stand if amended.

The Secretary read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That a joint special committee, to consist of ten members, five from the Senate and five from the House, be appointed, to whom shall be referred the propriety of a change or modification of the Indian policy and system of governing the Indian tribes. And said committee shall not continue beyond the present session: *Provided*, That to constitute a majority of said committee a majority of the members chosen from each House shall be necessary.

Mr. NYE. I am sorry to ask the Secretary to read that again, but a gentleman diverted my attention for the moment. I desire to hear it. I was rather in favor of this resolution, but I have since learned something about it that makes me against it.

The Secretary again read the resolution as it would read if amended as proposed.

Mr. CASSERLY. The intention of my amendment, I will state, is obvious. It is to prevent either House from being overslaughed in this committee by the vote of the other, with the aid, perhaps, of one member of its own.

Mr. NYE. I do not know that there is any objection to the amendment; indeed, if the resolution is to pass, I think the amendment ought to be adopted; but after mature reflection on this resolution I have changed my mind in relation to the propriety of its passage.

Sir, it is the change of Indian policy, its frequent change that brings all our Indian difficulties upon us, for we try no one policy long enough to test its virtue. A few years ago, when we had the least trouble with the Indians, we had a regular system of appointed agents; and then there was but very little difficulty among the Indians. Within the last year or two, with a view of cheapening the expenses of that department, that policy (and by what law I never could understand) was changed to a *quasi* military policy in their government, and persons who had been appointed and confirmed as agents—and one in my own State, whom I know, was a most excellent one—and held the Indians in quiet and peace, were not removed but suspended, and military officers sent there to perform the duties, entire strangers to the people and to the Indians. I am justified in saying that since that change things have not gone as harmoniously or as well as they did before; I know it is so in the particular case which I have specially in mind.

Now, sir, if this military policy is to be tried, let it have time to test itself that we may see whether it is working well. If the Quaker policy is to be tried, let us have that tested to its full extent. But, sir, as I understand this proposition it rests upon the hypothesis that there must be a change. I repeat again, it is this eternal, constant change out of which the most of our difficulties come with the Indians. I do not believe we need a change of policy. I believe now if both branches of Congress will stop agitating the question and let the present policy be fairly tested it will succeed. The Indians know as well when change is anticipated as members of Congress themselves, and it keeps them restive, unsettled, and uneasy. When we have no settled policy, or none that is allowed to remain settled long enough to be tested, difficulties arise, and that is the cause of most of our troubles, as I have already said.

But, Mr. President, that I do not believe is the real object of this joint committee. Away out in the center of this continent lie its richest portions, dedicated to Indians forever. Right up against that territory run three railroads that want to get through, and I wish them to get through. The obligation rests on the Government that they shall get through as soon as the Indian title can be extinguished by the consent of the Indians. My judgment is that the only remedy for that is a law organizing that territory; and I will state to the honorable chairman of the Indian Committee of this body that the Committee on Territories are ready, and this morning, if it had not been for extraordinary circumstances, would have reported a bill for that purpose, a bill that I think will be entirely satisfactory to the Indians and productive of peace.

Mr. President, I said before the chairman of the Indian Committee came in that when this resolution was first introduced it struck me with favor; but this measure itself is a change, and a change which I think is unauthorized by the history of our legislation; and an advance which I think will be found to be dangerous if we adopt it. It virtually amounts in its effect to consolidating both branches of Congress, so that instead of the separate legislation which we have heretofore had, sanctioned by law and usage, there is to be an amalgamation of the two Houses so that their legislation on this subject will be joint instead of several.

Now, sir, what is to be gained by this? No man in the Senate and no man in the House of Representatives, I may say without any prejudice to any gentleman there, is more famil-

Mr. KNOTT. On this question I am paired with the gentleman from Illinois, Mr. JUDD. If he were here he would have voted in the negative, and I in the affirmative.

Mr. SWEENY. My colleague, Mr. JONES, is confined to his room by sickness. If he had been present he would have voted "ay."

Mr. WINCHESTER. I desire to state that I have paired with the gentleman from Missouri, Mr. DYER. If he had been present he would have voted "no." I would have voted "ay."

Mr. COBURN. My colleague, Mr. SHANKS, is absent. If he had been present he would have voted "no."

The result of the vote was announced as above reported.

The question recurred on agreeing to the first resolution reported from the committee, as follows:

Resolved, That Caleb S. Hunt is not entitled to a seat as a Representative in the Forty-First Congress from the second district of Louisiana.

Mr. KERR. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 119, nays 47, not voting 60; as follows:

YEAS—Messrs. Allison, Ames, Armstrong, Arnell, Asper, Atwood, Banks, Barry, Beaman, Beatty, Bennett, Boles, Boyd, Buck, Buckley, Buffinton, Burchard, Burdett, Benjamin F. Butler, Cake, Cessna, Churchill, William T. Clarke, Sidney Clarke, Amasa Cobb, Clinton L. Cobb, Coburn, Cook, Conger, Covode, Cowles, Cullom, Dawes, Degener, Dixon, Dockery, Duval, Farnsworth, Ferriss, Ferry, Finkelnburg, Fisher, Fitch, Garfield, Gilfillan, Hale, Hamilton, Harris, Hawley, Hays, Heaton, Hoge, Hooper, Jenckes, Julian, Kelley, Kellogg, Kelsey, Knapp, Lash, Loughridge, Maynard, McCarthy, McCrary, McGrew, McKee, Mercur, Milnes, Eliakim H. Moore, Jesse H. Moore, William Moore, Daniel J. Morrell, Myers, Negley, O'Neill, Orth, Packard, Packer, Paine, Palmer, Perce, Peters, Phelps, Poland, Pomeroy, Prosser, Sanford, Sargent, Sawyer, Schenck, Scofield, John A. Smith, William J. Smith, Worthington C. Smith, William Smyth, Starkweather, Stevens, Stevenson, Stokes, Strong, Taffe, Tanner, Tillman, Townsend, Twichell, Tyner, Upson, Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Welker, Wheeler, Whitmore, Wilkinson, Willard, Williams, John T. Wilson, and Witcher—119.

NAYS—Messrs. Axtell, Beck, Biggs, Bingham, Bird, James Brooks, Burr, Calkin, Cleveland, Conner, Crebs, Dickinson, Dox, Eldridge, Getz, Griswold, Halderman, Hambleton, Hamill, Holman, Johnson, Kerr, Marshall, Mayham, McCormick, McNeely, Morgan, Niblack, Potter, Randall, Reading, Reeves, Rogers, Schumaker, Slocum, Joseph S. Smith, Stiles, Stone, Swann, Sweeney, Trimble, Van Auken, Van Trump, Wells, Eugene M. Wilson, Wood, and Woodward—47.

NOT VOTING—Messrs. Adams, Ambler, Archer, Ayer, Bailey, Barnum, Benjamin, Benton, Blair, Booker, Bowen, George M. Brooks, Roderick R. Butler, Cox, Davis, Dickey, Donley, Dyer, Ela, Fox, Gibson, Haight, Harris, Hawkins, Hay, Heslin, Hill, Hoar, Hotchkiss, Ingersoll, Thomas L. Jones, Judd, Ketcham, Knott, Laflin, Lawrence, Logan, Lynch, McKenzie, Morphis, Samuel P. Morrill, Morrissey, Mungen, Platt, Porter, Rice, Ridgway, Roots, Shanks, Lionel A. Sheldon, Porter Sheldon, Sherrod, Shober, Stoughton, Strader, Strickland, Voorhees, Ward, Winans, and Winchester—60.

So the resolution was agreed to.

The question was next on agreeing to the substitute, reported by the minority of the committee, to the second resolution.

The resolution reported by the committee was as follows:

Resolved, That Lionel A. Sheldon is entitled to his seat as a Representative in the Forty-First Congress from the second district of the State of Louisiana.

The substitute reported by the minority of the committee was as follows:

Resolved, That Caleb S. Hunt is entitled to a seat in this House as a Representative from the second district of the State of Louisiana.

Mr. KERR. I withdraw the substitute.

The question recurred on agreeing to the resolution reported by the committee.

The House divided; and there were—ayes 109, noes 42.

Mr. RANDALL. I feel it to be my duty to call for the yeas and nays on this question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 51, not voting 61; as follows:

YEAS—Messrs. Allison, Ames, Armstrong, Arnell, Asper, Atwood, Banks, Barry, Beaman, Beatty, Bennett, Boles, Boyd, George M. Brooks, Buck, Buckley, Buffinton, Burchard, Burdett, Benjamin F. Butler, Cake, Cessna, Churchill, William T. Clark, Sidney Clarke, Amasa Cobb, Coburn, Conger, Cowles, Cullom, Dawes, Degener, Dickey, Dixon, Duval, Farnsworth, Ferriss, Ferry, Finkelnburg, Fisher, Fitch, Garfield, Gilfillan, Hale, Hamilton, Harris, Hawley, Hays, Heaton, Hill, Hoar, Hoge, Hooper, Hotchkiss, Jenckes, Julian, Kelley, Kellogg, Kelsey, Ketcham, Knapp, Lash, Logan, Maynard, McCarthy, McCrary, McGrew, McKee, McKenzie, Mercur, Milnes, Eliakim H. Moore, Jesse H. Moore, William Moore, Daniel J. Morrell, Negley, O'Neill, Packard, Packer, Paine, Palmer, Perce, Peters, Phelps, Pomeroy, Prosser, Sanford, Sargent, Sawyer, Schenck, Scofield, John A. Smith, William J. Smith, William Smyth, Starkweather, Stevens, Stevenson, Stokes, Strong, Taffe, Tanner, Tillman, Townsend, Twichell, Tyner, Upson, Van Horn, Van Wyck, William B. Washburn, Welker, Wheeler, Whitmore, John T. Wilson, and Witcher—114.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Biggs, Bingham, Bird, James Brooks, Burr, Calkin, Cleveland, Cook, Crebs, Dickinson, Dockery, Dox, Eldridge, Getz, Griswold, Haldeman, Hambleton, Hamill, Holman, Johnson, Kerr, Marshal, Mayham, McCormick, McNeely, Morgan, Niblack, Poland, Potter, Randall, Reading, Reeves, Rogers, Schumaker, Slocum, Joseph S. Smith, Stiles, Swann, Trimble, Van Auken, Van Trump, Wells, Wilkinson, Willard, Eugene M. Wilson, Wood, and Woodward—51.

NOT VOTING—Messrs. Ambler, Ayer, Bailey, Barnum, Benjamin, Benton, Blair, Booker, Bowen, Roderick R. Butler, Clinton L. Cobb, Conner, Covode, Cox, Davis, Donley, Dyer, Ela, Fox, Gibson, Haight, Hawkins, Hay, Heslin, Ingersoll, Alexander H. Jones, Thomas L. Jones, Judd, Knott, Laflin, Lawrence, Loughridge, Lynch, Morphis, Samuel P. Morrill, Morrissey, Mungen, Myers, Orth, Platt, Porter, Rice, Ridgway, Roots, Shanks, Lionel A. Sheldon, Porter Sheldon, Sherrod, Shober, Worthington C. Smith, Stone, Stoughton, Strader, Strickland, Sweeney, Voorhees, Ward, Cadwalader C. Washburn, Williams, Winans, and Winchester—61.

So the resolution was agreed to.

Mr. STEVENSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had agreed to the concurrent resolution for the appointment of a special joint committee to consider and report upon the policy proper to be pursued by the United States toward the Indian tribes to insure their welfare and civilization, with an amendment; in which he was directed to ask the concurrence of the House.

ORDER OF BUSINESS.

Mr. CESSNA. I now move to take up the contested-election case of Taylor *vs.* Reading, from the fifth district of Pennsylvania.

Mr. SCHENCK. I feel it to be my duty to raise the question whether the House will consider that case.

The SPEAKER. The Chair will submit the question to the House.

Mr. CESSNA. I beg to make a very brief statement.

Mr. RANDALL. I object.

The SPEAKER. The question is not debatable.

Mr. CESSNA. I know that; I only desire to say a word.

Mr. RANDALL. I object unless both sides can be heard.

The question was put; and there were—ayes 65, noes 63.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. CESSNA were appointed.

The House divided; and the tellers reported—ayes ninety-one, noes not counted.

Mr. BROOKS, of New York, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 54, not voting 66; as follows:

YEAS—Messrs. Ambler, Armstrong, Arnell, Asper, Atwood, Banks, Barry, Beaman, Bennett, Bingham, Boles, Boyd, George M. Brooks, Buck, Buckley, Buffinton, Burchard, Burdett, Benjamin F. Butler, Cake, Cessna, Churchill, William T. Clark, Sidney Clarke, Amasa Cobb, Coburn, Cook, Conger, Covode, Cowles, Cullom, Dickey, Dixon, Duval, Ela, Farnsworth, Ferriss, Ferry, Finkelnburg, Fisher, Gilfillan, Hamilton, Harris, Hawkins, Hawley, Hays, Heaton, Hill, Hoar, Hoge, Jenckes, Alexander H. Jones, Julian, Kellogg, Kelsey, Ketcham, Knapp, Lash, Logan, Loughridge, McCarthy, McCrary, McKee, Mercur, Eliakim H. Moore, Jesse H. Moore, William Moore, Daniel J. Morrell, Myers, Negley, O'Neill, Orth, Packard, Packer, Paine, Palmer, Perce, Peters, Phelps, Poland, Prosser, Sanford, Sawyer, Scofield, Shober, Worthington C. Smith, William Smyth, Starkweather, Stevens, Stokes, Taffe, Tillman, Townsend, Tyner, Upson, Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Wheeler, Whitmore, Wilkinson, Willard, Williams, John T. Wilson, and Witcher—106.

NAYS—Messrs. Allison, Ames, Archer, Axtell, Beck, Biggs, Bird, James Brooks, Burr, Calkin, Cleveland, Conner, Cox, Crebs, Dickinson, Dox, Eldridge, Getz, Gibson, Griswold, Haldeman, Hambleton, Holman, Johnson, Kelley, Kerr, Knott, Marshall, Mayham, McCormick, McKenzie, McNeely, Milnes, Morgan, Niblack, Potter, Randall, Reeves, Rogers, Schenck, Sherrod, Joseph S. Smith, Stone, Swann, Sweeney, Trimble, Van Auken, Van Trump, Welker, Wells, Eugene M. Wilson, Winchester, Wood, and Woodward—54.

NOT VOTING—Messrs. Adams, Ayer, Bailey, Barnum, Beatty, Benjamin, Benton, Blair, Booker, Bowen, Roderick R. Butler, Clinton L. Cobb, Davis, Dawes, Degener, Dockery, Donley, Dyer, Fitch, Fox, Garfield, Haight, Hale, Hamill, Hay, Heslin, Hooper, Hotchkiss, Ingersoll, Thomas L. Jones, Judd, Laflin, Lawrence, Lynch, Maynard, Morphis, Samuel P. Morrill, Morrissey, Mungen, Platt, Pomeroy, Porter, Reading, Rice, Ridgway, Roots, Sargent, Schumaker, Shanks, Lionel A. Sheldon, Porter Sheldon, Slocum, John A. Smith, William J. Smith, Stevenson, Stiles, Stoughton, Strader, Strickland, Strong, Tanner, Twichell, Voorhees, Ward, and Winans—66.

So the motion of Mr. CESSNA was agreed to.

PATENT LAWS.

Mr. JENCKES, by unanimous consent, from the Committee on Patents, reported back with amendments the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, and moved that the bill be recommitted, and, with the amendments, printed.

The motion was agreed to.

Mr. GARFIELD, of Ohio, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORT PORTER, BUFFALO.

Mr. BENNETT, by unanimous consent, introduced a joint resolution (H. R. No. 248) authorizing the improvement of the grounds owned by the United States in the city of Buffalo, New York, known as Fort Porter; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. DAWES. Ought not the joint resolution to go to the Committee on Appropriations?

Mr. BENNETT. No, sir; it contains no appropriation whatever.

INDIAN AFFAIRS.

Mr. CLARKE, of Kansas, by unanimous consent, from the Committee on Indian Affairs, reported a bill (H. R. No. 1777) to reorganize the system of governing the Indian tribes, to promote their civilization, and for other purposes; which was read a first and second time, recommitted to the committee, and ordered to be printed.

Mr. BEAMAN moved to reconsider the several votes not already reconsidered by which bills, &c., had been referred and recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—TAYLOR VS. READING.

The House then proceeded to the consideration of the contested-election case of Caleb N. Taylor *vs.* John R. Reading, from the fifth congressional district of the State of Pennsylvania.

The resolutions reported by the majority of the Committee of Elections were as follows:

Resolved, That John R. Reading is not entitled to a seat in this House as Representative from the fifth congressional district of Pennsylvania.

Resolved, That Caleb N. Taylor is entitled to a seat in this House as Representative from the fifth congressional district of Pennsylvania.

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

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gress; and the powers and functions of the members of the existing General Assembly shall cease and determine on the 23d day of November, 1870.

Mr. POMEROY. I desire to modify my amendment so far as those dates are concerned. I propose to strike out in the fourth line of the second section the words "first Tuesday of September" and insert "15th day of November." I find that November is the best month in which to have an election in the State of Georgia as well as in the South. The crops are then gathered, the people have more leisure, and you will get a better and larger election by having it in November rather than September. Then, after "1868," in line eight, I propose to insert the words "at which election all persons who by said constitution are electors shall be entitled to vote." I make the qualification for voting the same as in their State constitution. Then, in the tenth line, I propose to strike out the words "23d day of November" and to insert "13th day of December." I also make the same modification in the fourteenth and fifteenth lines. Under the amendment as thus modified the election will be in November, the Legislature will meet in December, and the terms of the present members of the Legislature will expire at the meeting of the Legislature in December. Then the Legislature will be a new Legislature, the Governor continuing.

Mr. STEWART. I move that the Senate adjourn.

Several SENATORS. No, no; let us vote.

Mr. SUMNER. What is the pending question on the Georgia bill?

The PRESIDING OFFICER. The pending question is the amendment proposed by the Senator from Nevada, [Mr. STEWART.] The amendment of the Senator from Kansas was read for information.

Mr. SUMNER. What is the amendment of the Senator from Nevada?

The PRESIDING OFFICER. To strike out the Bingham amendment.

Mr. SUMNER. Very well; that I am for. Why can we not vote?

Mr. STEWART. We have not got all our friends here.

The PRESIDING OFFICER. The question is on the motion to adjourn, which is not debatable.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 14, 1870.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. J. G. BUTLER.

The Journal of yesterday was read and approved.

TELEGRAPH BETWEEN AMERICA AND ASIA.

Mr. DAWES. I ask leave to present the memorial of Cyrus W. Field, praying for aid in the construction of a submarine telegraph between America and Asia, accompanied by a bill, which I ask may be printed and referred to the Committee on Foreign Affairs.

Mr. RANDALL. Let the memorial be read.

Mr. DAWES. I do not ask that it be read, but that it be referred to the Committee on Foreign Affairs.

Mr. RANDALL. If it provides for any appropriation or any subsidy, then I shall move that it be referred to the Committee on Appropriations.

Mr. DAWES. It does not ask for any appropriation of money, but for a donation of land.

Mr. RANDALL. Then I would suggest that it be referred to the Committee on the Public Lands.

Mr. DAWES. It involves our foreign relations, and should certainly go to the Committee on Foreign Affairs.

Mr. RANDALL. Unless it be referred to the Committee on the Public Lands I must object to its introduction at this time.

The SPEAKER. The gentleman has no right to object in that way. The Chair will take this occasion to correct an erroneous impression which appears to prevail among members. A member presents a paper, and another gentleman rises and suggests that if he can have his way in regard to it he will not object to the introduction of the paper; otherwise he will object. The gentleman has a right to object absolutely, but he must either do that or move some amendment to the motion to refer, and submit the question to be decided by a majority of the House.

Mr. RANDALL. Then I withdraw my amendment to the motion of reference, and object absolutely to the introduction of the bill.

The SPEAKER. It is too late for the gentleman to do that. If he desires to have the question put upon his amendment that will be done. But the Chair will not permit these conditional objections to be made.

Mr. RANDALL. I was but following your decision in various cases from time to time during this session.

Mr. DAWES. I call the gentleman to order.

The SPEAKER. The Chair stated the same thing to the gentleman from Indiana [Mr. HOLMAN] the other day.

Mr. RANDALL. The Speaker is unnecessarily harsh in his language.

The SPEAKER. The gentleman is not in order. The question will be upon the amendment moved by the gentleman to refer this bill to the Committee on the Public Lands.

Mr. RANDALL. On that question I call for the yeas and nays.

Mr. DAWES. If the gentleman will hear me for a moment I do not think he will seek to consume time by having the yeas and nays called on his motion.

Mr. RANDALL. I have not been properly treated by the Speaker, and I propose to avail myself of every possible right I may have under the rules.

Mr. DAWES. I do not think that remark is applicable at all.

The SPEAKER. The Chair so understood the question. He entertains the motion of the gentleman from Pennsylvania, and submits it to the House, giving the gentleman all the rights under the rules which he could possibly ask. But the Chair has heretofore stated with the most perfect candor to the gentleman from Indiana [Mr. HOLMAN] that the right of members to make conditional objections cannot be entertained. In the judgment of the best and oldest parliamentarians the right to object is one which is absolute and which must be exercised absolutely; which cannot be exercised contingently and conditionally. The gentleman now demands the yeas and nays upon his motion, which he has a right to ask.

Mr. RANDALL. One word in justification of my course upon this question. The bill which the gentleman from Massachusetts asked to introduce proposed, as I understood, to make an appropriation, and I made a suggestion to the gentleman in perfect good faith, in perfect accordance with the rules of the House, that if the bill contained an appropriation it ought to go to the Committee on Appropriations, which is the proper committee for the consideration of such subjects. Finding, however, that the bill proposed a subsidy of public lands, I suggested that the bill should go to the Committee on the Public Lands. Then I was met with what I must call a lecture from the Speaker, as to whether I was in order or out of order; and I was debarred for the first time, as I understand, from the privilege which has been exercised heretofore under the rules of objecting to the introduction of a bill under such circumstances. Having been informed by the Speaker that I should have objected absolutely in the first instance, I sought to withdraw my suggestion as to the reference and to make my objection absolute.

The SPEAKER. That was the point on which the Chair ruled.

Mr. RANDALL. And very roughly.

Mr. DAWES. I hope I may be indulged a single moment. I submit to the gentleman from Pennsylvania that to call the yeas and nays on this question would be an unnecessary consumption of the time of the House.

Mr. RANDALL. I am quite satisfied with my own position in this matter, and with that of those who have treated me thus. Therefore I withdraw any further opposition.

The SPEAKER. Does the gentleman withdraw his motion to refer the bill to the Committee on the Public Lands?

Mr. RANDALL. Yes, sir.

Mr. HAWLEY. I renew the motion.

Mr. DAWES. The question of a submarine telegraph between America and Asia, I submit, is primarily a subject for the consideration of the Committee on Foreign Affairs. Whether, in aid of such a project, public lands should be granted is a matter that may afterward be considered by the Committee on the Public Lands. If such consideration be desired, no one would object to it. But the question primarily involved is an international matter, and very appropriately goes to the Committee on Foreign Affairs.

Mr. ALLISON. I call for the reading of the bill.

Mr. DAWES. The bill is very long, and its reading would consume considerable time. The question is now simply as to the reference. I do not propose to enter any motion to reconsider the reference or anything of that kind.

Mr. ALLISON. I withdraw the demand for the reading of the bill.

Mr. DAWES. I only desire that the bill shall be referred and printed.

The SPEAKER. The Clerk will read the title of the bill, which will be considered as read a first and second time.

The Clerk read as follows:

A bill (H. R. No. 1778) to incorporate the Pacific Submarine Telegraph Company and facilitate telegraphic communication between America and Asia.

Mr. DAWES. I am willing that the reference of the bill shall be reconsidered, and the motion to reconsider be laid on the table.

Mr. HAWLEY. If the bill involves an appropriation of public lands it ought to go to the Committee on the Public Lands; if it does not, then I do not care where it goes. But as the gentleman from Massachusetts states that the bill does involve an appropriation of public lands, I shall insist on my motion.

Mr. DAWES. I hope it will not be agreed to.

The SPEAKER. The question is on the motion of the gentleman from Illinois, [Mr. HAWLEY,] to amend the motion of the gentleman from Massachusetts by striking out "Foreign Affairs" and inserting "Public Lands."

On the motion there were—ayes 45, noes 52; no quorum voting.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Mr. HAWLEY and Mr. DAWES were appointed.

Mr. COX. Is it in order to have the bill read?

The SPEAKER. Not during the division.

Mr. COX. We want to vote intelligently.

The House divided; and the tellers reported—ayes 66, noes 49.

So the amendment was agreed to.

The bill and memorial were then referred to the Committee on the Public Lands.

On motion of Mr. DAWES, the bill and memorial were ordered to be printed.

Mr. HOLMAN moved to reconsider the vote by which the bill and memorial were referred to the Committee on the Public Lands; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. SCHENCK. I call for the regular order of business.

Mr. CAKE. I rise to make some privileged

reports from the Committee on Printing. I do not wish unnecessarily to take up the time of the House; but a great deal of business has accumulated before that committee. The chairman has written to me repeatedly to present it to the House. I do not think it will take up much time, or give rise to debate.

Mr. SCHENCK. I insist on the regular order.

The SPEAKER. The Committee on Printing have the right to report at any time.

Mr. SCOFIELD. My colleague proposes to interrupt the tariff bill for the purpose of "peddling" out certain documents.

Mr. CAKE. I will state again that a large amount of business has accumulated before the Committee on Printing, and I have been repeatedly requested by the chairman of that committee, who is absent on account of sickness in his family, to bring it before the House. It will not take ten minutes.

PRINTING FOR STATE DEPARTMENT.

Mr. CAKE, from the Committee on Printing, reported back Senate joint resolution No. 75, in relation to the printing for the use of the Department of State of additional copies of documents emanating from that Department, with an amendment.

The joint resolution was read. It provides that hereafter, in addition to the number of copies of documents emanating from the Department of State which may be ordered to be printed by either House of Congress, it shall be the duty of the Congressional Printer to cause to be printed for the use of that Department, five hundred copies of every such document when requested to do so by the Secretary of State.

The Clerk read the amendment, as follows:

Provided, The expense of the same shall in no order exceed the sum of $500.

The amendment was agreed to.

The joint resolution was ordered to be read a third time; and it was accordingly read the third time.

Mr. CAKE. I demand the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. CAKE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND OFFICE REPORT.

Mr. CAKE also, from the same committee, reported back the Senate amendment to the following concurrent resolution of the House, with the recommendation that it be non-concurred in:

Resolved by the House, (the Senate concurring,) That there be printed five thousand extra copies of the report of the Commissioner of the General Land Office for 1868, with the connected map of the United States, for the use of the Senate, fifteen thousand copies of the same for the use of the House, and two thousand of the same for distribution by the Commissioner of the General Land Office.

The amendment of the Senate, which was read, provided for striking out the words "with the connected map of the United States."

The amendment was non-concurred in.

R. W. RAYMOND'S REPORT.

Mr. CAKE, also from the same committee, reported the following concurrent resolution:

Resolved by the House, (the Senate concurring,) That there be printed sixteen thousand copies of the report for 1869 of R. W. Raymond, the special commissioner on mines and mining in the States and Territories west of the Rocky mountains; ten thousand copies for the use of the House, five thousand for the use of the Senate, and one thousand for the Treasury Department, with the cuts illustrating the report: *Provided*, The cost of said cuts shall not exceed the sum of $600.

Mr. KELSEY. I should like to know when we are to have a stop put to this extravagance in printing. I move that the resolution be laid on the table.

Mr. CAKE. I would simply state to the gentleman that this is the usual report upon our mineral resources.

The question was put on the motion to lay the resolution on the table; and there were, on a division—ayes thirty-seven, noes not counted.

Mr. KELSEY called for the yeas and nays.

Mr. SCOFIELD. I would ask my colleague from Pennsylvania [Mr. CAKE] how we are to send these reports home after the franking privilege is abolished?

Mr. FITCH. I will pay the postage on them.

On ordering the yeas and nays, there were—ayes ten; not a sufficient number voting affirmatively.

So the yeas and nays were refused; and the House refused to lay the resolution on the table.

The question recurred on agreeing to the resolution.

The resolution was agreed to.

Mr. CAKE moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT ON THE GOLD PANIC.

Mr. CAKE also reported, from the joint Committee on Printing, the following concurrent resolution:

Resolved by the House, (the Senate concurring,) That one thousand extra copies of the report of the Committee on Banking and Currency in relation to the gold panic, with the testimony, and three thousand without the testimony, be printed for the use of the House.

Mr. KELSEY. I move to lay the resolution on the table. I repeat that I desire to see if there is to be any stop put to this extravagance in printing.

Mr. SCOFIELD. This is the most worthless document we have ever had printed.

Mr. COX. I think the resolution ought to be laid on the table unless the testimony accompanies all the copies printed. The testimony will condemn the whole report.

The question was put; and the resolution was laid on the table.

Mr. KELSEY moved to reconsider the vote by which the resolution was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

C. B. SABIN.

Mr. BUTLER, of Massachusetts, from the Committee on Reconstruction, reported back, with the recommendation that it do pass, the bill (H. R. No. 1775) to relieve C. B. Sabin, of Harris county, Texas, from legal and political disabilities imposed by the fourteenth amendment of the Constitution of the United States.

The question was on ordering the bill to be engrossed, and read a third time.

The bill was read. It proposes to relieve C. B. Sabin, of Harris county, Texas, of all legal and political disabilities imposed by the fourteenth amendment to the Constitution of the United States, by reason of participation in the late rebellion.

Mr. BUTLER, of Massachusetts. I will state the reason for this bill in a single word. Mr. Sabin's name was in the bill recently passed, but dropped out by accident. He is a judge of the supreme court of the State of Texas, and cannot take his seat until his disabilities are removed. I move the previous question.

The previous question was seconded and the main question ordered, which was on ordering the bill to be engrossed, and read a third time.

Mr. COX. I desire the attention of the gentleman from Massachusetts for a moment.

The SPEAKER. The previous question is now operating, and the gentleman cannot be heard unless by general consent.

There was no objection.

Mr. COX. I would like to have an amendment made to the bill in the form of a general amnesty.

Mr. BUTLER, of Massachusetts. We have not time to consider that large question just now.

Mr. COX. We never will have time unless we take such an opportunity as this.

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

Mr. BROOKS, of New York. I desire to ask if the bill has been actually engrossed.

The SPEAKER. It has not.

Mr. BROOKS, of New York. Then I raise the point of order, and ask for the reading of the engrossed bill.

The SPEAKER. The gentleman raises the point of order too late. When the Chair orders the third reading of an engrossed bill, and the bill is read the third time by its title, it is too late to raise the point of order. The question is, Shall this bill pass? It is necessary that two thirds shall vote affirmatively.

Mr. BROOKS, of New York, called for a division.

The House divided; and there were—ayes 113, noes 5.

So (two thirds voting affirmatively) the bill was passed.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. SCHENCK. I call for the regular order of business.

Mr. COX. I should like to be allowed to offer a resolution of inquiry. It will only take a minute.

Mr. SCHENCK. I must insist on the regular order.

The SPEAKER. The regular order having been called for, brings on the morning hour, commencing at thirty-five minutes past twelve, the business being the call of committees for reports. Reports are in order from the Committee on Coinage, Weights, and Measures.

INTERNATIONAL COINAGE.

Mr. HOOPER, of Massachusetts, from the Committee on Coinage, Weights, and Measures, reported the following resolution:

Resolved, That the Committee on Coinage, Weights, and Measures be instructed, when they report upon the subject of international coinage, to submit to the House a statement of the weights and value of the present gold coins of Great Britain, France, and the United States.

Mr. HOOPER, of Massachusetts. My principal object in offering this resolution now is to hold the floor sufficiently long to ask permission to print in the Globe a speech, which I will not detain the House to hear, on the subject of the bill reported yesterday as to a uniform system of coinage.

There was no objection, and leave was granted. [See Appendix.]

Mr. HOOPER, of Massachusetts. I now call the previous question on the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The motion was agreed to.

PATENT AND COPYRIGHT LAWS.

Mr. JENCKES, from the Committee on Patents, reported back with amendments, and with the recommendation that it do pass, the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights.

Mr. JENCKES. Mr. Speaker, if the House will indulge me I think they will obtain a sufficient idea of what is proposed by this bill from a statement in explanation of its provisions without reading it in full.

The bill now reported from the Committee

on Patents is based upon the revision of the laws relating to patents and copyrights made by the commissioners of revision appointed under the statute authorizing a revision of the laws of the United States. That revisal of these particular statutes was reported to this House early in this Congress and referred by the House to the Committee on the Revision of the Laws of the United States. It was examined by that committee and was found to embody all the provisions of existing law, in brief, clear, and precise language. They subsequently reported it to the House and recommended that it be referred to the Committee on Patents.

In prospect of this proposed revision the Committee on Patents had already received numerous communications from those interested in the subject, and also numerous bills and petitions that had been filed in the House and referred to that committee, proposing various amendments to the existing laws. They had taken all these into consideration and invited the presence of persons interested in the different subjects to which the amendments were intended to apply, and encouraged discussion from those interested and from those learned in this branch of the laws upon those proposed amendments. They were heard at great length, and the committee were very careful to give a hearing, either orally or by written communication, to any and every person who supposed that there were defects in the existing laws which ought to be remedied, or who could make plain and clear the practice under the laws so as to secure more perfectly the rights which these laws were intended to protect. The result of all these hearings and discussions has been the adoption by the committee of certain propositions of amendment to these laws, which they have embodied in the bill now before the House.

The bill is so printed as to show the law exactly as it now is, in the form in which it came from the hands of the commissioners of revision. Every provision which is now in force has been printed at length in the bill, although it is proposed to strike out by way of amendment many of them. All those which it is proposed to strike out are printed, and the amendments, many of which are substitutes for the parts proposed to be omitted, are also printed separately, and in italics, so that they may be clearly distinguished from the law as it now is. The House, therefore, now have before them in the reported bill the exact state of the law, those provisions of the law which it is recommended shall be dropped, and of the new provisions which shall be substituted in their place, and also of the minor amendments which are proposed to different parts of the bill. It can be seen, therefore, at once what has been the law, what is the law, in what respects the existing law is supposed to be defective, how that defect is proposed to be amended, and how the law will read if the amendment should be adopted.

Having thus stated the history of the bill, and the state in which it is presented to the House, I will consider the general provisions of the act, without at the present time going into details.

The first portion of the bill, entitled "chapter first," relates to the constitution of the Patent Office. In this respect, so far as the number of officers is concerned, their titles, their duties, no change is made. It remains exactly as it was settled in the legislative, &c., appropriation bill which recently passed the House. The only change affecting the officers is a proposition to increase the compensation of one class in one office, to which I ask the attention of the chairman of the Committee on Appropriations, [Mr. DAWES.]

We find a marked discrepancy under the existing law between the compensation of the two classes of officers who perform similar duties and whose responsibilities, though different, are not so much greater the one from the other. The law provides for principal examiners at a salary of $2,500; for first assistant examiners, who often perform the duties of principal examiners, with an annual compensation of but $1,800 each, or that of a fourth-class clerk. Then there are second assistant examiners, with a compensation of $1,600 each, or the same as that of third-class clerks. The compensation of the first assistant examiners it is proposed to increase to $2,000 a year each, so as to make a proper gradation in the compensation of these classes of officers, who perform similar kinds of work, though with different degrees of responsibility. This will increase the expenses of the office but $4,400 a year.

Then it is proposed to increase the compensation of the librarian of the Patent Office. The library of this department has now become one of the most important libraries in the country. It is probably the best scientific library in the United States, and has perhaps no superior in that regard in any country. The person in charge of that library is not the mere custodian of the books, but he is required to be acquainted with all the modern languages, so as to be able to keep the run of all publications upon scientific subjects, to correspond with scientific men and with the publishers of scientific works in all parts of the world, in order that the library may be kept up and made perfect and complete. We have heretofore had as librarians of the Patent Office very accomplished men, but they have been taken away from the Patent Office by the offer of a higher salary elsewhere. As the gentleman from Massachusetts [Mr. DAWES] well knows, one was taken to the Boston Library, where a higher compensation was given. Now, in order to obtain the services of gentlemen of this degree of learning, who shall be able to keep up with the scientific progress of the world, we propose to increase the salary of the librarian of the Patent Office. This increase is proposed also with another view. The occupant of this office at the present salary is obliged to eke out that salary by accepting compensation from persons having business with the office, and is liable therefore to be influenced in favor of those for whom he makes translations and investigations. He cannot live and support a family without doing so; but with this increase of salary that practice will be cut off, and he can then devote his whole time, talents, and services to the public.

As the proposed increase of these salaries is but $5,100, out of more than two hundred thousand dollars which the Treasury receives from the proceeds of the Patent Office, we think it should be agreed to without hesitation. If it were a burden upon the Treasury we should not propose it; but we are confident, from having carefully examined the business of that office, that the increase in the fees which will be received in consequence of increased efficiency in the Patent Office would be far beyond the amount of this increase of salary.

Mr. DAWES. Is there any other change in the official force of the Patent Office?

Mr. JENCKES. None at all.

Mr. DAWES. No change in the corps as provided by the legislative appropriation bill, as that bill left the House?

Mr. JENCKES. Not at all.

Mr. DAWES. The only change is in the salaries of some of the officers?

Mr. JENCKES. That is all.

Mr. DAWES. Upon this question of salaries I desire to say that I know there is a proper exception in reference to the Patent Office, growing out of two things. First, the delicate nature of the duties to be performed, and the corresponding necessity of employing peculiar talent in that office; and secondly, because this is more than a self-sustaining Department of the Government. These two considerations are fair considerations in adjusting the salaries of these officers.

The only objection which I could have to this arrangement for raising these salaries is the precedent it would establish in reference to other bureaus. I know the utter inability of the Committee on Appropriations to resist the moment we commence this work of increase. I want to illustrate to the House this in one particular. Last April it was the first experience of most of the present members of the Committee on Appropriations, when we were induced not to resist the raising of the salary of the first Comptroller of the Treasury, though the committee then stated to the House what they thought would be the effect of it, that it would bring all the other Comptrollers and Auditors of the Treasury Department down upon us for increase of salary. It has had that effect, and we have had as much as we could do to resist the pressure.

If my friend will permit me to move an amendment restoring those officers to existing rates of salaries I am willing the House shall decide the question. I state fairly to the House that there are two sides to this question touching the Patent Office; it stands in a different position from other offices. If the question with reference to this office stood alone I would not raise a word of objection; but standing as it does in the midst of the whole array of offices I feel that I should not discharge my duty unless I asked the House to amend the bill in this particular.

Mr. JENCKES. I was just about to propose to the gentleman that a separate vote might be taken on that question if he wished it. But I want to say that we have not proposed to raise the salaries of any offices to which there are corresponding offices in the other Departments. We have carefully avoided anything of that kind. This class of offices exists only in the Patent Office; and the necessity of increased compensation is as evident to the chairman of the Committee on Appropriations as it is to myself. I will leave the House to determine what shall be done upon this question. This is the first instance of any revision of the laws respecting the constitution of any of the Departments. It was not thought best to disturb anything that had been settled, but to improve so far as we could——

Mr. DAWES. The gentleman will permit me to say that with the exception to which I have referred, this bill which I have had the pleasure of examining seems to me a very desirable measure, and the result of great labor. It is a measure which the gentleman from Rhode Island [Mr. JENCKES] is competent above all others to prepare, and I should desire to see it become a law if it does not involve this increase of salaries.

Mr. WARD. I would like to inquire which officers are, according to this proposition, to have their salaries increased?

Mr. JENCKES. The first assistant examiners. There are three grades of examiners, whose rates of compensation at present are $1,600, $1,800, and $2,500. It is proposed to increase the compensation of the intermediate grade to $2,000.

Mr. WARD. How many of these officers are there?

Mr. JENCKES. This increase will make an addition of only $4,400 out of an excess of receipts of more than $200,000, to the expense of the office.

Mr. WARD. How many of these examiners are there?

Mr. JENCKES. Twenty-two.

Mr. WARD. Then you increase the salaries of twenty-two examiners from $1,800 to $2,000?

Mr. JENCKES. That is all.

Mr. WARD. Well, what will be said when the examiners of the other grades come here and want their salaries increased?

Mr. JENCKES. The salaries of those officers are fixed by law, and we do not propose to change them.

Mr. WARD. They may ask it.

Mr. JENCKES. They may ask it, but we can refuse to grant their request. The gentle-

man will see that the object of this provision is to afford an incentive to promotion and secure for these positions that sort of talent which they require. It will tend to increase greatly the efficiency of the office.

Mr. KELSEY. Will the gentleman allow me a question?

Mr. JENCKES. I will hear the gentleman's question, although this matter of salaries is too small to waste much time upon.

Mr. KELSEY. Are there not new offices created by the bill?

Mr. JENCKES. There are none. The offices are precisely the same as those fixed in the appropriation bill.

Mr. KELSEY. Is not this assistant commissioner a new office?

Mr. JENCKES. No; it is created by the appropriation bill.

Mr. KELSEY. This is the first information I have had that any new office is created by the appropriation bill.

Mr. JENCKES. If the gentleman will look at the appropriation bill he will find that my statement is correct.

The only other new feature in the organization of the office is the proposed authority on the part of the Commissioner to establish rules. This authority was asked by the Commissioner and objected to by some of those who do business in the office. The committee finally agreed that authority to establish rules should be granted to the Commissioner, subject to the approval of his official chief, the Secretary of the Interior; and to this all parties have agreed. No other change is proposed in the constitution of the Patent Office.

In the law with regard to patents, which appears as chapter two of the bill, there are four principal propositions of amendment. I will consider them in the order of their materiality. One is the requirement of a fee to be paid at the expiration of seven years from the date of the patent, and another at the end of the third year as a condition of keeping the patent alive. Such a provision is found in the patent laws of almost all other countries. The proposition has met the commendation of the Commissioner and of persons doing business at the office. Its adoption will increase the revenues of the office, and will weed out those worthless patents which are sometimes taken hold of by speculators near the expiration of their terms for the purpose of harassing the public with ingenious reissues. One great annoyance and evil will be removed and positive good obtained in its place.

Another source of difficulty, and which was becoming a great one, arose from the fact that there is a large number of what are called rejected applications in the Patent Office. During the past year there were over five thousand of final rejections, and the year before nearly as many, and since the constitution of the office there are perhaps twenty thousand remaining in the office; most of these rejections have been acquiesced in and the claims abandoned. But some of these have been rejected improperly and contain descriptions of valuable inventions. In course of time it has been discovered in many cases the rejection was wrong and that the examiner had made a mistake, and the applicant has again made application for his patent and pressed it, and it has sometimes been allowed and sometimes rejected. If allowed, he would go and try its validity in the courts. If refused, the further difficulty arose on the provision in the existing laws for the revision of the decisions of the Commissioner. As the law now stands an appeal may be taken to one of the judges of the supreme court of the District of Columbia, or remedy be had by suit in equity in that or any other circuit court. This led to a conflict in the jurisdiction exercised by the Commissioner and that exercised by a single judge in this District court, and exposed behind it a further and greater cause of difficulty. That is, the law as it now stands contains no provision absolute in itself, clearly and distinctly defining what should constitute the abandonment of an invention to the public. We heard the solicitors at great length on this question, and the conclusion the committee arrived at is expressed in two short provisions of the proposed bill. The substance of them I will state. Each and every party whose application has been refused is allowed two years to renew that application before the Commissioner, but this provision is not allowed to revive any application for an invention which has been as a matter of fact abandoned to the public. In other words, it says a mere lapse of time in the prosecution of an application for a patent shall not be conclusive evidence of abandonment; that the right to a patent for a first and original invention is a vested right and can only be lost by the inventor in not proceeding in accordance with the provisions of law, or in his forfeiting that right in accordance with those provisions; and to those in this condition not cut off by any positive existing statute of limitation a new statute of limitation is proposed, defining the time within which such new application shall be made. Thus all the rights are preserved and the mode of prosecuting them is pointed out. This field of controversy concerning these old applications, whether abandoned or not, is fully and satisfactorily provided for.

Mr. BUTLER, of Massachusetts. I desire to ask the gentleman from Rhode Island a question. If I understand this new legislation, it does not in any way affect anybody's rights in the proposed question of abandonment.

Mr. JENCKES. Not at all. It carefully preserves all rights which we considered we were bound to do. As I said, the consideration of this subject led us to the question of the remedy for wrongful action in the office, and on the meaning of the act of Congress providing such remedy a controversy arose most difficult to settle. In the original constitution of the office it was provided that an appeal might be taken from the decision of the Commissioner. It was presumed at the time the law of 1836 was passed that the office of Commissioner of Patents might become a political office; that a person might be appointed who had had no experience in its peculiar duties or with preconceived opinions which he might attempt to act upon, although not warranted by the law. Great injustice might thus be done through inexperience or prejudice.

In order to provide a correction for errors which might arise from these and other causes, the seventh section of the act of 1836 contained a provision for the appointment of a board of three examiners in each case, when the applicant persisted in his claim for a patent after a refusal by the Commissioner, one of whom should be selected, if practicable and convenient, for his knowledge and skill in the particular art, manufacture, or branch of science to which the alleged invention appertains, to which board an appeal might be taken to review the action of the Commissioner. This board were required to be furnished "with the opinion and decision of the Commissioner, stating the particular grounds of his objection, and the part or parts of the invention which he considers as not entitled to be patented," and they were empowered, upon hearing, "to reverse the decision of the Commissioner either in whole or in part;" and in the further proceedings to be had on such application for a patent, the Commissioner was to be governed by the decision of this board. The subject of the appeal was a scientific question, and was referred as a question of fact to the decision of men of science.

Mr. WARD. Will the gentleman allow me to ask another question?

Mr. JENCKES. Certainly.

Mr. WARD. I see here in the bill provision made for an Assistant Commissioner, with a salary of $3,000, and for examiners-in-chief, with salaries of $3,000 each. I desire to ask whether either of these offices is new.

Mr. JENCKES. The offices are not new in this bill. The Assistant Commissioner was provided for in the appropriation bill, and the office of examiner-in-chief was created in 1861.

Mr. WARD. But I understand that in the Senate they were stricken out of the appropriation bill.

Mr. JENCKES. The gentleman is mistaken, for that bill has not yet been acted on in the Senate. The office of examiner in charge of the annual report has been done away with by a resolution which has passed the House, but which has not yet passed the Senate; and the Assistant Commissioner of this bill takes the place of that officer.

Mr. WARD. If that should pass the Senate these former officers will remain. And then, if this bill passes, these new officers will be created in addition.

Mr. JENCKES. The result will be that there will be a decrease in expense, but an increase in efficiency.

When the gentleman interrupted me I was speaking about this question of appeal. This provision for the constitution of a board of scientific persons was found to be impracticable. It was to be a special board in each particular case. The successive boards would have no uniform rule of decision. Their action might be capricious and even vexatious. One person might get a patent when it ought to be refused; while another who ought to get a patent might be denied. In the supplementary act of 1839 provision was made for an appeal from the Commissioner to the chief justice of the supreme court of the District of Columbia—then Chief Justice Cranch—with some idea, it would appear, of creating a supervisory power in this chief justice which would have an analogy in this case to the exercise of judicial power, though it was not a judicial power. This arrangement continued, and with some degree of success, until from the infirmities of the chief justice he was unable to attend to these duties, and then the duties were devolved upon either of the associate judges of that court—two judges sitting separately and each deciding according to his own notions of the scientific part of any case which happened to come up, and, what was equally bad if not worse, according to his own views of the law of each particular case. There was no concert between them, no consultation, no deference to each other's opinions; and this led to different decisions in the same class of cases.

This state of things continued during the commissionership of Judge Mason, who called the attention of Congress to it in his report of 1853 in the following words:

"The present mode of appealing from the decisions of the office is extremely inconvenient and in many respects objectionable. The Patent Office should possess within itself the entire power to act upon a case up to the time when a patent issues. The whole matter should then be turned over to the judiciary. If it be thought expedient to have the action of a strictly legal mind brought to bear upon a patent before it issues that mind should form a portion of the Patent Office itself, and be made to exercise a supervisory influence upon all the patents that are issued by the office. At present the appellate power is vested practically in either of two highly respectable and intelligent judges, either of whom, under proper circumstances, would no doubt be able to exert a salutary supervisory influence over the office and its decisions; but the two do not act conjointly, and therefore unity of decision is hardly possible. A few cases go up by appeal out of the hundreds that are decided by the office. The appellate, and therefore controlling power, cannot be expected under such circumstances to give tone and character to the action of the office. Besides, under the present practice, the drawings and models have to be removed from the Patent Office to the offices of the respective appellate judges. Away from the custody of their proper keepers they are often injured and always liable to be destroyed or lost.

"If it is thought expedient to have as wide a range for appeals as at present, it is believed that a much more convenient and judicious arrangement would be found in having a judicial officer to hear appeals from the decisions of the examiners, with the power of ultimate appeal to the Commissioner."

When the present court was constituted and the old court legislated out of existence appeals were allowed to each of the four judges. The evils pointed out by the Commissioner of Patents were increased fourfold by the pro-

vision of the law constituting a supreme court of the District, under which an appeal might be taken to either of the four judges.

The evils of this system of appeal have been called to the attention of Congress by other Commissioners, and by the Secretary of the Interior in his annual reports. Thus, in his report of November 19, 1866, Secretary Browning says:

"The last annual report of this Department alluded to the law regulating appeals in cases arising in the Patent Office. I am unable to perceive any stronger reason for granting an appeal to one of the justices of the supreme court of this District from the decision of the Commissioner of Patents than from that of the Commissioner of Pensions disallowing a pension claim, or from that of the Commissioner of the General Land Office on a contested right of preemption. The decision of the judge does not have any more conclusive effect than the ruling of the executive officer. If adverse to the applicant a patent does not issue. But if in his favor, even in interference cases, it is not a final determination of the questions in controversy. Congress has declared that it shall not preclude the right to contest the patent in any court in which its validity may come in question. If sued by the holder of an older patent who was a party to the whole proceedings the successful applicant cannot set up the decision awarding him a patent as a defense to the action. Such a decision is not in its essential characteristics a judicial act, and cannot be assimilated to to the judgment of a court of competent jurisdiction which may be pleaded as an estoppel where the identical question is directly involved between the same parties in a subsequent suit. The duty incident to this special trust should not be imposed upon the judge, and there is a manifest impropriety in giving him a supervisory control over the action of an executive bureau. The judicial and Executive Departments of the Government are distinct and independent, and the officers of each should be confined to their appropriate sphere of action.

"The applicant for a patent before he can prosecute an appeal to the judge must pay into the office the sum of twenty-five dollars for his use. The fee required on each successive appeal from the primary examiner to the examiners-in-chief, and from the latter to the head of the bureau, constitutes a part of the patent fund, and is not paid to those officers. They receive a fixed compensation, without regard to the cases submitted to them. The amount of the judge's emoluments for this special service depends upon the number of appeals to him, and that may be increased or diminished by the character of his decisions. He is thus placed in a position which no judicial officer should be compelled to occupy."

And in his next annual report, dated November 18, 1867, (pages 9 and 10,) he again calls attention to this subject, as follows:

"In my last annual report I advised a repeal of the law conferring upon a party the right of appeal from the Commissioner of Patents to one of the judges of the supreme court of this District. Subsequent reflection has confirmed my conviction of the soundness of the views then presented. In no other instance is an appellate power given to a judge to affirm or reverse the action of an executive officer.

"This exceptional proceeding is essentially different from an action instituted in a court of original jurisdiction for a *mandamus* against an officer to enforce the performance of a specific duty, or from that wherein an injunction is sought to restrain him from the commission of an act which would work irreparable injury to the rights of property. Neither does it bear any analogy, even the most remote, to a suit in which either party thereto asserts a right or resists a claim resting upon an adjudication to which the other party was a stranger, and which was rendered by an executive officer or a special tribunal authorized to deal only between one party and the Government. The court having cognizance of the suit may review such adjudication and correct errors of law or fact, to the prejudice of either party. This doctrine has been announced by the Supreme Court in suits where the title to land was in issue, and where a party relied upon the decision of the General Land Office awarding a right of preemption or vacating an entry. It has also been applied in cases involving a claim to priority of invention, as an inquiry is not precluded by a patent in any court in which its validity is brought in question.

"A judicial determination of conflicting rights is final and conclusive on the parties, and those subsequently claiming under them. The decision of the judge on appeal awarding a patent, even in interference cases, has not this, nor indeed any greater, force or effect than that of the Patent Bureau, and may be reviewed in the same manner when a proper case arises. I respectfully submit that an appellate authority over an executive officer should not be devolved upon a judge, especially where his decision upon the questions in controversy has not the properties or binding efficacy of a judgment at law or a decree in equity. Delays are occasioned and expenses incurred by this objectionable and anomalous practice, without any compensating benefit to the inventor or the public."

The present Secretary in his recent annual report reiterates the recommendations of his predecessors, and the Commissioner supports them by unanswerable arguments.

The vice of this system, and what is sought to be amended, is that this appeal from the Commissioner, an officer charged with the performance of certain executive duties and certain *quasi* judicial duties, is made to an officer who is neither an executive officer nor a judicial officer in the act he is required to perform, but only judicial in name. It is an appeal, in effect, from the Commissioner to another person, it makes no difference whether that person be a judge of the supreme court of the District of Columbia or a member of the House of Representatives, whether to one out of four or to one out of two hundred and forty, but to another official person who acts *quasi* judicially, and who in his action under the law or under his construction of it has assumed to himself some of the executive powers of the Commissioner as well as the exercise of those *quasi* judicial powers to which I have referred.

The jurisdiction has been extended from the extremely narrow limits within which it was confined by the act of 1836 over questions of fact not necessarily connected with such scientific questions, and over all questions of law which might arise concerning the granting of any patent. It has led, therefore, to a great conflict of decisions, to no unity of jurisprudence on the subject of the patent laws, and to no contest of action between the Patent Office and the judges. I am sorry to say that, as a necessary effect of such conflict of jurisdiction, there has been some ill-feeling between parties who should have had none toward each other, and consequently there was an obstruction to the proper execution of the law.

Now, the law had already provided a remedy in this class of cases other than this by appeal to a single judge, but which has seldom been resorted to. That remedy is provided in the original patent law, the act of 1836, authorizing any person aggrieved where there were two interfering patents to apply to any circuit court, including the supreme court of the District of Columbia, for relief against the other patentees or any person claiming under them. By the tenth section of the act of 1839 the provision of the sixteenth section of the act of 1836 was extended to all cases where patents were refused for any cause whatever. But in practice appeal to a single judge has been the shorter mode, and the business being conducted by solicitors of patents, whose occupation ends with the obtaining of the patent, they have more frequently resorted to that remedy, and have been satisfied with it.

But upon a full examination of the subject, and hearing all the arguments that could be adduced by those who favor the present system and those against it, the committee were clearly of the opinion that the remedy furnished in the sixteenth section of the act of 1836 and the tenth section of the act of 1839 is ample to meet all classes of cases. The primary reason for that conclusion is this: that if an appeal is taken to the courts for relief by any process known to the law, as by a suit in equity, then the decision of the question is brought within the judicial power of the United States, and it is a decision of a court which carries weight with it and is final and conclusive upon all the parties to that suit; whereas if an appeal is taken to one judge, or one man who is called a judge, or to the four persons forming a court, not as a court but as persons, the decision is but a *prima facie* decision, and carries no weight with it whatever, and everything behind it which has led to that final decision may be inquired into in any court in which the validity of the patent so granted is brought in question.

Many instances were adduced to the committee in the many hearings which they had where the action of a single judge of this court was not in harmony with the action of another judge of the court or of the Commissioner, and where it was, in fact, in conflict with the previous decisions of former as well as present judges of that court. But these are the necessary accidents of such a constitution of appeals. I impute no improper motives to any parties connected with the transaction of this business, but such irregularities and such conflicts are the necessary consequence of the existing state of things; whereas by following out the remedy given by the law, and making its provisions definite and certain, a party who is refused a patent by the Commissioner will have at the outset a judicial decision as to his right to it, or that he has no right to it; or if he has a right to any modification of his claim he will be adjudged entitled to such modification, and will take a patent which has value in any court in which the party who may be brought into such controversy, in the first instance, may appear against him.

In a proceeding which may be brought to a speedy judgment, without increased expense, the erroneous decision of a Commissioner may be reviewed and a decree rendered which will be effective against all who may have appeared and who have been heard in the controversy.

Heretofore there have been three appeals within the office, two before reaching the Commissioner, and one to the Commissioner. These appeals are allowed only to persons who have applied for patents and are aggrieved at the refusal. If the party chooses to go farther, and seek relief outside of the Patent Office, we thought it was wise to provide that he should go farther with some effect, and that if his patent was finally denied by the court it should be conclusive against the applicant; and if he obtained his patent the decision should be conclusive as to his title, as against parties contesting his right to the patent.

There has been a question much mooted, but which never yet has met a judicial decision, whether the act of 1861, creating a board of examiners-in-chief, does not in effect repeal this right of appeal to a single judge; but we remove that question by the proposed legislation.

The committee also propose to amend and enlarge the provision as to relief between interference patents, and to recommend the addition of this important provision, which meets the complaint which we have found in many petitions referred to us, and in some bills which have been offered by members of the present House. That is, to provide relief in cases where a patent has been improperly obtained or improperly reissued, or where the validity of a patent is contested by persons using the things patented.

There is now no means provided by which a person thus injured or threatened to be injured by a suit can turn around on his prosecutor and test his right to the patent. We propose to give that remedy, so that a single suit can determine the question and avoid the extended litigation and expense now attending controversies upon patents. Heretofore it has sometimes happened that persons have obtained reissues of old patents, and then gone around the country threatening suits against persons; sometimes commencing a suit in a court, and if not liking the temper of the judge, or from some untoward circumstance connected with the trial, abandoning it and commencing another somewhere else, with the hope of obtaining a decision in their favor. And when they have succeeded in obtaining a single decision they will go around again and levy a tax upon all who do not feel able to go to the expense of contesting the validity of the patent.

That has been a great burden and a great wrong, which has many times been sought to be amended. But the difficulty has been to do it without injuriously affecting rights conferred and established. The committee propose to do it by recommending that where any party has been sued for the infringement of a patent, and he thinks the patent is invalid for any reason or should not be enforced against him for any cause, he may commence a suit against the owners of the patent who have sued him, in order to test the validity of that patent, and the final decision in that case

shall be conclusive upon the right of all parties claiming the right to use the thing claimed to be patented.

The old remedy, under the law of 1793, in such a case was by *scire facias*. That has also been the remedy of the English law. But it is a remedy at law, to be tried by a court and a jury, and consequently a very expensive remedy. It is also a harsh remedy; for if a decision be found against a patentee for any cause it destroys the patent altogether; whereas in a suit in equity the decision may relate to only a portion of the patent, and the patent may then be reformed and sustained for what is rightfully the subject of a patent. The committee, therefore, have provided a remedy under which the title to an invention can be determined absolutely and finally by one suit, and not be liable to be tested in a hundred different cases.

I know one case where after a defendant had succeeded in a suit upon a patent the patentee turned around and brought upward of a hundred suits all over the United States upon that very patent, subjecting each of the parties sued to as much expense as the one who had defeated him, in the hope of obtaining a reversal of the former decision. That is an evil to be prevented; and we think we have provided a remedy which will reach the case, so that the expense of one suit shall be all that is required to test the validity of any patent or the right of any party under it.

These are the amendments to the law of patents. There are not new nor additional provisions except in the case of the payment of the fee during the term of the patent, to keep it alive. In other respects the law stands without any other change than that it is enlarged, defined, made clear in its terms and provisions and in its proposed execution, so that the remedies can be pursued without mistake and with effect.

There have been but few actions under the provisions of the sixteenth section of the act of 1836, or the tenth section of the act of 1839, on account of the vagueness of the language of those sections. The phrase is used: "the court having cognizance of the suit." What court? Lawyers were left to find out what the jurisdiction was by referring to the judiciary act of 1789, and the amendatory judiciary act of 1839. Sometimes by accident they could get the proper parties defendant, but not always. Hence they did not resort to so cumbrous and imperfect remedy. The provisions of this bill enable them to compel the attendance of the proper parties defendant; the jurisdiction, "of the court having cognizance of the case," though not enlarged, is made definite and complete.

The committee have recommended also certain provisions which are entirely new concerning trade-marks. These have not heretofore been the subject of any national law. It is a subject embraced within the common law jurisdiction of all the courts of the country, and also within the general equity jurisdiction of all the State courts. This bill does not propose to interfere at all with the local and State jurisdictions. A person, standing upon his common law rights, may still go into the State courts and defend a trade-mark, exactly as he may do now; but if he chooses to register his claim at the Patent Office, pay his fee, and take his certificate of registration, it will protect him throughout the United States, in the same way as a patent for a design or a copyright is protected.

Concerning trade-marks, we are at present in an anomalous condition, which perhaps is not understood by the House generally. By certain treaties or conventions with Belgium, France, and Russia, we have agreed to recognize the validity of the trade-marks of those countries upon their being registered in the Patent Office of the United States, and to give them the same effect throughout the United States that they have in the country where they originated; and trade-marks recognized by the law of this country have the same effect throughout those European countries as the trade-marks secured by the citizens or subjects of those countries. Thus by treaties, which are a part of the supreme law of the land, we have secured to subjects of those three nations rights which are not by national law secured to citizens of the United States. The right, which it is proposed to protect by registration of trade-marks are not greater in any sense than those which are secured to citizens of foreign countries. In fact, these provisions are substantially those of the continental nations, and also those of the trade-marks statute of Great Britain, with which country I believe we are also engaged in negotiations for a similar treaty. The desirableness of these provisions I have not heard questioned by any one. I will state their effect.

A *fac simile* of the trade-mark is to be sent to the Patent Office. The kind of business, as well as the kind of goods, to be protected, is to be described briefly and correctly. A fee of $25 is to be paid into the Treasury of the United States. A certificate of such registration, with a *fac simile* of what is filed in the office, is to be delivered, under the seal of the Patent Office, to the person causing such registration. It is to be in effect for thirty years from the date of registration, and if it be copied by a person not having a right to it, or if it be copied by a person in such manner that the imitation is calculated to deceive the public, then the party may have his remedy in any court of the United States for the injury done him.

It does not allow any person to register a trade-mark in the Patent Office who is not entitled to it at common law. It does not allow any man to take up any other man's trade-mark and by paying $25 claim it for himself or his assigns. Nor does it allow him to imitate a trade-mark so nearly as to deceive the public. That is expressly prohibited. Nor does it allow any person to register a trade-mark for any substance or article injurious in itself, or to use a trade-mark on any article or in any kind of business calculated to deceive the public. All those things are specially prohibited, and thus guarded it seems to be a safe legislative provision.

Mr. Speaker, how many minutes remain of the morning hour?

The SPEAKER. The gentleman has seven minutes remaining.

Mr. JENCKES. Now, Mr. Speaker, I will use those seven minutes in explaining the provisions of this bill in regard to copyrights. First, let it be understood what the law is. Under the present system a person wishing to procure a copyright and to protect his publication must go to the office of the clerk of the district court for the district in which he resides, there file a copy of the title-page, get a certificate of having filed such copy, and after the publication of his book send a copy to the clerk's office for transmission to the Patent Office. In course of time it is to be expected that the clerk of the district court would transmit the book to the Patent Office; but it is not always done. It is proposed that the clerk's office should cease to be the place of registration, and that the title-pages of books which are to be copyrighted shall be sent at once to the Library of Congress, and when published that copies of each publication shall also be sent to the Library of Congress.

The result of the existing law has been to place in the store-rooms of the Department of the Interior from thirty to forty thousand volumes, beyond the reach of consultation, and which with difficulty can be found even with the most diligent inquiry. Some of them, and the greater portion, are in a room accessible only by clambering up a narrow staircase and over an archway—a room which has no light, and where, if the books are to be examined, they must be examined by candle-light. Besides, they are imperfectly catalogued. Since 1850 these publications have only been taken care of when Congress has made appropriations for copyright clerks. Sometimes no such appropriation has been made, and the consequence is that the books sent to the Patent Office during such periods have remained there in the original packages, without having been in the least taken care of or catalogued. It is proposed by this bill, when we change the place of registration to the Library of Congress, to transfer also to the Library of Congress, where it can be exhibited and taken care of, all this mass of American literature now stored away in the recesses of the Interior Department.

These books should be so arranged and catalogued as to be accessible to all. There are many valuable works there, and no doubt a great deal of trash; but still all of them have value in a historical point of view. Even the school-books showing the progress of education in this country will have some value to some persons. With the transfer of these books to the Library it will place them where they will be convenient of access. With these books, and those placed there hereafter for protection of copyrights, the Library of Congress will possess properly arranged and catalogued complete copies of all works published in America. Since the passage of the law in 1865 it has been required that one copy should be sent to the Library of Congress, and the Library has a tolerable collection of American literature since that time; but under the provisions of this bill two copies of each publication are to be placed in the Library of Congress.

This is no burden upon the publisher. The certificate of registration costs him but a dollar. That and two copies of the book protect his copyright for forty-two years. It is less than is required by the laws of other countries. In Great Britain five copies are required; and the consequence is that the British Museum contains a complete library of all the copyright publications since the passage of the law. These certifications will include all copyrighted translations of foreign books, the translation of a foreign book not copyrighted of course not being protected.

But the simple requisite here is this: that all publishers who ask protection shall furnish the Librarian of Congress with two copies of the publication to which that protection is sought to extend; and the publisher by so doing, and by perfecting his registration, will have complete protection for a period of forty-two years.

These are the changes in the copyright law. The result will be to give one place of registration, one certifying officer as to all acts done under the copyright law, one place of deposit for all books copyrighted. And it does not increase the expense, but rather diminishes it, as the publisher is not required to attend at the office of the district clerk, and is not subjected to the hazard of sending his publication to that office and to the incidents of injury from requiring a thing to be done by three persons which might as well be done by one.

And I will state this fact, which is important, that in making this transfer we have consulted with the officers of the Department of the Interior, and they not only assent to the transfer, but are glad of it. Not having a proper or convenient place in that building for keeping possession of the books and records, and needing the space now occupied by them for other purposes belonging to the more appropriate business of the Department, they willingly surrender this duty to the Librarian of Congress. In the Library of Congress there is room for all these books, and they will be useful in that place, whereas they are useless now. They can be catalogued by skilled persons, and will be well taken care of, and the business relating to copyrights will be hereafter well and thoroughly performed, because the person who has charge of the Library of Congress is by reason of his office, and from being required to purchase books, in constant communication

with all the publishers of the United States, and he can enforce the law in every instance without delay and without expense. There is another fact which the committee considered to be of importance in recommending this change. I have incidentally alluded to it already. The books that are required to be deposited in the district courts throughout the country are frequently lost or mislaid and never reach the depository in the Patent Office. The Librarian and the Commissioner of Patents both informed me that there were several clerks' offices from which no regular return is received, and that there is one from which no return has been received for seven years. And in other districts where the business is large and there are numerous registrations the Librarian of Congress, in order to keep up his own collection according to the law of 1865, has been obliged personally to go to the clerks' offices, examine their records, and make the transcripts for the purpose of performing his duties under the law.

It is provided also that the Librarian shall make a report every year to Congress of the number of those publications, and also a catalogue of them.

The SPEAKER. The morning hour has expired.

ORDER OF BUSINESS.

Mr. SCHENCK obtained the floor.

Mr. BROOKS, of Massachusetts. I rise to a question of privilege. I move that the House proceed to the consideration of the contested-election case of Tucker *vs.* Booker.

Mr. SCHENCK. I desire that the House shall go into Committee of the Whole, to resume consideration of the tariff bill.

Mr. FARNSWORTH. Will the gentleman yield to me for a moment to make a report from the Committee on the Post Office and Post Roads? It will not take a minute.

Mr. SCHENCK. I yield to the gentleman.

NEW YORK AND BOSTON POST OFFICES.

Mr. FARNSWORTH, by unanimous consent, from the Committee on the Post Office and Post Roads, presented the report of their investigations with reference to the construction of the New York and Boston post offices; and moved that the report, with the additional testimony not heretofore printed, be ordered to be printed, and that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

RAILROAD LAND GRANTS.

Mr. FITCH, from the Committee on the Public Lands, reported back the bill (H. R. No. 832) granting lands to the State of Wisconsin, to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay in the county of Door, in the said State, to connect the waters of Green bay with Lake Michigan, in said State; and moved that the bill, with the accompanying papers, be recommitted to the same committee, and ordered to be printed.

The motion was agreed to.

Mr. FITCH, from the same committee, reported back the bill (H. R. No. 1584) granting the right of way and lands to the Sacramento Irrigation and Navigation Company; and moved that the bill, with the accompanying papers, be recommitted to the same committee, and ordered to be printed.

The motion was agreed to.

Mr. FITCH also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 1082) to aid in the construction of a railroad from New Orleans to the western boundary of Louisiana, and moved that it be recommitted to the committee, and ordered to be printed.

The motion was agreed to.

Mr. FITCH also, by unanimous consent, from the same committee, reported back the bill (H. R. No. 1590) to aid in the construction of the Oregon Branch Pacific railroad, and moved that it be recommitted to the committee, and ordered to be printed.

The motion was agreed to.

Mr. FITCH moved to reconsider the votes by which the bills were severally recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. DUVAL, for two weeks from to-morrow, and the leave of absence heretofore granted to Mr. MORPHIS was extended for ten days.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed the bill (H. R. No. 1542) to authorize the city of Buffalo, New York, to construct a tunnel under Niagara river, and to erect and maintain an inlet pier therefrom.

ORDER OF BUSINESS.

Mr. RANDALL. I now insist on the regular order.

The SPEAKER. Then the gentleman from Ohio [Mr. SCHENCK] must proceed or surrender the floor.

Mr. PAINE. What becomes of the question of privilege? We ought to consider the contested-election cases.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] rose first and was entitled to the first recognition. Should the motion of the gentleman from Ohio not prevail, the Chair will recognize the gentleman from Massachusetts, [Mr. BROOKS.]

Mr. SCHENCK. Before moving to go into Committee of the Whole on the state of the Union I desire to yield once more to the gentleman from Texas, [Mr. CLARK.]

Mr. RANDALL. I understand the Chair to have decided that I cannot yield to hear what the gentleman from Texas desires, that I cannot yield conditionally. That was the decision of the Chair this morning, and therefore I must object absolutely.

EVENING SESSION.

Mr. SCHENCK. Before moving to go into Committee of the Whole on the state of the Union I move that the Committee of the Whole on the state of the Union be ordered to take a recess from half past four o'clock until half past seven o'clock this evening.

The motion was agreed to.

TARIFF BILL.

Mr. SCHENCK. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole upon the special order.

The motion was agreed to—ayes 79, noes 29.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. WHEELER in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1068) to amend existing laws relating to the duty on imports, and for other purposes.

The CHAIRMAN. When the committee rose last evening it had under consideration the following paragraph of the bill:

On hemp unmanufactured, $40 per ton.

The pending question was on an amendment to strike out "$40" and insert "$25" in lieu thereof, upon which debate was exhausted.

Mr. WOOD. I move to amend the amendment by striking out "$25" and inserting "$30." Mr. Chairman, when this subject was under discussion yesterday in the committee the gentleman from Massachusetts, [Mr. BANKS,] the distinguished chairman of the Committee on Foreign Affairs, stated a proposition to the effect that this bill made a distinction between two classes of hemp, Russian hemp and Manila hemp, and that that distinction was in contravention of an existing treaty with Russia which would probably create some embarrassment and interfere with the existing friendly relations between the two countries.

Of course this House estimates the authority of the distinguished chairman of the Committee on Foreign Relations [Mr. BANKS] as very great upon all questions in reference to treaties and in regard to our relations with foreign countries. But there are one or two propositions which necessarily grow out of his position. First, are these articles of "like character," that being called "hemp" which is known in commerce as Manila, and the hemp which is the production of Russia?

The gentleman from Massachusetts [Mr. BANKS] referred to a paragraph in the message of the President calling the attention of Congress to the apparent injustice which it was proposed to commit against the country of Russia, and referring to the sixth article of the treaty of 1832, as agreed upon between the two countries, giving entire reciprocity to that country, admitting all its products upon the same footing with those of the most favored nations. But the question arises whether in putting the duty on Manila at $25 per ton and the duty on the Russian article at $40 per ton there is any conflict in reference to those two articles. In commerce Manila hemp is known as grass. It has no properties like those of hemp. It is not used for the same purpose. It is used to make a smaller kind of cordage, but never for making large ropes that are used for vessels, &c. Manila is of a different texture, and has a different fiber from hemp, and is a different vegetable substance.

But the point to which I desire to call the attention of the Committee of the Whole is this: admitting that the two articles are precisely the same, a question then arises which it is important for this House to determine sooner or later. The question is whether the treaty-making power, treaties being designated by the Constitution as the supreme law of the land, can go any further than to make treaties which execute themselves; whether it is within the power of the President and the Senate to make a treaty that will compel this House to appropriate money in pursuance of the provisions of that treaty, with no discretionary power on the part of the House; whether it can also make a treaty which will regulate the introduction of foreign productions into this country, in contravention of the existing tariff laws of this country?

Now, I hold that there is no such power conferred upon the treaty-making department of the Government; that it is limited to such treaties only as can execute themselves. I hold that where the public money is to be expended, as under the Alaska treaty, this House has the right to grant or to withhold the money called for by the treaty.

Moreover, I hold that under that portion of the Constitution providing that all bills for the purpose of raising revenue shall originate in the House of Representatives, the treaty-making power cannot control this House in its right to determine for itself what tax or what duty shall be imposed upon any foreign article coming into this country when we desire to raise a revenue therefrom to support the Government.

[Here the hammer fell.]

Mr. SCHENCK. This debate, from the course pursued by the chairman of the Committee on Foreign Affairs, [Mr. BANKS,] has taken a somewhat singular direction. It involves a question arising under a treaty. Now, without taking the ground, for which there is certainly some plausibility, assumed by the gentleman from New York [Mr. WOOD] who has just taken his seat, but admitting for the sake of argument that which is claimed by the gentleman from Massachusetts, [Mr. BANKS,] how stands the question?

We have a treaty with Russia, by which we

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

LIS - 5d

Mr. SUMNER. Well, I do not know that I can give it more than I gave it in Mississippi, but I would give it all that it had in Mississippi, and then, if it is not executed, upon the Executive be the responsibility. Let us give the authority; let us do our duty whether the Supreme Court or the Executive or whoever else may fail to do theirs.

Mr. PATTERSON. Mr. President, it seems to me that we have had discussion enough on this subject and that it is time for us to come to a vote. I wish to say to the legal gentlemen of this body that after these commentaries over and over again upon every law and every possible law it seems to me that the Senators of the United States have sense enough to give a reasonable vote on these questions. It is now two o'clock. Let us not stay here all night. Let us come to a vote and go home and go to bed.

The VICE PRESIDENT. The question is on the amendment of the Senator from Vermont [Mr. EDMUNDS] to the amendment made as in Committee of the Whole.

The question being taken by yeas and nays, resulted—yeas 29, nays 30; as follows:

YEAS—Messrs. Anthony, Buckingham, Carpenter, Casserly, Cole, Davis, Edmunds, Ferry, Fowler, Hamilton of Maryland, Hamlin, Howe, Howell, McCreery, Morrill of Maine, Morrill of Vermont, Patterson, Pomeroy, Ross, Saulsbury, Sawyer, Schurz, Scott, Stockton, Thurman, Tipton, Trumbull, Willey, and Williams—29.

NAYS—Messrs. Abbott, Ames, Boreman, Chandler, Corbett, Cragin, Drake, Fenton, Flanagan, Hamilton of Texas, Harris, Howard, McDonald, Morton, Nye, Osborn, Pool, Pratt, Ramsey, Revels, Rice, Robertson, Sherman, Spencer, Stewart, Sumner, Thayer, Warner, Wilson, and Yates—30.

ABSENT—Messrs. Bayard, Brownlow, Cameron, Cattell, Conkling, Gilbert, Harlan, Johnston, Kellogg, Lewis, Norton, Sprague, and Vickers—13.

So the amendment to the amendment was rejected.

The VICE PRESIDENT. The question recurs on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

The VICE PRESIDENT. The next question is on concurring in the amendment to the preamble made as in Committee of the Whole.

The amendment was concurred in.

Mr. MORTON. I now offer the following amendment, which was agreed to in Committee of the Whole on my motion, but afterward stricken out:

And be it further enacted, That so much of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, as prohibited the organization, arming, or calling into service of the militia forces in the State of Georgia, be, and the same is hereby, repealed.

Mr. CASSERLY. I ask for the yeas and nays. This is in direct conflict with the bill as it stands. They cannot organize militia in a provisional government. I wish to state reasons why the amendment ought not to be adopted.

The VICE PRESIDENT. The Chair will state that this amendment is in print, and has been a part of the bill. It comes within the rule prohibiting debate, as laid down by the Senator from Ohio, [Mr. THURMAN.]

Mr. CASSERLY. Of course under those circumstances I cannot debate it, but it seems to me this amendment may not strictly come within that rule.

The VICE PRESIDENT. The Chair thinks it does.

Mr. CASSERLY. It is the restoration of an amendment which was taken out in committee.

The VICE PRESIDENT. The Chair thinks the same rule applies to striking out as to restoration.

Mr. CASSERLY. Of course I must yield to the Chair, but the whole thing is so ridiculously inconsistent with the scope of the bill that I think that fact ought to be stated.

The VICE PRESIDENT. Does the Senator insist on the call for the yeas and nays?

Mr. CASSERLY. Yes, sir.

The question being taken by yeas and nays, resulted—yeas 48, nays 8; as follows:

YEAS—Messrs. Abbott, Ames, Anthony, Boreman, Buckingham, Carpenter, Chandler, Cole, Corbett, Drake, Edmunds, Fenton, Ferry, Flanagan, Hamilton of Texas, Harris, Howard, Howell, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson, Pomeroy, Pool, Pratt, Ramsey, Revels, Rice, Robertson, Ross, Schurz, Scott, Sherman, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Warner, Willey, Williams, Wilson, and Yates—48.

NAYS—Messrs. Casserly, Fowler, Hamilton of Maryland, Hamlin, Howe, McCreery, Sawyer, and Stockton—8.

ABSENT—Messrs. Bayard, Brownlow, Cameron, Cattell, Conkling, Cragin, Davis, Gilbert, Harlan, Johnston, Lewis, Norton, Saulsbury, Sprague, Thurman, and Vickers—16.

So the amendment was agreed to.

The VICE PRESIDENT. The question recurs on ordering the amendments to be engrossed, and the bill to be read the third time.

It was so ordered.

The bill was read the third time.

Mr. POMEROY. I move to amend the title.

Mr. SUMNER. Not now.

The VICE PRESIDENT. The title cannot be amended until the bill is passed.

Mr. SUMNER. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The Secretary proceeded to call the roll, and the roll-call was concluded.

Mr. NYE. I should like to make an inquiry.

The VICE PRESIDENT. The roll-call cannot be interrupted except by unanimous consent.

Mr. EDMUNDS. I object.

Mr. STEWART. A Senator has a right to make an inquiry.

Mr. NYE. I rise to a question of order.

Mr. SHERMAN. No question of order is higher than taking the vote of the Senate.

Mr. CHANDLER. There are Senators who have not voted, and the rule requires that they shall. They must vote.

Mr. NYE. That is the point I was going to make.

The VICE PRESIDENT. The Chair will state that it has been repeatedly decided, in regard to that rule, which is in force in many parliamentary bodies, that the only notice which can be taken of it is to hold members in contempt after the result is announced. The roll-call cannot be interrupted to compel members to vote. It has been tried repeatedly in the House of Representatives, and every Speaker has so ruled where the rule has repeatedly been attempted to be enforced.

Mr. CHANDLER. I should like to have the rule read.

The VICE PRESIDENT. The rule will be reported; but the roll-call cannot be interrupted to proceed to its enforcement:

"16. When the yeas and nays shall be called for by one fifth of the Senators present, each Senator called upon shall, unless for special reasons he be excused by the Senate, declare openly and without debate his assent or dissent to the question."

These are rules made by the body themselves, and are binding upon the members; but if the members do not conform to them, it is subsequently, after the roll-call, for the Senate or any parliamentary body to decide upon the violation of its rules.

Mr. CHANDLER. Then I move that the rule be enforced in this case.

Mr. EDMUNDS. That is not in order.

The VICE PRESIDENT. It cannot be done now. The roll-call cannot be interrupted.

Mr. TIPTON. I ask for the announcement of the vote.

The VICE PRESIDENT. The Secretary will read the roll.

The result was announced—yeas 27, nays 25; as follows:

YEAS—Messrs. Ames, Anthony, Buckingham, Carpenter, Cole, Corbett, Cragin, Edmunds, Ferry, Hamlin, Howe, Kellogg, Morrill of Maine, Morrill of Vermont, Patterson, Pomeroy, Pool, Pratt, Robertson, Ross, Sawyer, Schurz, Scott, Sherman, Tipton, Warner, and Willey—27.

NAYS—Messrs. Boreman, Chandler, Drake, Fenton, Flanagan, Fowler, Hamilton of Texas, Harris, Howard, Howell, McDonald, Morton, Nye, Osborn, Ramsey, Revels, Rice, Spencer, Stewart, Sumner, Thayer, Trumbull, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Abbott, Bayard, Brownlow, Cameron, Casserly, Cattell, Conkling, Davis, Gilbert, Hamilton of Maryland, Harlan, Johnston, Lewis, McCreery, Norton, Saulsbury, Sprague, Stockton, Thurman, and Vickers—20.

So the bill was passed.

Mr. POMEROY. I move to amend the title of the bill so that it will read: "An act relating to the State of Georgia."

The amendment was agreed to.

The VICE PRESIDENT. The Senate resumes the consideration of the Northern Pacific railroad bill.

Mr. EDMUNDS. I move that the Senate adjourn.

The motion was agreed to; and the Senate thereupon, at two o'clock and fifteen minutes, (Wednesday morning,) adjourned.

IN SENATE.

WEDNESDAY, *April* 20, 1870.

Prayer by Dr. WESTWARD, of Wheeling, West Virginia.

The Secretary proceeded to read the Journal of yesterday.

Mr. HAMLIN. I move to dispense with the further reading of the Journal.

The VICE PRESIDENT. It requires unanimous consent. Is there objection?

Mr. McCREERY. I object, sir.

The VICE PRESIDENT. The Senator from Kentucky objects, and the Secretary will continue the reading.

Mr. HAMLIN. I wish to state to the Senator the fact that the Journal is not made up and cannot be read; but after it is made up it can be. The session of the Senate continued so late last night or this morning that the clerks have not absolutely had an opportunity to transcribe their minutes. The Journal can be read after they have done it. We have not any Journal to read in fact.

Mr. McCREERY. It can be read as far as it is made up. It has been considered best, I believe, that the reading should progress until members come in in the morning.

The VICE PRESIDENT. The Senator from Kentucky objects, and the Journal will be read as far as it is made up.

The Secretary continued the reading of the Journal of yesterday's proceedings.

COMMITTEE SERVICE.

The VICE PRESIDENT. Before the Senate proceeds with the morning business the Chair will announce that by the authority of the Senate conferred upon him yesterday, he appoints to fill the vacancy occurring on the Committee on Claims the Senator from Louisiana, Mr. KELLOGG.

BUSINESS OF COMMITTEE ON COMMERCE.

Mr. CHANDLER. I move that the Senate take a recess from five o'clock until half past seven this evening, for the purpose of considering to-night bills from the Committee on Commerce.

Mr. SUMNER. I doubt whether we should agree to that now.

Mr. CHANDLER. I think we ought to agree to it. If the Senator from Massachusetts will take this subject into consideration I am sure he will not object to my motion. We have taken recesses on the Georgia bill, and certainly for more than a week we shall have to listen to this hash all over again. Every speech that has been ground out will be ground out again during that week. But I ask and implore the Senate to give us one week of business, and then we will take, and take contentedly, three or four months of hash; and to show that I am in earnest I am willing to work every night this week as long as the Senate will sit. And I do not even ask a quorum upon some of the bills. I am willing to work to carry on the business.

Mr. RANDALL. Mr. Speaker, I desire to say a word.

Mr. STEVENSON. I object.

Mr. KERR. I hope I will be allowed to say a word.

Mr. NEGLEY. I move that the House do now adjourn.

Mr. KERR. I rise to a personal explanation.

Mr. STEVENSON. I rise to object. This shameful proceeding has gone far enough.

[Cries of "Order!" "Order!" from the Democratic side of the House.]

The question was put on Mr. NEGLEY's motion that the House do now adjourn.

Mr. COX. I rise to a point of order.

