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 4929 (of which current sections 171 of Title 35 of the United States Code is derived), by Senate Bill No. 4647 of 1902 [hereinafter referred to as S. 4647]. S. 4647 was enacted by Congress as Chapter 783, on May 9, 1902, at 32 United States Statutes 193.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on S. 4647 of 1902 as it relates to Title 35, United States Code section 4929. 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.

S. 4647 (PRITCHARD-1902), CHAPTER 783:

1. Public Law 57-109
2. Excerpts regarding keywords related to S. 4647 from Part 5, 55th – 57th Congresses, 1897-1903, *CIS US Serial Set Index* as follows:
   a. Finding Lists,
   b. Subject Lists;
3. All available versions of S. 4647 (Pritchard-1902);
4. Excerpt regarding S. 4647 from the *Congressional Record Index*, *1st Session,* December 2, 1901 to July 1, 1902;
5. Excerpt regarding S. 4647 from the *Congressional Record*, 57th Congress as follows:
   a. Senate Debate, March 21, 1902, Vol. 35, Part 4,
   b. Senate Debate, April 15, 1902, Vol. 35, Part 4,
   c. Senate Debate, April 19, 1902, Vol. 35, Part 5,

d. House Debate, April 26, 1902, Vol. 35, Part 5,
e. Senate Debate, April 29, 1902, Vol. 35, Part 5,
f. Senate Debate, May 9, 1902, Vol. 35, Part 5;

6. Senate Report No. 1139, entitled "Amending Section 4929, Revised Statutes," prepared by the Committee on Patents, to accompany S. 4647, dated April 15, 1902;
7. Article by Harold Binney entitled, "Present Status of the Law Relating to Designs," *The American Lawyer*, Volume 10, No. 1, January, 1902.;
8. Article regarding S. 4647 entitled, "A New Revised Design Patent Law," *The Scientific American*, Volume 86, No. 21, May 24, 1902;
9. Biography of Senator Jeter Pritchard from the Biographical Directory of the United States Congress, available online at: bioguide.congress.gov.
10. Select United States Supreme Court documents from *Eaton v. Lewis,* heard October term, 1902, as follows:
    a. Brief for Petitioner,
    b. Report entitled "Patent Legislation in the Fifty-seventh Congress, First Session," prepared by The Patent Law Association of Washington,
    c. "The Proposed Amendment of the Design Statute, R. S. U.S., Section 4929," prepared by The Patent Law Association of Washington;

H.R. 12807 (REEVES-1902):

1. All available versions of H.R. 12807 (Reeves-1902);
2. Excerpt regarding H.R. 12807 from the *Congressional Record Index*, *1st Session,* December 2, 1901 to July 1, 1902;
3. Excerpt regarding H.R. 12807 from the *Congressional Record*, 57th Congress, April 18, 1902, Vol. 35, Part 5;
4. House Report No. 1661, entitled "Design Patents," prepared by Walter Reeves, from the Committee on Patents, to accompany H.R. 12807, dated April 18, 1902;
5. Biography of Representative Walter Reeves from the Biographical Directory of the United States Congress, available online at: bioguide.congress.gov.

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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THE

STATUTES AT LARGE

OF THE

UNITED STATES OF AMERICA,

FROM

DECEMBER, 1901, TO MARCH, 1903.

CONCURRENT RESOLUTIONS OF THE TWO HOUSES OF CONGRESS,

AND

RECENT TREATIES, CONVENTIONS, AND EXECUTIVE PROCLAMATIONS.

EDITED, PRINTED, AND PUBLISHED BY AUTHORITY OF CONGRESS,
UNDER THE DIRECTION OF THE SECRETARY OF STATE.

VOL. XXXII.—PART 1.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1903.

LEGISLATIVE INTENT SERVICE (800) 666-1917

SEC. 5. That the right to alter, amend, or repeal this Act is hereby expressly reserved. Amendment.

Approved, May 7, 1902.

CHAP. 782.—An Act Providing for the extension of the Loudon Park National Cemetery, near Baltimore, Maryland.

May 7, 1902.
[Public, No. 108.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to purchase such additional land as may be necessary for the extension of the Loudon Park National Cemetery, near Baltimore, Maryland, to provide burial for such soldiers, sailors, and marines as are by law entitled to interment in said cemetery; and to provide for the purchase of said land and for the necessary improvement of same the sum of fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Loudon Park National Cemetery, Baltimore, Md.
Appropriation for purchase of additional land.

Approved, May 7, 1902.

CHAP. 783.—An Act To amend section forty-nine hundred and twenty-nine of the Revised Statutes, relating to design patents.

May 9, 1902.
[Public, No. 109.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and twenty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

Patents for designs.
R. S., sec. 4929, p. 954, amended.

"SEC. 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country 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, the same as in cases of inventions or discoveries covered by section forty-eight hundred and eighty-six, obtain a patent therefor."

Issued for designs for any manufacture.

R. S., sec. 4886, p. 946.

Approved, May 9, 1902.

CHAP. 784.—An Act To make oleomargarine and other imitation dairy products subject to the laws of any State, or Territory or the District of Columbia into which they are transported, and to change the tax on oleomargarine, and to impose a tax, provide for the inspection, and regulate the manufacture and sale of certain dairy products, and to amend an Act entitled "An Act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August second, eighteen hundred and eighty-six.

May 9, 1902.
[Public, No. 110.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for

Oleomargarine.
Interstate imitation dairy products subject to State, etc., laws.

LEGISLATIVE INTENT SERVICE (800) 666-1917

CIS US SERIAL SET INDEX

PART V

55TH-57TH CONGRESSES

1897-1903

CIS Congressional Information Service, Inc. Washington, D.C.

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
525.	Memorial addresses on Alfred C. Harmer, Representative from Pennsylvania	106	4180
526.	Field operations of Division of Soils, 1900	107	4181
527.	Consular Reports, v. 66, May-Aug. 1901, nos. 248-251	67	4141
528.	Annual report of Commissioner of Labor, 1900; Wages in commercial countries, 2 vols.	108	4182
528.	Annual report of Commissioner of Labor, 1900; Wages in commercial countries, 2 vols.	109	4183
529.	Documentary history of Constitution, 1786-1870, 3 vols.	110	4184
529.	Documentary history of Constitution, 1786-1870, 3 vols.	111	4185
529.	Documentary history of Constitution, 1786-1870, 3 vols.	112	4186
530.	Water-supply papers 46; physical characteristics of Kern and Yuba Rivers, California	63	4137
531.	Water-supply papers 47; operations at river stations, 1900, pt. 1	63	4137
532.	Water-supply papers 48; operations at river stations, 1900, pt. 2	63	4137
533.	Water-supply papers 49; operations at river stations, 1900, pt. 3	63	4137
534.	Water-supply papers 50; operations at river stations, 1900, pt. 4	63	4137
535.	Geol. Surv. bull. 177; Catalogue of publications	113	4187
536.	Geol. Surv. bull. 178; El Paso tin deposits	113	4187
537.	Report of Smithsonian Institution, 1900, pt. 1	114	4188
537.	Report of Smithsonian Institution, 1900, pt. 2; National Museum	115	4189
538.	Digest of decisions relating to Indian affairs, by Kenneth S. Murchison, vol. 1: Judicial	116	4190
539.	Annual report of Bureau of Ethnology, 1898, pt. 1: Report of Director, and paper on Cherokee myths	118	4192
539.	Annual report of Bureau of Ethnology, 1898, pt. 2: Papers on Indians of North and Central America	119	4193
540.	Fish Commission bulletin, v. 20, 1900, 2 pts.	120	4194
540.	Fish Commission bulletin, v. 20, 1900, 2 pts.	121	4195
541.	Report of Fish Commission, 1900	122	4196
542.	Naval War Records, series 1, vol. 12, pt. 1: North Atlantic blockading squadron, Feb.-Aug. 1865	87	4161
542.	Naval War Records, series 1, vol. 12, pt. 2: South Atlantic blockading squadron, Oct. 1861-May 1862, p. 193	87	4161
543.	Index to Consular Reports, v. 55-63, Sept. 1897-Aug. 1900	69	4143
544.	Exports declared for United States, 1900, Oct.-Dec.	70	4144
545.	Military laws of United States, by G. B. Davis, 4th edition	123	4197
546.	Geology and mineral resources of portion of Copper River district, Alaska	124	4198
547.	Reconnaissances in Cape Nome and Norton Bay regions of Alaska in 1900	124	4198
548.	Annual report of American Historical Association, 1900, vol. 1	125	4199
548.	Annual report of American Historical Association, 1900, vol. 2; Report of Public Archives Commission	126	4200
549.	Annual report of Bureau of Animal industry, 1900	127	4201
550.	Exports declared for United States, 1900	70	4144
551.	Digest of international law, by John B. Moore, vol. 1: International law; definition of States; recognition of States; sovereignty; territorial limits of national jurisdiction	128	4202
	Digest of international law, by John B. Moore, vol. 2: Legal effects of national jurisdiction; exemptions from territorial jurisdiction; high seas	129	4203
551.	Digest of international law, by John B. Moore, vol. 3: Interoceanic communications; nationality; domicil; passports	130	4204
	Digest of international law, by John B. Moore, vol. 4: Aliens; extradition; intercourse of States	131	4205
	Digest of international law, by John B. Moore, vol. 5: Consuls; treaties; conventional and diplomatic relations	132	4206 Pt. 1
	Digest of international law, by John B. Moore, vol. 6: Intervention; Monroe doctrine; claims	132	4206 Pt. 2
	Digest of international law, by John B. Moore, vol. 7: Modes of redress; war; maritime war; prize courts; contraband; blockade; neutrality	132	4206 Pt. 3
	Digest of international law, by John B. Moore, vol. 8: Index	132	4206 Pt. 4
552.	Centennial celebration of establishment of seat of govt. in D.C.	133	4207
553.	Water-supply papers 51; operations at river stations, 1900, pt. 5	63	4137
554.	Water-supply papers 52; operations at river stations, 1900, pt. 6	63	4137
555.	Annual report of Civil Service Commission, 1900	134	4208
556.	Consular Reports, v. 67, Sept.-Dec. 1901, nos. 252-255	68	4142
557.	Exports declared for United States, 1901, Jan.-Mar.	70	4144
558.	Rebellion Records, general index	135	4209
559.	Document catalogue, 56th Congress	136	4210
560.	Document index, 56th Congress, 2d session	137	4211

57th Congress, Special Session
Mar. 4 – 9, 1901

Senate Documents

No.		Vol.	Serial
1.	Privileges of officers in naval service promoted from ranks [bound with 1st session; at beginning of volume]	2	4220

57th Congress, 1st Session
Dec. 2, 1901 – July 1, 1902

Senate Reports

No.		Vol.	Serial
1.	Interoceanic canals	1	4256
2.	To amend act to establish code of law for D.C.	2	4257
3.	Digest of pure food and drug laws of U.S. and foreign countries	2	4257
4.	Increase of pension for Daniel C. Knowles	2	4257
5.	Increase of pension for Charles L. Sweatt	2	4257
6.	Increase of pension for John Chandler	2	4257
7.	Pension for Joseph W. Mulford	2	4257
8.	Increase of pension for Lucy M. Hill	2	4257
9.	Pension for Nellie Bartlett	2	4257
10.	Increase of pension for Elizabeth O. Gould	2	4257
11.	Increase of pension for Lucinda C. Scott	2	4257
12.	Pension for Mary E. W. Morgan	2	4257
13.	Increase of pension for Jane K. Hill	2	4257
14.	Increase of pension for Helen A. B. Du Barry	2	4257
15.	Pension for Esther F. Moody	2	4257
16.	Increase of pension for Benjamin G. Sargent	2	4257