The SPEAKER. The gentleman cannot be recognized for that purpose while the House is dividing.

Mr. COX. My point of order has reference to the fact of the House dividing. It is that the gentleman from Indiana [Mr. KERR] was on the floor for a personal explanation when the question was put.

The SPEAKER. The gentleman from New York must be simply trifling with the House.

Mr. COX. I was not trifling in that regard.

On the motion to adjourn there were, on a division—ayes 17, noes 103.

So the House refused to adjourn.

Mr. KERR. I rise to a personal explanation.

Mr. STEVENSON. I object.

The SPEAKER. The gentleman requires unanimous consent to make a personal explanation.

Mr. KERR. Can I not ask permission of the House?

The SPEAKER. That can only be done under a suspension of the rules.

Mr. STEVENSON. I wish to state——

The SPEAKER. The gentleman cannot be heard if he objects to other gentlemen being heard.

Mr. STEVENSON. If I cannot state my reason for rising, then I object.

Mr. FARNSWORTH. I call for the regular order.

Mr. COX. I rise to a point of order. It is this: that the Chair should have stated to the House the request of the gentleman from Indiana [Mr. KERR] to be permitted to make a personal explanation before any objection to his doing so could be in order.

The SPEAKER. The Chair did so state. But even if he had not done so, the point of order would be overruled, because the gentleman from Ohio, [Mr. STEVENSON,] or any other gentleman, had the right to object to any gentleman even being on the floor, except in pursuance of the regular order, or to make a point of order.

Mr. ELDRIDGE. I desire to make a parliamentary inquiry. Is it not in order for a gentleman to request civilly and politely of the House unanimous consent to be heard?

The SPEAKER. If another gentleman objects then he would not be in order.

Mr. ELDRIDGE. Even before the gentleman gets his request out?

The SPEAKER. The Chair will always submit—as he did submit to-day—the request of a gentleman to be heard in personal explanation. The Chair will again submit the request. The gentleman from Indiana [Mr. KERR] desires unanimous consent to make an explanation in reply to the remarks of the gentleman from Pennsylvania, [Mr. MYERS.] Is there objection?

Mr. STEVENSON. If I also can be heard in a personal explanation I shall not object.

Mr. BUTLER, of Massachusetts. I hope there will be no objection to the gentleman from Indiana being heard.

Mr. LOGAN. I hope so, too.

Mr. INGERSOLL. And so do I.

Mr. STEVENSON. I am willing to withdraw the objection on the understanding that I will be heard also.

The SPEAKER. If the gentleman from Ohio withdraws the objection to the gentleman from Indiana being heard he must do so unconditionally. But the Chair will submit to the House the request of the gentleman from Ohio that he also be heard.

Mr. STEVENSON. I cannot trust that mingled combination on the other side of the House, and I object. [Laughter.]

Mr. BROOKS, of New York. I call for the regular order.

Mr. SCOFIELD. I suggest to the Chair that he put the two cases together, and ask consent for both gentlemen.

The SPEAKER. How long a period does the gentleman from Indiana [Mr. KERR] require?

Mr. KERR. Five minutes will do.

The SPEAKER. How long does the gentleman from Ohio [Mr. STEVENSON] wish?

Mr. FARNSWORTH. I demand the regular order of business. Let us have these things after the House gets cool.

PATENT AND COPYRIGHT LAWS.

The SPEAKER. The morning hour now begins, at ten minutes past three o'clock, and the House resumes the consideration of the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, reported from the Committee on Patents. The gentleman from Rhode Island [Mr. JENCKES] has three minutes of his hour remaining.

Mr. JENCKES. I have but a single point remaining in explanation of this bill reported to the House during the last morning hour, and I give notice to the House that at the close of my hour I shall yield the floor without calling the previous question either upon the bill or the amendments, in order that the Chair may assign the floor to some other gentleman in whose time the amendments proposed by the committee may be considered.

The propositions submitted by the committee are few, clear, definite, and precise in their language, and if any gentlemen wish to move amendments to any of them I propose to afford them an opportunity to do so. An addition has been made to the law of copyrights, to which I did not call the attention of the House in my previous remarks. We have extended the privileges of that law from time to time to other subjects than those originally embraced in it. For instance, by a law passed some four or five years ago they were extended to photographs and negatives thereof. We now propose to extend them to paintings and works of art, believing that an artist has as much right to the exclusive reproduction of his own works as an author or engraver.

The committee have also considered the effect of the proposed revision upon all existing legal rights, and in the clause of repeal and the schedule of acts repealed referred to in it they have carefully preserved every existing right, extending the remedial provisions of this act to all proceedings and suits hereafter commenced, so that where remedies are enlarged they will be available to all those who shall seek those remedies upon existing rights hereafter. That is the principle by which the committee has been governed in offering amendments to the bill and also in considering the report of the commissioners of revision. Their object has been, not to disturb any existing rights or to take away any remedies, but to enlarge the remedies in every case where they could do so consistently with the principle of the law.

[Here the hammer fell.]

Mr. STEVENS. I do not propose, after the elaborate remarks of the gentleman from Rhode Island [Mr. JENCKES] upon the character and merits of this bill, to occupy the time of the House by any remarks of my own. I propose, however, to permit such remarks to be made upon the bill by others and certain amendments to be offered which I understand gentlemen desire to submit; and I will yield first to the gentleman from Maine [Mr. PETERS] to offer an amendment.

Mr. PETERS. I move to add at the end of section eighty-six the following:

And the Librarian of Congress shall receive a yearly compensation of $3,500, to commence when this act shall take effect.

Mr. Speaker, those members of the House who have read this bill will see that it imposes upon the Librarian of Congress very greatly increased labors. His salary now is but $2,500, and I propose by this amendment to test the sense of the House whether, in consideration of these additional services and for other considerations, the salary of the Librarian shall not be increased from $2,500 to $3,500.

I offer this amendment in behalf of the Committee on the Library, not from any official action, because they have not been able to get together since this bill was reported to the House, but from having learned their individual views expressed to me. They will probably speak for themselves before the amendment shall be acted on.

There has been a sentiment for some time among individual members of Congress that the compensation of the Librarian of Congress was insufficient. I have taken the trouble to make an analysis of the duties which he is called upon to perform under the law as it now stands, and also a brief analysis of the duties which he will be called upon to perform under this bill should it become a law.

The duties of the Librarian of Congress, with his present salary of $2,500 a year, are, first, the constant oversight the year round of a library now numbering nearly two hundred thousand volumes, much the largest library in the United States; second, the care of from ten to twelve thousand new books added every year, all of which have to be collated, catalogued, bound, and assigned to their proper places, under one responsible eye; third, the careful reading of several thousand catalogues annually of auction sales and book stocks in Europe and America, to secure eligible and economical purchases; fourth, the vigilant watching of all new issues of the press and careful selection of books for purchase; fifth, the preparation and printing of full catalogues of the Library, involving careful critical revision of titles in most of the languages of Europe. Ours is the only Government Library in the world which issues annual printed catalogues. Sixth, the receipt and care of copyright publications to the number of from four to six thousand annually, and the issue of over one thousand requisitions to proprietors of delinquent copyrights. The enforcement of this law requires much time and incessant vigilance. Seventh, the care and oversight of an exchange of all public documents and publications of bureaus and departments with foreign Governments for their publications; eighth, the furnishing of immediate information in all departments to Congress and to the public at call.

Under this bill, if it shall become a law, the duties of the Librarian of Congress will be increased by making him the responsible register of copyrights for the whole United States, besides transferring to his care the large library of copyright matter now accumulated at the Patent Office. This will require the issue of from four to six thousand copyright certificates per annum, and he is also required to give an additional bond in the sum of $5,000 for the payment of all fees received into the Treasury.

Considering the complex and responsible character of his other duties, and the fact that he is required by the steady exactions of business to be at his post of labor the year round, while the officers of the House and Senate are mostly relieved from labor during the recess of Congress, it would seem but fair that the Librarian's compensation should be at least $3,500 per annum. It is now but $2,592, which is

reduced by the income tax to about twenty-five hundred dollars. No advance, except the twenty per cent. increase common to all has been made in his salary in fifteen years past, though the contents of the Library have been quadrupled and the labors of the Librarian multiplied in a still greater ratio. The salary of the principal librarian of the British Museum is £1,200, or $6,000. That of the superintendent of the Boston Public Library is $3,000. I have a table which shows the salaries now paid to the principal and some of the subordinate officers of the Senate and House.

Now, I wish to compare for a moment the rates of compensation paid to subordinate officers of the Senate and the House with the compensation now paid to the Librarian of Congress. The Sergeant-at-Arms of the House received an annual compensation of $4,320 under the late appropriation bill; the Clerk of the House received $4,320; the Secretary of the Senate, $4,320; the Chief Clerk of the Senate, $3,092; two other clerks in the Senate, each, $2,592; two stenographers of the committees of the House, each, $4,380; the clerk of the Committee of Ways and Means, $2,592; the clerk of the Committee on Appropriations, $2,592; clerk of the Sergeant-at-Arms of the House, $2,500; Doorkeeper of the House, $2,592; Chief Clerk and Journal Clerk of the House, each $3,000; and for the arduous duties which the Librarian of Congress is called upon to perform he is to receive but about two thousand five hundred dollars.

As to the fitness of the Librarian of Congress for the place he occupies nobody can have a doubt who is at all acquainted with him. Mr. Spofford could to-day leave the situation which he now holds and obtain a much larger compensation in some other place. But he has so much love for the business, he has such an enthusiasm and desire to fill properly the place which he now occupies, that the additional salary to be obtained in other places has not been a temptation to him. And from an intimate knowledge of this officer, and with some knowledge of his private relations, I can say to the House that he has hard work to eke out a support of his family with the sum of $2,500 which he now receives.

There is a provision in this bill which, if it shall become a law, will save to the Government annually from four to six thousand dollars. The Librarian is to collect one dollar upon each copyright. I guaranty that when this becomes his duty that vigilant officer will collect the fee in every case. About five thousand copyrights—the average within two years has been from four to six thousand—are issued annually. The fees paid upon the issue of those copyrights are now received by the clerks of the district courts where the copyrights are taken out. Although by law the clerks of those courts are required to render an account to the Treasury of the United States, I believe that in all the districts the judges have allowed the clerks to retain the fees collected in that way as payment for their services in that behalf. Now, the provision of this bill is that all this business shall be under the supervision of the Librarian of Congress. The provision in reference to these fees is a stringent one. If the Librarian is to be subjected to this arduous duty, and to collect for the benefit of the Treasury from four to six thousand dollars annually, of which the Treasury does not now receive a single cent, I ask that this officer, whose compensation is now so small, and who now discharges his duties with such great efficiency, shall be allowed for the labors already imposed on him, and those additional labors to be imposed by this bill, the sum of $1,000 additional, when he will save thousands of dollars to the Government annually. It appears to me that no member of the House ought to vote against this proposition.

Mr. STEVENS. I am not authorized by the committee to assent on their behalf to this amendment; but I see no objection to a vote of the House upon it, or to its incorporation as a part of the bill.

Mr. HOLMAN. I wish to make an inquiry. Is not the present salary of the Librarian $2,500?

Mr. STEVENS. Yes, sir. This bill, while increasing his salary, imposes additional duties upon him, and will undoubtedly prove to be a measure of retrenchment and reform in the interest of the Government.

Mr. HOLMAN. It seems to me that if any salary may properly be increased, that of the Librarian is certainly such a one.

Mr. STEVENS. I now yield to the gentleman from Iowa, [Mr. PALMER.]

Mr. PALMER. I cheerfully indorse the statements of the House chairman of the Library Committee. The duties of the Librarian of Congress compel him to be actively employed the year round from nine to twelve hours per day. He is custodian of the largest library in America, now nearly two hundred thousand volumes, and must keep constantly catalogued, collated, labeled, and arranged, additional accessions to the number of ten to twelve thousand volumes annually. Beside this, he is required to prepare an annual catalogue and general catalogues of the whole Library, both by subjects and authors, involving critical knowledge of most of the languages of Europe. He is also required to receipt for copyright books and other publications to the number of four to five thousand per year; to notify delinquent publishers of every omission to send their publications, involving constant vigilance, and to be ready to furnish information to any member of either House, or to the public. His labors are increased by this bill, which makes him the responsible register of copyrights for the whole country, and places in his charge an additional library of copyright works, numbering thirty thousand volumes, all of which he must catalogue and care for. His bond is also increased by the bill to $8,000.

Considering the complex character of his office, the salary of $2,592 now paid the Librarian of Congress is inadequate, and far below the compensation received by officers of either House whose duties are, in the main, confined merely to the time of the sessions of Congress. His is the only considerable office which is common to both Houses, and while the salaries of the House librarian, short-hand reporters, and clerks to committees have been increased by special resolution, he has neither asked nor received any increase of salary in his nine years' service, except the twenty per cent. voted in 1866 to all the officers of Congress without distinction. If the bill reported by the Committee on Patents, amended as proposed by the gentleman from Maine, [Mr. PETERS,] should pass, the increased salary to the Librarian would be no tax on the Federal Treasury, for the amount of copyright fees secured to the Treasury would exceed by about four thousand dollars the amount of the proposed increase. I trust the amendment may be adopted.

The question then recurred on the amendment of Mr. PETERS; and being taken, it was agreed to.

Mr. STEVENS. I now yield to the gentleman from New Jersey, who, I understand, has some amendments to offer.

Mr. CLEVELAND. I have certain amendments which I desire to offer.

Mr. STEVENS. I will yield for the purpose of hearing what the amendments are.

Mr. CLEVELAND. In section seventy-nine, line three, I move to strike out the word "unless" and insert "except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country, and in which;" so that the section will then read:

SEC. 79. Such trade-mark shall remain in force for thirty years from the date of such registration, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country and in which it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act, at the same time that it becomes of no effect elsewhere; and during the period that it remains in force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods, &c.

Mr. STEVENS. I am willing to consider that amendment as pending.

Mr. CLEVELAND. I have another amendment to offer to the same section. Add the following proviso:

Provided, That six months prior to the expiration of said term of thirty years application may be made for a renewal of such registration, under regulations to be prescribed by the Commissioner of Patents; and the fee for such renewal shall be the same as for the original registration, and such trade-mark shall remain in force for a further term of thirty years: *Provided further*, That nothing in this section shall be construed by any court as abridging or in any manner affecting unfavorably the claim of any person, firm, corporation, or company to any trade-mark *after the expiration of the term for which said trade-mark* was registered.

Mr. STEVENS. I do not object to the gentleman moving that amendment and having it pending before the House.

Mr. JENCKES. I hope the gentleman's amendment will be accepted.

Mr. CLEVELAND. I also desire to move to strike out section seventy, as follows:

SEC. 70. On all patents hereafter granted there shall be paid the following additional fees, namely, at or before the expiration of the term of seven years from the date of the patent the sum of twenty-five dollars, and at or before the expiration of the term of twelve years from the date of the patent the further sum of fifty dollars; and in default of the payment of either of the sums aforesaid, within the periods aforesaid, the said patent shall be forfeited, and the invention so patented become public property.

The SPEAKER. There are two amendments now pending, and the last motion of the gentleman from New Jersey, to strike out, cannot be entertained at this time except by unanimous consent.

Mr. STEVENS. I cannot yield for the purpose of permitting the latter amendment to be offered.

Mr. CLEVELAND. Then I give notice that I shall make that motion at the proper time. I also give notice that at the proper time, in section eight, which is as follows, I shall move to strike out the words, "including Patent Office reports:"

SEC. 8. The Commissioner may send and receive by mail, free of postage, letters, printed matter, and packages relating to the business of his office, including Patent Office reports.

My amendment proposes to do away with this franking privilege on the part of the Commissioner.

Mr. STEVENS. I yield now to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. In section nineteen, page 7, line eight, I move to add the words, "by such employés as are appointed by the Secretary on nomination of the Commissioner." It will be observed, and I desire the attention of the House to it, that this section permits the Commissioner to rent as many rooms as he may deem necessary.

Mr. JENCKES. That has been stricken out. The portion referred to by the gentleman from Massachusetts, and which has been stricken out by the Committee on Patents, is as follows:

The Commissioner may rent, under the direction of the Committees on Patents of the Senate and House of Representatives, such rooms as may be necessary for the speedy and convenient transaction of the business of his office.

The section now reads as follows:

The Commissioner, subject to the approval of the Secretary of the Interior, may from time to time establish rules and regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

Mr. BUTLER, of Massachusetts. Now, he has under him a board of examiners, who are

nominated by the President and confirmed by the Senate, and who are quite his equals in every respect. I understand that the opinion of the Committee on Patents is that this provision as to establishing rules and regulations for the proceedings does not apply to the conduct of the employés of whatever class. But the difficulty is that the Commissioner has made a series of time-tables, and other rules and regulations covering the acts of the employés, which he has applied to the examiners, who are his equals and coördinates, and who ought not to be in any way under him. Therefore I want to put in this language to exclude the idea of his having any such power. I am willing that he should govern his clerks and laborers and all who hold under him, but I am not willing that he shall have the power of annoying and disturbing, if he chooses, the men who are appointed by the same power as he is and with the same rank.

Mr. JENCKES. I think I can show the gentleman from Massachusetts that his amendment is not needed. This power to make rules and regulations is to apply to the proceedings in the Patent Office, and not at all to the persons employed there; and the rules and regulations to which the gentleman refers, and of which he complains, are made by the Commissioner under the power in the existing law, which is reprinted in this bill, at the end of section ten, in the following words:

"They shall be governed in their actions by rules prescribed by him."

That power we propose to take away. It is part of the recommendation of the committee that these words shall be stricken out from the existing law, and that the power which the Commissioner shall have and ought to have shall be that of regulating the manner in which proceedings shall be conducted in his office; the rules of court, so to speak, not the rules of decision but of government. I hope the gentleman will withdraw his amendment.

Mr. BUTLER, of Massachusetts. The explanation which the chairman of the Committee on Patents has put on record will obviate the necessity of the amendment I had proposed. I therefore withdraw my amendment. But I desire to make another, in the ninth line of the tenth section. The section, as reported from the committee, reads thus:

The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the Commissioner they shall hear and report upon claims for extensions, and perform such other duties as he may assign them.

I want to strike out the words "he may assign them," and insert in their place the words "may be assigned them by law." The chairman of the committee will see that under the words "and perform such other duties as he may assign them" the Commissioner might—though that would not be very likely—yet he might put them to sweeping out the office. The duties should be assigned them by law, and not by the will of the Commissioner. That is the point I desire to make.

Mr. JENCKES. The language which the gentleman objects to is the language of the existing law. As there is no hardship under it we did not take the responsibility of recommending its alteration.

Mr. BUTLER, of Massachusetts. Ah! But the difficulty is that under the old law the Commissioner has shown a disposition to interfere, which the committee by this bill seek very properly to regulate.

Mr. JENCKES. We thought we met that objection sufficiently by taking away the power to assign duties in the office. But there are many things in which the Commissioner might wish the services of the examiners-in-chief, but which it would be very difficult to prescribe definitely by law.

Mr. BUTLER, of Massachusetts. Then I will compromise by moving to substitute the word "like" for the word "other," so that it will read "such like duties as he may assign them."

Mr. JENCKES. I have no objection to that.

Mr. BUTLER, of Massachusetts. Then I withdraw my amendment, and substitute for it that which I have just indicated.

The Clerk read the proposed amendment, as follows:

In line nine, section ten, strike out the word "other" and insert the word "like;" so that the section will read:

The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the Commissioner they shall hear and report upon claims for extensions, and perform such like duties as he may assign them.

Mr. STEVENS. I do not understand that to have been the compromise offered and accepted by the two gentlemen here. The word "other" should remain in the text.

Mr. JENCKES. It will then read "other like." I have no objection to that.

Mr. BUTLER, of Massachusetts. I do not see that it alters it at all.

The amendment was agreed to.

Mr. STEVENS. I now yield to the gentleman from New Jersey, [Mr. CLEVELAND.]

Mr. CLEVELAND. This is a very important bill and one greatly needed by the country. It proposes to revise, consolidate, and amend the statutes relating to patents and copyrights.

In regard to the first amendment, proceeding in the order of the bill, which I propose, it is in section eight, lines three and four, to strike out the words "including Patent Office reports." I do it because we decided by a vote of this House almost unanimously that these reports should no longer be sent to the country through the mails free of postage. We abolished the franking privilege, and if we did it in good faith let us stick to it. I voted for that bill in good faith. When I voted to abolish the franking privilege I intended, so far as I was concerned, to abolish it entirely and absolutely so far as the distribution of these public documents is concerned; and yet it is revived in this section of this bill, and by this provision the Commissioner of Patents may be enabled to distribute all the copies of the Patent Office report that may be published. That is all I desire to say upon that point.

I pass now to sections sixty-eight and seventy. By looking at page 36 of this bill it will be discovered that where there may be difficulty in the way of the procuring of a patent the fees will amount to $115, being as follows:

On filing each original application for a patent, $15.
On issuing each original patent, $20.
On filing each caveat, $10.
On every application for the reissue of a patent, $30.
On filing each disclaimer, $10.
On an appeal for the first time from the primary examiners to the examiners-in-chief, $10.
On every appeal from the examiners-in-chief to the Commissioner, $25.

That makes in all $115. Now, I do not oppose those fees. They are the fees placed in the bill by the committee, and are possibly the same as existed before. But what I propose to oppose is the imposition of additional fees; and I understand that the Committee on Patents are opposed to my amendment. I propose to strike out the seventieth section, which I ask the Clerk to read.

The Clerk read as follows:

SEC. 70. On all patents hereafter granted there shall be paid the following additional fees, namely, at or before the expiration of the term of seven years from the date of the patent the sum of twenty-five dollars, and at or before the expiration of the term of twelve years from the date of the patent the further sum of fifty dollars, and in default of the payment of either of the sums aforesaid, within the periods aforesaid, the said patent shall be forfeited, and the invention so patented become public property.

Mr. CLEVELAND. Now, Mr. Speaker, this is a new provision introduced by the committee imposing additional fees to the amount of $75 beyond the $115 for procuring a patent. It is within the experience of many of the members of this House, and it is within the experience of thousands of poor inventors in the country, who have been assisted by the liberality of our patent laws, that it takes them half, three fourths, nearly the whole time their patent has to run during the first term before they can succeed in perfecting the operations necessary under it and in getting the article into the market or disposing of their patent. Now, by this bill it is proposed that while the inventor is still struggling during the first seven years of the existence of his patent he shall pay the Government an additional fee of twenty-five dollars; and if he shall be so poor, as hundreds and thousands of these inventors are, as to be unable to pay the twenty-five dollars, he must either raise the money by parting with an interest in his patent to some capitalist or else lose his patent. But if fortunately he is able to raise the twenty-five dollars necessary to pay that fee, then the bill proposes that five years after that, when perhaps he has just succeeded or is about to succeed in establishing his article in the market, in demonstrating its value, and in inducing capitalists to take hold of it, he shall be compelled to pay another fee of fifty dollars; and if unfortunately he is unable to pay that, then he loses his patent and the whole amount he has already paid to the Government—the $115 paid at the outset and the $25 paid at the end of seven years; and all the labor, time, expense, and anxiety which he has bestowed upon his invention in trying to perfect it, all that is lost to him forever.

Mr. WARD. I wish to understand——

Mr. CLEVELAND. It is generally the poorer classes of people who desire these patents.

Mr. WARD. I understood the gentleman to say that this bill provided for an increase of the fees to be paid by parties who apply for patents.

Mr. CLEVELAND. Additional fees.

Mr. WARD. To what extent?

Mr. CLEVELAND. It is not an increase of the regular fees, as I will explain. The fees to be paid when a patent is first issued, I understand, are to be the same precisely under this bill that they are now.

Mr. JENCKES. The gentleman is correct.

Mr. CLEVELAND. So I understand. I am not opposed to those fees, but to the additional fees.

Mr. WARD. What are the proposed additional fees? I understood the gentleman to state that there were additional fees. It occurs to me that these inventors pay sufficiently high fees now, and that the fees should rather be reduced than increased.

Mr. CLEVELAND. If the gentleman had paid attention to what I said he would have understood what additional fees are proposed. At the end of seven years after a patent has been issued an additional fee of twenty-five dollars is to be paid, and at the end of twelve years an additional fee of fifty dollars more; and in default of the payment of either of those additional fees the inventor will lose his patent entirely.

Mr. WARD. What is the object of this increase? Why impose those additional fees?

Mr. CLEVELAND. I say there is no object in doing so except to increase the revenues of the Patent Office, which I think are large enough already. Or, if there is any other object in it, it is to discriminate against the poor inventor whom the patent laws and the Patent Office were established to protect, and in favor of the rich inventor, who is able to raise the money and pay these fees, after going through seven or twelve years' labor and experiment in trying to perfect his invention up to that point. For that reason I am in favor of striking out

this section altogether. It is entirely new matter, and altogether unnecessary for the enforcement of the patent laws.

Section seventy-nine of this bill is in relation to trade-marks. The Committee on Patents have very wisely, it seems to me, introduced new matter under the head of "trade-marks." Trade-marks are but little understood in this or in any other country by other than the particular persons interested in the establishment of trade-marks. Their value is really not generally appreciated by the community at large. It is only of late years that the courts have been inclined to construe liberally the common law, under which the right is now claimed to establish trade-marks upon manufactured articles. It is not very many years back——

Mr. STEVENS. How long time does the gentleman desire upon this subject?

Mr. CLEVELAND. Not many minutes more.

Mr. STEVENS. I understood the gentleman to say that he wanted but a few minutes in all. There are other gentlemen who desire to be heard, and I will have to claim the floor soon under the arrangement which has been agreed upon.

Mr. CLEVELAND. Let me have three minutes more.

Mr. STEVENS. Very well.

Mr. CLEVELAND. I will have to leave the line of argument I had begun, and confine myself to the amendment I have offered.

Mr. MYERS. I hope the gentleman will be allowed ten minutes more.

Mr. STEVENS. I do not desire to restrict the gentleman unnecessarily.

Mr. MYERS. There is no hurry about the matter.

Mr. CLEVELAND. I will ask for ten minutes more.

Mr. STEVENS. Very well.

Mr. CLEVELAND. It is only within a few years that the courts of any country have been inclined to construe liberally the common law in regard to trade-marks. Only a few years since the highest court in England decided that the practice of establishing trade-marks was a practice promotive of monopolies in trade; but of late years a more liberal view has obtained in the courts both of England and of this country, and the courts are now inclined to construe the common law so as to protect trade-marks for the good of the public itself, as well as in behalf of manufacturers and those persons who are engaged in trade.

It is claimed, and justly claimed, that in the protection of trade-marks the courts are protecting the common people, people who are not expert in the purchase of the articles they need. A trade-mark is not necessarily a particular mark placed upon the article manufactured. It may be merely the maker's name put upon the article, or a distinctive label, so that those who want to purchase an article of a particular manufacture may be able to identify it and get the genuine article. Without such protection, the purchaser is constantly liable to be misled, unless he is able to examine as an expert every article that he may desire for personal or household use or for manufacturing purposes. But under the common law of trade-marks, as now construed by the courts, the public is protected. When you purchase an article under a given name or with a particular mark, you may be certain that the article is what it purports to be, unless some one has ventured to put upon the market an imitation, the sale of which the courts will stop when the matter is brought to their attention.

Within the last few years the courts of England and of this country have gone still further, and have so construed the law as to protect manufacturers as well as the public. This is a great advance upon the position occupied by the courts only a few years ago. Following the direction indicated by these liberal constructions of the courts, this bill proposes to extend and enlarge the protection afforded to manufacturers. It provides a method by which a manufacturer may register his trade-mark for a given term. In section seventy-nine the committee have provided for the registration of trade-marks, which registration is to continue in force for thirty years. I presume the committee would have fixed a much longer term but for the provision of the Constitution that protection of this kind shall be granted only for a limited period. My amendment provides that at the expiration of the first term of thirty years the registration may be renewed, so as to extend over a second term of thirty years; and it is further provided that the manufacturer shall not lose his protection under the common law in consequence of the expiration of those two terms of thirty years each.

This bill contains other important provisions which I have not time to discuss at length. In section eighty there are some important provisions which I hope the House will examine carefully before they are voted upon. It is well known that laws of this character, while intended to be liberal and to extend privileges, may be in fact restrictive, and may defeat by injudicious phraseology the very objects they seek to promote. I am afraid some of the provisions of this bill are not broad enough; and as to some I think the bill would have been better if they had not been introduced; but as the committee, after thorough examination of the subject, have deemed them necessary, I am willing to acquiesce in the judgment of the committee.

I shall move to insert after the word "obtain," in line nine of section seventy-eight, the word "special;" so that the phrase will read, "for exclusive use within the United States may obtain special protection for such lawful trade-marks." This bill makes the Commissioner of Patents a judge. He is to determine very important questions. He is to decide what are and what are not trade-marks. After he has decided that a mark embraced in a particular application "is not and cannot become a lawful trade-mark" according to the language of this bill, a shade may thereby be cast over it in the courts when the manufacturer afterward seeks to sustain his claim under the common law. This difficulty is perhaps unavoidable. I have submitted to the committee a suggestion designed to obviate it; but the committee see no way out of the difficulty. The bill provides:

> The Commissioner of Patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation only, unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public.

Now, the names of persons and corporations are trade-marks, and the Commissioner of Patents cannot by any decision of his prevent them from becoming trade-marks. They are acknowledged as trade-marks everywhere so far as I can ascertain. They have been recently acknowledged as trade-marks in France. They have also been acknowledged as trade-marks in England. But by this provision the Commissioner of Patents may cast a shade upon trade-marks to which these people are legally entitled, and to which their claims have always been recognized. I do not think, however, that this provision will accomplish the purpose of the Committee on Patents.

Mr. STEVENS. I now yield to the gentleman from Rhode Island.

Mr. JENCKES. The gentleman from New Jersey [Mr. CLEVELAND] expresses his approval of the provisions reported by the Committee on Patents in favor of the recognition of trade-marks, and I am glad to have his support. To the amendments which he has proposed to the seventy-ninth section I see no objection, and if there be no objection from any other quarter, I trust by unanimous consent they may be considered as adopted.

The SPEAKER. If there be no objection, the two amendments proposed by the gentleman from New Jersey to the seventy-ninth section will be considered as adopted.

There was no objection; and the amendments were accordingly agreed to.

Mr. JENCKES. Now, in regard to the seventieth section, which my friend from New Jersey proposes to strike out, providing for additional fees, I have only to say it is a fair subject for difference of opinion. The committee recommended this section and ingrafted it into the bill, because from all the information before them they deemed it necessary. It was intended for the purpose of preventing the reissue of useless patents as they die out. There is no great hardship in any man who has a useful invention at the expiration of seven years being asked to pay into the Treasury a fee of twenty-five dollars, and at the end of twelve years a fee of fifty dollars. It will increase the revenue of the Patent Office, besides saving us from the reissue of useless patents.

Mr. CLEVELAND. Let me ask the gentleman a question.

Mr. JENCKES. Certainly.

Mr. CLEVELAND. Does the Patent Office need these fees?

Mr. JENCKES. It does not now; but it may hereafter. The expenses of the Department increase as the business increases. It does not really impose any additional burden upon the poor inventor, as it will come upon the manufacturer who is working under the patent after the value of the invention has been developed. But I will submit to a vote of the House whether the amendment shall be adopted or not.

Mr. GRISWOLD. I understand the Patent Office is now not only a self-sustaining institution, but has a surplus of $100,000. This being so, I ask whether it is not wrong on our part to impose additional burdens upon poor inventors in procuring their patents?

Mr. JENCKES. That is another thing. If we were acting on that subject now the committee would favor a reduction of the expenses in making the original application for a patent. That, however, is now pending before the Committee on Patents, and it will be time enough to consider it when it comes before the House. Section eight, to which the gentleman from New Jersey has made objection, in reference to the franking privilege, is preserved in the bill because it is the existing law. If the bill that passed the House for the abolition of the franking privilege becomes a law then this will have no effect; and I therefore suggest to the gentleman not to insist on his amendment to that section.

Mr. CLEVELAND. Under this provision cannot the Commissioner of Patents distribute the whole of the Patent Office reports?

Mr. JENCKES. You may do so now under the existing law, and I hope he will do so before the franking privilege is abolished, so that they may be distributed and placed where they will be of advantage.

Mr. STEVENS. As the morning hour has nearly expired I do not propose to take any further action now, but will let the bill go over until to-morrow.

The morning hour having expired, the bill went over.

SPEAKER'S TABLE.

Mr. GARFIELD, of Ohio. I move that the House now proceed to the consideration of the business on the Speaker's table, in order that we may take up and non-concur in the amendments of the Senate to the census bill.

Mr. INGERSOLL. I object to going to the

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

LIS - 5e

By Mr. SCHENCK: A petition of 98 clerks and employés of the Sixth Auditor's office, praying that the tax on salaries be continued no longer than that on incomes.

IN SENATE.

THURSDAY, *April* 21, 1870.

Prayer by the Chaplain, Rev. J. P. NEWMAN, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. POOL presented the petition of Charles Latham, Plymouth, North Carolina; of R. M. Allison, Concord, North Carolina; of W. W. Peebles, Northampton county, North Carolina; of Thomas Cochrane, jr., Chowan county, North Carolina; of S. H. Hood, Johnston county, North Carolina; and of C. W. Murray, Duplin county, North Carolina, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

He also presented the petition of E. Ransum, of North Carolina, in behalf of Bartlett Jones, jr., and John A. Pledgen, of that State, praying the removal of their political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. SPENCER presented the petition of S. W. Cockrell, of Greene county, Alabama, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. ABBOTT presented the petitions of A. C. McIntosh, Taylerville, Alexander county, North Carolina, and of A. B. Jones, Asheville, North Carolina, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

Mr. MORRILL, of Vermont, presented a petition of Foster Henshaw and others, of Washington, District of Columbia, representing that there is no legal grade established on Virginia avenue and Third street east and praying Congress to enact a law authorizing the grading of that part of the avenue; which was referred to the Committee on Public Buildings and Grounds.

Mr. BAYARD presented the petitions of Caroline Payne and Lydia A. McLaughlin, of Delaware, praying arrears of pension; which were referred to the Committee on Pensions.

Mr. THURMAN presented the petition of John W. Price, of Cincinnati, Ohio, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 510) to simplify and reduce the expense of taking testimony in establishing claims for bounties and pensions, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. ABBOTT, from the Committee on Military Affairs, to whom was referred the petition of Oliver Powers, praying to be allowed pay as a private in company K, tenth regiment Tennessee cavalry, up to the day that the company was discharged, reported a bill (S. No. 825) for the relief of Oliver Powers; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Asa Porter, praying to be allowed arrears of pay and bounty on account of service rendered by his son, Elias K. Porter, of company B, first Missouri heavy artillery, asked to be discharged from its further consideration; which was agreed to.

Mr. STEWART. I am directed by the Committee on the Judiciary, to whom was referred a resolution of the Senate of the 8th of December last, requesting that committee to inquire if any States are denying to any class of persons within their jurisdiction the equal protection of the laws, in violation of treaty obligations with foreign nations and of section one of the fourteenth amendment to the Constitution, and if so what legislation is necessary to enforce such treaty obligations and such amendment, to report it back, and there having been a bill reported on that subject by the committee, I move that the resolution be indefinitely postponed.

The motion was agreed to.

Mr. SPENCER, from the Committee on Commerce, to whom was referred the bill (S. No. 671) to promote commerce and to cheapen the transportation of the mails and military and naval stores between Cincinnati and Chattanooga, reported it without amendment.

Mr. KELLOGG, from the Committee on Commerce, to whom was referred the bill (H. R. No. 1766) in relation to the Iowa river in the State of Iowa, reported it without amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 520) for the relief of L. F. Larkin, of Weldon, North Carolina, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1718) for the relief of A. A. Vance, postmaster at Morristown, New Jersey, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 128) for the relief of George W. Keyes, reported it without amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the joint resolution (S. R. No. 16) for the relief of Benjamin Cooley and James W. Boswell, reported it with an amendment.

He also, from the same committee, to whom was referred the petition of Henry Newell, praying that the Secretary of the Treasury may be authorized to issue to him duplicate United States bonds in lieu of United States bonds Nos. 37785, 37786, 37788, and 34954, lost at sea in October 1866, submitted a report, accompanied by a bill (S. No. 828) for the relief of Henry Newell.

The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Benjamin D. Roper, of Charleston, South Carolina, praying for remuneration for property destroyed by order of Colonel Beecher, United States Army, in the spring of 1865, asked to be discharged from its further consideration; which was agreed to.

BILLS INTRODUCED.

Mr. SCOTT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 826) to amend an act to provide internal revenue to support the Government, pay interest on the public debt, and for other purposes, approved June 30, 1864, as subsequently amended; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 827) to provide for the collection of debts due the United States from certain southern railroad corporations; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 178) relative to the suits of the United States against certain southern railroad corporations; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. MORRILL, of Vermont, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 829) in relation to fraudulent trade-marks upon foreign watches; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

STEAMSHIP SERVICE TO AUSTRALIA.

The VICE PRESIDENT. If there are no Senate resolutions the morning business is exhausted, and the Senate resumes the consideration of the resolution reported by the Committee on Post Offices and Post Roads, referring the bill (S. No. 736) to authorize the establishment of ocean mail steamship service between the United States and Australia to the Committee on Commerce. The Committee on Post Offices and Post Roads has already been discharged from the consideration of the bill, and the question now is on the resolution of that committee that it be referred to the Committee on Commerce.

The resolution was agreed to.

GENERAL ORDERS.

The VICE PRESIDENT. The Secretary will report the next resolution which has been laid over.

The Secretary read the following resolution submitted by Mr. ANTHONY on the 19th instant, as modified by him:

Ordered, That on Friday and Saturday next, immediately after the privileged morning business shall have been concluded, the Calendar shall be taken up for the consideration of general orders not objected to, and no other business shall be in order.

The resolution was agreed to.

CHANGE OF RULE.

The next resolution on the Calendar was the resolution of Mr. WILLIAMS, providing that the rule last adopted in regard to the order of business should be so construed as not to apply to the morning hour.

Mr. WILLIAMS. I move that that resolution be passed over.

Mr. EDMUNDS and Mr. POMEROY. Oh, no; let it lie on the table.

Mr. WILLIAMS. I do not want it laid on the table. I move that it be passed over.

The motion was agreed to.

STEAMSHIP SERVICE TO AUSTRALIA.

Mr. COLE. I was not giving attention at the time the vote was taken upon the motion to refer to the Committee on Commerce the bill (S. No. 736) relating to steam service between the United States and Australia. I move to reconsider the vote by which that bill was referred to the Committee on Commerce.

The VICE PRESIDENT. The Senator from California moves to reconsider the vote by which the bill in regard to a subsidy for a line of steamers between California and Australia was referred to the Committee on Commerce. The question is on the motion to reconsider.

Mr. COLE. I only wish a distinct vote on the subject. If I had heard it announced I should have asked for a division at the time. If it is the sense of the Senate that the bill shall be referred to the Committee on Commerce, of course I must abide by it; but I should like to have the judgment of the Senate given distinctly.

Mr. NYE. What does the Senator wish to have done with the bill?

Mr. COLE. I want it to go back to the Post Office Committee, or else to be placed on the Calendar.

The VICE PRESIDENT. The Chair will state, as he did yesterday, that if this motion to refer to the Committee on Commerce should be voted down, the bill will be placed on the Calendar.

Mr. POMEROY. But a vote of the Senate could recommit it to the Committee on Post Offices and Post Roads.

The VICE PRESIDENT. Certainly.

Mr. COLE. I move the reconsideration for the purpose of getting the sense of the Senate.

Mr. MORRILL, of Maine. I inquire if the bill has been considered by the Committee on Post Offices and Post Roads?

The VICE PRESIDENT. It was considered by that committee, and reported back

he called on Heaven to witness that here was a lawful and peaceable election, and then under his oath voted that it was not a lawful election, and then assured the House that it was a lawful election! I think this committee will hold this resolution until we see what this House in the infinitude of its wisdom and the immaculate perfection of its judgment shall do on the other cases.

I now call the previous question on my motion to refer.

Mr. HOLMAN. I move that the resolution be laid on the table.

The motion was agreed to—ayes 88, noes 35.

Mr. DAWES. I call for the regular order.

PATENT AND COPYRIGHT LAWS.

The SPEAKER. The morning hour now begins, and the House resumes the consideration of the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, reported from the Committee on Patents. The question is upon the motion of the gentleman from New Jersey [Mr. CLEVELAND] to strike out section seventy, which will be read by the Clerk.

The Clerk read as follows:

On all patents hereafter granted there shall be paid the following additional fees, namely: at or before the expiration of the term of seven years from the date of the patent the sum of twenty-five dollars, and at or before the expiration of the term of twelve years from the date of the patent the further sum of fifty dollars, and in default of the payment of either of the sums aforesaid, within the periods aforesaid, the said patent shall be forfeited, and the invention so patented become public property.

The SPEAKER. Does the gentleman who has charge of this bill desire the question shall now be put upon the amendment which has just been read?

Mr. STEVENS. I propose that the vote upon the amendments be reserved until after the previous question has been seconded. I now yield to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. I move to amend by striking out in section four, lines eighteen and nineteen, the words "twenty-five hundred" and inserting "eighteen hundred," so as to provide that the salary of the librarian of the Patent Office shall be $1,800, as now fixed by law, instead of $2,500, as proposed in the bill. There are in this section several provisions increasing salaries to which I feel compelled to call the attention of the House. This bill, the main features of which I like very much, proposes the same corps of officers provided for in the legislative appropriation bill, which has already been passed by the House. In that bill we fixed the salaries of those officers. I propose that the salaries provided for in the present bill shall correspond with those already fixed in the appropriation bill. The organization and compensation of this corps of officers, as already sanctioned by the House, are in accordance with the proposition made to the Committee on Appropriations by the Commissioner himself. In other words, the amendments I propose to offer to this bill will make this corps of officers and their compensation conform to the recommendation of the Commissioner of Patents, as submitted to our committee.

When the legislative appropriation bill was before the House I had occasion to remark that the Commissioner of Patents had coöperated with the Committee on Appropriations in an effort to reduce the expenditures of this bureau to the extent of $30,000. Notwithstanding the bureau is more than self-sustaining, in other words, receives and puts into the Treasury annually one or two hundred thousand dollars more than it takes out, the Commissioner of Patents informed the Committee on Appropriations that if he could be permitted to rearrange and reorganize his bureau himself he would save the Government more than $30,000 in the annual expenses: and would, in his opinion, contribute very much to the efficiency of the bureau. It was all his work. The compensation there fixed was the compensation fixed by him in conformity to law.

Unless I have some evidence that the efficiency of the service will suffer I cannot myself consent to this raising of salaries. I take this one as a test. Here is a proposition to raise the salary of the librarian of the Patent Office. I know no duty imposed on him additional to that imposed on him for the last five years. While I should like to see every officer paid as well as he ought to be, and, if the condition of the Treasury would permit, liberal salaries, if the House of Representatives shall be induced to raise the salary of the librarian of the Patent Office $700 there is an end to all effort to keep down the salaries of other officers. If this salary be raised, every other man will come here and ask that his salary shall also be raised. As efficient officers in other bureaus who are as poorly paid will come here and ask that their salaries shall be increased alongside with the librarian. There will be no end to it, and we will go down before the country because we have gone into a general system of raising salaries. I hope the House will sustain the Commissioner of Patents, as well as the Committee on Patents, to keep the salary where it is, at $1,800. That is all I desire to say.

Mr. JENCKES. Has the hour of the gentleman from New Hampshire expired?

The SPEAKER. It has.

Mr. JENCKES. I wish now to have the floor in my own right. I rise to close debate.

The SPEAKER. If the gentleman rises to close debate he had better call the previous question; for unless he does, if he occupies the floor, the morning hour will expire before his hour is up and the bill will go over until next week.

Mr. JENCKES. If there be no other amendment to be offered I will call for the previous question.

The SPEAKER. The question will be first on the amendment of the gentleman from Massachusetts, [Mr. DAWES.]

Mr. STEVENS. It was the understanding that the amendments should be reserved, to be voted on together.

Mr. DAWES. I think the House should pass separately on these amendments in reference to salaries. I should like to have them disposed of as we go along.

The question recurred on Mr. DAWES's amendment, and there were—ayes 48, noes 22; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. DAWES and Mr. JENCKES.

Mr. JENCKES. I desire to make some remarks in reply to the gentleman from Massachusetts.

Mr. DAWES. I retain the floor, and yield to the gentleman from Rhode Island.

Mr. JENCKES. Mr. Speaker, I desire the House to understand distinctly this provision of the bill proposes to increase the salaries of one class of officers and an individual in the Patent Office. The class of officers whose salaries are proposed to be increased are the first assistant examiners. The salaries are now as follows: principal examiners, $3,500; first assistant examiners, $1,800; and second assistant examiners, $1,600. It is proposed to increase the salary of the first assistant examiners to $2,000, so as to have a more proportional gradation between these three officers. In consequence of the low salary of the first assistant examiner now, as soon as a man gets fit for the place, educated for it, he looks round to see what he can do better outside of the office, and it is not long before he gets a better place. The effect of the increase will be that he will look to be promoted to principal examiner in time. If he has a salary of $2,000 he will be more willing to stay there. From the grade of first assistant examiners come those who are to be principal examiners, and unless an inducement is held out to stay there and be educated up to the standard of a principal examiner the efficiency of the office will be decreased. The effect of the amendment is to strengthen this Patent Office in this portion of its staff of officers. It only adds to the expense of the office $4,400 a year.

In regard to the examiner in charge of the interferences, it increases his salary $500. In addition to the skill required for this position, he is also required to be versed in the law to decide these cases; for these are almost all—I may say all, in fact—litigated cases; and his business is to collate and prepare the evidence, and present a report for the decision of the Commissioner. It therefore seemed fair, in order to get the proper grade of talent in this office, to increase the salary to a point which would obtain the services of a competent lawyer as well as a competent mechanician and chemist.

As regards the librarian, his case seems to me more meritorious even than the other. The gentleman asks if he has greater duties than in previous years. He has this great additional duty which I wish the House to understand; he has to become acquainted with all the scientific works published in all parts of the world; he must be master of all modern languages; he must know the progress of inventions everywhere and the works which describe them, and be able to select from all the books published those most useful for the library. The Commissioner cannot do it. This is a matter in charge of the librarian, and of him alone; and I say that it requires a man of great skill and judgment to discharge such a duty—such a man as it is not fair to class with a fourth-class clerk. The gentleman now in charge of the library, which is the best scientific library in the world, has to eke out his subsistence by getting fees for transacting business in the office, looking up cases, and giving his services to individuals. We think that we ought to have his whole services for the public; and if he has this increase we can secure them.

The whole amount of this increase of salaries of officers is but $5,600. The proposition does not interfere with the salaries of officers of corresponding grades in other Departments. It will not disturb the harmony of any other Department, and it adds to the harmony and symmetry of this Department. And with increased efficiency in the Department there will be increased fees, and I have no doubt the office will receive ten times as much as will pay for this increase of salaries. I trust that the amendment of the gentleman from Massachusetts [Mr. DAWES] will not prevail.

Mr. DAWES. I ask the House to adopt a principle in reference to this matter. I know that with reference to any efficient officer it is easy to argue forcibly before the House that his ability and efficiency entitle him to higher pay. But I want the House to understand with reference to this officer——

Mr. JENCKES. If the gentleman will allow me to interrupt him, I would say that that is not my argument. What I contend is that you cannot get a competent man for this position for a less salary than that proposed in the bill.

Mr. DAWES. I want the House to understand two things. The first is that my amendment brings the matter to where it is by law now. The other thing which I wish the House to understand is that the Commissioner of Patents came before the Committee on Appropriations when they were making appropriations for this office and fixed his corps and their compensation to suit himself; and he never indicated any necessity for what is now proposed. Under those circumstances——

Mr. JENCKES. I do not think the gentleman's argument is quite fair. The Commissioner of Patents could not bring the question of the reorganization of his Department before the Committee on Appropriations. But before the Committee on Patents, which had the sub-

ject in charge, he did state that he thought it necessary to have these salaries increased, and he gave his reasons, some of which I have stated to the House.

Mr. DAWES. I think he might just as well have stated those reasons to the Committee on Appropriations. What the gentleman from Rhode Island has stated may be the explanation of it. But the statement of the Commissioner to the Committee on Appropriations was this: "Let me reorganize my office myself, and I will save $30,000 a year." Our answer was, "Let us see you do it." Accordingly he brought in his plan, and we incorporated it *in totidem verbis* into the bill, and it has received the approbation of this House. In respect to this particular officer, the salary is just what he has had for very many years—for aught I know, as long as the office has existed—and this is the first time I have ever heard a complaint in reference to it. Under these circumstances, to add $700 to the compensation of this officer is to proclaim to every man in the public service that he has a right, if it can be stated that he has been faithful and efficient, to come here and ask to have his compensation made greater. I hope that on this amendment the decision will not be such as to indicate to the country that we are disposed to raise the salaries of public officers, and I ask a vote upon it.

Mr. PETERS. Does the gentleman from Massachusetts [Mr. DAWES] propose to have a vote taken covering all his amendments together?

Mr. DAWES. I propose to ask a vote on this one separately. The argument for each of the amendments rests on its own merits.

Mr. PETERS. I feel compelled, although I am very loth to ask an increase of any salary, to say a word in behalf of the librarian of the Patent Office, in response to the remark of the gentleman from Massachusetts, [Mr. DAWES,] that this is a new question. I was a member of the Committee on Patents in the last Congress, and there was a bill introduced to increase the pay of this officer. The committee favored it, but they never had an opportunity to report it. There were other applications for increase of salaries in the same bureau, and from the Commissioner down they all seemed to agree that if no other party had an increase of one dollar the librarian ought to have it. There seemed to be a unity of sentiment, that if there was a single person connected with the bureau who should have any additional compensation it was this party who had to be a linguist, who had to understand the European languages, who had all the duties to perform that he could discharge from morning till night, and who was living upon this salary of $1,800. Now, with my impressions about this matter I should feel much more willing to increase the salary of this literary gentleman, who occupies this position, than I would to increase the salaries of the examiners; and perhaps the gentleman from Rhode Island [Mr. JENCKES] may be willing, if he can get no more, to take this pittance of increase in this case. I can assure the House, having been upon the Committee on Patents and having had some associations with this bureau, that there is, in my opinion, much more reason for an increase of this salary than there is for an increase of the others.

Mr. DAWES. If I am ever at the head of a bureau the first thing I will do will be to retain the gentleman from Maine, [Mr. PETERS.] He can make just as good a speech for one as for another, and I will employ him just as certainly as I ever get to be the head of a bureau of any sort. Now, all I have to say in reply to my friend's speech is that the Commissioner of Patents who asked for this increase is the present Commissioner. That is enough for me, and the gentleman from Maine knows all the difference between the present Commissioner and the past. I have no doubt but what the past Commissioner thought that all the salaries in his bureau ought to be raised. He had an idea that he was a member of the Cabinet; he had an idea that his salary ought to be the same as that of the President of the United States, and so far as the administration of the office was concerned, as regarded its revenues, one might infer from the results that pretty much all of them had similar ideas, for a surplus fund of $450,000, which had been increasing for years, under the late administration sunk to almost nothing, and it was only saved by the last Congress by being covered into the Treasury, and Congress proposed, instead of letting them receive it and pay it out without accounting to the Treasury, that they would take cognizance of it.

I have only to say further that upon all propositions to raise salaries you can make just the same argument as that made by my friend from Maine. It is proposed to give this librarian the same salary as the Librarian of Congress has had, with all his responsible duties and all his accomplishments; as he has to-day and as he would have in future were it not for the action of my eloquent friend from Maine yesterday in urging the raising of his salary and making just the same speech in his behalf that he has made to-day in behalf of this librarian. Does the gentleman from Maine propose to take them all *seriatim* and urge an increase of their salaries with his accustomed ability and his winning words?

Mr. PETERS. No, I stop here.

Mr. DAWES. Ah, my friend has promised to stop a great many times when he has been after the Committee on Appropriations, and I have no doubt he means it when he says it; but with all due respect to him, when a question of this kind comes up he has a faculty of forgetting his promises. I trust the House will allow this salary to remain as it now is.

The tellers then resumed their places. The House divided; and the tellers reported—ayes 72, noes 43.

So the amendment was agreed to.

Mr. DAWES. I now move to amend the clause in relation to the salary of first assistant examiners by striking out "$2,000" and inserting "$1,800."

The amendment was agreed to.

Mr. DAWES. I also move to amend the clause in relation to the compensation of the examiner in charge of interferences by striking out "$3,000" and inserting "$2,500."

The amendment was agreed to.

Mr. BENJAMIN. I would like to inquire of the gentleman from Rhode Island [Mr. JENCKES] what is meant by "purchasing clerk," who is provided for by this bill? What are the duties of the purchasing clerk? I believe there is no such officer under the present law.

Mr. JENCKES. He is provided for in the appropriation bill of this year. He is the clerk of the Commissioner.

Mr. BENJAMIN. What duty does the gentleman propose to assign that officer under this bill?

Mr. JENCKES. The duty assigned to him by the law creating the office.

Mr. BENJAMIN. What does he purchase?

Mr. JENCKES. The supplies for the office. He runs about to this and that store and brings samples and things of that kind. It is an officer already known to the law; nothing new.

Mr. POLAND. The eleventh section of this bill provides that "in case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the assistant commissioner until a successor shall be appointed or such absence or sickness shall cease." I desire to move to amend the section by adding to it the following:

And while such assistant commissioner shall so perform the duties of Commissioner he shall receive the same compensation as the Commissioner.

Mr. JENCKES. I am willing that the amendment shall be voted on.

The SPEAKER. If no objection is made the amendment will be considered as pending.

No objection was made, and the amendment was received.

Mr. KERR. I desire to move an amendment.

Mr. JENCKES. I will hear it read.

Mr. KERR. I desire to move to add the following to section thirty-four of this bill:

And provided further, That no obligation of the kind mentioned in the foregoing proviso shall be refiled or revived for the purpose of interfering with existing patents; and patents hereafter granted on such application shall not be held in any event to impair or supersede any existing patent.

Mr. JENCKES. I cannot permit that amendment to be offered; it is contrary to the principle of the whole revision.

Mr. HOLMAN. I hope the gentleman will permit me to move an amendment, striking out the words "one assistant commissioner," in section two of this act.

Mr. JENCKES. I cannot; that officer is provided for by the appropriation bill of this year.

Mr. SARGENT. I desire to offer an amendment.

Mr. JENCKES. I will hear it read.

Mr. SARGENT. I desire to move to amend section ten, prescribing the duties of the examiners-in-chief, by striking out the words, "when required by the Commissioner they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them," and inserting in lieu thereof the following:

In connection with the Commissioner they shall hear and determine upon claims for extensions, and shall perform such other like duties as may be assigned to them.

Mr. JENCKES. That will change the existing law.

Mr. SARGENT. The only effect of passing a statute is to alter some preëxisting law. If the gentleman will allow me three minutes I will explain the amendment.

Mr. JENCKES. I am willing that it shall be considered as pending.

Mr. SARGENT. Let me have one minute to explain it.

Mr. JENCKES. After the previous question has been ordered.

Mr. SARGENT. Very well.

Mr. BUTLER, of Massachusetts. I desire to offer an amendment.

Mr. JENCKES. What is it? Let it be read.

Mr. BUTLER, of Massachusetts. I desire to move to amend section thirty-four by adding to it the following:

And mere lapse of time before renewing or filing a new application, where a former application has been improperly or erroneously rejected, shall not be considered an abandonment in any application made before the passage of this act.

Mr. JENCKES. If I should admit that amendment I should be obliged in fairness to admit also the amendment proposed by the gentleman from Indiana, [Mr. KERR.]

Mr. BUTLER, of Massachusetts. Let it be pending.

Mr. JENCKES. If I admit one I must admit the other also. And the one is directly opposed to the other.

Mr. BUTLER, of Massachusetts. Let it be offered.

Mr. JENCKES. Very well; I will permit both amendments to be offered and considered as pending.

Mr. HOLMAN. I was denied the opportunity to offer an amendment.

Mr. JENCKES. I will permit the gentleman from Indiana [Mr. HOLMAN] to offer his amendment, as I do not desire to exclude amendments.

The SPEAKER. Then the three amendments of the gentleman from Massachusetts [Mr. BUTLER] and the two gentlemen from Indiana [Mr. KERR and Mr. HOLMAN] will be considered as pending by unanimous consent.

No objection was made; and the amendments were accordingly received.

Mr. JENCKES. I now submit several amendments, which are mostly verbal and need not be read, except one, to insert in the bill the following provision:

Authors may reserve the right to dramatize and translate their own works.

Mr. MAYNARD. I ask the gentleman having charge of this bill whether he will permit me to offer an amendment prohibiting the importation of goods from abroad with counterfeit or simulated trade-marks?

Mr. JENCKES. That is a matter for the Committee of Ways and Means. It does not relate to the jurisdiction of the courts, but to the duties of the collectors of customs. Such a provision could not appropriately be inserted in this bill. I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. JENCKES. I now yield three minutes to the gentleman from California, [Mr. SARGENT.]

Mr. SARGENT. I rise for the purpose of explaining the amendment I have offered. The effect of that amendment will be to constitute a board composed of the examiners-in-chief and the Commissioner to decide upon that very important class of cases which are called "extensions." I am unwilling, for one, that these very important questions shall be subject to the decisions of a single individual, with the, as I think, rather inadequate means provided in the bill for appeals, affording, it seems to me, no effectual protection to the persons who may be injured by improvident extensions. Great pecuniary interests are involved very often in extension cases.

With few of the forms of a court, with ready access of those who would not scruple to use political or worse influences to the single officer provided by this bill, the innovation that shuts off other judgment than that of the Commissioner is dangerous and ill judged. By this change I think you would make the opportunity and temptation to wrong and corruption entirely too great. This criticism will apply to the bill generally. As drawn, it will have the effect—I will not say that such is the design—to increase the power and importance of the Commissioner of Patents, while decreasing that of the examiners-in-chief and other officers upon whom heretofore delicate duties have been devolved, and among whom responsibility has been shared. For instance, I find that on page 2 of the bill it is provided that a very large number of officers shall be appointed by the Secretary of the Interior upon the nomination of the Commissioner himself. Suppose they are of different politics; suppose they do not agree; then it seems to me the power is held in the hands of this Commissioner. Further on we find a provision for an assistant commissioner, to be appointed upon like nomination. This officer comes in between the Commissioner and the examiners-in-chief, who are to be men of legal knowledge and scientific ability: he takes the place of the oldest one of these, and may become the mere instrument of the Commissioner.

I suppose it is true that our Commissioners of Patents have always been fair, honest, and honorable men, without interest in patents coming before them, with hands unstained by bribes men above suspicion in every respect. I will assume that to be true. Yet, I cannot ignore the fact, which I believe is generally known in the House and the country, that whispers of the opposite character have gone forth; that there have been suspicions that some men who have occupied that position have not been above availing themselves of the opportunity given them by the great discretion and power lodged in their hands to increase their private fortunes at the expense of those who had applications pending before them. I am willing to believe that these were mere slanders, such slanders as attach almost inevitably to men who are placed in positions of trust under the Government. But I am unwilling that we shall by this bill extend the opportunity for such a state of things. Instead of having as proposed in the bill, a mere report made by these examiners-in-chief, I think their determination should have the effect of a judgment, from which there may be an appeal to the Commissioner.

In this bill the word "determine" is struck out, and the word "report" inserted; so that, unless some such amendment as I propose be adopted, these examiners-in-chief, persons of competent legal knowledge and scientific ability, who have heretofore exercised independent jurisdiction in this matter, will be made mere clerks reporting to the Commissioner who will hold this vast interest in his hands. In this way the bill is calculated to enlarge his power, while decreasing that of those who have heretofore shared it with him.

Mr. JENCKES. I now yield three minutes to the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. I only wish to say that during the present session this House, when the attendance was very full, adopted without a division a resolution declaring against any increase in the number of public officers. This bill proposes to increase the corps of officers in the Patent Office by adding an assistant commissioner with a salary of $3,000. I submit in the first place to the House that being true to itself, after having declared that this increase shall not be had, I insist there shall be no increase in this office, and that this $3,000 a year shall not be paid out of the Treasury. I submit to the superior information of the gentleman from Rhode Island and other members on this floor in relation to the Patent Office; but I submit there is not an outsider in the country who can see the least necessity for this increase in the number of these officers.

Mr. JENCKES. The gentleman is mistaken. It does not increase the number of officers, but substitutes one for another. It is already provided for in the appropriation bill, and to strike it out will be to repeal the adjustment provided for by the Committee on Appropriations.

Mr. HOLMAN. What officers are dispensed with?

Mr. JENCKES. The superintendent of the annual report, and the assistant commissioner is created. That is all of it. It makes no change.

Mr. HOLMAN. What is the salary of the officers dispensed with?

Mr. JENCKES. A little more than the increase by this assistant commissioner.

Mr. HOLMAN. More than $3,000?

Mr. JENCKES. That matter was fully discussed on the appropriation bill, and was adopted because it was a saving in this office.

Mr. HOLMAN. Is the gentleman certain that with this increase made in the form of an assistant commissioner these other officers will not be restored?

Mr. JENCKES. The provision of law creating them is repealed by this bill.

Mr. HOLMAN. I know; but they may be revived next year by appropriation in the appropriation bill.

Mr. JENCKES. The gentleman from Indiana will do the Committee on Patents the justice of recognizing that they have done all they can to provide against reappointment, because they have repealed the law authorizing their reappointment.

Mr. HOLMAN. I insist that this increase shall not occur, because there is no necessity for it.

Mr. JENCKES. If the gentleman strikes out this provision and inserts the other officers that would be an increase. He is wrong in his premises. I now yield to the gentleman from Massachusetts for five minutes.

Mr. BUTLER, of Massachusetts. Mr. Speaker, the amendment I have proposed is this—it comes in after section thirty-four, in these words: "that the mere lapse of time where a patent has been erroneously and improperly refused by the Patent Office shall not be deemed an abandonment." Let me explain. An inventor invents a new and useful machine. The Patent Office decides that machine is neither new nor useful. He yields to that decision as a law-abiding citizen and goes away. Years afterward it turns out to be useful, and another patents that machine. Now, the patent should not be good in the hands of the man who thus patents it; and the man who has invented it should not be deprived of it. It is a grievous wrong to deprive him of it.

Mr. FARNSWORTH. It is a question for the decision of the courts.

Mr. BUTLER, of Massachusetts. It is not a case of interference. They say it is neither new nor useful. He goes away and leaves it. Years afterward some person gets a patent for the same thing, the previous decision of the Commissioner being wrong. When the man himself goes for a patent they say he has lost his right by lapse of time. I say that a man driven out of court does not abandon his case. A man driven out of the Patent Office does not abandon his case. I do not see any wrong in providing in this bill that mere lapse of time, where the party's application has been erroneously rejected or improperly rejected, shall not operate as an abandonment. He can abandon it in other ways. If he goes to work and puts it to public use, or does many things showing abandonment, I agree he can abandon it; but the mere fact of lapse of time because of an erroneous rejectment should not be considered as an abandonment.

Mr. JENCKES. I now yield to the gentleman from New Jersey.

Mr. CLEVELAND. Mr. Speaker, upon the proposition I made yesterday to strike out section seventy of this bill, it being a new proposition, a change in the patent laws, requiring the payment of additional fees, say of twenty-five dollars at the end of seven years and of fifty dollars at the end of twelve years, I desire to say in addition to what I said yesterday that the additional fees are unnecessary; they are not called for upon any principle of public policy; they are not needed for any additional protection granted to the inventor—none is granted to him; they are not needed to sustain and pay the necessary expenses of the department, for that now receives a surplus of over two hundred thousand dollars per annum above the present expenses, and there is now in the Patent Office fund a net surplus of over half a million dollars. It is proposed by section seventy of this bill to increase the revenues of the department, at the present rate of patent issues, after seven years, nearly four hundred thousand dollars, and after twelve years of more than half a million more, making after the twelve years an increase in the revenue of more than nine hundred thousand dollars as a tax upon the inventors of the country because they are inventors.

I ask the Clerk to read extracts from the last report of the Commissioner of Patents.

The Clerk read as follows:

"The Patent Office earns all the money which it expends or proposes to expend; and as the inventors give, in the form of useful invention, quite as much as they receive by way of protection; as they are, moreover, taxed as citizens, as manufacturers, and as vendors of their patents and inventions, it would seem to be unjust to tax them again in the form of additional fees for the support of the Government or the payment of the national debt.

"The patentee does not pay these fees as a compensation for the exclusive privilege which he receives. For that he makes a full disclosure of his invention for the future benefit of the nation. The fees are intended solely to pay the necessary expenses incurred in the examination of the invention and in the issue of the patent. In all other countries the fund derived from the patent fees is applied to the advancement of science. The fees which are paid in this country are less than in any other, but if they are more than is needed for the expenses of the Patent Office as at present organized, it is but fair either that the fee should be reduced or that the balance should be employed in such increase of the force of the office, or in providing such publications and appliances as may increase the ease, thoroughness, and efficiency of the work of examination."

Mr. CLEVELAND. Mr. Speaker, I protest against making the inventive genius of the

country a source of revenue under the pretense of protection. We have no power to do that. That provision of the Constitution authorizing Congress to "promote the progress of science and useful arts" gives no power to Congress to impose a tax for revenue upon such persons as may desire the protection of Congress; on the contrary, the provision is restrictive, and I am confident grants no power to demand fees in a greater amount than may be absolutely necessary to pay the reasonable expenses of the Government in maintaining a department for that purpose.

The Government has been ingenious and persevering in seeking out every possible source of revenue, in devising unheard-of taxes, and no article that has a tangible existence has escaped its penetration, and this bill now proposes to tax the very thonghts that enter the mind of the poor inventor, if he shall have the audacity to place them upon paper or in a model and claim them as his own. The object of that provision in the Constitution under which the patent laws have been enacted is plain; it is to promote and encourage arts and manufactures in this country; but section seventy of this bill proposes to stifle and smother the efforts of any uneasy genius who proposes to benefit himself and his country by producing a new manufacture, or simplifying existing processes, or inventing labor-saving machines. I catch the suggestion here and elsewhere that a large portion of these people are but dreamers and enthusiasts and their patents useless, and as well abandoned after the first seven years.

Mr. Speaker, these poor dreamers are the real benefactors of mankind and the greatest promoters of civilization in the world, and this country especially owes them a debt of gratitude it has not the power to pay; yet by section seventy of this bill the powerful hand of this great Government is made to seize hold of them at the end of seven years as it would seize a culprit, and it threatens to crush out their ambition, to destroy their prospects, to put out the lamp of genius they have so long been struggling to keep burning, to hide from them the path in which they have been encouraged by the Government itself to pursue success till they have grown foot-sore and weary, to destroy the very land-marks by which they have traveled so far, and to cast the culprits aside in darkness, destitution, and despair, ruined in all their hopes of comfort and happiness, unless some doubting friend can be found, who has not yet loaned them more money than he ever expects to get back, who will come forward on the last day and pay the ransom demanded by the Government, before it will let go its hold.

If a poor mechanic has been fortunate enough to secure funds to enable him to pay the original fees, amounting to $115, and secure his patent, and has pursued his labors during the first seven years of trial, anxiety, and disappointment of every kind, living almost upon faith and hope and the charity of his friends, about to bring his labors to a close, he sees clearly the demonstration of his plans; that a little more time will enable him to make manifest to capitalists, and that will turn the finger of scorn so long pointed at him as to one of these dreamers, and that will raise him to enjoy the comforts and luxuries of life possibly, and show himself as one of the advance guard in the rapid march of human progress. Just at this point the deep shadow of this Government enters his little workshop. He looks up and the demand is made upon him for money, more money; revenue is demanded, and the poor, bewildered mechanic, crying out that surely the seven years cannot have passed so soon, he fumbles over his well-worn tools, he moves about the models and pieces of machinery, he pulls out the old worn drawer of his lathe—and it contains a little of everything, plans, drawings, the evidence of sleepless nights, of anxieties no man can tell, of family sufferings, of children's want, of the jibes and sneers of friends and neighbors—it contains all these; but nowhere in his little workshop is there any money to be found, and he turns to plead with the Government not to destroy his labors, to give him another year or another month; but the Government, this benevolent Government, the best Government on earth, by this section is impelled rudely and forcibly to grasp the models, plans, drawings, and hopes of the poor mechanic in its mighty power and scatter them to the four quarters of the globe!

I ask this House to save the Government from being compelled by this section of this bill to become such a monster, save it from such a humiliating position. I ask this House to strike out of this bill the provision calling for additional fees, and not to tax a poor inventor for having dared to procure a patent for his invention, but rather to take him by the hand and assist him and encourage him in his thankless labor.

In order that we may fully understand the financial condition of the Patent Office and how unnecessary it is to impose these additional fees, I shall append to my remarks a statement showing the receipts and expenditures of the Department since 1837, and its actual condition on the 1st of January last:

Statement of money received during the year 1869.

Amount received for applications, caveats, &c.	$632,700 65
Amount received for copies and for recording assignments	60,445 16
	$693,145 81

Statement of expenditures from the Patent Office fund for 1869.

Cash paid for salaries and for miscellaneous and contingent expenses	$486,430 74
Amount to the credit of the patent fund January 1, 1869	$324,330 67
Excess of receipts over expenditures during the year 1869	206,715 07
Leaving a balance on the 1st of January, 1870, of	$531,045 64

Statement showing the business of the Patent Office for thirty-three years, from 1837 to 1869, inclusive.

Years.	Applications filed.	Caveats filed.	Patents issued.	Cash received.	Cash expended.
1837	-	-	435	$29,289 06	$33,506 98
1838	-	-	520	42,123 54	37,402 10
1839	-	-	425	37,200 00	34,543 51
1840	765	228	473	38,056 51	39,030 67
1841	847	312	495	40,418 01	52,666 87
1842	761	391	547	36,585 68	31,201 48
1843	819	315	531	35,815 81	30,706 93
1844	1,045	389	562	42,509 26	36,244 73
1845	1,246	452	502	51,076 14	39,395 65
1846	1,272	448	614	50,264 16	46,158 71
1847	1,531	553	572	63,111 19	41,878 35
1848	1,628	697	660	67,576 60	58,905 84
1849	1,935	505	1,070	80,752 78	77,776 44
1850	2,193	602	995	86,922 05	80,100 05
1851	2,258	760	859	93,738 61	86,916 93
1852	2,639	906	1,020	112,656 34	95,916 91
1853	2,673	901	958	121,527 45	132,889 83
1854	3,324	868	1,902	163,789 84	167,146 32
1855	4,435	906	2,021	216,459 35	179,540 33
1856	4,960	1,024	2,502	192,588 02	199,931 02
1857	4,771	1,010	2,910	196,132 01	211,582 09
1858	5,364	943	3,710	203,716 16	193,193 74
1859	6,225	1,097	4,538	245,942 15	210,278 41
1860	7,653	1,084	4,819	236,352 59	252,890 80
1861	4,643	700	3,340	137,354 41	221,491 91
1862	5,038	824	3,521	215,754 99	182,810 39
1863	6,014	787	4,170	195,583 29	189,414 14
1864	6,032	1,033	5,020	240,919 98	229,883 00
1865	10,664	1,937	6,616	348,791 84	274,199 34
1866	15,289	2,723	9,459	495,685 38	361,724 28
1867	21,270	3,597	13,015	646,582 92	639,263 32
1868	24,420	3,705	13,878	631,585 86	628,679 77
1869	19,271	3,624	13,986	693,145 81	486,430 78

Mr. JENCKES. I now yield to the gentleman from Pennsylvania for seven minutes.

Mr. MYERS. I have listened attentively to my friend from New Jersey, and I agree with him in the general. I am not in favor of this provision of the bill. What he said in favor of inventors is true. There is nothing this House can do which is too much to compensate the men whose inventive genius makes the glory of this country, and of whose labors and success we are proud at all times to boast. And in that connection I hope the gentleman's argument may have some weight with his colleague on that side of the House from Indiana, [Mr. HOLMAN.] We know these inventors pay $200,000 surplus yearly above expenses to the Patent Office fund. And when we come here and ask that the products of their minds, the results of their skill shall be properly examined, that there shall be men skilled in the various branches of art to discharge that duty, that there shall be an assistant commissioner and the necessary examiners to aid the Commissioner, and that these men shall be properly paid, I hope the appeal will prove of some avail with the gentleman from Indiana, who is carping at the addition of some five thousand four hundred dollars of salaries to the bill, more especially that portion which devotes $3,000 to an assistant commissioner. Let the House recollect these inventors are looking to us, demanding that when they are paying this enormous amount yearly there shall be expedition in the granting or in the refusal, if you please, of patents; that they shall have men of proper talent to discriminate as to novelty and utility and priority of invention, and that sufficient salaries shall be given to secure such talent. I agree with the gentleman that the provision of the bill which adds a tribute or an additional fee after so many years, possession of a patent might as well be dropped. No notice to the patentee is required except the law itself. His patent is to contain no reference to it. A valuable patent invention might thus be sacrificed by ignorance of this provision, or mere omission to comply with its demands, or, what would be sadder still, through the poverty of genius; which might be none the less meritorious because unremunerated.

A word, now, to my friend from Massachusetts, [Mr. BUTLER,] who objects to that section of the bill which limits the time, or creates a statute of limitations in regard to abandonment of applications. Mr. Speaker, a man may originate an invention and keep it within his own breast, and may apply for a patent

when he pleases, and obtain it, unless he allows it to go into public use for two years, or delays till another applies for and obtains a patent. The law is not altered in this respect. We have no control over that which is not made known. When the secret is disclosed it may be as valuable as when the idea was first conceived and perfected, and we do not propose to interfere with the law in this respect; but after a man once applies for a patent and is rejected, or withdraws his application, or fails to prosecute it, there should be a limit of time in which he can keep his claim alive. This is in the interest of true invention and against the policy of litigation. As to applications rejected or withdrawn before the passage of this act we give two years to renew or file a new application. This is time and notice enough. If actually abandoned already nothing can revive the application, and this must be a question of proof. For the future we give two years after filing the petition to complete the application for examination, and two years after any action in the case, of which the applicant must have notice. There never was a fairer provision. If he abides by a rejection or allows his application to slumber, the two years act as a limitation, and bar him, and they ought to bar him. If he chooses, however, he may make a new application; and when delay was unavoidable the Commissioner even now may do equity.

The gentleman says, suppose some one comes in afterward and gets a patent for the same thing. That cannot be done under the law, or if such a patent were got the court would declare it void. The gentleman knows very well that priority of invention and its perfection in connection with the public application would be a bar to another patent issuing for the same thing. It is simply a question whether some time or other there shall not be an end put to these fruitful causes of litigation. I look upon this section as being to the advantage of inventors. I may not agree with every section of the bill, or with every provision that has been added to it. But in the main I regard it as in the interest of inventors.

Recurring to their rights I consider if we do our duty we shall pay all these officers more than we do now. This morning the House cut out the amount proposed to be added to the salary of the librarian. I am very sorry for it. I hope the gentleman from New Jersey [Mr. CLEVELAND] will use his influence with his friends on that side to reconsider that step. To be niggardly about these salaries is not the proper way to treat these men, or to treat the inventive minds of the country who contribute so large a surplus to the Patent Office fund, and are entitled to have the most efficient men in that office. They expect that we shall provide the best talent there. We have it largely now, but there is no way of getting or keeping it save by paying for it. And the inventors pay the money, contributing yearly, as has already been stated, fully $200,000 over all expenses.

Mr. CLEVELAND. I may state to the gentleman that I voted to retain the salary as it is in the bill.

Mr. MYERS. Yes, I am aware of it. In the United States I find that, despite the great care and examination required before a patent can issue—a protection generally to the parties as well as the public—by which 5,285 applications for patents were rejected in 1869 alone—I find that in 1866 no fewer than 9,450 patents were granted, being more than the numbers in England, France, and Belgium put together, although in England almost every man can obtain a patent at his own risk, and that is the great objection to their law, which they are now trying to modify or amend so as to make it correspond with ours.

In 1869 our Patent Office issued 13,986 patents, including reissues and designs. Our country surpasses all others in the products of its inventive genius. In every branch of science and mechanism, in every department of art and literature, too, the men who have thus ennobled themselves have made us illustrious also, adding comforts innumerable, riches untold, not only to this people, already highly favored, but to all lands. Fulton and Morse, Whitney and Goodyear, Woodworth and Howe, are but a few of the names enshrined in the memories of a grateful people. Remember that each decade produces new wonders in the development of the mechanic arts, new strides in the progress of American genius, and let our appreciation of the efforts and wants of inventors be shown more in practical action than in mere lip-service.

Mr. JENCKES. I propose now to consider those amendments that are pending, and to give the House the views taken by the Committee on Patents on each of these subjects. I will first consider the amendment of the gentleman from California, [Mr. SARGENT.] It relates to a single subject, the granting of extensions of patents which were granted prior to the 2d of March, 1861. The whole business of granting extensions ceases in a little less than five years, and it was not thought best to alter the constitution of the Patent Office or the mode of hearing and determining cases in a business which is so soon to expire. And besides that, this amendment would conflict seriously with other parts of the bill, and it would be impossible to execute it if the amendment should be adopted and the rest of the bill stand as it is. It alters the existing law and the constitution of the office as it has existed since the creation of the board of examiners-in-chief and the mode of doing business in that office during the whole period of its existence for a special purpose; and for this reason, if for no other, I think the amendment ought to be rejected.

The amendment of the gentleman from Indiana [Mr. HOLMAN] is unnecessary, and is offered under a misapprehension of the facts, and I hope the gentleman will not insist on it, and if he does, that it will not be adopted.

The amendment of the gentleman from Vermont [Mr. POLAND] I am willing to pass to a vote without further consideration. The principle of it I will agree to be just. Whether the House will sanction it or not is another question.

The amendments proposed by the gentleman from Massachusetts [Mr. BUTLER] and the gentleman from Indiana [Mr. KERR] are precisely opposite in their character and tendency. The one proposed by the gentleman from Indiana is foreign to the whole principle of this revision, and that is, to destroy or impair no existing rights, but to enlarge and make clear the remedies which have heretofore been given by law. I trust that amendment will not receive the favorable consideration of the House for that reason. If the rights of parties are to be altered on one subject, why not alter them in all? Who knows what class of cases you may reach by such an amendment? It must reach a great many! There are some twenty thousand of these cases pending, and the bill as reported simply fixes the time within which these claims shall be prosecuted, and leaves the effect of the prosecution to be decided upon by the courts, where it ought to be. It is a question of private rights, and it should not be affected by legislation, even if we have the power to do so.

The amendment of the gentleman from Massachusetts [Mr. BUTLER] proposes to establish a rule of evidence in this class of cases. It seems to me to be entirely unnecessary. I believe that it is now the law, and this section has been shaped in that belief, that a mere lapse of time is not conclusive evidence of an abandonment of the invention to the public or of an abandonment of the intention to prosecute the application. I do not think the amendment will add to or take anything from the law.

Mr. BUTLER, of Massachusetts. Then there can be no objection to it.

Mr. KELLOGG. I would ask the gentleman if the present Commissioner does not hold that the lapse of time is an abandonment of the patent in some cases?

Mr. JENCKES. Yes; but I believe the Commissioner to be wrong, and I have so expressed myself; and this section has been drawn so that it shall not be so held hereafter either by the Commissioner or by the courts.

Mr. BUTLER, of Massachusetts. Allow me to say that it having been so held by the Commissioner, and as the gentleman agrees held wrongly, I desire to remove all doubt by providing that lapse of time in case of an erroneous application hereafter shall not be held to be an abandonment.

Mr. JENCKES. From the consideration I have given to the amendment, I do not see that it alters the law at all or can work either injury or benefit. But if the gentleman insists on a vote I shall not oppose it very seriously. It has not the mischief in it which, I believe unconsciously to the gentleman from Indiana, [Mr. KERR,] is contained in his. I will tell the House to what class of cases this may refer, and the gentleman from Massachusetts will see that even his amendment may do wrong. There are cases pending in the office where the rejection sought to be removed was made from twelve to twenty years ago; cases in which under the law as it was previous to 1861, not only the applications were withdrawn but a part of the money which the law authorized to be withdrawn was taken also. That is an additional circumstance which has its weight. It is true the gentleman does not propose to go so far.

Mr. BUTLER, of Massachusetts. Let us try it, at all events.

Mr. JENCKES. The amendment proposed by the gentleman from Indiana [Mr. KERR] to allow these patents to be revived, might do injury to patents which have since been granted and gone into public use.

Mr. KERR. I hope the gentleman will allow me a few minutes to explain my amendment.

Mr. JENCKES. Certainly; how long?

Mr. KERR. Three minutes will be enough.

Mr. JENCKES. I will yield for three minutes.

Mr. MYERS. In connection with what has been said by my colleague on the Committee on Patents [Mr. JENCKES] I will state that I know of a patent, the application for which was rejected fifteen years ago. After the machine had gone into public use a party was allowed to come in and obtain a patent for it, when he proceeded to sue parties who were then using the machine. That is what we want to prevent, by designating some time within which a person must make a new application for a patent.

Mr. KERR. I will briefly explain my reasons for proposing this amendment. I understand that by the provisions of the law as it now stands it is competent for any person, either the original inventor or his assignee, after the original application has been rejected, to come forward and refile that application, or revive it, and possibly have a patent issued to him even after another patent has been issued for the same invention, on another application covering precisely the same ground and reaching just the same result. That has produced the singular result that the subsequent but *bona fide* patentee, without any knowledge at all of the previous application, will by this process be divested of his right, deprived of his invention, and as suggested by the gentleman from Pennsylvania [Mr. MYERS,] be harassed by suits and injunctions.

Now, I desire by my amendment to make this provision of the law specific to the effect that no such revived application, and no patent granted upon any such revived application, shall have the effect of superseding the patents which meanwhile may have been granted upon another *bona fide* application for precisely the

same thing, covering the same ground, and reaching the same result in every respect. That is the purpose I desire to accomplish by my amendment, which appears to me to be a just one. To deny it, I think, would in many cases work great hardship upon inventors.

Mr. JENCKES. So far as it is just it is met by the present language of the bill.

Mr. KERR. What part of the bill?

Mr. JENCKES. Section thirty-four.

Mr. KERR. I do not so understand it.

Mr. JENCKES. There is a great mass of rejected applications in the office of the Commissioner of Patents. The Committee on Patents have heretofore acted upon the principle that the rights of the parties in these applications should be preserved and not impaired by legislation. It may be that the person who first applied for a patent is rightfully entitled to it; and if so he should receive the patent. But there should be a limitation to the time within which he should be allowed to prosecute his claim. We have prescribed the limit of two years from the time of the passage of this act, and if his claim is not prosecuted within that time he shall be deemed to have abandoned it. There may be some cases where the claims have been in fact abandoned; if so, then they ought not to be revived, and hence the provision at the end of section thirty-four held of this act, that "this provision shall not be to have revived any application heretofore in fact abandoned." That meets the gentleman's case. If the claim is abandoned in fact, then no patent can issue; or if issued no rights can be enforced upon such patent.

Mr. KERR. There may be different and inconsistent decisions.

Mr. JENCKES. We provide for a remedy in the courts by a trial of the question there. It cannot be settled satisfactorily by legislative definition.

Mr. KERR. On that point I agree with the gentleman.

Mr. JENCKES. We have heard all these parties upon the question, and we find that they agree upon no set phrase of words, nor even upon any definite idea. The question is one which must be left to the decision of the courts, like the question what is public use, and matters of that kind. We have provided the most ample remedy in the courts to settle in what the fact of abandonment shall consist. We have declined even to indicate an opinion on the subject, or to recommend any rule of evidence in regard to it. Hence my objection to the amendment of the gentleman from Massachusetts. I wish to see this question settled where it ought to be settled, in the courts of the United States. I think the gentleman should be satisfied with the language of the bill as it is, and should not insist on incorporating a provision which must involve a great deal of conflict between private parties and lead to injury and wrong.

There is one other amendment pending, that of the gentleman from New Jersey, [Mr. CLEVELAND.] The section which he proposes to strike out is one which I was very reluctant to see inserted in the bill. Such a provision has been incorporated in the patent laws of almost every other country, and according to the reports made before us has been found to work well in every instance. Although the provision is foreign to the original principle of our patent laws, yet when we came to hear the patent solicitors, the parties transacting business with the Patent Office or trying patent cases in the courts, we found them unanimously recommending the adoption of this section; and we deferred to the general judgment of these men as those most interested. The provision had thus the weighty indorsement of all these competent persons. I will frankly say that one reason which influenced me most decidedly in its favor was that it will tend to weed out a number of useless patents before the expiration of the full term for which they are originally granted.