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
17.	Increase of pension for Mrs. A. Curtis Steever Carpenter	2	4257
18.	Increase of pension for Frances M. Reilly	2	4257
19.	Increase of pension for John Ferguson	2	4257
20.	Increase of pension for Richard N. Blodgett	2	4257
21.	Increase of pension for Eunice P. Detweiler	2	4257
22.	Pension for Mary E. Davis	2	4257
23.	Increase of pension for Louisa A. Crosby	2	4257
24.	Increase of pension for Joseph H. Barnum	2	4257
25.	Increase of pension for Helen F. M. Edwards	2	4257
26.	Pension for Adela S. Webster	2	4257
27.	Pension for Cynthia M. Record	2	4257
28.	Repayment to Mexico of Weil and La Abra awards	2	4257
29.	Pension for Catherine Conroy	2	4257
30.	Increase of pension for Marcia M. Merritt	2	4257
31.	Increase of pension for Dennis Hannifin	2	4257
32.	Increase of pension for Harrison T. De Long	2	4257
33.	Pension for Mary J. Kramer	2	4257
34.	Pension for John M. Core	2	4257
35.	Pension for Thomas E. Clark	2	4257
36.	Increase of pension for Mahale Litton	2	4257
37.	Increase of pension for Charles R. Bridgman	2	4257
38.	Pension for Mary A. Lamb	2	4257
39.	Increase of pension for Michael Dillon	2	4257
40.	Increase of pension for Lewis C. Killam	2	4257
41.	Increase of pension for George Fowler	2	4257
42.	Pension for Kate Pearce	2	4257
43.	Pension for Jane Taylor	2	4257
44.	Pension for Theophilus Goodwin	2	4257
45.	Increase of pension for David Pollock	2	4257
46.	Pension for Laura B. Wear	2	4257
47.	Increase of pension for Daniel T. Rose	2	4257
48.	Increase of pension for Jonas M. McCoy	2	4257
49.	Pension for Sarah McCord	2	4257
50.	Increase of pension for Mary Taylor	2	4257
51.	Increase of pension for Charles F. Burger	2	4257
52.	Pension for Catharine Moore	2	4257
53.	Pension for Lucinda W. Cavender	2	4257
54.	Increase of pension for Henriette Salomon	2	4257
55.	Relief of representatives of Napoleon B. Giddings	2	4257
56.	Relief of George A. Orr	2	4257
57.	Relief of Joseph W. Carmack	2	4257
58.	Relief of John S. Neet, Jr.	2	4257
59.	Relief of Ezra S. Havens	2	4257
60.	Relief of widow of James E. Gillingwaters	2	4257
61.	Relief of James W. Howell	2	4257
62.	Relief of Richard C. Silence	2	4257
63.	Military record of Perry J. Knoles	2	4257
64.	Military record of James M. Crabtree	2	4257
65.	Military record of John R. Leonard	2	4257
66.	Relief of M. E. Saville	2	4257
67.	Relief of Charles Stierlin	2	4257
68.	Military record of Ira J. Paxton	2	4257
69.	Military record of Albert S. Austin	2	4257
70.	Additional lighthouse and fog-signal stations on coast of Alaska	2	4257
71.	Keeper's dwelling at light station, Cape Blanco, Oregon	2	4257
72.	Light-ship on Southeast Shoal, Point au Pelee Passage, Lake Erie	2	4257
73.	Storm-warning station at South Manitou Island, Lake Michigan	2	4257
74.	Light-keeper's dwelling at Grosse Isle, north channel range, Detroit R.	2	4257
75.	Light-keeper's dwelling at Grosse Isle, south channel range, Detroit R.	2	4257
76.	Lighthouse at Semiahmoo, Wash.	2	4257
77.	Light and fog-signal on Burrows Island, Washington	2	4257
78.	Fog-signal at Battery Point, Wash.	2	4257
79.	Launch for customs service at Astoria, Oreg.	2	4257
80.	Reciprocal recognition of boiler-inspection certificates	2	4257
81.	Keepers' quarters at light station, Yaquina Head, Oregon	2	4257
82.	To establish commerce department	2	4257
83.	Increase of pension for Richard W. Musgrove	2	4257
84.	Increase of pension for Nathaniel Eaton	2	4257
85.	Increase of pension for Napoleon B. Perkins	2	4257
86.	Pension for Caroline N. Allen	2	4257
87.	Revenue cutter at Philadelphia, Pa.	2	4257
88.	To construct road to national cemetery at Dover, Tenn.	2	4257
89.	Relief of certain Confederates who surrendered at close of war	2	4257
90.	To transfer census records in Interior Department to Census Office	2	4257
91.	Charges against H. O. S. Heistand and G. D. Meiklejohn to control manufacture of hemp in Philippines	2	4257
92.	Increase of pension for Loren S. Richardson	2	4257
93.	Increase of pension for Josefa T. Philip	2	4257
94.	Increase of pension for Henry Gifford Dunbar	2	4257
95.	Increase of pension for Wellington D. Curtis	2	4257
96.	Increase of pension for Tempy French	2	4257
97.	Pension for Nellie M. Emery	2	4257
98.	Increase of pension for George Farne	2	4257
99.	Increase of pension for Clara A. Penrose	2	4257
100.	Increase of pension for Henry Fisher	2	4257
101.	Increase of pension for Fred F. B. Coffin	2	4257
102.	Increase of pension for Catharine F. Edmunds	2	4257
103.	Granting to North Dakota land for school of forestry at Bottineau	2	4257
104.	Increase of pension for Enoch A. White	2	4257
105.	Pension for Charles Weitfle	2	4257
106.	Increase of pension for Oscar Reed	2	4257
107.	Increase of pension for Cornelius Springer	2	4257
108.	Increase of pension for Samuel Hymer	2	4257
109.	Pension for Margaret J. Verbiskey	2	4257
110.	Addition to public building at Dallas, Tex.	2	4257
111.	Public building at Superior, Wis.	2	4257
112.	Public building at Hammond, Ind.	2	4257
113.	Public building at Nashua, N.H.	2	4257
114.	Increase of pension for Susan F. Connit	2	4257
115.	Addition to public building at Portland, Oreg.	2	4257
116.	Honorable discharge for Charles H. Hawley	2	4257
117.	To place William T. Godwin on retired list of Army	2	4257
118.	Relief of widow of Nathaniel H. McLean	2	4257
119.	Public building at Huntington, W.Va.	2	4257
120.	To remove charge of desertion from John Glass	2	4257
121.	Monument at Naval Academy to Philip V. Lansdale and others who lost their lives in Samoa	2	4257
122.	Use by U.S. of patents invented by naval officers	2	4257
123.	Public building at Muncie, Ind.	2	4257
124.	Public building at Anderson, Ind.	2	4257
125.	Relief of Richard King	2	4257
126.	Relief of Francis S. Davidson	2	4257
127.	Relief of Edward Byrne	2	4257
128.	Relief of widow of Charles S. Tripler	2	4257
129.	Branch of National Soldiers' Home at Hot Springs, S.Dak.	2	4257
130.	Relief of William H. Hugo	2	4257
131.	Honorable discharge for John W. Tiffany	2	4257
132.	Relief of Daniel W. Light	2	4257
133.	American register for barkentine Hawaii	2	4257
134.	Pension for Matilda Armstrong	2	4257
135.	Pension for Rebecca Dobbins	2	4257
136.	Pension for Charlotte H. Race	2	4257
137.	Increase of pension for Caroline Mischler	2	4257
138.	Increase of pension for Etta Scott Mitchell	2	4257

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
139.	Pension for Nancy A. Dowell	2	4257
140.	Pension for Vincent de Frietas	2	4257
141.	Public building at Bluefield, W.Va.	2	4257
142.	To remove charge of desertion from Benjamin F. Burgess	2	4257
143.	Relief of John Emerson	2	4257
144.	Relief of George K. Bowen	2	4257
145.	Military record of H. A. White	2	4257
146.	Increase of pension for John McGrath	2	4257
147.	Pension for Catherine Meade	2	4257
148.	Increase of pension for Henry B. Schroeder	2	4257
149.	Increase of pension for Moses Smith	2	4257
150.	Increase of pension for Mary R. Miller	2	4257
151.	Increase of pension for George W. Black	2	4257
152.	Increase of pension for Elmer L. Stevens	2	4257
153.	Increase of pension for Elvira L. Wilkins	2	4257
154.	Pension for John E. Farrell	2	4257
155.	Increase of pension for Nannie S. White	2	4257
156.	Pension for Mary McLaughlin	2	4257
157.	Pension for Penelope E. Russ	2	4257
158.	Increase of pension for Annie A. Neary	2	4257
159.	Increase of pension for Etta Adair Anderson	2	4257
160.	Medals for survivors of U.S.S. Cumberland, Congress, and Minnesota, in battle with Confederate ram Merrimac	2	4257
161.	Public building at Wheeling, W.Va.	2	4257
162.	Increase of pension for Emma McLaughlin	2	4257
163.	Pension for George H. Morton	2	4257
164.	Increase of pension for Mary E. Pillow	2	4257
165.	National battlefield park at Fredericksburg, Va.	2	4257
166.	Improvement of park system of D.C.	3	4258
167.	Military record of Jasper McGhee	2	4257
168.	Military record of Otis B. Vanfleet	2	4257
169.	Relief of Gottlieb C. Rose	2	4257
170.	Honorable discharge for William B. Barnes	2	4257
171.	Relief of Lawrence H. Knapp	2	4257
172.	To promote efficiency of Revenue Cutter Service	2	4257
173.	Relief of widows of Joseph W. Etheridge and John M. Richardson	2	4257
174.	Execution in Philippines and Porto Rico of deeds for land in D.C.	2	4257
175.	Right of way to Clearwater Valley R.R. through Nez Perce Indian lands in Idaho	2	4257
176.	Pension for Emma R. Pawling	2	4257
177.	Increase of pension for Laura S. Picking	2	4257
178.	Increase of pension for Cornelia E. Wright	2	4257
179.	Issue of duplicate medals where originals have been lost	2	4257
180.	Relief of Leonard I. Brownson	2	4257
181.	To provide revenue for Philippine Islands. 2 pts.	2	4257
182.	Pension for Ida S. McKinley	2	4257
183.	Increase of pension for Martha A. Couch	2	4257
184.	Increase of pension for Horatio N. Francis	2	4257
185.	Increase of pension for Ziba S. Wood	2	4257
186.	Increase of pension for Mourse R. Adams	2	4257
187.	Pension for Thomas G. Foster	2	4257
188.	Increase of pension for Ella R. Graham	2	4257
189.	Light and fog-signal on Mile Rocks, San Francisco Bay	2	4257
190.	Light and fog-signal on Southampton Shoal, San Francisco Bay	2	4257
191.	Light and fog-signal on Carquinez Strait, California	2	4257
192.	Light-ship for Blunts Reef, California	2	4257
193.	Fog-signal at Fort Winfield Scott, Fort Point, California	2	4257
194.	Increase of pension for Israel A. Benner	2	4257
195.	Increase of pension for Frances Fuller Victor	2	4257
196.	Pension for Arthur I. Nicklin	2	4257
197.	Public building at Greeneville, Tenn.	2	4257
198.	Increase of pension for John W. Gregg	2	4257
199.	Increase of pension for Peter C. Monfort	2	4257
200.	To fix pay of district superintendents in Life-Saving Service	2	4257
201.	To readjust Foreign Mail Service, etc. 2 pts.	2	4257
202.	To increase limit of cost of post-office at Cleveland, Ohio	2	4257
203.	Public building at Evanston, Wyo.	2	4257
204.	Relief of Arthur R. Henderson	2	4257
205.	Relief of widow of Thomas Chambers	2	4257
206.	Appropriations for pensions, 1903	2	4257
207.	Pension for Jennie A. Kerr	2	4257
208.	Pension for Lura B. Rogers	2	4257
209.	Increase of pension for Noah F. Chafee	2	4257
210.	Increase of pension for Lewis W. Moore	2	4257
211.	Land for Wyoming State Soldiers' and Sailors' Home	2	4257
212.	Relief of bona fide settlers in forest reserves	2	4257
213.	Addition to public building at Hartford, Conn.	2	4257
214.	Guaranties on proposals for naval supplies	2	4257
215.	Addition to public building at Jacksonville, Fla.	2	4257
216.	Relief of L. A. Davis	2	4257
217.	Military record of William B. Thompson	2	4257
218.	Land for Idaho State Soldiers' and Sailors' Home	2	4257
219.	Reward for officers and crew of revenue cutter Bear for relief expedition to Point Barrow, Alaska	2	4257
220.	Statistics of trade between United States and its noncontiguous territory	2	4257
221.	Naco, Ariz., to be subport of entry	2	4257
222.	Additional funds for light and fog-signal at Browns Point, Washington	2	4257
223.	Light and fog-signal at Point Buchon, California	2	4257
224.	Claim of William Hardman	2	4257
225.	To remove charge of desertion from Elias B. Bell	2	4257
226.	Monument to Dorothea Lynde Dix at Hampden, Me.	2	4257
227.	Pedestal for statue of Henry W. Longfellow at Washington, D.C.	2	4257
228.	Increase of pension for Franklin B. Delany	2	4257
229.	Increase of pension for Thomas J. Stowers	2	4257
230.	Increase of pension for Hugh R. Richardson	2	4257
231.	Increase of pension for John A. Hazelton	2	4257
232.	Pension for Abbie M. Packard	2	4257
233.	Increase of pension for Jason Leighton	2	4257
234.	Increase of pension for Williamanna E. Lynde	2	4257
235.	Pension for Sara B. Andrews	2	4257
236.	Increase of pension for George W. Myers	2	4257
237.	Pension for Ella Bailey	2	4257
238.	To increase limit of cost of public building at Aberdeen, S.Dak.	2	4257
239.	Addition to public building at Springfield, Ill.	2	4257
240.	Increase of pension for Lucy W. Smith	2	4257
241.	Pensions for survivors of Indian wars	2	4257
242.	Increase of pension for Marie J. Smyth	2	4257
243.	To appoint and retire William B. Franklin as colonel	2	4257
244.	Public building at Natchez, Miss.	2	4257
245.	Duluth, Minn., to build car transfer over Duluth Canal, Minnesota	2	4257
246.	To return certain colors and Nordenfeldt gun to Harvard University	2	4257
247.	Relief of William H. Crawford	2	4257
248.	Relief of Robert Logan May	2	4257
249.	Relief of Jerome E. Morse	2	4257
250.	To appoint George H. Paul as warrant machinist in Navy	2	4257
251.	Relief of Patrick H. Philbin	2	4257
252.	To increase limit of cost of post-office at Butte, Mont.	2	4257
253.	To increase limit of cost of public building at Newport News, Va.	2	4257

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
254. Irrigation and reclamation of arid lands	2	4257
255. Addition to public building at Atlanta, Ga.	2	4257
256. Public building at Spokane, Wash.	2	4257
257. Public building at San Francisco, Cal.	2	4257
258. Increase of pension for Julius W. Clark	2	4257
259. To place Henry Biederbick and others on retired list of Army	2	4257
260. To legalize bridge over St. Lawrence River near Hogansburg, N.Y.	2	4257
261. Increase of pension for Marie U. Nordstrom	2	4257
262. Commission to estimate damage to oyster beds in Raritan Bay, New York and New Jersey	2	4257
263. Post-office building at New York	2	4257
264. Public building at Tacoma, Wash.	2	4257
265. To ratify agreement with Indians of Lower Brule Reservation, S.Dak.	2	4257
266. Typhoid fever cases in D.C. to be reported to Health Department	2	4257
267. American register for barge Admiral Tromp	2	4257
268. To receive arrearages of taxes in D.C. at 6 per cent	2	4257
269. To regulate collection of taxes in D.C.	2	4257
270. Relief of taxpayers from assessments for extension of Rhode Island ave., etc., D.C.	2	4257
271. Service of warrants issued by court commissioners in Minnesota	2	4257
272. Missouri and Meramec Water Company to take water from Missouri River	2	4257
273. Increase of pension for Helen A. B. Du Barry	2	4257
274. Increase of pension for Robert M. Scott	2	4257
275. Increase of pension for James Smith	2	4257
276. Increase of pension for Hiram S. Kingsley	2	4257
277. Method of procedure in courts of U.S. in western district of Missouri	2	4257
278. Increase of pension for Elisha B. Taylor	2	4257
279. Increase of pension for Isaiah Tufford	2	4257
280. Pension for Frances E. Stebbins	2	4257
281. Increase of pension for Cynthia A. McKenny	2	4257
282. Increase of pension for Samuel Briscoe	2	4257
283. Increase of pension for William H. H. Scott	2	4257
284. Increase of pension for Ann Demonbrun	2	4257
285. Pension for Mabel H. Lazear	2	4257
286. Increase of pension for Rhody Ann Bradshaw	2	4257
287. Increase of pension for Adelaide Worth Bagley	2	4257
288. Pension for Jennie A. McKinley	2	4257
289. Increase of pension for George B. Boyd	2	4257
290. Increase of pension for Michael Samelsberger	2	4257
291. Pension for Ann Eliza Trout	2	4257
292. Pension for Abby Clark McNett	2	4257
293. Pension for Alexander Beachboard	2	4257
294. Pension for Annie D. Taggart	2	4257
295. Pension for Martha R. Osbourn	2	4257
296. Increase of pension for John B. Wilcox	2	4257
297. Increase of pension for Jeremiah Evans	2	4257
298. Increase of pension for Henry S. Comer	2	4257
299. Increase of pension for David Cupps	2	4257
300. Increase of pension for Francis M. Thompson	2	4257
301. Increase of pension for Thomas H. McConnaughey	2	4257
302. Increase of pension for Ambrose Burton	2	4257
303. Increase of pension for Virginia Terrill	2	4257
304. Pension for Anna J. Thomas	2	4257
305. Increase of pension for David Petee	2	4257
306. Increase of pension for Marshall Bachelder	2	4257
307. Increase of pension for Maria Louisa Michie	2	4257
308. Increase of pension for Jacob Barton	2	4257
309. Increase of pension for Joseph A. Nunez	2	4257
310. Increase of pension for Frank J. Clark	2	4257
311. Pension for Oliver Gisborne	2	4257
312. Pension for Simeon Partridge	2	4257
313. Increase of pension for Elizabeth K. Prescott	2	4257
314. Increase of pension for Annie McElheney	2	4257
315. Increase of pension for Joseph M. Clough	2	4257
316. Increase of pension for Charles E. Bachelder	2	4257
317. Increase of pension for Levi Cross	2	4257
318. Increase of pension for Mary F. Hooper	2	4257
319. Pension for Helen M. Evans	2	4257
320. Pension for Catherine Pflueger	2	4257
321. Pension for Mary Tripp	2	4257
322. Increase of pension for Leighton J. Folsom	2	4257
323. Increase of pension for Susan M. Pardee	2	4257
324. Increase of pension for Ida R. Siegfried	2	4257
325. Increase of pension for Jedediah S. Vallet	2	4257
326. Increase of pension for David A. Ireland	2	4257
327. Increase of pension for Cyrus Odell	2	4257
328. Increase of pension for George W. McClure	2	4257
329. Additional judges for Supreme Court of Oklahoma	2	4257
330. Appropriations to supply urgent deficiencies	2	4257
331. Increase of pension for Alice De K. Shattuck	2	4257
332. Real estate for Protestant Episcopal diocese of Washington, D.C.	2	4257
333. Monument to mark site of Fort Phil Kearny Massacre	2	4257
334. To remove charge of desertion from David A. Lane	2	4257
335. Military record of Talton T. Davis	4	4259
336. Washington and Oregon Ry. to bridge Columbia River	4	4259
337. To increase limit of cost of public building at Cumberland, Md.	4	4259
338. To buy court-house at Winston-Salem, N.C., from Forsyth County	4	4259
339. National forest reserve in southern Appalachian Mountains	4	4259
340. Relief of Mille Lac Chippewa Indians of Minnesota	4	4259
341. To pay Wyoming for care of Yellowstone Park, 1884-86	4	4259
342. Relief of Albert C. Brown	4	4259
343. Relief of owners of British ship Foscolia	4	4259
344. Relief of exr. of Samuel Rhea and admr. of Joseph R. Anderson	4	4259
345. Relief of Portland Company, Portland, Me.	4	4259
346. To pay Nevada Indian war claims of 1860	4	4259
347. Relief of Robert D. McAfee and John Chiatovich	4	4259
348. Relief of H. B. Matteosian	4	4259
349. Relief of William D. Rutan	4	4259
350. Land for Washington State Soldiers' and Sailors' Home	4	4259
351. To refer claim of Joseph W. Parish to Secretary of Treasury	4	4259
352. Relief of Flora A. Darling	4	4259
353. Increase of pension for Andrew J. Freeman	4	4259
354. To remove charge of desertion from Stephen A. Toops	4	4259
355. Relief of John W. Gummo	4	4259
356. Addition to public building at Nashville, Tenn.	4	4259
357. Relief of widow of Daniel Fulford	4	4259
358. Relief of Harlow L. Street	4	4259
359. Eldorado and Bastrop Ry. to bridge Ouachita River, Arkansas	4	4259
360. Relief of heirs of W. T. Scott, and William Umdenstock	4	4259
361. Relief of Richmond College, Richmond, Va.	4	4259
362. Relief of widow of Marshall McDonald, and Stephen C. Brown	4	4259
363. Public building at Reno, Nev.	4	4259
364. To change office hours in office of D.C. gas inspector	4	4259
365. To extend 5th street northwest, Takoma, D.C.	4	4259
366. To extend Elm, Wilson, and 6th streets, D.C.	4	4259
367. Public building at Grand Forks, N.Dak.	4	4259