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

Mr. JENCKES. Certainly.

Mr. HOAR. The gentleman will permit me to preface my question by a brief statement. It seems to me that the effect of this section is to increase the price of every valid patent that may run through its term from thirty-five to one hundred and ten dollars, although at the end of the first seven years the patentee may just have got his patent vindicated by law, may just have begun to realize any return from it. Now, would not the object contemplated be accomplished nearly as well, while avoiding this great additional burden on the inventor, by a simple provision that within three months of the expiration of the period specified some person owning an interest in the patent shall make an application for its continuance, accompanying it with a fee of five dollars? That would require the solemn act of the inventor showing his estimate of the value of his patent, and it would require a payment of money, though not such an amount as to be burdensome.

Mr. JENCKES. Some provision of that kind might be as effective as this, but it is the same thing in nature and principle.

Mr. HOAR. To the man who pays the money it is hardly "the same thing in nature and principle" whether he pays five or one hundred and ten dollars.

Mr. JENCKES. The only difference is one of degree, not of kind. It is the principle of the thing that we have to decide upon.

Mr. HOAR. Will the gentleman consent that such a provision as I have indicated may be offered as an amendment?

Mr. JENCKES. It cannot be offered under the rules, because the previous question has been seconded.

Mr. HOAR. There will be no objection if the gentleman does not object.

Mr. JENCKES. I think we had better take the vote squarely upon the section. It is a provision which was not added by the committee upon their own judgment of its efficiency, but upon the judgment of other persons. We have been convinced by the weight of testimony and argument presented to us on that subject, and hence we support it here.

Mr. MYERS. If my colleague on the committee will permit me, I would like to offer, by way of compromise, an amendment to fix the salary of the librarian of the Patent Office at $2,200, which is half way between the salary now allowed by law and the amount originally proposed in the bill.

Mr. JENCKES. I presume there would be objection.

Mr. MYERS. I think not.

Mr. JENCKES. Of course I would have no objection to the proposition.

Mr. MYERS. I ask the gentleman to allow me to offer such an amendment.

The SPEAKER. It can only be done by unanimous consent.

Mr. BENJAMIN. I object.

Mr. JENCKES. I do not agree with the gentleman from New Jersey [Mr. CLEVELAND] or the gentleman from Massachusetts [Mr. HOAR] that the payment of this additional fee will be a very grievous burden upon the patentee. At the end of seven years from the issuing of a patent its value has generally been determined, and where it had been introduced into practical use this additional payment will be made by the licensees or grantees of the patentee, not by the inventor himself. The case would be the same at the end of twelve years.

I do not propose this amendment with a view of obtaining revenue from inventions. I do not think this Patent Office, though self-sustaining, should be any more than self-sustaining; and if it be practicable with the proper transaction of that office to reduce the fees, I propose to offer a bill for the purpose of such reduction, and to reduce them where the reduction is most needed in the first steps of obtaining a patent. If reduced there they may well be increased at some subsequent time, when the inventor is obtaining the benefits of his patent.

Mr. Speaker, there are some general considerations upon the subject of the patent laws which I wish to present to the House before asking a vote upon the passage of this bill.

The Patent Office was constituted not only for the purpose of granting patents for meritorious inventions but for the protection of the public against spurious inventions—the unjust claims of speculators trading in inventions. Hence the employment of a corps of skilled examiners and the careful investigation of the merits of each particular application for a patent.

This constitution of the office has two results. It causes the rejection of the worthless and fraudulent claims, now about one out of four, five thousand out of twenty thousand in each year; and it also enhances the value of those that are allowed and granted, giving them weight as evidence in all courts and controversies.

Recognizing the value of inventions to the State, and the want of technical knowledge and of skill in the use of language on the part of inventors, our patent laws have provided for the most tender and careful consideration of the cases stated in the petitions of inventors. They are first referred and considered by a primary examiner in the class to which the invention belongs. If he rejects the claim for want of novelty he must give the references to prior inventions upon which his decision is based, and the applicant is entitled to a second hearing before this examiner, and to make any modification of his claim that he thinks right and proper. If he is again rejected he may appeal from the decision of the examiner to the board of examiners-in-chief, officers selected for their legal and scientific knowledge, appointed by the President and confirmed by the Senate, and if their decision should be adverse he may again appeal to the Commissioner in person. There are in fact three appeals allowed within the Patent Office. But notwithstanding all these hearings, original and appellate, the adverse decision to the petition may still be wrong. If so, how shall it be revised? This has been one of the most serious questions presented to the committee. The present law allows a proceeding in the nature of an appeal from the adverse decision of the Commissioner to either of the judges of the supreme court of the District of Columbia. But the judge in such case does not act as a court; he is merely a supervisory commissioner *pro hac vice*, and if he reverses the decision of the Commissioner and allows the patent, his decision has no weight as a judicial authority, but the patent thus obtained has less weight in the courts than one granted by the office, as it has the judgment of the several scientific tribunals within the office against it, and merely the opinion of an unskilled person, although a judge, in favor of it. This is a proceeding without analogy in any other Department of the Government, and is a wide departure from the principles upon which the Executive Departments and their bureaus were constituted, and the result has been to disturb and render inharmonious the decisions of that bureau, which of all others should be most consistent and symmetrical. On the other hand, if the claim as asked for is passed by the primary examiner there is no provision for a review of his decision within the office, and the public may be made to suffer from his ignorance or indolence in allowing without proper scrutiny the most broad and comprehensive claims.

That there should be a supervision over the action of the office is conceded, and the real question is, when should that supervision cease to be executive merely and become judicial; when should the contested questions pass out of the executive power and come within the judicial power of the United States? Sooner

or later they must all be reviewed and determined by the judicial power. The committee hold and have recommended that the action of the Commissioner should be the final action of the executive power and of the incidental *quasi* judicial powers included within the exercise of his discretionary power by the head of any Department, and shall be conclusive as to all matters within the executive power, and that if his decision is sought to be reviewed, it shall be by the courts charged with the exercise of the judicial power of the United States, and upon questions within that judicial power.

These are the reasons for the amendments recommended by the committee, enlarging, defining, and making clear the remedies in the courts. These amendments reject the so-called appeal from the Commissioner to a single judge, acting as commissioner *pro hac vice* in each case, and provide for proceedings in the courts of the United States, by which the final action of the Patent Office can be reviewed judicially and with effect.

Into this forum every contested case must come sooner or later, and it is for the interest of every litigant that the proceedings should be without unnecessary delay or expense, and be as complete and conclusive as they can be made. It may not strike the ear as a perfectly plain or self-evident proposition, but I can say from personal experience that it is nevertheless true that the remedies in equity in the courts of the United States, under the rules established by the Supreme Court, are the most speedy, the least expensive, and the most satisfactory of any known to the law. It is within this jurisdiction that we recommend that all these controversies should be brought and determined. The questions that arise in these controversies are subtile, not easy to understand, and difficult of determination. They arise out of the exercise of those powers of the mind which have added and which are constantly adding to the development of the material prosperity of the human race.

Patent laws are based upon the belief that the field of the useful arts may be extended, and that many things which may add to the comfort, the well-being, and the prosperity of mankind yet remain to be discovered. These laws give to every one who thus by his inventive genius adds to the sum of human knowledge in either of the ways indicated, a protection for a few years to the exclusive use of his invention or discovery. They offer a premium upon the exercise of this talent for the benefit of mankind. They recognize a man's right to the fruit of his own mind, upon the condition that he shall teach the public how to use his invention without price forever after the termination of the period for which his use is exclusive. Property in ideas, and protection to that property for a limited period, is the vital principle of these laws. If he who can teach us how to make two blades of grass grow where but one grew before is a public benefactor, how much more so is he who constructs for us a machine or explains to us a chemical process by the use of which one man can bring about a greater and more perfect result than a hundred men could do before? This is the domain of invention, and so far as it is genuine the law follows it with its protection for seventeen years.

But why protect it at all, say many. If an invention had not been perfected by this patentee to-day it would have been at some subsequent time by some other inventor. Why not wait and let it be produced in course of time, according to the necessities of the art in which it is developed, and without expense to the public? This objection touches precisely the point of the whole matter, and affords the best argument for the patent laws. It admits that invention is a question of time, and that the results of invention are desirable and valuable. The patent laws offer a premium upon the earliest time. If it be known that any art or manufacture could be improved by invention in any particular, the question is, is it likely that such improvement will be made sooner by protection of the inventor, or will it be delayed indefinitely without such protection? The solution of this question does not rest in speculation. The history of inventions determines it. The loom is as old as civilization, but the power-loom was perfected under the stimulus and protection of the patent laws. So was the machinery for spinning. The philosophy of steam may have been ancient, but the steam-engine is a creature of the patent laws.

These are but individual instances. They might be increased till the mind and memory would be burdened by the catalogue. The assurance that thought, skill, and inventive talent may gain fame, honor, and fortune, by an early solution of the problems in science and art that are pressing upon us, brings into the enjoyments of this age improvements and discoveries that might not have been known for centuries later. The theologians will not admit that any new developments or discoveries can be made in religion; the politicians have not advanced much in their arts beyond those we read about in ancient history; in the fine arts the greatest genius of the present day can hardly hope to excel "the old masters;" in architecture nothing has been produced within the last five hundred years to surpass that which has been known, admired, and reproduced for twenty-five hundred.

The sphere, therefore, in which original genius and inventive talent can best obtain recognition, honor, and reward is that of science and the useful arts. Therein, under the protection and fostering care of laws like that which we now reproduce, has been the greatest progress of the world within the last century, and in many branches of these arts the progress has been greater within the memory of living men than in the entire previous historic period. As the desires and necessities of mankind are the same in all generations there must be some reason why this advancement is found in the nineteenth century instead of in the ninth, or the tenth, or in any of those centuries which are mere barren wastes in the history of civilization. Certainly one reason is because there is some incentive in this era for the development of improvements in this sphere. It cannot be found in the necessities and desires of the race alone, for those have been always the same; and those who have ministered to their wants and necessities, with the means known to previous generations, have been the most strenuous opponents of the introduction of these new inventions.

It is not true, as argued by one of the most illustrious of the opponents of the patent laws in our time, that manufacturers will welcome and adopt an invention which seems to be called for by the necessities of their particular manufactures. This has never been the case where the profits of capital and labor have been disturbed by a new invention which created a revolution in a particular art or manufacture. "It may seem a paradox," says a distinguished author discussing "the rights and wrongs of inventors," "but it is no less true, that inventors' patrons are among their most inveterate opponents." The inventor of the machine for making paper, Fourdrinier, was driven out of France, and it took him ten years to introduce his machine into England in opposition to the methods of paper-making by hand. The inventor of the loom for weaving variegated patterns in fabrics, Jacquard, was in danger of his life from his colaborers in Lyons, and the capitalists and artisans, whose money and labor were dependent upon the use of the old looms for their profits, fought for years against the introduction of the revolutionary invention. The conflict is still recognized in our tariff laws. In our own country we know of the opposition to the steamboats, the locomotives, the mowing and reaping machines, the sewing-machines, the revolutionary inventions in the manufacture of carpets, paper, iron, and steel. In no case does the capitalist welcome an invention which requires him to reconstruct or lay aside the machinery used in the manufacture from which he derives a profit, nor is it looked upon with favor by the laborers, nine out of ten of whom it threatens to throw out of employ.

The necessities of any art or manufacture do not prompt invention. The conservative tendencies both of capital and labor array themselves against it. The inventor is more frequently than otherwise disconnected with the trade or manufacture to which his invention applies and from which he seeks his reward. But the necessities of the public, the consumers of the product of the art and manufacture, all the time demand improvement and increased cheapness. The premium to inventors by the limited protection of the patent laws is thus directly in the interest of the public. When it is said that an invention would have been made at some time if not at the time when it was made, without the stimulus of the patent laws, who can tell at what time? When would any modern invention that might be named, the sewing-machine, for instance, have been produced if the inventors had not expected a profit upon it?

What invention can be named which this generation would willingly have parted with and consented to have postponed till the next century by reason of the extravagant price we have paid for it under the patent laws, whose stimulus and protection have caused it to be made in our time? Would we, then, part with the cotton-gin, the locomotive, the steamboat, the electric telegraph, the sewing-machine, the cast-iron plow, the reaper, the machines for gathering the hay crop, the planing machine, the improved steam-engine, the rotary printing press? I have mentioned only those inventions which are embodied in wood and metal. But for the small consideration which the inventors or those working the inventions have received would we have parted in our time with vulcanized rubber and its thousand uses; with illuminating gas; with all the arts of dyeing and printing, which have extracted from waste weeds and the refuse of the gas factories the colors which vie with the Tyrian purple; with the wonders of the lithographic and photographic arts; and with all those wonderful substances, with almost magic properties, which are the products of chemistry as applied to the arts? I challenge a reply from the most bigoted opponent of the patent laws.

These inventors have been questioning nature, and her kind responses have been a benefit to themselves as well as benefactions to mankind. But while the law has encouraged them, capital, from its conservative instincts, has always been opposed to them. Those who have invested their means in the machinery and apparatus which is well known and in common use in any particular branch of manufacture do not like to be confronted with an inventor who can demonstrate that he can produce the articles manufactured in a better and cheaper manner by a method which requires new investments of capital and makes the old apparatus comparatively worthless. The manufacturers of the old musket did not welcome the inventors who brought them the breech-loader and the magazine rifle, requiring new tools for their construction and consigning the old to the scrap heap.

Invested capital would never encourage or adopt new and revolutionary inventions. It would be a benefit to all now engaged in manufactures if no new improvement was made in their machinery for twenty years, or until it was worn out. They would be saved the cost of making the changes required by the new invention. There is a historical anecdote which illustrates perfectly the relative position of the capitalist who believes that he has assured possession of the art in which his capital is invested and the inventor whose invention would render those investments of little value.

It is a remarkable incident in the history of the lost arts, preserved in the curious gossip of Petronius:

"A certain skillful workman used to make crystal vases as strong as vases of gold and silver. He produced an incomparable masterpiece. It was a chalice of astonishing beauty, which he thought worthy of Cæsar only, and which he felt a pride in offering to him. Tiberius highly praised the skill and the rich present of the artist. This man, wishing to increase still more the admiration of the prince, and secure his favors to a greater degree, begged of him to give back the vase. He then threw it with all his might on the marble pavement of the apartment; the hardest metal could never have resisted this terrible shock. Cæsar appeared moved, and was silent. The artist, with a triumphant smile, picked up the vase, which had only a slight dent, and which by striking it with the hammer was soon brought to its original state. This being done, no doubt remained in his mind that he had conquered the good graces of the Emperor and the esteem of an astonished court. Tiberius asked him if he was the only one who knew how to work crystal in so remarkable a manner. The workman immediately answered that no one possessed the secret. 'Very well,' said Cæsar, 'let his head be struck off without loss of time; for if this strange invention were known gold and silver would very soon have not the least value.'

"Thus did the Emperor Tiberius encourage artists and the arts."

And in the same way do our manufacturing capitalists encourage inventions and inventors. They unconsciously imitate Tiberius, and although they cannot, like Cæsar, strike off the impertinent inventor's head, they too often have turned him off to starve. But under our patent laws, as they were established in 1836, the inventor, if he be prudent and thrifty, is assured of a certain compensation. Under the existing constitution of the Patent Office, its seal is evidence that its possessor is entitled *prima facie* to a new and useful invention. The number of persons skilled in the useful arts, and the business to which they appertain, has largely increased. There are many skilled persons who can estimate with approximate correctness the value of every new invention. Under this American system of patents, in itself as great an invention as any that are protected by it, inventions have become commodities of marketable value. No inventor now needs to sacrifice his invention for subsistence. Some, perhaps, have anticipated the period of their greatest usefulness; but every genuine invention now has its value, a great portion of which can, with ordinary care and prudence, be realized by the inventor.

Without this protection we should return to the era of "secrets," when every valuable discovery was carefully guarded by its possessor, or parted with only upon terms which required the purchaser to be equally silent and uncommunicative. The public obtained no useful knowledge of the art and but a limited advantage from the working of the discovery. The evil consequences of that system were twofold. The knowledge of many valuable inventions and discoveries died with their possessors and are now among the lost arts; on the other hand, empirical processes of fictitious value were imposed upon manufacturers under the guise of "secrets" in the arts, and the whole subject of invention and the character of inventors became discredited and debased. The injury to the progress of the useful arts by these pretended secrets has been greater a thousandfold than any that has arisen from the abuse of even the most imperfect system of patent laws.

Now every invention published through the Patent Office adds something to our knowledge, and, if useful, increases the material wealth of the world. And I do not hesitate to say that the sum of these values, the aggregate increase to the wealth of this country, from the inventive genius of the people fostered and protected by the patent laws, has been greater than that derived from all the protective tariffs passed since the Government was organized under the Constitution. A protective tariff deals only with the known elements of labor and skill; as with cottons produced in this country with the same machinery, labor, and skill as they are produced in England and France, and with iron as produced in Scotland or Wales. But invention takes a stride forward of the known mechanism and processes, and calls for a higher degree of skill. Who can estimate the effects of the invention of the cotton gin upon this country? Not its value in money merely, but its effects socially, morally, and politically? Consider the results from the leading inventions I have named, and see how small are the results from the manufacture of coarse cottons and pig iron when compared with the great interests these inventions have created in the country.

The most distinguished of the opponents of the patent laws has argued in favor "of putting an end to the notion that every person who invented anything had a right to a patent," and that "the giving of patents was a matter of grace and favor in well-selected and discriminated cases, in the exercise of a discretion, by an authority intrusted with that discretion;" and in his superlative wisdom he expressed the opinion that "at the period of progress in the history of the arts and trade at which they had arrived they could do much better without these props. He called them props because they were meant to be so, but he believed that at present they were nothing but obstructions and hinderances to trade and the arts." This was said of the patent laws of Great Britain, where there is no preliminary examination and investigation into the rightfulness of the inventor's claim, but where any one can take a patent by paying the fees, if he claim to be either an inventor or the person who first introduced an invention into that country.

Our American system of patent law defies such narrow, carping, illiberal, and unjust criticism. It acknowledges and declares that the first and original inventor of anything new and useful has a vested right to its protection by a patent for a limited term, upon the compliance by the inventor with certain mild and prudent conditions. It provides for a discrimination which shall determine what the invention is, not as a matter of grace and favor, or in the exercise of an uncontrolled discretion, but as a matter of right as between the inventor and the public. It is not based upon the idea that invention has reached its highest flood, and must soon be subject to a returning ebb; or if the results of invention be likened to a structure, it does not consider that it is now complete and perfect, finished and furnished, and that the "props," which the patent laws were, may now be knocked away; nor does it consider that these laws are obstructions and hinderances to trade and the arts.

Under the beneficent provisions of these laws the results of the inventive genius of our people have developed, and are now being developed, in almost geometrical progression. Never at any time in the history of the world have so many and so valuable inventions been made known through the Patent Office. The inventors of all nations seek this country for the protection of its laws. Every invention thus acquired, as well as any now produced at home, is the planting of a new industry which needs no other protection from legislation, to grow and prosper than that which is afforded by these laws. The rise of this inventive genius is not like that of the tide which must reach its limit and recede, but like the increase and swelling of a river, which will not diminish while its course, which is that of time itself, shall continue.

There is nothing of which this nation may be more justly proud than its progress in the industrial and useful arts. No greater and more beneficial results to mankind have been attained in the whole history of the race than have been accomplished within the last three quarters of a century and in this country. If we look back over the whole history of invention we are surprised to see how meager and barren it is, compared with what has been achieved almost within our time. The country acknowledges always this great glory which its citizens have acquired. The nation takes pride in the record of the results of that inventive genius which is preserved in one of the grandest temples ever dedicated to art and science by any nation or in any age; and it knows that great as is its renown in arms, in the spread of liberty, and in the success of free government, there is no brighter coronal that adorns the Republic than that which is enwreathed from the contributions of its inventors to science and the useful arts.

The question then recurred on the amendment of Mr. HOLMAN, in section two, page 2, to strike out the words "one assistant commissioner."

The House divided; and there were—ayes 14, noes 53; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. JENCKES and Mr. HOLMAN.

The House again divided; and the tellers reported—ayes 26, noes 89.

So the amendment was rejected.

The question next recurred on the amendment of Mr. SARGENT, page 5, section ten, line seven, to strike out all after the word "and" to the end of the paragraph, as follows: "And when required by the Commissioner they shall hear and report upon claims for extensions, and perform such other duties as he may assign them;" and in lieu thereof insert the following:

In connection with the Commissioner they shall hear and determine upon claims for extensions, and shall perform such other like duties as may be assigned to them.

The House divided; and there were—ayes 18, noes 59; no quorum voting.

No further count was demanded, and the amendment was considered as rejected.

The question next recurred on the amendment of Mr. POLAND, to add to section eleven, which is as follows:

SEC. 11. In case of the death, resignation, absence, or sickness of the Commissioner, his duties shall devolve upon the assistant commissioner until a successor shall be appointed, or such absence or sickness shall cease.

These words:

And while such assistant commissioner shall so perform the duties of Commissioner he shall receive the same compensation as the Commissioner.

The House divided; and there were—ayes 13, noes 44; no quorum voting.

No further count was demanded, and the amendment was considered as rejected.

The question next recurred on the amendment of Mr. BUTLER, of Massachusetts, as follows:

Amend, by adding to the end of section thirty-four at the end of line nineteen, as follows:

And mere lapse of time before renewing or filing a new application, where a former application has been improperly or erroneously rejected, shall not be considered an abandonment in any application made before the passage of this act.

The House divided; and there were—ayes 18, noes 46; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. JENCKES, and Mr. BUTLER of Massachusetts.

The House again divided; and the tellers reported—ayes 35, noes 70; no quorum voting.

No further count was demanded, and the amendment was considered as rejected.

The question next recurred on the amendment of Mr. KERR, as follows:

Add to section thirty-four:

And provided further, That no application of the kind mentioned in the foregoing proviso shall be refiled or revived for the purpose of interfering with existing patents; and patents hereafter granted on such application shall not be held in any event to impair or supersede any existing patents.

The motion was disagreed to.

The question next recurred on the amendment of Mr. CLEVELAND, to strike out the following section:

SEC. 70. On all patents hereafter granted there shall be paid the following additional fees, namely, at or before the expiration of the term of seven years from the date of the patent, the sum of twenty-five dollars, and at or before the expiration of the term of twelve years from the date of the patent the further sum of fifty dollars, and in default of the payment

of either of the sums aforesaid, within the periods aforesaid, the said patent shall be forfeited and the invention so patented become public property.

The House divided; and there were—ayes 26, noes 44; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. ROOTS and Mr. CLEVELAND.

The House again divided; and the tellers reported—ayes 76, noes 47.

So the amendment was agreed to.

The verbal amendments indicated by the committee were agreed to.

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

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President, communicated by Mr. HORACE PORTER, his Private Secretary, informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 1346) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1870, and for other purposes;

An act (H. R. No. 1542) to authorize the city of Buffalo, New York, to construct a tunnel under Niagara river, and to erect and maintain an inlet pier therefrom; and

An act (H. R. No. 1775) to relieve C. B. Sabin, of Harris county, Texas, from legal and political disabilities imposed by the fourteenth amendment to the Constitution of the United States.

NAVAL APPROPRIATION BILL.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, I wish to call the attention of the House to the fact that there are seven appropriation bills to be considered by the House. The chairman of the Committee of Ways and Means, recognizing the importance of having these bills advanced, consented to-day to yield his privilege in connection with the tariff bill to allow me to move the House into Committee of the Whole to consider the naval appropriation bill. We cannot get through it to-day unless we have an evening session, as I understand that several gentlemen desire to speak on the bill. Pending, therefore, the motion that the House resolve itself into Committee of the Whole on the naval appropriation bill, I will move that at half past four the Committee of the Whole take a recess until half past seven.

Mr. BROOKS, of New York. Let me understand what the gentleman proposes. Does he intend to take a vote this evening?

Mr. WASHBURN, of Wisconsin. It is very desirable that the bill should be disposed of to-day, if possible, because the tariff bill will again come up to-morrow.

Mr. BROOKS, of New York. I understand the gentleman to say that there are several gentlemen who desire to speak on the bill.

Mr. WASHBURN, of Wisconsin. I am aware that there are three or four gentlemen who desire to speak before the bill is taken up by paragraphs. I desire that the bill should be considered by paragraphs this evening and passed if possible.

The motion that the Committee of the Whole should take a recess from half past four o'clock until half past seven was agreed to.

Mr. WASHBURN, of Wisconsin. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union for the consideration of the naval appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. ELDRIDGE in the chair,) and proceeded to the consideration of the special order, being the bill (H. R. No. 1583) making appropriations for the naval service for the year ending 30th June, 1871.

Mr. WASHBURN, of Wisconsin. I move that the first reading of the bill be dispensed with.

The CHAIRMAN. That can only be done by unanimous consent. Is there objection?

Mr. MYERS. I object.

The Clerk proceeded to read the bill. When it had been in part read,

Mr. MYERS. I withdraw my objection to dispensing with the first reading of the bill.

Mr. HOLMAN. Then I object.

The Clerk resumed the reading of the bill. Before he had concluded the reading,

Mr. HOLMAN. I withdraw the objection.

Objection having been withdrawn, the further reading of the bill was dispensed with.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, the bill now under consideration for the support of the Navy for the ensuing year appropriates the sum of $16,641,845 62. The estimate was for $24,598,277. The reduction from the estimates is nearly eight million dollars, or to be entirely accurate $7,956,431 38, and the appropriation exceeds the appropriations of the present fiscal year by $1,321,597. I propose to point out wherein the reductions have been made on the estimates, and the reasons for such reductions, and also where an increase has been made on the appropriations for last year and the reasons for such increase.

The first item in the bill appropriates the sum of $4,000,000 for the pay of officers &c., or a reduction of $1,000,000 from the estimates, and the second the sum of $2,500,000, or a reduction of $1,100,000 from the estimates. These appropriations are less than those of last year by $500,000, and are more than sufficient to pay all the officers and men now in the Navy under existing law, but less than they would be allowed under the order of Mr. Welles made in 1866. The following table shows the number and class of officers in the Navy and the estimated amount of their pay under the law and the amount in spite of law. The estimate it will be seen was made for the fiscal year ending June 30, 1870:

Estimate of appropriations required under the head "Pay of the Navy" for the payment of commissioned and warrant officers at sea, on shore, on special service; of those on the retired list and unemployed, and for the transportation of officers traveling under orders, for the fiscal year ending 30th June, 1870.

Rank.	Estimated aggregate pay.	Estimated allowances for rent of quarters, fuel, transportation of baggage, &c.	Total pay and allowances.
1 Admiral	$10,000	$3,333 33	$13,333 33
1 Vice Admiral	7,000	2,333 33	9,333 33
10 Rear admirals, pay ranging from $3,000 to $5,000 each	35,000	11,666 67	46,666 67
25 commodores, pay ranging from $2,400 to $4,000 each	78,400	26,133 33	104,533 33
50 captains, pay ranging from $2,100 to $3,500 each	147,000	49,000 00	196,000 00
90 commanders, pay ranging from $1,680 to $2,800 each	201,600	67,200 00	268,800 00
180 lieutenant commanders, pay ranging from $1,500 to $2,343 each	379,620	126,540 00	506,160 00
180 lieutenants, pay ranging from $1,200 to $1,875 each	315,000	105,000 00	420,000 00
160 masters, pay ranging from $960 to $1,500 each	240,000	80,000 00	320,000 00
160 ensigns, pay ranging from $768 to $1,200 each	192,000	64,000 00	256,000 00
450 midshipmen, pay ranging from $500 to $800 each	255,000	85,000 00	340,000 00
50 mates, pay ranging from $480 to $720 each	29,400	9,800 00	39,200 00
80 surgeons, pay ranging from $1,600 to $3,300 each	228,000	76,000 00	304,000 00
60 passed assistant surgeons, pay ranging from $1,100 to $1,500 each	80,000	26,666 67	106,666 67
60 assistant surgeons, pay ranging from $800 to $1,250 each	62,000	20,666 66	82,666 66
80 paymasters, pay ranging from $1,400 to $3,330 each	230,850	76,950 00	307,800 00
40 passed assistant paymasters, pay ranging from $1,200 to $1,500 each	60,000	20,000 00	80,000 00
30 assistant paymasters, pay ranging from $1,000 to $1,300 each	36,500	12,166 67	48,667 67
50 chief engineers, pay ranging from $1,500 to $3,300 each	130,500	43,500 00	174,000 00
125 first assistant engineers, pay ranging from $1,100 to $1,500 each	187,500	62,500 00	250,000 00
125 second assistant engineers, pay ranging from $900 to $1,200 each	142,500	47,500 00	190,000 00
19 chaplains, pay ranging from $1,200 to $1,875 each	29,625	9,875 00	39,500 00
11 professors, pay ranging from $960 to $1,800 each	19,800	6,600 00	26,400 00
9 constructors and assistants, pay ranging from $1,600 to $3,200 each	23,500	7,833 33	31,333 33
52 boatswains, pay ranging from $600 to $1,450 each	62,400	20,800 00	83,200 00
52 gunners, pay ranging from $600 to $1,450 each	62,400	20,800 00	83,200 00
35 carpenters, pay ranging from $600 to $1,450 each	42,000	14,000 00	56,000 00
30 sailmakers, pay ranging from $600 to $1,450 each	36,000	12,000 00	48,000 00
Retired list.			
20 Rear admirals, pay ranging from $2,000 to $4,000 each	50,000	16,666 67	66,666 67
59 commodores, pay ranging from $1,000 to $3,200 each	106,800	35,600 00	142,400 00
32 captains, pay ranging from $1,000 to $2,800 each	55,200	18,400 00	73,600 00
16 commanders, pay ranging from $1,000 to $2,240 each	24,940	8,313 33	33,253 33
3 lieutenant commanders, pay $1,300 each	3,900	1,300 00	5,200 00
6 masters, pay ranging from $800 to $1,200 each	5,600	1,866 67	7,466 67
1 midshipman, pay $500	500	166 67	666 67
25 surgeons, pay ranging from $1,300 to $2,000 each	39,500	13,166 66	52,666 66
3 passed assistant surgeons, pay $1,000 each	3,000	1,000 00	4,000 00
4 assistant surgeons, pay $800 each	3,200	1,066 67	4,266 67
14 paymasters, pay ranging from $1,600 to $2,800 each	26,000	8,666 66	34,666 66
1 chief engineer, pay $1,600	1,600	533 34	2,133 34
6 first assistant engineers, pay ranging from $800 to $1,500 each	7,600	2,533 33	10,133 33
9 second assistant engineers, pay ranging from $800 to $1,200 each	5,200	1,733 33	6,933 33
8 chaplains, pay ranging from $1,000 to $1,500 each	9,500	3,166 67	12,666 67
2 professors, pay ranging from $960 to $1,800	2,760	920 00	3,680 00
2 constructors, pay $1,600 each	3,200	1,066 67	4,266 67
6 boatswains, pay ranging from $1,000 to $1,200 each	6,400	2,133 34	8,533 34
6 gunners, pay ranging from $1,000 to $1,200 each	6,200	2,066 67	8,266 67
6 carpenters, pay ranging from $1,000 to $1,200 each	6,600	2,200 00	8,800 00
6 sailmakers, pay $1,000 each	6,000	2,000 00	8,000 00
	$3,697,295	$1,232,431 67	$4,929,726 67

Total pay and allowances of officers	$4,929,726 67
Traveling expenses	80,000 00
Total	$5,009,726 67

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

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kiss, Kelley, Kelsey, Ketcham, Knapp, Laflin, Lawrence, Loughridge, Lynch, Maynard, McCarthy, McCrary, McKee, Mercur, William Moore, Morphis, Myers, O'Neill, Packard, Peck, Peters, Phelps, Potter, Randall, Sargent, Sawyer, Schenck, John A. Smith, William Smyth, Starkweather, Stevens, Stiles, Tanner, Townsend, Twichell, Tyner, Ward, Cadwalader C. Washburn, William B. Washburn, Wells, and Williams—67.

NOT VOTING—Messrs. Adams, Ambler, Ames, Archer, Axtell, Ayer, Bailey, Banks, Barry, Beck, Biggs, Boles, Booker, Bowen, Boyd, George M. Brooks, Buck, Bardett, Burr, Benjamin F. Butler, Calkin, Churchill, William T. Clark, Sidney Clarke, Cleveland, Conner, Crebbs, Davis, Dickinson, Duval, Dyer, Ela, Fox, Hubbeman, Hambleton, Hay, Hays, Heaton, Hoge, Jenckes, Alexander H. Jones, Julian, Lash, Mayham, McGrew, McKenzie, Milnes, Jesse H. Moore, Daniel J. Morrell, Morrissey, Mungen, Negley, Perce, Platt, Poland, Porter, Prosser, Reeves, Rice, Ridgway, Roots, Sanford, Schumaker, Porter Sheldon, Slocum, Worthington C. Smith, Stevenson, Stone, Taylor, Van Horn, Van Trump, Whitmore, Wilkinson, and John T. Wilson—74.

So the motion was agreed to.

And thereupon, (at four o'clock and five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ARCHER: The petition of Nathaniel Leithiser, of Havre de Grace, Maryland, praying relief.

By Mr. BUCK: The petition of A. N. Jones and others, for a post route to be established from Evergreen to Cokerville, Alabama.

By Mr. DONLEY: The petition of J. J. Anderson, of Rochester, Pennsylvania, asking for a renewal of his patent for an improved cooking stove.

By Mr. HOOPER, of Massachusetts: The petition of Charles Colburn for compensation for services as a yeoman in the Navy.

By Mr. McCARTHY: A petition of 176 business firms and individuals of Syracuse, New York, against the passage of the funding bill in its present form. That it would disturb and unsettle the condition of the national banking system. Against any contraction of the legal-tender currency. Also, against any attempt to force a loan upon the banks, unsettling their condition and materially affecting the business of the country.

By Mr. MAYNARD: The petition of Rev. Jonathan L. Mann, of Knoxville, Tennessee, late chaplain ninth regiment Tennessee volunteer cavalry, praying compensation for his services as such officer.

By Mr. SARGENT: The memorial of Isaiah Lees and Henry H. Ellis, of San Francisco, California, praying for compensation for services as detectives.

By Mr. STRONG: The petition of John L. Bruce and others, citizens of Hartford, Connecticut, for abrogation of legacy and succession taxes.

By Mr. WILLARD: The petitions of Russell G. Sherman, Austin A. Rowell, and Henry A Lincoln, praying for bills to return commutation money.

IN SENATE.

MONDAY, *April* 25, 1870.

Prayer by the Chaplain, Rev. J. P. NEWMAN, D. D.

The Journal of Friday last was read and approved.

PRIVATE LAND CLAIMS IN NEW MEXICO.

The VICE PRESIDENT. The Chair will submit a joint resolution from the House of Representatives, which was submitted on Friday last, but the Senator from Oregon, the chairman of the committee to whom it was proposed to have it referred, stated that they had examined it and desired the Senate to pass it at once. It will be reported in full, subject to objection.

The joint resolution (H. R. No. 116) to construe an act entitled "An act to amend an act entitled 'An act to confirm certain private land claims in the Territory of New Mexico,'" was read. It provides that so much of the act approved February 25, 1869, as requires that derivative claimants from Vigil and St. Vrain shall establish their claims to the satisfaction of the register and receiver of the proper land district within one year from the passage of the act, shall be so construed as to authorize the presentation of the derivative claims within one year from the approval of subdivisional surveys contemplated by the act of February 25, 1869. All settlers entitled by the act to the rights of preëmption or homestead are to have the further time of thirty days after notice in their favor of their respective claims to file their declaratory statements as to preëmptors, or to make entry under homestead laws, as they may select.

The joint resolution was considered as in Committee of the Whole.

Mr. WILLIAMS. I will state that this joint resolution is in the interest of the settlers upon these lands, and a similar bill has been carefully considered by the Committee on Private Land Claims of the Senate and reported back, and is now on the Calendar. This joint resolution passed the House on Friday last, and if there be no objection I hope it will be disposed of now. It simply provides that the settlers upon these lands shall have a year from the time when the surveys are completed within which to preëmpt and purchase their lands, instead of a year from the passage of the act, because it is probable the surveys could not be completed within a year from the passage of the act, so as to enable the settlers to avail themselves of their claims.

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

HOUSE BILLS REFERRED.

The bill (H. R. No. 387) for the relief of Charles Pitcher, and the bill (H. R. No. 1831) to confirm the title to the Rancho del Rio Grande, in New Mexico, to the heirs and legal representatives of the original grantees thereof, were severally read twice by their titles, and referred to the Committee on Private Land Claims.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a resolution of the Legislature of Iowa, in favor of an appropriation for the completion of the improvement of the Fox and Wisconsin rivers; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a resolution of the Legislature of Iowa, in favor of a grant of land to aid in the construction of a railroad from some point on the Missouri river between the parallel of forty-two and a half degrees north latitude and the mouth of the Niobrara river to the Pacific ocean, via the city of Helena, Montana; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. POOL presented the petitions of William R. Young, Buncombe county, North Carolina; of R. W. Allison, Cabarras county, North Carolina; of James R. Duty, Granville county, North Carolina; of R. K. Speed, Pasquotank county, North Carolina; of R. W. Logan, Rutherford county, Virginia; of William A. Walker, John W. McCauley, James W. Lee, and Andy Murray, jr., Alamance county, North Carolina; of Nathan Scoggin, Rutherford county, North Carolina; of Thomas P. Paschall, Warren county, North Carolina; of Rufus H. Slater, Wake county, North Carolina; of W. F. Drake, Jackson county, North Carolina; of Edmund J. Barco, Elijohut city, North Carolina; of R. A. McLaughlin, Iredell county, North Carolina, and of Nicholas Peebles, Jackson county, North Carolina, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

He also presented the petition of C. A. Carolton and others, of North Carolina, in behalf of James H. Stevenson, of that State, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. ROBERTSON presented the petitions of Robert Speer, Barlow county, Georgia; of George N. Forbes, Talbot county, Georgia; and of W. N. Pendergrast, Walton county, Georgia, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

Mr. ABBOTT presented the petition of John M. Freeman, of Franklin county, Georgia, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. McCREERY presented the petition of Graham Hughes, of Daviess county, Kentucky, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

He also presented the petition of Peter W. Mayo, James Stuart, and W. S. McFarland, members of the Republican party of Daviess county, Kentucky, in behalf of Graham Hughes of that State, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. COLE presented the memorial of Thomas H. Selby, of San Francisco, California, remonstrating against a reduction of the duty on pig lead; which was referred to the Committee on Finance.

Mr. SHERMAN. I desire to present the petition of the board of aldermen and the board of councilmen of the city of Cincinnati, Ohio, in regard to the Louisville and Portland canal. They represent to Congress the incalculable injury which their city and that whole region is suffering in its commerce and manufacturing by reason of the obstruction of a railroad bridge erected by authority of Congress across the Ohio river at the falls, opposite Louisville, Kentucky. They also set out at great length the injury to the commerce of that vast region of country by the slowness of the progress of the work on the enlargement of the Louisville and Portland canal. This is a subject that excites, perhaps, more interest in that vast region, from the city of Wheeling to New Orleans, than any other subject of our internal domestic affairs. I think the showing for the completion of this work is probably as strong as it can be for the construction of any work of internal improvement. The whole work now belongs to the national Government and could be completed by an appropriation of $150,000. I trust, therefore, that the Committee on Appropriations, to whom I shall ask that this petition be referred, will consider it, and comply with the prayer of the petitioners by giving the necessary appropriation in the general appropriation bill, without awaiting the action of Congress upon the river and harbor bill. I move the reference of the petition to the Committee on Appropriations.

The motion was agreed to.

Mr. RAMSEY. I have a communication from the Postmaster General, addressed to the Committee on Post Offices and Post Roads, containing some very valuable statistics on the subject of mail communication between this country and China. I move that it be printed for the use of the Senate, and laid on the table.

The motion was agreed to.

PAPERS WITHDRAWN.

On motion of Mr. POMEROY, it was

Ordered, That E. Lockwood, agent for Charles Rosefield, have leave to withdraw his petition and papers from the files of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1714) to revise, consolidate, and amend the

statutes relating to patents and copyrights, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the bill (S. No. 95) in relation to the Hot Springs reservation, in Arkansas, with an amendment, in which the concurrence of the Senate was requested.

The message also announced that the House disagreed to the amendment of the Senate to the bill (H. R. No. 1595) to amend an act entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives and to provide for their future apportionment among the several States," approved May 23, 1850, asked a conference upon the disagreeing votes of the two Houses thereon, and had appointed Mr. J. A. GARFIELD of Ohio, Mr. W. B. ALLISON of Iowa, and Mr. S. S. COX of New York, managers at the conference on the part of the House of Representatives.

The message further announced that the House non-concurred in the amendment of the Senate to the joint resolution (H. R. No. 120) declaratory of the meaning and intention of the law relating to income tax.

REPORTS OF COMMITTEES.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred a message of the President of the United States, communicating a report from the Secretary of State relating to the results of the proceedings of the joint commission at Lima, under the convention between the United States and Peru of the 4th of December, 1868, in relation to the claim of Esteban G. Montano, and recommending an appropriation to discharge the obligation of the United States in said case, have had the same under consideration, and have directed me to report a bill. As the bill is simply to carry into execution a recommendation of the President of the United States in pursuance of an award just made by the joint commission of the United States and Peru, I think it had better be acted upon at once. Promptitude on our part will tend to secure promptitude on the part of the Peruvian Government; and as the claims of our citizens are much larger in amount than the claims of the Peruvians we shall be the gainers. I hope the Senate will act on this bill at once.

The VICE PRESIDENT. Is there objection to the request of the Senator from Massachusetts?

Mr. TRUMBULL. I thought it was understood that we were to go on regularly with the whole Calendar; and if this bill goes on the Calendar it will be reached in two or three days.

Mr. SUMNER. It is important that it should be acted on at once.

Mr. TRUMBULL. Why acted on to-day rather than to-morrow? Two or three days will not make any difference. I think it had better go on the Calendar.

The VICE PRESIDENT. The bill will receive its first reading and then be placed upon the Calendar.

The bill (S. No. 833) authorizing payment to Esteban G. Montano, a citizen of Peru, of the amount awarded to him under the claims convention between the United States and Peru of December 4, 1868, was read, and passed to a second reading.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the joint resolution (H. R. No. 131) granting an American register to the British-built schooner W. D. B., reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 227) granting an American register to the British-built schooner Venilia, reported it without amendment.

He also, from the same committee, to whom was referred a memorial of the National Board of Trade, in favor of the establishment by the General Government of a department of commerce, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 1596) for the relief of the Sisters of our Lady of Mercy, of Charleston, South Carolina, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 12) authorizing the sale of the Fort Leavenworth military reservation to the Kansas Agricultural and Mechanical Association of Leavenworth county, in the State of Kansas, for fair grounds, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 222) granting condemned guns for soldiers' monument at Fairmount Cemetery, Newark, New Jersey, reported it without amendment.

He also, from the same committee, to whom was referred the petition of James McCullum, of Massachusetts, praying for remuneration for services performed during the late war in erecting two monuments: one on the battle-field of Groveton, Virginia, and the other on the battle-field of Bull Run, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. WILLEY, from the Committee on Patents, to whom was referred the bill (H. R. No. 1488) for the relief of Elizabeth N. Jackson, reported adversely, and moved its indefinite postponement; which was agreed to.

Mr. STEWART. The Committee on the Judiciary, to whom was referred the bill (S. No. 810) to enforce the fifteenth amendment to the Constitution of the United States, have instructed me to report it with an amendment in the nature of a substitute for the bill. I move that it be put on the Calendar of special orders.

Mr. FERRY. I object.

Mr. STEWART. I suppose I can make that motion, notwithstanding the objection.

The VICE PRESIDENT. It cannot be considered this day if there is objection. The motion can be entered.

Mr. STEWART. Very well. Let it be entered and I will call it up to-morrow.

The VICE PRESIDENT. The bill will be placed on the Calendar.

Mr. STEWART, from the Committee on the Judiciary, to whom were referred the bill (S. No. 503) extending the provisions of the civil-rights bill for the enforcement of the fifteenth amendment of the Constitution, the bill (S. No. 538) to enforce the fifteenth amendment of the Constitution of the United States, the bill (S. No. 598) to enforce the amendment of the Constitution declaring that the right to vote shall not be denied or abridged on account of race, color, or previous condition of servitude, and the bill (S. No. 744) to enforce the fifteenth amendment to the Constitution of the United States, moved their indefinite postponement; which was agreed to.

Mr. CORBETT, from the Committee on Commerce, to whom was referred the bill (S. No. 702) to establish a port of entry at Vallejo, California, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, reported a bill (S. No. 834) to create a port of delivery at Vallejo, California; which was read and passed to a second reading.

Mr. PRATT, from the Committee on Pensions, to whom were referred the petitions of Johanna Roach and F. W. Bogan, praying to be allowed arrears of pension, submitted adverse reports thereon; which were ordered to be printed.

HOT SPRINGS RESERVATION.

On motion of Mr. RICE, the amendment of the House of Representatives to the bill (S. No. 95) in relation to the Hot Springs reservation in Arkansas was referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 835) for the relief of Elijah M. Hart; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. STOCKTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 836) for the relief of Jane Allen Birkland; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 837) to amend an act supplemental to the act approved 1st July, 1864, for the disposal of coal lands and of town property in the public domain, approved March 3, 1865; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. POOL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 838) for the relief of Allen Rutherford; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

Mr. PRATT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 839) amending the act entitled "An act to grant pensions," approved July 14, 1862; which was twice read by its title, referred to the Committee on Pensions, and ordered to be printed.

Mr. ABBOTT asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 180) for the relief of William Donnelly and Patrick Egan; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

NINTH CENSUS.

Mr. BAYARD. In the absence of the Senator from New York, [Mr. CONKLING,] chairman of the Committee on the Revision of the Laws, and in his behalf, I ask that a committee of conference be appointed by the Chair, in response to the request of the House of Representatives, on the census bill.

The VICE PRESIDENT. The Senator from Delaware, on behalf of the chairman of the Committee on the Revision of the Laws, who is absent, asks the Senate to insist upon its amendment to the bill (H. R. No. 1595) to amend an act entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and to provide for their future apportionment among the several States," approved May 23, 1850, disagreed to by the House of Representatives, and agree to the conference asked for by the House on the disagreeing votes of the two branches. The question is on this motion.

The motion was agreed to.

By unanimous consent, the Vice President was authorized to appoint the conferees on the part of the Senate; and Messrs. CONKLING, BAYARD, and CARPENTER were appointed.

INCOME TAX.

Mr. SHERMAN. I move that the Senate insist on its amendment to the joint resolution (H. R. No. 120) declaratory of the meaning and intention of the law relating to income tax, and ask for a conference upon the disagreeing votes of the two Houses.

The motion was agreed to; and the Vice President being authorized to appoint the committee of conference on the part of the Senate, Messrs. SHERMAN, WILLIAMS, and MORRILL of Vermont were appointed.

CALENDAR OF RESOLUTIONS.

The VICE PRESIDENT. If there be no resolutions of the Senate to be offered the Calendar of resolutions laid over is now in

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

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prietors or places of public amusements'' the following:

And the owner or lessee of any permanently located building used for any exhibition, performance, show, or entertainment to which admission is given for pay, except such as are hereinafter specifically exempted, shall be subject to and pay a tax of three per cent. on the gross receipts derived by such owner or lessee from such exhibition, performance, show, or entertainment.

Mr. Speaker, I do not believe it to be the policy of this Government to crush out of existence all permanently established places of amusement, such as theaters, opera-houses, &c.

Mr. ALLISON. The gentleman will permit me to say that we have reduced the tax from three to one per cent., which is one half of the present rate of tax.

Mr. INGERSOLL. I know the rate has been reduced, but my present motion is directed especially against the principle of taxing gross receipts. I am opposed to the taxation of gross receipts. I do not believe that such a system of taxation has a single element of equity in it. A tax on gross receipts without regard to whether the business pays a profit or not, cannot be justified by any correct principle of taxation. A place of legitimate and moral amusement may receive during a year $100,000, and yet so far from making profit, it may actually lose money; yet you propose that, irrespective of the success of the business, a tax shall be paid on the amount of the gross receipts. In my opinion there is no business that should be taxed on its gross receipts.

I am aware that the provision of the bill has been amended so as to make the tax one per cent. instead of three per cent. In this form the tax is not so odious, so far as regards its amount; but the principle of the tax is just as odious. It is a false basis on which to rest any system of taxation. If my amendment accomplishes nothing more, I shall at least have entered my protest against the principle of taxation on gross receipts.

[Here the hammer fell.]

Mr. SCHENCK. I rise to oppose the amendment. I shall not discuss it further than to say that I hope it will be voted down.

The amendment was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 948) amendatory of an act approved February 5, 1867, and joint resolution approved March 28, 1867, relative to judges and commissioners of election in the cities of Washington and Georgetown, District of Columbia.

Mr. BIRD. I move that the House adjourn.

On the motion there were—ayes 46, noes 78.

Mr. BIRD. I call for tellers.

Tellers were not ordered.

So the motion was not agreed to.

INTERNAL TAX BILL.

Mr. LOGAN. I move to amend the paragraph relating to distillers by striking out the following:

Provided, however, That the provisions of this section shall not apply to any authorized distiller who shall purify or refine distilled spirits of his own production, in the course of original distillation, from mash, wort, or beer, through continuous closed vessels and pipes, until the manufacture thereof is complete.

When the last bill relating to this subject was before this House there occurred a discussion which members doubtless recollect. The bill then under consideration provided that rectifying establishments should not be located within six hundred feet of distilleries, the object being to prevent fraud by collusion between rectifiers and distillers. It will be remembered that Mr. Harding, of Illinois, then a member of the House, moved at that time an amendment embracing the same proposition contained in this proviso, that continuous distillation by distillers be permitted, so that rectification and distilling might be carried on in the same place. That amendment received but seven votes in this House; yet it now comes here as one of the provisos of this bill. It seems to me the Committee of Ways and Means cannot have given this matter proper consideration. While the present law forbids the location of a rectifying establishment within six hundred feet of a distillery, this bill proposes that the distiller may himself carry on rectifying. The object of this proposed change in the law I cannot understand. I hope the House will strike out the proviso. I am satisfied the committee on a full examination would not be in favor of it.

Mr. PROSSER. In reply to the remarks of the gentleman from Illinois, [Mr. LOGAN,] I wish to say that I hope this proviso will not be stricken out, for the reason that distillation through continuous pipes does not interfere in any way whatever with the rectification of whisky. The provision of the bill in this respect is just and right. It will give the distiller an opportunity to make whisky through continuous closed vessels and pipes, thus precluding many opportunities which now exist for fraud. The provision does not interfere at all with the rectifier. I am satisfied that if the gentleman from Illinois would investigate this subject he would agree with the committee that the proviso ought to be enacted. Unless I am very much mistaken it was the intention of the framers of the existing law that continuous distillation should be permitted, not prohibited.

Mr. LOGAN. The gentleman is entirely mistaken.

The question being taken on the amendment of Mr. LOGAN, there were—ayes 26, noes 52.

Mr. LOGAN. I demand the yeas and nays on this proposition.

Mr. ELDRIDGE. I move that the House do now adjourn.

The House divided; and there were—ayes 65, noes 53.

Mr. SCHENCK. I call for tellers on this motion.

Tellers were ordered; and Mr. SCHENCK and Mr. ELDRIDGE were appointed.

The House again divided; and the tellers reported that there were—ayes 65, noes 48.

So the motion was agreed to; and accordingly (at four o'clock and fifteen minutes p. m.) the House adjourned till Tuesday next at eleven o'clock a. m.

PETITIONS, ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CONNER: A memorial of 350 citizens of the northwestern frontier of Texas, relative to Indian depredations, and praying for relief.

By Mr. KELLEY: The petition of John Davis, corporal of the night-watch on board the United States ship Octorora, for pension.

By Mr. LYNCH: The petition of C. L. Stone, and others, citizens of Maine, asking the erection of a monument on Goat Island, entrance of Cape Porpoise harbor.

By Mr. McKENZIE: The petition of Allen Manuel, a soldier of the war of 1812, asking for a pension.

By Mr. WELLS: The petition of Rebecca S. Spence, a resident of Tennessee, asking payment of rent and damages to houses occupied by the Government.

Also, a petition from the Union Merchants' Exchange of the city of St. Louis, Missouri, asking Congress to authorize the construction of a post office and Federal court-house in said city.

Also, a petition from the Board of Trade, Union Merchants' Exchange, mayor, and committee of the citizens of the city of St. Louis, requesting Congress to authorize the construction of a Federal court-house and post office in said city.

IN SENATE.

TUESDAY, *May* 31, 1870.

Prayer by the Chaplain, Rev. J. P. NEWMAN, D. D.

The Journal of Saturday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. SAWYER presented the petition of William Lewis Lee, of Williamsburg, South Carolina, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. OSBORN presented the petition of William F. Russell, of Orlando, Orange county, Florida, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. McDONALD presented the petition of Thomas I. Bolger, of Magnolia, Arkansas, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. POOL presented the petition of Cynthia A. Mizell, mother of Zedekiah M. Mizell, late of the county of Bertie, North Carolina, and a corporal in company C first regiment North Carolina volunteers, who died in the service of the United States, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of L. J. Labarlie, heir, and for the co-heirs of Lewis Leroy, deceased, of Raleigh, North Carolina, praying damages for property captured, condemned, or confiscated by the French Government during the war between that Government and the United States in 1798-1801; which was ordered to lie on the table, the subject of the French spoliation claims having been reported upon by the Committee on Foreign Relations.

He also presented the petition of T. A. R. Caldwell, of North Carolina, praying the removal of the political disabilities imposed on James Monroe Kincaid; which was referred to the select Committee on the Removal of Political Disabilities.

He also presented the petitions of J. Monroe Kincaid, of Burke county, North Carolina; of William T. Dortch, of Wayne county, North Carolina, and of William Laws, of Wake county, North Carolina, praying the removal of their political disabilities; which were referred to the select Committee on the Removal of Political Disabilities.

He also presented the petition of Thomas A. R. Caldwell, of Burke county, North Carolina, praying that some further legislation may be had on the subject of distilling fruit into brandy in small stills; which was referred to the Committee on Finance.

Mr. REVELS presented the petition of A. Burwell, of Vicksburg, Mississippi, praying aid from the United States Government for losses sustained during the late war by reason of the orders of military commanders; which was referred to the Committee on Claims.

Mr. FLANAGAN presented the petition of D. U. Barziza, of Houston, Texas, praying the removal of his political disabilities; which was referred to the select Committee on the Removal of Political Disabilities.

Mr. CONKLING. I present the memorial of a large number of dealers in tobacco in the city of New York, remonstrating against an increase of the tax on tobacco which shall be invidious as to smoking tobacco, and praying for a uniform rate of taxation. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. SPENCER presented a petition of citizens of Florence, Alabama, praying such an appropriation for the improvement of the Tennessee river as will secure a general navigation from its mouth to its source; which was referred to the Committee on Commerce.

He also presented the petition of Ebenezer G. Young, of Florence, Alabama, praying

been agreed to by the Committee on the Public Lands of the House of Representatives, but it is not expected that that committee will be called again during this session, and it is desirable to get it on to the Speaker's table as early as possible. A bill to extend the time for completing this railroad passed the Senate at the last session, but it has been amended by the Committee on the Public Lands of the House, taking further security from the company that the work shall be done.

Mr. CASSERLY. This joint resolution seems to have been reported back from the Committee on Public Lands of this body "by Mr. SPENCER." Perhaps the chairman of the committee, who is present, can state how that is.

Mr. POMEROY. The bill was committed to Mr. SPENCER to report, as he had the papers in charge committed to him by the committee.

Mr. CASSERLY. My attention was attracted to that because the Senator from Alabama is not a member of the Committee on Public Lands.

Mr. POMEROY. The Senator will excuse me; I was thinking of the Senator from Florida, [Mr. OSBORN.]

Mr. CASSERLY. The printed bill says it was "reported by Mr. SPENCER."

Mr. POMEROY. That is a misprint.

Mr. OSBORN. I did not report it.

Mr. POMEROY. I gave it to some member of the committee; I thought it was the Senator from Florida. It was not given to Mr. SPENCER; and that statement on the bill is a misprint. I do not remember which member of the committee reported it.

Mr. HOWE. It was the Senator from Rhode Island, [Mr. SPRAGUE.]

Mr. POMEROY. Yes, I remember now. It was reported by the Senator from Rhode Island.

Mr. CASSERLY. What I desired to know was whether it had been considered by the Committee on Public Lands and recommended as it is now proposed?

Mr. POMEROY. It has been.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

PAPERS WITHDRAWN.

On motion of Mr. REVELS, it was

Ordered, That the petition and papers relating to the claim of Mrs. Susan Wilson be withdrawn from the files of the Senate.

EVENING SESSION.

Mr. TRUMBULL. I move that the Senate now proceed to the consideration of Senate bill No. 387, to change the judicial circuits. It is a bill which has been before the Senate for a long time.

Mr. STEWART. Before that bill is taken up I desire to submit a motion for a recess. There are several Senators who have charge of measures that cannot be considered in the morning hour.

Mr. SUMNER. We have a recess regularly to-morrow night.

Mr. STEWART. I want to have one to-night. I move that at five o'clock the Senate take a recess until half past seven o'clock.

Mr. TRUMBULL. Do I lose my motion?

The PRESIDENT *pro tempore*. No; if by general consent this other motion is allowed to be made.

Mr. WILLEY. I call for the regular order of morning business.

The PRESIDENT *pro tempore*. The Senator from West Virginia calls for the regular order.

Mr. TRUMBULL. What is the regular order?

The PRESIDENT *pro tempore*. Reports of committees, and it requires unanimous consent to proceed to any other business.

Mr. STEWART. What became of my motion?

The PRESIDENT *pro tempore*. The regular order has been called for, which supersedes it; and the regular order of the morning hour now is the presentation of reports of committees.

Mr. CONKLING. May I make an inquiry on a question of order? I should like to know whether under the rule the recess occurs to-night or to-morrow night?

The PRESIDENT *pro tempore*. To-morrow night.

Mr. CONKLING. There was one on Friday and none on Saturday, and Saturday being a legislative day that would make this the alternate day for an evening session.

The PRESIDENT *pro tempore*. The Chair was under the impression that the rule applied to Mondays, Wednesdays, and Fridays.

Mr. HAMLIN. I think it says "alternate days," and as there was an evening session on Friday this will be the alternate day.

Mr. SUMNER. Let the rule be read, so that we shall understand it.

The PRESIDENT *pro tempore*. The rule will be read.

The Chief Clerk read the following resolution, adopted by the Senate on the 19th instant:

"*Resolved*, That from and after the 20th day of this month, and until the close of the present session, there shall be, unless the Senate otherwise order, three evening sessions, to commence at half past seven o'clock p. m. (upon alternate evenings of each week,) at which sessions the Calendar of general orders shall be proceeded with in the order of their place upon the Calendar. And on Friday of each week, except the last Friday of this month, the Calendar shall be proceeded with by considering only the bills and joint resolutions to which no objection may be made; and such objection, if made, shall have the effect to pass the bill or resolution over, and shall be enforced without debate."

Mr. STEWART. Will that give us an evening session on Saturday?

Mr. CONKLING. There was none on Saturday.

Mr. DRAKE. But there will be none to-morrow night if we have one to-night, and then we shall lose the night session on Saturday of this week.

Mr. CONKLING. One thing at a time.

The PRESIDENT *pro tempore*. Under the rule the Chair thinks a recess will be in order this evening.

Mr. STEWART. Now, that I may be in time, I will not call up the joint resolution to which I have referred this morning, but give notice that I shall move this evening, when the Senate meets, to call up House joint resolution No. 86, and hope to have it concluded then.

Mr. RAMSEY. Does the Chair decide that there is to be a recess this evening?

The PRESIDENT *pro tempore*. Under the rule, the Chair thinks a recess will be in order to-day. The Senator from Massachusetts [Mr. SUMNER] is entitled to the floor.

Mr. CORBETT. I understood that Monday evening was the regular evening for an evening session. Last week the evening sessions commenced on Monday.

Mr. POMEROY. Our sitting on Friday last made this occur on a different day from what the Senate had contemplated.

Mr. WILLIAMS. We should have had an evening session on Monday if we had been in session yesterday.

Mr. POMEROY. If we had had a session yesterday the evening session would have been last night.

The PRESIDENT *pro tempore*. There will be an evening session this evening, as the Chair understands, under the rule.

Mr. POMEROY. In addition to the notice which the Senator from Nevada has given, I desire to give notice that, in accordance with a notice the Senator from Michigan [Mr. HOWARD] gave, I shall move to proceed, either this evening or at as early a period as possible with the railroad bill known as the Central Branch Union Pacific. It is now simply a land grant, and is well understood by the Senate, and I hope we shall take a vote upon it this evening.

Mr. WILLIAMS. I suppose it is understood that these notices give no precedence?

Mr. MORRILL, of Maine. In this general giving of notices this morning, lest I should lose some rights on a measure which I have in charge, I desire to give notice that to-morrow I shall ask the Senate to proceed to the consideration of the Indian appropriation bill.

Mr. DRAKE. Not a word uttered by the Senator from Maine has been heard on this side of the Chamber.

Mr. MORRILL, of Maine. If I may be allowed to repeat, I say that to-morrow I shall ask the Senate to proceed to the consideration of the Indian appropriation bill.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred two petitions of Cyrus W. Field, praying aid in the establishment of interoceanic communication across the Pacific ocean between America and Asia, reported a bill (S. No. 958) to incorporate the Pacific Submarine Telegraph Company, and to facilitate telegraphic communication between America and Asia; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (S. No. 791) to incorporate the Pacific Submarine Telegraph Company, and to facilitate telegraphic communication between America and Asia, moved its indefinite postponement; which was agreed to.

Mr. WILLEY. I am instructed by the committee——

Mr. CASSERLY. Will the Senator allow me to say a word?

Mr. WILLEY. Yes, sir.

Mr. CASSERLY. I desire to ask a question for information. What privilege is acquired for any bill by the Senator having it in charge giving notice that he will call it up at the evening session?

The PRESIDENT *pro tempore*. None whatever. It is merely a notice of his intention to submit the motion to take it up.

Mr. CASSERLY. My object in asking the question was this: while I have no objection whatever to taking up the joint resolution which the Senator from Nevada has in charge, the joint resolution for the Southern Pacific railroad, or to disposing of it as promptly as the Senate is willing to dispose of it, I think it is not desirable to take up such a measure as that at an evening session, which will be very thinly attended, perhaps without a quorum being present. If the Senator can contrive some period of the day for taking up his resolution, when it can be taken up and disposed of in one debate, when we shall have a full Senate, I should regard it as much more desirable.

Mr. STEWART. I should regard it as desirable if this measure could be considered at some time. I have had it up two or three mornings, but it has been talked over. If it can ever be considered I should deem it desirable to get it up at some time——

The PRESIDENT *pro tempore*. The Senator from West Virginia was recognized by the Chair as entitled to the floor.

Mr. WILLEY, from the Committee on Patents, to whom was referred the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, reported it with amendments.

Mr. HARLAN, from the Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 201) for the relief of Richard Field, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Susan Coody and others, Cherokee Indians, praying indemnity for loss of property, asked to be discharged from its further consideration; which was agreed to.

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

LIS - 5h

five-feet cars upon; but it is as much as the southern railroads are able to do to have two rails, without adding a third one to accommodate them to this gauge, which is alleged to be a national gauge. This question of gauge has no "national" significance.

The object that the South has in getting this railroad is to get railroad connections between the Gulf States, the Carolinas and Virginia and Tennessee and Arkansas, with the Pacific. In order to have that connection with the Pacific their roads must connect on the same gauge. I ask Senators to reverse the question. I ask them what would be said if we demanded that the Union Pacific railroad should be made on a five feet gauge, or the Northern Pacific on a five feet gauge, so that we might make our connections in that way?

This railroad in its eastern terminus comes into the southern States, into States all whose railroad system is of one gauge; and you tell us now that we must adapt the gauge to connect, not with the twelve thousand miles of road that we have, but with your roads, with the roads of the North which have another gauge, in order to do, what? To carry all the commerce which shall come over this road up in a northeasterly direction, toward the great cities of the North.

It is the shortest line from the Pacific ocean to the Atlantic to go to Charleston and Savannah and Norfolk; it is the longest line to go to New York. But make a provision that we shall break bulk at Marshall, Texas, or any point on the Mississippi river, and there is no question that it will divert northward the great body of the trade and traffic which would naturally come to the South.

I say, with all respect, that the value of these branches and the value of this railroad to the southern section of the country is very seriously damaged by making a provision that it shall be of the same gauge as the northern railroads. It will take some years, at any rate, for the southern railroads to adapt their railroad system to the four feet eight and a half inch gauge. It is not merely the laying of another rail; it is not merely changing the position of a rail on the track; but it is the destruction of every locomotive owned by the southern railroads, the destruction and rebuilding of the wheels and axles of every single car. It is a matter of very much more importance than Senators seem inclined to attach to it, and I ask Senators who represent the great northern States, where there are rich railroad corporations having the control of the Union Pacific, and to have control of the Northern Pacific, that they should give us one railroad which is not absolutely cut off, absolutely prohibited from making connections with the States lately in insurrection.

Mr. CAMERON. I am very sorry to hear a speech of the kind just made by the Senator from South Carolina. It would have been an admirable buncombe speech before the rebellion, perfectly local, and suitable to the South, but the Senator does not understand the subject of railroads. I see his zeal has got ahead of his knowledge on this subject. There is one fact I think he will admit, if he will reflect a moment, that the majority of all the stock in the southern railroads belongs to northern men.

I shall not consent to vote on this bill until this question is understood. One of the arguments in favor of a different gauge before the war was, in the minds of the South, that the North could not meet them. General Grant in making his descent upon Virginia found that he could not take his provisions and supply his army because of the difference of gauge; but I did not intend to go into that. I only want to say to the Senator from South Carolina that that question ought to be left to the stockholders and directors of the company. They are the persons to decide it.

He talks about their being injured by the trade going to New York. Why, sir, New York is the great commercial as well as financial head of this country. Everything goes there. It is the interest of the South to go to New York, because it is a great producing region of country. Its great product, cotton, is valueless until it gets beyond their own bounds.

Mr. RICE. It is getting rather late, and if we can get unanimous consent to take a vote to-morrow at one o'clock I will make a motion to adjourn. ["No!" "No!"]

Mr. BAYARD. Mr. President, it is very plain that this question is one which will give rise, and ought to give rise, to very serious debate. If the people of the southern States who expect to use this road for a connection with their sister States upon the Pacific coast are to use it advantageously they must insist upon the gauge of their railroad system having some respect and being considered in the guage for this company's road. As this question, therefore, is one that involves nearly the whole practical use of the railroad which has been suggested, I move that the Senate do now adjourn, for the purpose of considering it.

The PRESIDING OFFICER. The Senator from Delaware moves that the Senate do now adjourn.

Mr. KELLOGG. Mr. President——

Mr. BAYARD. Is the motion debatable?

The PRESIDING OFFICER. It is not debatable.

Mr. KELLOGG. I desire to offer three or four names, which I hold in my hand, at the instance of several Senators.

The PRESIDING OFFICER. It can be done by unanimous consent.

Mr. KELLOGG. It is only to insert two or three names.

Mr. BAYARD. I should like to know the object.

Mr. KELLOGG. To add three or four names to the list of corporators.

Mr. BAYARD. I have no objection.

Mr. WARNER. I want to add some names, too.

Mr. NYE. No; there must be some system.

Mr. KELLOGG. The chairman has looked at those I propose, and revised them.

The PRESIDING OFFICER. The names proposed by the Senator from Louisiana will be inserted, no objection being made.

Mr. BAYARD. I renew my motion for an adjournment.

The motion was agreed to; and (at eleven o'clock and fifty-five minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June* 24, 1870.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. G. BUTLER.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

The SPEAKER stated that he had received a telegram from Mr. LYNCH asking, on account of sickness in his family, indefinite leave of absence.

By unanimous consent, Mr. LYNCH was granted indefinite leave of absence.

LICENSING YACHTS.

Mr. POTTER, by unanimous consent, from the Committee on Commerce, reported back a bill (S. No. 237) to amend an act entitled "An act to authorize the Secretary of the Treasury to license yachts," with the recommendation that it do pass.

The first section provides that the first section of the act entitled "An act to authorize the Secretary of the Treasury to license yachts, and for other purposes," approved August 7, 1848, is hereby amended by inserting in the first clause thereof, after the words "port to port of the United States," the words "and by sea to foreign ports."

The second section provides that yachts belonging to a regularly organized yacht club of any foreign nation which shall extend like privilege to the yachts of the United States shall have the privilege of entering or leaving any port of the United States without entering or clearing at the custom-house thereof, or paying tonnage tax.

The third section provides that for the identification of yachts and their owners a commission to sail for pleasure in any designated yacht belonging to any regularly organized and incorporated yacht club, stating the exemptions and privileges enjoyed under it, may be issued by the Secretary of the Treasury, and shall be a token of credit to any United States official, and to the authorities of any foreign Power, for privileges enjoyed under it.

The fourth section provides that every yacht visiting a foreign country under the provisions of this act shall, on its return to the United States, make due entry at the custom-house of the port at which, on such return, it shall arrive.

Mr. POTTER. This bill is approved by the Secretary of the Treasury, and the Navy Department.

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

Mr. POTTER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BECK. I demand the regular order of business.

GEORGIA.

The SPEAKER stated the regular order of business to be the consideration of a bill (H. R. No. 1335) to admit the State of Georgia to representation in the Congress of the United States, returned from the Senate with sundry amendments, on which the gentleman from Massachusetts is entitled to the floor.

Mr. BUTLER, of Massachusetts. I yield whatever time I have left to the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. How much time have I?

The SPEAKER. The gentleman has half an hour.

Mr. SCOFIELD. I ask the Clerk to read the substitute moved by the gentleman from Massachusetts, [Mr. DAWES.]

The Clerk read as follows:

SECTION 1. *And be it further enacted*, That the State of Georgia having complied with the reconstruction acts, and the fourteenth and fifteenth amendments to the Constitution of the United States having been ratified in good faith by a legal Legislature of said State, it is hereby declared that the State of Georgia is entitled to representation in the Congress of the United States.

Mr. Speaker, I support that substitute. It is stripped of all conditions and involves only this question, is it important that any law for the admission of Georgia should be enacted now or at any time? According to the Democratic theory of treating the seceded States, it is not; but according to the Republican theory, it is indispensable. The Democrats have always held that these States have all the time been entitled to representation; that their Federal relations were never severed, and that all congressional legislation upon that subject was unconstitutional and void. The Republicans, on the contrary, have held that all legitimate State government was destroyed by the rebellion, and that the relation of these people to the Federal Government was similar to that held by the inhabitants of an unorganized territory. To convert such a territory into a State required three successive steps in legislation:

First, an organizing act creating a territorial government.

Second, an enabling act authorizing the people to frame a constitution and elect officers preparatory to admission.

Third, an act approving the constitution as republican in form, and admitting Senators and Representatives in Congress.

Under different names we have applied this theory and its three legislative acts to the confederate States. We have changed a few words,

Mr. ANTHONY. But I suppose, if it would suit my friend from Maine as well, there might be a reduction in that large item of $150,000, and this appropriation made.

Mr. MORRILL, of Maine. That will be open in the Senate if the Senator chooses to reopen it.

Mr. ANTHONY. Very well.

Mr. CRAGIN. I offer the following amendment, of which notice has been given to the Committee on Appropriations:

And be it further enacted, That the sum of $250,000 is hereby appropriated, to be expended under the direction of the Secretary of the Navy, for the purpose of commencing the construction of a movable floating dock for the dockage and repair of vessels of war on the southern coast of the United States and elsewhere.

I will say that that is earnestly recommended by the Navy Department in a letter to the Committee on Naval Affairs, and this amendment was drawn at the earnest solicitation of the Secretary of the Navy. As it now is, if any vessel of war breaks a shaft or in any other way needs repairs which cannot be made at sea, it has to be taken home and sent to Philadelphia, or New York, or Boston for repairs. The Secretary of the Navy says that if we had this floating dock that could be used at Key West, in one year's time the saving of expense would be enough to construct the dock. That is the opinion at the Navy Department, and I submit this amendment for the consideration of the Senate. It proposes an appropriation of $250,000 to commence the construction of this floating dock. It will cost, undoubtedly, $1,000,000 to complete this dock. I do not wish the Senate to be under any misapprehension. It is a question whether we will authorize this work or not. I am fully satisfied that it is a very important matter, and my judgment is that it ought to be done.

Mr. POMEROY. I think we ought to have somewhere a floating dock, not simply for repairing, but we ought to have in this country a place somewhere where we could build a ship of the magnitude and dimensions now required by our ocean commerce. We have not got it. You cannot build an iron ship in America of three thousand tons burden. They are built on the Clyde. They have facilities by which they can build an iron ship of three thousand tons. It cannot be done in this country at present. You cannot build an iron ship and slide it down an inclined plane to the ocean. You have got to have a floating dock; you have to build it where it can be let down into the ocean. Congress ought to provide at this session, somewhere in the United States, a place to build iron ships. I do not mean iron-clad ships now; but iron steamers for our service on the ocean of three or four thousand tons burden. It cannot be done now, as I have said. I do not expect to do anything on this appropriation bill; but I want to call the attention of the Senate to the fact that we must either abandon building large iron ships in this country or build a dock somewhere.

Mr. COLE. Do I understand the Senator to say that all iron ships are built upon floating docks?

Mr. POMEROY. All large ones must be built so. I suppose a small one might be built and let down.

Mr. MORRILL, of Maine. Mr. President——

Mr. POMEROY. I do not intend to yield to anybody, because I do not want to occupy time.

Mr. MORRILL, of Maine. The Senator does occupy time.

Mr. POMEROY. I want to call attention to the fact that something should be done in this department.

Mr. MORRILL, of Maine. It seems that the whole Navy has got to be discussed in this bill; and if so I may as well abandon it first as last. This is a new matter. I think it is altogether probable that it is a proper thing to do; but ought it not to be considered and presented to the Senate in some way that the Senate can have some judgment upon it? It is just as impossible as anything can be for the Senate now to know whether this is a proper thing to do; and the probabilities are so remote of this sticking in the bill that I suggest to my honorable friend from New Hampshire whether, after what has been put on, he had not better withdraw it.

Mr. CRAGIN. I do not intend to press this amendment very strenuously, though my own judgment is strongly in favor of it. It came to me so late that I am not able to state all the facts and circumstances, and if the chairman of the Committee on Appropriations appeals to me to withdraw the amendment, I shall feel like doing it.

Mr. MORRILL, of Maine. I am very much inclined to the opinion of the Senator, that the thing is a proper thing to do; but at this stage of the session and on this bill, after what has been put on it, I think it will lead to so much discussion in another quarter that there will be no probability of getting it through.

Mr. CRAGIN. I withdraw the amendment.

Mr. CONKLING. If the Senator from Indiana proposes again to move an executive session, I shall have to demand the regular order.

Mr. MORRILL, of Maine. If the Senator will allow me, I should like to have this bill taken into the Senate first.

The VICE PRESIDENT. If there are no further amendments to be offered, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

NATURALIZATION LAWS.

Mr. CONKLING. Now I demand the regular order.

The VICE PRESIDENT. The Senate resumes the consideration of the bill (H. R. No. 2201) to amend the naturalization laws and to punish crimes against the same.

Mr. MORTON. I renew the motion that the Senate proceed to the consideration of executive business.

The VICE PRESIDENT. Before putting the question, the Chair will state that this evening at half past seven o'clock has been set apart for the consideration of the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights. The Chair understands that the naturalization bill is to be the unfinished business for to-morrow. If there be no objection, it will be so ordered.

Mr. FOWLER. Has there been any time appointed for the taking of a recess to-day?

The VICE PRESIDENT. There has been. There is to be a recess at half past four o'clock.

Mr. MORRILL, of Vermont. The understanding is that no other business but patent business is to be considered this evening.

The VICE PRESIDENT. That is the only business that can be entertained except by unanimous consent.

Mr. POMEROY. There is no such understanding. This evening is set apart for the business of the Committee on Patents; but they have two or three other bills on which they desire action as well as the one referred to.

Mr. SUMNER. I ask the Senator from Indiana if he will not allow us to take up now the resolutions in regard to Cuba? I understand that my friend from California [Mr. CASSERLY] will not occupy much time.

Mr. MORTON. I hope that will not be done now.

The VICE PRESIDENT. The Senator from Indiana moves that the Senate proceed to the consideration of executive business.

Mr. DAVIS. I will inquire if the naval appropriation bill has been disposed of?

The VICE PRESIDENT. It has not been. It has been passed over, the pending question upon it being on concurring in the Senate in the amendments made as in Committee of the Whole, pending which the Senator from New York demanded the regular order, calling up the naturalization bill, which was passed over informally, and the Senator from Indiana now moves to proceed to the consideration of executive business.

EXECUTIVE SESSION.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. At half past four o'clock the doors were reopened, and the Senate took a recess until half past seven o'clock.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

ORDER OF BUSINESS.

Mr. RAMSEY. With the consent of the Senator from West Virginia, I should like to call up the Duluth bill this evening. I will not do it unless he consents to it.

Mr. WILLEY. I have been solicited by five or six Senators to give way for special bills; but I have been under the unpleasant necessity of declining thus far. I regret to do so, but I cannot discriminate in favor of one against another.

Mr. NYE. I ask the Senator from West Virginia to give way, and let me call up Senate bill No. 428.

Mr. WILLEY. I have just stated that I have been under the unpleasant necessity of declining similar requests from four or five Senators. I should be glad to oblige Senators; but, if they will be patient, I think in the course of an hour and a half I shall be able to get through.

Mr. POMEROY. There are very few Senators here, and I suggest to the Senator to have his bill read through now.

Mr. SUMNER. Yes, we had better make hay while the sun shines.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from West Virginia declines to give way.

Mr. McCREERY. I ask the Senator from West Virginia to consent to allow me to present a couple of petitions.

Mr. WILLEY. I yield for that purpose.

PETITIONS.

Mr. McCREERY. I present the petition of Joshua F. Bullitt, of Jefferson county, Kentucky, praying for the removal of his political disabilities. This petition is indorsed by Hon. JAMES G. BLAINE, Speaker of the House of Representatives.

I also present the petition of P. H. Leslie, of Glasgow, Barren county, Kentucky, praying for the removal of his political disabilities. This petition is indorsed by the leading Republicans of his section of the country. I move the reference of these petitions to the select Committee on the Removal of Political Disabilities.

The motion was agreed to.

PATENT AND COPYRIGHT LAWS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights.

The PRESIDING OFFICER. If it be agreeable to the Senate, the amendments of the Committe on Patents will be considered as they are reached in the reading of the bill.

Mr. WILLEY. I hope that will be done.

The PRESIDING OFFICER. No objection being made, that course will be pursued.

The Chief Clerk proceeded to read the bill.

The first amendment of the Committee on Patents was in section two, line two, to strike out the words "continue to."

The amendment was agreed to.

The next amendment was in section two, line thirteen, to strike out the words "Secretary of the Interior, upon nomination of the;"

so as to allow the officers and employés of the Patent Office to be appointed by the Commissioner of Patents.

Mr. WILLEY. There is some difference of opinion among the members of the committee as to the propriety of that amendment. The other members of the committee are not present. I think it had better be passed over at present.

Mr. POMEROY. I hope it will be passed over, because there will be some discussion upon it.

Mr. WILLEY. For myself I should a good deal prefer to leave the matter under the control of the Secretary of the Interior.

Mr. POMEROY. And so should I.

The PRESIDING OFFICER. The amendment will be passed over for the present.

The next amendment was in section three, lines one and two, to strike out the words "Secretary of the Interior" and insert "Commissioner of Patents," and also after the word "appoint," at the end of line two, to strike out the words "upon like nomination;" so that the section will read:

SEC. 3. *And be it further enacted*, That the Commissioner of Patents may also appoint such additional clerks of classes two and one, and of lower grades, copyists of drawings, female copyists, skilled laborers, laborers, and watchmen, as may be from time to time appropriated for by Congress.

Mr. WILLEY. Let that amendment be passed over also.

The PRESIDING OFFICER. The amendment will be passed over for the present.

The next amendment was to add at the end of the fifteenth section the words "not exceeding the amount annually appropriated by Congress for that purpose;" so that the section will read:

SEC. 15. *And be it further enacted*, That there shall be purchased for the use of said office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated by Congress for that purpose.

The amendment was agreed to.

The next amendment was in section twenty-five, line five, after the words "United States" to insert the words "for more than two years;" so that the section will read:

SEC. 25. *And be it further enacted*, That no person shall be debarred from receiving a patent for his invention or discovery by reason of his having first patented it in a foreign country; provided the same shall not have been introduced into public use in the United States for more than two years prior to the application, and that the patent shall expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term; but in no case shall be in force more than seventeen years.

The amendment was agreed to.

The next amendment was in section twenty-seven, line five, after the word "furnished" to insert the word "by."

The amendment was agreed to.

The next amendment was at the end of the thirty-fourth section, to strike out the following proviso:

Provided, That when an application for a patent has been rejected or withdrawn prior to the passage of this act, the applicant shall have two years from the date of such passage to renew his application or to file a new one; and if he omits to do either, his application shall be held to have been abandoned; but this provision shall not be held to have renewed any application heretofore in fact abandoned.

The amendment was agreed to.

The next amendment was in section thirty-eight, line thirteen, after the word "make" to insert the word "use."

The amendment was agreed to.

The next amendment was in section forty-two, line five, to add the letter "s" after the word "applicant;" and also after the word "or" to insert the words "applicant and."

The amendment was agreed to.

The next amendment of the committee was to strike out sections forty-eight, forty nine, fifty, fifty-one, and fifty-two, in the following words:

SEC. 48. *And be it further enacted*, That whenever a patent or reissue of patent is refused on application therefor, after appeal to the Commissioner, for any reason whatsoever, the applicant may give notice to the Commissioner of the points and matters concerning which he deems the decisions erroneous, by filing his objections in writing thereto, within thirty days from the rendering of such decision; and he may have his remedy against such erroneous decision by a suit in equity in any circuit court of the United States within whose jurisdiction the Commissioner of Patents and any of the necessary parties to such suit may be found; and all persons who may be interested in such application for a patent may be made parties to such suit; and the Commissioner, and all other persons who may be made parties defendant to such suit, may answer the same and avail themselves of all defenses which the law may allow thereto; and the subject-matter of such suit shall not extend to or include any matter not set forth in the objections to the decision of the Commissioner; and the decree rendered thereon shall be confined to the revision of the decision of the Commissioner, and to the determination upon the evidence of what the invention or discovery of the applicant, and for which he may be entitled to a patent, actually is.

SEC. 49. *And be it further enacted*, That all the testimony, duly taken, certified, and filed before the Commissioner, shall be evidence in such suit in equity, subject to all legal objections thereto; and copies thereof, duly certified, may be filed by either party in such suit; and any new or additional testimony may be taken and the cause prepared for trial under the rules of the Supreme Court in equity.

SEC. 50. *And be it further enacted*, That the circuit courts of the United States, and the supreme court of the District of Columbia, are hereby authorized to take jurisdiction of such suits in equity and to hear and determine the same as soon as practicable, and all parties who may have appeared in person or by attorney in the proceedings before the Commissioner may be made defendants in any such suit, and may be notified and required to appear therein in such manner as the court having jurisdiction may direct, and shall be held bound by the final decree therein, the expense of the service of the notice or of a subpena upon such parties being paid by the complainant; and any and all persons whom such court may deem necessary or proper parties defendant to such suit may be made defendants thereto, in such manner and upon such notice as the court may direct, so that all parties known to be interested in the claim of the complainant to the alleged invention or discovery may be heard before said court.

SEC. 51. *And be it further enacted*, That the several circuit courts of the United States and the supreme court of the District of Columbia are hereby authorized and empowered to determine in any such suit whether the complainant is entitled to the patent for the invention or discovery which he claims, and also to determine what his invention and discovery actually is, upon the evidence submitted in such case, and to order and decree that a patent shall be issued to the complainant and applicant therefor, with the claim in such language as the court may determine, whether it be for the whole or for any part of the invention or discovery as claimed in his application, or for any modification thereof. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent, upon the filing in the Patent Office by the applicant of a copy of the adjudication, and upon his otherwise complying with the requirements of the law.

SEC. 52. *And be it further enacted*, That when the Commissioner of Patents is the only defendant in any such suit, all costs shall be paid by the complainant, and whole amount of costs taxed against the complainant shall not exceed the sum of twenty-five dollars; and in cases where other parties shall be made defendants and shall appear and answer to the bill of the complainant, the costs shall be taxed according to law, and allowed and paid as the court may direct, except that the Commissioner shall not be liable for any part of such costs. And the adjudication of the court having jurisdiction in any such case shall be final and conclusive as against all parties to such suit, in all matters put in issue by the pleadings therein, and against all persons claiming under such parties by title accruing after the commencement of such suit, except as such decision may be modified or reversed by the Supreme Court of the United States on appeal.

And to insert in lieu thereof the following:

SEC. 48. *And be it further enacted*, That if such party is dissatisfied with the decision of the Commissioner, he may appeal to the supreme court of the District of Columbia.

SEC. 49. *And be it further enacted*, That when an appeal is taken to the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

SEC. 50. *And be it further enacted*, That it shall be the duty of said court, on petition, to hear and determine such appeal, and to revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint, notifying the Commissioner of the time and place of hearing; and the revision shall be confined to the points set forth in the reasons of appeal. And after hearing the case, the court shall return all the papers to the Commissioner, with a certificate of its proceedings and decision, which shall be entered of record in the Patent Office, and govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

SEC. 51. *And be it further enacted*, That on receiving notice of the time and place of hearing such appeal, the Commissioner shall notify all parties who appear to be interested therein, in such manner as the court may prescribe. He shall also lay before the court all the original papers and evidence in the case, together with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the machine or other thing for which a patent is demanded.

SEC. 52. *And be it further enacted*, That whenever a patent on application is refused, for any reason whatever, either by the Commissioner or by the supreme court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication and otherwise complying with the requisitions of law. And in all cases where there is no opposing party a copy of the bill shall be served on the Commissioner, and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.

Mr. WILLEY. I move to amend section forty-eight, as proposed to be inserted by the committee, by adding at the end thereof the words "sitting in banc."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was in section fifty-three, line twenty-eight, after the word "other" to strike out the following words:

Unless upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

The amendment was agreed to.

Mr. CARPENTER. Is it in order to make a motion to strike out a section in that same connection?

The PRESIDING OFFICER. Not until the amendments of the committee have been gone through with.

The next amendment was in section fifty-four, line eight, after the word "patentee" to strike out the words "his heirs or assigns" and insert "or his legal representatives."

The amendment was agreed to.

The next amendment was in section fifty five, line four, to strike out the word "at" and insert the word "in" before "equity;" and also to strike out the word "in" and insert the word "at" before the word "law."

The amendment was agreed to.

The next amendment was in section fifty-five, line twelve, after the word "reasonable" to insert the following words:

And upon a decree being rendered in any such case for an account the complainant shall be entitled to recover the damages he has sustained, and the court shall have the same powers to increase the same that are given by said act to increase the damages found by verdicts in actions upon the case.

So that the section will read:

SEC. 55. *And be it further enacted*, That all actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well in equity as at law, by the circuit courts of the United States, or any district court having the powers and jurisdiction of a circuit court, or by the supreme court of the District of Columbia or of any Territory; and the court shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an account, the complainant shall be entitled to recover the damages he has sustained, and the court shall have the same powers to increase the same that are given by said act to increase the damages found by verdicts in actions upon the case; but all actions shall be brought during the term for which the letters-patent shall be granted or extended, or within six years after the expiration thereof.

Mr. WILLEY. I move to amend the amendment by striking out in lines thirteen and fourteen the words "for an account, the complain-

ant shall be entitled to recover the damages he has sustained," and to insert the words:

For an infringement, the complainant shall be entitled to recover the damages he has sustained thereby, and the court shall assess the same, or cause the same to be assessed under its direction.

So that it will read:

And upon a decree being rendered in any such case for an infringement, the complainant shall be entitled to recover the damages he has sustained thereby, and the court shall assess the same, or cause the same to be assessed under its direction, and the court shall have the same powers to increase the same that are given by said act to increase the damages found by verdicts in actions upon the case.

The amendment to the amendment was agreed to.

Mr. WILLEY. I move further to amend the amendment by striking out the word "said" before the word "act," in line sixteen, and insert the word "this." This is a mere verbal alteration.

The amendment to the amendment was agreed to.

Mr. DAVIS. I desire to offer an amendment to that clause. This section now reads:

That all actions, suits, controversies, and cases arising under the patent laws of the United States shall be originally cognizable, as well in equity as at law, by the circuit courts of the United States, or any district court.

The PRESIDING OFFICER. Does the Senator propose to amend the amendment proposed by the committee, or to offer an original amendment?

Mr. DAVIS. I desire to amend the original section.

The PRESIDING OFFICER. That will be in order after the amendments of the committee have been disposed of. The question now is on the amendment of the committee as amended.

The amendment as amended was agreed to.

The next amendment of the committee was to strike out the fifty-eighth section, after the enacting clause, in the following words:

That whenever there shall be interfering patents, or whenever any person shall be sued either at law or in equity for the infringement of any patent, any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, and any defendant in any suit for infringement as aforesaid, may have relief against the interfering patentee and all parties interested under him, and against the plaintiff or complainant in any such suit, by suit in equity against the owners of the interfering patent, or against the patentee or assignee, or both, of any patent upon which suit may be commenced for the infringement thereof, to be brought in the circuit court of the United States in any district where the patentee or owner of the interfering patent may reside or be found, or within the Territory where the owner of any exclusive right under such patent may reside or be found, or within which the patentee or his assignee or grantee for the whole or any specified portion of the United States or their Territories may reside or be found; and in either case the court having jurisdiction of any such suit by reason of the service of process upon the patentee or any territorial assignee or grantee, or upon any plaintiff or complainant within its district, may order and require service of its process upon such persons as it may determine to be necessary and proper parties defendant to such suit, in any other district of the United States, and service of such process may be made by the marshal of any district of the United States within which such parties may reside or be found, and at no greater cost than if the suit was pending in such district; and whenever all necessary and proper parties shall be brought before the court having original jurisdiction of such suit, the said court shall proceed to hear and determine the same according to the course of equity, and may dismiss such suit, or may adjudge and declare either of the patents void in whole or in part, or inoperative or invalid throughout the United States, or any portion thereof specifically described, or grant such other relief as may be equitable according to the rights of the parties or their several and respective interests in the patent or in the invention patented. But no such adjudication shall affect the rights of any person except the parties to such suit and those deriving title under them subsequent to the commencement thereof. And whenever all the parties interested in any such interfering patents, or patent sued upon, shall be before the court having original jurisdiction of any such suit as aforesaid, by voluntary appearance, or by due service of process thereon as aforesaid, and, upon final hearing in such cause, the patent attacked shall be declared void in whole or in part, such decision shall be final and shall not be subject to review in any other suit, in any court of coördinate jurisdiction, but shall be reviewed and overruled only in the Supreme Court of the United States on appeal. The Supreme Court may admit new evidence in any such appeal in their discretion, and may make rules for the proper exercise of the jurisdiction herein and hereby conferred upon the courts of the United States. The supreme courts of the District of Columbia and of the Territories shall have the same jurisdiction as that conferred herein upon the circuit courts of the United States in similar cases.

And to insert in lieu thereof the following:

That whenever there shall be interfering patents, any person interested in any such patents, either by assignment or otherwise, may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented; but no such judgment or adjudication shall affect the rights of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

The amendment was agreed to.

The next amendment was in section sixty-one, after line fourteen, to strike out the following clause:

Third. That he was an alien at the time his patent was granted, and had neglected for the space of eighteen months from its date to put and continue on sale to the public, on reasonable terms, his invention or discovery; or.

The amendment was agreed to.

The next amendment was in section sixty-one, line twenty-six, to strike out the words "with his consent;" so that the clause will read:

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

The amendment was agreed to.

The next amendment was in section sixty-five, line one, to strike out the word "application" and insert the word "publication."

The amendment was agreed to.

The next amendment of the Committee on Patents was in section seventy-four, line two, after the word "designs" to insert "issued prior to March 2, 1861."

The amendment was agreed to.

The next amendment was in section seventy-six, in line four, to strike out "chapter" and insert "act."

The amendment was agreed to.

Mr. WILLEY. The several sections next succeeding the one just read introduce a new feature into our patent laws connected with trade-marks. The committee instructed me to report an amendment to strike out those sections. Subsequent reflection has suggested to me whether the action of the committee in that respect was altogether best, and I am disposed to think that some of the members of the committee, perhaps, have come to the same conclusion.

Mr. SUMNER. I should hesitate very much about striking them out.

Mr. WILLEY. That is just what I am going to say, if the Senator pleases. The committee did not understand the subject very well when they made this report, and did not at that time examine it. They thought that under the common law every man had a right to his own trade-mark and could protect himself; but subsequent reflection and examination have convinced me, at least, that these sections ought to be retained. I have examined them, and I see that they have been drawn by a careful hand; and, so far as I can understand the matter, they meet the case very fairly. They nationalize our trade-marks and put us on an equality with other nations in that respect. It strikes me, on reflection, that they ought to be retained.

That is the result to which my own mind, as a member of the committee, has come, and I am very willing that the Senate should disagree with the recommendation of the committee.

Mr. SUMNER. I would remark that they seem to me of practical value to our own citizens, especially abroad. How can they have their trade-marks protected in other countries if a protection is not provided for trade-marks here? There must be reciprocity in that respect, and it seems to me that single consideration is decisive of the case.

But, independent of our fellow-citizens who now have interests abroad, I think that these sections are of value to all here at home, having put into the text of a statute rules and principles which have been matured at the common law and recognized by our courts, but which have new character and value and explicitness from being set forth in the statute. I hope, therefore, that the chairman of the committee will allow these sections to stay in the bill.

Mr. CARPENTER. As a member of the committee, I desire to join with our chairman in saying that, on reflection, I think these sections ought to be retained. They are wholly unnecessary at the common law, and so far as the rights of our citizens are concerned in England they are mere surplusage, the common law granting all that would be covered by these sections; but on the continent of Europe it is different, and for that reason, if none other, they should be retained. I hope, therefore, the Senate will not concur in the recommendation of the committee to strike them out.

Mr. WILLEY. I hope the Senate will disagree with the recommendation of the committee.

The PRESIDING OFFICER. The portion of the bill proposed to be stricken out has not yet been read.

The Chief Clerk read section seventy-seven, as follows:

SEC. 77. *And be it further enacted*, That any person or firm domiciled in the United States, and any corporation created by the authority of the United States, or of any State or Territory thereof, and any person, firm, or corporation resident of or located in any foreign country which by treaty or convention affords similar privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements, to wit:

First. By causing to be recorded in the Patent Office the names of the parties and their residences and place of business who desire the protection of the trade-mark.

Second. The class of merchandise and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated.

Third. A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been or is intended to be applied and used.

Fourth. The length of time, if any, during which the trade-mark has been used.

Fifth. The payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

Sixth. The compliance with such regulations as may be prescribed by the Commissioner of Patents.

Seventh. The filing of a declaration, under the oath of the person, or of some member of the firm or officer of the corporation, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation has the right to such use, either in the identical form or having such near resemblance thereto as might be calculated to deceive, and that the description and fac-similes presented for record are true copies of the trade-mark sought to be protected.

The motion to strike out the section was rejected.

The seventy-eighth section, which the committee proposed to strike out, was read, as follows:

SEC. 78. *And be it further enacted*, That such trade-mark shall remain in force for thirty years from the date of such registration, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country and in which it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere, and during the period that it remains in force it shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods: *Provided*, That six months prior to the expiration of said term of thirty years, application may be made for a renewal of such registration, under regulations to be prescribed by the Commissioner of Patents, and the fee for such renewal shall be the same as for the original registration; certificate of such renewal

sion to be "deposited in the post office?" He cannot deposit in the mail.

Mr. WILLEY. Very well; let that change be made.

The PRESIDING OFFICER. It will be so modified.

The Secretary read the ninety-fifth section.

Mr. CONKLING. The other day the franking privilege was allowed to stand in this body by a majority of two votes; but when I remember the multitude of Senators who voted "no," merely because the question arose on an appropriation bill, who were determined to abolish the franking privilege, who panted for the opportunity to do it as soon as it was in order, I cannot suppose the design is to leave that so-called privilege standing much longer. Therefore I suggest to the chairman who has this bill in charge that he had better not assume the *onus* in this bill, if he wishes to weather the storm, of doing anything favoring the franking privilege, because he will encounter three quarters, I should think at a liberal estimate, of the votes of this body against this privilege, which is so odious here, without taking the vote in connection with an appropriation bill.

Mr. WILLEY. The Senator from New York need not shake the gory locks of that phantom at me; he cannot say I did it; but the question of the franking privilege is not involved here. Here is an arrangement to get books deposited in the Library of Congress.

Mr. CARPENTER. Will the chairman allow me to suggest that the Senator from New York cannot shake his gory locks at anybody? He cannot say it was done at all.

Mr. CONKLING. Mr. President, that is the only reason I could not shake my locks, if they were gory, at both the Senators. [Laughter.] If it had been done at all effectually, my locks, gory or otherwise, might be shaken at either of them with great propriety.

Mr. CARPENTER. Another difficulty in the way of the Senator shaking his locks is that they curl too tight. [Laughter.]

Mr. CONKLING. That was too good to be heard as far as this, and we all regret it. This does extend the franking privilege, not only to the Librarian of Congress in respect of his permission to receive matter free, but extends it to all the authors. Why not?

That any such copyright book or other matter may be sent to the Librarian of Congress by mail free of postage, provided the words "copyright matter" are plainly written or printed on the outside of the package containing the same.

If I were disposed to be critical about this matter I could not only say with truth that it extends the franking system to authors, but it reëstablishes the practice, which has been tabooed by our legislation for some years, of using a stamp for this purpose instead of applying it by the manual signature.

Mr. NYE. I am with you on this.

Mr. CONKLING. The Senator from Nevada says he is with me on this question. We see in what great numbers these apparent friends of the franking privilege are coming over now when the appropriation bill is out of the way, and they have an opportunity to get at this question unembarrassed by other things. I think that had better be left out.

The PRESIDING OFFICER. The Chair will remind Senators that the amendments proposed by the committee are not yet completed.

Mr. CONKLING. Is not the question on agreeing to this amendment?

The PRESIDING OFFICER. It is not an amendment. It is part of the bill.

Mr. CONKLING. Then at the proper time I shall move to strike out the section. I supposed it was an amendment.

Mr. WILLEY. I desire to say to the Senator from New York that this law has been standing from time immemorial; I do not know how long. It is not a new feature at all. It is the old law. This bill is the codification of the commissioners to revise and codify the laws. It has been introduced in its codified form in the other House, and just stands here as the law is now.

Mr. CONKLING. That may be; but to be serious about it, I do not think we had better at this moment do anything by affirmative legislation to reaffirm or reëstablish the so-called franking privilege. The Senator will allow me to say, for one, that I hope yet to get an opportunity during this session to test the sense of the Senate upon that question, when Senators who are particularly opposed to the continuance of this system will not be forbidden to express their real convictions by the fact that the question is taken on an amendment to an appropriation bill.

Mr. CARPENTER. I desire to suggest to the Senator from New York that it is hardly in order to move this franking privilege matter in the absence of the Senator from Minnesota, [Mr. RAMSEY,] whose unquestionable prerogative that is. [Laughter.]

Mr. CONKLING. That is a good suggestion; but we shall have the Senator from Minnesota to vote with us by the time the vote is reached.

Mr. PRATT. Senators are mistaken in supposing the Senator from Minnesota is absent. He is here on this side of the Chamber.

Mr. STOCKTON. I suggest to the Senator from New York that with the views he has on the subject of adding to appropriation bills and other bills amendments not germane or proper, the course for him to take now is to move the abolition of the franking privilege as an amendment to this bill. [Laughter.]

The reading of the bill was continued.

The next amendment was in section ninety-six, to strike out the words "see that it is safely forwarded" and insert the words "mail it;" so that the section will read:

That the postmaster to whom such copyright book or other article is delivered shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination without cost to the proprietor.

The amendment was agreed to.

Mr. WILLEY. There is a word omitted in the second line of that section. After the word "book" the word "title" ought to be inserted.

The PRESIDING OFFICER. That amendment will be made.

The next amendment was in section ninety-seven, after the word "thereof" to insert "or on the face of the substance on which the same shall be mounted."

The amendment was agreed to.

The next amendment was in section ninety-nine, line nine, after the word "pay" to strike out the following:

Fifty cents for every sheet thereof which may be found in his possession, either printing, printed, published, imported, or exposed for sale; one moiety thereof to the proprietor and the other to the use of the United States, to be recovered by action.

And in lieu thereof to insert the words:

Such damages as may be recovered in a civil action by such proprietor.

So that the section will read:

SEC. 99. *And be it further enacted*, That if any person, after the recording of the title of any book as herein provided, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall expose to sale any copy of such book, such offender shall forfeit every copy thereof to said proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.

The amendment was agreed to.

The next amendment was in section one hundred and seven, line three, to strike out the word "circuit" before the word "court."

The amendment was agreed to.

The PRESIDING OFFICER. The question now is upon the reserved amendments of the committee, in the second and third sections of the bill; striking out in section two, line thirteen, the words "Secretary of the Interior, upon nomination of the;" and also in section three striking out the words "Secretary of the Interior" and inserting "Commissioner of Patents;" and also striking out the words "upon like nomination."

Mr. WILLEY. I do not know whether the Senator is here who desired me to postpone those amendments; but as I stated, there is some controversy as to whether the nomination of these officers should be made by the Commissioner of Patents or by the Secretary of the Interior. The Secretary of the Interior thinks that for the order and harmony and vigor and efficiency of his Department he should have the right to nominate these clerks. While the present Commissioner and Secretary of the Interior occupy their positions there will be no difficulty, because their relations are perfectly harmonious. The original bill provided that the appointments should be made upon the nomination of the Commissioner of Patents, confirmed by the Secretary of the Interior. That will be a source of strife and difficulty all the time, and lead to confusion and be a detriment to the office. The question now presented is whether the nomination of these clerks and subordinate officers should be vested in the Secretary of the Interior or in the Commissioner of Patents, and I leave the question to be decided by the Senate.

Mr. HARLAN. What is the question?

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on agreeing to the amendment of the Committee on Patents, to strike out on page 2, section two, line thirteen, the words "Secretary of the Interior upon nomination of the;" so as to confer the power of appointment on the Commissioner of Patents; and also to make a similar amendment in the third section.

Mr. HARLAN. I hardly think that would be right. That would be perfectly anomalous. There is no such another case connected with the administration of the Government as subordinating the head of a Department to one of the commissioners.

Mr. DAVIS. I will simply remark that under the Constitution we cannot vest the appointment of officers in the Commissioner of Patents. Here is the plain provision of the Constitution on that subject:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments."

The PRESIDING OFFICER. The question is on these amendments of the committee.

The amendments were rejected.

Mr. WILLEY. Now, I desire those sections to be so modified, leaving out all unnecessary words, as to vest the appointment of these officers in the Secretary of the Interior.

The PRESIDING OFFICER. Such modifications as are necessary to make the text consistent with the action of the Senate will be made, if there be no objection.

Mr. WILLEY. I am directed by the Committee on Patents to move to amend the bill on page 55, by inserting after section one hundred and nine the following:

And be it further enacted, That the clerk of each of the district courts of the United States shall transmit forthwith to the Librarian of Congress all books, maps, prints, photographs, music, and other publications of every nature whatever deposited in said clerk's office, and not heretofore sent to the Department of the Interior at Washington, together with a certified transcript of the records of copyright in his possession, including the titles so recorded and the dates of record which have not already been transmitted to the Secretary of State or of the Interior in pursuance of law.

The amendment was agreed to.

Mr. CARPENTER. I am directed by the Committee on Patents to offer an amendment,

to add to the thirty-second section the following proviso:

Provided, however, That when an application for a patent has been rejected or withdrawn, and a new application has been filed prior to the passage of this act, mere lapse of time shall be no ground of objection to the granting of the patent, or to its validity when granted.

The amendment was agreed to.

Mr. HAMLIN. I move to amend the bill by striking out the sixty-second section, and inserting in lieu thereof the following:

That whenever it shall appear that the patentee at the time of making his application for the patent believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known, used, or patented in a foreign country before his invention or discovery thereof, if the same shall not have been introduced into public use in the United States prior to the application.

That varies but a very little from the section as it now stands; and the reason that I have for offering the amendment is this, and I will state what constitutes the difference: I suppose the patent laws are designed for the benefit of actual inventors. That, I take it, is the precise object. Now, it is within my own knowledge that inventors as distant as Maine from Georgia have filed in the Patent Office here their applications for patents for the same precise thing, and it is within my own knowledge that the model for a certain press upon one occasion reached the Patent Office from an inventor in Maine and from an inventor in Louisiana on precisely the same day; and in a conference with the Commissioner of Patents he became satisfied that each of the two inventors never could, by any possibility, have had any knowledge of what the other was doing. It was an illustration of the fact that two men might invent the same thing at remote points.

Now an inventor makes a discovery of any kind, I do not care what it is, in this country, and he makes application for his patent; nothing of the kind is known in this country, and letters-patent are granted to the inventor; but it is discovered afterward that some such thing is known abroad. I have knowledge of a case precisely like this which has taken place in the Department within the last few months. An inventor makes a discovery; he files his application and gets his letters-patent; he has the use of it perhaps a year; and then, what could never on earth have reached the observation of the inventor, and what had never reached the observation of the Patent Office, comes some obscure publication from England showing that a patent had been granted of a similar character embracing the same principle, and his letters-patent are abrogated. I hold that he was just as much an original inventor as though he had invented the thing before it was invented in England. We ought at least to put our inventors on the same basis with those of England.

Now I am told, on conferring with gentlemen who understand the matter much better than myself, that it is the practice of the English inventors to have their men in this country and to send there the inventions that are really made here, and they are patented by English subjects; and thus American citizens are prevented from obtaining that kind of a patent which they give in England, not precisely like ours. I cannot for my life see any good objection to it. I think either the last clause in the section as it stands in the bill should be stricken out, or that the section as I propose to amend it should be adopted. It is just a simple protection to our inventors.

Mr. THURMAN. Mr. President, this section strikes me as a very singular one. I should like to inquire from the chairman of the committee whether such a provision has existed heretofore in any patent law which we have ever passed. What is this proposition? A man makes what he supposes to be an invention, and is so ignorant that he does not know that it was invented before by somebody else in some other country; and yet he is to have a patent which shall give him a monopoly throughout the whole length and breadth of this great country, with its forty million people, of the use of that invention, thus depriving the people of the right to use a thing which may be in use in a foreign country and perfectly well known there, and purchasable there, because, being ignorant of the very subject about which he was inventing, he supposed that he was the first inventor. In other words, it is a premium to a man to shut his eyes to the truth, it is a premium for ignorance, it is a premium to him for not studying the subject at all and finding what is known about it. That is precisely what it is; and now, on principle, how does it stand? Why, says the Senator from Maine, he may be just as meritorious a man as if he was in point of fact the first inventor. So far as he himself in concerned, he may in one sense be called, not the first inventor, but an inventor. Certainly he may be so called, so far as he himself is concerned, for he has discovered the thing for himself.

Mr. WILLEY. Allow me to ask whether the Senator is discussing the amendment offered by the Senator from Maine or the bill?

Mr. THURMAN. My objection goes to the whole section. The question I asked of the chairman was whether such a provision as this is now the law?

Mr. WILLEY. Yes, sir.

Mr. THURMAN. How long has it been the law.

Mr. WILLEY. It has been the law since July, 1836, with this exception: that after the words "foreign country" the words "before his invention or discovery thereof" are inserted in this clause.

Mr. THURMAN. Will the Senator let me see the law as it now stands?

Mr. WILLEY. Here is the section.

Mr. THURMAN. This, I am told, is the law as it now stands:

"That whenever it shall satisfactorily appear that the patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been before known or used in a foreign country, if it had not been before patented or described in a printed publication," &c.

Mr. WILLEY. The words "before his invention or discovery thereof" are not in the old law; they are inserted here.

Mr. THURMAN. I confess that I was not aware that this had been the law for so long a time. If it has received the sanction of the Government and country for so long a time I admit that is a strong argument in its favor; but it does seem to me that it is of very doubtful propriety, to say the least. These patent rights are monopolies; and although an inventor is often a most meritorious man, and deserves to be paid much more than he actually receives, nine tenths of the inventors are not entitled to any thanks at all. I think it may be fairly said that more than half of the so-called inventions are not inventions, and people are compelled often to pay for the use of machines in which there is no novelty whatsoever, and a large portion of the other so-called inventions are simply useless; but so far as the useless ones are concerned it makes no difference. There are multitudes of these inventions, so called, upon which people are compelled to pay, or are harassed if they use them, that are not novel at all, and that any reasonable amount of diligence in ascertaining whether they had been invented before or not would have satisfied the person that he was not an inventor, and that they had existed before. However, sir, as this law has existed so long, I will not press a motion to strike out the section.

Mr. WILLEY. The amendment offered by the Senator from Maine was considered in the committee very deliberately. The matter was brought to the notice of the committee, not for the purpose of amending the section in the manner he proposes now, but in the form of a bill which had been sent to the committee, on the motion of the Senator from Maine, asking for relief in the special case to which he alludes. There may be cases where relief should be granted, but they are special cases, and they ought to be specially considered, and the relief ought to be granted by special bill. If the amendment of the Senator from Maine be adopted you open a door to a vast amount of fraud and perjury and corruption.

Mr. HAMLIN. How?

Mr. WILLEY. My connection with the Patent Office has satisfied me that such will be the fact. Men will assume not to have known of a foreign invention; and hoping that the fact will never be discovered, and that they will never be brought to an account for it, they will swear to the fact, and thus they will, perhaps, divert rigid scrutiny and attention that would be given to their case from an examination of it.

The principle upon which these monopolies are given was well stated by the Senator from Maine. It is to reward the inventor; it is to reward the discoverer of an invention, and no person else; and to allow a person to have a monopoly of an improvement in this country, when he was not really the inventor of it, and when, if his patent had not issued perhaps just when it did, the knowledge of the foreign invention would have come to this country, is doing injustice to the country, and is rewarding a man for that which he does not deserve. It is giving him a monopoly in return for an invention which he never made, which was known abroad. The brain of another man has discovered it, and he in this country is reaping the reward. There may be cases, such as the one he mentioned, that would present an instance of hardship; and that is a case for special legislation.

The Department, I am satisfied from my knowledge of it—but that has not been very extensive—from conversation and conference with officers of that Department, will be deluged with applications predicated upon the view which this amendment contains, from the time of its adoption right on. Why should the United States grant a man a patent when he did not discover the principle patented? The Senator from Maine says he is virtually the discoverer, and is entitled to as much credit for it, because he did not know of the foreign invention. There may be cases of hardship, special cases containing special reasons for relief. In all such cases Congress is open to application, and the sense of justice of Congress will induce a bill of relief to meet every such case; and I think that is a sufficient remedy. Let each case of this character stand by itself.

The Senator must see, and the Senate must see, how wide a field for fraud will be opened by the adoption of his amendment; and yet if a party actually in good faith supposes he has made the discovery, and there are circumstances connected with it appealing to the justice of Congress and of the country, doubtless Congress would give him relief in that particular case; but if you throw open the door as wide as the amendment will open it, you open the door to fraud, you open it to perjury, and you open it to reward men who are not entitled to a reward for the discovery of inventions which they never made. By retaining the present section you by no means preclude any such claimant from the relief he is entitled to upon the special circumstances of his case.

The committee duly considered this matter, and they thought the amendment ought not to prevail, and that all such cases should be addressed to the sense of justice and to the discretion of Congress.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maine.

The amendment was rejected.

Mr. DAVIS. I will propose an amendment, and I offer it in the form of an additional section; but still the matter of it might be attached to a section of the bill reported by the committee:

And be it further enacted, That in all cases where the inventor or discoverer of any principle or improvement which the law allows to be patented, and before the same shall have been patented, or while the application for a renewal of the patent thereof shall be pending, may, by writing or parol, sell, assign, or transfer his right, or any part of his right, either absolutely or contingently, directly or indirectly, to any officer or employé in the Patent Bureau, and in all cases where the assignee of any principle or improvement, before the same shall have been patented or during the pendency of an application for the renewal of a patent, shall sell, assign, or transfer his interest or any part of it in any such principle or improvement absolutely or contingently by writing or parol to any officer or employé in the Patent Bureau, such interest so sold, assigned, or transferred shall thereupon become and be forfeited, and every person whatever shall have full and perfect right to use and appropriate such principle or improvement to the extent that the same may have been so assigned and transferred.

Mr. President, the Patent Bureau is one of the most remarkable features of our country. The extent and variety and value of the products of the inventive genius of our countrymen are marvelous. It has become a vast national interest, and it ought to be well guarded and protected. There is no part of the public service that offers more inducement to fraud and to foul play, and more opportunities for its practice, than the Patent Office does; and one of the most frequent, and, indeed, common sources of abuse of power in that office has been that the Commissioner himself, and the examiners and assistant examiners, and other employés in the bureau, have become interested in alleged discoveries and improvements before they were patented, and had taken an interest in them, and also they have taken a similar interest when there were applications made for a renewal of patents.

What has been the consequence? Of course, that the Commissioner of Patents would always direct a patent to be issued in conformity to his interests; that the examiners and assistant examiners, whose duty and business it was to examine such improvements or claimed improvements and discoveries, would, where they were interested, always make recommendations for patents in conformity to their interest. This has been a frequent source of abuse and of corruption in the Patent Office down to the present day, and, I suppose, throughout all its history.

There is a provision in the bill reported by the committee making it illegal for any employé in the Patent Office to take an interest in a patent; but that is simply a prohibition. There is no penalty attached to it, and, especially, there is no provision provided for its execution.

Now, the way to have such prohibitory laws executed is to give to every man whose business or pursuits lead him in the direction of these improvements and discoveries that are sought to be patented, the privilege of appropriating and using the patent wherever it has been the subject of sale or transfer, either in whole or in part, from the original inventor or from the assignee of the original inventor to any employé of the Patent Office. This amendment does make it void, because it says it shall become forfeited to the public, and that every person shall have free and perfect liberty to appropriate and to use it.

My friend from Delaware [Mr. BAYARD] has referred me to the sixteenth section of the bill, and to some words which he contemplates inserting.

Mr. WILLEY. I think the amendment prepared by the Senator from Delaware will cover the ground.

Mr. DAVIS. He proposes to make the section read:

And be it further enacted, That all officers and employés of the Patent Office shall be incapable, during the period they shall hold their appointments, to acquire or obtain, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office; and any right or interest sold or assigned in violation of this section shall be absolutely forfeited.

That, I think, meets my objection in fewer words, and quite as comprehensively.

Mr. HARLAN. I inquire whether the section just read applies to the extension of patents?

Mr. BAYARD. It covers any interest.

Mr. WILLEY. "Any right or any interest in any patent."

Mr. DAVIS. I think it is sufficiently comprehensive. I am willing to accept the modification.

The PRESIDING OFFICER. Does the Senator from Kentucky withdraw his amendment?

Mr. DAVIS. I do, that this may be offered; but while I am up I would say one other word in relation to this cause of misconduct in the Patent Office. If possible, these applications ought to be heard and decided in the order in which they are presented. I know that it is a frequent occurrence that applications of recent date are heard and decided before those of a much older date. That is an abuse; and it is an abuse that gives rise to much fraud and much injury to the earlier discoverer. I think that the honorable chairman of the Committee on Patents ought to introduce some effective provision which would secure that applications for patents should be heard rigidly in the order in which they are presented; in other words, let the miller's rule prevail—let him who comes first be served first. If that rule is not observed in every case, it may be disregarded in one instance whereby a subsequent discoverer of the same principle may be made to supersede the prior one.

Mr. BAYARD. I move to amend the bill by adding to section sixteen these words:

And any right or interest in any patent sold or assigned in violation of this section shall be absolutely forfeited.

Mr. WILLEY. That modification will be satisfactory.

Mr. FOWLER. I do not see any advantage in the amendment. The section itself provides that they shall not take or hold any interest. They cannot hold any interest in the article itself. A simple declaration, therefore, that it shall be forfeited I do not think adds anything whatever to the strength of the section.

Mr. WILLEY. It does not hurt.

Mr. FOWLER. It does not do any good.

Mr. DAVIS. It does a vast amount of good. It is the whole force of the provision. The forfeiture and the right that is vested in society at large put all society on the hunt of such cases.

Mr. FOWLER. I admit that the motive is correct; but as I interpret the section as it stands, no right can be acquired by such a transfer. Then of course it is of no value whatever to attempt to acquire any interest. It is forfeited without the amendment.

Mr. DAVIS. How could it be known that there had been a transfer? It would first have to be known to produce the forfeiture. The men who want to use it are led to be vigilant and to search for cases of such transfers by this provision.

Mr. STOCKTON. If I could agree with the chairman of the committee that this addition to the section did no harm I should be perfectly willing to vote for it; but I desire to submit, with great respect to him, whether it does not do harm. I ask him whether the law is not now that any patent obtained by fraud is void; whether fraud cannot be pleaded; whether, if you prove that a man has given money to the Commissioner to get his patent, that patent cannot be infringed upon without violating any law? By this amendment you do not avoid that patent; you simply avoid the interest which has been given to these individuals; so that, so far from putting further checks upon it, you remove checks that exist now by the law of the land. I merely suggest it to the chairman.

Mr. DAVIS. Neither my friend from New Jersey nor my friend from Tennessee apprehends as I do the reason and the value of this provision. How can you establish a forfeiture until you have established the fraud, until you have established the transfer? The whole forfeiture is based upon the fact of transfer. How can you know of a transfer? You can only know it by the inquiry and by the vigilance of the self-interest of men who desire to use the invention; and all of their alertness and acumen of intellect will be put to work to discover cases of transfers of interest in violation of this law. In that way you lay the basis for the application of the act where a forfeiture is declared in the law.

Mr. STOCKTON. It seems to me that this is the very case which the legal proceedings in patent suits are intended to reach. The courts can purge the consciences of all parties connected with it, and bring before them the whole evidence of the secret engagements that have been made. That is done in nearly all patent causes that are tried, where the question of the propriety of the means by which the patent was obtained depends upon questions of this kind. It is precisely like every other case of the kind; there may be difficulty in getting testimony; but through the process of a court of equity you can get that testimony if it is obtainable now; and if it is not obtainable, if the testimony cannot be got, what good will this addition do? If you cannot prove the fact, this objection will do no good. So it seems to me that the Senator from Kentucky, with all respect to his judgment, has not answered the suggestion I made.

Mr. THURMAN. I think if my friend from Kentucky will give me his attention for a moment I shall be able to satisfy him that the amendment which he suggests ought not to be put on this section. Let us see what the section is:

That all officers and employés of the Patent Office shall be incapable, during the period for which they shall hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by said office.

They are incapable of taking, except by inheritance or bequest, any interest or right whatsoever in any patent; so that it is impossible to vest any such right in them. If the holder of the patent makes an assignment of the patent, either entire or *pro tanto*, to an officer or employé of the Patent Office, the assignment is necessarily absolutely void, because the assignee is incapable of taking it. That being the case, you propose to add to that that the thing assigned shall be forfeited. Forfeited, why? Forfeited to whom? The assignor has not parted with it because the assignee is incapable of taking it, and nothing has passed from the assignor. Then, why shall you forfeit it? Shall you forfeit it as a punishment upon the assignor? Suppose that to be the case, to whom is it to be forfeited?

Mr. DAVIS. To anybody.

Mr. THURMAN. Forfeited to the public. Then, if a man assigns one fourth interest in a patent right to somebody who is an employé of the Patent Office, that one fourth interest cannot pass to the assignee, because he is incapable of taking it; and it is to be forfeited to the United States, says one gentleman. Then the United States is to go into partnership with the private individual holding that patent right.

Mr. BAYARD. It is a mere cessation of the power to use.

Mr. THURMAN. There is the right to hold three fourths of it still belonging to the individual. Three fourths of it is not tainted by any such assignment. Besides, ought there to be a forfeiture by the assignor? Let us see. He may assign in perfect ignorance that the assignee is an employé of the Patent Office; he may know nothing of it; there may be no guilty motive in his mind in making the assignment; and yet the bare fact that the man is an officer or employé of the Patent Office renders

him incapable of taking, and, however innocent the transaction may be, the assignee takes nothing under the section as it stands, and that is right. But now you would forfeit this right which the innocent assignor has attempted to assign but has not assigned, and would forfeit that to the United States for a thing that has no criminality in it whatsoever.

Mr. DAVIS. I apprehend this subject very differently from what my learned and able friends do who have just addressed the Senate. This amendment is not intended to produce a forfeiture; it is intended to prevent such transfers. Now, as I understand the patent laws as they exist, such assignments of any interest to persons in the employment of the Patent Office are illegal.

Mr. THURMAN. They are void.

Mr. DAVIS. How often have they been made? Nobody can tell, because the transfer is secret. Yet we all know, who know anything of the Patent Office, that such transfers have been frequent, and that such transfers have controlled the granting of patent rights. Every man knows that who knows anything about the matter of patents. That has been the fact and the history of the Patent Office up to the present day. Now, I want that remedied if possible. I would not forfeit the whole patent right; I would only forfeit the interest of the party who sold, transferred, or assigned, and only to the extent of the interest which he transferred, sold, or assigned.

Mr. WILLEY. To whom would the forfeiture go?

Mr. DAVIS. Go to the public, go to every man who chooses to use it. I would forfeit it to the extent of the interest of the party who made the transfer.

Mr. WILLEY. I ask my friend how the other parties are to divide the proceeds? Who is to be the trustee?

Mr. DAVIS. It can be settled up just like any other partnership.

But the object of this would be preventive, as I comprehend it. Whenever you make it a consequence of such a transfer that the whole interest intended or attempted to be transferred is forfeited, you bring such transactions to a close, and they will no longer be attempted. I know, from the best authority, that up to the present time there have been such transactions, and frequently in the Patent Office with the Commissioner, with the examiners, and the assistant examiners, and in consequence of them persons have received, unjustly or improperly, patents by the influence of officers who are thus purchased, when without such purchase they never would have obtained their patents at all. I think that the remedy proposed by the honorable Senator from Delaware will meet the case and will prevent it. Whenever persons who are interested in patents understand that if they attempt to make such a transfer the interest is to be forfeited, they will not make the transfer at all. When a man wants to make a transfer he knows who is the Commissioner of Patents; he knows who the examiners are; he knows who the employés are, and he hunts them up under the present system, and he hunts out the officer there who has the highest power and the greatest influence, for the express and illicit purpose of getting a patent, when he probably could not get it without such influence.

Mr. ANTHONY. It is very apparent that we cannot pass this bill to-night, and I suppose I only anticipate the wishes of my friend from West Virginia when I suggest that he let us adjourn.

Mr. WILLEY. I hope we shall not adjourn. I understand there are only one or two amendments more to be moved. We shall get through in a few minutes. If I do not secure the passage of this bill to-night, I shall give up all hope of passing it at this session.

Mr. ANTHONY. I do not believe you can pass it in two hours; but I will not make the motion.

The PRESIDING OFFICER (Mr. POMEROY) put the question on the amendment, and declared that the noes appeared to have it.

Mr. DAVIS. I call for a division.

Mr. HARLAN and Mr. CARPENTER. You can offer it again in the Senate.

Mr. DAVIS. I thought the ayes had it. It seemed so to me.

Mr. STOCKTON. I should like to say one word just at this moment, which may settle this matter. I should like to ask the Senator from Kentucky whether he does not believe that now the law as it stands is that the whole patent shall be forfeited as well as the interest which had been conveyed to this officer, who was derelict in his duty?

Mr. DAVIS. Most certainly it would be; but what I want is to put men in motion who will ferret out cases of such transfer with a view to have the law executed. It is not executed at all now.

Mr. STOCKTON. I have already had that answer to my suggestion. Now, I should like to ask one other question. Does he not, by forfeiting the interest simply, weaken the effect of a dereliction of duty in the officer by taking away from the patentee the penalty he incurs by attempting to do such a thing?

Mr. DAVIS. It takes away no penalty whatever that exists under the present law or that would exist by the proposed law. This remedy is cumulative solely, and it does not abstract anything whatever from the effect or operation of any provision of the law proposed, or of the existing law.

Mr. STOCKTON. If I could see the point in the view that the Senator from Kentucky does, I certainly should vote with him; but this proposition takes away, in my judgment, the forfeiture of the patent, which ought to exist as a penalty; and therefore I cannot vote for the amendment.

Mr. DAVIS. I do not know that the law would produce such a forfeiture. I doubt whether it would. But if it does, I know full well that this provision would not take away in fact nor impair such a forfeiture at all.

The PRESIDING OFFICER. The Senator from Kentucky can renew his amendment in the Senate if he desires to do so. We are now in Committee of the Whole.

Mr. HOWE. I move to amend the bill on page 46, section eighty-five, line twenty-two, by striking out "$3,500" and inserting "$4,000;" so as to make the compensation of the Librarian of Congress $4,000.

The amendment was agreed to.

Mr. CARPENTER. I wish to move an amendment to section twenty-five, which I understand to be necessary to carry out the spirit of the bill, by striking out the words "by reason of his having" and inserting "nor shall any patent be declared invalid by reason of its having been;" so that the section will read:

That no person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented in a foreign country."

I think the chairman of the committee will see that this amendment is necessary to carry out the spirit of the bill.

Mr. THURMAN. I submit to my friend from Wisconsin, if that will not make it entirely inconsistent with section sixty-two. Section sixty-two provides that patents "shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication." If it had been patented or described in the foreign country, then it is to be void by section sixty-two; and now the amendment of the Senator from Wisconsin provides that a patent shall be granted to the supposed inventor here, notwithstanding the very same invention had been patented in a foreign country. Section twenty-five, as it now stands, is right enough, that where a person may have obtained a patent in a foreign country he may obtain a patent in this country, notwithstanding he had obtained a patent for it there; but, if I understand the amendment of the Senator from Wisconsin, anything that has been patented in a foreign country may be patented here, and the Commissioner of the Patent Office, although he may know that it had been patented in a foreign country by somebody else, is compelled to issue a patent here.

Mr. CARPENTER. That is an unnecessary alarm surely, because a person could not obtain a patent here without proving that he was the original and first discoverer. The object of changing the language from "his having" to "its having" is that frequently in foreign countries patents are not issued in the name of the inventor, but in the name of his attorney or some other person, on the invention, however, of the person who under our law must apply for the patent in his own name.

Mr. THURMAN. Then leave it as it is; only changing it so as to make it read "his having patented it, or caused it to be patented."

Mr. CARPENTER. Is not that precisely four words for one, and coming to the same thing? However, if the Senator prefers those words, I have no objection. That is what I mean.

The PRESIDING OFFICER. If there be no objection that amendment will be made.

Mr. CARPENTER. There is one other amendment to which I wish to call the attention of the chairman of the committee. It is on page 25, section fifty-three. This morning in committee we had an examination of this proposition to strike out in lines twenty-seven and twenty-eight the words "nor in case of a machine patent shall the model or drawings be amended, except each by the other." I do not recollect whether the chairman has already moved that amendment or not.

Mr. WILLEY. I have not.

Mr. CARPENTER. Then I move that amendment, to strike out in lines twenty-seven and twenty-eight of section fifty-three the words "nor in case of a machine patent shall the model or drawings be amended, except each by the other;" so that the section will end with the sentence, "but no new matter shall be introduced into the specification."

Mr. HAMILTON, of Maryland. That was agreed upon in committee.

The amendment was agreed to.

Mr. CARPENTER. There is one other amendment to which I wish to call the attention of the chairman, and that is in section twenty-four. We considered this morning whether we would strike out the words in lines eight and nine "unless the same is proved to have been abandoned;" and I do not know what conclusion the committee came to, nor whether the chairman has made any motion in regard to it.

Mr. WILLEY. My individual conclusion was that they ought not to be struck out.

Mr. CARPENTER. Very well; I will not make the motion.

Mr. FOWLER. I have an amendment which I wish to offer. It is, to add to section sixteen the following:

And no assignment, transfer, or license of any letters-patent shall be valid or enforced by any legal proceedings unless the same shall have been duly acknowledged and proven by the inventor, patentee, or person making the same before a notary public or a judge of a court of record having a seal, before the recording of the same in the Patent Office; and from and after the approval of this act no assignment, transfer, or license of any letters-patent shall be recorded in the Patent Office until the same shall have been acknowledged and approved before a notary public or a judge of a court of record, having a seal; and all assignments, transfers, or licenses of any letters-patent already made and recorded in the Patent Office, which shall be hereafter acknowledged by the inventor, or the person or persons making the same before a notary public or a judge of a court of record having a seal, such acknowledgment shall be recorded in the Patent Office in the same manner as now provided for the recording of assignments, licenses, or transfers of patents.

Mr. WILLEY. I hope that that amend-

ment will not be made. It would be putting parties to a great deal of expense, I think, without much benefit. All these assignments have been recorded according to the laws now in the Patent Office; and it seems to me that that is enough without going through all this expense and certification and trouble.

The amendment was rejected.

Mr. SUMNER. I offer the following amendment as an additional section:

And be it further enacted, That the United States, or the officers, agents, or employés thereof, shall not be subject to any action, suit, or claim whatever by patentees of inventions, their assigns or licensees, on account or because of the use in the public service of the Government by such, its officers, agents, and employés, of any alleged patented discovery, invention, or improvement.

I should like to explain this amendment. It may be remembered that some days ago in the Senate, in connection with another matter, I called attention to the fact that our Government is obliged to pay patentees for the use of their patents. The Government gives to them the property with one hand, and then with the other pays them for its use. In doing so we have followed the old English law; but that law, by recent decisions in England, has been set aside. I have in my hands a copy of the opinion by the chief justice of England on this important question; and he has distinctly decided that a patentee cannot prevent the Government from using his invention. The opinion is very elaborate. I have a copy of it here. If it were not so late in the evening I should ask to have it read from the desk.

Mr. CONKLING. Does that decision apply to a patentee not in the service of the Government at all when he made his invention?

Mr. SUMNER. Not in the service of the Government at all. They go back, as the Senator will remember, to the original character of a patent, a monopoly. They say that a monopoly cannot be interpreted against the Crown; that whatever may be the rights of a patentee against his fellow-subjects, he has not rights against the Crown.

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

Mr. SUMNER. Certainly.

Mr. CARPENTER. Of course this decision of the Chief Justice, whatever it is, is based on an act of Parliament?

Mr. SUMNER. The original monopoly act of James I.

Mr. CARPENTER. So that the decision has no bearing here. We are making law, not construing law; and the question now is whether it is right for the Government to say that if a man invents any machine or other valuable improvement or contrivance he shall have a special property in it against everybody but the Government. If that is a correct principle in equity, there is no difficulty in covering it by law. Take the case of an invention in ship-building, some contrivance or arrangement valuable only in war, or an improvement in guns, something used only by the Government. For the Government to say that it will pay nothing to the inventor for his invention is to say that he shall have no compensation whatever for it.

Mr. SUMNER. That very case is considered by the chief justice in this decision, and he says that any other rule than that which he lays down would end in this: that the patentee might refuse to the Government the use of an important invention in time of war; that he might give it to the enemy, sell it, if you please, to the enemy, and refuse to sell it to his own Government.

Mr. CONKLING. If the Senator will allow me, the Constitution, by indirection at least, gives our Government at all times, in peace or in war, the right to take any private property, making compensation therefor.

Mr. SUMNER. I did not say whether it was applicable here or not.

Mr. CONKLING. But I say it would not be applicable here.

Mr. SUMNER. The question I want to present to the Senate is whether the time has not come for us, by legislation, to adopt substantially the principle which in England has been adopted judicially. Now, I present the question to the Senate. It is one of very considerable importance. I know full well that it cannot be discussed adequately without going much further than I am disposed to go now, or than in my thoughts I have ventured. It might involve the consideration of the whole question of patent laws, whether our whole patent system is not founded in an error. I do not venture to affirm that it is; but I think no one can read the two works that I have in my hand now, particularly the work of Mr. Frederick Edwards, jr., entitled "On Letters-Patent for Inventions," without feeling that those who vindicate patents have got a very considerable task before them.

Mr. CARPENTER. I appeal to the Senator to bring it up as a special case.

Mr. SUMNER. The Senator will pardon me for one moment; I am not going to intrude upon the Senate. For instance, here in this work is a very slight summary:

"It was the opinion of the late Sir M. I. Brunel"—

He was one of the greatest inventors that England has had of late—

"that patents are injurious alike to the inventor, the public, and the manufacturer. He was quite right. They are injurious to the inventor, because the field of invention is not freely open to him, because one man gets a privilege and precludes others, and because, even the man who obtains the privilege, instead of reaping a sure success, though perhaps not a very considerable one, is led on by the hope of an uncertain success, but a great one, and from a variety of causes, which may be said to spring only from his patent, he may live only to die in wretchedness, poverty, and shame.

"Patents are injurious to the public, because with them the increased knowledge and enterprise of thousands is not allowed to work with full freedom for the good of the community."

Mr. CONKLING. Who says that?

Mr. SUMNER. I have just mentioned the work:

"And they are injurious to the manufacturer, because he may not be able to use knowledge he may himself gain, because his course of trade may be disarranged by a privilege being in the hands of a competitor, and because he may be unable to avail himself of all the knowledge which may result directly or indirectly from the advances of science."

I merely read these few words upon the question from this authority, not that I will follow it myself; nor do I mean to say that I adopt the conclusions of this writer; but I must say that after perusing the very careful and elaborate opinion of the chief justice of England, and giving some attention to the question which is stated in the amendment I have submitted, I am inclined to believe that the chief justice is right, and that it will be well for our country and our Government if by legislation it puts its patent law in harmony with the patent law of England now as regulated by judicial decisions.

Mr. CARPENTER. If we adopt those views now, of course we need pass no such law as this. It would destroy the whole patent system of this country since the Government was established.

Mr. SUMNER. To adopt the views of Edwards, yes; but not to adopt the amendment.

Mr. CARPENTER. That knocks it pretty badly.

Mr. SUMNER. Does the Senator consider that the decision in England has knocked the patent system?

Mr. CARPENTER. I consider that the system in England has nothing whatever to do with this discussion. I suppose that the chief justice there was discussing and construing the statute of England, and the question was whether it prohibited the use of a patent by the Crown. It must have been on that, because the whole patent law is a right given by statute.

Mr. SUMNER. Certainly; the whole patent law of England grows out of the statute of James against monopolies. The patent law is an exception carved out of the statute of monopolies, as is well known to all lawyers.

Mr. WILLEY. Will the Senator allow me to say a word?

Mr. SUMNER. Certainly.

Mr. WILLEY. My connection with the affairs of the Patent Office is bringing me very much to the conclusion of the Senator from Massachusetts, that the English system is, perhaps, the best system. But I suggest to the Senator whether the policy of the whole patent law can be decided at this time. It will give me very great pleasure if he will send a bill, prepared with his mature deliberation and learning, on that subject to the Committee on Patents. We will give it our consideration. But it is getting very late to-night, and we have gone through all the matters on this bill on the existing policy of the Government. Now, I submit to him, would it not be better to bring up so grave a question as this, striking at the foundation of our patent system, as this does, in a separate measure?

Mr. SUMNER. I think the Senator misunderstands me. I have made no suggestion with regard to the principle of the patent laws.

Mr. WILLEY. But the very amendment that the Senator presents will come properly within the scope of his suggestion in regard to those laws.

Mr. SUMNER. My amendment is pointed simply to the right of the Government to use inventions, whether the patentees allow it or not.

Mr. WILLEY. A patentee cannot sue the Government. He cannot make the Government pay for using his patent unless it sees proper to do so on a special bill; and that has been done but very seldom.

Mr. SUMNER. If my friend, the chairman of the committee, would rather that this amendment I have sent to the Chair should not be pressed on this bill——

Mr. WILLEY. I shall be obliged to the Senator if he will not press it.

Mr. NYE. This is not the place for it. Bring it in as a separate bill.

Mr. SUMNER. My friend is mistaken when he says this is not the place for it, and that it should come up as a separate bill. I insist that this is the very place for it. But when I look at the clock I know perfectly well that there is no time before us to discuss the proposition, which I recognize as new—one that has never been debated in this Chamber. But then I most sincerely invite the attention of the Senate to it. I may be in error; it may be that I have been too much impressed by this judgment of the chief justice, whom, you all know, is a very able lawyer, one of the ablest common-law lawyers, perhaps, that England or our own country has ever had. Possibly I lay too much stress upon his conclusion; but it seems to me that the conclusion he reached as a judge we might reach as a Legislature.

Mr. CARPENTER. We might.

Mr. SUMNER. The Senator says, "We might." I am sure we might; that is, we have the power; and I am inclined to believe that it would be well for us to come to that conclusion. But I commend this question to the attention of the Senate, and now withdraw the amendment.

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

It was ordered that the amendments be engrossed, and the bill read a third time.

The bill was read the third time, and passed.

WESTERN DISTRICT OF WISCONSIN.

Mr. CARPENTER. I ask the Senate to consider this evening, and pass, a little bill local to Wisconsin, but of great importance to us, being Senate bill No. 722. It will lead to no debate, and I should like to have it passed to-night.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to con-

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

LIS - 5i

the bill to be read a third time. The bill was read the third time, and passed.

RAILROAD BILLS.

Mr. STEWART. Now I should like to have the request I made granted, that Monday evening be set apart for the Texas Pacific and the Atlantic Pacific railroad bills.

Mr. NYE. There cannot be any objection to that.

Mr. STEWART. We had better get both bills out of the way. They will not take long.

The PRESIDING OFFICER. Is there any objection to the proposition of the Senator from Nevada, that Monday evening be set apart for the consideration of the railroad bills named by him?

Mr. HAMILTON, of Maryland. Which has precedence?

Mr. BAYARD. Monday evening, I believe, is the regular evening for night sessions.

Mr. HAMILTON, of Maryland. It is understood the Texas Pacific bill has precedence.

Mr. STEWART. Yes, sir.

Mr. CASSERLY. I object to considering these railroad bills at night; they ought to be considered in day-time. These night sessions are exhausting beyond physical endurance, and I prefer to have the night sessions devoted to such business as is of a general character. I am perfectly willing to vote to take up this Texas Pacific bill to-morrow, or any other day in the day-time.

The PRESIDING OFFICER. Objection is made, and the arrangement cannot be made.

Mr. FOWLER. Suppose you take Monday in the day-time.

Mr. STEWART. We cannot get it; the tax bill is in the way.

The PRESIDING OFFICER. Does the Senator from California insist on his objection?

Mr. CASSERLY. I do.

JAMES C. STRONG.

Mr. CORBETT. I ask the Senate to take up a little bill for the relief of a lame soldier, James C. Strong.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1904) for the relief of James C. Strong. It authorizes the Secretary of War to recognize James C. Strong as colonel of the thirty-eighth (consolidated) regiment of New York volunteers from November 16, 1862, to June 22, 1863, and the Paymaster General is directed to pay to him the full pay and allowances of a colonel for that period.

The bill was reported to the Senate without amendment.

Mr. FOWLER. Is that bill reported by a committee?

Mr. CORBETT. Yes, sir; reported favorably by the Military Committee. It is all right.

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

COURTS IN IOWA.

Mr. HARLAN. I ask the Senate to take up a little bill, House bill No. 249, similar to one just passed.

Mr. FOWLER. I move that the Senate adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 249) concerning the district court of the United States for the district of Iowa.

The PRESIDING OFFICER, (Mr. ANTHONY.) This bill was reported adversely by the Committee on the Judiciary; but it is before the Senate as in Committee of the Whole, and open to amendment.

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

ALFRED E. BROOKS.

Mr. CONKLING. Some time ago, Senators will remember, a little bill was under consideration here; and the Senator from Vermont [Mr. EDMUNDS] objected then, as he was insisting upon the observance of an order. The merits of the case were stated at the time, it being reported from the Committee on Finance, the Senator from Oregon [Mr. WILLIAMS] having made the report. The whole case is that of a custodian of stamps who was a victim of a general burglary that took place in a little village near my home, and he lost these stamps. The Committee on Finance investigated the case, reported it, made a written report which was read to the Senate on a former occasion, and the bill would have passed as a matter of course at the time, but the Senator from Vermont had given a pledge that he would insist on a rule, and in that way it was passed over. Now I ask the Senate to take up that bill. It is House bill No. 272, for the relief of Alfred E. Brooks, postmaster at Ilion, New York.

Mr. THURMAN. That will give rise to debate.

Mr. CONKLING. Not unless the Senator wants to debate it. It was all considered before, and is precisely like other cases which have been acted upon.

Mr. THURMAN. Precisely; but they were passed over, and no such bills have yet been passed at this session.

Mr. CONKLING. I beg the Senator's pardon; there was no objection to my knowledge when I was present, except that the Senator from Vermont stated that he had undertaken to insist upon a rule against all bills, and I asked to take this up out of order, and he insisted upon the rule, there being no other objection with regard to it.

Mr. HAMILTON, of Maryland. Mr. President, I rise to a question of order. What was the order to be executed this evening?

The PRESIDING OFFICER. The bill of the Committee on Patents.

Mr. HAMILTON, of Maryland. And that alone?

The PRESIDING OFFICER. That alone. That was the order of the Senate; but it was not possible for the Chair to enforce that order.

Mr. NYE. I insist that the Senator from Maryland is too late. There have been so many things done that he is estopped from raising an objection now.

The PRESIDING OFFICER. The present occupant of the chair was notified by the Vice President that the order for this evening session was the bill reported from the Committee on Patents, and that there was an understanding that no other business should be transacted. It is not for the Chair to enforce such an understanding, however.

Mr. NYE. I have a high regard for the President, but I should like to get a bill passed.

Mr. McCREERY. I move that we take a recess till ten o'clock to-morrow. [Laughter.]

Mr. HAMILTON, of Maryland. I move that the Senate adjourn.

The motion was agreed to; and the Senate (at ten o'clock and forty-nine minutes p. m.) adjourned.

IN SENATE.

SATURDAY, *June* 25, 1870.

Prayer by the Chaplain, Rev. J. P. NEWMAN, D. D.

The Secretary proceeded to read the Journal of yesterday.

Mr. POMEROY. I suggest that the further reading of the Journal be dispensed with this morning.

Mr. CASSERLY. I hope not.

The VICE PRESIDENT. The Senator from California objects.

The Secretary resumed the reading of the Journal.

Mr. SUMNER. I move that the further reading of the Journal be dispensed with.

Mr. SPENCER. I object. I want to hear what was done last evening.

The VICE PRESIDENT. The Senator from Alabama objects.

The Secretary resumed and concluded the reading of the Journal.

COMMODORE S. B. BISSELL.

Mr. NYE. Mr. President——

The VICE PRESIDENT. The Chair desires to submit, in accordance with the twenty-fourth rule, messages from the House of Representatives. First, the Chair will lay before the Senate the amendments of the House of Representatives to the joint resolution (S. R. No. 107) for the relief of Commodore S. B. Bissell, which were presented yesterday, and withdrawn at the request of the Senator from Rhode Island.

Mr. ANTHONY. I move that the Senate concur in those amendments.

The motion was agreed to.

MINNESOTA UNIVERSITY LANDS.

The VICE PRESIDENT. The Chair also presents the bill (H. R. No. 253) authorizing the allowance of the claim of the State of Minnesota to lands for the support of a State university. This bill was presented yesterday, and withdrawn at the request of the Senator from Kansas, [Mr. POMEROY.] The bill has been read twice.

Mr. WILLIAMS. I presume there will be no objection to passing that bill at this time, it having passed the Senate once before, I believe. It has been considered by the Committee on Public Lands, and I have a report here which was made in favor of the passage of the bill.

Mr. TRUMBULL. What is the bill?

Mr. WILLIAMS. It is to construe the acts of Congress donating lands to the State of Minnesota for university purposes.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Commissioner of the General Land Office, in adjusting the claim of the State of Minnesota to land for supporting a State university, to approve and certify selections of land made by the Governor of the State to the full amount of seventy-two sections, mentioned in the act of Congress approved February 26, 1857, without taking into account the lands reserved at the time of the admission of the State into the Union to the State by the act of Congress approved March 2, 1861.

Mr. CASSERLY. I wish the Senator from Oregon would clear up the only difficulty that it seems to me exists, if it does exist, in the way of this bill; and that is, the difficulty arising out of a prevalent idea that this bill grants to the State of Minnesota the whole or a great part of this tract, although it has once before received an equal amount of lands for the same purpose, for a university.

Mr. WILLIAMS. Mr. President, I will briefly state, for the information of the Senator, that by the act of February 19, 1851, two townships in the Territory of Minnesota were donated by Congress to the Territory for university purposes. On the 26th of February, 1857, an act was passed to authorize the people of Minnesota to form a State government, in which certain propositions in the nature of a compact were made to the State of Minnesota. One was that seventy-two sections of land should be set apart for university purposes. Subsequent to that time, and on the 2d day of March, 1861, an act was passed providing—

"That the lands reserved for the use of a university in the Territories of Minnesota and Oregon, under section second of an act of Congress passed February 19, 1851, entitled 'An act to authorize the Legislative Assemblies of the Territories of Oregon and Minnesota to take charge of the school lands in said Territories, and for other purposes,' be hereby donated to the States of Minnesota and Oregon for the use of said university."

The Committee on Public Lands have construed these acts together, and conclude that it was the intention of Congress, in addition to

mittee [Mr. DAWES] to state whether there is any objection on the part of the committee.

Mr. DAWES. I have no particular knowledge in regard to this matter. In the deficiency bill which we passed the other day $3,500 were appropriated for furniture at that place.

Mr. PETERS. This has nothing to do with that. This appropriation is needed to finish the building, to grade the grounds, and do the necessary fencing.

The amendment was agreed to.

The Clerk read as follows:

For finishing the interior of the court-house building at Madison, Wisconsin; and for paving, grading, curbing, sewerage, and fencing, $40,000.

Mr. WELLS. I move to amend by inserting after the paragraph just read the following:

That the sum of $200,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended, under the direction of the Secretary of the Treasury, in the erection of a public building in the city of St. Louis, Missouri, for the use of the custom-house, post office, United States court, and other civil offices of the Government.

Mr. DAWES. I raise the point of order that this amendment is not in order, as it proposes an appropriation for a purpose not authorized by existing law.

Mr. WELLS. I understand that most of our public buildings have been authorized in this way.

The CHAIRMAN. Does the gentleman from Massachusetts [Mr. DAWES] insist on his point of order?

Mr. DAWES. I do.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WELLS. What is the point?

Mr. DAWES. That the amendment proposes new legislation; that the work is not authorized by existing law.

Mr. WELLS. Was the post office in New York or Boston authorized by law?

Mr. DAWES; Yes; they were provided for by law, I am sorry to say.

Mr. WELLS. I ask leave to print some remarks on this subject.

There being no objection, leave was granted. [See Appendix.]

The Clerk read as follows:

For completing the court-house building at Portland, Maine, including paving, curbing, and grading, $25,000.

Mr. PALMER. I move to amend by adding after the paragraph just read the following:

For completing the interior of the custom-house building at Des Moines, Iowa, and for curbing, paving, grading, and sewerage, $16,000.

In explanation of this amendment, I ask the Clerk to read the letter which I send to the desk.

The Clerk read as follows:

TREASURY DEPARTMENT,
OFFICE OF SUPERVISING ARCHITECT,
June 24, 1870.

SIR: I have the honor to acknowledge the receipt of yours of the 22d instant, and to say in reply that the Department submitted estimates for the completion of the court-house building at Des Moines, Iowa, on the 6th of December last, which will be found on page 12 of the deficiency estimates, as follows, namely:

For completing the building	$34,573
For curbing, paving, grading, and sewerage	6,000
Making a total of	40,573
Of this amount was appropriated	24,573
Leaving a deficiency of	$16,000

which must be provided for before the building can be completed.

The estimates of this office have been placed at the lowest practicable figure, and will admit of no reduction. If the appropriation is made there is no reason why the building cannot be entirely finished in a very few weeks. I can assure you that no efforts to accomplish this will be lacking on my part, and would respectfully suggest the propriety of calling the attention of the chairman of the Committee on Appropriations to these facts.

Very respectfully,
A. B. MULLETT,
Supervising Architect.

Hon. F. W. PALMER, *House of Representatives.*

Mr. PALMER. Mr. Chairman, I will state that this letter was not invited by me. I wrote to the supervising architect, asking that the building be completed with all possible speed, as the public officers at Des Moines need to occupy it as soon as practicable for the transaction of their business. The letter just read, stating that the building cannot be completed till an additional appropriation be made, is the answer I have received. I have been upon the ground within the last month, and know the necessity for the completion of this work. This is the last appropriation that will be asked for this purpose. If this appropriation be made, the building can be ready for occupancy in two months, and the public offices can be removed from their present location, in buildings not fire-proof, where the public records are liable to be destroyed by fire at any time.

Mr. DAWES. Mr. Chairman, I am sorry to object to this, but I wish to call the attention of the House to the bill we passed a few days ago. We appropriated for completing the work on the court-house at Des Moines, Iowa, $24,573. Thus far the supervising architect is the master of the House. I saw the other day the bill of expenditures on this court-house, where it is apparent where the money has gone. He sends out from this city men to cover the roof of this building in Iowa, paying for their fare there and back, and with men to go with them to oversee them. Then there is a patent-right, and next a royalty on that patent-right; then on the sum total fifteen per cent. The sum total makes just the difference my friend wants to finish his court-house. I wish he had his court-house finished; but I wish he had it out of that bill to which I have referred rather than out of this Congress.

Mr. PALMER. Mr. Chairman, I move to amend the amendment by striking out the last word. This is not the place to punish the people of my district and of my city for the sins committed by this supervising architect. If he does not do his duty, punish him in a proper manner; but to strike at him here is to strike at us. This building is in an unfinished condition, and if this appropriation be refused on account of this supervising architect, then the people of my State are alone to be the sufferers. Let this appropriation be made, and if the architect has done wrong punish him in another place. I withdraw the amendment to the amendment.

The committee divided; and there were—ayes 55, noes 24; no further count being asked.

So the amendment was agreed to.

The Clerk read as follows:

For continuing the construction of the building for post office and court-house in New York city, $500,000, subject to all the conditions limiting this appropriation in the act of April 20, 1870.

Mr. WELLS. I move to strike that out.

The committee divided; and there were—ayes 24, noes 25; no quorum voting.

Mr. MAYNARD. Does the chairman of the Committee on Appropriations believe this sum is necessary for the current year to carry on this work?

Mr. DAWES. If the House will indulge me——

Mr. WELLS. I object to any discussion on this question.

Tellers were ordered: and Mr. WELLS and Mr. BEAMAN were appointed.

The committee again divided; and the tellers reported—ayes 20, noes 68; no quorum voting.

Mr. WELLS. I insist on a further count.

The CHAIRMAN. No quorum appearing, the roll will, under the rules, be called by the Clerk.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Arnell, Axtell, Ayer, Bailey, Banks, Barnum, Benton, Bingham, Bird, Booker, Bowen, Buck, Roderick R. Butler, Cake, Cessna, Sidney Clarke, Covode, Cowles, Cox, Dickey, Dockery, Duval, Farnsworth, Fox, Gibson, Griswold, Haight, Hamill, Hamilton, Hawley, Hays, Hoge, Hotchkiss, Alexander H. Jones, Kerr, Ketcham, Loughridge, Lynch, Maynard, McCarthy, McCrary, Mercur, Milnes, Elisha H. Moore, Samuel P. Morrill, Morrissey, Negley, Pomeroy, Porter, Randall, Ridgway, Schenck, Schumaker, Porter Sheldon, Slocum, William J. Smith, Worthington C. Smith, Stevenson, Stiles, Tanner, Taylor, Tillman, Townsend, Van Trump, Van Wyck, Voorhees, Cadwalader C. Washburn, William B. Washburn, Willard, Williams, and Witcher.

The committee then rose, and the Speaker having resumed the chair, Mr. BUFFINTON reported that the Committee of the Whole on the state of the Union, having under consideration a bill (H. R. No. 2165) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1871, and for other purposes, and finding itself without a quorum, he had, under the rules, caused the roll to be called; and he now reported the names of the absentees, in order that they may be entered upon the Journal.

ENROLLED BILLS SIGNED.

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

An act (H. R. No. 2044) declaring the bridge between Philadelphia and Camden a post route;

An act (H. R. No. 2224) making the 1st day of January, the 25th day of December, the 4th day of July, and Thanksgiving day holidays within the District of Columbia; and

A joint resolution (H. R. No. 306) to amend act of July 28, 1866.

MISCELLANEOUS APPROPRIATION BILL.

The SPEAKER. A quorum having answered to their names, the committee will resume its session.

The committee accordingly resumed its session, (Mr. BUFFINTON in the chair.)

Mr. WELLS. I withdraw my motion to strike out.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. GORHAM, their Secretary, was received, which announced that the Senate had passed a bill (H. R. No. 230) to require the holding of additional district and circuit courts of the United States in the district of Indiana, and for other purposes, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had passed, without amendment, bills and a joint resolution of the House of the following titles:

A bill (H. R. No. 1904) for the relief of James C. Strong;

A bill (H. R. No. 249) concerning the district court of the United States for the district of Iowa;

A bill (H. R. No. 253) authorizing the allowance of the claim of the State of Minnesota to lands for the support of a State university;

A bill (H. R. No. 2277) supplementary to an act to provide for furnishing artificial limbs to disabled soldiers; and

A joint resolution (H. R. No. 251) authorizing Surgeon George E. Cooper, of the United States Army, to accept a gift from the Government of France in acknowledgment of services rendered.

The message further announced that the Senate had passed a bill of the House (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, with amendments, in which the concurrence of the House was requested.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill of the House (H. R. No. 386) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

The message further announced that the Senate had passed a bill and joint resolutions

now too late to do justice to what I am confident should be granted.

The amendment of Mr. FERRY was agreed to.

The Clerk read as follows:

To establish a light to mark the pier at the harbor of Plymouth, Duxbury, and Kingston, in the State of Massachusetts, $17,931 43.

Mr. McCORMICK, of Missouri. This seems to be a very large appropriation for a single light.

Mr. DAWES. It is to establish a new light at a very perilous point. This appropriation is one of those which were marked "No. 1."

Mr. McCORMICK, of Missouri. I do not oppose the establishment of this light; but it seems to me the amount proposed to be appropriated is enormous.

Mr. DAWES. The gentlemen will see right above it an appropriation of $20,000. The sum embraced in the paragraph is what the Department estimated as the lowest figure.

The Clerk resumed the reading of the bill.

Mr. DAWES. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BUFFINTON reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 2165) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1871, and for other purposes, had come to no resolution thereon.

AMENDMENT OF PATENT LAWS.

On motion of Mr. JENCKES, by unanimous consent, Senate amendments to the bill (H. R. No. 1711) to revise, consolidate, and amend the statutes relating to patents and copyrights, were taken from the Speaker's table, nonconcurred in, and a committee of conference ordered.

BRIDGE ACROSS NIAGARA RIVER.

Mr. BENNETT, by unanimous consent, reported back from the Committee on Commerce Senate amendments to the bill (H. R. No. 489) to authorize the construction and maintenance of a bridge across the Niagara river, with a recommendation that the amendments be concurred in.

The Clerk read the amendments of the Senate, as follows:

In section one, line nine, after the word "Legislature" insert "now in force."

In line twenty-three, after "Secretary of War," insert "but not to be located south of Squaw Island;" so as to read:

That the location of any bridge the construction of which is hereby authorized shall be subject to the approval of the Secretary of War, but not to be located south of Squaw Island.

Strike out in line twenty-five "two hundred" and insert "one hundred and sixty;" so as to read:

That such bridge shall have at least two draws of not less than one hundred and sixty feet in width in the clear between the piers.

In lines twenty-seven and twenty-eight, strike out the words "and the location and plan of the same shall be subject to the approval of the Secretary of War," and insert "and the piers of said bridge shall be parallel to the current of said river."

Insert in section two the following:

And be it further enacted, That the bridge herein named shall be subject in its construction to the supervision of the Secretary of War of the United States, to whom the plans and specifications relative to its construction shall be submitted for approval; and all railway companies desiring to use said bridge shall have and be entitled to equal rights and privileges in the passage of the same and in the use of the machinery and fixtures thereof, and of all the approaches thereto, under and upon such terms and conditions as shall be prescribed by the district court of the United States for the northern district of New York, upon hearing all the allegations and proofs of the parties, in case they shall not agree.

Insert as section three the following:

And be it further enacted, That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of the said river by the construction of the said bridge, is hereby expressly reserved.

Mr. MAYNARD. Does this come from the Committee on Commerce?

The SPEAKER. The gentleman from New York has so stated. He reports back the bill with the Senate amendments, with the recommendation that they be concurred in.

The amendments of the Senate were concurred in.

Mr. BENNETT moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BARK BUSY.

On motion of Mr. PLATT, by unanimous consent, Senate joint resolution No. 191, granting an American register to the British-built bark Busy, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

Mr. ELDRIDGE moved to reconsider the vote by which the joint resolution was referred to the Committee on Commerce; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DECEASE OF HON. DAVID HEATON.

Mr. COBB, of North Carolina. Mr. Speaker, I rise in the discharge of a most painful duty, and that is to announce to the House the death of my colleague and friend, Hon. DAVID HEATON, a member of this House from the second congressional district of the State of North Carolina. The death of Colonel HEATON was not entirely unexpected; for an insidious and fatal disease, consumption, had taken deep hold of his vitals, and to-day it claims him as its victim.

Sir, the sorrow which I express is not the stereotyped formality which my position as a colleague upon this floor would naturally suggest; but I feel in his loss I have indeed lost a friend, a true and valued friend. Although I had not known him long, my acquaintance with him beginning on my entrance into public life here as a member of the Fortieth Congress, still I can say that he was my valued friend, one whom I had tried and found true.

Mr. Speaker, we are too apt to discover the faults and errors of men in public life and to parade them before the world, and when they are dead and gone to bury their errors and faults with them and only remember what was good. I feel, in saying there was much that was good and nothing that was ill in DAVID HEATON, that I do not transgress the bounds of truth and propriety.

And, sir, if to-day the many who knew him in the three several States in which he acted in public life should go and stand before his lifeless remains, I would dare any one of them to point to the motionless body and assert that the deceased had ever done him wrong. The integrity of his heart, the purity of his character, the sweetness of his disposition, and the correctness of his life endeared him to many, very many friends all over this country. If he had an enemy, I have yet to discover the fact.

Colonel HEATON at the time of his death was but forty-seven years old. Born in the State of Ohio, at an early age he was honored with a seat in the senate of that State. But failing health carried him to the milder climate of Minnesota, where he was three times successively elected to its State senate. In the year 1863 he was called by the now Chief Justice of the United States, Mr. Secretary Chase, to be a special Treasury agent for the State of North Carolina. I did not know Colonel HEATON at that time. But I have met and conversed with many whose business associations threw them into daily contact with him, and from every one of them I have received the unanimous verdict that, charged as he was with the disbursement and receipt of large sums of money, his honor, his character, his integrity remained throughout unsullied.

After the war had closed the people of Frémont county, in which he had settled, sent him to the State convention which had been formed to reorganize our constitution and assist in the reconstruction of the State of North Carolina. In that body he was honored with the chairmanship of the committee on the bill of rights, and the duties he performed in that capacity earned for him a name that may be envied by any one in the State of North Carolina. After that he was nominated and elected to the Fortieth Congress, and again to the present Congress; and since he has been finally confined by the disease which has proved fatal he was unanimously renominated by the people of his district for reëlection to the Forty-Second Congress. I doubt if any adopted citizen of the State of North Carolina—or I might, perhaps, say any native citizen of that State—enjoyed in a higher degree the confidence of the people of all classes, all parties, and all races more than our deceased friend; and perhaps no higher tribute could be paid to his worth, to his honor, and to his integrity than to say that, living as he did in the course of his public life with responsibilities of a high order resting upon him at all times in the three several States in which he had resided, he died—and I hope I am not invading the sanctities of private life when I say it—he died a poor man. After having had many millions of dollars at his disposal, at the termination of his public life he was comparatively poor.

Perhaps it may be not unprovidential, when we have so much of intense personal bitterness in our politics, that we sometimes suspend and neglect real legislation to engage in crimination and recrimination—perhaps it may be not unprovidential that one of the best and purest of us is taken away. It may, sir, be a wholesome lesson to us. It may teach us that there is a higher tribunal than this House; that there is a higher bar than that of public opinion, at which we must all finally stand, and be judged by a Judge who knows only right and justice. I sincerely trust that if you, sir, or I shall be the next to be called away, or whoever it may be, I trust we may be as ready to meet the summons as was my departed friend.

Soon his seat will be filled by another; and I indulge the hope that that other may possess the same integrity of heart, the same honesty of purpose, the same conscientious patriotism that my departed colleague and friend, DAVID HEATON, possessed.

Mr. Speaker, I move the adoption of the following resolutions:

Resolved, That the House hears with profound regret the death of Hon. DAVID HEATON, member from the second district of North Carolina.

Resolved, That as a testimony of respect for the memory of the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the Speaker appoint a committee of five members of this House to accompany the remains to the national cemetery at Newbern, North Carolina.

Resolved, That the proceedings of the House in relation to the death of Hon. DAVID HEATON be communicated to his family by the Clerk.

Resolved, That, as a further mark of respect for the deceased, the House do now adjourn.

Mr. JONES, of North Carolina. Mr. Speaker, I rise to second the resolutions offered in regard to my departed and much-esteemed and respected colleague, DAVID HEATON.

Residing in one extreme end of the State and I in the other, I had not the pleasure of Mr. HEATON'S personal acquaintance until the autumn of the year 1866. It was my good fortune to meet with him at that time in the first Republican mass convention that ever assembled at the capital of my native and his adopted State. Although not having met in person prior to that occasion, we knew each other's views in reference to the great questions that were then agitating the country. Our first meeting was of the most pleasant character. Associated with myself as the presiding officer of that mass convention, acting as vice president, he rendered valuable services by aiding myself in the discharge of a duty in a capacity which, prior to that occasion, was quite limited.

The Republicans of North Carolina are indebted to DAVID HEATON, as the author and

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

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T. Gates, postmaster at Thomiston, Connecticut, praying Congress for relief from payment of stamps stolen from his office November 17, 1868.

By Mr. LASH: The petition of Samuel C. Wall, a citizen of Stokes county, North Carolina, for removal of political disabilities.

By Mr. MOORE, of Ohio: The petition of J. W. Andrews, Douglass Putnam, John Mills, and twenty-five others, of Marietta, Ohio, for the repeal of legacy and succession duties.

By Mr. STRICKLAND: The memorial of Mary J. Lowry, asking for a pension for her children under sixteen years of age.

By Mr. TWICHELL: The petition of W. A. Abbott, for his share of prize money.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June* 29, 1870.

The House met at eleven o'clock a. m. Prayer by Rev. J. P. NEWMAN, Chaplain of the Senate.

The Journal of yesterday was read and approved.

AGRICULTURAL COLLEGE SCRIP.

Mr. WILSON, of Minnesota. I desire to have taken from the Speaker's table, for consideration at this time, Senate bill No. 167, amendatory of an act to protect the rights of actual settlers upon the public lands of the United States, approved July 27, 1868, and for other purposes.

The SPEAKER. The bill will be read, after which objections to its consideration at this time will be in order.

The bill was read. It provides that the act entitled "An act to protect the rights of actual settlers upon the public lands of the United States," approved July 27, 1868, shall be amended by adding thereto the following:

Provided, That all such agricultural college scrip shall be received from actual settlers in payment of preëmption claims, in the same manner and to the same extent as is now authorized by law in case of military bounty land warrants: *And provided further*, That all locations of such scrip made within thirty days after the date of approval of said act of July 27, 1868, if otherwise in conformity with law, are hereby legalized and made valid.

No objection being made, the bill was taken up, read a first, second, and third times, and passed.

Mr. WILSON, of Minnesota, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW YORK POST OFFICE.

Mr. FARNSWORTH. I desire to have read by the Clerk a letter which I have received as a reply to a letter which was read the other day at the request of the gentleman from Michigan, [Mr. BEAMAN,] in reference to the New York new post office building.

Mr. STEVENSON. I object to this constant harping upon members who are not in the House.

LAND DISTRICTS IN ARKANSAS.

Mr. McCORMICK, of Missouri. I ask unanimous consent to report from the Committee on the Public Lands, for consideration at this time, a bill in relation to land districts in the State of Arkansas.

The SPEAKER. The bill will be read, after which objections to its consideration at this time will be in order.

The title of the bill was a bill to discontinue the Clarksville, Arkansas, land district, and to provide for the establishment of an additional land district in that State. The first section provides that the district of land now subject to disposal at Clarksville, Arkansas, shall be discontinued from and after July 1, 1870, and that thereafter the said land district shall be divided as follows: beginning at the corner common to townships twelve and thirteen, north, ranges seventeen and eighteen west, and running thence west between said townships to the corner common to townships twelve and thirteen north, ranges twenty-six and twenty-seven west, thence south with said range line to the corner common to townships nine and ten north, thence west on the line between said townships to the western boundary of the State; the lands lying north of said division line within the limits of the said Clarksville district to be subject to disposal at Huntsville, Arkansas, and the lands lying south of said division line within said district to be subject to disposal at Dardanelle, Arkansas, the same to be known and designated as the Huntsville and Dardanelle land districts. The second section authorizes the President of the United States to appoint, by and with the advice and consent of the Senate, or during the recess thereof and until the end of the next ensuing session, a register and receiver for each of said land districts, who shall be required to reside at the site of their respective offices, shall be subject to the same laws and responsibilities, and whose compensation and fees shall be respectively the same per annum as are now allowed by law to other land districts in said State.

Mr. McCORMICK, of Missouri. This bill has been examined by the Committee on the Public Lands, and I have been directed by the committee to report it to the House, and recommend its passage. It also has the sanction of the Commissioner of Public Lands.

No objection being made, the bill (H. R. No. 2350) was received and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

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

Mr. McCORMICK, of Missouri, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WESTERN JUDICIAL DISTRICT OF WISCONSIN.

Mr. BINGHAM. I ask unanimous consent to take from the Speaker's table the bill (S. No. 722) to establish the western judicial district of Wisconsin. I beg to say that the bill has passed the Judiciary Committee of this House, that it involves an additional expenditure to the Government of only $3,500 a year, and that a regard to the due administration of justice requires that the bill should pass.

The SPEAKER. The bill will be read for information, after which objections will be asked for, if any.

The bill was read. It provides in its first section that that portion of the State of Wisconsin comprising the counties of Rock, Jefferson, Dane, Green, Grant, Columbia, Iowa, La Fayette, Sauk, Richland, Crawford, Vernon, La Crosse, Monroe, Adams, Juneau, Buffalo, Chippewa, Dunn, Clark, Jackson, Eau Claire, Pepin, Marathon, Wood, Pierce, Polk, Portage, St. Croix, Trempealeau, Douglas, Barron, Burnett, Ashland, and Bayfield, shall hereafter constitute a new judicial district, to be called the western district of Wisconsin, and the circuit and district courts of the United States for said western district of Wisconsin shall be held at the city of Madison and at the city of La Crosse, within said district.

The second section provides that a term of the circuit and district court of the United States for said western district shall be held at the city of Madison on the first Monday of June, and at the city of La Crosse on the first Monday of December in each year.

The third section provides that the district of Wisconsin shall hereafter consist of the counties of said State not named in this act, and shall be called the eastern district of Wisconsin; and circuit and district courts of the United States shall be held in said eastern district, as follows: at the city of Oshkosh, on the first Monday of July, and at the city of Milwaukee on the first Monday of January and on the first Monday of October in each year.

The fourth section provides that the said circuit or district court for either of said districts may in its discretion order special terms, and order a grand or petit jury, or both, to attend the same, by an order to be entered of record twenty days before the day at which said special term shall be ordered to convene; and said courts respectively at such special terms shall have all the powers that they have at a regular term appointed by law; provided, however, that no special term of said circuit court for either district shall be appointed except by and with the concurrence and consent of the circuit judge.

The fifth section provides that all suits and other proceedings of whatsoever name or nature, now pending in the circuit or district court of the United States for the district of Wisconsin, shall be tried and disposed of in the circuit and district courts, respectively, for said eastern district as the same would have been if this act had not been passed, and for that purpose jurisdiction is reserved to the said courts in the said eastern district; and the clerks of the circuit and district courts of the present district of Wisconsin shall retain the records and files of the said circuit and district courts, at the city of Milwaukee, and do and perform all the duties appertaining to their said offices, respectively, within the eastern district, except as is hereinafter provided; and all process returnable to or proceedings noticed for any term of the present circuit or district court shall be deemed to be returnable to the next term of said courts, respectively, in the said eastern district, as fixed by this act.