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
368. Apportionment of assessments for special improvements in D.C.	4	4259
369. To confirm title to lot in D.C. to Johanna C. Block	4	4259
370. Relief of George W. King	4	4259
371. Relief of estate of William B. Todd	4	4259
372. To redeem certificates of Board of Audit of D.C.	4	4259
373. Increase of salaries of justices of courts of D.C.	4	4259
374. To amend laws relating to Police Court of D.C.	4	4259
375. To incorporate Eastern Star Home for D.C.	4	4259
376. Pension for Julia Maher	4	4259
377. Increase of pension for Mary C. Newcomb	4	4259
378. Pension for Katherine R. A. Ogden	4	4259
379. Increase of pension for Emil Frank	4	4259
380. Increase of pension for Lawrentus Lane	4	4259
381. Increase of pension for Heber C. Griffin	4	4259
382. Increase of pension for Jane E. Tompkins	4	4259
383. Increase of pension for Sybil F. Hall	4	4259
384. Increase of pension for Franklin Taylor	4	4259
385. Increase of pension for Albert D. Scovell	4	4259
386. Pension for Gilbert P. Howe	4	4259
387. Increase of pension for Elizabeth Floyd Sicard	4	4259
388. Increase of pension for George E. Houghton	4	4259
389. To increase efficiency of permanent military establishment	4	4259
390. Relief of George W. Graham	4	4259
391. Adjudication of claims of J. F. Bailey and Co., etc., by Court of Claims	4	4259
392. Increase of pension for Uriah S. Karmany	4	4259
393. Increase of pension for James D. Woodward	4	4259
394. Increase of pension for Sidney Leland	4	4259
395. Increase of pension for Kate Virginia Dewey Cushing	4	4259
396. Increase of pension for John W. Burnham	4	4259
397. Relief of heirs of Aaron Van Camp and Virginius P. Chapin	4	4259
398. Relief of admr. of George Cowles	4	4259
399. Public building at Deadwood, S.Dak.	4	4259
400. Increase of pension for George W. Thompson	4	4259
401. Increase of pension for Martin V. Hathaway	4	4259
402. Increase of pension for Andrew Mulholland	4	4259
403. Increase of pension for George Patterson	4	4259
404. Increase of pension for Martha V. Keenan	4	4259
405. Increase of pension for James Willard	4	4259
406. Increase of pension for John McGrath	4	4259
407. Increase of pension for Minnie E. King	4	4259
408. Increase of pension for Emma Sophia Harper Cilley	4	4259
409. Increase of pension for Hiram H. Kingsbury	4	4259
410. Pensionable status of ex-Confederates in Union Army or Navy	4	4259
411. Pension for Helen L. Pepper	4	4259
412. Increase of pension for William S. Derby	4	4259
413. Increase of pension for Peter C. Cleek	4	4259
414. Increase of pension for George M. Emery	4	4259
415. Increase of pension for Ida C. Emery	4	4259
416. Pension for William P. Arble	4	4259
417. Increase of pension for Elizabeth Kroger	4	4259
418. Increase of pension for Andrew H. Gifford	4	4259
419. Increase of pension for Thomas V. Stran	4	4259
420. Increase of pension for Lavalette D. Dickey	4	4259
421. Increase of pension for Jennie C. Ruckle	4	4259
422. Increase of pension for Charles N. Lee	4	4259
423. Increase of pension for Mary A. Van Wormer	4	4259
424. Increase of pension for John Rapple	4	4259
425. Increase of pension for Theodore Lane	4	4259
426. Increase of pension for John C. Morrison	4	4259
427. Public building at Greenbay, Wis.	4	4259
428. To create permanent Census Office	4	4259
429. Increase of pension for Mary T. Bruce	4	4259
430. Increase of pension for Pauline Lowe Murphy	4	4259
431. Increase of pension for Kate H. Clements	4	4259
432. Increase of pension for John Peterson	4	4259
433. Increase of pension for Joseph Church	4	4259
434. Increase of pension for Gustav Schwartz	4	4259
435. Increase of pension for Joseph R. Martin	4	4259
436. Increase of pension for Edward B. Scott	4	4259
437. Enforcement of act to provide seats for women employees in D.C.	4	4259
438. Relief of Charles Hurrle	4	4259
439. To appoint Allen V. Reed as rear-admiral on retired list	4	4259
440. Increase of pension for soldiers of Mexican War	4	4259
441. Increase of pension for Oliver P. Goodwin	4	4259
442. To restore James G. Field to active list of Navy	4	4259
443. To appoint Charles A. Wilson as boatswain in Navy	4	4259
444. To place Archibald K. Eddowes on retired list as chief engineer	4	4259
445. To place P. J. McMahon on retired list as chief engineer	4	4259
446. Increase of pension for Elizabeth A. Shaw	4	4259
447. To confirm title to indemnity school lands in Nebraska	4	4259
448. To remove charge of desertion from Thomas Blackburn	4	4259
449. To authorize use of depositions before naval courts	4	4259
450. Convening of general courts-martial at remote naval stations	4	4259
451. Public building at Ogden, Utah	4	4259
452. To regulate taking of proofs and filings in public lands cases	4	4259
453. Relief of Alphonso M. Potvin	4	4259
454. Relief of Jeronemus S. Underhill	4	4259
455. To pay claims of Magnolia Fire and Marine Insurance Co., etc.	4	4259
456. Relief of representatives of Chauncey M. Lockwood	4	4259
457. Public building at Durham, N.C.	4	4259
458. Relief of admr. of B. H. Sowder	4	4259
459. Relief of Larrabee and Allen	4	4259
460. To ratify Arizona's appropriation for display at St. Louis exposition	4	4259
461. Increase of pension for Joseph W. Burch	4	4259
462. Military record of William T. Rominger	4	4259
463. Relief of Leonard L. Dietrick	4	4259
464. Relief of estate of Charles M. Roberts	4	4259
465. Additional judge in northern district of Illinois	4	4259
466. Relief of estate of Eli Ayres	4	4259
467. Right of way to Enid and Anadarko Railway through Oklahoma and Indian Territory	4	4259
468. Relief of Salvador Costa	4	4259
469. Relief of Warner's Ranch and other dispossessed Mission Indians of Cal.	4	4259
470. Road from Pensacola, Fla., to Barrancas national cemetery	4	4259
471. Increase of pension for Warren B. Nudd	4	4259
472. To appoint and retire David M. Gregg as captain	4	4259
473. Relief of widow and heirs of Samuel A. Muhleman	4	4259
474. Relief of David H. Lewis	4	4259
475. Relief of Lincoln W. Tibbetts	4	4259
476. Pension for Joshua H. Buckingham	4	4259
477. Increase of pension for Frederick E. Rogers	4	4259
478. Pension for Aaron M. Applegate	4	4259
479. Pension for Sarah O. Fields	4	4259
480. Increase of pension for Georgie Josephine Walcott	4	4259
481. Increase of pension for Leroy S. Smith	4	4259
482. Pension for Mary Sweeney	4	4259
483. Increase of pension for Penrose W. Reagan	4	4259
484. Pension for Nadine A. Turchin	4	4259

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
485.	Pension for Sarah Bowers	4	4259
486.	Increase of pension for Mary V. Walker	4	4259
487.	Transfer of library of State reports to Library of Congress	4	4259
488.	Increase of pension for Mary Wolcott Kilburn	4	4259
489.	Public building at New Orleans, La.	4	4259
490.	Increase of pension for William Eugas	4	4259
491.	Increase of pension for Adelaide G. Hatch	4	4259
492.	Increase of pension for Frances Gurley Elderkin	4	4259
493.	Omnibus claims act; list of claims by States; war claims and findings of Court of Claims	4	4259
494.	Increase of pension for Torgus Haraldson	4	4259
495.	Pension for India Stewart	4	4259
496.	Increase of pension for William Hoag	4	4259
497.	Increase of pension for Margaret Dunn	4	4259
498.	Relief of L. A. Noyes	4	4259
499.	Reorganization of consular service	4	4259
500.	Lights to mark Broad Sound Channel in Boston Harbor	4	4259
501.	Light and fog-signal at Crips Point, Lake Superior, Michigan	4	4259
502.	Military record of Gideon Howell	4	4259
503.	To forbid building of pound-nets, weirs, or fish traps in Columbia River	4	4259
504.	Lighthouse at mouth of Oyster Bayou, La.	4	4259
505.	Lighthouse on Bluff Shoal, Pamlico Sound, North Carolina	4	4259
506.	To remove charge of desertion from Charles J. Clark	4	4259
507.	Increase of pension for Louise Ward	4	4259
508.	Lighthouse at Pollock Rip Shoals, Massachusetts	4	4259
509.	Increase of pension for Wright H. Auchmoody	4	4259
510.	To confirm port of entry at Greatfalls, Mont.	4	4259
511.	Relief of Lindley C. Kent and Joseph Jenkins	4	4259
512.	Relief of Rasmussen and Strehlow	4	4259
513.	Military record of Peter Connell	4	4259
514.	Lighthouse keeper's dwelling at Calumet Harbor, Ill.	4	4259
515.	Life-saving station at Bogue Inlet, N.C.	4	4259
516.	Steamboats to carry refined petroleum of 115 degrees F. fire test	4	4259
517.	To ratify agreement with Indians of Crow Reservation in Montana	4	4259
518.	Support of Permanent International Commission of Congresses of Navigation	4	4259
519.	To restore Henry D. Hall to Revenue Cutter Service	4	4259
520.	Removal of port of entry from Edenton to Elizabeth, N.C.	4	4259
521.	To allow Y.M.C.A. buildings on military reservations	4	4259
522.	Marine hospital at Savannah, Ga.	4	4259
523.	Water dock at Ship Island, Mississippi	4	4259
524.	Relief of Mathias A. Young	4	4259
525.	Use of funds of Crow Creek Reservation Indians in South Dakota	4	4259
526.	To quitclaim land in Newport, R.I., to Lorillard Spencer	4	4259
527.	Increase of pension for Frederick E. Rogers	4	4259
528.	Bridge over Missouri River at Parkville, Mo.	4	4259
529.	To legalize bridge over Little Tennessee River at Niles Ferry, Tennessee	4	4259
530.	To change tax, etc., on oleomargarine. 2 pts.	4	4259
531.	To alter plan for improvement of Everett Harbor, Wash.	4	4259
532.	To pay medical expenses during leave, War with Spain	4	4259
533.	Relief of George G. Martin	4	4259
534.	Relief of Edward Kershner	4	4259
535.	Depot for Revenue Cutter Service at Baltimore, Md.	4	4259
536.	Increase of pension for Samuel H. Melcher	4	4259
537.	Increase of pension for Charles C. Dudley	4	4259
538.	Increase of pension for Robert S. Woodbury	4	4259
539.	Pension for Silas H. Cronk	4	4259
540.	Increase of pension for Henry N. Tracy	4	4259
541.	Increase of pension for William H. Pierce	4	4259
542.	Increase of pension for William M. Strope	4	4259
543.	Increase of pension for Hiram Cronk	4	4259
544.	Increase of pension for Francis M. Gilman	4	4259
545.	Increase of pension for Thomas W. Robinson	4	4259
546.	Increase of pension for James A. Edmonds	4	4259
547.	Increase of pension for John Gagan	4	4259
548.	Increase of pension for Angeline Murray	4	4259
549.	Increase of pension for Aaron C. Badger	4	4259
550.	Removal of snow and ice from sidewalks of D.C.	4	4259
551.	Increase of pension for Eva H. McColley	4	4259
552.	Land office at Greatfalls, Mont.	4	4259
553.	To extend Le Droit avenue, D.C.	4	4259
554.	To fix age limit of patrons of billiard and pool tables in D.C.	4	4259
555.	Increase of pension for James D. Elderkin	4	4259
556.	Light and fog-signal at Mukilteo Point, Washington	4	4259
557.	To appoint superintendents of chimney sweeps in D.C.	4	4259
558.	Increase of pension for Carlin Hamlin	4	4259
559.	Increase of pension for Mahlon C. Moores	5	4260
560.	Increase of pension for James F. Charlesworth	5	4260
561.	Pension for Lizzie A. Campbell	5	4260
562.	Increase of pension for Francis Pearson	5	4260
563.	Increase of pension for Alfred Bolton	5	4260
564.	To extend Vermont avenue, D.C.	5	4260
565.	To widen Wisconsin avenue, D.C.	5	4260
566.	To extend Wyoming avenue, D.C.	5	4260
567.	Right of way to Omaha Northern Railway through Omaha and Winnebago reservations in Nebraska	5	4260
568.	Increase of pension for Benjamin Brittingham	5	4260
569.	Pension for Thomas Hall	5	4260
570.	Relief of officers and crew of U.S.S. Charleston	5	4260
571.	Increase of pension for James Morris	5	4260
572.	Increase of pension for Joel Metz	5	4260
573.	Bridge over Savannah River at Savannah, Ga.	5	4260
574.	To censure Benjamin R. Tillman and John L. McLaurin, Senators from South Carolina, for altercation in open session	5	4260
575.	Increase of pension for George H. Evans	5	4260
576.	Increase of pension for Thomas E. Sauls	5	4260
577.	Increase of pension for William R. Underwood	5	4260
578.	Pension for M. Callie Glover	5	4260
579.	Increase of pension for Alfred N. Mosier	5	4260
580.	Increase of pension for Edward Thompson	5	4260
581.	Increase of pension for Charles Allen	5	4260
582.	Fish-cultural station at Mammoth Spring, Ark.	5	4260
583.	To nominate R. M. G. Brown to be commander on retired list	5	4260
584.	Increase of pension for Emory S. Foster	5	4260
585.	Military record of William T. Pratt	5	4260
586.	Pension for Benjamin Wylie	5	4260
587.	Increase of pension for Elias Longman	5	4260
588.	Relief of J. V. Davis	5	4260
589.	Increase of pension for Benjamin F. H. Luce	5	4260
590.	Pension for Mary A. House	5	4260
591.	Pension for William Burns	5	4260
592.	Adjudication of pension claims by Court of Claims and Supreme Court	5	4260
593.	Increase of pension for Charles H. Baker	5	4260
594.	Increase of pension for George C. Leighton	5	4260
595.	Increase of pension for Joseph W. Grant	5	4260
596.	Increase of pension for Carleton A. Trundy	5	4260
597.	Increase of pension for Alice M. Ballou	5	4260
598.	Pension for Sarah Frances Taft	5	4260