The sixth section provides that upon application of any party to any suit or proceeding now pending in the present circuit or district courts of the United States, for the present district of Wisconsin, which should have been commenced in the proper court for the western district if this act had been in force at the time of the commencement thereof, the proper court shall order that the same be removed for further proceedings to the proper court for said western district; and thereupon the clerk shall transmit certified copies of all the papers and of all orders made therein to the clerk of the court to which such suit or proceeding shall be removed, and all further proceedings shall be had in said court, to which the same shall be removed as if the said suit or proceeding had originally been commenced therein.

The seventh section provides that the passage of this act shall not have the effect to destroy or impair the lien of any judgment or decree rendered by the circuit or district court of the United States for the present district of Wisconsin, prior to this act taking effect; and final process on any judgment or decree entered in the circuit or district court of the United States for the district of Wisconsin, or which shall be entered therein prior to this act taking effect, and all other process for the enforcement of any order of said courts, respectively, in any cause or proceeding now pending therein, except causes or proceedings removed as herein provided, shall be issued from and made returnable to the proper court for the eastern district of Wisconsin, and may be directed to and executed by the marshal of the United States for the said eastern district in any part of the State of Wisconsin.

The eighth section provides that there shall be appointed a district judge for said western district of Wisconsin, who shall receive an annual salary of $3,500; and there shall also be appointed a marshal and district attorney of the United States for said western district of Wisconsin, who shall respectively receive such fees and compensation, and exercise such powers and perform such duties as are fixed and enjoined by law.

The ninth section provides that the circuit and district judges shall appoint two clerks,

peaceful Indian communities. When this system becomes generally prevalent it will cease to be expensive, for the Indians will have become self-supporting.

I think it is one of the best auguries of the times that the religious world is taking an interest in this Indian question. It is strange, it is a pity, that the sympathy now awakened has so long slept. I believe, however, it has been awaiting its opportunity, and that the first opportunity has just been given by those in power. If there is any reproach it is that an opportunity has not been before demanded in tones not to be disregarded. With some exceptions, also, the press have demanded that justice and mercy be extended to the Indians. The day is past when the public will believe that all the wrong is by the Indian in the frequent conflicts and brawls on the border. I know the Indian is sometimes cruel and savage; that he sometimes in wantonness, and sometimes in anger, does deeds of deviltry that sting the ears to hear. In Arizona he has nearly taken possession of the Territory by cruel and relentless war. I know that he is an uncomfortable neighbor in his savage state, and that even among the partially civilized his passions or his tastes are apt to crop out in deeds of blood and perhaps of treachery. But yet civilization ejects from its bosom many men who take to the border, who are a terror alike to the decent pioneer and a scourge to the Indian; devils of crimes as malicious and cruel as ever Indian committed, who make of every Indian, friend or foe, a target, and give occasion for many of the outbreaks that bring reproach and vengeance on the Indian. If one Indian does a wrong, another or several other innocent ones are killed for it!

Then, in some cases our military have taken the false witness of worthless knaves against Indians, and they have massacred whole villages of men, women, and children for a lie. The Indians revolt against our military posts, and allege that they only lead to quarrels, the debauching of their women, the drunkenness of their braves, the demoralization and oppression of their people. There must be some truth in these constant complaints. Then, consider the hard bargains we have constantly driven with these Indians; our purchase of their lands in the most fertile spots of America for a song; the payment to them so often in rotten goods of the pittance promised; their banishment to sterile lands, where their only resource is the hunt for disappearing game; and finally our refusal, necessitated by the highest call for self-preservation, to allow them the use of their best hunting grounds.

As a people we have been hard and selfish with these barbarous neighbors ever since we seized their continent. Much of our dealings with them has arisen from the necessity of the case or from thoughtlessness, but the result has been the same as if premeditated—the murder of a people. They have resisted at many steps of the progress, sometimes with the energy of despair, sometimes with the malice of revenge. Some of them still fight us with such weapons of cunning or force as are left to them. It is a hopeless fight, and they know it; but who goes to the wall without a struggle? I believe that if the Indians had the means of subsistence, and knew that they could rely on the good faith of our Government and be safe from injury and insult of base white men, there would never be another Indian war on the continent, and the cases of Indian crime would be rare. I may, perhaps, except Arizona, where the Indian expects to expel the white man, and has never been taught his power, numbers, and resources.

I do not believe that the way to keep peace with the Indians is to ratify the absurd treaties of the summer of 1867. The real way is to provide for their present wants with decent liberality, and induce them, if possible, to change their nomadic habits into more settled ones, giving them the means so to do. That is less expensive than war by far, and it is just, honorable, and humane. But do not let us throw away money on so-called treaties that the Indians reject as frauds, and which are not only unsatisfactory to them, but absurd and irrational.

With the details of the Senate amendments I propose to deal under the five-minutes debate. Some of them are provided for in the miscellaneous bill which we passed yesterday, and may be stricken from this bill. I think the Indian service of the next fiscal year can be amply provided for, and yet from one to two millions be saved from the Senate bill.

[Here the hammer fell.]

The SPEAKER. The time allowed for general debate has expired.

Mr. BENJAMIN. I move that the House now adjourn.

Mr. ROOTS. Oh, no; let us finish this bill to-night.

COINAGE.

Mr. KELLEY. I trust the gentleman from Missouri [Mr. BENJAMIN] will waive for one moment his motion to adjourn, that I may offer for reference to the Committee on Printing the following resolution:

Resolved, That five hundred copies of the letter of the Secretary of the Treasury of the 25th instant, transmitting a report of the Deputy Comptroller of the Currency, with accompanying correspondence, relative to the Mint coinage of the United States, be printed for the use of the Treasury Department.

There being no objection, the resolution was received; and was referred, under the law, to the Committee on Printing.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HORACE PORTER, one of his Secretaries, notifying the House that he had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 572) to amend an act incorporating the National Junction Railway Company;

An act (H. R. No. 2044) declaring the bridge between Camden and Philadelphia a post route;

An act (H. R. No. 2224) making the 1st day of January, the 25th day of December, the 4th of July, and Thanksgiving day holidays within the District of Columbia;

A joint resolution (H. R. No. 86) concerning the Southern Pacific railroad of California;

A joint resolution (H. R. No. 302) donating condemned ordnance for a soldiers' monument at Poughkeepsie, New York; and

A joint resolution (H. R. No. 306) to amend act of July 28, 1866.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. SIMPSON, one of its clerks, notifying the House that that body had passed a bill (H. R. No. 2241) for the relief of the heirs of William Eddy, deceased, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate agreed to the conference asked for on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 1604) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1871, and for other purposes, and had appointed as managers of said conference on its part Mr. MORRILL of Maine, Mr. SUMNER, and Mr. COLE.

It further announced that the Senate agreed to the conference asked for on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, and had appointed as managers of said conference on its part Mr. WILLEY, Mr. CARPENTER, and Mr. HAMILTON of Maryland.

The message further announced that the Senate had passed an act (S. No. 930) for the relief of Joseph S. Finch & Co., of Pittsburg, Pennsylvania, in which the concurrence of the House was requested.

LEAVE OF ABSENCE.

Mr. BOWEN obtained leave of absence for ten days.

WITHDRAWAL OF PAPERS.

Mr. TANNER obtained leave to withdraw from the files of the House, for reference to the Committee on Invalid Pensions, the petition of Emily McClure.

Mr. STOKES obtained leave to withdraw from the files of the House the papers of Mrs. Jane A. Jackson, for reference to the Court of Claims.

Mr. HOLMAN obtained leave to withdraw from the Committee of Claims the papers of Thomas F. Bowler.

The motion of Mr. BENJAMIN was then agreed to; and (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CLARK, of Texas: A petition of citizens of Louisiana and Texas, for an appropriation to remove obstructions to navigation on Red river.

By Mr. FERRISS: The petition of B. Maillefert, of New York, asking payment for services rendered in deepening the channel of East river at Hell Gate.

By Mr. O'NEILL: A memorial of mates in the United States Navy, asking that they may have the same pay as boatswains and gunners.

By Mr. SHELDON, of Louisiana: The petition of Governor Warmoth and 1,000 others, citizens of Louisiana and Texas, praying for an appropriation for the improvement of the Red river in Louisiana and Texas.

By Mr. SWANN: The petition of James Simons, surgeon and brevet colonel United States Army, praying compensation for property taken by the Army.

IN SENATE.

WEDNESDAY, *June* 29, 1870.

The Senate met at eleven o'clock a. m.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. SHERMAN. I present the memorial of the Chamber of Commerce of the city of Cincinnati, urging with very strong reason and somewhat at length the appropriation of the full amount asked for by General Weitzell to complete the work at the Louisville falls. I earnestly beg the attention of the chairman of the Committee on Commerce to the facts stated in this memorial in regard to the Louisville canal. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. CASSERLY. I present the memorial of the International Ocean Telegraph Company, in answer to certain charges preferred in the memorial of the Florida Telegraph Company presented here on the 24th of this month, praying to be allowed the privilege of laying a submarine cable from the coast of Florida to the West India islands. It is quite full in respect to those charges, and as that memorial was ordered to be printed by the Senate, I move that this memorial be referred to the Committee on Foreign Relations, and be printed.

The motion was agreed to.

Mr. EDMUNDS presented the petition of Louis Sonntag, late a private in the third New Jersey cavalry, praying to be allowed bounty; which was referred to the Committee on Military Affairs.

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

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Then, in some cases our military have taken the false witness of worthless knaves against Indians, and they have massacred whole villages of men, women, and children for a lie. The Indians revolt against our military posts, and allege that they only lead to quarrels, the debauching of their women, the drunkenness of their braves, the demoralization and oppression of their people. There must be some truth in these constant complaints. Then, consider the hard bargains we have constantly driven with these Indians; our purchase of their lands in the most fertile spots of America for a song; the payment to them so often in rotten goods of the pittance promised; their banishment to sterile lands, where their only resource is the hunt for disappearing game; and finally our refusal, necessitated by the highest call for self-preservation, to allow them the use of their best hunting grounds.

As a people we have been hard and selfish with these barbarous neighbors ever since we seized their continent. Much of our dealings with them has arisen from the necessity of the case or from thoughtlessness, but the result has been the same as if premeditated—the murder of a people. They have resisted at many steps of the progress, sometimes with the energy of despair, sometimes with the malice of revenge. Some of them still fight us with such weapons of cunning or force as are left to them. It is a hopeless fight, and they know it; but who goes to the wall without a struggle? I believe that if the Indians had the means of subsistence, and knew that they could rely on the good faith of our Government and be safe from injury and insult of base white men, there would never be another Indian war on the continent, and the cases of Indian crime would be rare. I may, perhaps, except Arizona, where the Indian expects to expel the white man, and has never been taught his power, numbers, and resources.

I do not believe that the way to keep peace with the Indians is to ratify the absurd treaties of the summer of 1867. The real way is to provide for their present wants with decent liberality, and induce them, if possible, to change their nomadic habits into more settled ones, giving them the means so to do. That is less expensive than war by far, and it is just, honorable, and humane. But do not let us throw away money on so-called treaties that the Indians reject as frauds, and which are not only unsatisfactory to them, but absurd and irrational.

With the details of the Senate amendments I propose to deal under the five-minutes debate. Some of them are provided for in the miscellaneous bill which we passed yesterday, and may be stricken from this bill. I think the Indian service of the next fiscal year can be amply provided for, and yet from one to two millions be saved from the Senate bill.

[Here the hammer fell.]

The SPEAKER. The time allowed for general debate has expired.

Mr. BENJAMIN. I move that the House now adjourn.

Mr. ROOTS. Oh, no; let us finish this bill to-night.

COINAGE.

Mr. KELLEY. I trust the gentleman from Missouri [Mr. BENJAMIN] will waive for one moment his motion to adjourn, that I may offer for reference to the Committee on Printing the following resolution:

Resolved, That five hundred copies of the letter of the Secretary of the Treasury of the 23th instant, transmitting a report of the Deputy Comptroller of the Currency, with accompanying correspondence, relative to the Mint coinage of the United States, be printed for the use of the Treasury Department.

There being no objection, the resolution was received; and was referred, under the law, to the Committee on Printing.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HORACE PORTER, one of his Secretaries, notifying the House that he had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 572) to amend an act incorporating the National Junction Railway Company;

An act (H. R. No. 2044) declaring the bridge between Camden and Philadelphia a post route;

An act (H. R. No. 2221) making the 1st day of January, the 25th day of December, the 4th of July, and Thanksgiving day holidays within the District of Columbia;

A joint resolution (H. R. No. 86) concerning the Southern Pacific railroad of California;

A joint resolution (H. R. No. 302) donating condemned ordnance for a soldiers' monument at Poughkeepsie, New York; and

A joint resolution (H. R. No. 396) to amend act of July 28, 1866.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. SIMPSON, one of its clerks, notifying the House that that body had passed a bill (H. R. No. 2241) for the relief of the heirs of William Eddy, deceased, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate agreed to the conference asked for on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 1604) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1871, and for other purposes, and had appointed as managers of said conference on its part Mr. MORRILL of Maine, Mr. SUMNER, and Mr. COLE.

It further announced that the Senate agreed to the conference asked for on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, and had appointed as managers of said conference on its part Mr. WILLEY, Mr. CARPENTER, and Mr. HAMILTON of Maryland.

The message further announced that the Senate had passed an act (S. No. 930) for the relief of Joseph S. Finch & Co., of Pittsburg, Pennsylvania, in which the concurrence of the House was requested.

LEAVE OF ABSENCE.

Mr. BOWEN obtained leave of absence for ten days.

WITHDRAWAL OF PAPERS.

Mr. TANNER obtained leave to withdraw from the files of the House, for reference to the Committee on Invalid Pensions, the petition of Emily McClure.

Mr. STOKES obtained leave to withdraw from the files of the House the papers of Mrs. Jane A. Jackson, for reference to the Court of Claims.

Mr. HOLMAN obtained leave to withdraw from the Committee of Claims the papers of Thomas F. Bowler.

The motion of Mr. BENJAMIN was then agreed to; and (at four o'clock and fifty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CLARK, of Texas: A petition of citizens of Louisiana and Texas, for an appropriation to remove obstructions to navigation on Red river.

By Mr. FERRISS: The petition of B. Maillefert, of New York, asking payment for services rendered in deepening the channel of East river at Hell Gate.

By Mr. O'NEILL: A memorial of mates in the United States Navy, asking that they may have the same pay as boatswains and gunners.

By Mr. SHELDON, of Louisiana: The petition of Governor Warmoth and 1,000 others, citizens of Louisiana and Texas, praying for an appropriation for the improvement of the Red river in Louisiana and Texas.

By Mr. SWANN: The petition of James Simons, surgeon and brevet colonel United States Army, praying compensation for property taken by the Army.

IN SENATE.

WEDNESDAY, *June* 29, 1870.

The Senate met at eleven o'clock a. m.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. SHERMAN. I present the memorial of the Chamber of Commerce of the city of Cincinnati, urging with very strong reason and somewhat at length the appropriation of the full amount asked for by General Weitzell to complete the work at the Louisville falls. I earnestly beg the attention of the chairman of the Committee on Commerce to the facts stated in this memorial in regard to the Louisville canal. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. CASSERLY. I present the memorial of the International Ocean Telegraph Company, in answer to certain charges preferred in the memorial of the Florida Telegraph Company presented here on the 24th of this month, praying to be allowed the privilege of laying a submarine cable from the coast of Florida to the West India islands. It is quite full in respect to those charges, and as that memorial was ordered to be printed by the Senate, I move that this memorial be referred to the Committee on Foreign Relations, and be printed.

The motion was agreed to.

Mr. EDMUNDS presented the petition of Louis Sonntag, late a private in the third New Jersey cavalry, praying to be allowed bounty; which was referred to the Committee on Military Affairs.

reamended. If I have overstated in saying that the substitute is one third manuscript I will fall a half and say a sixth. If that does not satisfy my friend, I will go still further. I am not going to quarrel with him about the actual quantity of manuscript he has here; and I am sorry that he should have switched off so suddenly on that innocent remark of mine.

It is enough to say that the scope and effect of this bill as originally proposed have been pretty substantially altered, or else my friend from Missouri has been devoting his ingenuity to a very useless performance; and if I did not know that my friend from Missouri would not propose anything that he thought was at all questionable, I should be likely to suspect that his objection to allowing the bill to be printed and looked at was because he thought it would not bear investigation; but I do not think so. I say that my friend's reputation is enough to carry him over a bridge of this unsoundness, and to lead us all to know, so far as his opinion goes, that it is perfectly right. But this is not the way to pass bills granting away the public territory. This is a corporation that has already had enormous grants in land and in bonds. How do we know but that the extension of this grant may by legal implication carry bonds with it also? What provision is made for reimbursing the United States for the interest upon the bonds already issued, which is in arrear, as I understand.

Mr. DRAKE. Double the provision that was made before.

Mr. EDMUNDS. That may be so; but how are we to know it? If we are to pass my friend from Missouri, instead of passing the bill, then I will vote for it; but I supposed it was the bill we were to consider; and when we have once passed it, it will not be the opinion of my friend that the Secretary of the Interior will be governed by; it will be the law.

I do not want to delay action on this bill one way or the other; but I do think it right that we should postpone action upon it until we shall know what it is. The bill as now agreed upon is not known to a Senator on this floor except my friend from Missouri, so far as I know and believe, as to its substantial contents and the alterations that have been made in it. I hope, therefore, that my friend will consent, without any squabble about it, that it may lie over and be printed. I shall not object to his taking it up to-morrow.

Mr. DRAKE. If the Senator from Vermont had been in his place in this body last week, instead of being in the State of Vermont, he would have known all about this bill.

Mr. CAMERON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield?

Mr. DRAKE. No, sir. He would have known that those manuscript interlineations in that substitute were put in by a vote of the Senate, understanding the whole bill perfectly at the time. Sir, I think it is graceless in the Senator to come in now when he has been absent from his post here, while the Senate has been trying to perfect this bill, and endeavor to throw it over in the little space of time we have in the morning hour by making a long speech, talking about the cunning ingenuity of my pen, and all that sort of thing. Sir, this is no way to deal with a great enterprise like this, in which this whole country is interested. If the Senator will not be here when a measure comes up, let him at least defer somewhat to the judgment of the Senators that do stay here and attend to their business.

Mr. EDMUNDS. May I ask my friend a question?

Mr. DRAKE. Yes, sir.

Mr. EDMUNDS. I want to ask him, in view of his remarks, whether he does not think I stay here too much now altogether? Had I not better be in Vermont to-day, for his purposes?

Mr. DRAKE. No, sir; the gentleman's presence here is very acceptable, if he would only let matters alone that he does not understand. [Laughter.] Now, sir, he has exhausted nearly the whole of the morning hour; but now I want a vote.

The VICE PRESIDENT. The motion of the Senator from Vermont is that the bill and substitute be postponed until to-morrow, and ordered to be printed.

The question being put, a division was called for; and the ayes were 24, and the noes 22.

Mr. DRAKE called for the yeas and nays; and they were ordered.

The VICE PRESIDENT. The morning hour has expired, and the Senate resumes the consideration of the bill for the reduction of taxes. If there be no objection the bill just considered will be printed. The Chair hears no objection, and the printing will be ordered.

Mr. DAVIS. I desire to offer a resolution calling for information relative to a bill pending.

The VICE PRESIDENT. The Chair will receive it.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury inform the Senate what amount has been paid at the Treasury on the claim of George Fisher's representative, for the use and destruction of property in the Creek Indian war, giving the amount and date of each payment.

EVENING SESSION.

Mr. McDONALD. I move to take up the resolution I offered, setting apart this evening for the consideration of the Oriental Steamship Company bill.

Mr. SHERMAN. I object.

The VICE PRESIDENT. The morning hour has expired, and the bill to reduce taxation is before the Senate.

Mr. SHERMAN. I submit a motion that we have an evening session, and I expect to-night to finish the tax bill.

Mr. McDONALD. I move that we take a recess from half past four to half past seven this evening, for the purpose of considering the Mediterranean and Oriental steamship bill in the evening.

The VICE PRESIDENT. The latter part of the motion must be by unanimous consent, as it is in the nature of a resolution.

Mr. McDONALD. Well, I move a recess from half past four to half past seven to-day.

Mr. SHERMAN. I have no objection to that.

The motion for a recess was agreed to.

Mr. SHERMAN. I give notice to the Senator from Arkansas that I will antagonize the tax bill unless it is finished by half past four.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 32) to prevent the extermination of fur-bearing animals in Alaska, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1604) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1871, and for other purposes, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM H. KELSEY of New York, Mr. THOMAS FITCH of Nevada, and Mr. J. B. BECK of Kentucky, managers at the same on its part.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THOMAS A. JENCKES of Rhode Island, Mr. H. C. CALKIN of New York, and Mr. S. W. KELLOGG of Connecticut, managers at the same on its part.

The message further announced that the House had passed the following bills of the Senate without amendment:

A bill (S. No. 167) amendatory of an act to protect the rights of actual settlers upon the public lands of the United States, approved July 27, 1868, and for other purposes;

A bill (S. No. 495) to confirm entries of public land in certain cases in the State of Alabama; and

A bill (S. No. 722) to establish the western judicial district of Wisconsin.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice President:

An act (H. R. No. 230) to require the holding of additional district and circuit courts of the United States in the district of Indiana, and for other purposes;

An act (H. R. No. 249) concerning the district court of the United States for the district of Iowa;

An act (H. R. No. 253) authorizing the allowance of the claim of the State of Minnesota to lands for the support of a State university;

An act (H. R. No. 386) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867;

An act (H. R. No. 489) to authorize the construction and maintenance of a bridge across the Niagara river;

An act (H. R. No. 1904) for the relief of James C. Strong;

An act (H. R. No. 2277) supplementary to an act to provide for furnishing artificial limbs to disabled soldiers;

A joint resolution (H. R. No. 216) relative to the Champaign County (Ohio) Monumental Association; and

A joint resolution (H. R. No. 251) authorizing Surgeon George E. Cooper, of the United States Army, to accept a gift from the Government of France in acknowledgment of services rendered.

PERSONAL EXPLANATION.

Mr. SCHURZ. Mr. President, I ask unanimous consent of the Senate to make a personal explanation.

The VICE PRESIDENT. The Chair hears no objection.

Mr. SCHURZ. My attention has been called to the Washington correspondence of the New York Times of yesterday, in which it is stated that the protocol preliminary to the San Domingo treaty got into the report of the investigating committee in some mysterious way; and there are certain charges against me personally in that article.

I am not in the habit of taking notice of any newspaper charges, and would not in this case but for the fact that I am accused of having procured the publication of that protocol in a surreptitious manner, which would seem to involve the complicity of others. I deem it my duty, therefore, to give a statement of facts. First I will read that portion of the article which refers to the matter:

"It [meaning the protocol] was not called for by the committee, nor furnished by the Secretary of State. It was shown in confidence to Mr. SUMNER some months ago, when his conversations led people to believe he was favorable to the treaty, and it was foisted upon the committee by Mr. SCHURZ without reason or explanation, and apparently with the deliberate purpose of stabbing the President. It had no relation to the memorial or case of Mr. Hatch, which was under investigation, and was brought out in such a way that its malicious purpose was sure to be fully accomplished before the facts of the case which surrounded it, and which were not brought out with it, could be made public and neutralize its purpose. There is nothing whatever in it, or in the President's subsequent action on the subject, to warrant the assumption attempted to be drawn from it, that any illegitimate action was ever even contemplated by him. Senator SCHURZ and his triple alliance will have to try again."

The facts in the case are these: the first knowledge the investigating committee ob-

tained of the existence of such a thing as this protocol was not through me nor through any member of the committee, but through General Babcock himself, who revealed the fact to the committee without being asked about it, of his own voluntary motion. The committee called for all the papers to which reference was made in the course of the investigation. A list was drawn up, I think, by the Senator from Connecticut, [Mr. FERRY,] containing all the papers which the State Department or other Departments should be required to lay before the committee, and the protocol was one of them. The Secretary of State brought certain papers before the committee, and I think by some mistake took some of them away again. When the testimony was closed it was found that some papers called for on that list were not there. The Senator from Connecticut went to the Senator from Nevada, the chairman of the committee, [Mr. NYE,] and called his attention to the fact and requested him to send for two or three papers, of which the protocol was one.

One day, I think it was the day after we had ceased taking testimony, the Senator from Connecticut came to me upon the floor of the Senate and said that the Senator from Nevada had sent to the Secretary of State a letter requesting the transmission of that protocol; but that, as he was obliged to go away, he had requested him (the Senator from Connecticut) to receive the communication from the State Department and put it into the hands of the reporter of the committee. The Senator from Connecticut further told me that he was obliged to go away also, and that he had instructed the doorkeeper, when the document should arrive, to place it in my hands for the purpose of transmitting it to the reporter of the committee. The doorkeeper did place it in my hands. I did, however, not at once deliver it to the reporter of the committee, intending, in order to avoid the possibility of a mistake, to wait for the Senator from Nevada, [Mr. NYE,] who shortly afterward appeared upon the floor. I went to him with the paper in my hands and I said, "Senator, here is that protocol; is it understood that it is to go into the hands of the reporter to be printed?" He said, "Yes;" whereupon I delivered it to the reporter, and it was printed with the rest. That is the whole story.

Now, as far as the attacks made upon me personally by the correspondent of the New York Times are concerned, I do not think they are such as to oblige me to take notice of them.

CONSULAR AND DIPLOMATIC BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1604) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1871, and for other purposes, disagreed to by the House of Representatives.

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. MORRILL of Maine, Mr. SUMNER, and Mr. COLE.

PATENT LAWS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, disagreed to by the House of Representatives.

On motion by Mr. WILLEY, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. WILLEY, Mr. CARPENTER, and Mr. HAMILTON of Maryland.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. HORACE PORTER, his Secretary, announced that the President had this day approved and signed the following acts and joint resolution:

An act (S. No. 237) to amend an act entitled "An act to authorize the Secretary of the Treasury to license yachts;"

An act (S. No. 489) to reorganize the marine hospital service, and to provide for the relief of sick and disabled seamen;

An act (S. No. 558) to incorporate the National Bolivian Navigation Company;

An act (S. No. 626) granting a pension to Sarah E. Stubbs;

An act (S. No. 742) to provide for changing the boundaries of land districts;

An act (S. No. 808) granting a pension to Amanda M. Ritchey; and

A joint resolution (S. R. No. 107) for the relief of Commodore S. B. Bissell and Commodore John C. Carter.

TAX BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (H. R. No. 2046) to reduce internal taxes, and for other purposes, the pending question being on the amendment of the Committee on Finance, to insert, as lines two hundred and two and two hundred and three of the forty-seventh section of the House bill, the following item:

On bituminous coal and shale, fifty cents for a ton of twenty-eight bushels, eighty pounds to the bushel.

Mr. MORRILL, of Vermont. I desire to say a single word in relation to this matter. I regret that it seems only necessary in the minds of some Senators to carry any proposition that they should allude to the fact that it operates unfavorably to New England. In relation to this matter no New England Senator has opened his mouth, while it has been discussed by several on the opposite side of the question. I come from a State that has not much interest in this matter; our people have sufficient forests and are accustomed to the use of the ax, so that the question whether they shall have free coal or not is a matter of no importance to them. I therefore feel in a position to discuss this question on its merits. It is a question whether or not coal is a proper subject for the levying of a duty at all, and in the next place whether, if the duty shall be surrendered, the Treasury can spare it.

I have always thought that the friends of a protective tariff have clung to a duty upon coal with too great a tenacity. In the first place, by no power of protection can the amount be increased. The labor that is involved in getting out coal can be protected; but by protection by no possibility is the amount of coal to be produced in the country to be increased. In the next place, it is an article that is largely consumed for fuel throughout all our Atlantic cities, and it is a source of constant complaint whenever an election comes off that the poor man is taxed for his fuel at the rate of fifty to seventy-five per cent., and it is very difficult to meet this question. Under the tariff of 1846 the duty was thirty per cent. on coal; in 1857 it was twenty-four per cent. The duty proposed by the amendment of the Senate Committee on Finance is fifty cents a ton, which is nearly as much as twenty-five per cent. duty on the article itself. The price of Picton coal at the place of exportation is but a little over two dollars per ton, and $1 25 duty, therefore, is a very extravagant protection of the article; it is over fifty per cent. on the cost of the article at the place of exportation.

I only desire to suggest these facts, and wish the Senate to act rightly upon the subject; and after all there is a question whether we can spare the revenue, after the action of the Senate, or not. I am somewhat doubtful about it; but I desire to state these facts in relation to the matter.

Then there is another branch of the subject, in relation to the use of this coal for steam-vessels, and the use of it in manufactures. Obviously, if vessels that use it for steam are compelled to ship it all the way from West Virginia or from the Cumberland mines, the freight added to its cost is immense, and the protection here that is demanded is rather a protection for the Baltimore and Ohio railroad than for the miners.

Mr. COLE. Mr. President, I think I shall move a compromise in this matter. I move that the amendment be amended by putting in "one dollar" in place of "fifty cents." I have no remarks to make on the subject. I hope the time may come before long when we may dispense entirely with the tax on coal; but I suppose it would be hardly possible to do it at present. I move that the rate of duty be one dollar, as a compromise.

Mr. CAMERON. I trust the report of the committee in relation to coal will not be adopted. I think it will be destructive to all the mines in the State of Maryland, and in the State of West Virginia, and to a great extent to those further West. I do not believe Pennsylvania is so much interested in this subject as other States. Our great product, coal, that we send to market, the anthracite, has no competitor in the world; and we care very little about protection of that. Our bituminous coal, which is across the mountain, comes in competition with the coal of West Virginia and that of Maryland. Our coal mines have built up our whole State. The products of our mines and of our forges and our oil-wells last year reached nearly one hundred million dollars, which we added to the wealth of the country. All that has been the result of the protection which we have had from the Government.

In the olden time when we spoke of protection we thought we had a common interest all over the country. The notions of New England and the cottons of New England and the woolens of New England were all built up by that common reciprocal system of protection to the interests of the whole country. Latterly New England has got beyond her youth, has reached the maturity of her manufactures, and now she is setting up for herself. I am sorry to find some Senators from New England instructed to go against a duty on coal because a reduction on coal may help the profits of the manufacturers of New England.

Mr. MORRILL, of Vermont. I hope the Senator does not allude to me.

Mr. CAMERON. No, I do not. The manufacturers of New England have this at heart, not the people. Very little of this bituminous coal is used in houses for domestic purposes; it is used for the steam-engine generally. This city of Washington will, at some future day, and that not far distant, become a great manufacturing place because of the mines of the Cumberland region in Maryland. I believe the product of coal there last year was some five or six hundred thousand tons. I do not remember the amount exactly. The Senator from Maryland can tell.

Mr. HAMILTON, of Maryland. About two million tons. There were seven hundred thousand tons transported by the Chesapeake and Ohio canal and one million two hundred and forty thousand tons by the Baltimore and Ohio railroad.

Mr. CAMERON. That two million tons has given freight to the Baltimore and Ohio railroad; it has furnished the manufacturers of Baltimore; it has furnished the steamships of New York, and it has to come in competition with this coal of Nova Scotia. I am told that the native owners of the coal mines in Nova Scotia do not desire to have this duty taken off;

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

LIS - 51

Mr. TRUMBULL. The President of the Senate is in the habit of seconding a motion.

Mr. CASSERLY. There is such a rule.

Mr. STEWART. I second it.

Mr. SHERMAN. So do I.

Mr. CASSERLY. Very well.

Mr. DRAKE. I rise to a question of order. Is that motion debatable?

The PRESIDING OFFICER. The Chair thinks it is not debatable to any extent.

Mr. DRAKE. If it is debatable to any extent it is debatable to the greatest extent.

The PRESIDING OFFICER. The Chair thinks a motion to send for absentees while the yeas and nays are being called is not debatable, because the decision of the vote has not yet been announced.

Mr. CASSERLY. I desire to say that my suggestion was merely for the sake of the Senate. I believe this to be a very unusual proceeding, and considering the lateness of the hour I do not know but it may be characterized as a severe one. That is all.

Mr. TRUMBULL. It is not an unusual motion. It has often been made in the Senate.

Mr. SHERMAN. It is the only motion that can be made.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois.

The motion was agreed to.

Mr. SPENCER. I should like to inquire whether it is known that there is a quorum here or not? The result has not yet been announced.

Mr. TRUMBULL. It is not necessary that it should be announced before we send for absentees.

Mr. HAMLIN. Yes, it is.

Mr. CASSERLY. I rise to another point of order.

Mr. SUMNER. Let the announcement be made.

Mr. CASSERLY. There is nothing before the Senate to show that there is not a quorum present.

Mr. HAMLIN. The announcement should be made.

Mr. TRUMBULL. I take it it is competent to send for the absentees whether there is a quorum here or not.

Mr. CASSERLY. That is the question.

Mr. SUMNER. Let the announcement be made.

Mr. TRUMBULL. I think we could get enough in by the Sergeant-at-Arms inviting Senators in.

The PRESIDING OFFICER. The Secretary will read the names.

Mr. CASSERLY. I make the point of order that before this step can be taken there should be some official fact before the Senate of the want of a quorum.

The PRESIDING OFFICER. The names will be read to develop that fact.

The result of the vote on Mr. HOWE's amendment to the amendment was announced—yeas 11, nays 23; as follows:

YEAS—Messrs. Anthony, Boreman, Chandler, Howe, McCreery, McDonald, Osborn, Ross, Spencer, Thayer, and Willey—11.

NAYS—Messrs. Casserly, Corbett, Cragin, Drake, Hamilton of Maryland, Harlan, Harris, Howell, Pomeroy, Rice, Robertson, Sawyer, Schurz, Scott, Sherman, Sprague, Stewart, Sumner, Thurman, Trumbull, Warner, Williams, and Wilson—23.

ABSENT—Messrs. Abbott, Ames, Bayard, Brownlow, Buckingham, Cameron, Carpenter, Cattell, Cole, Conkling, Davis, Edmunds, Fenton, Ferry, Flanagan, Fowler, Gilbert, Hamilton of Texas, Hamlin, Howard, Johnston, Kellogg, Lewis, Morrill of Maine, Morrill of Vermont, Morton, Norton, Nye, Patterson, Pool, Pratt, Ramsey, Revels, Saulsbury, Stockton, Tipton, Vickers, and Yates—38.

The PRESIDING OFFICER. On this question the yeas are 11 and the nays 23. There is no quorum voting.

Mr. SUMNER. We had better adjourn.

Mr. TRUMBULL. I should like to inquire if the Sergeant-at-Arms has reported whether Senators are present who have not voted.

The PRESIDING OFFICER. The Sergeant-at-Arms has been directed to execute the order of the Senate.

Mr. TRUMBULL. Has he reported?

The PRESIDING OFFICER. He has not yet made a report.

Mr. CASSERLY. Does this come under the bill to enforce the fifteenth amendment, so that the Secretary of War may employ the Army and Navy of the United States? [Laughter.] I think that is one of its provisions.

Mr. TRUMBULL. I wish to say for myself that I have no idea of trying to force Senators to attend. If their sense of public duty warrants them in withdrawing from the room to break up a quorum I have nothing more to say about it. They take the responsibility. If they do it to-night, others may do it to-morrow night. I have never in my life before, during my experience in the Senate, known Senators to withdraw from the Senate and in hearing refuse to vote, for the purpose of breaking up a quorum. I have known persons to be absent. I wish it could be known who the Senators are that were within hearing and refused to respond in order to defeat a quorum of the Senate. I shall not now resist a motion to adjourn.

Mr. STOCKTON. I do not know whether the Senator from Illinois is referring to me or not.

Mr. TRUMBULL. I am not referring to the Senator from New Jersey. My remarks refer, however, to all Senators who withdrew from the Senate into the cloak-rooms for the purpose of breaking up a quorum of the Senate.

Mr. STOCKTON. If the Senator means to make that charge as to me he makes a charge which is not founded in fact. I withdrew from the Senate for the purpose of consultation with one or two gentlemen who felt that this matter was brought up as a new matter to us, and we did not understand the interests of our constituents. As far as I am concerned my name was called in my absence; if I had been here I probably would have voted "nay" rather than have voted "yea," in ignorance of the subject. I was within call and was notified this instant by the Sergeant-at-Arms that there had been a call of the House, or whatever you may choose to call it. I have never yet refused to vote when I have been here, although kept here by this Senate at unreasonable hours and called upon by this proposition to vote on matters not germane to the bill, and to vote on questions which I ought not to be called upon to vote on without an opportunity of examination; and I say so about this proposition to-night.

The gentlemen who come from States that have large sea-ports have a perfect right to examine this question, and ought to have been permitted to do so. I appealed to the Senate several times to adjourn. I say again that if the Senate of the United States mean to go on trifling with the business in the way in which they are doing, keeping us here until twelve and half past twelve o'clock at night, meeting in committees at ten o'clock in the morning, meeting in the Senate at eleven, keeping in session all day, and then moving late at night a call of the House because Senators will not vote on questions that interest their constituents deeply and severely, of which they have never heard before, which are not germane to the bill being discussed, I say it is time we had some rules to prevent this. But I am willing to vote now, as I always have been whenever I am in the Senate, and I should have voted if I had heard my name called.

Mr. STEWART. I hope the absentees will be called.

Mr. HOWE. I move that the Senate do now adjourn.

Mr. SUMNER. That is the best thing now.

The PRESIDING OFFICER. It is moved that the Senate adjourn.

Mr. STEWART called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 17; as follows:

YEAS—Messrs. Anthony, Bayard, Boreman, Casserly, Corbett, Drake, Hamilton of Maryland, Hamlin, Howe, McCreery, Pomeroy, Ross, Scott, Spencer, Stockton, Sumner, Vickers, Willey, and Williams—19.

NAYS—Messrs. Cragin, Harlan, Howell, McDonald, Osborn, Rice, Robertson, Sawyer, Schurz, Sherman, Sprague, Stewart, Thayer, Thurman, Trumbull, Warner, and Wilson—17.

ABSENT—Messrs. Abbott, Ames, Brownlow, Buckingham, Cameron, Carpenter, Cattell, Chandler, Cole, Conkling, Davis, Edmunds, Fenton, Ferry, Flanagan, Fowler, Gilbert, Hamilton of Texas, Harris, Howard, Johnston, Kellogg, Lewis, Morrill of Maine, Morrill of Vermont, Morton, Norton, Nye, Patterson, Pool, Pratt, Ramsey, Revels, Saulsbury, Tipton, and Yates—36.

So the motion was agreed to; and at twelve o'clock and twenty minutes

The Senate adjourned.

IN SENATE.

SATURDAY, *July* 2, 1870.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. P. NEWMAN, D. D.

Mr. NYE. I move to dispense with the reading of the Journal, and I ask the Senate to take up Senate bill No. 401. It will take but a few moments.

The PRESIDENT *pro tempore*. The Senator from Nevada asks unanimous consent to dispense with the reading of the Journal. Is there objection?

Mr. CASSERLY. I object, because there are not a dozen Senators here.

Mr. STEWART. They will be here before we get through with the bill.

Mr. CASSERLY. Let us see.

The PRESIDENT *pro tempore*. The Senator from California objects, and the reading will proceed.

Mr. NYE. Oh, no; he does not object.

The PRESIDENT *pro tempore*. Does the Senator from California object or not?

Mr. CASSERLY. Yes, sir; on account of the Senate being so thin.

The Secretary proceeded to read the Journal of yesterday, but was interrupted by

Mr. WILSON. I hope the Senate will consent to dispense with the further reading of the Journal this morning.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks unanimous consent to dispense with the reading of the Journal. Is there objection? The Chair hears none, and the further reading of the Journal is dispensed with.

Mr. NYE. I now ask to call up Senate bill No. 401.

Mr. HAMLIN. Mr. President——

The PRESIDENT *pro tempore*. Does the Senator from Maine object?

Mr. HAMLIN. No, sir; but I think there is one correction that I want to make in the Journal. I think it may show on the call of the roll that I was absent from the Senate last night. I was not. I was here in my place. I was not out for a moment. I inadvertently neglected to answer to my name, as I sat here, I recollect; but I was present, as every Senator who was then present knows.

Mr. EDMUNDS. When?

Mr. HAMLIN. When the call of the Senate was made. The Senators who were here will remember it.

The PRESIDENT *pro tempore*. The Journal enters the list of yeas and nays and of those absent or not voting.

Mr. HAMLIN. I was present when the absentees were called, and I want the Journal to show it; that is all.

Mr. EDMUNDS. Did you respond?

Mr. HAMLIN. I did not respond; but I was in my seat.

Mr. EDMUNDS. Then you were absent.

Mr. HAMLIN. No, I was not; I was in my place.

The PRESIDENT *pro tempore*. What order does the Senator from Maine desire made?

Mr. HAMLIN. Simply that the Journal shall show that I was present when the absentees were called.

Mr. DAVIS. I never consented to it, and I do not believe that a majority of the Senate consented to it.

The PRESIDENT *pro tempore*. The Chair distinctly recollects that it was done by unanimous consent.

Mr. DAVIS. Were the yeas and nays called?

Mr. POMEROY. We never call the yeas and nays on giving unanimous consent.

Mr. DAVIS. The Chair means to say that nobody objected; no open objection was made?

The PRESIDENT *pro tempore*. The motion was made that this bill be made the special order for to-day at half past eleven o'clock, by unanimous consent. The Chair called for objections, and no objection was made, and the Chair decided that the bill was made the special order by unanimous consent, and so announced.

Mr. DAVIS. I did not know that such a question was put.

Mr. HAMILTON, of Maryland. I understood that this was the character of the unanimous consent that was granted: that the Senator from South Carolina should be permitted to address the Senate this morning; that we were not to consider the bill; for I was a participant in that matter, and I should have objected to any other arrangement.

The PRESIDENT *pro tempore*. The Senator from Maryland is correct. The understanding was that the Senator from South Carolina should have the opportunity to make his speech; but no vote should be taken.

Mr. CONKLING. As I was unable to be here yesterday, may I make an inquiry of the Chair? I understand the Senator from South Carolina has unanimous permission to make some remarks this morning. May I inquire until what hour, and whether then the naturalization bill will be in order?

The PRESIDENT *pro tempore*. The naturalization bill will be in order at twelve o'clock.

Mr. CONKLING. And in the mean time the Senator from South Carolina has permission to address the Senate?

The PRESIDENT *pro tempore*. That is the arrangement.

Mr. STEWART. Inasmuch as the time has now got to be so short, I suggest that we have unanimous consent to take this bill up at the next evening session, and let the Senator from South Carolina speak upon it then.

Mr. TRUMBULL. Oh, no; let us go on with it now.

Mr. SAWYER. I object.

The PRESIDENT *pro tempore*. The Senator from South Carolina objects.

Mr. SAWYER. I object in this view: I have had some experience as to the difficulty of obtaining the floor on a measure of practical importance in the Senate. I have had several propositions made to me to yield this morning, in order that certain bills might come up. Now, I have no earthly desire to make a speech on this question. I do desire to pass the bill. I have tried to get an opportunity for six months to explain this bill to the Senate, but have not succeeded. If the Senate will give me an evening session next week to pass this bill, I certainly will not inflict any remarks upon the Senate this morning. Otherwise, I shall be compelled to go on.

Mr. POMEROY. This bill was reported from the Committee on Public Lands, and the chairman of that committee has been trying to have an evening session for the business of that committee. I should be glad if the Senate would consent to fix an evening for that business, allowing the bill of the Senator from South Carolina to be considered first.

Mr. SAWYER. If the Senate will give me Wednesday evening to consider this bill, and agree to stand by me until it is disposed of, I certainly will give way with pleasure.

Mr. SHERMAN. I give notice that I cannot consent to any arrangement of that sort now.

Mr. CHANDLER. I hardly think it would be safe to make another special order for Wednesday.

Mr. NYE. I should like to have Senate bill No. 401 taken up now and disposed of.

Mr. SAWYER. I shall not give way for any bill to come up now, unless I can make an arrangement by which this bill shall be considered.

Mr. NYE. Then will the Senator be good enough to go on and get through?

Mr. SAWYER addressed the Senate in explanation and support of the bill, speaking till twelve o'clock.

The PRESIDENT *pro tempore*. The hour of twelve o'clock having arrived, it becomes the duty of the Chair to call up the special order, which is the naturalization bill.

Mr. BAYARD. The Senator from South Carolina lost about ten minutes of his time in delays for which he is not accountable. I hope he will be allowed to go on.

Mr. CONKLING. If the Senator will yield to me a moment, I should like to make a suggestion. May I ask the Senator from South Carolina how much time he wants?

Mr. SAWYER. About twenty minutes.

Mr. CONKLING. I ask, then, that by unanimous consent the pending order be laid aside informally while the Senator, within twenty minutes, completes his remarks.

The PRESIDENT *pro tempore*. The Chair hears no objection to the proposition of the Senator from New York, and the Senator from South Carolina will proceed.

ADJOURNMENT OVER FOURTH OF JULY.

Mr. DRAKE. Will the Senator from South Carolina allow me to make a motion to ascertain the sense of the Senate as to meeting on next Monday? There are numbers of us here who wish to know whether the Senate is to meet on Monday next. I do not want to say a word, but merely to ascertain the sense of the Senate. If we are not to meet next Monday, then there are members who would like to know it.

The PRESIDENT *pro tempore*. Does the Senator from South Carolina yield to the Senator from Missouri?

Mr. SAWYER. If it leads to no debate.

Mr. DRAKE. I do not want to say a word, but merely to move that when the Senate adjourns to-day it adjourn to meet on Tuesday next.

Mr. CONKLING. If it leads to no debate, I will not interpose an objection; but I think we ought to meet here on Monday.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that when the Senate adjourns to-day it adjourn to meet on Tuesday next.

The question being put, there were, on a division—ayes 17, noes 22.

Mr. BAYARD called for the yeas and nays; and they were ordered.

Mr. BAYARD. I merely wish to say——

Mr. CONKLING. Have I a right now to make objection to the consideration of the motion?

The PRESIDENT *pro tempore*. Certainly.

Mr. CONKLING. Then I must make it. We have voted on this motion without anything being said; but now if we are to have the yeas and nays and debate I must object.

Mr. BAYARD. If it means that this question is to be taken as decided without a yea and nay vote I shall object to that.

The PRESIDENT *pro tempore*. The Senator has a right to call for the yeas and nays to be entered on the Journal; but the Senator has not a right to debate the question, inasmuch as this motion was entertained by unanimous consent, subject to a call for the regular order.

Mr. BAYARD. I certainly did not expect that this matter of sitting here on the Fourth of July would be decided without discussion.

The PRESIDENT *pro tempore*. The Senator from South Carolina only gave way with the understanding that there should be no discussion.

Mr. BAYARD. I call for the yeas and nays on this motion.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered on the motion to adjourn over, and will be taken if there be no objection.

The question being taken by yeas and nays, resulted—yeas 22, nays 28; as follows:

YEAS—Messrs. Abbott, Bayard, Boreman, Casserly, Chandler, Cragin, Drake, Fenton, Hamilton of Maryland, Harris, Johnston, Lewis, Nye, Ramsey, Revels, Sawyer, Scott, Sherman, Sprague, Tipton, Vickers, and Williams—22.

NAYS—Messrs. Anthony, Carpenter, Conkling, Davis, Edmunds, Gilbert, Hamlin, Harlan, Howe, Howell, McCreery, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Osborn, Patterson, Pomeroy, Pratt, Rice, Ross, Schurz, Stewart, Sumner, Thayer, Warner, Willey, and Wilson—28.

ABSENT—Messrs. Ames, Brownlow, Buckingham, Cameron, Cattell, Cole, Corbett, Ferry, Flanagan, Fowler, Hamilton of Texas, Howard, Kellogg, Norton, Pool, Robertson, Saulsbury, Spencer, Stockton, Thurman, Trumbull, and Yates—22.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The Senator from South Carolina will proceed on the bill relative to the lands on the sea islands of South Carolina.

Mr. SAWYER resumed and concluded his speech, which will appear in the Appendix.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 2360) for the relief of Ariton Smith, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 2106) to amend the laws regulating the assessment of taxes in the city of Washington; and it was thereupon signed by the President *pro tempore*.

PATENT AND COPYRIGHT LAWS.

Mr. WILLEY submitted the following conference report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from their amendments numbered 1, 7, and 13.

That the House recede from their disagreements to amendments numbered 2, 5, 6, 9, 10, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, and 39; and agree to the same.

That the Senate recede from their amendment No. 8, in section thirty-four, and amend the said section by striking out in line twenty-one, page 12, "two years" and inserting instead thereof "six months;" and also amend by striking out lines twenty-five and twenty-six, and by inserting in their place the following words: "upon the hearing of such renewed applications, abandonment shall be considered as a question of fact;" and further amend said section by striking out the proviso as amended, and amend the thirty-fifth section by adding said proviso as amended thereto; to which amendments the House agrees.

That the Senate also recede from their amendment No. 12 in section fifty-three, and amend the said section by striking out the word "unless" in line twenty-one, and by inserting in lieu thereof the words following: "but when there is neither model nor drawing, amendments may be made;" to which amendment the House agrees.

That the House recede from their disagreement to amendment No. 3, and amend the same by inserting the word "be" before "declared" in the said amendment; and the Senate agree to the same.

That the House also recede from their disagreement to amendment No. 4, and add the letter "d" to the word "cause" in said amendment, and strike out the word "it" after the word "patented" in line twenty-two of the bill, page 8, and in line one, on page 9, after the word "shall" insert the word "it;" and the Senate agree to the same.

That the House also recede from their disagreement to amendment No. 11, sections forty-eight to fifty-two inclusive, and agree to the same with the following amendments: in line one, page 2 of the amendments, after the word "party" insert the words "except a party to an interference;" also in section fifty, line nine of said section, strike out the words "all the papers," and in line ten strike out the word "with." Also in section fifty-one, after the words "as the court may prescribe," strike out the word "he" and insert the words "the party appeal-

ing." In the next line strike out the word "also," and in same line, after the word "court" insert the words "certified copies of;" and in the next line, after the words "in the case," strike out the word "together" and insert instead thereof "and the Commissioner shall furnish it;" and the Senate agree to the same.

That the House also recede from their disagreement to amendment No. 16, page 4 of amendments, and agree to the same with the following amendments: After the word "recover" in line three of said amendment insert the words "in addition to the profits to be accounted for by the defendant;" and in line three, after the word "damages," strike out the word "he," and insert in lieu thereof the words "the complainant;" and in line seven strike out the words "under direction" and insert in lieu thereof the words "in its discretion;" to which amendments the Senate agrees.

That the House recede from their disagreement to amendment No. 17, page 4 of amendments, and agree to the same with the following amendments: in lines one, two, three, of said amendment, after the words "interfering patents," strike out the words following: "any person interested in any such patents, either by assignment or otherwise, may have remedy by bill in equity" and insert in lieu thereof the words "any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent;" and in line four, after the words "cognizance thereof," insert the words "as herein before provided;" and in line five, after the words "proceedings had," insert the words "according to the course of equity;" and the Senate agree to the same.

That the House recede from their disagreement to amendment No. 33, section ninety-three, page 6 of amendments, and agree to the same with the following amendment to said section: in the last line thereof insert the word "substantial" before the word "changes;" and the Senate agree to the same.

That the House recede from their disagreement to amendment No. 40, on page 7 of amendments, and agree to the same with the following amendment: strike out the words "a certified transcript of" in line seven; and also strike out the words at the end of said amendment, "which have not already been transmitted to the Secretary of State or of the Interior, in pursuance of law," and add to the section the words following: "*Provided*, That where there are duplicate copies of legal, scientific, or mechanical works, one copy of each may be deposited in the library of the Patent Office, for which a receipt shall be given by the Commissioner of Patents to the Librarian of Congress;" and the Senate agree to the same.

W. T. WILLEY,
WILLIAM T. HAMILTON,
Managers on the part of the Senate.
T. A. JENCKES,
H. C. CALKIN,
S. W. KELLOGG,
Managers on the part of the House.

The report was concurred in.

BILLS INTRODUCED.

Mr. VICKERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1033) for the relief of Andrew J. Ringgold's representatives; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

A. E. REYNOLDS.

Mr. REVELS. I ask unanimous consent that I may have an opportunity to offer a bill which I ask to have put on its immediate passage. I do not suppose it will occupy two minutes. It is of the greatest importance to the State of Mississippi.

There being no objection, leave was granted to introduce a bill (S. No. 1034) to relieve A. E. Reynolds from civil and political disabilities; and it was read three times, and passed. It provides to remove all civil and political disabilities imposed by the fourteenth amendment of the Constitution of the United States on A. E. Reynolds, of Corinth, in the State of Mississippi.

HOUSE BILL REFERRED.

The bill (H. R. No. 2167) to authorize the refunding and consolidation of the national debt, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

NATURALIZATION LAWS.

The PRESIDENT *pro tempore*. The special order, being the bill (H. R. No. 2201) to amend the naturalization laws and to punish crimes against the same, is before the Senate as in Committee of the Whole.

Mr. THAYER. I desire to move that the Senate take a recess from five o'clock to-day until half past seven o'clock, for the purpose—— ["No!" "No!"]

Mr. CONKLING. Allow me to appeal to my friend from Nebraska to defer that, at all events, for the present.

Mr. THAYER. It is agreed we shall take the vote on the naturalization bill at five o'clock.

Mr. CONKLING. It may be that we shall get a vote before that time. The Senator's motion will be just as strong then; but this being Saturday a great many Senators will be reluctant to have an evening session.

Mr. THAYER. That is the very reason I desire to have it settled now, because we do not sit to-morrow and can rest. We have got to sit on Saturday night, and the Fourth of July, and on Sunday, to complete our business.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves that at five o'clock the Senate take a recess——

Mr. CONKLING. That cannot be done at five o'clock, because the understanding will not compel anybody to vote before five. The understanding was that we should vote not later than five, but that debate should extend till five if anybody wanted to speak till that time.

Mr. WILLIAMS. Does it require unanimous consent to make that motion?

The PRESIDENT *pro tempore*. It does.

Mr. WILLIAMS. I object.

The PRESIDENT *pro tempore*. The motion is not in order, being objected to.

Mr. THAYER. Does an objection carry it over?

The PRESIDENT *pro tempore*. It does; this is not one of the alternate days specified; and the order cannot be entertained except by unanimous consent.

Mr. THURMAN. Very much to my surprise I find that half an hour of the time allotted to the debate on this bill has been occupied by a local bill relating to lands in South Carolina. I do not know but that there is still ample time for this discussion, although I do not think there is time between now and five o'clock to allow all the Senators who desire to speak upon it the time they wish. I say now that as half an hour of this time has been taken up, if at five o'clock there are Senators who still desire to speak on this bill I shall ask that the half hour be made up, and that we vote at half past five.

Mr. CONKLING. Let me anticipate the Senator by assuring him that there will be no objection of that sort. Permission was given to the Senator from South Carolina by unanimous consent.

Mr. THURMAN. I do not complain of the permission.

Mr. CONKLING. Now, if any Senator wants the time made up at the other end nobody will object.

The PRESIDENT *pro tempore*. The pending question is on the amendment of the Senator from Missouri, [Mr. DRAKE.] It was agreed by general assent that the substitute proposed by the Judiciary Committee should be regarded as the original bill, and open to amendment in the second degree.

Mr. DRAKE. I desire, before we proceed with this bill, to ask the honorable Senator from New York to allow the order to be disposed of which I presented yesterday as to the hour of meeting of the Senate.

Mr. THURMAN. That will give rise to debate.

Mr. DRAKE. I do not want to say a word about it.

Mr. CONKLING. I beg my friend to take notice that I cannot consent to have this day used up frivolously. I yielded to the Senator once to make a motion in reference to adjourning over Monday, and now I must insist on the regular order.

Mr. DRAKE. Then I desire to say a very few words in behalf of this amendment which I have proposed.

Mr. WILLIAMS. The Senator from Delaware is on the floor.

Mr. DRAKE. If the Senator from Delaware is on the floor, of course I do not wish to deprive him of it.

Mr. BAYARD. When this bill was under discussion a week ago to day I gave way for a motion to adjourn.

The PRESIDING OFFICER. The Senator from Delaware is entitled to the floor by the practice of the Senate. The Chair was not advised of that circumstance, however, or he would have stated it when the bill came up.

Mr. BAYARD. Mr. President, this debate commenced a week ago, and it was then announced that the bill was to be pressed to its passage at that sitting of the Senate. Without any preparation, but impelled by a sense of duty, not to my immediate constituents, but to the entire country, I undertook to examine the features of this lengthy bill containing these most surprising, unexpected, uncalled-for provisions—a bill which, as I then stated, proposed to change entirely, to uproot, to destroy the system of naturalization under which our Government had progressed during nearly its entire life. In a very incomplete and imperfect manner I endeavored to expose the hardships, the oppressions, the embarrassments, the exactions that were sought to be thrown in the way of foreigners coming to this country for the purpose of becoming part of it. I alluded also to the requirements compelling those naturalized since July 4, 1868, to perform new conditions unheard of at the time they completed their part and their side of the bargain.

There was one more section of this bill which I had not read and remarked upon. It is section thirteen, providing—

> That in any city having upward of twenty thousand inhabitants it shall be lawful for the marshal of the United States for the district wherein said city shall be to appoint as many special deputies as may be necessary to preserve order at any election at which Representatives in Congress are to be chosen; and said deputies are hereby authorized to preserve order at such elections, and to arrest for any offense or breach of the peace committed in their view.

It is useless to particularize small items where the great body of the proposed law is so objectionable. I shall say nothing, therefore, upon the power given to these deputies, to be chosen without limit of number, to "arrest for any offense"—such is the language of this section—not confining it to ordinary breaches of the peace, or to offenses even against this law.

But now I make this general and final commentary upon this whole act. Under what clause of the Constitution, under what delegation of power, does Congress undertake to pass this act? None other known to me can be found except in the eighth section of the first article of the Constitution, in which the power is given to Congress "to establish a uniform rule of naturalization." Is this bill affecting naturalization? Is that the intent and object of it? Is it for this purpose that this machinery has been invented? No, sir; it is a misnomer. Congress has no power, and was intended to have no power, and no gentleman in this Chamber can point me to a phrase of the Constitution that gives the power to Congress to control or meddle with the elections of the States. This is not a bill to amend naturalization. It is a bill directly to interfere with and control the elections throughout the States. That is its true intent and meaning. What has Congress to do with a man's voting or not after he is naturalized? The elective franchise is but one of the incidents of citizenship; a mere incident given to him by the State constitution where he resides.

The power of Congress is to declare to an alien, "Renounce your domicile, expatriate yourself from your native land, and we will make you, by our power of naturalization, a citizen of the United States." That is its power. If upon that power there should be incidentally grafted by the States the elective franchise, the right of voting, that is a ques-

those ten days. The gentleman from Pennsylvania can submit his motion at any time; and as this day after half past one o'clock has been set apart for the business of the Committee of Elections, the Chair would suggest he withdraw it for the present and he will be recognized to submit it again at the proper time.

Mr. MYERS. I withdraw the motion, on that understanding.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. SYMPSON, one of its clerks, notifying the House that that body asked a further conference with the House on the disagreeing votes of the two Houses on House bill No. 1169, making appropriations for the Indian service for the fiscal year ending June 30, 1871, and for other purposes, the former committee being unable to agree, and that they had appointed Mr. MORRILL of Maine, Mr. HOWE, and Mr. NYE, the conferees on their part.

The message further announced that the Senate had agreed to the request of the House for conference on the following bills, and had appointed conferees as follows:

On the bill (H. R. No. 1828) for the service of the Post Office Department for the fiscal year ending June 30, 1871, and for other purposes, Mr. MORRILL of Maine, Mr. RAMSEY, and Mr. THURMAN.

On the bill (H. R. No. 1633) to simplify the conveyance of real estate in the District of Columbia, and on the bill (H. R. No. 2275) to provide for the paving of Pennsylvania avenue, Mr. HAMLIN, Mr. STEWART, and Mr. VICKERS.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1987) to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes.

The message further announced that the Senate had passed a bill (H. R. No. 2350) to discontinue the Clarksville, Arkansas, land district and the establishment of an additional land district in that State, with an amendment, in which he was directed to request the concurrence of the House.

REVISION OF THE PATENT LAWS.

Mr. JENCKES. I rise to submit the following privileged report from the committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from their amendments numbered 1, 7, and 13.

That the House recede from their disagreements to amendments numbered 2, 5, 6, 9, 10, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, and 39, and agree to the same.

That the Senate recede from their amendment No. 8, in section thirty-four, and amend the said section by striking out in line twenty-one, page 12, "two years" and inserting instead thereof "six months;" and also amend by striking out lines twenty-five and twenty-six and by inserting in their place the following words: "upon the hearing of such renewed applications abandonment shall be considered as a question of fact;" and further amend the said section by striking out the proviso, as amended; and amend the thirty-fifth section by adding said proviso, as amended, thereto; to which amendments the House agrees.

That the Senate also recede from their amendment numbered 12, in section fifty-three, and amend the said section by striking out the word "unless," in line twenty-one, and by inserting in lieu thereof the words following: "but when there is neither model nor drawing, amendments may be made;" to which amendment the House agrees.

That the House recede from their disagreement to amendment No. 3, and amend the same by inserting the word "be" before "declared," in the said amendment; and the Senate agree to the same.

That the House also recede from their disagreement to amendment No. 4, and add the letter "d" to the word "cause" in said amendment; and strike out the word "it;" after the word "patented," in line twenty-two of the bill, page 8, and in line one, on page 9, after the word "shall" insert the word "it;" and the Senate agree to the same.

That the House also recede from their disagreement to amendment No. 11, sections forty-eight to fifty-two inclusive, and agree to the same, with the following amendments: in line one, page 2 of the amendments, after the word "party" insert the words "except a party to an interference;" also, in section fifty, line nine of said section, strike out the words "all the papers;" and in line ten strike out the word "with." Also, in section fifty-one, after the words "as the court may prescribe," strike out the word "he" and insert the words "the party appealing." In the next line strike out the word "also;" and in same line, after the word "court," insert the words "certified copies of;" and in the next line, after the words "in the case," strike out the word "together" and insert instead thereof "and the Commissioner shall furnish it;" and the Senate agree to the same.

That the House also recede from their disagreement to amendment No. 16, page 4 of amendments, and agree to the same with the following amendments: after the word "recover," in line three of said amendment, insert the words "in addition to the profits to be accounted for by the defendant;" and in line three, after the word "damages," strike out the word "he" and insert in lieu thereof the words "the complainant;" and in line seven strike out the words "under direction" and insert in lieu thereof the words "in its discretion;" to which amendments the Senate agrees.

That the House recede from their disagreement to amendment No. 17, page 4 of amendments, and agree to the same, with the following amendments: in lines one, two, and three of said amendment, after the words "interfering patents," strike out the words following: "any person interested in any such patents, either by assignment or otherwise, may have remedy by bill in equity," and insert in lieu thereof the words "any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent;" and in line four, after the words "cognizance thereof," insert the words "as hereinbefore provided;" and in line five, after the words "proceedings had," insert the words "according to the course of equity;" and the Senate agree to the same.

That the House recede from their disagreement to amendment No. 33, section ninety-three, page 6 of amendments, and agree to the same, with the following amendment to said section: in the last line thereof insert the word "substantial" before the word "changes;" and the Senate agree to the same.

That the House recede from their disagreement to amendment No. 40, on page 7 of amendments, and agree to the same, with the following amendment: strike out the words "a certified transcript of" in line seven; and also strike out the words at the end of said amendment, "which have not already been transmitted to the Secretary of State or of the Interior in pursuance of law;" and add to the section the words following: "*Provided*, That where there are duplicate copies of legal, scientific, or mechanical works, one copy of each may be deposited in the library of the Patent Office, for which a receipt shall be given by the Commissioner of Patents to the Librarian of Congress;" and the Senate agree to the same.

T. A. JENCKES,
H. C. CALKIN,
S. W. KELLOGG,
Managers on the part of the House.
W. T. WILLEY
WILLIAM T. HAMILTON,
Managers on the part of the Senate.

IN THE SENATE OF THE UNITED STATES,
July 2, 1870.

Resolved, That the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights.

Attest: GEO. C. GORHAM,
Secretary.

By W. J. MCDONALD, *Chief Clerk.*

Mr. JENCKES. Mr. Speaker, those amendments are all formal, and do not alter the substance or effect of the bill. I move that the report of the committee of conference be concurred in.

The motion was agreed to.

Mr. JENCKES moved to reconsider the vote by which the report of the committee of conference was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

The SPEAKER. The hour of half past one having arrived, the gentleman from Wisconsin [Mr. PAINE] is entitled to the floor on behalf of the Committee of Elections. But the Chair will state that the Indian appropriation bill has been returned from the Senate with a request for a further conference, the conferees heretofore appointed on the part of the two Houses having entirely failed to come to an agreement. The gentleman from California [Mr. SARGENT] desires to present the report of the committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1169) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1871, having met, after full and free conference have been unable to agree.

A. A. SARGENT,
J. B. BECK,
SIDNEY CLARKE,
Managers on the part of the House.
L. M. MORRILL,
JAMES HARLAN,
GARRETT DAVIS,
Managers on the part of the Senate.

Mr. SARGENT. I desire to briefly state the grounds of disagreement between the Senate and House conferees. The Senate conferees insisted upon specific appropriations under the treaties made since July, 1867, and that these be recognized as the supreme law of the land. They contended that the Senate had the exclusive right to determine the propriety of making a treaty, the terms of such treaty, and with whom it might properly be made, and its action was not open to the criticism or control of the legislative power. They offered, however, to put a clause in the bill authorizing the President to use the money for any other purposes than those named in the treaties, in his discretion, but with the consent of the Indians.

The House conferees refused to insert into the bill anything which could be taken as a ratification or consent to any Indian treaty made since July 20, 1867; contending that the roving, irresponsible bands of Indians on our own soil, subject to our own jurisdiction, are not independent nations with whom treaties can properly be made; that the practice of so regarding and treating them had been fruitful of frauds on the Government and injurious to the Indians; that the new treaties for which the House had steadily refused appropriations involve an expenditure of $70,000,000 at least, and to concede the demand of the Senate conferees would be to admit that that sum, and any amount whatever, could be taken from the Treasury without the consent of the people's Representatives, either as to the amount or the use to which it should be applied; that the objects for which the money was to be used under the treaties, were, in a great measure, fantastic and useless; that the recent Indian delegations had denounced these treaties as a fraud and surprise on the Indians; and the Government had paid no respect to them, so far as they conferred or confirmed hunting privileges on or to the Indians.

Finding themselves so far from accord with the Senate conferees, the House conferees, as a last hope of agreement, and desirous that the Indian service might go on, the comfort and civilization of the Indians be secured, and the borders be saved from the horrors of an Indian war, proposed to appropriate the full amount which the Senate had inserted in the bill by way of amendments, appropriating to each tribe, or confederation of tribes, the amount named by the Senate, in a gross sum, without naming the objects for which it should be expended, except in general terms, and leave to the Executive the duty and responsibility of expending the money to the best advantage of the Indians and the service. If he saw fit to use it to furnish the Indians the specific articles stipulated in the treaties, to take those treaties as a guide in the expenditure, he could do so. If he thought the welfare and contentment of the Indians would be otherwise better promoted he could act accordingly. With this view we proposed, as a compromise, to take the text of the House bill in relation to each tribe, which text is as follows:

For this amount, to be expended in such goods, provisions, and other articles as the President may from time to time determine, including insurance and transportation thereof, in instructing in agri-

The question was taken; and it was decided in the affirmative—yeas 67, nays 64, not voting 98; as follows:

YEAS—Messrs. Arnell, Bennett, Benton, Boles, Boyd, George M. Brooks, Buck, Buckley, Burdett, Roderick R. Butler, Cessna, Churchill, Sidney Clarke, Amasa Cobb, Coburn, Davis, Degener, Donley, Dyer, Ela, Ferriss, Ferry, Fisher, Gilfillan, Harris, Hawley, Hays, Heslin, Hooper, Judd, Julian, Knapp, Loughridge, Maynard, McCarthy, McKee, Elakim H. Moore, Jesse H. Moore, Morphis, Myers, Packard, Paine, Palmer, Perce, Phelps, Prosser, Roots, Sanford, Sargent, Sawyer, Shanks, Lionel A. Sheldon, Porter Sheldon, William J. Smith, William Smyth, Stevens, Stevenson, Stokes, Stoughton, Strickland, Tillman, Townsend, Twichell, Wallace, Wheeler, Whitmore, and Williams—67.

NAYS—Messrs. Adams, Ambler, Archer, Asper, Axtell, Barnum, Beatty, Beck, Bird, Blair, Buffinton, Burchard, Burr, Cook, Conger, Crebs, Dickinson, Dox, Finkelnburg, Getz, Griswold, Hawkins, Hay, Holman, Johnson, Thomas L. Jones, Kerr, Ketchum, Knott, Lewis, Marshall, Mayham, McCormick, McCrary, McKenzie, McNeely, Mercur, William Moore, Morgan, Mungen, Orth, Packer, Peters, Poland, Randall, Rice, Rogers, Schenck, Schumaker, Scofield, Sherrod, Shober, John A. Smith, Worthington C. Smith, Stiles, Sweeney, Trimble, Van Trump, Voorhees, Wells, Willard, Eugene M. Wilson, Winchester, and Woodward—64.

NOT VOTING—Messrs. Allison, Ames, Armstrong, Atwood, Ayer, Bailey, Banks, Barry, Beaman, Benjamin, Biggs, Bingham, Booker, Bowen, James Brooks, Benjamin F. Butler, Cake, Calkin, William T. Clark, Cleveland, Clinton L. Cobb, Conner, Covode, Cowles, Cox, Cullom, Dawes, Dickey, Dixon, Dockery, Duval, Eldridge, Farnsworth, Fitch, Fox, Garfield, Gibson, Haight, Haldeman, Hale, Hambleton, Hamill, Hamilton, Hill, Hoar, Hoge, Hotchkiss, Ingersoll, Jenckes, Alexander H. Jones, Kelley, Kellogg, Kelsey, Lafin, Lash, Lawrence, Logan, Lynch, McGrew, Milnes, Daniel J. Morrell, Samuel P. Morrill, Morrissey, Negley, Newsham, Niblack, O'Neill, Peck, Platt, Pomeroy, Porter, Potter, Reeves, Ridgway, Slocum, Joseph S. Smith, Starkweather, Stone, Strader, Strong, Swann, Taffe, Tanner, Taylor, Tyner, Upson, Van Auken, Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Wilkinson, John T. Wilson, Winans, Witcher, and Wood—98.

So the resolution was agreed to.

During the roll-call,

Mr. FITCH said: On this question I am paired with the gentleman from Oregon, Mr. SMITH, who, if he were here, would vote "no," while I should vote "ay."

The result of the vote was announced as above stated.

Mr. STEVENSON. I move to reconsider the vote by which the resolution was adopted; and also move that the motion to reconsider be laid on the table.

Mr. RANDALL. I move that the House do now adjourn, because of the closeness of the vote on this question, and because of the thinness of the House and the importance of the question involved.

The House divided; and there were—ayes twenty-seven, noes not counted.

Mr. RANDALL demanded tellers.

Tellers were ordered; and Mr. RANDALL and Mr. STEVENSON were appointed.

The House again divided; and the tellers reported—ayes 18, noes 69.

So the House refused to adjourn.

Mr. RANDALL. I move that the House take a recess until half past seven o'clock this evening.

Mr. ALLISON. Oh, no; we do not want to work Saturday night.

Mr. RANDALL. I will state distinctly that I wish this case to be decided by a full House. It involves the important question of the right of representation, and whether the majority of this House can thrust a minority man into our midst as a Representative of the people.

Mr. STEVENSON. The chairman of the Committee of Elections has a proposition to make.

Mr. RANDALL. Let this case go over, so that the vote may be taken at some fixed time in the future.

Mr. STEVENSON. I am willing that the vote shall be taken at three o'clock on Wednesday next.

Mr. RANDALL. I agree to that.

Objection was made.

Mr. STEVENSON. Then I withdraw the motion to reconsider, and ask that Mr. Darrall be sworn in.

Mr. STILES. I move to take a recess.

Mr. CESSNA. I make the point of order that after having been declared by a majority of the House entitled to a seat upon this floor the next thing in order is to swear the member in; not even a motion to adjourn.

The SPEAKER. The Chair has repeatedly ruled, when a member has been declared entitled to his seat, and a motion made to reconsider, and that motion laid on the table, he would not even then entertain a motion to adjourn until the member was sworn in; but it is a well-established fact in parliamentary law that legislation is not completed until the exhaustive process of reconsideration is laid on the table.

Mr. ALLISON. Cannot a motion to reconsider be called up at any time?

The SPEAKER. It can.

Mr. STEVENSON. I move to reconsider the vote by which the resolution was adopted; and I propose that the further consideration of that motion be postponed until Wednesday next at three o'clock p. m., when a vote is to be taken.

The SPEAKER. If there be no objection, the Chair will take that as the understanding of the House.

There was no objection; and it was ordered accordingly.

ENROLLED BILL.

Mr. BEATTY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 2106) to amend the laws regulating the assessment of taxes in the city of Washington.

LAND DISTRICT IN KANSAS.

Mr. CLARKE, of Kansas, presented the following report of a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 893) to establish an additional land district in the State of Kansas having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their amendment, and that the bill do pass.

GEORGE W. JULIAN,
SIDNEY CLARKE,
JAMES R. McCORMICK,
Managers on the part of the House.

S. C. POMEROY,
JAMES HARLAN,
GARRETT DAVIS,
Managers on the part of the Senate.

The report of the committee of conference was concurred in.

Mr. PAINE. I demand the regular order.

Mr. ALLISON. I ask unanimous consent to refer a resolution to the Committee on Printing.

Mr. PAINE. I must demand the regular order. Otherwise the Committee of Elections will not have an opportunity of making any further reports to-day.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had passed the bill (S. No. 1034) to relieve A. E. Reynolds from civil and political disabilities, in which the concurrence of the House was requested.

The message further announced that the Senate agreed to the report of the committee of conference on the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights.

BARNES VS. ADAMS.

Mr. McCRARY. I now call up the report of the Committee of Elections in the contested-election case of Barnes *vs.* Adams.

Mr. MAYNARD. Before the gentleman proceeds with that case I desire to say on behalf of the contestant that the resolutions will be opposed. This is a case involving important principles on which gentlemen desire to be heard; and I hope the gentleman from Iowa will not deem it his duty to prevent a fair discussion of the points involved.

Mr. McCRARY. If it be agreeable to the House I will move the previous question at one o'clock on Tuesday.

The SPEAKER. The resolutions of the Committee of Elections will be reported.

The Clerk read as follows:

Resolved, That George M. Adams was duly elected as Representative in the Forty-First Congress from the eighth district of Kentucky, and he is entitled to retain his seat as such.

Resolved, That Sidney M. Barnes, having contested the seat of Hon. George M. Adams, as a Representative in this House from the eighth district of Kentucky, in good faith and with probable cause, there shall be paid to him out of the contingent fund of the House of Representatives the sum of —— dollars, in full for his expenses in such contest.

Mr. MAYNARD. We are now within an hour of our ordinary time of adjournment, and if the previous question is called on Tuesday at the hour mentioned by the gentleman from Iowa very little time will be left for the discussion of the case. I hope the gentleman will agree to postpone calling the previous question till three o'clock on Tuesday.

Mr. McCRARY. The time required on Tuesday will depend very much on what time is occupied to-day. But meanwhile I cannot consent to postpone calling the previous question to a later hour than that which I have named. But I wish to give a fair opportunity for discussion to both sides. The record in this case, as the gentlemen know who have examined it, is exceedingly voluminous. But, if the House will give me its attention, I will present as briefly as I can the material points.

Mr. DICKEY. I think the House is in no condition to consider an election case with barely a quorum present. And if the gentleman will yield to me for that purpose I will move that the House adjourn.

Mr. PAINE. I hope not. The House understands how hard a matter it is for the committee to get any time at all for these cases.

Mr. DICKEY. There is scarcely a House here.

Mr. CULLOM. It is now almost four o'clock, and I think we ought to adjourn.

Mr. PAINE. I desire to make a parliamentary inquiry. If the House should now adjourn, what would be the effect on the election case which has been reported by the gentleman from Iowa. [Mr. McCRARY?]

The SPEAKER. The case would come up as unfinished business on Tuesday.

Mr. PAINE. Then I have no objection to an adjournment.

Mr. DICKEY. I move that the House do now adjourn.

Mr. JONES, of Kentucky. I ask the gentleman to withdraw his motion for a moment to allow me to have a bill referred.

Mr. DICKEY. I withdraw the motion.

WILLIAM H. SCOTT.

Mr. JONES, of Kentucky, by unanimous consent, introduced a bill (H. R. No. 2361) for the relief of William H. Scott; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

COST OF LABOR AND SUBSISTENCE.

Mr. ALLISON, by unanimous consent, submitted the following resolution; which was read, and referred, under the law, to the Committee on Printing:

Resolved, That there be printed for the use of the House one thousand copies of the tables containing the cost of labor and subsistence in the United States, as furnished by the Bureau of Statistics.

DITCH AND CANAL OWNERS.

Mr. FERRISS. I submit the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses upon the amendments of the Senate to H. R. No. 562, entitled "An act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from amendment numbered

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870.

LIS - 5m

HOUSE OF REPRESENTATIVES.

TUESDAY, *July* 5, 1870.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. G. BUTLER.

The Journal of Saturday last was read and approved.

PLACER MINING CLAIMS.

Mr. FERRISS. I call for the regular order.

The SPEAKER. The regular order is the unfinished business coming over from Saturday last, being the report of the committee of conference, made by the gentleman from New York, [Mr. FERRISS,] chairman of the Committee on Mines and Mining, which report was published in the Globe.

The report was as follows:

The committee of conference on the disagreeing votes of the two Houses upon the amendments of the Senate to H. R. No. 562, entitled "An act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from amendment numbered 1, with an amendment, as follows: insert after the word "claims," in line two, page 2 of the bill, the following words: "of any size, although such claims may be less than ten acres each;" and the House of Representatives agree to the same.

That the Senate recede from amendment numbered 2.

That the Senate recede from amendment numbered 3, with an amendment, as follows: insert after the word "persons," in line six, page 2 of the bill, the following words: "which location shall conform to the United States surveys;" and the House of Representatives agree to the same.

That the House of Representatives recede from amendment numbered 4, and agree to the same.

That the Senate recede from amendment numbered 5, with an amendment substituting the following in lieu of the matter stricken out:

SEC. 14. *And be it further enacted*, That all *ex parte* affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated.

And the House of Representatives agree to the same.

That the Senate recede from amendment numbered 6, and agree to section sixteen, with the following amendment: "*And provided further*, That nothing herein contained shall require the survey of waste or useless lands;" and the House of Representatives agree to the same.

That the House of Representatives recede from its disagreement to the amendment numbered 7, and agree to the same.

ORANGE FERRISS,
A. A. SARGENT,
JAMES A. JOHNSON,
Managers on the part of the House.
WILLIAM M. STEWART,
E. CASSERLY,
Managers on the part of the Senate.

Mr. RANDALL. Does this give any land?

Mr. FERRISS. The report is substantially the House bill.

Mr. SARGENT. I can explain the report in two minutes.

Mr. FERRISS. I yield to the gentleman from California, [Mr. SARGENT,] whose State is particularly interested in the subject of this report.

Mr. SARGENT. Some three or four months ago the House, after a report from the Committee on Mines and Mining, without a division and with general assent, passed a bill by which persons in possession of placer mining claims might prove up their preëmptions at the land office and pay for the same at the rate of $2 50 per acre. It was the same principle which was adopted in reference to quartz claims in 1866. The title of the old law was "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," a title which was not very applicable to the purposes of the law, although the right referred to in the title was granted by the bill. I think a better and more appropriate title would have been "An act to enable miners to secure preëmption for mining claims the public lands."

The bill which passed the House so unanimously upon the report of the Committee on Mines and Mining went to the Senate, where some amendments were made to it. To those amendments the House disagreed, and the matter was sent to a committee of conference. The committee of conference have reported substantially the House bill. It simply grants the right of preëmption to placer miners, by which they can pay for their placer-mining claims. The object of the bill is to give these persons such title to their lands that they will be induced to give up their hitherto nomadic life and become permanent settlers to a great extent. It is a very beneficent bill, and I hope the report of the committee of conference will be agreed to.

The question being taken upon the report, it was agreed to.

MISSISSIPPI AND SOUTHWESTERN RAILROAD.

Mr. ROOTS, by unanimous consent, introduced a bill (H. R. No. 2364) to incorporate the Mississippi River and Great Southwestern Railroad Company, and to aid in the construction of its road; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

Mr. RANDALL moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POSTAL TELEGRAPH.

Mr. WASHBURN, of Wisconsin. I rise to make a privileged report. It will be recollected that some time since the select Committee on Postal Telegraph Lines gave way, with the understanding that they should be allowed to report at any time. I desire now to make that report and have it printed and recommitted. I also ask that my associate on the committee, the gentleman from Iowa, [Mr. PALMER,] have leave to report a bill representing the views of other members of the committee on this subject.

No objection being made, the bill (H. R. No. 2365) to establish postal telegraph lines in the United States, was received, read a first and second time, and, with the accompanying report ordered to be printed and recommitted to the select Committee on Postal Telegraph Lines.

Mr. WASHBURN, of Wisconsin. I ask unanimous consent to make a brief explanation of this subject to the House, not to exceed ten or fifteen minutes.

No objection was made; and leave was accordingly granted.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, I rise to make a privileged report from the select Committee on Postal Telegraph Lines. I am authorized by the committee to submit the report and bill which I send to the Clerk's desk and ask that they be printed and recommitted to the committee. My colleague on the committee, [Mr. PALMER,] is also authorized to submit a report on a proposition before the committee and have the same printed and recommitted. In submitting the report and bill that I have, I ask the indulgence of the House for a few moments while I say a few words. The report is lengthy, and has appended to it many interesting documents and statistics, as well as the speeches of Mr. Orton, president of the Western Union Telegraph Company, and Mr. Hubbard in advocacy of his plan. To all I desire to invite the special attention of members. I hope that they will take time during the vacation to examine the question, and be prepared to act understandingly at the meeting of Congress in December, when, if possible, I mean to bring the question before the House.

If gentlemen will but examine this question they will find that this country is far behind the countries of Europe in furnishing to the people a cheap, swift, reliable, and comprehensive system of telegraphy; that in those countries, as well as in the far-off colonies of Australia and New Zealand, the telegraph is operated in connection with their postal system with entire success. In England, the Government, always slow and conservative, assumed the control of all the telegraph lines of the United Kingdom by purchase on the 5th of February last, and reduced the tariff to a uniform rate of one shilling (twenty-five cents) for twenty words, exclusive of address and signature, throughout the entire country. The result has been that the number of dispatches has increased from week to week, or from 127,000 per week in February, to 191,443 for the week ending the 4th of June, and 200,294 for the week ending June 18, and Mr. Scudamore, the secretary of the British post office, writes that the success of the scheme is fully assured; that in Ireland, under a uniform tariff of one shilling, they were receiving thirty-three per cent. more money than the combined telegraph companies before received at three shillings and four shillings, and assurance is given that the British public will soon be favored with a uniform tariff of sixpence throughout the kingdom.

In France the telegraph, under governmental management, is brought within the reach of all For ten cents a dispatch of twenty words may be sent from a place in any department to any other place in the same department, and for twenty cents from one extreme of the empire to another, a distance of over six hundred miles, and at these rates the system is not only self-sustaining, but a source of over one million francs of revenue to the Government, exclusive of a vast amount of Government dispatches transmitted free. In Switzerland and Belgium, at an internal rate of ten cents, the system is perfect and self-sustaining.

To comprehend the vast strides other nations are making you have but to reflect, that it was but the other day that a submarine cable was opened connecting England with Bombay, and thence by land lines with Calcutta and Rangoon, in the Burman empire; also with Madras, and Point de Galle, at the southern extremity of the island of Ceylon. Contracts are already made, and twelve months will see a cable laid from Rangoon to Singapore, and thence to Hong Kong and Shanghai; also, from Singapore to Batavia, in the island of Java; thence to Australia, traversing that country its entire length to Melbourne; thence crossing by submarine cable to Tasmania, crossing that country to Hobartown, and thence by another submarine cable of twelve hundred miles in length to New Zealand, connecting, both in Australia and New Zealand, with a comprehensive system of postal telegraphs.