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
599. Increase of pension for John G. Hutchinson	5	4260
600. Increase of pension for Leander Parmelee	5	4260
601. Increase of pension for Charles W. Foster	5	4260
602. Pension for Sarah A. Carter	5	4260
603. Increase of pension for Abner J. Pettee	5	4260
604. Increase of pension for Abbie George	5	4260
605. Increase of pension for Charles H. Stone	5	4260
606. Increase of pension for Mary Morgan	5	4260
607. Increase of pension for George Daniels	5	4260
608. Increase of pension for Annie E. Brown	5	4260
609. Increase of pension for William Wheeler	5	4260
610. Pension for Susan E. Clark	5	4260
611. Increase of pension for Kephart Wallace	5	4260
612. Increase of pension for James Harper	5	4260
613. Increase of pension for William Rheuby	5	4260
614. Increase of pension for Joseph K. Ashby	5	4260
615. Increase of pension for John S. Mitchell	5	4260
616. Pension for Sarah Anne Harris	5	4260
617. Increase of pension for John S. Hunter	5	4260
618. Increase of pension for Selden E. Whitcher	5	4260
619. Increase of pension for Samuel M. Howard	5	4260
620. Increase of pension for Eugene J. Oulman	5	4260
621. Increase of pension for Thomas Feneran	5	4260
622. Increase of pension for James Lehew	5	4260
623. Increase of pension for Peter Bittman	5	4260
624. Increase of pension for Jesse W. Bice	5	4260
625. Homestead commutation for town sites on Wichita and Kiowa lands, Oklahoma	5	4260
626. Increase of pension for Elizabeth Steele	5	4260
627. To grant lands in ceded portion of Fort Hall Reservation to Idaho	5	4260
628. Military record of James L. Proctor	5	4260
629. Increase of pension for Richard Fristoe	5	4260
630. Appropriations for legislative, executive, and judicial expenses, 1903	5	4260
631. For promotion of anatomical science and to prevent desecration of graves in District of Columbia	5	4260
632. Claim of John L. Smithmeyer and Paul J. Pelz, architects for Library of Congress building	5	4260
633. Relief of Hugh C. Preston	5	4260
634. Relief of Jean Louis Legare	5	4260
635. Pension for Narcissa Tait	5	4260
636. Pension for Adella C. Chandler	5	4260
637. Relief of widow of Joseph T. H. Hall	5	4260
638. To remove charge of desertion from Charles G. Brigham	5	4260
639. Increase of pension for Henry Burns	5	4260
640. Pension for Harry H. Sieg	5	4260
641. Pension for Charles A. Sheafe	5	4260
642. Relief of Emanuel Klauser	5	4260
643. To remove charge of desertion from Thomas Cordingly	5	4260
644. To promote Joseph M. Simms	5	4260
645. To remove charge of desertion from Frederick Schulte	5	4260
646. To diminish number of appraisers at Philadelphia and Boston	5	4260
647. Building of dam across Rainy River by Koochiching Company	5	4260
648. Relief of settlers unable to perfect entry of desert lands	5	4260
649. Increase of pension for Mary Louise Worden	5	4260
650. Pension for Sarah C. Nicklin	5	4260
651. Increase of pension for Richard A. Lawrence	5	4260
652. Increase of pension for Charles Armstrong	5	4260
653. To allow brigadier-generals to select captains as aids	5	4260
654. To remove charge of desertion from Jacob C. Breyfogle	5	4260
655. Military record of Jackson Brown	5	4260
656. Relief of William C. Dodge	5	4260
657. Appropriations for diplomatic and consular service, 1903	5	4260
658. International commission on Canadian water boundary	5	4260
659. To divide Nebraska into 2 judicial districts	5	4260
660. Relief of James M. Stradling	5	4260
661. To sell part of Fort Niobrara military reservation to Valentine, Nebr.	5	4260
662. To ratify agreement with Indians of Rosebud Reservation, South Dakota	5	4260
663. Increase of pension for Elmer J. Starkey	5	4260
664. Pension for Susan P. Crandall	5	4260
665. Relief of Matthew T. Lewis	5	4260
666. Pension for Lizzie C. Young	5	4260
667. To appoint Robert Platt to rank of commander	5	4260
668. Relief of Benjamin F. and Taylor Buckner	5	4260
669. Military record of Thomas O. Pritchard	5	4260
670. To place David S. Sink on muster rolls	5	4260
671. To correct muster of Benjamin F. Hasson	5	4260
672. Wearing of military badges at ceremonies	5	4260
673. To donate steering wheel of U.S.S. Minnesota to Minnesota Historical Soc.	5	4260
674. Relief of admrx. of Davis W. Bailey	5	4260
675. Pension for Edwin Roswell	5	4260
676. Increase of pension for James E. Dexter	5	4260
677. Increase of pension for George C. Tillman	5	4260
678. Increase of pension for John McDonald	5	4260
679. Increase of pension for Nathaniel C. Goodwin	5	4260
680. Pension for Augusta Turner	5	4260
681. Increase of pension for Henry M. Taylor	5	4260
682. Increase of pension for Frederick Shafer	5	4260
683. Increase of pension for John Barnard	5	4260
684. Increase of pension for Edward H. Armstrong	5	4260
685. Pension for J. J. Groff	5	4260
686. Increase of pension for Charles Ambrook	5	4260
687. Increase of pension for George H. Smith	5	4260
688. Pension for Eliza B. Gamble	5	4260
689. Pension for Andrew J. Felt	5	4260
690. Hawaiian silver coinage and silver certificates	5	4260
691. Pension for Annie S. Hummel	5	4260
692. Increase of pension for Charles H. Wickham	5	4260
693. Pension for Thomas Butler	5	4260
694. Pension for Samuel M. Graves	5	4260
695. Increase of pension for Herbert A. Boomhower	5	4260
696. Increase of pension for Daniel Schram	5	4260
697. Relief of Louis Weber	5	4260
698. Relief of Thomas Amory De Blois	5	4260
699. To promote A. B. Wyckoff on retired list of Navy	5	4260
700. Medals for officers and men of U.S.S. Kearsarge which sank Confederate vessel of war Alabama	5	4260
701. Pension for John Y. Corey	5	4260
702. Public building at Hastings, Nebr.	5	4260
703. Increase of pension for Albertine Schoenecker	5	4260
704. Increase of pension for Anderson Howard	5	4260
705. Public building at Colorado Springs, Colo.	5	4260
706. Right of way for railway through San Francisco Mts. forest reserve, Arizona	5	4260
707. Disposition of useless papers in Executive Departments	5	4260
708. Relief of Jacob L. Hanger	5	4260
709. To remove charge of desertion from Jacob Bowman	5	4260
710. Relief of Isaac P. Brown	5	4260
711. Additional lands for Utah University	5	4260
712. Public building at Laramie, Wyo.	5	4260
713. To ratify agreement with Indians of Devils Lake Reservation, North Dakota	5	4260
714. American register for steamship Manauense or Mexico	5	4260
715. Increase of pension for Charles C. Davis	5	4260
716. Increase of pension for James A. McKeehan	5	4260

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
717. Pension for Isabella Compton	5	4260
718. Pension for Mary E. Chapman	5	4260
719. Increase of pension for James Mantach	5	4260
720. Increase of pension for William J. Wallace	5	4260
721. Pension for Lue Emma McJunkin	5	4260
722. Pension for Malvina C. Stith	5	4260
723. Pension for Susan Terry	5	4260
724. Increase of pension for William M. Guy	5	4260
725. To amend act to regulate privies in D.C.	5	4260
726. To amend act to regulate privies in D.C., adverse report	5	4260
727. Execution in Philippines and Porto Rico of deeds for land in D.C.	5	4260
728. Pension for John S. Nelson	5	4260
729. Trespassing on Mount Rainier National Park, Washington	5	4260
730. Military record of Clifford R. Dickson	5	4260
731. American register for steamer Brooklyn	5	4260
732. To forbid insertion in bills of lading of London clause exempting shipping companies from liability for damages	5	4260
733. Increase of pension for John Vale	5	4260
734. Increase of pension for Frances K. Morrison	5	4260
735. Pension for Michael Tynan	5	4260
736. Increase of pension for Frederick M. Hahn	5	4260
737. Increase of pension for John B. Kurth	5	4260
738. Increase of pension for Jacob D. Caldwell	5	4260
739. Increase of pension for John Garner	5	4260
740. Pension for Christina Daniels	5	4260
741. Pension for Benjamin F. Draper	5	4260
742. Increase of pension for James W. Humphrey	5	4260
743. Pension for Kazier Washburn	5	4260
744. Increase of pension for Israel P. Covey	5	4260
745. Military record of Jacob Cooper	5	4260
746. To purchase manuscript of Historical register, U.S. Army, 1789-1901	5	4260
747. Military record of Michael Hayes	5	4260
748. Increase of pension for Samuel W. Skinner	5	4260
749. Removal of weeds in D.C.	5	4260
750. Military record of James A. Somerville	5	4260
751. Honorable discharge for Thomas J. Brown	5	4260
752. To remove charge of desertion from Charles K. Bolster	5	4260
753. License tax for vehicles conveying passengers for hire in D.C.	5	4260
754. Filling of street-cars beyond their seating capacity in D.C.	5	4260
755. Sea-wall and grand boulevard in D.C.	5	4260
756. Pension for Amanda Jacko	5	4260
757. To purchase manuscript of order book of Gen. Arthur St. Clair	5	4260
758. Increase of pension for John G. Brower	5	4260
759. Increase of pension for William K. Hoffman	5	4260
760. Pension for Ruth B. Osborne	5	4260
761. Increase of pension for Milton A. Embick	5	4260
762. Pension for Norris L. Lungren	5	4260
763. Increase of pension for John Craig	5	4260
764. Pension for Elizabeth M. Folds	5	4260
765. Pension for John S. Lewis	5	4260
766. Dwelling for light-keeper at Kewaunee, Wis.	5	4260
767. To beautify monument on Moores Creek battle-field, N.C.	5	4260
768. Increase of pension for Myra W. Robinson	5	4260
769. Increase of pension for Martha A. Greenleaf	5	4260
770. Increase of pension for Frank Seaman	5	4260
771. Increase of pension for Nellie Loucks	5	4260
772. Increase of pension for Charles Dixon	5	4260
773. Pension for William C. Flowers	5	4260
774. Practicability of tunnel on San Blas route for Panama Canal	5	4260
775. Pension for Hester Thomas	5	4260
776. Chinese exclusion. 2 pts.	10	4265
777. Excess pay for employees of Treasury, War, and Navy Departments	5	4260
778. To repay unexpended moneys deposited for mining claims	5	4260
779. Relief of representatives of A. G. Boone	5	4260
780. Relief of Frederick E. Coyne	5	4260
781. Extending time for bridge over Missouri River at St. Charles, Mo.	5	4260
782. Relief of Thierman and Frost	5	4260
783. Interoceanic canal, and proposal of New Panama Canal Co. 2 pts.	5	4260
784. Marine hospital at Pittsburgh, Pa.	5	4260
785. Life-saving station at or near Eagle Harbor, Mich.	5	4260
786. Relief of widow of Charles B. Goldsborough	5	4260
787. To reimburse certain Lower Brule Sioux Indians of South Dakota	5	4260
788. Relief of Edward Haines, John Haugland, Wallace L. Reed, etc.	5	4260
789. To improve ventilation of mines in Territories	5	4260
790. To improve Mount Rainier National Park, Washington	5	4260
791. Increase of pension for Lemuel Grove	5	4260
792. Pension for Elizabeth W. Simmons	5	4260
793. Pension for Martha A. De Lamater	5	4260
794. Increase of pension for John H. Coates	5	4260
795. Increase of pension for Lucy B. Bevis	5	4260
796. Relief of Robert J. Spottswood and heirs of William C. McClellan	5	4260
797. Increase of pension for Mary F. Key	5	4260
798. Pension for Alida Payne	5	4260
799. Relief of widow of Nathan Cook Meeker	5	4260
800. Statutes of limitations to apply to suits for recovery of Shawnee lands, Kansas	5	4260
801. Marine hospital at Buffalo, N.Y.	5	4260
802. Increase of pension for William R. Howsley	5	4260
803. Increase of pension for Emily J. Tallman	5	4260
804. Pension for John W. Meade	5	4260
805. Increase of pension for John M. Howe	5	4260
806. Increase of pension for Henry Ball	5	4260
807. Increase of pension for Patrick Lee	5	4260
808. Increase of pension for Rollin Tyler	5	4260
809. Increase of pension for William Larzalere	5	4260
810. Increase of pension for Frederick A. Condon	5	4260
811. Pension for John Y. Corey	5	4260
812. Increase of pension for Elias M. Haight	5	4260
813. Public building at Georgetown, S.C.	5	4260
814. Increase of pension for Almond Delamater	5	4260
815. Increase of pension for Anna L. Cory	5	4260
816. Increase of pension for Edward M. Kanouse	5	4260
817. Pension for Laura G. Weisenburger	5	4260
818. Increase of pension for Aquila Wiley	5	4260
819. Pension for Laura A. Van Wye	5	4260
820. Payments to registers and receivers in Kansas from sales of Osage lands	5	4260
821. Increase of pension for Susan Hays	5	4260
822. Increase of pension for Silas D. Strong	5	4260
823. Increase of pension for David A. Frier	5	4260
824. Increase of pension for William H. Allen	5	4260
825. Increase of pension for Charles B. Wingfield	5	4260
826. Increase of pension for James Todd	5	4260
827. Increase of pension for Charles F. Rand	5	4260
828. Increase of pension for John S. Raulett	5	4260
829. Increase of pension for Richard C. Smith	5	4260
830. Increase of pension for James R. McClellen	5	4260
831. Increase of pension for Helen G. Heiner	5	4260
832. Increase of pension for Berthold Fernow	5	4260
833. Pension for James B. Harris	5	4260
834. Increase of pension for Mary E. Singley	5	4260
835. Pension for Hannah T. Knowles	5	4260
836. Increase of pension for Anna B. McCurley	5	4260
837. Increase of pension for Zeno T. Griffen	5	4260