But this is not all. Another line, starting at Vienna, passing down the Danube to Peterwarden, striking across the country through Turkey to Constantinople, crossing the Bosphorus, traversing Asia Minor down the valley of the Euphrates to the mouth of that sacred river, passing on its way the ancient city of Bagdad, the ruins of Babylon, and site of the Garden of Eden, then by submarine cable in the Persian Gulf and Gulf of Ormus to the mouth of the Indus, connects with the telegraph system of India. And still another line has been recently opened to facilitate overland correspondence with British India. After reaching Odessa it continues its course through the Crimea and the Caucasus, across the Black sea by submarine cable, thence via Tiflis and Tabriz to Teheran in Persia, from whence it will soon connect with the land lines of India. Russia has extended her lines entirely across Siberia, and to-day her capital is in daily communication with Irkutsk on Lake Baikal, with the mouth of the Amoor in the sea of Okhotsk, and Poysat on the sea of Japan, whence a cable will soon be laid to Hakodadi, in Japan. While so much is being done the world over for the transmission of swift and cheap intelligence, may I not ask the careful and candid consideration of the House to the report and bill that I have just submitted?

Mr. PALMER. Mr. Speaker, I am authorized by the select Committee on Postal Telegraph Lines to report, as a substitute for the bill reported by the gentleman from Wisconsin, [Mr. WASHBURN,] a bill (H. R. No. 2366) to establish a postal telegraph system and to incorporate the postal telegraph company. His bill is a governmental bill altogether, while

to be engrossed for a third reading, read the third time, and passed.

A message was afterward received from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announcing the passage of the bill by that House.

SOUTHERN MARYLAND RAILROAD.

Mr. WARNER. I wish to make an appeal to the Senator from Ohio and to the Senate, and I would ask attention for a moment. The Senator from Virginia, [Mr. LEWIS,] whose extreme modesty in asking the attention of the Senate and in consuming its time will be understood by every Senator, asks to take up a bill here that he may submit a few remarks. He has tried to do it a great many times, and has failed. I now ask in his behalf that he have unanimous consent to call up a bill to submit a few remarks upon it. I hope there will be no objection.

Mr. SHERMAN. Will the Chair put the question to the Senate? This is a peculiar case. I do not object myself, and I wish the question submitted by the Chair.

The PRESIDENT *pro tempore*. The Senator from Virginia asks unanimous consent to make some remarks upon the bill. Is there objection? The Chair hears none; and the bill (S. No. 597) to authorize the authorities of the city of Washington, District of Columbia, to indorse the bonds of the Southern Maryland Railroad Company will be regarded as before the Senate.

Mr. LEWIS. Mr. President, my chief reliance for the passage of this measure is based on its merits. Its carefully-guarded provisions and its beneficent objects should commend themselves to the approbation and sanction of the Senate. Its intrinsic merits, therefore, rather than any arguments of mine, must secure its passage; and I shall content myself with offering a few observations only for the consideration of honorable Senators, whose cheerful support I confidently anticipate. Having myself presented and reported the bill to the Senate, I very naturally feel some solicitude about its fate. I think it ought to have passed weeks ago.

The citizens of Washington have been reproached for lack of enterprise, of railroads, of manufactories, of everything that constitutes a self sustaining community; and doubtless there has been some cause for this reproach. But shall this state of things always continue? Shall it be perpetual? It certainly will be if Congress is to stand in the way, arraying itself against every impulse to enterprise which the citizens of Washington may exhibit. For months together, prior to the convening of the present session of Congress, the citizens of Washington held duly advertised weekly meetings at their City Hall, deliberating on the expediency of rendering pecuniary aid in the construction of certain railroads which they deemed essential to the growth and prosperity of this metropolis; the Southern Maryland or Point Lookout road being one of the number. They resolved, after the fullest deliberation, that they would furnish such aid, permission to do so being first obtained from Congress. The councils of Washington also took action, equally decided, in the same behalf. And in addition to this, the public press of the city lent to the project its powerful coöperation.

Soon after taking my seat here, and finding myself a member of the Committee on the District of Columbia, the facts I have stated, among many other interesting facts bearing on the subject of the proposed legislation, all vitally affecting the welfare of this people, were made known to me, and I determined to bring in the measure now before the Senate.

What is the proposition contained in the bill? It is that Congress will graciously permit the legal voters of Washington, by a majority of two thirds, to instruct their authorities to indorse the bonds of the Southern Maryland Railroad Company, the company securing the corporation of Washington, by first mortgage on its road, its rolling stock, its equipments, everything, against liability to pay the bonds or any part thereof, and only obligating the corporation to pay interest on the same, as from time to time it shall become due, to the amount of $300,000. That is the proposition.

The people of Washington of all classes and pursuits are of united opinion that the want of railway facilities which they experience is ruinous, absolutely ruinous to them; and are restive under the restraints imposed by Congress on contemplated enterprises looking to their material advancement. They assume, and correctly no doubt, that they might aid such enterprises to the extent of several million dollars and yet be gainers largely by the transaction. They believe that such investments would be assuredly returned to them in tenfold measure at an early day, in a variety of forms, such as will readily suggest themselves to the mind of every Senator.

If an important step can be taken toward the accomplishment of so desirable an end by the outlay of $300,000, with three years and a half to pay it in, why not allow the people of Washington to undertake it, or at least by vote to say whether they will or not? What! Congress and the country in one breath proclaiming the incapacity of Washington to inaugurate and conduct an "international exposition" because of its limited means of intercommunication, its want of accommodations, and the like, and in the same breath denying its citizens the poor privilege of signifying by a vote of two to one that they will do something toward promoting local and national interests, and silencing further reproach, unmerited reproach, as they regard it. I am surprised, I am astonished that we should have heard a single whisper in opposition to this measure. Washington reproached for not doing, and denied permission to do! Pass the bill, and you give employment to some two thousand poor men of Washington, whose almost famished families require the fruits of their honest toil. We hear a good deal about the tax-payers who have "enough and to spare;" let us not forget the breadless. I respect the man of wealth, if he be respectable; not otherwise. I also respect the poor man if he be honest and industrious; not otherwise. But I believe the passage of this bill into a law would prove highly beneficial to the city of Washington, to the poor and rich alike, and therefore I most respectfully ask the votes of my brother Senators.

The PRESIDENT *pro tempore*. The tax bill is now before the Senate.

Mr. MORTON. Does not the Senator from Virginia wish to put his bill on its passage?

Mr. LEWIS. I ask for the consideration of the bill.

Mr. HAMLIN. Before the bill passes from the Senate I desire to offer an additional section——

Mr. SHERMAN. I can inform the Senator that the bill will not pass without debate, and therefore I must insist on the regular order. I should be glad to accommodate the Senator from Virginia, but I cannot give way longer.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 562) to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 2275) to provide for the paving of Pennsylvania avenue.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. No. 1040) to amend an act entitled "An act to establish a police court for the District of Columbia, and for other purposes," approved June 17, 1870; and it was thereupon signed by the President *pro tempore*.

TAX BILL.

The Senate resumed the consideration of the bill (H. R. No. 2045) to reduce internal taxes, and for other purposes, the pending question being on the amendment of Mr. CHANDLER, to strike out "one hundred and fifty thousand" and insert "seventy-five thousand" in the first section of the amendment proposed by Mr. SCHURZ, which was to insert the following additional sections:

SEC. —. *And be it further enacted*, That from and after the 1st day of October, 1870, any goods, wares, or merchandise, except wine, distilled spirits, explosive and perishable articles arriving from foreign countries at a port of the United States, which are shown by the manifest of the importing vessel to be destined for any city containing more than one hundred and fifty thousand inhabitants in a collection district more interior than the port of original importation, or destined for a place in either Europe, Australia, or Asia, via the United States, may be immediately conveyed to their destination, in the manner prescribed by this act.

SEC. —. *And be it further enacted*, That any railroad, steamship, or transportation company or companies, duly bonded in the manner now prescribed by law for the transportation of foreign merchandise in bond, be, and are hereby, authorized to demand and receive from the collector of the port of arrival, and to deliver to the collector of the port of final destination in the United States, any merchandise imported in the manner described in the foregoing section: *Provided*, That the said railroad, steamship, or transportation company shall have previously presented to the collector of the port where such goods, wares, or merchandise are first landed in the United States, an invoice of the same duly verified by the consul of the United States residing at or nearest the place of shipment, which invoice shall be a quadruplicate copy of the invoice required by the first section of an act entitled "An act to prevent and punish frauds upon the revenue," &c., approved March 31, 1861, and shall also have previously executed and given to the collector of the port of arrival a good, sufficient, and satisfactory bond, in double the value of said invoice, for the due delivery of the said goods, wares, and merchandise, unopened, unchanged, and intact, to the collector of the port of their final destination in the United States, or the Secretary of the Treasury may in his discretion, accept from such railroad, steamboat, or transportation company, a general bond for such time not exceeding three months, in such amount, with such conditions and such security as he shall deem advisable, with authority at any time to require additional security: *Provided further*, That merchandise in transit from Asia and Australia so transported and destined for Europe, shall be delivered by such company into the custody of the collector of a port on the Atlantic sea-board of the United States, and may thereupon be exported by said company from such custody to Europe in the manner now prescribed by law; and merchandise intended for Asia or Australia shall be in like manner delivered to and exported from the custody of the collector of a port on the Pacific sea-board of the United States.

SEC. —. *And be it further enacted*, That upon the receipt of the goods, wares, and merchandise, and of the invoice and bond named and described in the foregoing sections of this act, the collector of the port of original importation shall ascertain all the marks and numbers, and also the exact weight and precise dimensions of each and every case or package of said merchandise, and shall transmit a detailed statement thereof to the collector of the port in the United States for which the said merchandise is finally destined, and shall thereupon deliver the same to the company which is authorized to receive the same.

SEC. —. *And be it further enacted*, That upon the arrival of the aforesaid goods at the port of final destination, the importer or consignee of the said goods shall be, and hereby is, authorized to make entry of the same in the manner now prescribed by law, and to have every legal right or privilege which he would or might have enjoyed in the port where the goods were first landed in the United States.

SEC. —. *And be it further enacted*, That the collector of the port of final destination in the United States upon delivery to him of such package or packages by the said transportation company or companies, shall remeasure and weigh the same, and if satisfied of its or their identity shall issue a certificate of receipt for the same, and upon the production of said receipt to the collector of the port of original importation the aforesaid bonds shall be canceled.

SEC. —. *And be it further enacted*, That at each of such ports of final destination for which an appraiser

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870. LIS - 5n

ment of the Senator from New Jersey is not in order. If no other amendment be offered, the question is, "Shall the amendments be engrossed and the bill read a third time?"

Mr. SPRAGUE. I consider it my duty to ask for a vote on coal. I do not mean to make any speech; but it may be remembered that the Senate Finance Committee reported fifty cents a ton duty on coal, and the Senate in committee fixed it at $1 25, as it is now.

The PRESIDENT *pro tempore*. That amendment was reserved and adopted by the Senate, and two days having since elapsed, a motion to reconsider cannot be made.

Mr. SPRAGUE. It was reserved, and has not been voted upon.

The PRESIDENT *pro tempore*. It has been voted upon, and two days have elapsed.

Mr. VICKERS. I submit the following amendment:

That the duty on salt in bulk shall be ten cents for every one hundred pounds.

That the duty on salt in sacks, including the sack, shall be fifteen cents per hundred pounds.

Mr. SHERMAN. It is rather too late to introduce the salt question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland.

Mr. BOREMAN rose.

Mr. CONKLING. We can vote it down.

Mr. BOREMAN. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland.

The amendment was rejected.

Mr. VICKERS. I was going to say something, but if the question is disposed of I will not insist upon doing so.

The PRESIDENT *pro tempore*. The Chair was not aware that the Senator from Maryland proposed to address the Senate.

Mr. BAYARD. I can bear testimony that the Senator endeavored to address the Chair.

The PRESIDENT *pro tempore*. Then the Chair will ask the Senate to consider that the vote has not been taken.

Mr. VICKERS. No, sir; I decline speaking.

The PRESIDENT *pro tempore*. The Chair thought the Senator was standing to offer other amendments, as he had a paper in his hand. The Chair was not aware that the Senator intended to address the Senate on this question.

Mr. VICKERS. It makes no difference, sir; I decline to speak.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. VICKERS. Is it too late to offer an amendment?

Several SENATORS. Oh, yes.

The PRESIDENT *pro tempore*. No amendment can now be offered unless the vote by which the bill was ordered to a third reading be reconsidered.

Mr. VICKERS. I was only going to offer an amendment pledging the faith of the Govment that the income tax shall not last longer than 1872.

Mr. THURMAN. On the passage of this bill, I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 43, nays 6; as follows:

YEAS—Messrs. Anthony, Boreman, Carpenter, Chandler, Cole, Conkling, Corbett, Cragin, Drake, Edmunds, Fenton, Gilbert, Hamilton of Texas, Hamlin, Harlan, Howe, Howell, Kellogg, McDonald, Morrill of Vermont, Morton, Nye, Patterson, Pool, Ramsey, Rice, Robertson, Ross, Sawyer, Schurz, Scott, Sherman, Spencer, Sprague, Stewart, Stockton, Thayer, Thurman, Trumbull, Warner, Willey, Williams, and Wilson—43.

NAYS—Messrs. Bayard, Hamilton of Maryland, Harris, McCreery, Saulsbury, and Vickers—6.

ABSENT—Messrs. Abbott, Ames, Brownlow, Buckingham, Cameron, Casserly, Cattell, Davis, Ferry, Flanagan, Fowler, Howard, Johnston, Lewis, Morrill of Maine, Norton, Osborn, Pomeroy, Pratt, Revels, Sumner, Tipton, and Yates—23.

So the bill was passed.

RIVER AND HARBOR BILL.

Mr. SAWYER. I submit an amendment which I intend to propose to the river and harbor bill, and move that it be printed.

The motion to print was agreed to.

Mr. NYE. I move now that the Senate proceed to the consideration of Senate bill No. 401, known as the Atlantic and Pacific railroad bill.

Mr. CHANDLER. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, that the Senate do now adjourn.

The motion was agreed to; and (at eleven o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July* 6, 1870.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. G. BUTLER.

The Journal of yesterday was read and approved.

RAILROAD AND IMMIGRATION COMPANY.

Mr. BUCK, by unanimous consent, introduced a bill (H. R. No. 2368) granting public lands to the New Orleans and Selma Railroad and Immigration Association, for the purpose of aiding in the construction of railroads to promote immigration and secure homesteads in the State of Alabama; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

FORT LEAVENWORTH MILITARY RESERVATION.

Mr. ASPER. I ask unanimous consent to report back, for consideration at the present time, a joint resolution (H. R. No. 170) authorizing the sale of a portion of the Fort Leavenworth military reservation to the Kansas Agricultural and Mechanical Association of Leavenworth county, in the State of Kansas, for fair grounds. The committee propose to report this joint resolution with an amendment.

The joint resolution was read. The first section provides that the Kansas Agricultural and Mechanical Association, a corporate body organized under and by virtue of the laws of the State of Kansas, is hereby authorized to purchase from the United States, for the sole purpose and use of such association as a fair ground, and for experimental agriculture and horticulture, that portion of the Fort Leavenworth military reservation bounded and described as follows, namely: commencing at the southeast corner of the premises herein described, at a point one hundred feet north and in continuation of the west line of Sixteenth street, as laid down and recorded in the map of the city of Leavenworth, and one hundred feet north of the south line of said reservation; thence running westerly and parallel to said south boundary twenty-five hundred and eighty feet to the east line of Nineteenth street; thence northerly and in continuation of the east side of said Nineteenth street twenty-one hundred and seventy-five feet; thence easterly and parallel to the south line of said reservation twenty-five hundred and eighty feet; thence southerly and parallel to the west line of the premises herein described twenty-one hundred and seventy-five feet, to the place of beginning, containing one hundred and twenty-eight and eighty-two hundredths acres of land, more or less. The second section provides that the Secretary of War is hereby directed to appoint a commission of competent Army officers, of such number as he may deem best, which said commission shall, without unnecessary delay, examine and report the true value of the land hereinbefore described to the Secretary of War. On receipt of this report the Secretary of War will forward certified copies of the same to the Secretary of the Interior and to the Kansas Agricultural Association. The third section provides that whenever the association thus notified shall place to the credit of the United States with the Treasurer of the United States, in lawful money, the amount of said appraisal, and notified the Secretary of the Interior of such deposit, it shall be the duty of the Secretary of the Interior to cause to be issued to the said Kansas Agricultural and Mechanical Association a patent for the said land above described; provided that the association shall make the said deposit within one year from the date of the notice of appraisal from the Secretary of War.

The amendment of the committee was read, as follows:

Amend by inserting after the word "less," in the twenty-fifth line, the following:

Reserving to the Government or assigns all right to the coal or royalty to the coal underlying the same.

Mr. RANDALL. I desire to ask the question whether that is an Indian or military reservation?

The SPEAKER. It is a military reservation.

Mr. CULLOM. I object.

So the bill was not received.

POST ROUTE BILL.

Mr. FERRY, by unanimous consent, from the Committee on the Post Office and Post Roads, reported a bill (H. R. No. 2370) to establish certain post roads; which was read a first and second time.

Mr. RANDALL. Does the bill contain anything but legislation in reference to post roads?

Mr. FERRY. There is no general legislation in the bill; but it makes provision simply for the establishment of the post routes. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third; and being engrossed, it was accordingly read the third time, and passed.

Mr. FERRY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

On motion of Mr. FERRY, the bill was ordered to be printed in the Globe. It is as follows:

A bill to establish certain post roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post roads:

ALABAMA.

From Scottsboro' to Lebanon.
From Evergreen to Cokesville.
From Abbeville, via Martinsville and Smithville, to Columbia.
From Huntsville to Center Hill.
From Huntsville, via Meridianville, to Fayetteville.
From New Market to Flora.
From Larkin's Fork to Hunt's Station.
From Troy to Ozark.
From Tomlins to Vernon.

ARKANSAS.

From Devall's Bluff to Pine Bluff.
From Batesville to Ash Flat.
From Marshall to Dover.
From Cotton Plant to Desare.
From Brinkley to Augusta.
From Dardanelle to Waldron.
From Galena to Carrollton.
From Monticello to Auburn.

ARIZONA.

From Prescott to Williamson's Valley.
From Prescott to Walnut Grove.
From Prescott to Woolsey's Valley.
From Maple Shades, via Black Cañon and Wickenburg, to Vulture Mine.

CALIFORNIA.

From Millville, via Oak Run, Round Mountain, Cayton's Mill Bridge, and George Lake, to Lake City.
From Yuka to Little Shasta.
From Calistoga to Kelsey.
From Tuolumne City to Millerton.
From San Rafael to Nicasio.
From Ukiah to Round Valley.
From Millville to Fort Ridwill.
From Santa Rosa to Sonoma.
From San José to Santa Clara.
From Happy Camp to Waldo in Oregon.
From Susanville to Rumbergs.

COLORADO.

From Canyon City to Colfax.
From Evans to Blackhawk Point.
From Canyon City to Greenhorn.
From Pine Bluff to Golden City.

from the fourth congressional district of the State of Indiana.

Resolved, That George W. Julian was duly elected and is entitled to hold the seat he now occupies as Representative from the fourth district of Indiana.

Resolved, That there be paid to the contestant, John S. Reid, from the contingent fund of the House, the sum of —— dollars, in full of all expenses touching said contest.

Mr. RANDALL presented a minority report, accompanied by the following resolutions:

Resolved, That John S. Reid was duly elected a member of the Forty-First Congress from the fourth district of Indiana, and is entitled to the seat he claims in this House.

Resolved, That George W. Julian was not duly elected a member of the Forty-First Congress from the fourth district of Indiana, and is not entitled to a seat in this House.

The majority and minority reports were laid upon the table, and ordered to be printed together.

Mr. CESSNA. I give notice that I will call up this case on Tuesday next.

ENROLLED BILLS, ETC., SIGNED.

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

A bill (H. R. No. 562) to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes;

A bill (H. R. No. 1514) to revise, consolidate, and amend the statutes relating to patents and copyrights;

A bill (H. R. No. 1987) to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes;

A bill (H. R. No. 2000) to declare the construction of section fifty-five of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and the acts amendatory thereof, and to amend the same;

A bill (H. R. No. 2311) granting a pension to Enoch Lytle;

A bill (H. R. No. 2335) granting a pension to Francis M. Davis;

A joint resolution (H. R. No. 355) granting four pieces of condemned cannon to the city of Lowell for the ornamentation of the soldiers' monument in that place;

A bill (S. No. 789) to authorize the proper accounting officers of the Treasury to settle and close the account of Hinton Rowan Helper; and

A bill (S. No. 803) to establish an additional land district in the State of Kansas.

REBECCA SHOEMAKER.

Mr. STRICKLAND. I submit the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill of the Senate (S. No. 846) granting a pension to Rebecca Shoemaker having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House of Representatives recede from its amendment to the said bill.

R. STRICKLAND,
R. S. HEFLIN,
W. N. SWEENEY,
Managers on the part of the House.
J. B. HOWELL,
D. D. PRATT,
GEO. E. SPENCER,
Managers on the part of the Senate.

The report of the committee of conference was agreed to.

Mr. STRICKLAND moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM B. LOONEY.

Mr. STRICKLAND also submitted the following conference report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill of the Senate (S. No. 147) granting a pension to William B. Looney, of Alabama, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same.

R. STRICKLAND,
R. S. HEFLIN,
W. N. SWEENEY,
Managers on the part of the House.
J. B. HOWELL,
D. D. PRATT,
Managers on the part of the Senate.

The report was agreed to.

Mr. STRICKLAND moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONFERENCE REPORTS PRIVILEGED.

The SPEAKER. The Chair desires to state to the House, in order that there may be no misunderstanding, that conference reports will be regarded as privileged above all other matters that may come before the House, even to the extent of taking any member from the floor, although he may be occupying it upon another subject, if the member having charge of a conference report shall so desire. That is the way the Chair will rule in reference to conference reports.

REMOVAL OF POLITICAL DISABILITIES.

Mr. STOKES, by unanimous consent, introduced a bill (H. R. No. 2371) for the relief of sundry citizens of Tennessee of all political disabilities; which was read a first and second time, referred to the select Committee on Reconstruction, and ordered to be printed.

Mr. RANDALL moved to reconsider the several votes of reference and recommittal this morning; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. JULIAN. I call for the regular order.

The SPEAKER. The regular order having been called for, the morning hour will now begin, at eighteen minutes to twelve o'clock, and reports are first in order from the Committee on the Public Lands.

JOSÉ DOMINGUEZ GRANT.

Mr. JULIAN, from the Committee on the Public Lands, reported back, with a recommendation that the same do pass, a bill (H. R. No. 2026) to repeal an act entitled "An act to confirm the grant of certain lands to José Dominguez, in California," approved June 12, 1866.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that the act of Congress approved June 12, 1866, entitled "An act to confirm the grant of certain lands to José Dominguez, in California," be, and the same is thereby repealed.

Mr. JULIAN. I will briefly explain the object and necessity of this bill. In 1866 a memorial was presented to Congress asking the confirmation of the grant referred to in this bill. It was supposed to contain an area of three or four leagues, and a statement was also made that it contained within it the famous grape-vine of California, and that the grantee had held it for a great many years, as his father and mother had done before him.

The surveyor general undertook to have a survey made, but found the boundaries of the grant so vague and indefinite that the survey was pronounced by him to be impracticable. Thereupon the claimants of the grant under Dominguez employed the surveyor general at their own expense to make a survey according to their own directions as to the boundaries. The survey thus made covered some forty-seven leagues, or about 208,742.33 acres; thus gobbling up quite a large number of settlers on the lands of the United States under the preëmption laws, including the town of Santa Barbara itself. This development was so startling to that whole section of country that the facts were looked into. It turned out that the memorial asking for the confirmation of this grant was a forgery in the beginning, and that the statement of pretended facts embodied in the memorial was entirely false; that, in fact, no such grant existed, the conditions not having been complied with, and Dominguez himself deriving no title. It further appeared that the celebrated grape-vine spoken of was seven or eight miles distant in another portion of the county.

The Committee on the Public Lands have examined the whole matter, and I have myself submitted a carefully prepared report setting forth all the facts, with documents and other proof of the facts and circumstances of the case. I pronounce it the most monstrous conspiracy against justice and decency and the rights of settlers on the lands of the Government that I have ever had any knowledge of in the whole course of my legislative experience. These are briefly the facts, and I believe they are uncontroverted and incontrovertible. The report I refer to is as follows:

The Committee on the Public Lands, to whom was referred House bill No. 2026, entitled "A bill to repeal an act to confirm the grant of certain lands to José Dominguez, in California, approved June 12, 1866," have had the same under consideration, together with the memorial of a large number of citizens of Santa Barbara county, and other papers and documents relating to this claim, and now respectfully submit the following report:

The act of June 12, 1866, purports to confirm to José Dominguez the title to certain lands which it is alleged were granted to him by the Mexican governor, Pio Pico, at Los Angeles, under date of September 24, 1845, known as the Los Prietos y Najalayegua, and situate in the county of Santa Barbara. It directs the surveyor general of California to proceed and survey said lands in accordance with the original title papers in his office, and provides that when said survey shall have been approved by the Commissioner of the General Land Office a patent shall issue for said land to said Dominguez, or parties holding under him by inheritance or otherwise.

It is further provided that the confirmation shall only be construed as a relinquishment on the part of the United States, and shall not affect the adverse rights of any person whomsoever.

The action of the surveyor general of California, under this statute, will be best explained by his own letter to the Commissioner of the General Land Office, under date of September 18, 1868, which is as follows:

UNITED STATES SURVEYOR GENERAL'S OFFICE,
SAN FRANCISCO, CALIFORNIA,
September 18, 1868.

SIR: The act of Congress approved June 12, 1866, confirmed the claim of José Dominguez to a tract of land named Los Prietos y Najalayegua, situate in Santa Barbara county, and directed the surveyor general of California to proceed and survey said lands in accordance with the original title papers on file in his office. In obedience thereto I issued instructions on the 25th April, 1867, to George H. Thompson, deputy surveyor, for the survey of said claim, furnishing him with a traced copy of the original papers on file in the Mexican archives, as his guide in executing said survey. Deputy Thompson reported that the calls were so uncertain and vague that he found it difficult to make a survey.

The grantees of the claim, through their attorney, E. J. Pringle, esq., then offered to prove judicial possession by affidavits covering the extent of the present survey; but I declined to receive any evidence except that mentioned in the act of Congress as governing my action in the matter.

They then requested that a survey should be made according to their views and at their own risk. In order to bring the matter before this office for examination, I so instructed the deputy. Mr. Thompson returned a survey comprising an extent of 208,742.33 acres, as the tract claimed by the grantees of Dominguez under said act of Congress.

The location and area of this survey did not meet my views as to the construction of said act, for the following reasons:

1. The original evidence of title shows that the grant was one under the colonization laws of Mexico, and could not therefore exceed the quantity of eleven square leagues.

2. The extent of said tract under said title, as far as I am able to judge, was simply a long narrow valley, situate between two ranges of mountains, and bounded by the Arroyo de la Carpenteria in the east, and the Paraje de los Prietos in the west, and about three leagues in extent, according to the scale on the map or *diseño*.

The parties demurred to these views, and requested that the survey, as executed, be forwarded for the decision of the department.

In order that all parties in interest should have an opportunity to be heard, I caused a publication of the survey to be made under the act of 1864.

Under these circumstances, I herewith forward the plat of survey for your decision, with my expressed opinion, as above, and accompany the same with the following documents:

A. Protest of Wilbur Curtis against said survey.

of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice President:

A bill (S. No. 789) to authorize the proper accounting officers of the Treasury to settle and close the account of Hinton Rowan Helper;

A bill (S. No. 803) to establish an additional land district in the State of Kansas;

A bill (H. R. No. 2000) to declare the construction of section fifty-five of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and of acts amendatory thereof, and to amend the same;

A bill (H. R. No. 2311) granting a pension to Enoch Lytle;

A bill (H. R. No. 2235) granting a pension to Francis M. Davis;

A bill (H. R. No. 562) to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes;

A bill (H. R. No. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights;

A bill (H. R. No. 1987) to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes; and

A joint resolution (H. R. No. 355) granting four pieces of condemned cannon to the city of Lowell, for the ornamentation of the soldiers' monument in that place.

FUNDING BILL.

The VICE PRESIDENT. The Chair will state that yesterday the President *pro tempore* was authorized to appoint a conference committee on the funding bill on the part of the Senate. The Senator from Rhode Island, who was President *pro tempore*, did not appoint that conference committee. If there be no objection the Chair will now appoint it. ["Agreed!"] The Chair appoints the Senator from Ohio, Mr. SHERMAN, the Senator from Massachusetts, Mr. SUMNER, and the Senator from Kentucky, Mr. DAVIS, as the conferees on the part of the Senate on the bill (S. No 380) commonly known as the funding bill.

NEW ORLEANS AND MOBILE RAILROAD BRIDGES.

Mr. SPENCER. I wish to make an explanation and a motion. To-day has been assigned to the Committee on Commerce for the consideration of the river and harbor bill. Before the Senate proceeds to the consideration of that bill, I desire to take up Senate bill No. 878, which is a matter of pressing importance.

It concerns the draw-bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, which are seriously interfering with the commerce of the streams leading into the Gulf of Mexico and the mouth of the Mississippi river. I am sure it will not take five minutes to read the bill and pass it. Certainly there will be no objection to it. It is a matter of pressing importance, and I ask the Senator to yield. It is a bill that comes from his committee, and with which he is familiar. I am sure it will not take five minutes to pass the bill.

Mr. CHANDLER. I am very sorry that I cannot yield to my friend from Alabama. I am in favor of his bill, and will aid him in passing it; but there have been numerous applications of the same description, which I have declined in every instance. I cannot give way now, I regret to say.

The VICE PRESIDENT. The Senator from Michigan declines to yield, and it requires unanimous consent or the postponement of the river and harbor bill to take up the bill indicated by the Senator from Alabama.

Mr. SPENCER. I move, then, to postpone the river and harbor bill, for the purpose of taking up this bill.

The motion was not agreed to.

GEORGE FISHER.

The VICE PRESIDENT laid before the Senate the following communication from the Secretary of the Treasury; which was read, referred to the Committee on Indian Affairs, and ordered to be printed.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
July 6, 1870.

SIR: I have the honor to acknowledge the receipt of a resolution of the Senate under date of June 25, as follows:

"*Resolved*, That the Secretary of the Treasury inform the Senate what amount has been paid at the Treasury on the claim of George Fisher's representative, for the use and destruction of property in the Creek Indian war, giving the amount and date of each payment."

The records of the Treasury Department show that under an act approved April 12, 1848, the Second Auditor of the Treasury was authorized and required "to examine and adjust the claims of the legal representatives of George Fisher, deceased." Under this act the following allowances and payments were made: April 22, 1848, $8,873; December 30, 1848, $8,797 94; May 12, 1849, $10,004 89; or in all the sum of $27,675 83.

On the 22d of December, 1854, an act of Congress was approved by which the Second Auditor of the Treasury was directed to reëxamine the case of George Fisher, and to allow the claimants the benefit of testimony which had been rejected by the Second Auditor for the want of authentication.

Mr. Guthrie, then Secretary of the Treasury, expressed the opinion that no further sum was due upon the claim of Fisher, and no action was taken by the Second Auditor. A copy of Mr. Guthrie's letter is inclosed. By a resolution of June 3, 1858, the duties imposed upon the Auditor by the act of December 22, 1854, were transferred to the Secretary of War, who was directed "to proceed *de novo* to execute the same in their plain and obvious meaning." On the 2d day of October, 1858, the Secretary of War made a decision, in which he allowed for the property destroyed the sum of $18,104. He also allowed interest from the respective dates when the property was destroyed to October 2, 1858, for the sum of $48,799 33, making a total of $66,903 33.

From this total he deducted the amounts previously allowed by the Second Auditor, together with interest from the time when the several sums of money had been paid to October 2, 1858, making a total of $44,022 05; and showing a balance in favor of the claimants of $22,881 28. This amount was also paid by the Treasury Department.

Upon an appeal made by the representative of Fisher, November 11, 1858, the Secretary of War reconsidered his decision, and on the 30th day of November of that year ruled that the principle on which he had ordered the charging of interest on the payments made by the Second Auditor was erroneous, and that $16,346 22 thus charged as interest should be refunded to the claimants. This amount was also paid.

The aggregate payments, therefore, on account of this claim are $66,903 33.

By a joint resolution, approved June 1, 1860, the Secretary of War was authorized and required to revise his execution of the act of 1858; and to restate and settle the account as in his opinion justice to the claimants should require.

Under this resolution Mr. Floyd, then Secretary of War, made a decision allowing the further sum of $66,519 85. His decision was transmitted to the Third Auditor; but before payment was made the resolution of June 1, 1860, was rescinded by the resolution approved March 2, 1861; and all proceedings in the Treasury Department were then suspended.

Upon the passage of the last-mentioned resolution the legal representatives of George Fisher, by petition to the Court of Claims, sought to obtain a judgment for the further allowance of $66,519 85. Upon a hearing of the case, (a full report of which is found in the first volume of the Court of Claims Reports,) the prayer of the petitioners was denied.

Senator DAVIS of Kentucky having called the attention of the Senate to alleged delay on the part of the Secretary of the Treasury in replying to this letter, dated Saturday, the 18th of June, and also to the delay of the Department in replying to the resolution of the Senate of the 29th of June, I think it proper to make a statement of the facts as far as they are known to me.

It was only since the remarks of the honorable Senator were reported to me that I was aware of the fact that he had addressed the Department upon the subject of the claim of the representatives of George Fisher. Senator DAVIS's letter of the 18th ultimo was on Tuesday, the 21st ultimo, referred by the chief clerk of the Treasury Department to the Second Auditor of the Treasury upon the supposition that the papers in question were in charge of that officer. The history of the case, as detailed in this communication, shows that the papers were originally in the bureau of the Second Auditor. An examination of the records of his office disclosed the fact that the papers had been referred to the Department of War, and on the 25th ultimo the Second Auditor addressed a letter to the Secretary of War, requesting the return of the settlement of the claim of George Fisher, deceased, and referring to those settlements by date and number. A copy of the Second Auditor's letter is herewith transmitted.

The chief clerk of the War Department, as appears from his indorsement on the letter of the Second Auditor, informed that officer that the papers in the Fisher case were on file in the Third Auditor's office. On the 28th ultimo, this fact was communicated to the Third Auditor by the Second Auditor, as appears by his letter of that date, a copy of which is also inclosed.

Mr. Jones, a clerk in the Third Auditor's office, was directed to search for the papers; but failed to find them. It appears upon investigation, that Mr. Stetson, another clerk in the Third Auditor's office, had on the 16th of June, loaned these papers to Mr. Potts, chief clerk of the War Department. The papers were returned by Mr. Potts to Mr. Stetson, on the 22d or 23d of June; and the latter, knowing that the subject was under consideration in Congress, retained the papers upon his own desk that they might be at hand when called for. Mr. Jones being ignorant of this fact, was thus led to make a report to the chief clerk of the Third Auditor's office on the 29th ultimo, (as appears from the indorsement of the latter under that date, upon the letter of the Second Auditor of the 28th ultimo,) that the papers were not in the Third Auditor's office.

On the 30th of June the error was discovered.

The resolution of the Senate was received on the 29th of June and referred to the Third Auditor. On Saturday the 2d of July the Third Auditor made a report to the Secretary of the Treasury of the facts in the case.

I have the honor to be, very respectfully,
GEORGE S. BOUTWELL,
Secretary.

Hon. SCHUYLER COLFAX,
Vice President of the United States.

RIVER AND HARBOR BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2092) making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871.

Mr. CHANDLER. The Committee on Commerce, having had the bill in charge, have examined it very carefully in connection with the committee of the other House, who have had it under consideration for some two or three months; and while there are undoubtedly many very worthy things that I should like to put upon the bill, the committee finally concluded to report the House bill without any amendment whatever. It is the most judicious distribution of the funds in connection with the wants of commerce that the committee has been able to make, and I shall ask the Senate to stand by the bill as it is, and to pass it as it is.

Mr. SAWYER. There is an amendment on the table, I believe, offered by me, which I submitted last night.

The PRESIDING OFFICER, (Mr. DRAKE in the chair.) The amendment of the Senator from South Carolina will be read.

The CHIEF CLERK. After line one hundred and twenty-five of section one, it is moved to insert:

For removing obstructions in Town creek, near Charleston, South Carolina, $7,500.

Mr. SAWYER. I have a communication from the engineer department in reference to the subject treated in the amendment. Town creek is a small creek that makes into Cooper river about two miles above Charleston. It is the site on which the old ship John Adams was built. The obstructions there consist of an old dry-dock and one or two vessels which were sunk there at the close of the rebellion. They are a serious obstruction to the navigation of this stream, on the banks of which are wharves which are used for loading the deposits of phosphate of lime, to which allusion has been made by me in the Senate before, on board of vessels sailing for foreign and domestic ports. It is desired to remove these obstructions. With a view to that end, some time in autumn of last year a survey was ordered by the Secretary of War, and was made; and the estimates of $7,500 were made as sufficient to remove these obstructions. I hope there will be no objection to the amendment being adopted.

Mr. CHANDLER. I hope the amendment will not be voted in. I trust the Senate will stand by the report of the committee. Undoubtedly it is a worthy thing, if we commence making additions at all; but I wish to keep the bill free of amendments.

Mr. SAWYER. Since the chairman of the

THE CONGRESSIONAL GLOBE:

X re Patent & Copyright
Laws & H.R. 1714

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTY-FIRST CONGRESS;

TOGETHER WITH

AN APPENDIX,

EMBRACING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1870. LIS - 5o

Mr. COLE. I hope the Senator will let us go on with the Australian steamship bill.

The VICE PRESIDENT. The Senator from Massachusetts is recognized.

Mr. WILSON. I move to take up House joint resolution No. 305, concerning the arsenal grounds at St. Louis, Missouri.

The motion was agreed to; and the joint resolution (H. R. No. 305) concerning arsenal grounds at St. Louis, Missouri, was considered as in Committee of the Whole. It proposes to amend the acts of 28th July, 1868, and 3d March, 1869, in relation to the sale of St. Louis arsenal, so that the portion of ground to be granted for the erection of a monument in memory of the late Brigadier General Nathaniel Lyon shall embrace all the ground lying between Carondolet avenue and Fourth street, as laid down on the plat of the ground now in the Ordnance Office; that all the ground and buildings thereon lying between Second street and the river be reserved for such use as the interest of the Army may require; and that the remainder of the ground, lying between Second and Fourth streets, be sold at public auction in the manner prescribed by the act of 28th July, 1868, and the proceeds of the sale paid into the Treasury of the United States. The corporate authorities of the city of St. Louis are to have the privilege of purchasing the ground at an appraised value before the sale, the appraisement to be made by two persons to be selected by the Secretary of War, and two by the corporate authorities; the four appraisers to select an umpire in case of disagreement, but the result to be subject to the approval of the Secretary of War.

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

FORT PORTER.

Mr. WILSON. I now move that the Senate proceed to the consideration of the joint resolution (H. R. No. 290) authorizing the improvement of the grounds owned by the United States in the city of Buffalo, New York, known as Fort Porter.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It grants permission to the city of Buffalo, in the State of New York, through its park commissioners, to improve and beautify the grounds known as Fort Porter, situated in that city, and belonging to the United States, in connection with a public park to be laid out on land adjoining the grounds, the plans for the same to be approved by the Secretary of War. But this resolution is not to be construed to pass any title in the grounds, but their ownership and control are to remain entirely in the United States, and be subject to such changes and uses for military purposes as the Secretary of War may direct.

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

MASSACHUSETTS HEAVY ARTILLERY.

Mr. WILSON. I desire to put another joint resolution on its passage. There is a report accompanying it which is brief. It was recommitted once for a report. I move to take up Senate joint resolution No. 145.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 145) for the relief of the first battalion heavy artillery of Massachusetts volunteers. It provides that the first battalion heavy artillery of Massachusetts volunteers shall be placed on an equal footing with volunteers as to bounties, and that all laws relating to bounties be applicable to them as to the other troops of a similar character referred to in joint resolution No. 54, approved July 13, 1868.

Mr. WILSON. There is a report now showing that they were enlisted like other troops.

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

AUSTRALIAN STEAMSHIP LINE.

Mr. COLE. I move that the Senate proceed to the consideration of the bill (S. No. 736) to authorize the establishment of ocean mail steamship service between the United States and Australia, which was up last night when we adjourned.

Mr. ROBERTSON. I hope not.

The VICE PRESIDENT. The question is on the motion of the Senator from California.

The question being put, there were, on a division—ayes 18, noes 14; no quorum voting.

Mr. POMEROY called for the yeas and nays.

Mr. TRUMBULL. I move that the Senate adjourn. It is ten o'clock.

REPORTS OF COMMITTEES.

Mr. STEWART. I ask permission to make a report. I am instructed by the Committee on the Judiciary to report back the bill (S. No. 1025) to divide the State of Tennessee into two judicial districts, reported with an amendment.

The VICE PRESIDENT. The Senator from Illinois moves that the Senate do now adjourn.

Mr. COLE. I hope not.

The motion was agreed to, there being, on a division—ayes 16, noes 13; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July* 8, 1870.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. G. BUTLER.

The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. PAINE. Mr. Speaker, I rise to correct the Journal. It is stated that a resolution was offered in the contested-election case of Cameron *vs.* Roots, from the first district of Arkansas, which was adopted by the House. The fact is, I reported from a special committee, of which I am a member, a resolution in that case, and asked that it be laid on the table, to be called up for action on some day during the session. I should like to have that resolution disposed of this morning. Mr. Cameron began the contest at the commencement of this Congress, but he has not prosecuted it, and I do not know there is to be any further prosecution of the contest. If there is not, and if there is no gentleman in this House who knows any reason why that case should not be laid on the table, I think it would be better to dispose of it now. I move that it be laid on the table.

The motion was agreed to.

Mr. PAINE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had passed, without amendment, joint resolutions and bills of the House of the following titles:

A bill (H. R. No. 2353) to create a port of delivery at Duluth, Minnesota;

A bill (H. R. No. 1883) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the fiscal year ending June 30, 1871;

A joint resolution (H. R. No. 290) authorizing the improvement of the grounds owned by the United States in the city of Buffalo, New York, known as Fort Porter; and

A joint resolution (H. R. No. 305) concerning arsenal grounds at St. Louis, Missouri.

The message further announced that the Senate had passed bills of the House of the following titles, severally, with amendments; in which the concurrence of the House was requested:

A bill (H. R. No. 1533) making appropriations for the naval service for the year ending June 30, 1871; and

A bill (H. R. No. 1705) to fix the time for the election of Representatives and Delegates in the Congress of the United States.

The message further announced that the Senate had passed bills and a joint resolution of their own of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 924) making a grant of lands to the North Louisiana and Texas Railroad Company to aid in the construction of a railroad from Vicksburg, Mississippi, on the Missisippi river, to the Texas State line;

A bill (S. No. 1047) to extend letters-patent granted to John Bachelder; and

A joint resolution (S. R. No. 145) for the relief of the first battalion of heavy artillery of Massachusetts volunteers.

NAVAL APPROPRIATION BILL.

Mr. WASHBURN, of Wisconsin. I ask unanimous consent to take from the Speaker's table the bill (H. R. No. 1533) making appropriations for the naval service for the year ending June 30, 1871, which has been returned from the Senate with amendments; and to move that it be referred to the Committee on Appropriations.

There was no objection; and the bill was taken from the Speaker's table and referred to the Committee on Appropriations.

PETITION OF LABORERS.

Mr. JULIAN. I ask leave to present the petition of nine hundred and fifty colored laborers of this city, praying for justice and fair play at the hands of the authorities of this city in the employment of laborers upon the public works of the city, and protesting against any discrimination against them on account of race or color. I ask its reference to the Committee on Education and Labor, and that it be printed in the Globe.

Mr. INGERSOLL. May not the petition be presented under the rules?

The SPEAKER. It cannot be printed without a motion.

Mr. RANDALL. Is it meant that employment shall be given without distinction of color or race? I move to put in the Chinese.

Mr. JULIAN. I make the motion which I have just indicated.

Objection was made.

REMOVAL OF DISABILITIES.

Mr. ARNELL. I ask unanimous consent to introduce a bill to remove the disabilities of W. C. Whitthorne, and A. O. P. Nicholson, of Tennessee.

Mr. MAYNARD. I must object to that.

Mr. ARNELL. I move to suspend the rules, in order that this bill may be passed.

The question was put on suspending the rules; and there were—ayes 70, noes 47.

So (two thirds not voting in the affirmative) the rules were not suspended.

POST OFFICE APPROPRIATION BILL.

Mr. DAWES. I rise to a privileged question. I present the following report of a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1823) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1871, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate, and agree to the same.

H. L. DAWES,
T. W. FERRY,
LEONARD MYERS,
Managers on the part of the House.
L. M. MORRILL,
A. G. THURMAN,
ALEXANDER RAMSEY,
Managers on the part of the Senate.

The report of the committee of conference was agreed to.

Mr. DAWES moved to reconsider the vote by which the report of the committee of con-

An act (H. R. No. 2311) granting a pension to Enoch Lytle;

An act (H. R. No. 2363) to incorporate the United States Freehold Land and Emigration Company, and to confirm certain legislation in Colorado Territory;

An act (H. R. No. 1987) to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes;

An act (H. R. No. 353) authorizing the allowance of the claim of the State of Minnesota to lands for the support of a State university;

An act (H. R. No. 1714) to revise and consolidate and amend the statutes relating to patents and copyrights; and

An act (H. R. No. 2104) providing for refunding the interest paid by the State of Massachusetts on money expended by her on account of the war of 1812–15.

RATIFICATION OF AMENDMENTS.

Mr. BINGHAM, from the Committee on the Judiciary, reported back a bill (H. R. No. 915) to regulate the mode of determining the ratification of amendments to the Constitution of the United States proposed by Congress, with an amendment in the nature of a substitute.

The SPEAKER. The substitute will be reported.

The Clerk read as follows:

Strike out all after the enacting clause, and insert the following:

That whenever the Legislature of any State shall have ratified an amendment to the Constitution of the United States heretofore proposed, or which shall be hereafter proposed, by Congress to the Legislatures of the several States for ratification, it shall be the duty of the Executive of such State so ratifying to certify forthwith under the seal of such State such ratification and the date thereof to the Secretary of State of the United States, whose duty it shall be to file and record the same in the Department of State.

SEC. 2. *And be it further enacted*, That in all cases wherein official notice has been given, or shall hereafter be given to, and has been or shall hereafter be received by the Secretary of State of the United States, that the Legislature of any State has ratified any amendment heretofore proposed by Congress, or which shall hereafter be proposed by Congress, to the Constitution of the United States, it shall be unlawful for any officer of such State to certify thereafter any repeal of such amendment, unless an amendment for the repeal thereof shall have been first proposed by the Congress of the United States, or by a convention called by Congress for proposing amendments; and if such certificate of repeal be made, said Secretary of State shall not receive or make any record thereof in the Department of State, but the same shall be void and of no effect.

SEC. 3. *And be it further enacted*, That whoever, after the Legislatures of three fourths of the States shall have ratified any amendment to the Constitution of the United States heretofore proposed, or which shall hereafter be proposed, by the Congress thereof, shall do any act declaring the repeal, either by color of State legislation or of State ordinance, of any ratification of such amendment after the same shall have been certified to the Secretary of State of the United States, and before the Congress of the United States shall have proposed an amendment providing for the repeal thereof, or a convention called by Congress for proposing amendments shall have proposed such amendment, shall be guilty of a misdemeanor, and upon conviction thereof in any court of the United States having jurisdiction in the premises shall be subject to imprisonment not less than one nor more than ten years, or to a fine of not less than $2,000 nor more than $10,000, or to both, in the discretion of the court.

SEC. 4. *And be it further enacted*, That all acts or parts of acts inconsistent herewith are hereby repealed.

Mr. BINGHAM. I move the previous question.

Mr. NIBLACK. I move to lay the bill on the table.

Mr. COX. I rise to a point of order. I distinctly remember that when the House consented to give this hour to the Committee on the Judiciary for the purpose of reporting bills it was distinctly understood that the hour was to be devoted to the current business of the committee, involving no politics.

Mr. BINGHAM. The gentleman has made a most extraordinary statement, and I deny it *in toto*.

The SPEAKER *pro tempore*, (Mr. SCOFIELD.) The Chair is aware of no such agreement as is alleged by the gentleman from New York, [Mr. COX.] The question is on the motion of the gentleman from Indiana, [Mr. NIBLACK,] to lay the bill on the table.

Mr. McNEELY. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. McCORMICK, of Missouri. I ask to have the bill again reported.

Mr. BUTLER, of Massachusetts. I object.

Mr. McNEELY. If the bill is not allowed to be read again before the vote is taken I shall move that the House do now adjourn.

The SPEAKER. If the gentleman from Massachusetts does not insist on his objection the substitute will be again reported.

The substitute was again read.

The question was then taken; and it was decided in the negative—yeas 51, nays 129, not voting 50; as follows:

YEAS—Messrs. Archer, Axtell, Biggs, Bird, Booker, James Brooks, Burr, Calkin, Cleveland, Conner, Cox, Crebs, Dickinson, Eldridge, Fox, Getz, Griswold, Haight, Haldeman, Hamill, Johnson, Thomas L. Jones, Kerr, Knott, Lewis, Mayham, McCormick, McNeely, Milnes, Mungen, Niblack, Potter, Randall, Reeves, Rice, Rogers, Schumaker, Sherrod, Slocum, Joseph S. Smith, Stiles, Stone, Sweeney, Trimble, Van Auken, Voorhees, Wells, Eugene M. Wilson, Winchester, Wood, and Woodward—51.

NAYS—Messrs. Allison, Ambler, Armstrong, Arnell, Asper, Atwood, Bailey, Banks, Barry, Beatty, Benjamin, Bennett, Benton, Bingham, Blair, Boles, George M. Brooks, Buck, Buckley, Buffinton, Burchard, Burdett, Roderick R. Butler, Cessna, Churchill, William T. Clark, Sidney Clarke, Amasa Cobb, Coburn, Conger, Cook, Covode, Cowles, Cullom, Darrall, Davis, Degener, Dickey, Donley, Duval, Dyer, Ela, Ferriss, Ferry, Finkelnburg, Fisher, Fitch, Garfield, Gilfillan, Hale, Hamilton, Harris, Hawley, Hay, Hays, Heflin, Hill, Hoar, Ingersoll, Jenckes, Judd, Julian, Kellogg, Kelsey, Ketcham, Knapp, Lash, Lawrence, Loughridge, Lynch, Maynard, McCarthy, McCrary, McGrew, McKenzie, Mercur, Eliakim H. Moore, William Moore, Morphis, Myers, Negley, O'Neill, Orth, Packard, Packer, Paine, Peck, Peters, Phelps, Poland, Porter, Prosser, Roots, Sanford, Sargent, Sawyer, Scofield, Shanks, Lionel A. Sheldon, Porter Sheldon, John A. Smith, William J. Smith, Worthington C. Smith, William Smyth, Starkweather, Stevenson, Stokes, Stoughton, Strong, Taffe, Tanner, Taylor, Tillman, Townsend, Twichell, Tyner, Upson, Van Horn, Wallace, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Wheeler, Whitmore, Wilkinson, Willard, Williams, and Winans—129.

NOT VOTING—Messrs. Adams, Ames, Ayer, Barnum, Beaman, Beck, Bowen, Boyd, Benjamin F. Butler, Cake, Clinton L. Cobb, Dawes, Dixon, Dockery, Dox, Farnsworth, Gibson, Hambleton, Hawkins, Hoge, Holman, Hooper, Hotchkiss, Alexander H. Jones, Kelley, Laflin, Logan, Marshall, McKee, Jesse H. Moore, Morgan, Daniel J. Morrell, Samuel P. Morrill, Morrissey, Newsham, Palmer, Perce, Platt, Pomeroy, Ridgway, Schenck, Shober, Stevens, Strader, Strickland, Swann, Van Trump, Van Wyck, John T. Wilson, and Witcher—50.

So the motion to lay the bill on the table was not agreed to.

Mr. ELDRIDGE. I move that the House now adjourn.

Mr. BINGHAM. I move that the rules be suspended, the substitute for this bill adopted, and the bill, so amended, passed.

The SPEAKER. The question is on the motion of the gentleman from Ohio, [Mr. BINGHAM,] that the rules be suspended and this bill passed.

Mr. ELDRIDGE. I made the motion to adjourn before the gentleman from Ohio made his motion.

The SPEAKER. The Chair recognized the gentleman from Ohio to make his motion.

Mr. ELDRIDGE. I know it; but I claim that I should have been recognized to make my motion.

The SPEAKER. The rule is very distinct that the gentleman having charge of a measure before the House is entitled to be first recognized by the Chair, even should another gentleman first rise and address the Chair.

Mr. ELDRIDGE. I hold that is not the rule.

The SPEAKER. The Chair rules that it is.

Mr. ELDRIDGE. I know the Chair rules so, but it is not the rule.

The SPEAKER. The Clerk will read the rule, and the Chair asks the particular attention of the gentleman from Wisconsin [Mr. ELDRIDGE] to it as it is read.

The Clerk read as follows:

"By parliamentary courtesy, the member upon whose motion a subject is brought before the House is first entitled to the floor. So, too, it is an inveterable practice for the Speaker, at every new stage of a bill or proposition, to recognize first the member who has had charge of it, even if another member addressed him first: *Provided*, He is a competitor for the floor."

Mr. ELDRIDGE. That rule does not apply to this case.

The SPEAKER. The Chair declines to hear anything more upon the subject. The question is on the motion to suspend the rules and pass the bill.

Mr. McNEELY. I move that the House now adjourn.

Mr. WOODWARD. Before the question is put on that motion, I ask the gentleman from Ohio [Mr. BINGHAM] to allow me five minutes. I ask it as a right to my constituents, and particularly because I have here some historical reminiscences, connected with the State of Ohio, to which I wish to call the attention of the gentleman.

Mr. ELDRIDGE. I want to say that there never was a more infernal proposition presented in this House.

Mr. STEVENSON. I object to the gentleman proceeding in that way.

Mr. BINGHAM. The motion I originally made for the previous question gave me an hour for debate. But I was interrupted by a motion to lay the bill on the table. I would have been glad to yield to the gentleman from Pennsylvania [Mr. WOODWARD] for five or ten minutes.

Mr. COX. The gentleman called the previous question before there was any opportunity for debate.

Mr. BINGHAM. I would have been entitled to an hour after the previous question was seconded. I did not desire to delay the House unnecessarily, and therefore called the previous question, so as to limit the debate to one hour. And I certainly would not have hesitated to give five or ten minutes to the gentleman from Pennsylvania to state his objections to this bill. And I will do so now if——

The SPEAKER. It requires unanimous consent, pending the motion to suspend the rules.

Mr. BINGHAM. I am willing to yield to the gentleman for five minutes, and then take five minutes myself to reply, if by so doing I shall not lose my right to the floor.

Mr. ELDRIDGE. And I claim five minutes as a member of the Committee on the Judiciary.

The SPEAKER. It requires unanimous consent.

Mr. KELSEY. I object.

The SPEAKER. The first question is upon the motion of the gentleman from Illinois, [Mr. McNEELY,] that the House now adjourn.

Mr. ELDRIDGE. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 40, nays 121, not voting 69; as follows:

YEAS—Messrs. Archer, Beck, Biggs, Bird, James Brooks, Burr, Cleveland, Conner, Cox, Dickinson, Eldridge, Fox, Getz, Griswold, Haight, Haldeman, Hamill, Thomas L. Jones, Kerr, Knott, Lewis, McCormick, McNeely, Morgan, Niblack, Potter, Randall, Reeves, Rice, Sherrod, Slocum, Joseph S. Smith, Stiles, Stone, Van Auken, Voorhees, Eugene M. Wilson, Winchester, Wood, and Woodward—40.

NAYS—Messrs. Allison, Ambler, Ames, Armstrong, Arnell, Atwood, Bailey, Barry, Benjamin, Bennett, Benton, Bingham, Blair, Boles, Booker, George M. Brooks, Buck, Buckley, Buffinton, Burchard, Burdett, Benjamin F. Butler, Roderick R. Butler, Cake, Cessna, Churchill, William T. Clark, Sidney Clarke, Amasa Cobb, Coburn, Conger, Cook, Covode, Cowles, Crebs, Cullom, Darrall, Donley, Duval, Dyer, Ela, Ferries, Ferry, Finkelnburg, Fisher, Fitch, Gilfillan, Hale, Harris, Hawkins, Hawley, Hay, Hays, Heflin, Hoar, Ingersoll, Jenckes, Johnson, Judd, Kellogg, Kelsey, Ketcham, Knapp, Lash, Maynard, McCarthy, McGrew, McKee, McKenzie, Mercur, Milnes, Eliakim H. Moore, Jesse H. Moore, William Moore, Morphis, Myers, O'Neill, Orth, Packard, Packer, Palmer, Peck, Perce, Peters, Phelps, Porter, Prosser, Roots, Sawyer, Scofield, Shanks, Porter Sheldon, John A. Smith, William J. Smith, Worthington C. Smith, William Smyth, Starkweather, Stevens, Stevenson, Stokes, Stoughton, Strickland, Strong, Tanner, Taylor, Townsend, Trimble, Twichell, Tyner, Upson, Van Wyck, Wallace, Ward, William B. Washburn, Wel-

U. S. Congress. House.

X re H.R. 1714

JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

UNITED STATES:

BEING THE

SECOND SESSION OF THE FORTY-FIRST CONGRESS;

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 6, 1869,

IN THE NINETY-FOURTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1870.

LIS - 6

the act of June 30, 1864, as amended by the act of July 13, 1866, to authorize and require the imposition of the special tax paid by produce brokers upon farmers and market gardeners who sell the products of their own farms or gardens from stalls or stands, thereby levying a direct tax upon the production of the prime necessaries of life: Therefore,

Be it resolved, That the Committee of Ways and Means be directed to inquire into the expediency of reporting at the earliest practicable moment a joint resolution declaratory of the true intent and meaning of the said act in the particular above referred to, or, if in their judgment such a course be deemed necessary or desirable, then to report a bill amending the act in question so as to remove the grounds for the interpretation put upon the act by the acting Commissioner.

Mr. Asper, by unanimous consent, reported a bill (H. R. 1009) for the relief of Napoleon B. Giddings, accompanied by a report in writing thereon; which bill was read a first and second time, recommitted to the said committee, and, together with the said report and accompanying papers, ordered to be printed.

Mr. Asper, from the same committee, to which was referred the bill of the House (H. R. 112) to authorize a settlement of the claims of the State of Kansas for services of the troops called out by the governor of that State, upon the requisition of Major General Curtis, to repel the invasion of General Price, reported the same without amendment, accompanied by certain papers.

Ordered, That the said bill be recommitted to the said committee and, together with the accompanying papers, printed.

And then,

On motion of Mr. Eldridge, at 4 o'clock and 30 minutes p. m., the House adjourned.

SATURDAY, JANUARY 29, 1870.

The following petitions, memorials, and other papers, were laid upon the Clerk's table, under the rules, and referred as follows:

By Mr. Benjamin: The petition of John W. Patrick, praying for a pension;

By Mr. Beaman: The petition of Joseph Cressey, praying for a pension;

to the Committee on Invalid Pensions.

By Mr. Maynard: The memorial of George L. Maloney, late lieutenant company C, sixth Tennessee volunteers, praying for arrears of pay, to the Committee on Military Affairs.

By Mr. Welker: The petition of soldiers of the war of 1812, residing in Ohio, praying for pensions, to the Committee on Revolutionary Pensions.

By Mr. Griswold: The petition of citizens of the State of New York, praying for a reduction of the tariff on ship-building materials;

By Mr. Kellogg: The petition of citizens of the State of Connecticut, praying for a reduction of the tariff on steel;

By Mr. Judd: The petition of F. H. Winston, president of the Chicago and Illinois Railroad Company, of similar import;

to the Committee of Ways and Means.

By Mr. Schenck: The petition of the Ladies' Seaman's Friend Society of San Francisco, California, praying for legislation to protect the interests of seamen, to the Committee on Commerce.

By Mr. Niblack: The petition of citizens of the State of Indiana,

and necessity of such rectangular system of land survey of the States of Kentucky, Tennessee, West Virginia, Virginia, North Carolina, South Carolina, Georgia, and Texas, as may be required to ascertain the exact position on the earth's surface of the most important points in those States as a basis for the execution of accurate post-route maps, and to report by bill or otherwise.

By Mr. Ferry:

Resolved, That the Secretary of War be requested to transmit to this House a report of survey of the port of Sheboygan, in the State of Michigan, made by Colonel Cram and filed in the War Department.

Mr. Laflin submitted the following resolution; which was read and referred to the Committee on Printing, viz:

Resolved, That the Committee on Printing be requested to inform this House as to the practicability of providing a more economical and efficient method of publishing the transactions of the Patent Office.

Mr. Holman, by unanimous consent, introduced a bill (H. R. 1062) to amend an act entitled "An act in relation to additional bounties and for other purposes;" which was read a first and second time and referred to the Committee on Military Affairs.

By unanimous consent, bills were further introduced, read a first and second time and referred as follows, viz:

By Mr. Strickland: A bill (H. R. 1063) extending the Portage Lake and Lake Superior ship canal to Keweenaw Bay, providing the right of way and making a grant of land to aid in the continuance of said extension, to the Committee on Public Lands, and ordered to be printed.

By Mr. John A. Smith: A bill (H. R. 1064) for the relief of A. G. Corlins, to the Committee of Claims.

By Mr. Eliakim H. Moore: A bill (H. R. 1065) establishing certain post routes in the State of Ohio, to the Committee on the Post Office and Post Roads.

By Mr. Fitch: A joint resolution (H. Res. 141) authorizing and requesting the President to accord belligerent rights to the republic of Cuba.

Mr. Fitch moved that it be referred to a select committee of seven members.

Pending which,

On motion of Mr. Banks,

Ordered, That the said joint resolution be referred to the Committee on Foreign Affairs.

Mr. Archer, by unanimous consent, introduced a bill (H. R. 1066) for the relief of Thomas J. Ives, late postmaster at Havre de Grace; which was read a first and second time and referred to the Committee on the Post Office and Post Roads.

Mr. Lawrence, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on Printing, viz:

Resolved, That there be printed for the use of the House two thousand copies, and for the use of the officers of the National Observatory five hundred copies, of the reports of the total eclipse of the sun of August 7, 1869, by the officers of the Observatory, officers of the army, and others.

Mr. Beck, by unanimous consent, from the Committee on Appropriations, reported the following resolution; which was read, considered, and agreed to, viz:

Resolved, That the Commissioner of Internal Revenue be, and he is hereby, directed to inform this House by what authority, if any, J. J. Kisch & Co., 255 Pearl street, New York, have procured the copyright of the revenue coupon book to be used by distillers, rectifiers, and liquor

On the Committee for the District of Columbia.—Mr. Lewis McKenzie, of Virginia.

On the Committee on Education and Labor.—Mr. Legrand W. Perce, of Mississippi.

On the Committee on Expenditures on Public Buildings.—To fill a vacancy: Mr. John A. Griswold, of New York.

On the Committee on Freedmen's Affairs.—Mr. George W. Booker, of Virginia.

On the Committee on Accounts.—Mr. William Milnes, jr., of Virginia.

On the Committee on the Pacific Railroad.—Mr. David Atwood, of Wisconsin, and Mr. John Covode, of Pennsylvania.

On the Committee on Public Buildings and Grounds.—Mr. John Covode, of Pennsylvania; Mr. J. L. Morphis, of Mississippi; and Mr. Robert Ridgway, of Virginia.

On the Committee on Agriculture.—Mr. James V. Gibson, of Virginia.

On the Committee on Enrolled Bills.—Mr. Legrand W. Perce, of Mississippi.

By unanimous consent, leave of absence was granted to Mr. Cowles for two days.

By unanimous consent, leave was granted to withdraw from the files of the House the following, viz:

By Mr. Archer: The papers in the case of Ishmael Day.

By Mr. Lawrence: The papers in the case of Sarah A. Greves.

By Mr. Ayer: The papers in the case of Sarah A. Reeves.

And then,

On motion of Mr. Stiles, at 5 o'clock and 50 minutes p. m., the House adjourned.

TUESDAY, MARCH 8, 1870.

The following memorials and petitions were laid upon the Clerk's table, under the rules, and referred as follows:

By Mr. Schenck: The petitition of Casper Schenck, United States Navy, praying Congress to refund certain moneys disbursed, to the Committee on Naval Affairs.

By Mr. W. B. Washburn: The petition of A. G. Gage, of the State of New York, praying for relief;

By Mr. Williams: The memorial of John B. Chapman, praying for relief;

to the Committee of Claims.

By Mr. Beck: The petition of Douglass L. Price and George M. Jones, of the State of Kentucky, praying to be relieved of political disabilities, to the Committee on Reconstruction.

By Mr. Blaine: The petition of C. E. Daily, of the District of Columbia, praying for the abolition of the levy court and offices of register of wills and deeds, to the Committee on the District of Columbia.

By Mr. D. J. Morrell: The petition of citizens of the State of Illinois, relative to the report of Commissioner Wells, to the Committee on Manufactures.

By Mr. Dawes: The petition of citizens of the State of Massachusetts, praying for the improvement of St. Mary's Falls ship canal;

By Mr. Blaine: The petition of citizens of the State of Maine, praying for the repeal of laws giving extra wages to seamen;

to the Committee on Commerce.

By Mr. Schenck: The petition J. P. O'Connell, praying for compensation for pontoons invented by him and used by the government, heretofore referred March 20, 1866, to the Committee on Military Affairs.

desire that if an Indian war becomes inevitable the government of the United States at least should not be responsible for it. Pains will be taken, and force used, if necessary, to prevent the departure of the expeditions referred to by the Secretary of the Interior.

U. S. GRANT.

EXECUTIVE MANSION, *Washington, D. C., March* 8, 1870.

The message and accompanying papers were referred to the Committee on Appropriations and ordered to be printed.

Mr. Laflin, from the Committee on Printing, reported a joint resolution (H. Res. 188) providing for publishing specifications and drawings of the Patent Office; which was read a first and second time.

After debate,

Pending the question of engrossment,

Mr. Jenckes moved to amend the said resolution.

Pending which,

After debate,

Mr. Benjamin, from the Committee on Invalid Pensions, by unanimous consent, reported a bill (H. R. 1467) to construe the 27th section of an act entitled "An act relating to pensions," approved July 27, 1868; which was read a first and second time.

Ordered, That the same be engrossed and read a third time.

And being engrossed, it was accordingly read the third time and passed.

Mr. Benjamin moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table; the latter motion was agreed to.

Ordered, That the Clerk request the concurrence of the Senate in the same.

By unanimous consent, the following bills and joint resolutions were introduced, read severally a first and second time, and referred as follows, viz:

By Mr. Stevenson: A joint resolution (H. R. 187) relative to a voyage to the Arctic regions, to the Committee on Appropriations and ordered to be printed.

By Mr. Garfield: A bill (H. R. 1468) to place the Trumbull Guards, a company of Ohio volunteers, on the same footing as other volunteer soldiers, to the Committee on Military Affairs.

By Mr. Randall: A bill (H. R. 1469) to change the name of the canal schooner "Number Forty-four," to be called the "J. H. Trainor," to the Committee on Commerce.

Also, a bill (H. R. 1470) granting a pension to the widow of William A. Gray, to the Committee on Invalid Pensions.

By Mr. Packard: A bill (H. R. 1471) for the relief of James E. Young, to the Committee of Claims.

Also, a bill (H. R. 1472) for the relief of Susan Holtz, widow of David Holtz, late private of Company K, Third regiment Colorado volunteers, to the Committee on Invalid Pensions.

Mr. Beck presented a resolution and memorial of the soldiers of the war of 1812, in Kentucky, praying Congress to grant pensions to the survivors; which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. Cake moved to reconsider the vote by which all references were made, and also moved to lay the motion to reconsider on the table; the latter motion was agreed to.

And then,

On motion of Mr. Cake, at 4 o'clock and 8 minutes p. m., the House adjourned.

WEDNESDAY, MARCH 9, 1870.

The following memorials and petitions were laid upon the Clerk's table, under the rules, and referred as follows:

By Mr. D. J. Morrell: Eight petitions from citizens of the State of Pennsylvania, remonstrating against any change in the tariff, as suggested by a free trade league, and praying for a reduction of duties on the products of the tropics, to the Committee of Ways and Means.

By Mr. Witcher: The petition of Isaac E. Chapman, a citizen of the State of Virginia, praying for a removal of political disabilities;

Also, the petition of F. P. Spotts, a citizen of the State of Virginia, of similar import;

Also, the petition of W. P. Cecil, a citizen of the same State, of similar import;

to the Committe on Reconstruction.

By Mr. Churchill: The petition of two hundred citizens of the State of New York, praying for an appropriation for the improvement of the harbor of Salmon River, to the Committee on Commerce.

By Mr. Reading: Seven petitions from citizens of the State of Pennsylvania, praying for the protection of home industry and abatement of duty on the products of tropical countries;

By Mr. Covode: One petition from citizens of same State, of the same import;

By Mr. Cessna: Four petitions of similar import, from citizens of the same State;

By Mr. Phelps: Four petitions of similar import, from citizens of the same State;

By Mr. Mercur: Four petitions of similar import, from citizens of the same State;

By Mr. Cake: Three petitions of similar import, from citizens of the same State;

By Mr. Stiles: Four petitions of similar import, from citizens of the same State;

By Mr. Biggs: Four petitions of similar import, from citizens of the State of Delaware;

Also, one petition of similar import, from citizens of the State of Maryland;

Also, one petition of similar import, from citizens of the State of Pennsylvania;

By Mr. Cake: The petition of citizens of the State of Pennsylvania, who are natives of Ireland, praying for protection to American industry;

By Mr. Getz: Eleven petitions of citizens of the State of Pennsylvania, of similar import;

By Mr. Wm. Moore: Four petitions from citizens of the State of New Jersey, of similar import;

By Mr. Townsend: Six petitions from citizens of the State of Pennsylvania, of similar import;

By Mr. Gilfillan: Two petitions of citizens of the same State, of similar import;

By Mr. O'Neill: Three petitions of similar import, from citizens of the same State;

By Mr. Bird: One petition of similar import, from citizens of the State of New Jersey;

to the Committee of Ways and Means.

By Mr. Dox: The petition of John T. Akins, a soldier of the war of 1812, praying for a pension, to the Committee on Revolutionary Pensions.

By Mr. Wm. Moore: The petition of masters and owners of vessels,

Mr. Welker, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to, viz:

Resolved, That the Secretary of the Treasury be directed to furnish to the House a detailed statement showing the payments on account of our public debt, including both principal and interest, from 1787 to 1836, inclusive.

The Speaker announced as the regular order of business the consideration of the joint resolution (H. Res. 188) providing for publishing specifications and drawings of Patent Office;

When

Mr. W. B. Washburn moved that the further consideration of said resolution be postponed until after the morning hour; which motion was agreed to.

The morning hour having commenced,

The House resumed the consideration of the bill (H. R. 19) to authorize the building of a military and postal railway from Washington, District of Columbia, to the city of New York, the pending question being on ordering it to be engrossed and read a third time.

Mr. Paine moved to amend the said bill; which amendment was agreed to.

Mr. Paine moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table; the latter motion was agreed to.

Mr. Kerr moved to postpone the further consideration of the bill until Thursday, the 31st day of March, instant; which motion was disagreed to.

The question recurring on the amendments of the committee to the said bill, they were agreed to.

Mr. Ingersoll moved to reconsider the vote by which the amendments of the committee were adopted, and also moved to lay the motion to reconsider on the table; the latter motion was agreed to.

Mr. Conger submitted an amendment to the bill; which amendment was agreed to.

Mr. Conger moved to reconsider the vote last taken, and also moved to lay the motion to reconsider on the table; the latter motion was agreed to.

Mr. Archer moved a further amendment to said bill; which amendment was disagreed to.

The question then recurring on the engrossment of the bill,

Mr. Ingersoll demanded the previous question, and the House refused to second the same.

Pending the question of engrossment, and

After debate,

The morning hour expired.

Mr. Garfield, by unanimous consent, from the Committee on Rules, reported the following resolution; which was read, considered, and agreed to, viz:

Resolved, That the following be added to the rules of the House:

The third Friday of each month, from the hour of 2 o'clock p. m. until the adjournment of that day, shall, when claimed by the Committee for the District of Columbia, be devoted exclusively to business reported from said committee; and said committee shall henceforth be omitted by the Speaker in the regular calls of committees.

A message from the President of the United States was received by Mr. Porter, his private secretary, informing the House that he did, this day, approve and sign a bill and a joint resolution of the House of the following titles, viz: H. R. 195. An act to authorize the Secretary of War to place at the disposal of the Soldiers' Monument Committee of Rock Island County, Illinois, certain captured ordnance.

H. Res. 107. Joint resolution authorizing the issue of blankets to enlisted men of Company B, Tenth Infantry, to replace others destroyed by fire.

The House then resumed the consideration of the joint resolution (H. Res. 188) providing for publishing specifications and drawings of the Patent Office.

After debate, and pending the question of engrossment, amendments were offered by Mr. Laflin, Mr. Garfield, Mr. Kerr, Mr. Hoar, and Mr. Cake; which were severally agreed to.

The amendment of Mr. Jenckes was also agreed to.

The question recurring on the engrossment of the joint resolution,

Mr. Laflin demanded the previous question; which was seconded and the main question ordered, and the said joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

A message from the Senate, by Mr. McDonald, their secretary:

Mr. Speaker: The Senate have passed without amendment a resolution of the House of the following title, viz:

H. Res. 182. Joint resolution making appropriations to supply deficiencies in the appropriations for contingent expenses of the House of Representatives of the United States for the fiscal year ending June 30, 1870.

The Senate have also passed bills of the following titles, viz:

S. 349. An act for the relief of F. Butterworth and others;

S. 488. An act to authorize the officers of the Treasury Department to enter a credit upon the account of Henry Etting, paymaster in the navy; in which I am directed to request the concurrence of the House.

The President of the United States has notified the Senate that he did, on the 7th instant, approve and sign bills of the following titles, viz:

S. 266. An act to authorize officers of the executive departments to administer oaths in certain cases.

S. 436. An act to relieve certain persons therein named from the legal and political disabilities imposed by the fourteenth amendment of the Constitution of the United States, and for other purposes.

Also, on the 8th instant, a bill (S. 374) entitled "An act to amend an act entitled 'An act to extend the time for the Little Rock and Fort Smith Railroad Company to complete the first section of twenty miles of said road,' approved April 10, 1869."

By unanimous consent, bills were introduced and reported, read a first and second time, and referred as follows, viz:

By Mr. Kerr, from the Committee on the Judiciary, to which the same had been referred: The bill (H. R. 1293) to enforce the rights of citizens of the United States to vote in the several States of this Union who have hitherto been denied that right on account of race, color, or previous condition of servitude, with an amendment in the nature of a substitute; recommitted to said committee and ordered to be printed.

By Mr. Garfield: A bill (H. R. 1473) to amend the pension act of July 27, 1868; referred to the Committee on Invalid Pensions.

Also, a bill (H. R. 1474) granting a pension to Martha G. Randolph, to the same committee.

Also, a bill (H. R. 1475) for the relief of Edward B. Woodbury and Sylvia M. McIntire, to the Committee on the Public Lands.

By Mr. Stokes, from the Select Committee on the Ninth Census: A bill (H. R. 1476) to amend an act entitled "An act to provide for the taking of the seventh and subsequent censuses of the United States," &c., approved May 23, 1850; recommitted to said committee and ordered to be printed, together with Mr. Allison's amendment thereto.

By Mr. Morrell: A bill (H. R. 1478) to provide for celebrating the one-

Mr. H. H. Starkweather	Mr. Adolphus H. Tanner	Mr. Robert T. Van Horn	Mr. George W. Whitmore
Aaron F. Stevens	Lewis Tillman	Chas. H. Van Wyck	Charles W. Willard
Job E. Stevenson	Washing'n Townsend	William B. Washburn	William Williams
William B. Stokes	Ginery Twichell	Martin Welker	John T. Wilson
Julius L. Strong	James N. Tyner	William A. Wheeler	John S. Witcher.
John Taffe	William H. Upson		

Those who voted in the negative are—

Mr. George M. Adams	Mr. Peter M. Dox	Mr. Samuel S. Marshall	Mr. Henry W. Slocum
Stevenson Archer	Charles A. Eldridge	Stephen L. Mayham	John D. Stiles
Samuel B. Axtell	J. Lawrence Getz	T. W. McNeely	Thomas Swann
James B. Beck	John A. Griswold	William Milnes	William N. Sweeney
Benjamin T. Biggs	Richard J. Haldeman	William Mungen	Lawrence S. Trimble
John T. Bird	Samuel Hambleton	William E. Niblack	Daniel M. Van Auken
Albert G. Burr	Patrick Hamill	Samuel J. Randall	Daniel W. Voorhees
Hervey C. Calkin	William S. Holman	Henry A. Reeves	Erastus Wells
Orestes Cleveland	James A. Johnson	Anthony A. C. Rogers	Eugene M. Wilson
Samuel S. Cox	Michael C. Kerr	John G. Schumaker	Fernando Wood
John M. Crebs	J. Proctor Knott	William C. Sherrod	Geo. W. Woodward.
Edward F. Dickinson			

Those not voting are—

Mr. Alexander H. Bailey	Mr. Oliver J. Dickey	Mr. Addison H. Laflin	Mr. Stephen Sanford
William H. Barnum	Oliver H. Dockery	Israel G. Lash	Aaron A. Sargent
John Beatty	Joseph B. Donley	William Lawrence	John P. C. Shanks
John F. Benjamin	David P. Dyer	John Lynch	Porter Sheldon
Austin Blair	Thomas Fitch	James R. McCormick	Francis E. Shober
George W. Booker	John Fox	George W. McCrary	Joseph S. Smith
C. C. Bowen	James A. Garfield	Lewis McKenzie	Frederick Stone
James Brooks	James K. Gibson	George W. Morgan	William L. Stoughton
Charles W. Buckley	Charles Haight	J. L. Morphis	Peter W. Strader
Roderick R. Butler	Isaac R. Hawkins	John Morrissey	Randolph Strickland
William T. Clark	Charles Hays	James H. Platt	Philade'h Van Trump
Sidney Clarke	Robert S. Heflin	Charles H. Porter	Hamilton Ward
Clinton L. Cobb	Samuel Hooper	Clarkson N. Potter	Cadwal'r C. Washburn
John Coburn	Ebon C. Ingersoll	John R. Reading	Morton S. Wilkinson
John C. Conner	Thomas A. Jenckes	John M. Rice	James J. Winans
Noah Davis	Thomas L. Jones	Robert Ridgway	Boyd Winchester.
Henry L. Dawes	Norman B. Judd	Logan H. Roots	

So the said resolutions were agreed to,

And thereupon the said Caleb N. Taylor appeared, and having taken the oath required by the Constitution of the United States and the act of July 2, 1862, took his seat in the House.

On motion of Mr. Schenck, the House resolved itself into the Committee of the Whole House on the state of the Union; and after some time spent therein the Speaker resumed the chair, and Mr. Wheeler reported that the committee having had under consideration the special order, viz: H. R. 1068, (tariff bill,) had come to no resolution thereon.

And then,

On motion of Mr. Allison, at 5 o'clock and 5 minutes p. m., the House adjourned.

THURSDAY, APRIL 14, 1870.

The following memorials and petitions were laid upon the Clerk's table, under the rule, and referred as follows:

By Mr. William B. Washburn: The petition of W. M. Stafford, heretofore referred December 7, 1868, praying for relief, to the Committee of Claims.

By Mr. Bird: Three petitions of citizens of New Jersey, praying for the abolition of the franking privilege, to the Committee on the Post Office and Post Roads.

By Mr. Archer: The petition of Jacob Fleishall, praying for a pension, to the Committee on Invalid Pensions.

By Mr. Samuel Hooper: The petition of insurance companies of Boston, praying for a commission to determine the amount of losses sustained by citizens of the United States by the so-called confederate cruisers, to the Committee on Foreign Affairs.

Ordered, That the Clerk request the concurrence of the Senate therein.

Mr. Cake, from the same committee, reported the following resolution, viz:

Resolved by the House, (the Senate concurring,) That one thousand extra copies of the report of the Committee on Banking and Currency in relation to the gold panic, with the testimony, and three thousand without the testimony, be printed for the use of the House.

Pending the question on agreeing thereto,

On motion of Mr. Kelsey,

Ordered, That the resolution be laid on the table.

Mr. Benjamin F. Butler, from the Committee on Reconstruction, to which was referred the bill of the House (H. R. 1775) to relieve C. B. Sabin, of Harris County, Texas, from legal and political disabilities imposed by the fourteenth amendment to the Constitution of the United States, reported the same without amendment.

Ordered, That it be engrossed and read a third time.

Being engrossed, it was accordingly read the third time and (two-thirds voting in favor thereof) passed.

Ordered, That the Clerk request the concurrence of the Senate therein.

Mr. Samuel Hooper, from the Committee on Coinage, Weights, and Measures, reported the following resolution; which was read, considered, and agreed to, viz:

Resolved, That the Committee on Coinage, Weights, and Measures be instructed, when they report upon the subject of international coinage, to submit to the House a statement of the weights and value of the present gold coins of Great Britain, France, and the United States.

The Speaker having announced, as the regular order of business, the call of committees for reports,

Mr. Jenckes, from the Committee on Patents, to which was referred the bill of the House (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, reported the same with amendments.

Pending the question on agreeing to the said amendments,

After debate,

The morning hour expired.

Mr. Farnsworth, by unanimous consent, from the Committee on the Post Office and Post Roads, submitted a report in writing in regard to the alleged expenses in excess of the appropriations for the construction of the post office buildings in New York and Boston; which was laid on the table and, together with the testimony, ordered to be printed.

Mr. Fitch, by unanimous consent, from the Committee on the Public Lands, to which were referred bills of the following titles, viz:

H. R. 832. A bill granting lands to the State of Wisconsin, to aid in the construction of a breakwater, harbor, and ship canal at the head of Sturgeon Bay, in the county of Door, in said State, to connect the waters of Green Bay with Lake Michigan, in said State;

H. R. 1584. A bill granting the right of way and lands to the Sacramento Irrigation and Navigation Company;

H. R. 1082. A bill to aid in the construction of a railroad from Mobile to the western boundary of Louisiana; and

H. R. 1590. A bill to aid in the construction of the Oregon Branch Pacific railroad;

reported the same severally with amendments.

Ordered, That the said bills and amendments be printed and recommitted.

the construction of the St. James and Little Rock railroad; which was read a first and second time, recommitted to the said committee, and ordered to be printed.

By unanimous consent, leave of absence was granted to Mr. McKenzie for three days, to Mr. Booker for two days, to Mr. Platt for five days, to Mr. Clark for two days, and to Mr. Burr for an indefinite period.

The Speaker announced that he had appointed Mr. Trimble, in place of Mr. Van Trump, excused, on the Committee on the Pacific Railroad; and Mr. Van Trump, in place of Mr. Trimble, excused, on the Committee on the Post Office and Post Roads.

Mr. Kerr, as a question of privilege, submitted the following resolution, viz:

Resolved, That the Speaker of the House be directed to inform the governor of the State of Louisiana that there is a vacancy in the representation from that State in the first congressional district thereof.

Pending which,

Mr. Kerr moved the previous question.

Pending which,

On motion of Mr. Sargent, at 5 o'clock and 10 minutes p. m., the House adjourned.

THURSDAY, APRIL 21, 1870.

The following memorials, petitions, and other papers were laid upon the Clerk's table, under the rules, and referred as follows:

By Mr. Trimble: The petition of Peter Acker, of Kentucky, heretofore referred February 2, 1866, praying for relief, to the Committee of Claims.

By Mr. Adams: The petition of Leonard Casey, of Kentucky, heretofore referred April 16, 1866, praying for a pension, to the Committee on Invalid Pensions.

By Mr. Logan: The petition of Masons of Delavan, Illinois, praying for protection of Masons resident in Cuba, &c.;

Also, the petition of Masons of Flora, Illinois, of similar import;

Also, resolution from Lodge No. 393, of Chicago, Illinois, of similar import;

Also, petition from Springfield Lodge, Illinois, of similar import;

Also, the petition of New Boston Lodge, of Illinois, of similar import;

Also, the petition of Minonk Lodge, Illinois, of similar import;

Also, preamble and resolutions of Jerseyville Lodge, Illinois, of similar import;

Also, the petition of Nauvoo Lodge, Illinois, of similar import;

Also, the petition of Charter Lodge, Illinois, of similar import;

Also, the petition of Washburn Lodge, of Illinois, of similar import; to the Committee on Foreign Affairs.

Also, the petition of citizens of Cherokee County, Kansas, relative to neutral lands, to the Committee on Indian Affairs.