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
838.	Increase of pension for Mary Jane Faulkner	5	4260
839.	Increase of pension for Charles L. Cummings	5	4260
840.	Increase of pension for Samuel J. Lambden	5	4260
841.	Increase of pension for Bessie H. Lester	5	4260
842.	Increase of pension for Alice Angel	5	4260
843.	Increase of pension for Sarah Maley	5	4260
844.	White River Railway to bridge White River in Arkansas	5	4260
845.	Issue of patent to town site to Basin, Wyo.	5	4260
846.	Increase of pension for Samuel L. Leffingwell	5	4260
847.	Increase of pension for Anna E. Luke	5	4260
848.	Increase of pension for Otto H. Hasselman	5	4260
849.	Increase of pension for Thomas Bliss	5	4260
850.	Increase of pension for Joseph B. Arbaugh	5	4260
851.	Increase of pension for Joseph Cowgill	5	4260
852.	Increase of pension for William J. Overman	5	4260
853.	Increase of pension for Charles W. Thomas	5	4260
854.	To limit liability of sureties on bonds of officers	5	4260
855.	To repay excess price to settlers on forfeited railroad lands	5	4260
856.	Increase of pension for Ellen J. Clark	5	4260
857.	Pension for Mary King	5	4260
858.	Naval record of Daniel W. Blake	5	4260
859.	To appoint John R. Bartlett as rear-admiral on retired list	5	4260
860.	Relief of bona fide settlers in forest reserves	5	4260
861.	To confirm to South Dakota title to land from Fort Sisseton Reservation	5	4260
862.	Increase of pension for Horatio N. Warren	5	4260
863.	Pension for John W. Moore	5	4260
864.	To amend act for relief of Chippewa Indians in Minnesota	5	4260
865.	Appointment of managers of National Soldiers' Home	5	4260
866.	Military record of Washington A. Huntley	5	4260
867.	Transferring lot in Woodland Cemetery to Quincy, Ill.	5	4260
868.	Military record of John F. Antlitz	5	4260
869.	Proper labeling of wine purporting to be champagne	5	4260
870.	To prevent false branding of food and dairy products	5	4260
871.	Cannon for statue of Alexander Macomb at Detroit, Mich.	5	4260
872.	Rank of second lieutenants of artillery	5	4260
873.	To omit signature of Secretary of Interior from patents	5	4260
874.	Macadamized roadway from Sharpsburg, Md., to Antietam battle-field	5	4260
875.	Time for presentation of claims of States for equipping volunteers	5	4260
876.	Honorable discharge for Charles H. Hawley	5	4260
877.	Part of Fort Douglas reservation for Miners' Home of Salt Lake City	5	4260
878.	Additional circuit judge for 7th judicial circuit	5	4260
879.	Increase of pension for Levi H. Winslow	5	4260
880.	Pension for Eliza Stewart	5	4260
881.	Increase of pension for Albert S. Whittier	5	4260
882.	Increase of pension for Matthew C. Medbury	5	4260
883.	Increase of pension for John E. White	5	4260
884.	Increase of pension for Michael Farrell	5	4260
885.	Increase of pension for John Hollister	5	4260
886.	Increase of pension for Maria L. Godfrey	5	4260
887.	Increase of pension for Eunice A. Smith	5	4260
888.	Pension for Ida M. Warren	5	4260
889.	Increase of pension for Matilda R. Schoonmaker	5	4260
890.	Increase of pension for Benjamin S. Harrower	5	4260
891.	Increase of pension for Alfred H. Van Vliet	5	4260
892.	Increase of pension for Lorenzo Blackman	5	4260
893.	Increase of pension for Edward S. Dickinson	5	4260
894.	Increase of pension for William G. Johnson	5	4260
895.	Increase of pension for Otillia M. Smoot	5	4260
896.	Increase of pension for William B. Rowe	5	4260
897.	Increase of pension for Charles Misner	5	4260
898.	Increase of pension for William H. Mackey	5	4260
899.	Increase of pension for William R. Armstrong	5	4260
900.	Increase of pension for Uriah Reams	5	4260
901.	Increase of pension for Abraham N. Bradfield	5	4260
902.	Increase of pension for Mary Beals	5	4260
903.	Increase of pension for Inez E. Perrine	5	4260
904.	Increase of pension for John S. Robinson	5	4260
905.	Increase of pension for Thomas S. Rowan	5	4260
906.	Increase of pension for William C. David	5	4260
907.	Increase of pension for James Scannell	5	4260
908.	Increase of pension for John Reep	5	4260
909.	Increase of pension for James A. Bramble	5	4260
910.	Increase of pension for Barbara McDonald	5	4260
911.	Increase of pension for Isaac H. Crim	5	4260
912.	Increase of pension for Mary E. Kelly	5	4260
913.	Increase of pension for Margaret Hendry	5	4260
914.	Increase of pension for La Myra V. Kendig	5	4260
915.	Government for Philippine Islands	5	4260
916.	Increase of pension for Robert M. McCullough	5	4260
917.	Pension for Joseph Tusinski	5	4260
918.	Increase of pension for James P. Burchfield	5	4260
919.	Increase of pension for Andrew Y. Transue	5	4260
920.	Increase of pension for Helen V. Rorer	6	4261
921.	Pension for Thomas F. Walter	6	4261
922.	Pension for Maggie Helmbold	6	4261
923.	Increase of pension for Emma F. Shilling	6	4261
924.	Increase of pension for Ann E. Collier	6	4261
925.	Control of dogs in D.C.	6	4261
926.	Pension for Josephine M. Dustin	6	4261
927.	Increase of pension for Dewit C. McCoy	6	4261
928.	Increase of pension for Pheobe L. Peyton	6	4261
929.	Increase of pension for Elizabeth A. Capehart	6	4261
930.	Increase of pension for Minerva Melton	6	4261
931.	Pension for Eliza A. Wright	6	4261
932.	Pension for Dennis Dyer	6	4261
933.	Pension for Charles F. Merrill	6	4261
934.	Increase of pension for Jethro M. Getman	6	4261
935.	Increase of pension for John Brown	6	4261
936.	Pension for Alice Bozeman	6	4261
937.	Increase of pension for George McDaniel	6	4261
938.	To close part of alley in square 189, D.C.	6	4261
939.	Increase of pension for David C. Maples	6	4261
940.	Increase of pension for Freeman R. E. Chanaberry	6	4261
941.	Increase of pension for Clara W. McNair	6	4261
942.	Pension for Sarah M. Smith	6	4261
943.	Survey for additional conduit for Washington water-supply	6	4261
944.	Monument at Washington to Benjamin F. Stephenson, founder of G.A.R.	6	4261
945.	To establish University of United States	6	4261
946.	Fish hatchery in South Carolina	6	4261
947.	Fish hatchery in Utah	6	4261
948.	Fish hatchery in Florida	6	4261
949.	Issue of patent to Clallam County, Wash.	6	4261
950.	Biological station on Great Lakes	6	4261
951.	Appropriations for Indian Department, 1903	6	4261
952.	Increase of pension for David M. McKnight	6	4261
953.	Increase of pension for George F. Bowers	6	4261
954.	Increase of pension for James W. Hankins	6	4261
955.	Pension for Jane Caton	6	4261
956.	Increase of pension for William H. Norton	6	4261
957.	Increase of pension for Levi Hatchett	6	4261
958.	Increase of pension for Lydia M. Granger	6	4261
959.	Pension for Sarah H. H. Lowe	6	4261
960.	Increase of pension for Nathan W. Snee	6	4261
961.	Increase of pension for William Berry	6	4261
962.	Increase of pension for Evaline Wilson	6	4261
963.	Increase of pension for Margaret M. Boyd	6	4261
964.	Pension for Jacob Golden	6	4261

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
965.	Increase of pension for George R. Chaney	6	4261
966.	Increase of pension for Thompson B. Moore	6	4261
967.	Pension for Christina Heitz	6	4261
968.	Pension for Mary A. Carlile	6	4261
969.	Increase of pension for Sarah E. Allen	6	4261
970.	Increase of pension for Henry F. Benson	6	4261
971.	Increase of pension for Thomas Young	6	4261
972.	Hearings on interstate traffic in adulterated food	6	4261
973.	Pension for Amelia A. Russell	6	4261
974.	Bridge across Neuse River at Kinston, N.C.	6	4261
975.	Increase of pension for Thomas E. James	6	4261
976.	Increase of pension for John A. Rotan	6	4261
977.	Increase of pension for Thomas H. H. Gibbs	6	4261
978.	Increase of pension for Charles S. Wilson	6	4261
979.	Increase of pension for Lizzie B. Green	6	4261
980.	Life-saving station on Ocracoke Island, North Carolina	6	4261
981.	Increase of pension for Joseph Culbreath	6	4261
982.	Union railroad station at Washington, D.C.	6	4261
983.	Commissioner of Patents to control registration of names of transportation companies	6	4261
984.	Monument at Charlotte, N.C., in honor of William E. Shipp, who lost his life in charge of San Juan Hill, Santiago	6	4261
985.	Increase of pension for James Frey	6	4261
986.	Increase of pension for Robert L. Ackridge	6	4261
987.	Pension for Ruth Bartlett	6	4261
988.	Increase of pension for Edwin J. Godfrey	6	4261
989.	Increase of pension for Augustus E. Hodges	6	4261
990.	Increase of pension for Andrew B. Spurling	6	4261
991.	Pension for John S. James	6	4261
992.	Increase of pension for Frances E. Scott	6	4261
993.	Pension for Clara B. Townsend	6	4261
994.	Increase of pension for Erastus C. Moderwell	6	4261
995.	Relief of Morgan's Louisiana and Texas R.R. and S.S. Company	6	4261
996.	Increase of pension for Theophile A. Dauphin	6	4261
997.	Pension for Marion Barnes	6	4261
998.	Public building at Flint, Mich.	6	4261
999.	Public building at Findlay, Ohio	6	4261
1000.	Public building at Providence, R.I.	6	4261
1001.	Classification of clerks in post-offices of 1st and 2d classes	6	4261
1002.	Public building at Sterling, Ill.	6	4261
1003.	Addition to public building at Kalamazoo, Mich.	6	4261
1004.	Public building at Meriden, Conn.	6	4261
1005.	Public building at Biloxi, Miss.	6	4261
1006.	Increase of pension for Henry E. De Marse	6	4261
1007.	Increase of pension for Mary E. Stockings	6	4261
1008.	To refund duties paid in Porto Rico on imports from United States	6	4261
1009.	Increase of pension for John M. Seydel	6	4261
1010.	Increase of pension for Thomas Findley	6	4261
1011.	Increase of pension for Myron C. Burnside	6	4261
1012.	Increase of pension for Richmond L. Booker	6	4261
1013.	Increase of pension for Charles A. Perkins	6	4261
1014.	Increase of pension for William Eastin	6	4261
1015.	Pension for Margaret Baker	6	4261
1016.	Increase of pension for John Gaston	6	4261
1017.	Increase of pension for Frances T. Anderson	6	4261
1018.	Increase of pension for Mariah J. Anderson	6	4261
1019.	Increase of pension for Mary J. Clark	6	4261
1020.	To place Alexander Stewart Webb on retired list of Army	6	4261
1021.	To grant lands to Colorado Springs, Colo.	6	4261
1022.	Pension for Rhoda Burnham	6	4261
1023.	Increase of pension for James Moore	6	4261
1024.	Increase of pension for George W. Guinn	6	4261
1025.	Increase of pension for Allen Hockenbury	6	4261
1026.	Increase of pension for Eliza J. Noble	6	4261
1027.	Tennessee Central Railway to bridge Emory River, Tennessee	6	4261
1028.	Nashville Terminal Company to bridge Cumberland River, Tennessee	6	4261
1029.	Pension for Blanche Duffy	6	4261
1030.	Increase of pension for Robert E. Stephens	6	4261
1031.	Increase of pension for Dorothy S. White	6	4261
1032.	Increase of pension for James Austin	6	4261
1033.	Increase of pension for Perry H. Alexander	6	4261
1034.	Increase of pension for Zachariah R. Saunders	6	4261
1035.	Assessment and collection of taxes on personal property in D.C.	6	4261
1036.	Hall of records in Washington, D.C.	6	4261
1037.	Pension for Esther A. C. Hardee	6	4261
1038.	Pension for James F. P. Johnston	6	4261
1039.	Increase of pension for Lewis H. Delony	6	4261
1040.	Pension for M. C. Rogers	6	4261
1041.	Increase of pension for Stephen May	6	4261
1042.	Increase of pension for Reuben Wellman	6	4261
1043.	Pension for Christiana Steiger	6	4261
1044.	American register for bark Homeward Bound	6	4261
1045.	Pension for Ida D. Greene	6	4261
1046.	Increase of pension for William B. Matney	6	4261
1047.	Increase of pension for George McDowell	6	4261
1048.	Increase of pension for Philo F. Englesby	6	4261
1049.	Pension for John Coolen	6	4261
1050.	Pension for Frances L. Ackley	6	4261
1051.	Increase of pension for Theodore F. Collins	6	4261
1052.	Increase of pension for William M. Hodge	6	4261
1053.	Increase of pension for James Matthews	6	4261
1054.	Increase of pension for Richard P. Nichuals	6	4261
1055.	Pension for Mary L. Dibert	6	4261
1056.	Pension for Patrick J. Murphy	6	4261
1057.	Increase of pension for Abbie George	6	4261
1058.	Bridge across Red River at Shreveport, La.	6	4261
1059.	U.S. and West Indies R.R. and S.S. Co. to bridge Manatee River, Florida	6	4261
1060.	Bridge over Chattahoochee River at or below Columbus, Ga.	6	4261
1061.	Rebuilding draw span of bridge over Mississippi River at Quincy, Ill.	6	4261
1062.	To widen California avenue, D.C.	6	4261
1063.	To open R and 28th streets northeast, D.C.	6	4261
1064.	Pension for Samuel S. Beaver	6	4261
1065.	Increase of pension for Eliza A. Walker	6	4261
1066.	To admit feeble-minded, etc., of D.C. to Govt. Hospital for Insane	6	4261
1067.	Increase of pension for Helen M. Worthen	6	4261
1068.	Increase of pension for Paul Fuchs	6	4261
1069.	Increase of pension for Elizabeth C. Vincent	6	4261
1070.	Increase of pension for Harrison C. Vore	6	4261
1071.	Increase of pension for Alfred M. Wheeler	6	4261
1072.	Pension for William E. Gray	6	4261
1073.	Increase of pension for Mary E. Pettit	6	4261
1074.	Increase of pension for Aaron S. Gatliff	6	4261
1075.	Appropriations for rivers and harbors, 1903	11	4266
1076.	Relief of William Dugdale	6	4261
1077.	Removal of suits from State to Federal courts	6	4261
1078.	To determine constitutionality of retrocession of part of D.C. to Va.	6	4261
1079.	To refund certain license taxes to liquor dealers in D.C.	6	4261
1080.	Increase of pension for Thomas Thatcher	6	4261
1081.	Pension for John W. Smoot	6	4261
1082.	Increase of pension for Thomas L. Nelson	6	4261
1083.	Increase of pension for Edward N. Goff	6	4261
1084.	Increase of pension for Margaret Hoefer	6	4261
1085.	Increase of pension for Emma L. Kimble	6	4261
1086.	Building for Executive Office, State Dept., and Dept. of Justice	6	4261
1087.	To ratify agreement with Red Lake and Pembina bands of Chippewa Indians of Minnesota	6	4261
1088.	Increase of pension for Joseph D. Hazzard	6	4261
1089.	Pension for Amanda C. Bayliss	6	4261

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1090.	Pension for John R. Homer Scott	6	4261
1091.	Increase of pension for Oscar Van Tassell	6	4261
1092.	Increase of pension for Mary Breckons	6	4261
1093.	Increase of pension for Eben C. Winslow	6	4261
1094.	Increase of pension for Mary L. Doane	6	4261
1095.	Increase of pension for Emma S. Hanna	6	4261
1096.	Increase of pension for Ann Comins	6	4261
1097.	Increase of pension for widow of Admiral Joseph Fyffe	6	4261
1098.	Pension for Jemima McClure	6	4261
1099.	Increase of pension for Horatio N. Whitbeck	6	4261
1100.	Pension for Irenia C. Hill	6	4261
1101.	Increase of pension for John H. Jack	6	4261
1102.	Increase of pension for Abram O. Kindy	6	4261
1103.	Increase of pension for John L. Bowman	6	4261
1104.	Pension for Mahala Jane Kuhn	6	4261
1105.	Increase of pension for Hallowell Goddard	6	4261
1106.	Increase of pension for William Phillips	6	4261
1107.	Increase of pension for Waity West	6	4261
1108.	Increase of pension for Elijah E. Harvey	6	4261
1109.	Increase of pension for Catharine A. Carroll	6	4261
1110.	Pension for John A. Reilley	6	4261
1111.	Increase of pension for William A. Kimball	6	4261
1112.	Increase of pension for Russel A. Williams	6	4261
1113.	Increase of pension for William Holgate	6	4261
1114.	Pension for Elizabeth L. Beckett	6	4261
1115.	Increase of pension for Henry J. Edge	6	4261
1116.	Increase of pension for Delania Ferguson	6	4261
1117.	Pension for Minnie M. Rice	6	4261
1118.	Increase of pension for William Nichol	6	4261
1119.	Pension for Ruth H. Ferguson	6	4261
1120.	Increase of pension for Hamline B. Williams	6	4261
1121.	Pension for Samuel J. Vickers, Christopher Vickers, and Jane Vickers	6	4261
1122.	Increase of pension for Daniel A. Hall	6	4261
1123.	Increase of pension for George W. Youngs	6	4261
1124.	Increase of pension for Oliver K. Wyman	6	4261
1125.	Increase of pension for Amos Moulton	6	4261
1126.	Increase of pension for Gustavus C. Pratt	6	4261
1127.	Increase of pension for Lewis G. Latour	6	4261
1128.	Increase of pension for May D. Liscum	6	4261
1129.	Pension for Amelia Engel	6	4261
1130.	Increase of pension for George A. Mercer	6	4261
1131.	Pension for Joanna Rommel	6	4261
1132.	Increase of pension for David O. Carpenter	6	4261
1133.	Pension for Joseph Tusinski	6	4261
1134.	Increase of pension for Pauline M. Roberts	6	4261
1135.	Increase of pension for Mary Ann E. Sperry	6	4261
1136.	Pension for Mary E. S. Hays	6	4261
1137.	Increase of pension for Mary A. Andress	6	4261
1138.	Relief of H. Glafcke	6	4261
1139.	To amend section of Revised Statutes on design patents	6	4261
1140.	Relief of William McCarty Little	6	4261
1141.	Pension for Susan House	6	4261
1142.	Temporary detention of insane in D.C.	6	4261
1143.	Increase of pension for Eri W. Pinkham	6	4261
1144.	Increase of pension for William G. Gray	6	4261
1145.	Increase of pension for Louis Hahn	6	4261
1146.	Pension for Judson N. Pollard	6	4261
1147.	Increase of pension for Ambrus U. Harrison	6	4261
1148.	Increase of pension for Matthew B. Noel	6	4261
1149.	Appropriations for sundry civil expenses, 1903	6	4261
1150.	Crow Wing County, Minn., to bridge Mississippi River	6	4261
1151.	Increase of pension for James H. Walker	6	4261
1152.	Increase of pension for Maria J. Wilson	6	4261
1153.	Relief of Decatur Hamlin	6	4261
1154.	Tents for encampment of Knights of Pythias at San Francisco, Cal.	6	4261
1155.	To adjust pensions of those who have lost limbs, etc.	6	4261
1156.	Increase of pension for Genevieve Almira Sprigg Ludlow	6	4261
1157.	Increase of pension for Thomas Milsted	6	4261
1158.	Increase of pension for Annie L. Evens	6	4261
1159.	Increase of pension for Thomas P. Smith	6	4261
1160.	Pension for Mary E. Holden	6	4261
1161.	Increase of pension for Justus Canfield	6	4261
1162.	To postpone payment of taxes on real estate in D.C. for 1903	6	4261
1163.	Military record of Calvin A. Rice	6	4261
1164.	To extend Loudon Park national cemetery, Baltimore, Md.	6	4261
1165.	Increase of pensions granted for total deafness	6	4261
1166.	Increase of pension for George W. Dodge	6	4261
1167.	Increase of pension for William J. Simmons	6	4261
1168.	Increase of pension for Ernest Wagner	6	4261
1169.	Pension for Mary E. F. Gilman	6	4261
1170.	Increase of pension for Margaret M. Grant	6	4261
1171.	Relief of Henry Lane	6	4261
1172.	National forest reserve in southern Appalachian Mountains	6	4261
1173.	Protection of game and wild birds in Alaska	6	4261
1174.	Increase of pension for Charles F. Smith	6	4261
1175.	Increase of pension for Caroline R. Boyd	6	4261
1176.	Cities in Indian Territory to issue bonds for waterworks	6	4261
1177.	Increase of pension for De Witt C. Bennett	6	4261
1178.	Increase of pension for Lonson R. Burr	6	4261
1179.	Increase of pension for John Cook	6	4261
1180.	Increase of pension for Charles D. Palmer	6	4261
1181.	Public building at Marblehead, Mass.	7	4262
1182.	Public building at Crookston, Minn.	7	4262
1183.	Public building at Kingston, N.Y.	7	4262
1184.	Increase of pension for James Welch	7	4262
1185.	Increase of pension for Francis W. Pool	7	4262
1186.	Increase of pension for Patrick Moran	7	4262
1187.	Pension for Elizabeth A. Burrill	7	4262
1188.	Increase of pension for William A. Campbell	7	4262
1189.	Increase of pension for Marietta L. Adams	7	4262
1190.	Increase of pension for William F. Horn	7	4262
1191.	Pension for Mary C. Trask	7	4262
1192.	Selection of indemnity school lands by Utah	7	4262
1193.	Increase of pension for Benjamin Russell	7	4262
1194.	Pension for Mary Holmes	7	4262
1195.	Increase of pension for Richard Trist	7	4262
1196.	Increase of pension for Theron R. Mack	7	4262
1197.	Pension for Ida M. Briggs	7	4262
1198.	Pension for Ole Steensland	7	4262
1199.	Increase of pension for Samuel E. Ewing	7	4262
1200.	Increase of pension for Martha Clark	7	4262
1201.	To authorize purchase of Constitution Island, New York	7	4262
1202.	Increase of pension for Robert H. Busteed	7	4262
1203.	Increase of pension for Oscar W. Lowery	7	4262
1204.	Pension for Lydia Carr	7	4262
1205.	Pension for Rebecca Coppinger	7	4262
1206.	Increase of pension for Frederick Wright	7	4262
1207.	Increase of pension for Alonzo Lewis	7	4262
1208.	Pension for Shadrack I. Corbett	7	4262
1209.	Increase of pension for Ephraim D. Dorman	7	4262
1210.	Pension for John Watts	7	4262
1211.	Pension for Helena Sudsburg	7	4262
1212.	Increase of pension for Hattie M. Whitney	7	4262
1213.	Increase of pension for Joseph Seithen	7	4262
1214.	Increase of pension for James R. Brockett	7	4262
1215.	Increase of pension for Obed D. Jasper	7	4262
1216.	Increase of pension for George W. Edmonds	7	4262
1217.	Increase of pension for Jonas Olmstead	7	4262
1218.	Increase of pension for James D. Bowland	7	4262
1219.	Pension for James B. Hashbargar	7	4262
1220.	Increase of pension for John J. Wolfe	7	4262
1221.	Increase of pension for Isaac Phipps	7	4262

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
1222. Pension for Christopher Columbus Sheets	7	4262
1223. Pension for George Tucker	7	4262
1224. Pension for Rebecca H. Geyer	7	4262
1225. Pension for Ada V. Park	7	4262
1226. Increase of pension for William Harrington	7	4262
1227. Increase of pension for Charles H. Hazzard	7	4262
1228. Increase of pension for John O'Rourke	7	4262
1229. Increase of pension for Enos G. Budd	7	4262
1230. Increase of pension for Daniel Sims	7	4262
1231. Increase of pension for Phineas Curran	7	4262
1232. Pension for Thomas Holloway	7	4262
1233. Terms of circuit court of appeals, 8th circuit	7	4262
1234. Increase of pension for William G. Taylor	7	4262
1235. Increase of pension for Alexander Scott	7	4262
1236. Increase of pension for Alexander F. McConnell	7	4262
1237. Increase of pension for George W. Parker	7	4262
1238. Pension for William P. Featherstone	7	4262
1239. Increase of pension for S. Agnes Young	7	4262
1240. Increase of pension for James Cooley	7	4262
1241. Pension for Sidney Cable	7	4262
1242. Increase of pension for Anne Dowery	7	4262
1243. Pension for Mary F. Zollinger	7	4262
1244. Increase of pension for James S. Myers	7	4262
1245. Pension for Hulda Milligan	7	4262
1246. Increase of pension for Otis A. Barlow	7	4262
1247. Increase of pension for Henry W. Edens	7	4262
1248. Increase of pension for Nimrod Headington	7	4262
1249. Relief of Howard Lodge 13, I.O.O.F., Gallatin, Tenn.	7	4262
1250. Relief of Gilbert E. L. Falls	7	4262
1251. Increase of pension for Winfield S. Piety	7	4262
1252. Increase of pension for Henry Jennings	7	4262
1253. Increase of pension for John Hall	7	4262
1254. Increase of pension for James R. Wilson	7	4262
1255. Increase of pension for Richmond M. Curtis	7	4262
1256. Increase of pension for Henry Runnebaum	7	4262
1257. Increase of pension for James E. Horton	7	4262
1258. Increase of pension for Sarah Vandemark	7	4262
1259. Relief of widow of Frank H. Morris	7	4262
1260. Relief of devisees of James W. Schaumburg	7	4262
1261. Relief of Ramon O. Williams and Joseph A. Springer	7	4262
1262. To incorporate General Education Board	7	4262
1263. Relief of heir of Matthew Wright	7	4262
1264. Relief of admrx. of Jerome J. Getty	7	4262
1265. Relief of Frank F. Flournoy	7	4262
1266. Relief of William J. Smith and D. M. Wisdom	7	4262
1267. To permit Police Court of D.C. to impose cumulative sentences	7	4262
1268. Payments for length of service of officers of Army	7	4262
1269. Increase of pension for Sarah H. Lake	7	4262
1270. Pension for Helen F. Lasher	7	4262
1271. Increase of pension for James Merrick	7	4262
1272. Increase of pension for William T. Peterson	7	4262
1273. Increase of pension for Frederick O. Clark	7	4262
1274. Increase of pension for James M. Ashley	7	4262
1275. Pension for Hannah A. Timmons	7	4262
1276. Commutation of homestead entries on Sioux Reservation lands in S.Dak.	7	4262
1277. Relief of heirs of William Tinder	7	4262
1278. Increase of pension for Lunsford Y. Bailey	7	4262
1279. Increase of pension for Susan A. Volkmar	7	4262
1280. Increase of pension for Henry E. Williams	7	4262
1281. Relief of exr. of Alexander W. Goodwin	7	4262
1282. To refer owners of Southern Railway Lighter 10 to Court of Claims	7	4262
1283. Relief of widow of William W. Burns	7	4262
1284. Amending section of Revised Statutes on appointments in civil service	7	4262
1285. To ratify agreement with Indians of Klamath Reservation, Oregon	7	4262
1286. To ratify agreement with Indians of Klamath Reservation, Oregon	7	4262
1287. Increase of pension for Hiram H. Thomas	7	4262
1288. Pension for John J. Manner	7	4262
1289. Pension for Frank W. Lynn	7	4262
1290. Pension for Dewitt Clinton Letts	7	4262
1291. Relief of admr. of W. W. Cobbs	7	4262
1292. To refer captured and abandoned property claims to Court of Claims	7	4262
1293. Pension for Joanna Rogers	7	4262
1294. Place of deposit of patent specifications in western Pennsylvania	7	4262
1295. Increase of pension for Charles O. Baldwin	7	4262
1296. Increase of pension for Vesta A. Brown	7	4262
1297. Increase of pension for Jennie M. Wagner	7	4262
1298. Increase of pension for Eliphlet Noyes	7	4262
1299. Increase of pension for Linda W. Slaughter	7	4262
1300. Increase of pension for Calvin N. Perkins	7	4262
1301. Pension for Hester A. Farnsworth	7	4262
1302. Increase of pension for Samuel S. Walck	7	4262
1303. Pension for Justus L. Denton	7	4262
1304. Increase of pension for James E. McNair	7	4262
1305. Increase of pension for Adam Stuber	7	4262
1306. Increase of pension for Warren Y. Merchant	7	4262
1307. Increase of pension for Jonathan O. Thompson	7	4262
1308. Increase of pension for John P. Collier	7	4262
1309. Increase of pension for Mary L. Purington	7	4262
1310. Increase of pension for Gilbert Barkalow	7	4262
1311. Increase of pension for Nelson W. Carlton	7	4262
1312. Increase of pension for Hannah A. Van Eaton	7	4262
1313. Increase of pension for David J. Newman	7	4262
1314. Increase of pension for John H. Everitt	7	4262
1315. Appropriation for topographic surveys in Porto Rico	7	4262
1316. Resurvey of lands in Wyoming	7	4262
1317. Increase of pension for William H. Dixon	7	4262
1318. Reserving in Oregon, as park, Crater Lake and environs	7	4262
1319. To confirm title to indemnity school lands in Washington	7	4262
1320. Court of Claims to adjudicate claim of admr. of David B. Landis	7	4262
1321. Increase of pension for Mary Tate	7	4262
1322. Increase of pension for Uriah Garber	7	4262
1323. Increase of pension for Thomas Wells	7	4262
1324. Increase of pension for George W. Hatton	7	4262
1325. Errors in dates of appointments to rank of certain Army officers	7	4262
1326. Military record of Albert Boker	7	4262
1327. To place Paul Crum on muster rolls of 1st North Dakota Infantry	7	4262
1328. Relief of Abram G. Hoyt	7	4262
1329. Increase of pension for Robert A. Pinn	7	4262
1330. Increase of pension for Milton Brown	7	4262
1331. Increase of pension for Rachel S. Lyman	7	4262
1332. Increase of pension for Elvin A. Esty	7	4262
1333. Relief of Curry County, Oreg.	7	4262
1334. To refer John S. Mosby to Court of Claims	7	4262
1335. Relief of H. B. Freeman	7	4262
1336. Relief of George P. White	7	4262
1337. Increase of pension for Hannibal C. St. Clair	7	4262
1338. Increase of pension for Michael Marnane	7	4262
1339. Increase of pension for John S. Burket	7	4262
1340. Increase of pension for James C. G. Smith	7	4262
1341. Pension for Mary Shelton Huston	7	4262
1342. Relief of Henry G. Rogers	7	4262
1343. Increase of pension for Caleb W. Story	7	4262
1344. National park and peace monument at Appomattox, Va.	7	4262
1345. Increase of pension for George W. Wertz	7	4262
1346. Increase of pension for William H. Rightmire	7	4262
1347. Increase of pension for William Matthews	7	4262