Also, the petition of citizens of Illinois, for the recognition of God in the United States Constitution, to the Committee on the Judiciary.

By Mr. Stokes: The petition of Lieutenant C. T. Martin, praying for relief, to the Committee of Claims.

Also, the petition of citizens of Carroll County, Tennessee, praying relief from political disabilities, to the Committee on Reconstruction.

By Mr. Logan: The petition of George W. Morrison, praying for increase of pension;

When,

Mr. Stevenson submitted a resolution in the same words.

Pending which,

After debate,

Mr. Stevenson moved that it be referred to the Committee of Elections.

Pending which,

On motion of Mr. Holman, the resolution was laid on the table.

The House then resumed, as the regular order of business, the consideration of the bill of the House (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights; the pending question being on the amendment submitted by Mr. Cleveland.

When,

Additional amendments were submitted by Mr. Dawes; which were severally agreed to.

Mr. Poland submitted an additional amendment.

Pending which,

Mr. Holman moved to amend the said amendment.

Pending which,

By unanimous consent, additional amendments were submitted by Mr. Sargent, Mr. Benjamin F. Butler, and Mr. Kerr.

Pending which,

Mr. Jenckes moved the previous question; which was seconded and the main question ordered, and, under the operation thereof, all of the said amendments were disagreed to.

Ordered, That the bill be engrossed and read a third time.

Being engrossed, it was accordingly read the third time and passed.

Ordered, That the Clerk request the concurrence of the Senate therein.

A message was received from the President of the United States, by Mr. Porter, his private secretary, notifying the House that he did, on the 20th instant, approve and sign bills of the following titles, viz:

H. R. 1346. An act making appropriations to supply deficiencies in the appropriations for the service of the government for the fiscal year ending June 30, 1870, and for other purposes;

H. R. 1542. An act to authorize the city of Buffalo, New York, to construct a tunnel under Niagara River, and to erect and maintain an inlet pier therefrom; and

H. R. 1775. An act to relieve C. B. Sabin, of Harris County, Texas, from legal and political disabilities imposed by the fourteenth amendment to the Constitution of the United States.

On motion of Mr. Cadwalader C. Washburn,

Ordered, That the House take a recess from 4½ o'clock p. m. until 7½ o'clock p. m., this day.

On motion of Mr. Cadwalader C. Washburn, the House resolved itself into the Committee of the Whole House on the state of the Union; and after some time spent therein the Speaker resumed the chair, and Mr. Eldridge reported that the committee having had under consideration the bill of the House (H. R. 1533) making appropriations for the naval service for the year ending June 30, 1871, had come to no resolution thereon.

And then,

On motion of Mr. Holman, at 7 o'clock and 35 minutes p. m., the House adjourned.

standing circulation in gold or silver coin of the United States, and shall receive at par in the payment of debts the gold notes of every other such banking association which at the time of such payments shall be redeeming its circulating notes in gold coin of the United States.

"'SEC. —. *And be it further enacted, That every association organized for the purpose of issuing gold notes, as provided in this section, shall be subject to the requirements and provisions of the national currency act, except the first clause of section twenty-two, which limits the circulation of national banking associations to* $300,000,000; *the first clause of section thirty-two, which, taken in connection with the preceding section, would require national banking associations organized in the city of San Francisco to redeem their circulating notes at par in the city of New York; and the last clause of section thirty-two, which requires every national banking association to receive in payment of debts the notes of every other national banking association at par: Provided, That in applying the provisions and requirements of said act to the banking associations herein provided for the terms 'lawful money' and 'lawful money of the United States,' shall be held and construed to mean gold or silver coin of the United States.*

"That section 3 be amended as follows: page 4, line 3, after the word 'withdrawing' insert '*one-third of*.'

"Same page, line 5, strike out the word '*three*' and insert in lieu thereof the word '*two*.'

"That the House agree to the said amendments.

"Managers on the part of the House—

"JAMES A. GARFIELD
"THOS. L. JONES.
"L. A. SHELDON.

"Managers on the part of the Senate—

"JOHN SHERMAN.
"WILLARD WARNER.
"W. SPRAGUE.

Pending which,

On motion of Mr. Wood, at 5 o'clock and 20 minutes p. m., the House adjourned.

TUESDAY, JUNE 28, 1870.

The following memorials and petitions were laid on the Clerk's desk, under the rules, and referred as follows:

By Mr. Strickland: The memorial of Mrs. Mary J. Lowry, praying for a pension for her children, to the Committee on Invalid Pensions.

By Mr. B. F. Butler: The petition of citizens of New Orleans, Louisiana, praying for an increase of salary of district judge, to the Committee on the Judiciary.

By Mr. Packer: The memorial of Rittenhouse P. Finch, praying for relief, to the Committee on the Post Office and Post Roads.

Also, the petition of Thomas J. Black, praying for a pension, to the Committee on Invalid Pensions.

By Mr. Lash: The petition of Samuel C. Wall, praying for the removal of his political disabilities;

By Mr. C. C. Washburn: The petition of James R. Chalmers, praying for the removal of his political disabilities;

to the Committee on Reconstruction.

Mr. Laflin, by unanimous consent, introduced a bill (H. R. 2348) granting the right of way to the Carthage, Watertown and Sackett's Harbor Railroad Company; which was read a first and second time.

Mr. G. A. Finkelnburg
John Fisher
John A. Griswold
Eugene Hale
John B. Hay
William D. Kelley
William H. Kelsey
Mr. Charles Knapp
Addison H. Laflin
Joseph H. Lewis
William Loughridge
James C. McGrew
Ulysses Mercur
Mr. Leonard Myers
Charles O'Neill
Halbert E. Paine
John G. Schumaker
William C. Sherrod
John A. Smith
Mr. William H. Upson
Daniel M. Van Anken
Hamilton Ward
Cadwal'r C. Washburn
Morton S. Wilkinson
George W. Woodward.

Those not voting are—

Mr. Nathaniel P. Banks
Henry W. Barry
Fernando C. Beaman
James B. Beck
Benjamin T. Biggs
Sempronius H. Boyd
George M. Brooks
Alfred E. Buck
Albert G. Burr
Henry L. Cake
John C. Churchill
Clinton L. Cobb
Burton C. Cook
George W. Cowles
Noah Davis
Oliver J. Dickey
Peter M. Dox
Mr. Isaac H. Duval
Charles A. Eldridge
John F. Farnsworth
John Fox
James A. Garfield
James K. Gibson
Calvin W. Gilfillan
Charles Haight
Richard J. Haldeman
Charles Hays
George F. Hoar
Solomon L. Hoge
Giles W. Hotchkiss
Thomas A. Jenckes
Alexander H. Jones
George W. Julian
John H. Ketcham
Mr. J. Proctor Knott
John Lynch
Stephen L. Mayham
George W. McCrary
George C. McKee
Jesse H. Moore
Samuel P. Morrill
John Morrissey
William E. Niblack
Jasper Packard
John B. Packer
Legrand W. Perce
Charles H. Porter
Clarkson N. Potter
Samuel J. Randall
John M. Rice
Robert Ridgway
Mr. Stephen Sanford
Glenni W. Scofield
Porter Sheldon
Francis E. Shober
William B. Stokes
William L. Stonghton
Lawrence S. Trimble
Philade'h Van Trump
Charles H. Van Wyck
Daniel W. Voorhees
Alexander S. Wallace
William B. Washburn
Eugene M. Wilson
James J. Winans
John S. Witcher
Fernando Wood.

So the bill was passed.

Ordered, That the Clerk request the concurrence of the Senate in the said amendments.

Mr. Finkelnburg, from the same committee, to which was referred the bill of the House (H. R. 1538) to regulate the appraisement and inspection of imports in certain cases, and for other purposes, reported the same with sundry amendments; which were agreed to.

Ordered, That the said bill as amended be engrossed and read a third time.

Being engrossed, it was accordingly read the third time and passed.

Ordered, That the Clerk request the concurrence of the Senate therein.

The morning hour having expired,

Mr. Schenck, from the Committee of Ways and Means, reported a bill (H. R. 2349) to reduce the duties on imported salt; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

On motion of Mr. Benjamin F. Butler, by unanimous consent, the bill of the Senate (S. 996) to relieve Henry A. Badham from the legal and political disability imposed by the fourteenth amendment of the Constitution of the United States was taken from the Speaker's table, read a first and second time, and referred to the Committee on Reconstruction.

The Speaker announced that he had appointed as managers on the part of the House as follows, viz:

On the bill of the House No. 1604—Mr. Kelsey, Mr. Fitch, and Mr. Beck.

On the bill of the House No. 1714—Mr. Jenckes, Mr. Calkin, and Mr. Kellogg.

Ordered, That the Clerk acquaint the Senate therewith.

The House then resumed, as the regular order of business, the consideration of the report of the committee of conference on the bill of the Senate No. 378.

Pending which,

On motion of Mr. Eldridge, at 4 o'clock and 45 minutes p. m., the House adjourned.

WEDNESDAY, JUNE 29, 1870.

The following petitions were laid on the Clerk's desk, under the rules, and referred as follows:

By Mr. Tanner: The petition of Emily McClure, praying for a pension, heretofore referred December 9, 1869, to the Committee on Invalid Pensions.

By Mr. L. A. Sheldon: The petition of the governor and one thousand other citizens of Louisiana, praying for the improvement of the Red River, to the Committee on Commerce.

By Mr. E. H. Moore: The petition of citizens of Massillon, Ohio, praying for the repeal of the legacy and succession taxes, to the Committee of Ways and Means.

By Mr. Clark: The petition of citizens of the States of Louisiana and Texas, praying for the removal of obstructions in Red River, to the Committee on Commerce.

By Mr. Barnum: The petition of Edward T. Gates, postmaster at Thomaston, Connecticut, praying for relief for stamps stolen;

By Mr. Ferriss: The petition of B. Maillefert, praying for relief;

to the Committee of Claims.

By Mr. E. H. Moore: The petition of citizens of Marietta, Ohio, praying for the repeal of the legacy and succession taxes, to the Committee of Ways and Means.

By Mr. Twichell: The petition of William A. Abbott, praying for his share of prize money, to the Committee on Naval Affairs.

On motion of Mr. Eugene M. Wilson, by unanimous consent, the bill of the Senate (S. 167) amendatory of an act to protect the rights of actual settlers on the public lands of the United States, approved July 27, 1868, was taken from the Speaker's table and read a first and second time.

Ordered, That the said bill be read a third time.

It was accordingly read the third time and passed.

Ordered, That the Clerk acquaint the Senate therewith.

Mr. McCormick, by unanimous consent, from the Committee on the Public Lands, reported a bill (H. R. 2350) to discontinue the Clarksville (Arkansas) land district and the establishment of an additional land district in that State; which was read a first and second time.

Ordered, That the said bill be engrossed and read a third time.

Being engrossed, it was accordingly read the third time and passed.

Ordered, That the Clerk request the concurrence of the Senate therein.

On motion of Mr. Bingham, by unanimous consent, the bill of the Senate (S. 722) to establish the western judicial district of Wisconsin was taken from the Speaker's table, read three times, and passed.

Ordered, That the Clerk acquaint the Senate therewith.

On motion of Mr. Farnsworth, by unanimous consent, the House proceeded to the consideration of such business on the Speaker's table as should not be objected to;

When

The bill of the House (H. R. 936) to provide for the compensation of grand and petit jurors in the circuit and district courts of the United States and for other purposes, with the amendments of the Senate thereto, was taken up and the said amendments were concurred in.

Ordered, That the Clerk acquaint the Senate therewith.

Bills and a joint resolution of the House of the following titles, viz:

H. R. 1828. Making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1871;

against the United States for the loss of the schooner William Carlton; to the Committee of Claims.

Joint resolutions and bills of the Senate of the following titles, viz:

S. R. 218. Joint resolution authorizing the First National Bank of Fort Smith, Arkansas, to change its location and name;

S. R. 230. Joint resolution to authorize the Secretary of the Treasury to change the name of the steam yacht Fanny;

S. 632. An act to amend an act entitled "An act to carry into effect provisions of the treaties between the United States, China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls and other functionaries of the United States in those countries, and for other purposes," approved June 22, 1860;

S. 843. An act to confirm the title of the heirs of Gervacio Nolan, deceased, to certain lands in the Territory of Colorado;

S. 509. An act for the relief of the inhabitants of Salt Lake City, in the Territory of Utah;

S. 616. An act to repeal certain sections of acts passed by the territorial legislature of Wyoming;

were severally taken from the Speaker's table, read three times, and passed.

Ordered, That the Clerk acquaint the Senate therewith.

A message from the Senate, by Mr. Sympson, one of their clerks:

Mr. Speaker: The Senate have passed a bill of the House (H. R. 2241) for the relief of heirs of William Eddy, deceased,

with an amendment, in which I am directed to ask the concurrence of the House.

The Senate insist upon their amendments disagreed to by the House to the bill (H. R. 1604) making appropriations for the consular and diplomatic expenses of the government for the year ending June 30, 1871, and for other purposes; have agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. Morrill, of Maine, Mr. Sumner, and Mr. Cole the conferees on the part of the Senate.

The Senate also insist upon their amendments disagreed to by the House to the bill (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights; have agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and have appointed Mr. Willey, Mr. Carpenter, and Mr. Hamilton, of Maryland, conferees on the part of the Senate.

The Senate have passed a bill of the following title, viz:

S. 980. An act for the relief of Joseph L. Finch & Company, of Pittsburg, Pennsylvania;

in which I am directed to ask the concurrence of the House.

The bill of the House (H. R. 314) to confirm the title of the heirs of Gervacio Nolan, deceased, to certain lands in the Territory of Colorado, heretofore ordered to be engrossed, was next taken up.

Ordered, That it be laid on the table.

The bill of the Senate (S. 834) to create a port of delivery at Vallejo, California, was next taken up and read a first and second time.

Pending the question on its third reading,

Mr. Johnson submitted an amendment thereto; which was agreed to.

Ordered, That it be read a third time.

It was accordingly read the third time and passed.

Ordered, That the Clerk request the concurrence of the Senate in the said amendment.

The concurrent resolutions of the Senate, providing for printing 20,000 extra copies of the act to enforce the rights of citizens of the

SATURDAY, JULY 2, 1870.

On motion of Mr. Calkin, by unanimous consent,

Ordered, That the report of the Committee on Patents in the case of Senate bill No. 704 be printed.

On motion of Mr. Cook, by unanimous consent,

The bill of the House (H. R. 2106) to amend the laws regulating the assessment of taxes in the city of Washington, with the amendments of the Senate thereto, was taken up, and the said amendments were concurred in.

Ordered, That the Clerk acquaint the Senate therewith.

Mr. Myers, by unanimous consent, from the Committee on Foreign Affairs, to which was referred the bill of the Senate (S. 789) to authorize the proper accounting officers of the treasury to settle and close the account of Hinton Rowan Helper, reported the same with an amendment; which was agreed to.

Ordered, That the bill be read a third time.

It was accordingly read the third time and passed.

Ordered, That the Clerk request the concurrence of the Senate in the amendment.

The Speaker having announced, as the regular order of business, the call of the Committee on the Public Lands for reports,

On motion of Mr. Julian,

The said committee was discharged from the further consideration of bills of the House of the following titles, viz:

H. R. 1645. A bill to grant relief to Levi H. Whitney and settlers on the public lands in California; and

H. R. 275. A bill to incorporate a national land company for providing lands for emigrants and freedmen in the late slaveholding States; and the former was referred to the Committee on Private Land Claims, and the latter to the Committee on Freedmen's Affairs.

Mr. Julian, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 66) to forbid the conveyance of Indian reservations by treaty to any other grantee than the United States, reported the same without amendment.

Pending the question on its engrossment,

Mr. Clarke submitted an amendment.

Pending which,

After debate,

Mr. Julian moved the previous question; which was seconded and the main question ordered, and under the operation thereof the said amendment was agreed to, and the bill ordered to be engrossed and read a third time.

It was accordingly read the third time and passed.

Ordered, That the Clerk request the concurrence of the Senate therein.

Mr. Julian, from the same committee, to which were referred the following bills of the House:

H. R. 303. A bill amendatory of an act entitled "An act to secure homesteads to actual settlers on the public domain;"

H. R. 2049. A bill for the protection of settlers on the public lands of the United States; and

H. R. 1686. A bill to prevent the further sale of the public lands in the Territory of Dakota, except as provided for in the pre-emption and homestead laws, and the laws for disposing of town sites and mineral lands;

reported the same severally without amendment.

S. 677. An act to change the place of holding the courts of the United States for the Albemarle district of North Carolina.

S. 723. An act in relation to circuit courts.

S. 725. An act for the relief of Thomas Henderson.

S. 758. An act for the settlement of the account of Captain E. M. Buchanan, late commissary of subsistence of volunteers.

S. 834. An act to create a port of delivery at Vallejo, California.

S. 843. An act to confirm the title of the heirs of Gervacio Nolan, deceased, to certain lands in the Territory of Colorado.

S. 880. An act granting a pension to Henry C. Weatherby.

S. 949. An act authorizing the construction of a bridge across the Arkansas River at Little Rock, Arkansas.

S. 996. An act to relieve Henry A. Badham from the legal and political disability imposed by the fourteenth amendment of the Constitution of the United States.

S. R. 116. Joint resolution instructing the President to negotiate with the Indians upon the Umatilla reservation in Oregon.

S. R. 133. Joint resolution concerning the pay of customs officers in North Carolina.

S. R. 134. Joint resolution to regulate the effect of a vote of the thanks of Congress upon promotion in the navy.

S. R. 163. Joint resolution for the relief of certain officers of the navy.

S. R. 197. Joint resolution giving the consent of Congress to the reception of a certain bequest by the State of New Jersey, under the will of the late Edwin A. Stevens.

S. R. 199. Joint resolution providing for the admission of photographs for exhibition free of duty.

S. R. 218. Joint resolution authorizing the First National Bank of Fort Smith, Arkansas, to change its location and name.

S. R. 230. Joint resolution to authorize the Secretary of the Treasury to change the name of the steam yacht Fanny.

The message also announced that the President had, on the 29th of June, approved and signed the act (S. 722) to establish the western judicial district of Wisconsin.

Mr. Jenckes, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, made the following report, viz:

"The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

"That the Senate recede from their amendments numbered 1, 7, and 13.

"That the House recede from its disagreements to amendments numbered 2, 5, 6, 9, 10, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, and 39, and agree to the same.

"That the Senate recede from their amendment No. 8, in section 34, and amend the said section by striking out in line 21, page 12, 'two years,' and inserting instead thereof '*six months;*' and also amend by striking out lines 25 and 26, and by inserting in their place the following words: '*upon the hearing of such renewed applications, abandonment shall be considered as a question of fact;*' and further amend the said section by striking out the proviso as amended, and amend the thirty-fifth section by adding said proviso as amended thereto; to which amendments the House agrees.

"That the Senate also recede from their amendment No. 12, in section 53, and amend the said section by striking out the word 'unless' in line 21, and by inserting in lieu thereof the words following: '*but when there is neither model nor drawing, amendments may be made;*' to which amendment the House agrees.

"That the House recede from its disagreement to amendment No. 3, and amend the same by inserting the word '*be*' before 'declared' in the said amendment; and the Senate agree to the same.

"That the House also recede from its disagreement to amendment No. 4, and add the letter '*d*' to the word 'cause' in said amendment, and strike out the word 'it' after the word 'patented' in line 22 of the bill, page 8, and in line 1, on page 9, after the word 'shall' insert the word '*it;*' and the Senate agree to the same.

"That the House also recede from its disagreement to amendment No. 11, sections 48 to 52, inclusive, and agree to the same with the following amendments: in line 1, page 2 of the amendments, after the word 'party' insert the words '*except a party to an interference.*' Also, in section 50, line 9 of said section, strike out the words 'all the papers,' and in line 10 strike out the word 'with.' Also, in section 51, after the words 'as the court may prescribe,' strike out the word 'he' and insert the words '*the party appealing.*' In the next line strike out the word 'also,' and in same line, after the word 'court' insert the words '*certified copies of;*' and in the next line, after the words 'in the case,' strike out the word 'together' and insert instead thereof, '*and the Commissioner shall furnish it;*' and the Senate agree to the same.

"That the House also recede from its disagreement to amendment No. 16, page 4 of amendments, and agree to the same with the following amendments: After the word 'recover' in line 3 of said amendment insert the words '*in addition to the profits to be accounted for by the defendant;*' and in line 3, after the word 'damages,' strike out the word 'he,' and insert in lieu thereof the words '*the complainant;*' and in line 7 strike out the words 'under direction' and insert in lieu thereof the words '*in its discretion;*' to which amendments the Senate agree.

"That the House recede from its disagreement to amendment No. 17, page 4 of amendments, and agree to the same with the following amendments: in lines 1, 2, and 3 of said amendment, after the words 'interfering patents,' strike out the words following: 'any person interested in any such patents, either by assignment or otherwise, may have remedy by bill in equity,' and insert in lieu thereof the words '*any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent;*' and in line 4, after the words 'cognizance thereof,' insert the words '*as hereinbefore provided;*' and in line 5, after the words 'proceedings had,' insert the words '*according to the course of equity;*' and the Senate agree to the same.

That the House recede from its disagreement to amendment No. 33, section 93, page 6 of amendments, and agree to the same with the following amendment to said section: in the last line thereof insert the word '*substantial*' before the word 'changes;' and the Senate agree to the same.

"That the House recede from its disagreement to amendment No. 40, on page 7 of amendments, and agree to the same with the following amendment: strike out the words 'a certified transcript of' in line 7; and also strike out the words at the end of said amendment, 'which have not already been transmitted to the Secretary of State or of the

Interior, in pursuance of law,' and add to the section the words following: '*Provided, That where there are duplicate copies of legal, scientific, or mechanical works, one copy of each may be deposited in the library of the Patent Office, for which a receipt shall be given by the Commissioner of Patents to the Librarian of Congress;*' and the Senate agree to the same.

"Managers on the part of the House—

"T. A. JENCKES.
"H. C. CALKIN.
"S. W. KELLOGG.

"Managers on the part of the Senate—

"W. T. WILLEY.
"WILLIAM T. HAMILTON."

The same having been read,

Mr. Jenckes moved the previous question; which was seconded and the main question ordered, and under the operation thereof the said report was agreed to.

Ordered, That the Clerk acquaint the Senate therewith.

Mr. Sargent, by unanimous consent, moved that the House insist upon its disagreement to the amendments of the Senate to the bill of the House H. R. 1149, (Indian appropriations,) and agree to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon.

The Speaker thereupon appointed Mr. Sargent, Mr. Niblack, and Mr. Paine the managers at the said conference on the part of the House.

Ordered, That the Clerk acquaint the Senate therewith.

By unanimous consent, the Committee of the Whole House was discharged from the further consideration of the joint resolution of the House (H. Res. 356) for the relief of Jacob R. Davis, of Richmond County, Georgia, and the same was recommitted to the Committee on Freedmen's Affairs.

By unanimous consent, leave was granted to Mr. Logan to withdraw from the files of the House the papers in the case of Charles Brewster; to Mr. Clinton L. Cobb, the papers in the case of S. B. White; and to Mr. Hawley, the papers in the case of Sarah L. Goodrich.

By unanimous consent, leave of absence was granted to Mr. Clinton L. Cobb for the remainder of the session, and to Mr. Strader for nine days.

Mr. Beatty, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title, viz:

H. R. 2106. An act to amend the laws regulating the assessment of taxes in the city of Washington;

When

The Speaker signed the same.

Mr. Bingham, by unanimous consent, at the request of the counsel of Patrick Woods, moved that the said counsel have leave to appear at the bar of the House in his behalf; which motion was disagreed to.

Mr. Cullom, by unanimous consent, from the Committee on Territories, reported a bill (H. R. 2363) to incorporate the United States Freehold Land and Emigration Company, and to confirm certain legislation in Colorado Territory; which was read a first and second time.

Ordered, That the said bill be engrossed and read a third time.

It was accordingly read the third time and passed.

Ordered, That the Clerk request the concurrence of the Senate therein.

Mr. Clarke, from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill of

the Senate (S. 893) to establish an additional land district in the State of Kansas, made the following report; which was read, considered, and agreed to viz:

"The committee of conference on the disagreeing votes of the two Houses on the bill (S. 893) to establish an additional land district in the State of Kansas, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

"That the House recede from its amendment, and that the bill do pass.

"Managers on the part of the House—

"GEORGE W. JULIAN.
"SIDNEY CLARKE.
"JAMES R. McCORMICK.

"Managers on the part of the Senate—

"S. C. POMEROY.
"JAMES HARLAN.
"GARRETT DAVIS."

A message from the Senate, by Mr. Sympson, one of their clerks:

Mr. Speaker: The Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights.

The Senate have passed a bill (S. 1034) to relieve A. E. Reynolds from civil and political disabilities, in which I am directed to ask the concurrence of the House.

Mr. Thomas L. Jones, by unanimous consent, introduced a bill (H. R. 2362) for the relief of William H. Scott; which was read a first and second time and referred to the Committee on the Post Office and Post Roads.

Mr. Allison, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on Printing, viz:

Resolved, That there be printed for the use of the House one thousand copies of the tables containing the cost of labor and subsistence in the United States, as furnished by the Bureau of Statistics.

Mr. Beck, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to, viz:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to furnish this House, as soon as practicable, with a full statement of the unexpended balances remaining in the treasury, or in the hands of the Treasurer as agent of the War or Navy Department, or to the credit of each of the branches of said departments of the government, on the 1st day of July, 1870, estimating as accurately as possible the sum which will be required to defray the expenses of the fiscal year just closed, and showing also the whole amount which he estimates will be subject to the disposition of Congress for the year 1870–'71.

By unanimous consent, bills were taken from the Speaker's table and referred as follows, viz:

S. 839. An act amending the act entitled "An act to grant pensions," approved July 14, 1862, to the Committee on Invalid Pensions.

S. 1034. An act to relieve A. E. Reynolds from civil and political disabilities, to the Committee on Reconstruction.

Mr. Dickey moved that the several votes of reference to-day be reconsidered, and also moved that the motion to reconsider be laid upon the table; which latter motion was agreed to.

Mr. Stevenson called up, and the House proceeded to consider, the

X re H.R. 1714

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SENATE OF THE UNITED STATES

OF AMERICA,

BEING THE

SECOND SESSION OF THE FORTY-FIRST CONGRESS;

BEGUN AND HELD

AT THE CITY OF WASHINGTON,

DECEMBER 6, 1869.

IN THE NINETY-FOURTH YEAR OF THE INDEPENDENCE OF THE UNITED STATES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1870.

Ordered, That the bill be engrossed and read a third time.

The said bill was read the third time.

Resolved, That it pass, and that the title be amended to read "An act for the disposal of the lands within the Fort Ridgely military reservation, Minnesota."

Ordered, That the Secretary request the concurrence of the House of Representatives therein.

The following bills were read the second time, and considered, as in Committee of the Whole; and no amendment being made, they were reported to the Senate:

S. 493. A bill for the relief of George Wright.

S. 513. A bill remitting tax erroneously assessed upon one hundred and fifty gallons of whisky belonging to J. P. F. Camp, of Spartanburg, South Carolina.

Ordered, That they be engrossed and read a third time.

The said bills were severally read the third time, by unanimous consent.

Resolved, That they pass, and that the titles thereof be as aforesaid.

Ordered, That the Secretary request the concurrence of the House of Representatives therein.

The Senate proceeded to consider, as in Committee of the Whole, the joint resolution (H. R. 85) for the relief of Helen Lincoln and Heloise Lincoln, and for the withholding of moneys from tribes of Indians holding American captives; and the amendment reported by the Committee on Indian Affairs having been agreed to, the resolution was reported to the Senate and the amendment was concurred in.

Ordered, That the amendment be engrossed, and the resolution read a third time.

The said resolution, as amended, was read the third time.

Resolved, That it pass.

Ordered, That the Secretary request the concurrence of the House of Representatives in the amendment.

On motion by Mr. Anthony,

Ordered, That the consideration of the business upon the calendar of general orders, to which no objection shall be made, be resumed on Monday next, and continued every day until the same shall have been gone through with.

On motion by Mr. Sumner,

Ordered, That the bill (S. 84) to carry into effect the decree of the district court of the United States for the southern district of New York, in the case of the British steamer Labuan, be placed at the head of the calendar, when the same shall be resumed on Monday next.

On motion by Mr. Fenton,

Ordered, That the bill (S. 424) for the preservation of the harbors of the United States against encroachment be placed on the calendar next after the bill S. 84.

After the consideration of executive business the Senate adjourned.

MONDAY, APRIL 25, 1870.

Mr. Abbott presented the petition of William Donnelly and Patrick Egan, praying compensation for certain cotton seized and disposed of by United States authorities at Wilmington, North Carolina, in 1865; which was referred to the Committee on Claims.

The joint resolution (H. R. 116) to construe an act entitled "An act

Mr. Pool asked, and by unanimous consent obtained, leave to bring in a bill (S. 838) for the relief of Allen Rutherford; which was read the first and second times, by unanimous consent, referred to the Committee on Pensions, and ordered to be printed.

Mr. Pratt asked, and by unanimous consent obtained, leave to bring in a bill (S. 839) amending the act entitled "An act to grant pensions," approved July 14, 1862; which was read the first and second times, by unanimous consent, referred to the Committee on Pensions, and ordered to be printed.

Mr. Abbott asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. 180) for the relief of William Donnelly and Patrick Egan; which was read the first and second times, by unanimous consent, referred to the Committee on Claims, and ordered to be printed.

A message from the House of Representatives, by Mr. Lloyd, chief clerk:

Mr. President: The House of Representatives has passed the following bill and joint resolution;

H. R. 1714. An act to revise, consolidate, and amend the statutes relating to patents and copyrights;

H. R. 173. Joint resolution to enable the Secretary of the Treasury to collect wrecked and abandoned property, derelict claims, and dues belonging to the United States; and

It has passed the bill of the Senate (S. 95) for the sale of the Hot Springs reservation in Arkansas, with an amendment; in which it requests the concurrence of the Senate.

The House of Representatives has disagreed to the amendment of the Senate to the bill of the House (H. R. 1595) to amend an act entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and to provide for their future apportionment among the several States," approved May 23, 1850. It asks a conference on the disagreeing votes of the two houses thereon, and has appointed Mr. Garfield, Mr. Allison, and Mr. Cox managers at the same on its part; and

It has disagreed to the amendment of the Senate to the joint resolution of the House (H. R. 120) declaratory of the meaning and intention of the law relating to income tax.

The Speaker of the House of Representatives having signed an enrolled bill, (H. R. 271,) I am directed to bring it to the Senate for the signature of its President.

Mr. Thayer reported from the committee that they had examined and found duly enrolled the bill (H. R. 271) for the relief of Colonel Samuel W. Price, of the Twenty-first Kentucky volunteers.

The Vice-President signed the enrolled bill (H. R. 271) last reported to have been examined, and it was delivered to the committee to be presented to the President of the United States.

On motion by Mr. Bayard,

The Senate proceeded to consider its amendment to the bill of the House (H. R. 1595) to amend an act entitled "An act providing for the taking of the seventh and subsequent censuses of the United States, and to fix the number of the members of the House of Representatives, and to provide for their future apportionment among the several States," approved May 23, 1850, disagreed to by the House of Representatives; and

On motion by Mr. Bayard,

Resolved, That the Senate insists upon its amendment to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President; and

The Vice-President appointed Mr. Conkling, Mr. Bayard, and Mr. Carpenter.

Ordered, That the Secretary notify the House of Representatives thereof.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (S. 95) for the sale of the Hot Springs reservation in Arkansas; and

On motion by Mr. Rice,

Ordered, That it be referred to the Committee on the Judiciary and be printed.

The Senate proceeded to consider its amendment to the joint resolution of the House (H. R. 120) declaratory of the meaning and intention of the law relating to income tax, disagreed to by the House of Representatives; and

On motion by Mr. Sherman,

Resolved, That the Senate insists upon its amendment to the said resolution disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President; and

The Vice-President appointed Mr. Sherman, Mr. Williams, and Mr. Morrill, of Vermont.

Ordered, That the Secretary notify the House of Representatives thereof.

The bill and joint resolution last received from the House of Representatives for concurrence were severally read the first and second times, by unanimous consent.

Ordered, That the bill H. R. 1714 be referred to the Committee on Patents, and that the joint resolution H. R. 173 be referred to the Committee on Finance.

The business of the morning hour having been concluded,

The Senate resumed the consideration of the resolution submitted by Mr. Williams, on the 6th instant, to amend the rule recently adopted by the Senate relating to the order of business on the calendar, so as to construe the same as not to apply to the business of the morning hour.

On motion by Mr. Williams,

Ordered, That the said resolution be passed over.

The Senate proceeded to consider the resolution submitted by Mr. Chandler, on the 20th instant, for a recess this day from 5 o'clock to half-past 7 o'clock p. m., for the purpose of considering business reported by the Committee on Commerce; and

On motion by Mr. Trumbull,

Ordered, That the said resolution be passed over.

Mr. Ross, from the Committee on Indian Affairs, reported an amendment intended to be proposed to the bill (H. R. 974) making appropriations for the legislative, executive, and judicial expenses of the government for the year ending June 30, 1871; which was referred to the Committee on Appropriations and ordered to be printed.

Mr. Morrill, of Vermont, from the Committee on Public Buildings and

Mr. Sprague submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Joint Select Committee on Retrenchment are hereby directed to inquire into and report upon the contracts of the Navy Department for steam machinery made by the late chief of the Bureau of Steam Engineering, and whether said contracts have been performed, and in what condition said machinery has been accepted by the department, and what use has been made of the same, and what settlements, if any, have been made with the contractors therefor.

On motion by Mr. Sumner,

The Senate proceeded to consider, as in Committee of the Whole, the joint resolution (S. 149) for the temporary relief of the poor of the District of Columbia; and

Pending debate thereon,

Mr. Morrill, of Maine, asked the unanimous consent of the Senate to consider the bill (H. R. 1977) to supply a deficiency in the appropriation for compensation and mileage of members of the House of Representatives and delegates from Territories, for the fiscal year ending June 30, 1870; and

No objection being made,

The Senate proceeded to consider the said bill as in Committee of the Whole; and

The question being on the amendment reported by the Committee on Appropriations,

Pending debate thereon,

On motion by Mr. Conkling,

The Senate proceeded to the consideration of executive business; and

After the consideration of executive business, the doors were opened; and

The Senate adjourned.

TUESDAY, MAY 31, 1870.

Mr. Sawyer presented the petition of William Lewis Lee, of South Carolina, praying the removal of his political disabilities.

Mr. Osborn presented the petition of William F. Russell, of Florida, praying the removal of his political disabilities.

Mr. McDonald presented the petition of Thomas I. Bolger, of Arkansas, praying the removal of his political disabilities.

Mr. Spencer presented the petition of Ebenezer G. Young, of Alabama, praying the removal of his political disabilities.

Mr. Pool presented the petitions of William Laws, J. Monroe Kincaid, and W. T. Dortch, of North Carolina, praying the removal of their political disabilities.

Mr. Flanagan presented the petition of D. U. Barziza, of Texas, praying the removal of his political disabilities.

Ordered, That the foregoing petitions be referred to the Select Committee on the Removal of Political Disabilities.

Mr. Pool presented the petition of L. J. Labarbe, praying to be indemnified for spoliations committed by the French prior to the year 1801.

Ordered, That it lie on the table.

Mr. Pool presented the petition of Cynthia A. Mizell, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. Pool presented a petition of citizens of North Carolina, praying a modification of the tax imposed on brandy distilled from fruits; which was referred to the Committee on Finance.

Mr. Revels presented the petition of Armistead Burwell, praying com-

pensation for property taken for the use of the army during the late war; which was referred to the Committee on Claims.

Mr. Trumbull presented the petition of Benjamin Page, praying to be indemnified for spoliations by the French prior to the year 1801.

Ordered, That it lie on the table.

Mr. Trumbull presented a memorial of F. Bartlett, remonstrating against the extension of John Young's patent for washing and wringing machines; which was referred to the Committee on Patents.

Mr. Spencer presented a memorial of the mayor and aldermen of Florence, Alabama, praying an appropriation for the improvement of the Tennessee River; which was referred to the Committee on Commerce.

Mr. Spencer presented the petition of Hezekiah and Robert Thorp, praying compensation for their arrest and imprisonment by the rebel authorities in consequence of their Union sentiments; which was referred to the Committee on Claims.

Mr. Scott presented a memorial of citizens of Pennsylvania, praying a repeal of the income tax; which was referred to the Committee on Finance.

Mr. Scott presented the petition of William Wheeler Hubbell, praying satisfaction of a judgment rendered by the Court of Claims in a suit between himself and the United States, involving his right to the fuse used in the navy, called the "navy fuse;" which was referred to the Committee on Naval Affairs.

Mr. Conkling presented a petition of citizens of New York, praying a uniform tax of sixteen cents per pound on all manufactured tobacco and snuff; which was referred to the Committee on Finance.

Mr. Abbott presented a petition of Henry Linebeck and others, soldiers of the Thirteenth Tennessee cavalry, praying the removal of the charge of desertion against them; which was referred to the Committee on Military Affairs.

On motion by Mr. Harlan,

Ordered, That the Committee on Indian Affairs be discharged from the further consideration of the memorial of Susan Covdy and others, praying indemnity for property destroyed by United States troops.

Mr. Willey, from the Committee on Patents, to whom was referred the bill (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, reported it with amendments.

Mr. Harlan, from the Committee on Indian Affairs, to whom was referred the joint resolution (S. 201) for the relief of Richard Field, reported it without amendment and that it ought not to pass.

The Senate proceeded to consider the said resolution, as in Committee of the Whole; and no amendment being made, it was reported to the Senate.

On motion by Mr. Harlan,

Resolved, That the said resolution be postponed indefinitely.

Mr. Sumner, from the Committee on Foreign Relations, to whom was referred the bill (S. 791) to incorporate the Pacific Submarine Telegraph Company, and to facilitate telegraphic communication between America and Asia, reported it without amendment, and that it ought not to pass.

The Senate proceeded to consider the said bill as in Committee of the Whole; and no amendment being made, it was reported to the Senate.

On motion by Mr. Sumner,

Resolved, That the said bill be postponed indefinitely.

Mr. Harlan, from the Committee on Indian Affairs, to whom were re-

Decker, William N. Leet, B. F. Allen, J. B. Chanes, John N. Goodwin, Augustus Kountze, and William S. Rosecrans;

It was determined in the affirmative { Yeas..... 31 / Nays..... 6

On motion by Mr. Warner,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Ames, Bayard, Brownlow, Cameron, Carpenter, Casserly, Cole, Conkling, Corbett, Drake, Fenton, Gilbert, Hamlin, Harlan, Johnston, Kellogg, McCreery, McDonald, Morrill of Vermont, Nye, Rice, Ross, Sawyer, Scott, Stewart, Stockton, Sumner, Thayer, Trumbull, Willey, Wilson.

Those who voted in the negative are,

Messrs. Harris, Howard, Osborn, Pool, Spencer, Warner.

So the amendment proposed by Mr. Nye was agreed to; and a further amendment being proposed by Mr. Wilson,

After debate,

On motion by Mr. Bayard, at 10 minutes before 12 o'clock p. m.,

The Senate adjourned.

FRIDAY, JUNE 24, 1870.

The Vice-President laid before the Senate a letter of the Acting Secretary of the Interior, communicating in compliance with a resolution of the Senate of the 23d instant, a copy of the letter addressed by the Department of the Interior to the Commissioner of the General Land Office in relation to the right of the State of Kansas to certain lands sold to the United States by the Osage Indians under the treaty of September 29, 1865; which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. McCreery presented the petitions of John A. Campbell, John F. Bullett, and P. H. Leslie of Kentucky, praying the removal of their political disabilities; which were referred to the Select Committee on the Removal of Political Disabilities.

Mr. Ramsey presented the petition of wholesale liquor dealers of St. Paul, Minnesota, praying relief from the present oppressive taxation, and that taxes on all distilled spirits may be paid at the place of their distillation; which was referred to the Committee on Finance.

Mr. Cattell presented the petition of citizens of Philadelphia, praying that pensions be granted the soldiers of the war of 1812.

Ordered, That it lie on the table.

Mr. Fenton presented resolutions of the Union League Club of New York against the continuance of the income tax.

Ordered, That they lie on the table.

Mr. Fenton presented the petition of wholesale dealers in teas and coffee, of Rochester, New York, praying that the proposed reduction of duty on those articles may not be applied to stock on hand upon which a higher rate of duty has already been paid.

Ordered, That it lie on the table.

Mr. Osborn presented the petition of W. H. Kendrick, of Florida, praying the removal of his political disabilities; which was referred to the Select Committee on the Removal of Political Disabilities.

Mr. Stewart presented the petition of citizens of Mineral Hill, Nevada, praying the establishment of a daily mail route from that place northward to the nearest point on the Central Pacific railroad, and also south-

fore the select committee appointed to investigate the causes of the imprisonment of Davis Hatch, an American citizen, by the authorities of the republic of Dominica be printed.

On motion by Mr. Nye that copies of the report of the select committee appointed to investigate the causes of the imprisonment of Davis Hatch, an American citizen, by the authorities of the republic of Dominica, together with the testimony taken by said committee, be printed for the use of the Senate.

Ordered, That the motion be referred to the Committee on Printing.

On motion by Mr. Morton,

The Senate proceeded to the consideration of executive business; and,

After the consideration of executive business, the doors were opened; and

The hour fixed by the order of the Senate this day for a recess having arrived,

The Senate took a recess until 7.30 o'clock p. m.

HALF PAST SEVEN O'CLOCK P. M.

On motion by Mr. Wiley,

The Senate proceeded to consider, as in Committee of the Whole, the bill (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights; and the amendments reported by the Committee on Patents having been agreed to in part, and in part disagreed to, and the bill further amended, it was reported to the Senate, and the amendments were concurred in.

Ordered, That the amendments be engrossed, and the bill read a third time.

The said bill as amended was read the third time.

Resolved, That it pass.

Ordered, That the Secretary request the concurrence of the House of Representatives in the amendments.

On motion by Mr. Carpenter,

The Senate proceeded to consider, as in Committee of the Whole, the bill (S. 722) to establish the western judicial district of Wisconsin; and no amendment being made, it was reported to the Senate.

Ordered, That it be engrossed and read a third time.

The said bill was read the third time.

Resolved, That it pass, and that the title thereof be as aforesaid.

Ordered, That the Secretary request the concurrence of the House of Representatives therein.

On motion by Mr. Stockton,

The Senate proceeded to consider, as in Committee of the Whole, the joint resolution (H. R. 251) authorizing Surgeon George E. Cooper, of the United States Army, to accept a gift from the government of France in acknowledgment of services rendered; and no amendment being made, it was reported to the Senate.

Ordered, That it pass to a third reading.

The said resolution was read the third time.

Resolved, That it pass.

Ordered, That the Secretary notify the House of Representatives thereof.

On motion by Mr. Wilson,

The Senate proceeded to consider, as in Committee of the Whole, the bill (H. R. 467) to repeal section 4 of the act of March 3, 1869, entitled "An act in relation to additional bounties, and for other purposes;" and

Those who voted in the affirmative are,

Messrs. Bayard, Boreman, Buckingham, Cameron, Chandler, Cole, Conkling, Corbett, Cragin, Drake, Fenton, Gilbert, Harris, Howell, Kellogg, McDonald, Morrill of Vermont, Osborn, Pomeroy, Ramsey, Rice, Sawyer, Scott, Sherman, Stewart, Stockton, Tipton, Warner, Willey, Williams.

Those who voted in the negative are,

Messrs. Carpenter, Casserly, Davis, Fowler, Hamilton of Maryland, Hamlin, Harlan, Howe, Johnston, McCreery, Morrill of Maine, Morton, Nye, Pool, Pratt, Ross, Schurz, Spencer, Sprague, Sumner, Thurman, Vickers, Wilson, Yates.

So the motion was agreed to; and

The question recurring on the motion to strike out the said paragraphs imposing duties on sugar,

It was determined in the affirmative, { Yeas..... 27 / Nays..... 26

On motion by Mr. Morton,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Abbott, Bayard, Boreman, Cameron, Chandler, Cole, Conkling, Corbett, Drake, Fenton, Fowler, Gilbert, Harris, Kellogg, McDonald, Morrill of Vermont, Pomeroy, Rice, Sawyer, Scott, Sherman, Stewart, Stockton, Tipton, Warner, Willey, Williams.

Those who voted in the negative are,

Messrs. Buckingham, Carpenter, Casserly, Cragin, Davis, Hamilton of Maryland, Hamlin, Harlan, Howe, Howell, Johnston, McCreery, Morrill of Maine, Morton, Osborn, Pool, Pratt, Ross, Schurz, Spencer, Sprague, Sumner, Thurman, Vickers, Wilson, Yates.

So the motion was agreed to; and that portion of the bill imposing duties upon sugar was stricken out; and

The amendments reported by the Committee on Finance to the bill having been further agreed to,

On the question to agree to the following amendment reported by the Committee on Finance, viz: Insert after line 201 the following: *On bituminous coal and shale, fifty cents for a ton of twenty-eight bushels, eighty pounds to a bushel.*

After debate,

On motion by Mr. Drake, at 5 o'clock p. m.,

The Senate adjourned.

WEDNESDAY, JUNE 29, 1870.

Mr. Casserly presented the memorial of the International Ocean Telegraph Company, in answer to the memorial of the Florida Telegraph Company to Congress, praying to be allowed the privilege of laying a submarine cable from the coast of Florida to the West India Islands; which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. Nye, from the Committee on Territories, to whom was referred the bill (H. R. 2111) to amend an act entitled "An act amendatory of the organic law of Colorado Territory, and for other purposes," approved May 4, 1870, reported it without amendment.

The Senate proceeded to consider the said bill, as in Committee of the Whole; and no amendment being made, the bill was reported to the Senate.

Ordered, That it pass to a third reading.

S. R. 107. Joint resolution for the relief of Commodore S. B. Bissell and Commodore John C. Carter.

Mr. Fenton presented a letter of the Chief of Enginers United States Navy, with other papers, relating to the application of the quarantine commissioners of the State of New York for the retrocession of Oyster Island, in New York Harbor, to the State of New York; which were referred to the Committee on Commerce.

Mr. Fowler asked, and by unanimous consent obtained, leave to bring in a bill (S. 1026) to remove the legal and political disabilities of A. O. P. Nicholson and W. C. Whittehorne, of Maury County, Tennessee; which was read the first and second times, by unanimous consent, referred to the Select Committee on the Removal of Political Disabilities, and ordered to be printed.

A message from the House of Representatives, by Mr. McPherson, its Clerk;

Mr. President: The House of Representatives has passed the bill of the Senate (S. 32) to prevent the extermination of fur-bearing animals in Alaska, with an amendment, in which it requests the concurrence of the Senate; and

It has disagreed to the amendments of the Senate to the bill of the House (H. R. 1604) making appropriations for the consular and diplomatic expenses of the government for the year ending June 30, 1871, and for other purposes; it asks a conference on the disagreeing votes of the two Houses thereon, and has appointed Mr. Kelsey, Mr. Fitch, and Mr. Beck managers at the same on its part; and

The House of Representatives has disagreed to the amendments of the Senate to the bill of the House (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights; it asks a conference on the disagreeing votes of the two Houses thereon, and has appointed Mr. Jenckes, Mr. Calkin, and Mr. Kellogg managers at the same on its part; and

It has passed the following bills of the Senate:

S. 167. An act amendatory of "An act to protect the rights of actual settlers upon the public lands of the United States, and for other purposes," approved July 27, 1868.

S. 474. An act to amend an act entitled "An act to establish and to protect national cemeteries.

S. 495. An act to confirm entries of public land in certain cases in the State of Alabama.

S. 722. An act to establish the western judicial district of Wisconsin.

The Speaker of the House of Representatives having signed seven enrolled bills H. R. 230, H. R. 253, H. R. 386, H. R. 249, H. R. 489, H. R. 1904, and H. R. 2277, and two enrolled joint resolutions, H. R. 216 and H. R. 251, I am directed to bring them to the Senate for the signature of its President.

The Vice-President signed the seven enrolled bills (H. R. 230, H. R. 249, H. R. 253, H. R. 386, H. R. 489, H. R. 1904, and H. R. 2277) and the two enrolled joint resolutions (H. R. 216 and H. R. 251) yesterday reported to have been examined, and they were delivered to the committee to be presented to the President of the United States.

The Senate proceeded to consider its amendments to the bill of the House (H. R. 1604) making appropriations for the consular and diplomatic expenses of the government for the year ending June 30, 1871, and for other purposes, disagreed to by the House of Representatives; and

On motion by Mr. Morrill, of Maine,

Resolved, That the Senate insist upon its amendments to the said bill

disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President; and

The Vice-President appointed Mr. Morrill, of Maine, Mr. Sumner, and Mr. Cole.

Ordered, That the Secretary notify the House of Representatives thereof.

The Senate proceeded to consider its amendments to the bill of the House (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, disagreed to by the House of Representatives; and,

On motion by Mr. Willey,

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President; and

The Vice-President appointed Mr. Willey, Mr. Carpenter, and Mr. Hamilton, of Maryland.

Ordered, That the Secretary notify the House of Representatives thereof.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. 32) to prevent the extermination of fur-bearing animals in Alaska.

On motion by Mr. Wilson,

Ordered, That the amendment be printed.

The Senate proceeded to consider the motion submitted by Mr. Cameron yesterday that the Senate reconsider its vote on the passage of the bill (S. 647) to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes; and

On the question to agree to the said motion,

It was determined in the negative.

Ordered, That the Secretary request the concurrence of the House of Representatives in the said bill.

A message from the President of the United States, by Mr. Porter, his secretary:

Mr. President: The President of the United States approved and signed, this day, the following acts and joint resolution:

S. 237. An act to amend an act entitled "An act to authorize the Secretary of the Treasury to license yachts."

S. 489. An act to reorganize the marine hospital service and to provide for the relief of sick and disabled seamen.

S. 558. An act to incorporate the National Bolivian Navigation Company.

S. 626. An act granting a pension to Sarah E. Stubbs.

S. 742. An act to provide for changing the boundaries of land districts.

S. 808. An act granting a pension to Amanda M. Ritchey.

S. 107. Joint resolution for the relief of Commodore S. B. Bissell and Commodore John C. Carter.

Ordered, That the Secretary notify the House of Representatives thereof.

On motion by Mr. Drake, and by unanimous consent,

Those who voted in the affirmative are,

Messrs. Anthony, Boreman, Chandler, Howe, McCreery, McDonald, Osborn, Ross, Spencer, Thayer, Willey.

Those who voted in the negative are,

Messrs. Casserly, Corbett, Cragin, Drake, Hamilton of Maryland, Harlan, Harris, Howell, Pomeroy, Rice, Robertson, Sawyer, Schurz, Scott, Sherman, Sprague, Stewart, Sumner, Thurman, Trumbull, Warner, Williams, Wilson.

The number of senators voting not constituting a quorum of the Senate,

On motion by Mr. Trumbull,

Ordered, That the Sergeant-at-arms be directed to request the attendance of absent senators; and

While the Sergeant-at-arms was executing the order of the Senate,

On motion by Mr. Howe, at 15 minutes after 12 o'clock p. m., that the Senate adjourn,

It was determined in the affirmative, { Yeas..... 19 / Nays..... 17

On motion by Mr. Stewart,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Anthony, Bayard, Boreman, Casserly, Corbett, Drake, Hamilton of Maryland, Hamlin, Howe, McCreery, Pomeroy, Ross, Scott, Spencer, Stockton, Sumner, Vickers, Willey, Williams.

Those who voted in the negative are,

Messrs. Cragin, Harlan, Howell, McDonald, Osborn, Rice, Robertson, Sawyer, Schurz, Sherman, Sprague, Stewart, Thayer, Thurman, Trumbull, Warner, Wilson.

So the motion was agreed to; and

The Senate adjourned.

SATURDAY, JULY 2, 1870.

The bills and joint resolution yesterday received from the House of Representatives for concurrence were severally read the first and second times, by unanimous consent.

Ordered, That the bill H. R. 2354 be referred to the Committee on Finance; that the bills H. R. 1781, H. R. 2355, H. R. 2356, and H. R. 2357, be referred to the Committee on Patents; and that the joint resolution H. R. 355 be referred to the Committee on Military Affairs.

The Senate proceeded to consider its amendment to the bill of the House (H. R. 1828) making appropriations for the service of the Post Office Department during the year ending June 30, 1871, disagreed to by the House of Representatives; and

On motion by Mr. Ramsey,

Resolved, That the Senate insist upon its amendment to the said bill and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*; and

The President *pro tempore* appointed Mr. Morrill, of Maine, Mr. Ramsey, and Mr. Sherman.

Ordered, That the Secretary notify the House of Representatives thereof.

The Senate proceeded to consider its amendments to the bill of the

S. 602. An act to grant the right of way to the Alameda road through certain lands in California.

S. 704. An act for the relief of Alexander C. Twining.

S. 790. An act for the relief of John Tyler.

S. 947. An act for the improvement of water communication between the Mississippi and Lake Michigan, by the Wisconsin and Fox Rivers.

H. R. 1467. An act to construe certain acts therein cited in relation to pensions.

H. R. 2351. An act to change the time of holding the circuit and district courts of the United States in the northern district of Ohio.

Mr. Willey, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. 1714) to revise, consolidate, and amend the statutes relating to patents and copyrights, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from their amendments numbered 1, 7, and 13.

That the House recede from its disagreements to amendments numbered 2, 5, 6, 9, 10, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35, 36, 37, 38, and 39; and agree to the same.

That the Senate recede from their amendment No. 8, in section 34, and amend the said section by striking out in line 21, page 12, "two years," and inserting instead thereof *six months;* and also amend by striking out lines 25 and 26, and by inserting in their place the following words: *upon the hearing of such renewed applications, abandonment shall be considered as a question of fact;* and further amend said section by striking out the proviso as amended, and amend the thirty-fifth section by adding said proviso as amended thereto; to which amendments the House agrees.

That the Senate also recede from their amendment No. 12, in section 53, and amend the said section by striking out the word "unless" in line 21, and by inserting in lieu thereof the words following: *but when there is neither model nor drawing, amendments may be made;* to which amendment the House agrees.

That the House recede from its disagreement to amendment No. 3, and amend the same by inserting the word *be* before "declared" in the said amendment; and the Senate agree to the same.

That the House also recede from its disagreement to amendment No. 4, and add the letter *d* to the word "cause" in said amendment, and strike out the word "it" after the word "patented" in line 22 of the bill, page 8, and in line 1, on page 9, after the word "shall" insert the word *it;* and the Senate agree to the same.

That the House also recede from its disagreement to amendment No. 11, sections 48 to 52, inclusive, and agree to the same with the following amendments: in line 1, page 2 of the amendments, after the word "party" insert the words *except a party to an interference;* also, in section 50, line 9 of said section, strike out the words "all the papers," and in line 10 strike out the word "with." Also, in section 51, after the words "as the court may prescribe," strike out the word "he" and insert the words *the party appealing.* In the next line strike out the word "also," and in same line, after the word "court" insert the words *certified copies of;* and in the next line, after the words "in the case," strike

out the word "together" and insert instead thereof, *and the Commissioner shall furnish it;* and the Senate agree to the same.

That the House also recede from its disagreement to amendment No. 16, page 4 of amendments, and agree to the same with the following amendments: After the word "recover" in line 3 of said amendment insert the words *in addition to the profits to be accounted for by the defendant;* and in line 3, after the word "damages," strike out the word "he," and insert in lieu thereof the words *the complainant;* and in line 7 strike out the words "under direction" and insert in lieu thereof the words *in its discretion;* to which amendments the Senate agree.

That the House recede from its disagreement to amendment No. 17, page 4 of amendments, and agree to the same with the following amendments: in lines 1, 2, 3, of said amendment, after the words "interfering patents," strike out the words following: "any person interested in any such patents, either by assignment or otherwise, may have remedy by bill in equity," and insert in lieu thereof the words *any person interested in any one of such interfering patents, or in the working of the invention claimed under either of such patents, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent;* and in line 4, after the words "cognizance thereof," insert the words *as hereinbefore provided;* and in line 5, after the words "proceedings had," insert the words *according to the course of equity;* and the Senate agree to the same.

That the House recede from its disagreement to amendment No. 33, section 93, page 6 of amendments, and agree to the same with the following amendment to said section: in the last line thereof insert the word *substantial* before the word "changes;" and the Senate agree to the same.

That the House recede from its disagreement to amendment No. 40, on page 7 of amendments, and agree to the same with the following amendment: strike out the words "a certified transcript of" in line 7; and also strike out the words at the end of said amendment, "which have not already been transmitted to the Secretary of State or of the Interior, in pursuance of law," and add to the section the words following: *Provided, That where there are duplicate copies of legal, scientific, or mechanical works, one copy of each may be deposited in the library of the Patent Office, for which a receipt shall be given by the Commissioner of Patents to the Librarian of Congress;* and the Senate agree to the same.

W. T. WILLEY,
WILLIAM T. HAMILTON,
Managers on the part of the Senate.

T. A. JENCKES,
H. C. CALKIN,
S. W. KELLOGG,
Managers on the part of the House.

The Senate proceeded to consider the report; and,

On motion by Mr. Willey,

Resolved, That the Senate agree thereto.

Ordered, That the Secretary notify the House of Representatives thereof.

A message from the House of Representatives, by Mr. Lloyd, chief clerk:

Mr. President: The House of Representatives has passed a bill (H. R. 2360) for the relief of Arnton Smith, in which it requests the concurrence of the Senate.

Sawyer, Scott, Stewart, Stockton, Thayer, Thurman, Tipton, Vickers, Warner, Willey, Williams, Wilson.

So the amendment proposed by Mr. Trumbull was not agreed to.

No further amendment being proposed to the bill,

Ordered, That the amendments be engrossed and that the bill be read a third time.

The said bill as amended was read the third time; and

On the question, Shall the bill pass?

It was determined in the affirmative, { Yeas ..... 33 / Nays 8

On motion by Mr. Bayard,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Anthony, Chandler, Conkling, Corbett, Cragin, Drake, Edmunds, Fenton, Gilbert, Hamlin, Harlan, McDonald, Morrill of Vermont, Morton, Nye, Osborn, Patterson, Pomeroy, Ramsey, Rice, Robertson, Sawyer, Scott, Spencer, Stewart, Sumner, Thayer, Tipton, Trumbull, Warner, Willey, Williams, Wilson.

Those who voted in the negative are,

Messrs. Bayard, Boreman, Hamilton of Maryland, McCreery, Saulsbury, Stockton, Thurman, Vickers.

So it was

Resolved, That the bill pass and that the title be amended to read, "An act to amend the naturalization laws, to punish crimes against the same, and for other purposes."

Ordered, That the Secretary request the concurrence of the House of Representatives in the amendments.

On motion by Mr. Conkling, at 20 minutes past 11 o'clock p. m.,

The Senate adjourned.

TUESDAY, JULY 5, 1870.

On motion by Mr. Ramsey, and by unanimous consent,

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. 763) granting lands to the State of Minnesota to aid in the improvement of the harbor at Du Luth, Lake Superior, in said State; and the bill having been heretofore amended, it was reported to the Senate, and the amendments were concurred in.

Ordered, That the bill be engrossed and read a third time.

The said bill was read the third time.

On the question, Shall the bill pass?

It was determined in the affirmative, { Yeas ..... 25 / Nays 15

On motion by Mr. Hamilton, of Maryland,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Abbott, Anthony, Chandler, Drake, Gilbert, Hamilton of Texas, Hamlin, Harlan, Howe, Johnston, Kellogg, Lewis, McDonald, Nye, Osborn, Pomeroy, Ramsey, Rice, Sawyer, Scott, Stewart, Sumner, Thayer, Warner, Williams.

Those who voted in the negative are,

Messrs. Bayard, Cragin, Davis, Fenton, Hamilton of Maryland, Howell, McCreery, Patterson, Pratt, Ross, Sherman, Trumbull, Vickers, Willey, Wilson.

So it was

Resolved, That the bill pass.

Ordered, That the Secretary request the concurrence of the House of Representatives therein.

On motion by Mr. Harlan that the Senate reconsider its vote on the passage of the bill (S. 763) granting lands to the State of Minnesota, to aid in the improvement of the harbor at Du Luth, Lake Superior, in said State.

Ordered, That the motion to reconsider be postponed to to-morrow.

Mr. Johnston presented the petition of J. E. King, of Virginia, praying the removal of his political disabilities; which was referred to the Select Committee on the Removal of Political Disabilities.

Mr. Fenton presented the memorial of Gordon B. Barnes, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. Fenton presented the memorial of E. B. Chamberlain, heir-at-law of Joshua Chamberlain, an officer in the War of the Revolution, praying to be allowed the half-pay and bounty land due the deceased; which was referred to the Committee on Revolutionary Claims.

Mr. Kellogg presented the petition of Elizabeth M. Ingraham, praying compensation for property taken by United States troops in Mississippi during the late war; which was referred to the Committee on Claims.

Mr. Cragin presented the petition of William O. Sides, praying to be allowed a pension; which was referred to the Committee on Pensions.

On motion by Mr. Chandler,

Ordered, That John Haley have leave to withdraw his petition and papers from the files of the Senate.

Mr. Scott presented the petition of members of the Monumental Association of Franklin County, Pennsylvania, praying a donation of condemned cannon for a soldiers' monument; which was referred to the Committee on Military Affairs.

A message from the House of Representatives, by Mr. Lloyd, chief clerk:

Mr. President: The House of Representatives has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on each of the following bills:

H. R. 562. Bill to amend "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes."

H. R. 1714. Bill to revise, consolidate, and amend the statutes relating to patents and copyrights.

H. R. 2275. Bill to provide for the paving of Pennsylvania avenue.

Mr. Wilson, from the Committee on Military Affairs, to whom was referred the joint resolution (H. R. 355) granting four pieces of condemned cannon to the city of Lowell for the ornamentation of the soldiers' monument in that place, reported it without amendment.

The Senate proceeded to consider the said resolution, as in Committee of the Whole; and no amendment being made, the resolution was reported to the Senate.

Ordered, That it pass to a third reading.

The said resolution was read the third time.

Resolved, That it pass.

Ordered, That the Secretary notify the House of Representatives thereof.

Mr. Sherman, from the Committee on Finance, to whom was referred the amendment of the House of Representatives to the bill (S. 380) to authorize the refunding and consolidation of the national debt, to extend banking facilities, and to establish specie payments, reported a recommendation that the Senate disagree thereto.

Schurz, Scott, Sherman, Spencer, Sprague, Stewart, Stockton, Thayer, Thurman, Trumbull, Warner, Willey, Williams, Wilson.

Those who voted in the negative are,

Messrs. Bayard, Hamilton of Maryland, Harris, Saulsbury, Vickers.

So it was

Resolved, That the bill pass.

Ordered, That the Secretary request the concurrence of the House of Representatives in the amendments.

On motion by Mr. Chandler, at 10 minutes before 12 o'clock p. m.,

The Senate adjourned.

WEDNESDAY, JULY 6, 1870.

The Vice-President resumed the chair.

The Vice-President laid before the Senate a letter of the Attorney General, communicating, in compliance with the resolution of the Senate of the 17th ultimo, information in relation to the practice of the Court of Claims in remanding for further evidence or argument certain cases pending therein, and of ordering new trials in certain cases, and submitting a draft of a bill to secure the rights of the United States in such cases; which was referred to the Committee on Claims and ordered to be printed.

Mr. Sherman presented the memorial of the Cincinnati Chamber of Commerce, in favor of granting aid to the Southern Pacific railroad by way of El Paso.

Ordered, That it lie on the table.

Mr. Sumner presented the petition of colored citizens of Memphis, Tennessee, praying the incorporation of an association for educational purposes, by the name of the American Lincoln Association; which was referred to the Committee on the Library.

Mr. Patterson presented the petition of citizens of Manchester, New Hampshire, soldiers in the late war, praying the passage of the bill (H. R. 1910) now pending in Congress, for equalizing soldiers' bounties; which was referred to the Committee on Military Affairs.

Mr. Ramsey presented the petition of citizens of Minnesota, praying the abolition of the duty on tea and coffee, and the reduction of the duty on sugar and molasses.

Ordered, That it lie on the table.

Mr. Johnston presented the petitions of R. H. B. Day and George C. Cabell, of Virginia, praying the removal of their political disabilities; which were referred to the Select Committee on the Removal of Political Disabilities.

On motion by Mr. Osborn,

Ordered, That Mrs. Sarah Hutchings have leave to withdraw her petition and papers from the files of the Senate.

On motion by Mr. Scott,

Ordered, That Ward B. Burnett have leave to withdraw the papers accompanying his petition from the files of the Senate.

Mr. Patterson, from the Committee on Foreign Relations, to whom the subject was referred, submitted a report (No. 240) thereon, accompanied by a joint resolution (S. 242) relative to the steamship Meteor; which was read and passed to a second reading.

Mr. Abbott, from the Committee on the Pacific Railroad, to whom was referred the bill (S. 1019) incorporating branches of the contemplated Southern Transcontinental Railway Company, under the name and

H. R. 2372. An act for the relief of certain purchasers of lands from the legal representatives of Bartholomew Cousin.

H. R. 2374. An act to authorize the importation of a common road steam locomotive free of duty.

H. R. 2375. An act allowing the Secretary of the Treasury to increase the pay of inspectors of customs.

H. R. 183. Joint resolution directing the Commissioner of the General Land Office to issue a patent to Stephen Marston, of Hartford, State of Connecticut, conveying to the said Marston the lands described in the said resolution.

H. R. 358. Joint resolution to construe the act of March 31, 1868.

The Vice-President laid before the Senate a letter of the Secretary of the Treasury communicating, in compliance with a resolution of the Senate of the 29th June last, information in relation to the amount paid from the treasury on the claim of George Fisher's representative for the use and destruction of property in the Creek Indian war.

Ordered, That it be referred to the Committee on Indian Affairs and be printed.

On motion by Mr. Thayer that the Senate take a recess this day from 4.30 to 7.30 o'clock p. m., for the purpose of considering the bills S. 338, H. R. 2104, and S. 736,

A division of the question being called for,

The question was taken on the first branch of said motion, viz:

That the Senate take a recess from 4.30 to 7.30 o'clock p. m.; and

It was determined in the affirmative; and

On the question to agree to the second branch of said motion,

Objection being made thereto,

Mr. Thayer withdrew the same.

A message from the House of Representatives, by Mr. Lloyd, chief clerk:

Mr. President: The House of Representatives has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (S. 147) granting a pension to William B. Looney, of Alabama.

It has also agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the Senate (S. 846) granting a pension to Rebecca Shoemaker.

The Speaker of the House of Representatives having signed eight enrolled bills (S. 789, S. 893, H. R. 562, H. R. 1714, H. R. 1987, H. R. 2000, H. R. 2311, H. R. 2335) and an enrolled joint resolution, (H. R. 355,) I am directed to bring them to the Senate for the signature of its President.

Mr. Patterson reported from the committee that they had examined and found duly enrolled the following bills and joint resolution:

S. 789. An act to authorize the proper accounting officers of the treasury to settle and close the account of Hinton Rowan Helper.

S. 893. An act to establish an additional land district in the State of Kansas.

H. R. 562. An act to amend "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes."

H. R. 1714. An act to revise, consolidate, and amend the statutes relating to patents and copyrights.

H. R. 1987. An act to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes.

H. R. 2000. An act to declare the construction of section 55 of an act entitled "An act to provide a national currency secured by a pledge

of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and the acts amendatory thereof, and to amend the same.

H. R. 2311. An act granting a pension to Enoch Lytle.

H. R. 2335. An act granting a pension to Francis M. Davis.

H. R. 355. Joint resolution granting four pieces of condemned cannon to the city of Lowell for the ornamentation of the soldiers' monument in that place.

The Vice-President signed the eight enrolled bills (S. 789, S. 893, H. R. 562, H. R. 1714, H. R. 1987, H. R. 2000, H. R. 2311, and H. R. 2335) and the enrolled joint resolution (H. R. 355) last reported to have been examined, and they were delivered to the committee to be presented to the President of the United States.

On motion by Mr. Chandler,

The Senate proceeded to the consideration of the special order of the day for this day, to wit: The bill (H. R. 2092) making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871; and

The Senate proceeded to consider the said bill as in Committee of the Whole.

On motion by Mr. Sawyer to amend the bill by inserting after line 125 the following: *For removing obstructions in Town Creek, near Charleston, South Carolina, seven thousand five hundred dollars;*

It was determined in the affirmative, { Yeas ..... 27 / Nays 19

On motion by Mr. Robertson,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Abbott, Bayard, Cameron, Casserly, Cole, Davis, Fowler, Hamilton of Texas, Harris, McCreery, Nye, Osborn, Patterson, Pool, Rice, Robertson, Ross, Sawyer, Schurz, Sherman, Spencer, Sprague, Thurman, Tipton, Vickers, Warner, Willey.

Those who voted in the negative are,

Messrs. Carpenter, Chandler, Drake, Gilbert, Hamlin, Harlan, Howard, Howe, Howell, Johnston, Lewis, McDonald, Morrill of Maine, Morrill of Vermont, Pratt, Ramsey, Scott, Sumner.

So the amendment proposed by Mr. Sawyer was agreed to; and

The bill having been further amended,

On motion by Mr. Abbott to further amend the bill by inserting after line 177, section 1, the following: *For the improvement of the channel at the mouth of Cape Fear River, in North Carolina, one hundred thousand dollars;*

It was determined in the affirmative, { Yeas ..... 21 / Nays 18

On motion by Mr. Abbott,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Abbott, Bayard, Boreman, Casserly, Davis, Fowler, Hamilton of Texas, Harris, Johnston, Lewis, McCreery, Osborn, Pool, Rice, Robertson, Ross, Sawyer, Sprague, Vickers, Warner, Wilson.

Those who voted in the negative are,

Messrs. Anthony, Carpenter, Chandler, Cole, Conkling, Corbett, Drake, Gilbert, Harlan, Howard, Howe, Howell, Pratt, Ramsey, Sherman, Sumner, Tipton, Trumbull.

So the amendment proposed by Mr. Abbott was agreed to; and

The Senate proceeded to consider the report; and,

After debate,

On motion by Mr. Cameron that it lie on the table,

It was determined in the affirmative, { Yeas..... 29 / Nays 15

On motion by Mr. Wilson,

The yeas and nays being desired by one-fifth of the senators present,

Those who voted in the affirmative are,

Messrs. Abbott, Ames, Boreman, Buckingham, Cameron, Carpenter, Cole, Corbett, Gilbert, Harlan, Kellogg, Lewis, McDonald, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson, Pomeroy, Rice, Robertson, Ross, Sawyer, Scott, Sherman, Stewart, Warner, Willey, Williams.

Those who voted in the negative are,

Messrs. Bayard, Casserly, Conkling, Cragin, Davis, Fowler, Howard, McCreery, Pratt, Ramsey, Spencer, Sprague, Sumner, Trumbull, Wilson.

So the report was laid on the table.

Mr. Stewart, from the Committee on the Judiciary, to whom was referred the bill (S. 1025) to divide the State of Tennessee into two judicial districts, reported it with an amendment.

On motion by Mr. Wilson,

The Senate proceeded to consider, as in Committee of the Whole, the joint resolution (S. 145) for the relief of the First battalion heavy artillery of Massachusetts volunteers; and no amendment being made, it was reported to the Senate.

Ordered, That it be engrossed and read a third time.

The said resolution was read the third time.

Resolved, That it pass, and that the title thereof be as aforesaid.

Ordered, That the Secretary request the concurrence of the House of Representatives therein.

On motion by Mr. Wilson,

The Senate proceeded to consider, as in Committee of the Whole, the following joint resolutions:

H. R. 290. Joint resolution authorizing the improvement of the grounds owned by the United States in the city of Buffalo, New York, known as Fort Porter;

H. R. 305. Joint resolution concerning arsenal grounds at St. Louis; and,

No amendment being made, they were reported to the Senate.

Ordered, That they pass to a third reading.

The said resolutions were severally read the third time.

Resolved, That they pass.

Ordered, That the Secretary notify the House of Representatives thereof.

On motion by Mr. Cole that the Senate proceed to the consideration of the bill (S. 736) to authorize the establishment of ocean mail steamship service between the United States and Australia; and

The yeas and nays having been ordered on the said motion,

On motion by Mr. Trumbull, at 10 minutes after 10 o'clock p. m.,

The Senate adjourned.

FRIDAY, JULY 8, 1870.

The bill (H. R. 2370) to establish certain post roads, yesterday received from the House of Representatives for concurrence, was read the first and second times, by unanimous consent, and referred to the Committee on Post Offices and Post Roads.

for the fiscal years ending June 30, 1870, and June 30, 1871, and for other purposes.

H. R. 359. Joint resolution in relation to enlistments into the Marine Corps and for other purposes.

The Speaker of the House of Representatives having signed seven enrolled bills (S. 378, S. 476, H. R. 781, H. R. 1828, H. R. 1883, H. R. 2241, and H. R. 2353) and two enrolled joint resolutions, (H. R. 290 and H. R. 305,) I am directed to bring them to the Senate for the signature of its President.

The President of the United States approved and signed this day the following acts:

H. R. 2000. An act to declare the construction of section 55 of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and the acts amendatory thereof, and to amend the same.

H. R. 2275. An act to provide for the paving of Pennsylvania avenue.

H. R. 2311. An act granting a pension to Enoch Lytle.

H. R. 2363. An act to incorporate the United States Freehold Land and Emigration Company, and to confirm certain legislation in Colorado Territory.

H. R. 1987. An act to define the duties of pension agents, to prescribe the manner of paying pensions, and for other purposes.

H. R. 253. An act authorizing the allowance of the claim of the State of Minnesota to the lands for the support of a State university.

H. R. 1714. An act to revise, consolidate, and amend the statutes relating to patents and copyrights.

H. R. 2104. An act providing for refunding the interest paid by the State of Massachusetts on money expended by her on account of the war of 1812 to 1815.

Mr. Thayer reported from the committee that they had examined and found duly enrolled the following bills and joint resolutions:

S. 378. An act to provide for the redemption of the three per cent. temporary loan certificates and for an increase of national bank notes.

S. 476. An act to fix the status of certain federal soldiers enlisting in the Union army from the States of Alabama and Florida.

H. R. 781. An act making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1871.

H. R. 1828. An act making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1871.

H. R. 1883. An act making appropriations for the construction, preservation, and repairs of certain fortifications, and other works of defense, for the fiscal year ending June 30, 1871.

H. R. 2241. An act for the relief of the heirs of William Eddy, deceased.

H. R. 2353. An act to create a port of delivery at Du Luth, Minnesota.

H. R. 290. Joint resolution authorizing the improvement of the grounds owned by the United States in the city of Buffalo, New York, known as Fort Porter.

H. R. 305. Joint resolution concerning arsenal grounds at St. Louis, Missouri.

The Vice President signed the seven enrolled bills (S. 378, S. 476, H. R. 781, H. R. 1828, H. R. 1883, H. R. 2211, H. R. 2353,) and two enrolled joint resolutions (H. R. 290 and H. R. 305) last reported to have been

X re Representative Thomas Jenckes

CONGRESSIONAL DIRECTORY

FOR

THE SECOND SESSION

OF

THE FORTY-FIRST CONGRESS

OF THE

UNITED STATES OF AMERICA,

COMPILED FOR THE USE OF CONGRESS

BY BEN: PERLEY POORE,

CLERK OF PRINTING RECORDS.

FIRST EDITION.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1869.

Twenty-first District.—Fayette, Indiana, and Westmoreland counties.

[This seat is contested.]

Twenty-second District.—City of Pittsburg, and all of the Alleghany county south of the Alleghany river.

JAMES S. NEGLEY, of Pittsburg, was born in Allegheny county, Pennsylvania, December 22, 1826; was educated at the Western University; served in the Mexican war in the 1st Pennsylvania volunteers; entered the Union army as brigadier general, April 19, 1861; organized and equipped a brigade of troops with a battery of artillery and joined General Sherman with his brigade in October, 1861; received special commendation for the manner in which he defended Nashville in 1862; was promoted to major general for defeating Breckinridge's corps at the battle of Stone river and for gallantry on that field; participated with credit in the campaigns of Tullahoma, Alabama, and Georgia, and was elected to the forty-first Congress as a republican, receiving 15,175 votes, against 10,696 votes for Burt, democrat.

Twenty-third District.—All of Alleghany county north and west of the Alleghany and Ohio rivers, and Armstrong and Butler counties.

DARWIN PHELPS, of Kittanning, was born in East Granby, Hartford county, Connecticut; when quite young he became an orphan and went to reside with his grand-parents in Portage county, Ohio; received a good education at the Western University, and after studying law in Pittsburg, Pennsylvania, with his kinsman, Walter Forward, settled in Armstrong county in 1835, devoting himself to the practice of his profession; he was a member of the State legislature in 1855; he was a delegate to the Chicago convention of 1860, and was elected to the forty-first Congress as a republican, receiving 16,095 votes, against 11,046 votes for Mitchell, democrat.

Twenty-fourth District.—Beaver, Greene, Lawrence, and Washington counties.

JOSEPH B. DONLEY, of Waynesburg, was born at Mount Morris, Pennsylvania, October 10, 1838; graduated at Waynesburg College in 1859; was engaged in teaching; entered the Union army in 1862, serving as a captain in the 83d Illinois infantry; graduated at the Law University of Albany, New York, in May, 1866; was appointed register in bankruptcy for the 24th district in May, 1867, and was elected to the forty-first Congress as a republican, receiving 13,860 votes, against 12,737 votes for Crawford, democrat.

RHODE ISLAND.

SENATORS.

HENRY B. ANTHONY, of Providence, was born in Coventry, Rhode Island, April 1, 1815; graduated at Brown University, Rhode Island; assumed the editorial charge of the Providence Journal; was elected governor of Rhode Island in 1849; re-elected in 1850, and declined a re-election; was elected to the United States Senate as a Union republican to succeed Philip Allen, democrat, and took his seat in 1859; was re-elected in 1865, and was elected President of the Senate *pro tempore*, April 22, 1869. His term of service will expire March 3, 1871.

WILLIAM SPRAGUE, of Providence, was born in Cranston, Rhode Island, September 12, 1830; received an academic education; became largely interested in manufacturing pursuits; was elected governor of Rhode Island in 1860; having raised several regiments for the Union army as governor of the State, he accompanied them to the field, and received from President Lincoln a commission as brigadier general, but he did not accept it; was elected to the United States Senate as a democrat, and took his seat in 1863, and was re-elected in 1868; his term of service will expire March 3, 1875.

REPRESENTATIVES.

First District.—Bristol, seven-eighths of Providence county, and all of Newport, except New Shoreham and Jamestown, called in the State law the "*Eastern District.*"

THOMAS A. JENCKES, of Providence, was born at Cumberland, Rhode Island, November 2, 1818; graduated at Brown University; studied and practiced law; was elected to the thirty-eighth, thirty-ninth, and fortieth Congresses, and was re-elected to the forty-first Congress as a republican, receiving 7,995 votes, against 4,080 for Arnold, democrat.

Second District.—Burrillville, Charleston, Coventry, Cranston, East Greenwich, Exeter, Foster, Gloucester, Hopkinton, Johnston, New Shoreham, North Kingston, Richmond, Scituate, South Kingston, Warwick, Westerly, and West Greenwich, called in the State law the "*Western District.*"

NATHAN F. DIXON, of Westerly, was born at Westerly, Rhode Island, May 1, 1812; graduated at Brown University; studied at the Cambridge and New Haven Law Schools; practiced law; was a member of the general assembly of Rhode Island in *1840*, 1841, *1842*, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1851, 1852, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, and 1863; was one of the governor's council appointed by the general assembly during the troubles in 1842; was presidential elector in 1844; was elected to the thirty-first, *thirty-eighth, thirty-ninth, and fortieth* Congresses, and was re-elected to the forty-first Congress as a republican, receiving 4,135 votes, against 2,640 for Waterhouse, democrat.

SOUTH CAROLINA.

SENATORS.

THOMAS J. ROBERTSON, of Columbia, was born in Fairfield county, South Carolina, *August 3, 1823; his father, John Robertson*, a wealthy planter and a volunteer in the war of 1812, is still living; he was educated at Mount Zion Academy, in his native district, and graduated from South Carolina College at Columbia, in December, 1843; he commenced the study of medicine, but finding his tastes led to agricultural pursuits, abandoned it and engaged in planting, also turning his attention to railroad interests; during the rebellion he was an outspoken Union man and never in any way compromised *his position as a loyal* citizen of the United States; he was a member of the State constitutional convention, and on the first meeting of the general assembly under the new constitution he was elected to the Senate of the United States, receiving 23 out of 29 votes in the Senate, and 107 out of 120 *votes in the House*; he took his seat July 22, 1868. His term of office will expire March 3, 1871.

FREDERICK A. SAWYER, of Charleston, was born in Bolton, Worcester county, Massachusetts, December 12, 1822; attended the public schools of that and the neighboring towns; was graduated at Harvard University in 1844; was successively employed as a teacher in Gardiner, Wiscasset, Lowell, Nashua, South Reading, and Boston, leaving the Brimmer school in the last named city in April, 1859, to accept an invitation to become principal of a State normal school for girls in Charleston, South Carolina; this position he held until September, 1864, when his persistent loyalty rendered him so obnoxious to the rebels that they gave him a *passport for himself and his family through* the lines to the post of Port Royal, then in the possession of the federal forces; in May, 1865, he was appointed collector of internal revenue for the second district of South Carolina, the first civil appointment made in the State after the rebellion; he was elected a member of the State constitutional convention, but was not able to participate in the proceedings of that body; was elected to the Senate of the United States July 16, 1868, and took his seat July 22, 1868. His term of office will expire *March 3, 1873*.

REPRESENTATIVES.

First District.—Georgetown, Horry, Marion, *Williamsburg*, Darlington, Chesterfield, Marlboro', Sumter, Clarendon, Kershaw, and Lancaster counties.

B. FRANK WHITTEMORE, of Darlington, was born at Malden, Massachusetts, May 18, 1824; received an academic education, and engaged in mercantile pursuits until 1859, when he *entered upon the ministry in the* Methodist Episcopal church; entered the army during the rebellion as chaplain of the 53d Massachusetts volunteers; served with this regiment its entire term, and then was commissioned as chaplain of the 30th Massachusetts veteran volunteers, with which regiment he remained till they were "mustered out," serving in the army four years; edited the first journal in South Carolina, after the surrender, devoted to the reconstruction, restoration, and union of the States, called the New Era; *was one of* the pioneers of the republican party and chairman of the republican executive State central committee until the State of South Carolina was fully restored to the Union and her civil government completely established; was a delegate in the State constitutional convention and chairman of committee on bill of rights; was chairman of the South Carolina delegation at the national republican convention at Chicago, which nominated Grant and Colfax; was elected State senator in 1868; resigned his seat in the general assembly when elected to the fortieth Congress, and was re-elected to the forty-first Congress as a republican, receiving 18,254 votes, against 10,995 votes for Covington, democrat.

Second District.—Charleston, Colleton, Barnwell, and Beaufort counties.

C. C. BOWEN, of Charleston, was born in Rhode Island, January 5, 1832; removed to Georgia in 1850; studied and practiced law; removed to Charleston in 1862; in 1867 was elected to the constitutional convention of South Carolina held under the reconstruction acts of the thirty-ninth and fortieth Congresses; was elected to the *fortieth Congress*, and was re-elected to the forty-first Congress as a republican, receiving 25,845 votes, against 8,296 votes for Seymour, democrat.

40TH CONGRESS, 2d Session. | SENATE. | MIS. DOC. No. 101.

REPORT

OF THE

COMMISSIONERS APPOINTED UNDER ACT OF JUNE 27, 1866,

TO

Provide for the revision and consolidation of the statute laws of the United States.

JUNE 26, 1868.—Referred to the Committee on the Judiciary and ordered to be printed.

The undersigned, commissioners appointed under the act of June 27, 1866, "to provide for the revision and consolidation of the statute laws of the United States," respectfully report to the Senate:

That they began their labors by an examination of the methods adopted in revisions of a similar character, and afterwards framed a provisional scheme for the work in hand. They arranged the contents of the Statutes at Large, so far as it could be done provisionally, under titles, and proceeded to revise these titles separately. It became apparent, however, that they were so connected that very few of them could be considered safely ascertained and completed until the body of connected titles should be revised. They have therefore pursued the necessary course and have prepared a considerable amount of material upon the various connected titles.