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1348.	Pension for Alice D. H. Krause	7	4262
1349.	Increase of pension for Elizabeth P. Sigfried	7	4262
1350.	Increase of pension for William T. Hamilton	7	4262
1351.	Increase of pension for Jacob Weidel	7	4262
1352.	Pension for James T. Steele	7	4262
1353.	Increase of pension for Caleb C. Briggs	7	4262
1354.	Increase of pension for Charles M. Montgomery	7	4262
1355.	Increase of pension for John G. Sanders	7	4262
1356.	Right of way for railway through San Francisco Mts. forest reserve, Arizona	7	4262
1357.	Dwelling for light-keeper, Ecorse range-light station, Michigan	7	4262
1358.	To donate to Alabama spars of captured Spanish ships	7	4262
1359.	Lighthouse and fog-signal at Diamond Shoal, Cape Hatteras	7	4262
1360.	Relief of Anna Eliza Isabella Von Hemert	7	4262
1361.	Pension for Erma G. Harvey	7	4262
1362.	Increase of pension for William Blanchard	7	4262
1363.	Increase of pension for Bernard McCormick	7	4262
1364.	Increase of pension for Edgar T. Daniels	7	4262
1365.	Pension for Mary J. Fitch	7	4262
1366.	To grade 14th street to northern limit of Saul tract, D.C.	7	4262
1367.	Bridge over Savannah River from Aiken Co., S.C., to Richmond Co., Ga.	7	4262
1368.	Pension for Elizabeth McDonald	7	4262
1369.	Increase of pension for Ann E. Austin	7	4262
1370.	Increase of pension for Albion P. Stiles	7	4262
1371.	Increase of pension for William H. Wood	7	4262
1372.	Pension for Mary Florence Von Steinwehr	7	4262
1373.	Pension for Stephen A. Seavey	7	4262
1374.	Increase of pension for Horace L. Richardson	7	4262
1375.	Increase of pension for Cynthia J. Shattuck	7	4262
1376.	Increase of pension for Isabella H. Thompson	7	4262
1377.	Increase of pension for Ebenezer Wilson	7	4262
1378.	Increase of pension for Alvin J. Hartzell	7	4262
1379.	Pension for Erwin A. Burke	7	4262
1380.	Increase of pension for Warren W. H. Lawrence	7	4262
1381.	Increase of pension for William Holdridge	7	4262
1382.	Increase of pension for Jesse H. Hubbard	7	4262
1383.	Pension for Frances J. Abercrombie	7	4262
1384.	Pension for Matthew V. Ellis	7	4262
1385.	Increase of pension for John Housiaux	7	4262
1386.	Increase of pension for James W. Lewis	7	4262
1387.	Increase of pension for Oliver Kerr	7	4262
1388.	Adjudication and payment of claims for Indian depredations	7	4262
1389.	Littlefalls, Minn., to bridge Mississippi River	7	4262
1390.	Increase of pension for Stanley M. Caspar	7	4262
1391.	Pension for Anna May Hogan	7	4262
1392.	Increase of pension for Clayton P. Van Houten	7	4262
1393.	Increase of pension for James W. Roath	7	4262
1394.	Increase of pension for Agnes Clark	7	4262
1395.	Increase of pension for Sarah F. Baldwin	7	4262
1396.	Increase of pension for Isaac Rhodes	7	4262
1397.	Increase of pension for John Fler	7	4262
1398.	Increase of pension for Abbie C. Bremner	7	4262
1399.	Relief of William Persons	7	4262
1400.	Granting title to lands to Juneau, Alaska, for school purposes	7	4262
1401.	Increase of pension for Friedrich Weimar	7	4262
1402.	Increase of pension for Christian Christianson	7	4262
1403.	Increase of pension for Edwin M. Dunning	7	4262
1404.	Increase of pension for Lorenzo Weeks	7	4262
1405.	School districts in Oklahoma to issue bonds	7	4262
1406.	Increase of pension for Daniel Ridinger	7	4262
1407.	Increase of pension for Joshua Weaver	7	4262
1408.	Pension for Eljeroy C. Curtis	7	4262
1409.	Increase of pension for Daniel F. Thompson	7	4262
1410.	Increase of pension for George W. Barry	7	4262
1411.	To apportion term of office of senators of Hawaii	7	4262
1412.	Increase of pension for Peter J. Osterhaus	7	4262
1413.	Pension for Eliza A. Brownlow	7	4262
1414.	Appropriations for Army, 1903	7	4262
1415.	Retirement of George M. Sternberg, Surgeon-General of Army, as major-general, with biography	7	4262
1416.	Increase of pension for William Kunselman	7	4262
1417.	Pension for Charles Blitz	7	4262
1418.	Increase of pension for John C. Campbell	7	4262
1419.	Increase of pension for Kate W. Milward	7	4262
1420.	Increase of pension for Mary S. Downing	7	4262
1421.	To amend act to receive arrearages of taxes in D.C. at 6 per cent	7	4262
1422.	Relief of George F. Ormsby	7	4262
1423.	Increase of pension for Marietta Elizabeth Stanton	7	4262
1424.	Increase of pension for Charles F. Smith	7	4262
1425.	Increase of pension for Solomon P. Brockway	7	4262
1426.	Increase of pension for Abby T. Daniels	7	4262
1427.	Increase of pension for John B. Greenhalgh	7	4262
1428.	Pension for Hannah C. Chase	7	4262
1429.	Increase of pension for George K. Thompson	7	4262
1430.	Pension for William C. Hickox	7	4262
1431.	Increase of pension for James D. Lafferty	7	4262
1432.	Increase of pension for Hugh R. Rutledge	7	4262
1433.	To ratify provision for additional buildings for Arizona University	7	4262
1434.	Relief of Navajo County, Ariz.	7	4262
1435.	To aid in erection of statue of Commodore John D. Sloat at Monterey, Cal.	7	4262
1436.	Relief of Alvin M. Ryerson	7	4262
1437.	Extra space for railroads in D.C. during G.A.R. encampment	7	4262
1438.	Adjudication and payment of claims for Indian depredations	7	4262
1439.	Pension for Adelbert L. Orr	7	4262
1440.	Increase of pension for Michael J. Daly	7	4262
1441.	Pension for Lucinda A. Sirwell	7	4262
1442.	Increase of pension for Edgar A. Hamilton	7	4262
1443.	Increase of pension for Oswald Ahlstedt	7	4262
1444.	Increase of pension for Cyrenus Larrabee	7	4262
1445.	Increase of pension for Edward R. Blain	7	4262
1446.	Pension for Hannah T. Knowles	7	4262
1447.	Increase of pension for Henry Loor Reger	7	4262
1448.	Increase of pension for Robert Lemon	7	4262
1449.	Increase of pension for Queen Esther Grimes	7	4262
1450.	Increase of pension for Francis M. McAdams	7	4262
1451.	Increase of pension for Daniel Donne	7	4262
1452.	Appropriations for fortifications and ordnance, 1903	7	4262
1453.	Pension for Michael Connor	7	4262
1454.	Pension for Amos Allport	7	4262
1455.	Increase of pension for Andrew Ray	7	4262
1456.	Pension for William Kaste	7	4262
1457.	Pension for Ada L. McFarland	7	4262
1458.	Increase of pension for John Brill	7	4262
1459.	Appropriations for Department of Agriculture, 1903	7	4262
1460.	Pension for Louisa White	7	4262
1461.	Increase of pension for Frances C. Haughton	7	4262
1462.	Pension for Hannah H. Graham	7	4262
1463.	Indian agricultural school at or near Wahpeton, N.Dak.	7	4262
1464.	Increase of pension for Ada Trowbridge	7	4262
1465.	Pension for Hiram J. Springfield	7	4262
1466.	Increase of pension for Delia E. Slocum	7	4262
1467.	Increase of pension for Gilbert G. Gabrion	7	4262
1468.	Increase of pension for William M. Barstow	7	4262
1469.	Increase of pension for Albert Deits	7	4262
1470.	Increase of pension for James C. Pettee	7	4262
1471.	Increase of pension for John H. Lauchly	7	4262
1472.	Increase of pension for William A. P. Fellows	7	4262