In doing this work they have found it indispensable to recast every statute from which they take any provision. Where several statutes relating to the same subject modify each other, it has been impossible to state their united effect without writing a new statute. To retain the language of the fragments in force would commonly be to misstate the intention of the whole. The commissioner has deemed it important not only to clear the text of unnecessary words but to establish a uniform usage of words, so that provisions which do not in fact differ may not appear to do so by reason of mere variety in their expression. They have also sought to confine each section to the statement of a single proposition, to rearrange the matter of each statute according to the logical order of its propositions, and to bring together all provisions touching the same subject in such a manner as to make each title a complete law on its subject and to render unnecessary a reference to several parts of the statute-book in one inquiry. The care necessary in this process requires greater time than a revision after the method of compilation would have done.

The few specimens which they have printed have been offered merely as examples of the method adopted by them, and not as indicating the amount of work done. They have hoped that, by means of a reference of these to appropriate committees, they might ascertain whether that method was deemed by Congress to be in accordance with the act by which they are authorized.

The commissioners have been obliged to expend a considerable part of their labor in learning the art; and they believe that their experience must enable them, as it already does, to work with increasing rapidity. But they are still

unable to answer the second inquiry put to them in the resolution of the Senate with definiteness. They do not believe, however, that with any amount of industry and ability the revision of the permanent and general statutes of the United States can be correctly done within the period limited by the act of June 27th. They can only say that they are giving their best endeavors to accomplish the work without delay and with strict correctness.

WILLIAM JOHNSTON.
CHARLES P. JAMES.

The commissioners herewith submit three reports:

1. The laws relating to patents.
2. The laws relating to the army.
3. The laws relating to public printing.

40TH CONGRESS, 3d Session. } HOUSE OF REPRESENTATIVES. { MIS. DOC. No. 31.

UNITED STATES STATUTES.

REPORT

OF THE

COMMISSIONERS TO REVISE THE STATUTES OF THE UNITED STATES.

JANUARY 26, 1869.—Referred to the Committee on the Revision of the Laws and ordered to be printed.

The undersigned, commissioners appointed to revise, simplify, arrange, and consolidate the statutes of the United States, respectfully submit to Congress the following report:

The act of June 27, 1866, chapter 140, by which the revision is authorized, provides that, in performing their duty, "the commissioners shall bring together all statutes and parts of statutes which, from similarity of subject, ought to be brought together, omitting redundant or obsolete enactments, and making such alterations as may be necessary to reconcile the contradictions, supply the omissions, and amend the imperfections of the original text; and that they shall arrange the same under titles, chapters, and sections, or other suitable divisions and subdivisions, with head notes briefly expressive of the matter contained in such subdivisions; also, with side 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 federal courts, explaining or expounding the same; and, also, to such decisions of the State courts as they may deem expedient."

In pursuance of these instructions the commissioners, as the first step of their work, ascertained the various subjects which have been treated of in the legislation of Congress, and framed a provisional scheme for the classification of the statutes into titles, according to the order of matters. No provisional scheme was likely to be found by trial either complete or perfectly arranged; but that which has been adopted has secured a distribution of the statutes which has facilitated the process of revision and consolidation. If it is observed that some provisions connected with and apparently belonging to titles reported to Congress are omitted from them, it may be assumed that they are reserved in order that they may be placed under titles to which they more appropriately belong. Provisions, for example, which relate to the settlement of military and naval accounts belong to the title which treats of the Treasury Department, and not to those which treat of the army or navy.

In the execution of the work the commissioners have found it difficult to determine very precisely the boundaries of their authority "to make alterations" of the original text of the statutes. They are instructed to make such as shall reconcile its contradictions, supply its omissions, and amend its imperfections; but this instruction may be construed liberally or strictly. It becomes necessary, therefore, to look beyond its terms for the ground of a correct rule.

The very nature of the work seems to set limits which are sufficiently strict. The commissioners are confined, on one hand, to the material contained in the statute books, and are required, on the other, to omit nothing which is neither obsolete nor redundant. Every essential provision of the existing laws must be reproduced, with such additions only by the commissioners as shall give to these provisions their intended effect. It is manifest that this necessity of itself sets a limit to condensation and brevity of form, and that if symmetry does not characterize the statutory provisions relating to a particular subject, when "brought together," it cannot be imparted in the process of revision.

The commissioners feel assured, however, that if, in addition to these essential limitations, they are required, in handling the material before them, to construe somewhat strictly their authority to "amend the imperfections of the original text,"—and upon this theory they have experimentally framed a part of the work already exhibited—the result will not be so useful as it might be made by the exercise of a freer authority. The residuum of the existing statutes must, upon such a method, be of much greater bulk than is desirable. The statute law of the land, unlike the unwritten law, is directly consulted by unlearned as well as by professional persons, and is apt to be unintelligible to them unless it is stated with brevity and expressed in language to which they are accustomed. And it is certain that the same kind of language by means of which men understand each other in their daily intercourse will perfectly express the legislative will more frequently than is admitted by the practice of statute writers. The mass of men who are concerned to know the statute law have neither the training nor the time requisite for mastering an artificial and peculiar style of statement. A people who are more in the habit than any other in the world of reading their own laws, and whose time is valuable in proportion to the rapidity and enormous multiplicity of their transactions, is peculiarly entitled to have the form of them adapted to their convenience.

The commissioners fully appreciate the mischiefs which might be occasioned by greatly altering the language of a certain class of provisions which have been subjects of frequent litigation; but a very large part of the statutes might be entirely recast without any risk of these mischiefs. It happens that those which the reviser must handle with a sparing hand are addressed chiefly to professional persons, and that the imperfections of their form, if it be imperfect, are not greatly inconvenient to the people.

But this process of *recasting* the existing statutes is incomparably more difficult than the work of simply cutting down their dimensions by erasure, and fitting the fragments together. It requires not merely analysis and arrangement, which are employed also in compilation, but in the substitution of new language it is a work of invention in which every phrase needs consideration. The work is worth doing; it is indispensable; but it requires time. That it may, under the supervision of Congress itself, by means of its revising committee, be done safely and without risk of unauthorized alterations of the laws, cannot be doubted. And as a compensation for the time required, it may be considered that

every degree in which the legislative will is made easier of access and comprehensive to the citizen, effects a final economy and a guaranty that the laws will be correctly executed, which are of inestimable value.

As a matter of form, the commissioners have deemed it important to limit each section of a law to a single subject, and so far as it was possible to make the proposition of each section complete within its own limits. They are aware that such a formula must sometimes give to an enactment an air of repetition; but that blemish may not unfrequently be compensated by the greater certainty and completeness of statement. Brevity is not sacrificed by a repetition which separates a proposition from a confusing connection, or renders reference to several passages of a law unnecessary.

It will be observed that the commissioners have given a substantive form to many provisions which appear in the existing statutes in the form of a proviso, and, indeed, that they have almost disused the proviso. In doing this they have been guided by the principle laid down by the Supreme Court in the case of Minis *vs.* the United States, (15 Peters, 445.) Mr. Justice Story, in delivering the opinion of the court, said, that "the office of a proviso, generally, is either to except something from the enacting clause, or to qualify its generality, or to exclude some possible ground of misinterpretation of it, as extending to cases not intended by the legislature to be brought within its purview." Many general provisions of law lie wholly concealed, by this form, from the eye of the unprofessional reader in the body of some paragraph of an appropriation act. Whenever the commissioners have found that a proviso was only a new point of departure, and was not a limitation of anything which preceded it, they have given to it the form which was consistent with its purpose.

The experience of the commissioners has demonstrated that this revision includes extensive and careful investigations beyond the text of the statutes. As they were framed with reference to the existing practice and working of the various departments of the government, the commissioners have ascertained that it is absolutely impracticable to consolidate, simplify, or in any way alter their phraseology correctly, without a perfect acquaintance with the system and machinery which they affect. Their work involves a more or less complete study of the practice and accounting system of every executive branch of the government. These investigations have greatly added, and must continue to add, to the time necessary for the mere revision of the text.

It is already known to Congress that one of the commissioners resigned his office after the commission had been for some time in operation. The undersigned are unable, therefore, to submit to Congress examples of any other than their own work.

They respectfully submit, herewith, as specimens of the method adopted by them, the laws relating to the army, the navy, and the public printing. The titles relating to the Post Office Department and the postal service are in the hands of the congressional printer. They have a large amount of material belonging to the titles of the public lands, the Navy Department, crimes against the United States, debts due to and from the United States, and hospitals and asylums, and public contracts. But the work expended upon these is unavailable for exhibition until it shall be perfected.

The statute by which this revision is authorized indicates that it is to be presented for re-enactment as a complete work. The commissioners respectfully suggest that if it should be deemed by Congress proper and convenient to re-enact portions of it as they are presented from time to

time, the end proposed by the statute referred to will be rendered more certain of attainment, and that in this way the method of the revision may be sooner and more effectually conformed to the intention of Congress. While the adoption of a single title would have the effect to clear the statute books at once of a large mass of embarrassing enactments, and thus to afford an immediate relief to the people, such re-enactment would not have the effect to break up the integrity of the plan, for the several re-enacting statutes would themselves constitute only new acts to be considered by the commissioners and included in the final revision. When finally presented with alterations, whether these be caused by new legislation or by further corrections of the revisors, the process of examining these alterations, which could easily be designated, would be incomparably more practicable than that of examining the whole work at once and for the first time.

If the revision of the laws relating to the army, the navy, and the public printing should be adopted, it would become necessary to repeal more than 500 acts and parts of acts and resolutions.

WILLIAM JOHNSTON,
CHARLES P. JAMES,
Commissioners to Revise the Statutes of the United States.

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42D CONGRESS, 2d Session. } SENATE. { MIS. DOC. No. 3.

REPORT

OF

THE COMMISSIONERS

APPOINTED

To revise and consolidate the statutes of the United States under acts of June 27, 1866, and May 4, 1870.

DECEMBER 4, 1871.—Ordered to lie on the table and be printed.

To the Senate and House of Representatives of the United States:

The commissioners appointed to revise and consolidate the statutes of the United States, under the acts of 27th June, 1866, chapter 140, and 4th May, 1870, chapter 72, respectfully submit to your honorable body the following report:

The commissioners met in Washington in September, 1870, and began their work by a joint examination of the whole body of the Statutes at Large, in order to classify every provision under its appropriate title, and to arrange the matter of revision in such a way that the reviser of each title should be assured of having before him all provisions belonging to it, and none which did not.

For this purpose the present board of commissioners adopted, with some modifications, the following provisional scheme of titles, according to which the work had been carried on by their predecessors:

SCHEME.

1. General provisions.
2. Legislative power.
3. Executive power.
4. Executive departments generally.
5. State Department.
6. Treasury Department.
7. War Department.
8. Navy Department.
9. Attorney General.
10. Post-Office Department.
11. Interior Department.
12. Department of Agriculture.
13. Department of Justice.
14. Judiciary.
15. Army.
16. Navy.
17. Militia.
18. Arms, armories, and arsenals.
19. Military posts and fortifications.
20. Diplomatic and consular officers.
21. General provisions regarding public officers.
22. Flag and seal.
23. Seat of Government, including public buildings.
24. States.
25. Territories.
26. Civil rights.
27. Citizenship.
28. Elective franchise.
29. Freedmen.
30. Indians.
31. Immigration.
32. Naturalization.
33. Census.
34. Public lands.
35. Duties on imports.
36. Collection of import duties, regulation of imports and exports.
37. Direct taxes.
38. Internal revenue.
39. Debts due by or to the United States.
40. Coins, coinage, and money.
41. Currency.
42. Legal tender.
43. Custody and transfer of public moneys.
44. Appropriations.
45. Public debt.
46. Public contracts.
47. Public property.

48. Public printing, advertisements, and public documents.
49. Postal service.
50. Foreign relations.
51. General provisions regarding commerce and navigation.
52. Regulation of merchant-vessels in foreign commerce.
53. Regulation of merchant-vessels in coasting and inland trade.
54. Fisheries.
55. Steamboats.
56. Merchant seamen.
57. Capture and prize.
58. Light-houses, light-ships, buoys, and wrecking-stations.
59. Coast survey.
60. Pension and bounty lands.
61. Public health.
62. Hospitals, asylums, and cemeteries.
63. Patents and copyrights.
64. Bankruptcy.
65. National banks.
66. Rivers and harbors.
67. Railways and sites.
68. Telegraphs.
69. Extradition, (international and state.)
70. Neutrality.
71. Fines, penalties, and forfeitures.
72. Insurrection.
73. Crimes.
74. Slave trade.
75. Guano Islands.
76. Smithsonian Institution.

It was of essential importance that every provision of every general and permanent enactment should be assigned to its proper title before the work of actual revision should be taken up. The misplacement of any provision might leave the reviser of the title to which it actually belonged in ignorance that some other provision before him, on the same subject, had been modified or repealed. The commissioners, sitting together from day to day, began with the most recent statutes, and proceeded thence to the earliest, examining them section by section, determining as to each, whether it was of a general and permanent nature and should, therefore, be included in the revision; assigning every distinct provision of each section to its title, and noting in the margin these assignments and all amendments and repeals. As the work advanced, the commissioners found that it involved a considerable amount of preliminary study, and were more and more convinced of the importance of a correct decision, in each case, at this stage of the work, as the chief means of avoiding subsequent errors and omissions. The whole process was therefore gone over a second time, when changes in classification were made. The commissioners believe that this work is sufficiently correct to afford a safe guide to themselves, or to any successor, in the process of revising any particular title. That process occupied about five months of continuous labor.

The entries made by the commissioners upon the margin of their volumes of Statutes at Large were transferred upon alternate pages of two additional copies by clerks employed for that purpose. Every provision marked for revision has been separately pasted on a leaf of writing paper, upon which is written a memorandum, stating the date of enactment, the chapter and section from which it was taken, the volume and page of the Statutes at Large where it may be found, and a note of any statute amending or partially repealing it. The large mass of papers thus arising has been assorted to the titles in the proposed revision to which they belong, and have been numbered throughout, and put up in convenient portfolios. The commissioners have thus provided against any interruption of the work by a vacancy in the office of any member of the board. In this process the commissioners examined and determined upon the nature of over twenty-three thousand sections, a large number of which contain several distinct provisions, belonging to distinct titles. After separating from these all provisions which had been repealed, all which were not of a general and permanent nature, and those which had been revised by the former board, the commissioners found that the number of provisions to be revised by them somewhat exceeded nine thousand.

Some auxiliary labor has been performed which may be useful in the execution of the work. A tolerably complete list of adjudications of the national courts, illustrating the construction or operation of acts of Congress, has been prepared, under a chronological arrangement, which will enable the reviser of a particular statute to ascertain readily whether it has been construed by the courts. A considerable number of leading cases on the meanings of terms employed in statutes have been indexed, as a guard against inadvertent changes in the phraseology of laws contrary to the course of judicial decision. Duplicates of some of the more important writings of the commissioners have been prepared as a security against loss by fire.

The commissioners have, in the processes stated, accomplished an equal and considerable progress upon every one of the seventy-six titles under which they have arranged the statutes. In accordance with the act of 27th June, 1866, which governs their proceedings, they have printed and distributed, for criticism by persons acquainted with the respective subjects, the following titles:

Title No. 1. General provisions.
Title No. 2. Legislative power.
Title No. 3. Executive power.
Title No. 22. Flag and seal.
Title No. 23. Seat of Government, including public buildings.
Title No. 24. States.
Title No. 25. Territories.
Title No. 26. Civil rights.
Title No. 27. Citizenship.
Title No. 28. Elective franchise.
Title No. 29. Freedmen.
Title No. 31. Immigration.
Title No. 32. Naturalization.
Title No. 33. Census.
Title No. 73. Crimes.
Title No. 74. Slave trade.

The greater part of title 14, the "judiciary," is in print, and after it has been further revised and reprinted, will soon be distributed to the members of your honorable bodies. These titles will have disposed of about 2,792 sections.

The commissioners respectfully submit herewith one of these titles, the "legislative power," which has been framed in the form of a separate statute so that it may be acted upon, should Congress deem that course convenient, without awaiting the completion of the revision. None of its provisions depend upon the adoption of other titles; and it is accompanied by a precise repealing act. The same method may, if such is the wish of Congress, be pursued with most of the titles under which the revision is arranged. It is submitted that by this method several advantages may be attained. The future progress of the revision would be expedited, for each portion enacted will form a precedent or authority in framing those which follow; while, by an immediate substitution of one statute for numerous enactments, widely scattered and conflicting, some benefit would be derived from the work at once, by all persons who have occasion, during the progress of this revision, to examine the particular subject thus disposed of.

CHARLES P. JAMES,
BENJAMIN VAUGHAN ABBOTT,
VICTOR C. BARRINGER,
Commissioners.

X re T.LX, Patents, Trademarks & Copyrights

3.7.9 19

U.S. Laws, statutes, etc

INV. 1898

REVISED STATUTES

OF

THE UNITED STATES,

PASSED AT THE

FIRST SESSION OF THE FORTY-THIRD CONGRESS,

1873-'74;

EMBRACING THE STATUTES OF THE UNITED STATES, GENERAL AND PERMANENT IN THEIR NATURE, IN FORCE ON THE FIRST DAY OF DECEMBER, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-THREE, AS REVISED AND CONSOLIDATED BY COMMISSIONERS APPOINTED UNDER AN ACT OF CONGRESS;

WITH

AN APPENDIX

CONTAINING

"AN ACT TO CORRECT ERRORS AND SUPPLY OMISSIONS."

Copy 1

EDITED, PRINTED, AND PUBLISHED UNDER THE AUTHORITY OF AN ACT OF CONGRESS, AND UNDER THE DIRECTION OF THE SECRETARY OF STATE.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1875.

LIS - 12

UNITED STATES OF AMERICA,
DEPARTMENT OF STATE.

Whereas, by section 2 of an act entitled "An act providing for publication of the Revised Statutes and the laws of the United States," approved June 20, 1874, it is provided as follows, viz:

"SEC. 2. That the Secretary of State is hereby charged with the duty of causing to be prepared for printing, publication, and distribution, the Revised Statutes of the United States enacted at this present session of Congress; that he shall cause to be completed the head-notes of the several titles and chapters, and the marginal notes referring to the statutes from which each section was compiled and repealed by said revision, and references to the decisions of the courts of the United States explaining or expounding the same, and such decisions of State courts as he may deem expedient, with a full and complete index to the same. And when the same shall be completed, the said Secretary shall duly certify the same under the seal of the United States, and when printed and promulgated as hereinafter provided, the printed volumes shall be legal evidence of the laws and treaties therein contained, in all the courts of the United States, and of the several States and Territories."

And whereas, by section 1 of an act entitled "An act providing for the authentication of the Revised Statutes of the United States and for preserving the originals of all laws in the Department of State," it is provided, "That the certificate to the printed volume of the Revised Statutes of the United States required by said section 2 of the act of June 20, 1874, shall be made by the Secretary of State under the seal of the Department of State."

Now, therefore, I, HAMILTON FISH, Secretary of State, do hereby certify that the following are the "Revised Statutes of the United States" as enacted by Congress on the 22d day of June, 1874, prepared, printed, and published according to the provisions of the said first-mentioned act of June 20, 1874.

In witness whereof, I have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this twenty-second day of February, A. D. 1875, and of the Independence of the United States of America the ninety-ninth.

HAMILTON FISH.

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FORTY-THIRD

CONGRESS OF THE UNITED STATES, AT THE FIRST SESSION, BEGUN AND HELD AT THE CITY OF WASHINGTON, IN THE DISTRICT OF COLUMBIA, ON MONDAY, THE FIRST DAY OF DECEMBER, EIGHTEEN HUNDRED AND SEVENTY-THREE.

AN ACT

To revise and consolidate the statutes of the United States, in force on the first day of December, anno Domini one thousand eight hundred and seventy-three.

TITLE I.

GENERAL PROVISIONS.

CHAPTER ONE.

Sec.
1. Definitions.
2. County.
3. Vessel.
4. Vehicle.
5. Company, association.
6. Seal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, In determining the meaning of the revised statutes, or of any act or resolution of Congress passed subsequent to February twenty-fifth, eighteen hundred and seventy-one, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to females; the words "*insane person*" and "*lunatic*" shall include every idiot, non compos, lunatic, and insane person; the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by making affirmation in judicial form.

Definitions.

25 Feb., 1871, c. 71, s. 2, v. 16, p. 431.
13 July, 1866, c. 184, s. 44, v. 14, p. 163.
30 June, 1864, c. 173, ss. 82, 126, v. 13, pp. 258, 287.
20 July, 1868, c. 186, s. 104, v. 15, p. 160.

SEC. 2. The word "county" includes a parish, or any other equivalent subdivision of a State or Territory of the United States.

County.

13 July, 1866, c. 184, s. 9, v. 14, pp. 98, 110.

SEC. 3. The word "vessel" includes every description of water-craft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

Vessel.

18 July, 1866, c. 201, s. 1, v. 14, p. 178.
29 June, 1870 c. 169, s. 7, v. 16, p. 170.

Vehicle.

18 July, 1866, c. 201, s. 1, v. 14, p. 178.

SEC. 4. The word "vehicle" includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land.

Company, association.

25 July, 1866, c. 242, s. 9, v. 14, p. 241.

SEC. 5. The word "company" or "association," when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company or association," in like manner as if these last-named words, or words of similar import, were expressed.

Seal.

31 May, 1854, c. 60, s. 2, v. 10, p. 297.

SEC. 6. In all cases where a seal is necessary by law to any commission, process, or other instrument provided for by the laws of Congress, it shall be lawful to affix the proper seal by making an impression therewith directly on the paper to which such seal is necessary; which shall be as valid as if made on wax or other adhesive substance.

CHAPTER TWO.

FORM OF STATUTES AND EFFECT OF REPEALS.

Sec.
7. Enacting clause.
8. Resolving clause.
9. No enacting words after first section.
10. Numbering and frame of sections.
11. Title of appropriation acts.
12. Repeal not to revive former act.
13. Repeals not to affect liabilities, unless, &c.

Enacting clause.

25 Feb., 1871, c. 71, s. 1, v. 16, p. 431.

SEC. 7. The enacting clause of all acts of Congress hereafter enacted shall be in the following form: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled."

Resolving clause.

25 Feb., 1871, c. 71, s. 1, v. 16, p. 431.

SEC. 8. The resolving clause of all joint resolutions shall be in the following form: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled."

No enacting words after first section.

25 Feb., 1871, c. 71, s. 1, v. 16, p. 431.

SEC. 9. No enacting or resolving words shall be used in any section of an act or resolution of Congress except in the first.

Numbering and frame of sections.

25 Feb., 1871, c. 71, s. 1, v. 16, p. 431.

SEC. 10. Each section shall be numbered, and shall contain, as nearly as may be, a single proposition of enactment.

Title of appropriation acts.

26 Aug., 1842, c. 207, s. 2, v. 5, p. 537.

SEC. 11. The style and title of all acts making appropriations for the support of Government shall be as follows: "An act making appropriations (here insert the object) for the year ending June thirtieth, (here insert the calendar year.)

Repeal not to revive former act.

25 Feb., 1871, c. 71, s. 3, v. 16, p. 431.

SEC. 12. Whenever an act is repealed, which repealed a former act, such former act shall not thereby be revived, unless it shall be expressly so provided.

Repeals not to affect liabilities, unless, &c.

25 Feb., 1871, c. 71, s. 4, v. 16, p. 432.

SEC. 13. The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

TITLE LX.

PATENTS, TRADE-MARKS, AND COPYRIGHTS.

CHAPTER ONE.

PATENTS.

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Patents, how issued, attested, and recorded.

8 July, 1870, c. 230, s. 21, v. 16, p. 200.

Doughty *vs.* West, 6 Blatch., 429.

SEC. 4883. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent-Office, in books to be kept for that purpose.

Contents and duration.

8 July, 1870 c. 230, s. 22, v. 16, p. 201.

SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States, and the Territories thereof, re-

ferring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

Simpson *vs.* Wilson, 4 How., 709; Pitts *vs.* Whitman, 2 Story, 614; Sullivan *vs.* Redfield, 1 Paine, 441; Emerson *vs.* Hogg, 2 Blatch., 9; Doughty *vs.* West, 6 Blatch., 429; Whitney *vs.* Emmett, Baldw., 314; Boyd *vs.* Brown, 3 McLean, 297.

Date of patent.

8 July, 1870, c. 230, s. 23, v. 16, p. 201.

SEC. 4885. Every patent shall bear date as of a day not later than six months from the time at which it was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

What inventions are patentable.

8 July, 1870, c. 230, s. 24, v. 16, p. 201.

SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor.

Gayler *vs.* Brown, 10 How., 477; Hotchkiss *vs.* Greenwood, 11 How., 248; Le Roy *vs.* Tatham, 14 How., 156; O'Reilly *vs.* Morse, 15 How., 62; Corning *vs.* Burden, 15 How., 252; Kendall *vs.* Winsor, 21 How., 322; Appleton *vs.* Bacon and North, 2 Bl., 690; Burr *vs.* Duryee, 1 Wall., 531; Jacobs *vs.* Baker, 7 Wall., 295; Tyler *vs.* Boston, 7 Wall., 327; Agawam Co. *vs.* Jordan, 7 Wall., 583; Whitely *vs.* Swayne, 7 Wall., 685; Rubber Co. *vs.* Goodyear, 9 Wall., 788; Stimpson *vs.* Woodman, 10 Wall., 117; Gorham Co. *vs.* White, 14 Wall., 511; Mowry *vs.* Whitney, 14 Wall., 620; Carlton *vs.* Bokee, 17 Wall., 463; Coffin *vs.* Ogden, 18 Wall., 120; Hicks *vs.* Kelsey, 18 Wall., 670; Woodcock *vs.* Parker, 1 Gallis., 437; Odiorne *vs.* Winkley, 2 Gallis., 51; Ames *vs.* Howard, 1 Sumn., 482; Ryan *vs.* Goodwin, 3 Sumn., 518; How *vs.* Abbott, 2 Story, 194; Bean *vs.* Smallwood, 2 Story, 411; Carver *vs.* Braintree Manuf. Co., 2 Story, 438; Hovey *vs.* Stevens, 3 Wood. & M., 17; Foote *vs.* Silsby, 1 Blatch., 445; Parkhurst *vs.* Kinsman, 1 Blatch., 493; Hall *vs.* Wiles, 2 Blatch., 194; McCormick *vs.* Seymour, 2 Blatch., 240; Ellithorpe *vs.* Robinson, 4 Blatch., 307; Morton *vs.* The New York Eye Infirmary, 5 Blatch., 116; Hoffman *vs.* Stiefel, 7 Blatch., 58; Reutgen *vs.* Kanowrs and Graunt, 1 Wash., 171; Park *vs.* Little and Wood, 3 Wash., 198; Kneass *vs.* The Schuylkill Bank, 4 Wash., 12; Whitney *vs.* Emmett, Baldw., 314; Goodyear *vs.* The Railroad, 2 Wall., jr., 360; Smith *vs.* Pearce, 2 McLean, 178; Root *vs.* Ball and Davis, 4 McLean, 177; Hotchkiss *vs.* Greenwood and Wood, 4 McLean, 461; Stainthorp *vs.* Humiston, 1 Fish. Pat. Cas., 475; Poillon *vs.* Schmidt, 3 Fish. Pat. Cas., 476.

Patents for inventions previously patented abroad.

8 July, 1870, c. 230, s. 25, v. 16, p. 201.

SEC. 4887. No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country, unless the same has been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term, and in no case shall it be in force more than seventeen years.

O'Reilly *vs.* Morse, 15 How., 62; Hays *vs.* Suisor, 1 Fish. Pat. Cas., 532; Judson *vs.* Cope, 1 Fish. Pat. Cas., 615.

Requisites of application, description, specification, and claim.

8 July, 1870, c. 230, s. 26, v. 16, p. 201.

SEC. 4888. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent-Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. The specification and claim shall be signed by the inventor and attested by two witnesses.

Evans *vs.* Eaton, 7 Wh., 434; Wood *vs.* Underhill, 5 How., 1; Hogg *vs.* Emerson, 11 How., 587; O'Reilly *vs.* Morse, 15 How., 62; Corning *vs.* Burden, 15 How., 252; Le Roy *vs.* Tatham, 22 How., 132; Phillips *vs.* Paige, 24 How., 164; Tyler *vs.* Boston, 7 Wall., 327; Carlton *vs.* Bokee, 17 Wall., 463; Langdon *vs.* De Groot, 1 Paine, 203; Sullivan *vs.* Redfield, 1 Paine, 450; Many *vs.* Jagger, 1 Blatch., 372; Gray and Osgood *vs.* James, Pet. C. C., 401; Park *vs.* Little and Wood, 3 Wash., 198; Brooks and Morris *vs.* Bicknell and Jenkins, 3 McLean, 250.

Drawings, when requisite.

SEC. 4889. When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent-Office; and a copy of the drawing, to be furnished by the Patent-Office, shall be attached to the patent as a part of the specification.

8 July, 1870, c. 230, s. 27, v. 16, p. 201.

O'Reilly vs. Morse, 15 How., 62; Washburn vs. Gould, 3 Story, 133.

Specimens of ingredients, &c.

SEC. 4890. When the invention or discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

8 July, 1870, c. 230, s. 28, v. 16, p. 201.

Model, when requisite.

SEC. 4891. In all cases which admit of representation by model, the applicant, if required by the Commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.

8 July, 1830, c. 230, s. 29, v. 16, p. 201.

Hogg vs. Emerson, 6 How., 437; McCormick vs. Talcott, 20 How., 409.

Oath required from applicant.

SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent, holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be.

8 July, 1870, c. 230, s. 30, v. 16, p. 202.

Hogg vs. Emerson, 6 How., 437; Whittemore vs. Cutter, 1 Gall., 429; Crompton vs. Belknap Mills, 3 Fish. Pat. Cas., 536.

Examination, and issuing patent.

SEC. 4893. On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

8 July, 1870, c. 230, s. 31, v. 16, p. 202.

Limitation upon time of completing applications.

SEC. 4894. All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

8 July, 1870, c. 230, s. 32, v. 16, p. 202.

Bell vs. Daniels, 1 Bond, 212.

Patents granted to assignees.

SEC. 4895. Patents may be granted and issued or re-issued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a re-issue of any patent, the application must be made and the corrected specification signed by the inventor or discoverer, if he is living, unless the patent was issued and the assignment made before the eighth day of July, eighteen hundred and seventy.

8 July, 1870, c. 230, s. 33, v. 16, p. 202. 3 March, 1871, c. 132, v. 16, p. 583.

Gayler vs. Leonard, 10 How., 477; Swift vs. Whison, 3 Fish. Pat. Cas., 343.

When and on what oath executor or administrator may obtain patent.

SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his life time; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them.

8 July, 1870, c. 230, s. 34, v. 16, p. 202.

Rubber Co. vs. Goodyear, 9 Wall., 788.

Renewal of application in cases of failure to pay fees in season.

8 July, 1870, c. 230, s. 35, v. 16, p. 202.

SEC. 4897. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who fails to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application. But such second application must be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent was ordered to issue under such renewed application prior to the issue of the patent. And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact.

Assignments of patents.

8 July, 1870, c. 230, s. 36, v. 16, p. 203.

SEC. 4898. Every patent or any interest therein shall be assignable in law, by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent-Office within three months from the date thereof.

Woodworth *vs.* Wilson, 4 How., 712; Wilson *vs.* Simpson, 9 How., 109; Gaylor *vs.* Wilder, 10 How., 494; Bloomer *vs.* McQuewan, 14 How., 539; Kinsman *vs.* Parkhurst, 18 How., 289; Hartshorn *vs.* Day, 19 How., 211; Railroad Co. *vs.* Trimble, 10 Wall., 367; Nicolson Pavement Co. *vs.* Jenkins, 14 Wall., 452; Adams *vs.* Burke, 17 Wall., 453; Eunson *vs.* Dodge, 18 Wall., 414; Goodyear *vs.* Cary, 4 Blatch., 271; Perry *vs.* Corning, 7 Blatch., 195; Bell *vs.* McCullough, 1 Bond, 194; Hussey *vs.* Whitely, 1 Bond, 407; Pitts *vs.* Jameson, 15 Barb., (N. Y.,) 310.

Persons purchasing of inventor, before application, may use or sell the thing purchased.

8 July, 1870, c. 230, s. 37, v. 16, p. 203.

SEC. 4899. Every person who purchases of the inventor, or discoverer, or with his knowledge and consent constructs any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

Kendall *vs.* Winsor, 21 How., 322; Sargent *vs.* Seagrave, 2 Curt. C. C., 555; Root *vs.* Ball and Davis, 4 McLean, 177.

Patented articles must be marked as such.

8 July, 1870, c. 230, s. 38, v. 16, p. 203.

Rubber Co. *vs.* Goodyear, 9 Wall., 788; Goodyear *vs.* Allyn, 6 Blatch., 33.

SEC. 4900. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

Penalty for falsely marking or labeling articles as patented.

8 July, 1870, c. 230, s. 39, v. 16, p. 203.

SEC. 4901. Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent" or "patentee," or the words "letters-patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent," or any word importing that the same is patented, for the purpose of deceiving the public, shall be liable, for every such offense, to a penalty of not less than one hundred dollars, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district

court of the United States within whose jurisdiction such offense may have been committed.

Filing and effect of caveats.

8 July, 1870, c. 230, s. 40, v. 16, p. 203.

Bell vs. Daniels, 1 Bond, 212.

SEC. 4902. Any citizen of the United States who makes any new invention or discovery, and desires further time to mature the same, may, on payment of the fees required by law, file in the Patent-Office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application is made within the year by any other person for a patent with which such caveat would in any manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person by whom the caveat was filed. If such person desires to avail himself of his caveat, he shall file his description, specifications, drawings, and model within three months from the time of placing the notice in the post-office in Washington, with the usual time required for transmitting it to the caveator added thereto; which time shall be indorsed on the notice. An alien shall have the privilege herein granted, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

Notice of rejection of claim for patent to be given to applicant.

8 July, 1870, c. 230, s. 41, v. 16, p. 204.

SEC. 4903. Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the Commissioner shall order a reexamination of the case.

Interferences.

8 July, 1870, c. 230, s. 42, v. 16, p. 204.

SEC. 4904. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

Affidavits and depositions.

8 July, 1870, c. 230, s. 43, v. 16, p. 204.

SEC. 4905. The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent-Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

Subpœnas to witnesses.

8 July, 1870, c. 230, ss. 44, 45, v. 16, p. 204.

SEC. 4906. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent-Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpœna for any witness residing or being within such district or Territory, commanding him to appear and testify before any officer in such district or Territory authorized to take depositions and affidavits, at any time and place in the subpœna stated. But no witness shall be required to attend at any place more than forty miles from the place where the subpœna is served upon him.

Witness fees.

Ibid., s. 45.

SEC. 4907. Every witness duly subpœnaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

Penalty for failing to attend or refusing to testify.

Ibid., ss. 44, 45.

SEC. 4908. Whenever any witness, after being duly served with such subpœna, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpœna may, on proof of such neglect or refusal, enforce obedience to the process, or pun-

ish the disobedience, as in other like cases. But no witness shall be deemed guilty of contempt for disobeying such subpœna, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpœna; nor for refusing to disclose any secret invention or discovery made or owned by himself.

Appeals from primary examiners to examiners-in-chief

Ibid., s. 46.

SEC. 4909. Every applicant for a patent or for the re-issue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, to the board of examiners-in-chief; having once paid the fee for such appeal.

From examiners-in-chief to Commissioner.

Ibid., s. 47, p. 205.

SEC. 4910. If such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the fee prescribed, appeal to the Commissioner in person.

From the Commissioner to the supreme court, D. C.

Ibid., s. 48.

SEC. 4911. If such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the supreme court of the District of Columbia, sitting in banc.

Notice of such appeal.

Ibid., s. 49.

SEC. 4912. When an appeal is taken to the supreme court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent-Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

Proceedings on appeal to supreme court.

Ibid., s. 51.

SEC. 4913. The court shall, before hearing such appeal, give notice to the Commissioner of the time and place of the hearing, and on receiving such notice the Commissioner shall give notice of such time and place in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the Commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the thing for which a patent is demanded.

Determination of such appeal, and its effect.

Ibid., s. 50.

SEC. 4914. The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent-Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

Patents obtainable by bill in equity.

Ibid., s. 52.

SEC. 4915. Whenever a patent on application is refused, either by the Commissioner of Patents or by the supreme court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent on the applicant filing in the Patent-Office a copy of the adjudication, and otherwise complying with the requirements of law. In all cases, where there is no opposing party, a copy of the bill shall be served on the Commissioner; and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not. [Sec. 629, P. D.]

Re-issue of defective patents.

8 July, 1870, c. 230, s. 53, v. 16, p. 205.

SEC. 4916. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in the case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a re-issue for each of such re-issued letters-patent. The specifications and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so re-issued, together with the corrected specification, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine-patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

Shaw *vs.* Cooper, 7 Pet., 292; Wilson *vs.* Rousseau, 4 How., 646; Moffit *vs.* Garr, 1 Bl., 273; Reed *vs.* Bowman, 2 Wall., 591; Commissioner *vs.* Whitely, 4 Wall., 522; Bennet *vs.* Fowler, 8 Wall., 445; Morey *vs.* Lockwood, 8 Wall., 230; Seymour *vs.* Osborne, 11 Wall., 516; Carlton *vs.* Bokee, 17 Wall., 463; Amos *vs.* Howard, 1 Sumn., 488; Carver *vs.* Braintree Manufacturing Co., 2 Story, 439; Allen *vs.* Blunt, 3 Story, 743; Woodward *vs.* Stone, 3 Story, 753; Woodworth *vs.* Hall, 1 Wood. & M., 261, 262; Allen *vs.* Blunt, 2 Wood. & M., 138; Woodworth *vs.* Edwards, 3 Wood. & M., 126; Forbes *vs.* Stove Co., 2 Cliff., 379; Cahart *vs.* Austin, 2 Cliff., 528; Gibson *vs.* Harris, 1 Blatch., 169; Potter *vs.* Holland, 4 Blatch., 206; Batten *vs.* Taggert, 2 Wall., jr., 102; Stanley *vs.* Whipple, 2 McLean, 37; Moffit *vs.* Garr, 1 Bond, 315.

Disclaimer.

8 July, 1870, c. 230, s. 54, v. 16, p. 206.

SEC. 4917. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent-Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

Silsby *vs.* Foote, 14 How., 218; O'Reily *vs.* Morse, 15 How., 121; Seymour *vs.* McCormick, 19 How., 205; Wyeth *vs.* Stone, 1 Story, 294; Reed *vs.* Cutter, 1 Story, 600; Guyon *vs.* Sorrell, 1 Blatch., 244; Hall *vs.* Wilds, 2 Blatch., 198; Tuck *vs.* Bramhill, 6 Blatch., 95; Whitney *vs.* Emmett, 1 Baldw., 313; Brooks *vs.* Jenkins, 4 McLean, 449.

Suits touching interfering patents.

8 July, 1870, c. 230, s. 58, v. 16, p. 207.

SEC. 4918. Whenever there are interfering patents, any person interested in any one of them, or in the working of the invention claimed under either of them, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

Suits for infringement; damages.

8 July, 1870, c. 230, s. 59, v. 16, p. 207.

SEC. 4919. Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

Dean *vs.* Mason, 20 How., 198; Corporation of New York *vs.* Ransom, 23 How., 487; Moore *vs.* Marsh, 7 Wall., 515; Mowry *vs.* Whitney, 14 Wall., 620; Mitchell *vs.* Hawley, 16 Wall., 544; Philp *vs.* Nock, 17 Wall., 460.

Pleading and proof in actions for infringement.

Ibid., s. 61, p. 208.

SEC. 4920. In any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove on trial any one or more of the following special matters:

Blanchard *vs.* Putnam, 8 Wall., 420; Wise *vs.* Allis, 9 Wall., 737.

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent-Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

Third. That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented, or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

Power of courts to grant injunctions and estimate damages.

Ibid., s. 55, p. 206.

SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement, the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby; and the court shall assess the same or cause the same to be assessed under its direction. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

Woodworth *vs.* Wilson, 4 How., 712; Hogg *vs.* Emerson, 11 How., 587; Livingston *vs.* Woodworth, 15 How., 546; Seymour *vs.* McCormick, 16 How., 489; Dean *vs.* Mason, 20 How., 198; Corporation of New York *vs.* Ransom, 23 How., 487; Moore *vs.* Marsh, 7 Wall., 515; Rubber Co. *vs.* Goodyear, 9 Wall., 788; Mowry *vs.* Whitney, 14 Wall., 620; Mitchell *vs.* Hawley, 16 Wall., 544; Philp *vs.* Nock, 17 Wall., 460; Nesmith *vs.* Calvert, 1 Wood. & M., 34; Woodworth *vs.* Edwards, 3 Wood. & M., 120; Woodworth *vs.* Wood, 1 Blatch., 165; Allen *vs.* Blunt, 1 Blatch., 486; Wilson *vs.* Sherman, 1 Blatch., 536; Goodyear *vs.* Day, 1 Blatch., 565; Goodyear *vs.* Rubber Co., 4 Blatch., 63; Tatham *vs.* Lowber, 4 Blatch., 86; Goodyear *vs.* Allyn, 6 Blatch., 33; Ogle *vs.* Ege, 4 Wash., 584; Blank *vs.* Manufacturing Co., 3 Wall., jr., 106; Brooks *vs.* Stolley, 3 McLean, 523; Hussy *vs.* Whitely, 1 Bond, 407.

Suit for infringement where specification is too broad.

SEC. 4922. Whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud or mislead the public, a patentee has, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, if it is a material and substantial part of the thing patented, and definitely distinguishable from the parts claimed without right, notwithstanding the specifications may embrace more than that of which the patentee was the first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff no costs shall be recovered unless the proper disclaimer has been entered at the Patent-Office before the commencement of the suit. But no patentee shall be entitled to the benefits of this section if he has unreasonably neglected or delayed to enter a disclaimer.

8 July, 1870, c. 230, s. 60, v. 16, p. 207.

O'Reilly *vs.* Morse, 15 How., 62; Seymour *vs.* McCormick, 19 How., 106; Silsby *vs.* Foote, 20 How., 378; Vance *vs.* Campbell, 1 Bl., 427; Wyeth *vs.* Stone, 1 Story, 273; Reed *vs.* Cutter, 1 Story, 600; Pitts *vs.* Whitman, 2 Story, 621; Guyon *vs.* Sorrell, 1 Blatch., 244; Hall *vs.* Wilds, 2 Blatch., 198, 199; Brooks *vs.* Jenkins, 3 McLean, 449.

Patent not void on account of previous use in foreign country.

SEC. 4923. Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

8 July, 1870, c. 230, s. 62, v. 16, p. 208.

Judson *vs.* Cope, 1 Bond, 327; Bartholomew *vs.* Sawyer, 1 Fish. Pat. Cas., 516; How *vs.* Morton, 1 Fish. Pat. Cas., 586.

Extension of patents granted prior to March 2, 1861.

SEC. 4924. Where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of this patent beyond the original term of its limitation, he shall make application therefor, in writing, to the Commissioner of Patents, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of the invention or discovery. Such application shall be filed not more than six months nor less than ninety days before the expiration of the original term of the patent; and no extension shall be granted after the expiration of the original term.

8 July, 1870, c. 230, s. 63, v. 16, p. 208.

Commissioner *vs.* Whitely, 4 Wall., 522.

What notice of application for extension must be given.

SEC. 4925. Upon the receipt of such application, and the payment of the fees required by law, the Commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

8 July, 1870, c. 230, s. 64, v. 16, p. 208.

Applications for extension, to whom to be referred.

SEC. 4926. Upon the publication of the notice of an application for an extension, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make the Commissioner a full report of the case, stating particularly whether the invention or discovery was new and patentable when the original patent was granted.

Ibid., s. 65.

Commissioner to hear and decide the question of extension.

SEC. 4927. The Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced, both for and against the extension; and if it shall appear to the satisfaction of the Commissioner that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention

Ibid., s. 66, p. 209.

Woodworth vs. Edwards, 3 Wood. & M., 120; Gibson vs. Harris, 1 Blatch., 167; Colt vs. Young, 2 Blatch., 471.

or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the Commissioner shall make a certificate thereon, renewing and extending the patent for the term of seven years from the expiration of the first term. Such certificate shall be recorded in the Patent-Office; and thereupon such patent shall have the same effect in law as though it had been originally granted for twenty-one years.

Operation of extensions.

SEC. 4928. The benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented, to the extent of their interest therein.

8 July, 1870, c. 230, s. 67, v. 16, p. 209.—Wilson vs. Rousseau, 4 How., 646; Bloomer vs. McQuewan, 14 How., 549; Chaffee vs. The Boston Belting Co., 22 How., 223; Bloomer vs. Millinger, 1 Wall., 340; Nicolson Paving Co. vs. Jenkins, 14 Wall., 452; Eunson vs. Dodge, 18 Wall., 414; Gibson vs. Cook, 2 Blatch., 146; Blanchard vs. Whitney, 3 Blatch., 307; Day vs. Rubber Co., 3 Blatch., 488; Phelps vs. Comstock, 4 McLean, 353.

Patents for designs authorized.

SEC. 4929. Any person who, by his own industry, genius, efforts, and expense, has invented and produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, patent, print, or picture to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, may, upon payment of the fee prescribed, and other due proceedings had the same as in cases of inventions or discoveries, obtain a patent therefor.

8 July, 1870, c. 230, s. 71, v. 16, p. 209.

Clark vs. Bonsfield, 10 Wall., 133; Gorham Co. vs. White, 14 Wall., 511; Booth vs. Garelly, 1 Blatch., 247; Root vs. Ball, 4 McLean, 180.

Models of designs.

SEC. 4930. The Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

8 July, 1870, c. 230, s. 72, v. 16, p. 210.

Duration of patents for designs.

SEC. 4931. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

Ibid., s. 73.

Extension of patents for designs.

SEC. 4932. Patentees of designs issued prior to the second day of March, eighteen hundred and sixty-one, shall be entitled to extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as are provided for the extension of patents for inventions or discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

Ibid., s. 74.

Patents for designs subject to general rules of patent law.

SEC. 4933. All the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries not inconsistent with the provisions of this Title, shall apply to patents for designs.

Ibid., s. 76.

Fees in obtaining patents, &c.

SEC. 4934. The following shall be the rates for patent-fees:

On filing each original application for a patent, except in design cases, fifteen dollars.

On issuing each original patent, except in design cases, twenty dollars.

In design cases: For three years and six months, ten dollars; for seven years, fifteen dollars; for fourteen years, thirty dollars.

On filing each caveat, ten dollars.

On every application for the re-issue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

8 July, 1870, c. 230, s. 68, v. 16, p. 209.

8 July, 1870, c. 230, s. 75, v. 16, p. 210.

24 March, 1871, c. 5, s. 2, v. 17, p. 3.

For certified copies of patents and other papers, including certified printed copies, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

Mode of payment.

8 July, 1870, c. 230, s. 69, v. 16, p. 209.

SEC. 4935. Patent-fees may be paid to the Commissioner of Patents, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All money received at the Patent-Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever.

Refunding.

Ibid., s. 70.

SEC. 4936. The Treasurer of the United States is authorized to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depositary, to the credit of the Treasury, as for fees accruing at the Patent-Office, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

CHAPTER TWO.

TRADE-MARKS.

Sec.
4937. Registration of trade-marks authorized.
4938. Accompanying declaration under oath.
4939. Restriction on the registration of trade-marks.
4940. Time of receipt of trade-mark for registration to be certified.
4941. Duration of protection of registered trade-marks, and renewal.
4942. Remedy for infringement of registered trade-marks.
4943. Restriction upon actions for infringement.
4944. Penalty for false registration of trade-marks.
4945. Former rights and remedies preserved.
4946. Saving as to rights after expiration of term for which a trade-mark has been registered.
4947. Regulations for transfer of rights to trade-marks.

Registration of trade-marks authorized.

8 July, 1870, c. 230, s. 77, v. 16, p. 210.

SEC. 4937. Any person or firm domiciled in the United States and any corporation created by the authority of the United States, or of any State or Territory thereof, and any person, firm, or corporation resident of or located in any foreign country which by treaty or convention affords similar privileges to citizens of the United States, and who are entitled to the exclusive use of any lawful trade-mark, or who intend to adopt and use any trade-mark for exclusive use within the United States, may obtain protection for such lawful trade-mark by complying with the following requirements:

First. By causing to be recorded in the Patent-Office a statement specifying the names of the parties, and their residences and place of business, who desire the protection of the trade-mark; the class of merchandise, and the particular description of goods comprised in such class, by which the trade-mark has been or is intended to be appropriated; a description of the trade-mark itself, with fac-similes thereof, showing the mode in which it has been or is intended to be applied and used; and the length of time, if any, during which the trade-mark has been in use.

Second. By making payment of a fee of twenty-five dollars, in the same manner and for the same purpose as the fee required for patents.

Third. By complying with such regulations as may be prescribed by the Commissioner of Patents.

Accompanying declaration under oath.

Ibid.

SEC. 4938. The certificate prescribed by the preceding section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by some member of the firm or officer of the corporation by whom it is filed, to the effect that the party claiming protection for the trade-mark has a right to the use of the same, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; and that the description and fac-similes presented for record are true copies of the trade-mark sought to be protected.

Restriction on the registration of trade-marks.

Ibid., s. 79, p. 211.

SEC. 4939. The Commissioner of Patents shall not receive and record any proposed trade-mark which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm, or corporation unaccompanied by a mark sufficient to distinguish it from the same name when used by other persons, or which is identical with a trade-mark appropriate to the same class of merchandise and belonging to a different owner, and already registered or received for registration, or which so nearly resembles such last-mentioned trade-mark as to be likely to deceive the public. But this section shall not prevent the registry of any lawful trade-mark rightfully in use on the eighth day of July, eighteen hundred and seventy.

Time of receipt of trade-mark for registration to be certified.

Ibid., s. 80.

SEC. 4940. The time of the receipt of any trade-mark at the Patent-Office for registration shall be noted and recorded. Copies of the trade-mark and of the date of the receipt thereof, and of the statement filed therewith, under the seal of the Patent-Office, certified by the Commissioner, shall be evidence in any suit in which such trade-mark shall be brought in controversy.

Duration of protection of registered trade-mark, and renewal.

8 July, 1870, c. 230, s. 78, v. 16, p. 211.

SEC. 4941. A trade-mark registered as above prescribed shall remain in force for thirty years from the date of such registration; except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country and in which it receives protection under the laws of any foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the same time that it becomes of no effect elsewhere. Such trade-mark during the period that it remains in force shall entitle the person, firm, or corporation registering the same to the exclusive use thereof so far as regards the description of goods to which it is appropriated in the statement filed under oath as aforesaid, and no other person shall lawfully use the same trade-mark, or substantially the same, or so nearly resembling it as to be calculated to deceive, upon substantially the same description of goods. And at any time during the six months prior to the expiration of the term of thirty years, application may be made for a renewal of such registration, under regulations to be prescribed by the Commissioner of Patents. The fee for such renewal shall be the same as for the original registration; and a certificate of such renewal shall be issued in the same manner as for the original registration; and such trade-mark shall remain in force for a further term of thirty years.

Remedy for infringement of registered trade-marks

Ibid., s. 79.

SEC. 4942. Any person who shall reproduce, counterfeit, copy, or imitate any recorded trade-mark, and affix the same to goods of substantially the same descriptive properties and qualities as those referred to in the registration, shall be liable to an action on the case for damages for such wrongful use of such trade-mark, at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course [illegible] to enjoin the wrongful use of his trade-mark and to recover [illegible] therefor in any court having jurisdiction over the person [illegible] wrongful use.

Restriction upon actions for infringement.

Ibid., s. 84, p. 212.

SEC. 4943. No action shall be maintained under the provisions of this chapter by any person claiming the exclusive right to any trade-mark which is used or claimed in any unlawful business, or upon any article which is injurious in itself, or upon any trade-mark which has been fraudulently obtained, or which has been formed and used with the de-

sign of deceiving the public in the purchase or use of any article of merchandise.

Penalty for false registration of trade-marks.

Ibid., s. 82.

SEC. 4944. Any person who shall procure the registry of any trade-mark, or of himself as the owner of a trade-mark, or an entry respecting a trade-mark in the Patent-Office, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such registry or entry, to the person injured thereby; to be recovered in an action on the case.

Former rights and remedies preserved.

Ibid., s. 83.

SEC. 4945. Nothing in this chapter shall prevent, lessen, impeach, or avoid any remedy at law or in equity, which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this chapter had not been enacted.

Saving as to rights after expiration of term for which a trade-mark has been registered.

Ibid., s. 78, p. 211.

SEC. 4946. Nothing in this chapter shall be construed by any court as abridging or in any matter affecting unfavorably the claim of any person to any trade-mark after the expiration of the term for which such trade-mark was registered.

Regulations for transfer of rights to trade-marks.

Ibid., s. 81.

SEC. 4947. The Commissioner of Patents is authorized to make rules, regulations, and prescribe forms for the transfer of the right to the use of trade-marks, conforming as nearly as practicable to the requirements of law respecting the transfer and transmission of copyrights.

CHAPTER THREE.

COPYRIGHTS.

Sec.
4948. Copyrights to be under charge of Librarian of Congress.
4949. Seal of office.
4950. Bond of Librarian.
4951. Annual report.
4952. What publications may be entered for copyright.
4953. Term of copyrights.
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4955. Assignment of copyrights and recording.
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4959. Copies of copyright works to be furnished to Librarian of Congress.
4960. Penalty for omission.
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4967. Damages for printing or publishing any manuscript without consent of author, &c.
4968. Limitation of action in copyright cases.
4969. Defenses to action in copyright cases.
4970. Injunctions in copyright cases.
4971. Aliens and non-residents not privileged.

Copyrights to be under charge of Librarian of Congress.

8 July, 1870, c. 230, s. 85, v. 16, p. 212.

SEC. 4948. All records and other things relating to copyrights and required by law to be preserved, shall be under the control of the Librarian of Congress, and kept and preserved in the Library of Congress; and the Librarian of Congress shall have the immediate care and supervision thereof, and, under the supervision of the joint committee of Congress on the Library, shall perform all acts and duties required by law touching copyrights.

Seal of office.

Ibid.

SEC. 4949. The seal provided for the office of the Librarian of Congress shall be the seal thereof, and by it all records and papers issued from the office and to be used in evidence shall be authenticated.

Bond of Librarian.

Ibid.

SEC. 4950. The Librarian of Congress shall give a bond, with sureties, to the Treasurer of the United States, in the sum of five thousand dollars, with the condition that he will render to the proper officers of the Treasury a true account of all moneys received by virtue of his office.

Annual report.

Ibid.

SEC. 4951. The Librarian of Congress shall make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year.

What publications may be entered for copyright.

Ibid., s. 86.

Wheaton *vs.* Peters, 8 Pet., 591; Stephens *vs.* Cady, 14 How., 528; Jollie *vs.* Jaques, 1 Blatch., 625; Boucicault *vs.* Fox, 5 Blatch., 87; Wood *vs.* Abbott, 5 Blatch., 325; Rossiter *vs.* Hall, 5 Blatch., 362; Daly *vs.* Palmer, 6 Blatch., 256.

SEC. 4952. Any citizen of the United States or resident therein, who shall be the author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and, in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others. And authors may reserve the right to dramatize or to translate their own works.

Term of copyrights.

8 July, 1870, c. 230, s. 87, v. 16, p. 212.

SEC. 4953. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

Continuance of term.

Ibid., s. 88.

Wheaton *vs.* Peters, 8 Pet., 591; Pierrpont *vs.* Fowle, 2 Wood. & M., 42.

SEC. 4954. The author, inventor, or designer, if he be still living and a citizen of the United States or resident therein, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

Assignment of copyrights and recording.

8 July, 1870, c. 230, s. 89, v. 16, p. 213.

SEC. 4955. Copyrights shall be assignable in law, by any instrument of writing, and such assignment shall be recorded in the office of the Librarian of Congress within sixty days after its execution; in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

Wheaton *vs.* Peters, 8 Pet., 591; Little *vs.* Hall, 18 How., 165; Pierrpont *vs.* Fowle, 2 Wood. & M., 42; Webb *vs.* Powers, 2 Wood. & M., 497.

Deposit of title and published copies.

8 July, 1870, c. 230, s. 90, v. 16, p. 213.

SEC. 4956. No person shall be entitled to a copyright unless he shall, before publication, deliver at the office of the Librarian of Congress or deposit in the mail addressed to the Librarian of Congress, at Washington, District of Columbia, a printed copy of the title of the book or other article, or a description of the painting, drawing, chromo, statue, statuary, or a model or design for a work of the fine arts, for which he desires a copyright, nor unless he shall also, within ten days from the publication thereof, deliver at the office of the Librarian of Congress or deposit in the mail addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright book or other article, or in case of a painting, drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of the same.

Record of entry and attested copy.

8 July, 1870, c. 230, s. 91, v. 16, p. 213.

SEC. 4957. The Librarian of Congress shall record the name of such copyright book or other article, forthwith, in a book to be kept for that purpose, in the words following: "Library of Congress, to wit: Be it remembered that on the day of , A. B., of , hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be, or description of the article,) the title or description of which is in the following words, to wit: (here insert the title or description,) the right whereof he claims as author, (originator, or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., Librarian of Congress." And he shall give a copy of the title or description, under the seal of the Librarian of Congress, to the proprietor whenever he shall require it.

Fees.

Ibid., s. 92.

SEC. 4958. The Librarian of Congress shall receive, from the persons to whom the services designated are rendered, the following fees:

First. For recording the title or description of any copyright book or other article, fifty cents.

Second. For every copy under seal of such record actually given to the person claiming the copyright, or his assigns, fifty cents.

Third. For recording any instrument of writing for the assignment of a copyright, fifteen cents for every one hundred words.

Fourth. For every copy of an assignment, ten cents for every one hundred words.

All fees so received shall be paid into the Treasury of the United States.

Copies of copyright works to be furnished to Librarian of Congress.

Ibid., s. 93.

SEC. 4959. The proprietor of every copyright book or other article shall deliver at the office of the Librarian of Congress, or deposit in the mail addressed to the Librarian of Congress at Washington, District of Columbia, within ten days after its publication, two complete printed copies thereof, of the best edition issued, or description or photograph of such article as hereinbefore required, and a copy of every subsequent edition wherein any substantial changes shall be made.

Penalty for omission.

8 July, 1870, c. 230, s. 94, v. 16, p. 213.

SEC. 4960. For every failure on the part of the proprietor of any copyright to deliver or deposit in the mail either of the published copies, or description or photograph, required by sections four thousand nine hundred and fifty-six, and four thousand nine hundred and fifty-nine, the proprietor of the copyright shall be liable to a penalty of twenty-five dollars, to be recovered by the Librarian of Congress, in the name of the United States, in an action in the nature of an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

Postmasters to give receipts.

Ibid., s. 96, p. 214.

SEC. 4961. The postmaster to whom such copyright book, title, or other article is delivered, shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination.

Publication of notice of entry for copyright prescribed.

Ibid., s. 97.

Rossiter vs. Hall, 5 Blatch., 362.

SEC. 4962. No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title-page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some portion of the face or front thereof, or on the face of the substance on which the same shall be mounted, the following words, "Entered according to act of Congress, in the year , by A. B., in the office of the Librarian of Congress, at Washington."

Penalty for false publication of notice of entry.

8 July, 1870, c. 230, s. 98, v. 16, p. 214.

Ferrett vs. Atwill, 1 Blatch., 154.

SEC. 4963. Every person who shall insert or impress such notice, or words of the same purport, in or upon any book, map, chart, musical composition, print, cut, engraving, or photograph, or other article, for which he has not obtained a copyright, shall be liable to a penalty of one hundred dollars, recoverable one-half for the person who shall sue for such penalty, and one-half to the use of the United States.

Damages for violation of copyright of books.

8 July, 1870, c. 230, s. 99, v. 16, p. 214.

Gray vs. Russell, 1 Story, 19; Folsom vs. Marsh, 2 Story, 115; Atwill vs. Ferrett, 2 Blatch., 39; Van Hook vs. Pendleton, 2 Blatch., 65; Story's Exr's vs. Holcombe, 4 McLean, 306; Webb vs. Powers, 2 Wood. & M., 497.

SEC. 4964. Every person who, after the recording of the title of any book as provided by this chapter, shall within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, or import, or knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such book, shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.

For violating copyright of maps, charts, prints, &c.

8 July, 1870, c. 230, s. 100, v. 16, p. 214.

Gray vs. Russell, 1 Story, 19; Folsom vs. Marsh, 2 Story, 115; Atwill vs. Ferrett, 2 Blatch., 39; Van Hook vs. Pendleton, 2 Blatch., 85; Story's Ex'rs vs. Holcombe, 4 McLean, 306.

SEC. 4965. If any person, after the recording of the title of any map, chart, musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of the fine arts, as provided by this chapter, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, or import, either in whole or in part, or by varying the main design with intent to evade the law, or, knowing the same to be so printed, published, or imported, shall sell or expose to sale any copy of such map or other article, as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied, and every sheet thereof, either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or by him sold or exposed for sale; one-half thereof to the proprietor and the other half to the use of the United States.

For violating copyright of dramatic compositions.

8 July, 1870, c. 230, s. 101, v. 16, p. 214.

Boucicault vs. Fox, 5 Blatch., 87; Daly vs. Palmer, 6 Blatch., 256.

SEC. 4966. Any person publicly performing or representing any dramatic composition for which a copyright has been obtained, without the consent of the proprietor thereof, or his heirs or assigns, shall be liable for damages therefor, such damages in all cases to be assessed at such sum, not less than one hundred dollars for the first, and fifty dollars for every subsequent performance, as to the court shall appear to be just.

Damages for printing or publishing any manuscript without consent of author, &c.

8 July, 1870, c. 230, s. 102, v. 16, p. 215.—Wheaton vs. Peters, 8 Pet., 657; Bartlette vs. Crittenden, 4 McLean, 300; Eyre vs. Higbee, 22 How. Pr. R., 207.

SEC. 4967. Every person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, if such author or proprietor is a citizen of the United States, or resident therein, shall be liable to the author or proprietor for all damages occasioned by such injury.

Limitation of action in copyright cases.

8 July, 1870, c. 230, s. 104, v. 16, p. 215.

SEC. 4968. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

Defenses to action in copyright cases.

Ibid., s. 105.

SEC. 4969. In all actions arising under the laws respecting copyrights, the defendant may plead the general issue, and give the special matter in evidence.

Injunctions in copyright cases.

Ibid., s. 106.

SEC. 4970. The circuit courts, and district courts having the jurisdiction of circuit courts, shall have power, upon bill in equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by the laws respecting copyrights, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

Aliens and non-residents not privileged.

Ibid., s. 103.

SEC. 4971. Nothing in this chapter shall be construed to prohibit the printing, publishing, importation, or sale of any book, map, chart, dramatic or musical composition, print, cut, engraving, or photograph, written, composed, or made by any person not a citizen of the United States nor resident therein.

TITLE LXXIV.

REPEAL PROVISIONS.

Sec.
5595. What Revised Statutes embrace.
5596. Repeal of acts embraced in revision.
5597. Accrued rights reserved.
5598. Prosecutions and punishments.
5599. Acts of limitation.
5600. Arrangement and classification of sections.
5601. Acts passed since December 1, 1873, not affected.

What Revised Statutes embrace.

SEC. 5595. The foregoing seventy-three titles embrace the statutes of the United States general and permanent in their nature, in force on the 1st day of December one thousand eight hundred and seventy-three, as revised and consolidated by commissioners appointed under an act of Congress, and the same shall be designated and cited, as The Revised Statutes of the United States.

Repeal of acts embraced in revision.

SEC. 5596. All acts of Congress passed prior to said first day of December one thousand eight hundred and seventy-three, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision, having been repealed or superseded by subsequent acts, or not being general and permanent in their nature: *Provided*, That the incorporation into said revision of any general and permanent provision, taken from an act making appropriations, or from an act containing other provisions of a private, local, or temporary character, shall not repeal, or in any way affect any appropriation, or any provision of a private, local or temporary character, contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day no part of which are embraced in said revision, shall not be affected or changed by its enactment.

Accrued rights reserved.

SEC. 5597. The repeal of the several acts embraced in said revision, shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall said repeal, in any manner affect the right to any office, or change the term or tenure thereof.

Prosecutions and punishments.

SEC. 5598. All offenses committed, and all penalties or forfeitures incurred under any statute embraced in said revision prior to said repeal, may be prosecuted and punished in the same manner and with the same effect, as if said repeal had not been made.

Acts of limitation.

SEC. 5599. All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in said revision and covered by said repeal, shall not be affected thereby, but all suits, proceedings or prosecutions, whether civil or criminal, for causes arising, or acts done or committed prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

Arrangement and classification of sections.

SEC. 5600. The arrangement and classification of the several sections of the revision have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore no inference or presumption of a legislative construction is to be drawn by reason of the Title, under which any particular section is placed.

Acts passed since Dec. 1, 1873, not affected.

SEC. 5601. The enactment of the said revision is not to affect or repeal any act of Congress passed since the 1st day of December one thousand eight hundred and seventy-three, and all acts passed since that date are to have full effect as if passed after the enactment of this revision, and so far as such acts vary from, or conflict with any provision contained in said revision, they are to have effect as subsequent statutes, and as repealing any portion of the revision inconsistent therewith.

Approved, June 22, 1874.

X re Representative Thomas Jenekes

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INCORPORATED
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The Library of Congress Author Catalog, 1948–1952. Ann Arbor, Mich., J. W. Edwards, Inc., 1953. 24 vols.....out of print

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The National Union Catalog, a Cumulative Author List, 1953–1957. Ann Arbor, Mich., J. W. Edwards, Inc., 1958. 28 volumes.....out of print

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Library of Congress Catalog—Books: Subjects, 1955–1959. Paterson, N. J., Pageant Books, Inc., 1960. 22 volumes. Available from Rowman and Littlefield, Inc., 84 Fifth Ave., New York 11, N. Y., $247.50 (f. o. b. Paterson, N. J.)

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National Library of Medicine Catalog, 1955–1959. (Part one: *Authors;* Part two: *Subjects*) Washington, D. C., Judd & Detweiler, Inc., 1500 Eckington Place N. E., 1960. 6 volumes..... $60 (f. o. b. Washington, D. C.)

National Library of Medicine Catalog, 1960, 1961 (Part one: *Authors;* Part two: *Subjects*)..... $20 per year (plus 50 cents postage)

HOW TO ORDER THE CATALOGS

Orders for the catalogs published by J. W. Edwards, Inc., Judd & Detweiler, Inc., Pageant Book Company, or Rowman and Littlefield, Inc., should be placed directly with them.

All the other publications are sold by the Card Division, Library of Congress, Washington 25, D. C. Their purchase may be charged against the accounts of subscribers to the card service; others must pay in advance by check or money order made payable to the *Card Division, Library of Congress.*

Payments from foreign countries for these latter publications may be made with UNESCO coupons.

The National Union Catalog of Manuscript Collections
L. C. card 62–17486

PREFACE

This volume represents another step toward achieving bibliographical control over the vast manuscript resources of American repositories. It contains reproductions of cards for nearly 7,300 manuscript collections, issued by the Library of Congress during 1959, 1960, and 1961, thus making the accumulated information readily available to scholars and repositories everywhere. Access to the wealth of information in this volume is afforded by indexes to the names and subjects covered by the collections and the repositories where they are housed.

Preparation of the National Union Catalog of Manuscript Collections was made possible by a generous grant from the Council on Library Resources, Inc. These funds infused life into the emerging plans of the Library by underwriting the costs of the project. Thanks are due also to the members of the national advisory committee, whose advice and criticism guided the formulation of essential policies and procedures. Most important of all, however, was the contribution made by the hundreds of repositories that reported their holdings. Without their cooperation, this volume could never have been compiled. It is hoped that other manuscript repositories will join them in helping the Library of Congress to achieve a complete National Union Catalog of Manuscript Collections.

L. Quincy Mumford
Librarian of Congress

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National Union Catalog of Manuscript Collections

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Association of Research Libraries

INTRODUCTION

History. Neither the need nor the desire for a national union catalog of manuscript collections is new. Scholars, particularly in the field of American history, have long been frustrated by the difficulties of locating specific manuscripts and even of identifying repositories that may contain source materials. At best these difficulties have meant delay in completing important research; at worst, they have resulted in disturbing gaps in the reconstruction of the past.

The background of early efforts to achieve bibliographical control over manuscripts can be found in the reports of the Committee on Historical Source Materials in the *Annual Reports* of the American Historical Association. Its Special Committee on Manuscripts, established in 1939, and the Joint Committee on Manuscripts, formed by the Society of American Archivists and the American Association for State and Local History in 1949, were among the first groups to give close attention to planning a workable project.

In 1951 the Library of Congress began to plan actively for a National Union Catalog of Manuscript Collections intended to parallel its catalogs of printed works. These early explorations have been described by Robert H. Land in "The National Union Catalog of Manuscript Collections," in the *American Archivist*, 17: 195–207 (July 1954). These plans remained unrealized, however, until November 29, 1958, when the Library received a $200,000 grant from the Council on Library Resources, Inc., to underwrite the primary costs of the project.

In the next few months events moved quickly. The Manuscripts Section was created in the Descriptive Cataloging Division and its staff was recruited. An advisory committee of nationally prominent scholars representing learned societies and other groups concerned with the preservation and control of manuscripts was appointed. And soon reports were being gathered from repositories all over the country. The first card in the new manuscripts series was printed in June 1959 and the long-awaited project was under way. The transitional phase, planning to operation, has been described by David C. Mearns in *College and Research Libraries*, 20: 341–346 (Sept. 1959). The work leading to the present volume is recounted in an article by Lester K. Born in the Spring 1962 issue of *Manuscripts*.

Purpose. This volume is intended to aid the scholar in his quest for manuscripts that may substantively advance his research. It describes nearly 7,300 manuscript collections located in about 400 repositories in the United States. The information about the collections is given as it appears on catalog cards prepared by the Manuscripts Section of the Descriptive Cataloging Division and issued by the Library of Congress in 1959, 1960, and 1961.

Scope. So extensive are the manuscript holdings in the United States that the effort to catalog them could hardly have been undertaken without limiting the definition of a manuscript collection. Therefore repositories have been asked to report only collections that conform to the following criteria:

> A large group of papers (manuscript or typescript, originals, or copies, of letters, memoranda, diaries, accounts, log books, drafts, etc., including associated printed or near-print materials), usually having a common source and formed by or around an individual, a family, a corporate entity, or devoted to a single theme. Small groups consisting of a highly limited number of pieces should not be reported as collections in themselves but should be taken care of by more inclusive reports covering many such groups, either by an entry under an appropriate theme, if possible, or by a general entry for the miscellaneous (residual)

collection of the repository. In many instances such small groups can be noted in the description of the scope and content of the larger artificial "collection" so devised for cataloging purposes.

To be eligible within this definition, a collection must be located in a public or quasi-public repository that regularly admits researchers. No limitations have been imposed on the time, place of origin, or nature of the collection. The advisory committee recommended two further qualifications to the basic criteria:

1. Archives were not cataloged if located where one might expect to find them; for example, county records in a county courthouse. However, the catalog does include private manuscripts in archival repositories and archival records found outside the normal archival repository.

2. Collections consisting entirely of photocopies and transcripts of original manuscripts located in the United States were generally excluded. Exceptions were made when the repository holding the originals does not regularly admit researchers or when the collection of copies was created from original manuscripts scattered in several repositories.

The information about the collections came from various sources: data sheets specially prepared by the repositories, copies of their catalog cards, and entries in published guides to their collections. Since the time available for cataloging manuscripts varies from institution to institution, the descriptions differ with respect to completeness and detail. Moreover, the total holdings of large repositories may not always be reported completely and the collections of some repositories are not represented at all. These limitations are inevitable in a project that must depend on the cooperation of repositories to obtain the necessary data. Nevertheless, this volume is a substantial beginning to the herculean labor of cataloging manuscript resources in the United States.

Entries. The collections represented in this volume have been described according to the *Rules for Descriptive Cataloging in the Library of Congress: Manuscripts* (preliminary edition, 1954). As these rules are based on standard rules for author and title entry and description, the entries resemble those for published materials. The elements are as follows:

1. *Main entry:* When a collection or group of papers consists of material written by or addressed to a person, family, government agency or other corporate body, it is entered under the appropriate name. Any other collection is entered under the name of the collector (person, family, or corporate body) if it is ascertainable. If neither of the foregoing choices is possible, the collection is entered under title, using the name by which it is known or, if there is none, a title supplied by the cataloger.

2. *Title:* the name by which the collection is known or a brief title supplied by the cataloger; inclusive dates of the manuscripts are given.

3. *Physical description:* given in terms of items, linear feet of shelf space, reels or feet of microfilm, or in other suitable terms. Notation is made of the form of the manuscripts if they are not original.

4. *Location:* the name of the repository where the collection is housed.

5. *Scope and content:* This note describes the types and groups of papers and documents in the collection, noting their subject matter and the names of the principal persons and corporate bodies with whom they deal, and mentioning other special features of the collection. For personal papers, the note includes characterizing biographical data.

6. *Other information (when available):* references to published and unpublished descriptions of the collection; restrictions on access; literary rights; and provenance.

The subject index entries chosen for each collection are given at the end of its description. They were selected after careful consideration of the information supplied by the repository, not on the basis of examination of the original manuscripts. The entries were taken from *Subject Headings Used in the Dictionary Catalogs of the Library of Congress* (6th ed., 1957) and its supplements. They were assigned according to the policies and practices governing their use with printed materials. In brief, these are to assign the most specific heading characterizing the content of the work as a whole. Since many of the manuscript collec-

tions recorded in this catalog contain materials on a variety of topics or in several categories, more than one heading is assigned to a collection if required to provide access to its principal contents.

Arrangement. Each entry for a manuscript collection in this volume is arranged in sequence by the number in its lower right corner. This number was assigned when the catalog card was printed in the annual LC card series for 1959, 1960, and 1961. Access to specific information about the collections is made possible by three finding aids given at the end of the volume:

1. *A name index* citing more than 30,000 persons and corporate bodies mentioned in the collections.

2. *A subject index* citing the collections under their appropriate subjects. More than 3,000 main subject headings are given. Observations on the construction of the subject index with suggestions for its use will be found immediately preceding the index itself.

3. *A repository index* citing the collections under the names of the repositories where they may be found. In all, nearly 400 repositories are listed.

All citations in these indexes include the card number by which the description of the collection may be found in the numerically arranged main list.

Continuation. The work brought to fruition in this volume is being continued at the Library of Congress and the publication of additional volumes of this catalog is contemplated. It is expected that, in the future, entries for newly cataloged collections will be published in volumes separate from the indexes; the latter will be issued in cumulative form. Thus the latest index volume will serve as a complete guide to all volumes of the catalog.

The indexes of this first volume are to be regarded as in some degree experimental. Changes proposed as a result of the examination and use of this volume will be carefully considered for adoption.

Inquiries. Questions about the organization and content of this volume should be addressed to the Descriptive Cataloging Division, which had editorial responsibility for its preparation.

JOHN W. CRONIN
Director, Processing Department
Library of Congress

Washington, April 1962

EXPLANATION OF CERTAIN MARKS AND SYMBOLS USED IN THE ENTRIES

Examples

1. Education—U. S.

I. Lee, Arthur, 1740–1792.

Immediately below the physical description and any notes concerning the collection are listed the *subjects* encompassed within it (preceded by Arabic numerals) and the *names of persons and corporate entities* most prominently identified with it (preceded by Roman numerals). These terms, including "Title," are used in preparing headings for cards in library catalogs, and indicate that entries will appear in such catalogs under the title, etc.

MS 60–1234

The number assigned to each card for identification, ordering, and stocking purposes appears in the lower right corner of each entry. Cards may be ordered from the Card Division most economically by this *card number*. It consists of a distinguishing abbreviation, designating a special series, followed by a prefix (the last two digits of the year the card was printed) and a serial number. "Rev.," "Rev. 2," etc., indicate *revision* of the original entry.

Michigan. Univ. Libr.

Many repositories are participating in the creation of the National Union Catalog of Manuscript Collections. The name of the contributing *repository* appears in the lower left corner of the entry.

Mackenzie, Frederick, *d.* 1824. Papers, 1755–83. (Continued)

Described in the Supplement (1959) to the Guide to the manuscript collections in the William L. Clements Library, compiled by W. S. Ewing (1953)

Purchase, 1958.

1. U. S.—Hist.—Revolution—British forces. I. Noizet-Saint-Paul, Gaspard. Elements of field fortification.

MS 60–586

Michigan. Univ. Clements Library

Dorchester, *Sir* **Guy Carleton,** *1st baron,* **1724–1808.**

Papers, 1747–83.

10,434 items.

In Colonial Williamsburg Manuscript Collections.

Governor of Quebec and commander-in-chief of the British Army in America. Correspondence, orderly books, accounts, regimental returns, lists, payrolls, pay warrants, and other official documents of the British Headquarters in America under Carleton during the American Revolution. Chiefly Carleton's correspondence, but also includes copies of letters sent and received by previous commanders-in-chief; 69 letters by George Washington containing material on the New York campaign around Albany and Saratoga, military reports on the exchange of prisoners, and the announced sentence of Major John André, convicted as a spy; 86 letters from Lord Cornwallis pertaining to the Battle at Yorktown; many intercepted letters of American generals, which fell into the possession of British headquarters; papers relating to the surrender of Gen. Burgoyne at Saratoga; documents of Comte d'Estaing, Lafayette, Rochambeau, and others, portraying the French side of the American Revolution; and information on the Loyalists. Other correspondents include Jeffrey Lord Amherst, Benedict Arnold, Andrew Barkley, Lord Barrington, John Burgoyne, John Campbell, William Franklin, Horatio Gates, Lord George Germain, Nathanael Greene, John Hancock, William Heath, Charles Lee, Henry Lee, Benjamin Lincoln, Neil McLean, Gouverneur Morris, Lord North, William Phillips, Israel Putnam, Philip Schuyler, the Earl of Shelburne, Thomas Stirling, Banastre Tarleton, and James Wright.

Calendar published by British Historical Manuscripts Commission in Report on American manuscripts in the Royal Institution of Great Britain, edited by Benjamin Franklin Stevens and Henry S. Brown (1904–9)

Gift of John D. Rockefeller, Jr.

1. U. S.—Hist.—Revolution—Sources. 2. U. S.—Hist.—Revolution—British forces. I. Washington, George, Pres. U. S., 1732–1799. II. Cornwallis, Charles Cornwallis, 1st marquis, 1738–1805.

MS 60–587

Colonial Williamsburg

Wright, Wilbur, 1867–1912.

Papers of Wilbur and Orville Wright, 1881–1954.

43 ft. (ca. 30,400 items) and 2 reels of microfilm (negative)

In Library of Congress, Manuscript Division.

In part, photocopies (positive)

Airplane inventors. Correspondence, diaries, notebooks, business accounts, legal papers, minutes, reports, half-tones and other illustrative matter, photos., photographic plates, and printed matter. The notebooks contain scientific and meteorological observations made at the time of the Kitty Hawk experiments and other flights. Includes family correspondence, inventors' letters (a significant group being those of Octave Chanute), copies of minutes of the National Advisory Committee for Aeronautics, and related papers. The MS. and galley proofs of The Wright brothers, by Fred C. Kelly (1943) contain annotations by Orville Wright. Correspondents include Henry H. Arnold, Cyril Clemens, Glenn H. Curtiss, Hauptmann Hildebrandt, Charles F. Kettering, Charles S. Rolls, Franklin D. Roosevelt, Igor Sikorsky, and Lindsay C. Warren.

Unpublished finding aid in the library. Also described in the Library's Quarterly journal of current acquisitions, v. 7, no. 4 (Aug. 1950) p. 22–34. Much of the collection (1899–1948) is published in The papers of Wilbur and Orville Wright, including the Chanute-Wright letters and other papers of Octave Chanute, edited by Marvin W. McFarland. 1953.

Open to investigators under restrictions accepted by the library.

Information on literary rights available in the library.

Bequest of Orville Wright, 1949; gifts from other sources, 1949–50.

1. Aeronautics. 2. Air pilots — Correspondence, reminiscences, etc. I. Wright, Orville, 1871–1948. II. Chanute, Octave, 1832–1910. III. Kelly, Fred Charters, 1882– The Wright brothers. IV. U. S. National Advisory Committee for Aeronautics.

MS 60–588

Jen[illegible] Allen, 1818–1875.

Papers, 1850–75.

20 ft.

In Library of Congress, Manuscript Division.

Jurist and legislator. Correspondence, journals, ledgers, diaries, account books, patent papers, legal briefs and related papers, law library catalog, and photos. The papers deal with Jenckes' career from his days as a student at Brown University until his death, embracing his extensive law practice in the patent field, his services to Rhode Island as legislator, adjutant general, and secretary to the 1842 Constitutional Convention and to the Governor's council, and his four terms in the U. S. House of Representatives. Particular detail is found for the Congressional period, during which Jenckes was a pioneer in the civil service reform movement and a leader in the revision of the bankruptcy, patent, and copyright laws. A set of papers deals with the Crédit mobilier fraud prosecution, and others with patent cases, including the Corliss steam engine and Goodyear rubber controversies, and suits concerning ventilating and refrigerating patents. Individual correspondents include Benjamin Vaughan Abbott, Charles Adams, Henry B. Anthony, Hugh Burgess, Alexis Caswell, Horace H. Day, Ezra D. Fogg, George Gifford, D. Benton Hammond, Alexander Hay, Julius E. Hilgard, Charles R. Ingersoll, David Lyman, Dennis F. Murphy, Francis C. Nye, James H. Parsons, William Sprague, Henry E. Wallace, Augustus Woodbury, Charles C. Van Zandt, and others.

Indexed in part.

Unpublished finding aid in the library. Also described in the Library's Quarterly journal of current acquisitions, v. 7, no. 3 (May 1950) p. 27.

Gift of Thomas A. Jenckes (grandson), 1949.

1. Rhode Island—Pol. & govt.—1775–1865. 2. U. S.—Pol. & govt.—19th cent. 3. Crédit mobilier of America. 4. Lawyers—U. S.—Correspondence, reminiscences, etc. 5. Civil service reform.

MS 60–589

Hughes, Charles Evans, 1862–1948.

Papers, ca. 1876–1930.

101 ft.

In Library of Congress, Manuscript Division.

In part, microfilm.

Statesman and jurist. Correspondence, clippings, financial papers, memorabilia, memoranda, minutes, pamphlets, periodicals, press releases, reports, scrapbooks, speeches, statistical data, and treaty drafts relating to Hughes' career as Governor of New York, U. S. Secretary of State, member of the Permanent Court of Arbitration at The Hague, judge of the Permanent Court of International Justice, Associate Justice and later Chief Justice of the U. S. Supreme Court. Includes draft and galley proofs of the biography by Merlo J. Pusey, memoranda of events in Hughes' career compiled by Henry C. Beerits, and autobiographical material entitled Biographical notes.

Unpublished finding aid in the library. Also described in the Library's Quarterly journal of current acquisitions, v. 11, no. 1 (Nov. 1953) p. 1–6.

Open to investigators under restrictions accepted by the library.

Gift of the Hughes estate, members of the family, Merlo J. Pusey, and others.

1. New York (State)—Pol. & govt.—1865–1950. 2. U. S.—Pol. & govt.—1901–1933. 3. U. S. Supreme Court. I. Pusey, Merlo John, 1902– Charles Evans Hughes. II. Beerits, Henry C.

MS 60–590

Hennepin County Medical Society.

Records, 1902–21.

1 box.

In Minnesota Historical Society collections.

Membership lists, programs, and a history of the society.

MS 60–591

Minn. Hist. Soc.

Schall, Thomas David, 1878–1935.

Papers, 1884–1932.

8 boxes.

In Minnesota Historical Society collections.

Lawyer, U. S. Representative, and Senator from Minnesota. Correspondence (1886–1915) relating to the law practice of Schall and Freeman P. Lane in Minneapolis, and speeches by Schall.

1. Lawyers—Minnesota—Correspondence, reminiscences, etc.

MS 60–592

Minn. Hist. Soc.

St. Paul. First Methodist Church.

Records, 1857–1932.

8 v. and 1 box.

In Minnesota Historical Society collections.

Records of the Sunday School, and of marriages, baptisms, and membership, minutes of quarterly conferences, and miscellany, giving details of the formation of the church as the Market Street Station of the Methodist Conference, Methodist Episcopal Church; of its reorganization in 1872 as the First Methodist Church; of the formation of the People's Church and the Jackson Street Methodist Church; and of a meeting of the Hamline University Board of Trustees.

1. Registers of births, etc.—St. Paul. 2. St. Paul. Central Park Methodist Church. I. St. Paul. First Methodist Church. Sunday School.

MS 60–593

Minn. Hist. Soc.