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1473.	Pension for John York	7	4262
1474.	Increase of pension for Charles T. Crooker	7	4262
1475.	Increase of pension for Annie E. Joseph	7	4262
1476.	Increase of pension for Frederick A. Condon	7	4262
1477.	Increase of pension for James Irvine	7	4262
1478.	Increase of pension for Walter C. Tuttle	7	4262
1479.	Increase of pension for Courtland C. Matson	7	4262
1480.	Increase of pension for Augusta Neville Leary	7	4262
1481.	Increase of pension for William R. Raymond	7	4262
1482.	Pension for Samuel H. Chamberlin	7	4262
1483.	Increase of pension for Elizabeth Whitty	7	4262
1484.	Increase of pension for Maggie L. Reaver	7	4262
1485.	Increase of pension for John Whalen	7	4262
1486.	Increase of pension for William Sheldon	7	4262
1487.	Pension for Charlotte M. Howe	7	4262
1488.	Pension for James H. Landreth	7	4262
1489.	Pension for Nancy E. Hardy	7	4262
1490.	Increase of pension for James F. Patton	7	4262
1491.	Pension for Matilda C. Clarke	7	4262
1492.	Pension for Egbert A. Stricksma	7	4262
1493.	Increase of pension for Annie Cotter	7	4262
1494.	Increase of pension for Edgar T. Chamberlin	7	4262
1495.	Increase of pension for John M. Wheeler	7	4262
1496.	Increase of pension for Henry J. McFadden	7	4262
1497.	Increase of pension for Marcellus M. M. Martin	7	4262
1498.	Increase of pension for James Thompson	7	4262
1499.	To construct dam to control flood waters of Lake Tahoe, California and Nevada	7	4262
1500.	Increase of pension for Lyman Hotaling	7	4262
1501.	To confirm title to certain State school indemnity selections, etc.	7	4262
1502.	Free homesteads on public lands in Colville Reservation, Wash.	7	4262
1503.	Relief of widow of Lemuel J. Draper	7	4262
1504.	Pension for Annie Shinn	7	4262
1505.	Increase of pension for James P. McClure	7	4262
1506.	Increase of pension for Augustin M. Adams	7	4262
1507.	Pension for Francis Fox	7	4262
1508.	Fishing in Potomac River and tributaries	7	4262
1509.	Increase of pension for John J. Martin	7	4262
1510.	Relief of John Hornick	7	4262
1511.	Relief of Frank C. Darling	7	4262
1512.	Relief of admr. of Andreas Darling	7	4262
1513.	Pension for Martin Essex	7	4262
1514.	Pension for Elizabeth I. Ogden	7	4262
1515.	Increase of pension for Charles Haltenhof	7	4262
1516.	Increase of pension for Jesse C. Rhodabeck	7	4262
1517.	Increase of pension for Betsey Gumm	7	4262
1518.	Increase of pension for Charles Barrett	7	4262
1519.	Pension for Mary Ann Merrow	7	4262
1520.	Increase of pension for Elbert N. Remson	7	4262
1521.	Increase of pension for Henry P. Hudson	7	4262
1522.	Increase of pension for Christopher C. Perry	7	4262
1523.	Increase of pension for Robert R. Strong	7	4262
1524.	Increase of pension for William H. Temple	7	4262
1525.	Increase of pension for William D. Tanner	7	4262
1526.	Pension for Samantha B. Van Brocklin	7	4262
1527.	Pension for Jeremiah Horan	7	4262
1528.	Pension for Hester A. Furr	7	4262
1529.	Pension for Presley P. Medlin	7	4262
1530.	Increase of pension for Otis R. Freeman	7	4262
1531.	To increase efficiency of Public Health and Marine Hospital Service	7	4262
1532.	Additional life-saving station on Monomoy Island, Massachusetts	7	4262
1533.	Pension for Benjamin E. Styles	7	4262
1534.	Increase of pension for William Brown	7	4262
1535.	Increase of pension for Elias A. Calkins	7	4262
1536.	Increase of pension for William H. Shaffer	7	4262
1537.	Increase of pension for John L. Branson	7	4262
1538.	Pension for Leonora V. Stacy	7	4262
1539.	Increase of pension for Arthur H. Perkins	7	4262
1540.	Increase of pension for Orra H. Heath	7	4262
1541.	Increase of pension for George W. De Graw	7	4262
1542.	Increase of pension for William H. Wheeler	7	4262
1543.	Pension for Mary Louise Lowry	7	4262
1544.	Relief of assignee of John Gafford	7	4262
1545.	Manual of law and practice in regard to conferences of Senate and House	7	4262
1546.	Increase of pension for Henry I. Smith	7	4262
1547.	Increase of pension for William H. Hoxie	7	4262
1548.	Pension for Ellen A. Sager	7	4262
1549.	Increase of pension for Henry E. Murphy	7	4262
1550.	Increase of pension for William H. Green	7	4262
1551.	Increase of pension for Alfred O. Blood	7	4262
1552.	Increase of pension for Samuel P. Milburn	7	4262
1553.	Increase of pension for William C. Holcomb	7	4262
1554.	Increase of pension for Katharine Rains Paul	7	4262
1555.	Increase of pension for James H. Dunn	7	4262
1556.	Increase of pension for Daniel J. Mahoney	7	4262
1557.	Relief of Levi Maxted	7	4262
1558.	Use of Governors Island, by Boston, Mass.	7	4262
1559.	Relief of Louis Loeb	7	4262
1560.	Relief of John M. Barnes	7	4262
1561.	To place Thomas H. Carpenter on retired list of Army	7	4262
1562.	Appropriations for Military Academy, 1903	7	4262
1563.	Military record of James Marley	7	4262
1564.	Relief of Benjamin Franklin Handforth	7	4262
1565.	Relief of Francis S. Davidson	7	4262
1566.	Military record of Samuel F. Hall	7	4262
1567.	To remove charge of desertion from Abram Williams	7	4262
1568.	To place James W. Long on retired list of Army	7	4262
1569.	Increase of pension for Frederick Kropf	7	4262
1570.	Pension for Melissa Burton	7	4262
1571.	Increase of pension for Evaline Jenkins	7	4262
1572.	Increase of pension for August Schill	7	4262
1573.	Increase of pension for Elizabeth G. Getty	7	4262
1574.	Increase of pension for Mary Etna Poole	7	4262
1575.	Increase of pension for George W. Butler	7	4262
1576.	Increase of pension for William E. Ball	7	4262
1577.	Pension for Zebulon A. Shipman	7	4262
1578.	Increase of pension for Andrew R. Jones	7	4262
1579.	Increase of pension for Charles Edward Price Lance	7	4262
1580.	Increase of pension for Pitsar Ingram	7	4262
1581.	Increase of pension for William H. Thomas	7	4262
1582.	Increase of pension for R. Sherman Langworthy	7	4262
1583.	Increase of pension for Henry W. Tryon	7	4262
1584.	Increase of pension for Frederick Bulkley	7	4262
1585.	Increase of pension for John Smith	7	4262
1586.	Pension for Frances A. Tillotson	7	4262
1587.	Increase of pension for Mary Scott	7	4262
1588.	Increase of pension for William H. White	7	4262
1589.	Relief of Russell Savage	7	4262
1590.	Pension for Eliza J. West	7	4262
1591.	Increase of pension for Francis W. Anderton	7	4262
1592.	Increase of pension for Frances H. Anthony	7	4262
1593.	Increase of pension for Eleanor Emerson	7	4262
1594.	Increase of pension for William Kelley	7	4262
1595.	Pension for Fredereka Seymore	7	4262
1596.	Pension for Fannie Frost	7	4262
1597.	Increase of pension for Margaret McCuen	7	4262
1598.	Increase of pension for David Topper	7	4262
1599.	Increase of pension for John M. Crist	7	4262
1600.	Increase of pension for George Chamberlin	7	4262
1601.	Increase of pension for Elizabeth A. Turner	7	4262
1602.	Pension for Martha E. Kendrick	7	4262
1603.	Increase of pension for Thomas D. Utter	7	4262
1604.	Increase of pension for Fletcher J. Walker	7	4262
1605.	Increase of pension for Thomas Hannah	7	4262
1606.	Increase of pension for Sarah A. Whitcomb	7	4262
1607.	Increase of pension for Angus Cameron	7	4262

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1608.	Increase of pension for Martin Boice	7	4262
1609.	Increase of pension for Albert H. Steifenhofer	7	4262
1610.	Increase of pension for George W. Mathews	7	4262
1611.	Pension for Mary A. Bailey	7	4262
1612.	To ratify act of Arizona authorizing expenditures by Maricopa County	7	4262
1613.	Increase of pension for Thomas L. Caughey	7	4262
1614.	Increase of pension for John Washburn	7	4262
1615.	Military record of Levi Wells	7	4262
1616.	Military record of Hays Gaskill	7	4262
1617.	To authorize erection of certain public buildings, etc.	8	4263
1618.	Increase of pension for Ann E. Tillson	8	4263
1619.	Increase of pension for Lucy A. Turner	8	4263
1620.	Increase of pension for Hinkley G. Knights	8	4263
1621.	Increase of pension for Robert Carpenter	8	4263
1622.	Increase of pension for Griffith Evans	8	4263
1623.	Relief of James F. McIndoe	8	4263
1624.	Additional lands for Montana University	8	4263
1625.	Relief of representatives of George W. Curtis	8	4263
1626.	Relief of Henry Bash	8	4263
1627.	Relief of Custis Parke Upshur	8	4263
1628.	Increase of pension for Jane M. Meyer	8	4263
1629.	Pension for Isabella H. Irish	8	4263
1630.	Increase of pension for James K. Van Matre	8	4263
1631.	Relief of representative of William Kendall	8	4263
1632.	Protection of fish and game in Indian Territory	8	4263
1633.	Relief of officers of North Carolina College of Agric. and Mechanic Arts	8	4263
1634.	To change boundaries of judicial divisions in Alaska	8	4263
1635.	Relief of Mobile and Ohio Railroad Co.	8	4263
1636.	Increase of pension for Mabery H. Presley	8	4263
1637.	Pension for Dennis J. Kelly	8	4263
1638.	Increase of pension for Israel Haller	8	4263
1639.	Increase of pension for Thomas W. Dodge	8	4263
1640.	Pension for Archer Bartlett	8	4263
1641.	Increase of pension for George G. Sabin	8	4263
1642.	Relief of Morgan's Louisiana and Texas R.R. and S.S. Company	8	4263
1643.	To settle suit of Eastern Band of Cherokee Indians v. W. H. Thomas	8	4263
1644.	Pension for Arthur J. Bushnell	8	4263
1645.	Increase of pension for Christianna Leach	8	4263
1646.	Pension for Mary E. Culver	8	4263
1647.	Increase of pension for John W. Acker	8	4263
1648.	Increase of pension for Leath Gilliland	8	4263
1649.	Increase of pension for Louisa M. Macfarlane	8	4263
1650.	To limit meaning of word conspiracy in labor troubles	8	4263
1651.	Charleston, Suburban and Summerville Ry. to bridge Ashley River, South Carolina	8	4263
1652.	Harriman Southern R.R. to bridge Tennessee River, Tennessee	8	4263
1653.	Relief of Frank J. Burrows	8	4263
1654.	To regulate sale of intoxicating liquors in D.C.	8	4263
1655.	To rebuild Aqueduct Bridge, D.C.	8	4263
1656.	To permit overhead electric wires in D.C. for lighting purposes	8	4263
1657.	Increase of pension for Martha A. Johnston	8	4263
1658.	Increase of pension for John R. Sandsbury	8	4263
1659.	Increase of pension for Willie Thomas	8	4263
1660.	Pension for Eleanore F. Adams	8	4263
1661.	Increase of pension for Francis Scott	8	4263
1662.	Fish hatchery in Maryland	8	4263
1663.	Interoceanic canal	8	4263
1664.	Increase of pension for Edwin Young	8	4263
1665.	Advances from U.S. Treasury for support of government of D.C.	8	4263
1666.	Fireproof file cases, etc., in office of recorder of deeds, D.C.	8	4263
1667.	Site and building for Business High School, D.C.	8	4263
1668.	Medical inspectors of public schools in D.C.	8	4263
1669.	To pave Wyoming avenue west of Connecticut avenue, D.C.	8	4263
1670.	Granting leaves of absence to per diem employees of D.C.	8	4263
1671.	Commissioners of D.C. to purchase Analostan Island	8	4263
1672.	Amendments to bill making appropriations for D.C., 1903	8	4263
1673.	Pension for Cherstin Mattson	8	4263
1674.	To remove charge of desertion from Ephraim H. Gallion	8	4263
1675.	Increase of pension for Charles G. Howard	8	4263
1676.	Increase of pension for Cornelia F. Whitney	8	4263
1677.	To change appropriations for Electrical Department, D.C., 1903	8	4263
1678.	To grade New Hampshire avenue from Whitney ave. to 7th st., D.C.	8	4263
1679.	Inspection of meters in departmental and city buildings, D.C.	8	4263
1680.	To transfer Richmond P. Hobson to retired list of Navy	8	4263
1681.	Relief of John F. Bransford	8	4263
1682.	Relief of Charles H. Robinson	8	4263
1683.	Increase of pension for Charles W. Rose	8	4263
1684.	Increase of pension for Levi H. Collins	8	4263
1685.	Increase of pension for James M. Thomas	8	4263
1686.	To pay damages for artillery explosion, Chicago, 1894	8	4263
1687.	Allowance of 4th of July claims	8	4263
1688.	Relief of S. J. Bayard Schindel	8	4263
1689.	To pay claim of Stephen B. Halsey	8	4263
1690.	Pension for Nelson W. Wade	8	4263
1691.	Increase of pension for William D. Stites	8	4263
1692.	Increase of pension for Dudley Cary	8	4263
1693.	Increase of pension for Sidney N. Lund	8	4263
1694.	To grant California indemnity in lieu of land for Torros Reservation	8	4263
1695.	Pension for Asa E. Sampson	8	4263
1696.	Increase of pension for Franklin Snyder	8	4263
1697.	Pension for Wesley Brummett	8	4263
1698.	Increase of pension for Charles C. Washburn	8	4263
1699.	Increase of pension for Lewis F. Ross	8	4263
1700.	Pension for John Conter	8	4263
1701.	Increase of pension for James Van Zant	8	4263
1702.	Increase of pension for William G. De Garis	8	4263
1703.	Pension for Harriet T. Milburn	8	4263
1704.	Increase of pension for Jessie Nesbit Smith	8	4263
1705.	Increase of pension for Henry Hunt	8	4263
1706.	Increase of pension for Peter Dugan	8	4263
1707.	Increase of pension for John Murphy	8	4263
1708.	Increase of pension for Andrew J. Fogg	8	4263
1709.	Increase of pension for Edwin M. Gowdey	8	4263
1710.	Pension for Nelson Johnson	8	4263
1711.	Pension for Lizana D. Streeter	8	4263
1712.	Increase of pension for Mary A. Moore	8	4263
1713.	Relief of Sylvester S. Van Sickel	8	4263
1714.	Relief of Herbert O. Dunn	8	4263
1715.	Use of electric conduits in D.C.	8	4263
1716.	Increase of pension for Oceana B. Irwin	8	4263
1717.	Increase of pension for Abraham Shreeves	8	4263
1718.	Pension for Forrest E. Andrews	8	4263
1719.	To grade V st. from North Capitol st. to Lincoln ave., D.C.	8	4263
1720.	To regulate use of telephone wires in D.C.	8	4263
1721.	Pension for Emily Briggs	8	4263
1722.	To authorize retirement of John R. Brooke	8	4263
1723.	Cost of arc lighting in D.C.	8	4263
1724.	Military record of John O'Brien	8	4263
1725.	Military record of Reinhard Schneider	8	4263
1726.	To duplicate lost check in favor of Stanley and Patterson	8	4263

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1727.	To remove charge of desertion from Eli Hibbard	8	4263
1728.	To audit claims of counties of Arizona	8	4263
1729.	To change boundaries of judicial divisions in Alaska	8	4263
1730.	Pension for William F. Bowden	8	4263
1731.	Increase of pension for Clara E. Daniels	8	4263
1732.	Increase of pension for Frederick W. Willey	8	4263
1733.	Pension for Thomas H. Devitt	8	4263
1734.	Increase of pension for Julia B. Shurtleff	8	4263
1735.	Increase of pension for Ella B. S. Mannix	8	4263
1736.	Appropriations for naval service, 1903	8	4263
1737.	Minnesota to file selections of indemnity school lands	8	4263
1738.	Increase of pension for Florian V. Sims	8	4263
1739.	Increase of pension for Moses S. Curtis	8	4263
1740.	Increase of pension for Charles E. Miller	8	4263
1741.	Pension for Emma L. Ferrier	8	4263
1742.	To prevent discrimination in grazing permits on forest reserves	8	4263
1743.	Accounts between United States and the several States	8	4263
1744.	Free homesteads on ceded portion of Ute Reservation in Colorado	8	4263
1745.	Increase of pension for Robert G. Scroggs	8	4263
1746.	Increase of pension for John W. Craine	8	4263
1747.	Increase of pension for Thomas Finegan	8	4263
1748.	Pension for Mary C. Bickerstaff	8	4263
1749.	Relief of Jerome E. Morse	8	4263
1750.	Pension for Fannie Reardon	8	4263
1751.	Relief of James E. Tolfree	8	4263
1752.	Relief of Charles Blake	8	4263
1753.	To refund internal revenue taxes paid by owners of private dies	8	4263
1754.	Relief of W. C. Taylor	8	4263
1755.	Relief of John Scott	8	4263
1756.	Relief of assignee of Luke Christie	8	4263
1757.	To extend free-delivery system to places having 5,000 population, etc.	8	4263
1758.	Relief of John H. McLaughlin	8	4263
1759.	Rights of way through public lands, reservations, and certain national parks	8	4263
1760.	To allow sale or lease of Santa Fe Pacific Railroad	8	4263
1761.	To incorporate American Academy in Rome	8	4263
1762.	Relief of owners, etc., of brig Olive Frances	8	4263
1763.	Limit of navigability of Osage River above Warsaw, Mo.	8	4263
1764.	Construction by Canada of dam in St. Lawrence River	8	4263
1765.	Increase of pension for William F. Angevine	8	4263
1766.	Increase of pension for John M. Brown	8	4263
1767.	Increase of pension for William H. McCarter	8	4263
1768.	Pension for Luther G. Edwards	8	4263
1769.	To amend act in relation to taxes and tax sales in D.C.	8	4263
1770.	To amend act for sealer and asst. sealer of weights and measures in D.C.	8	4263
1771.	To amend act to regulate height of buildings in D.C.	8	4263
1772.	To loan arms to institutions in D.C. having companies of Boys' Brigades	8	4263
1773.	Relief of enlisted men of Navy who have served as officers	8	4263
1774.	Increase of pension for Katharine W. Clarke	8	4263
1775.	Pension for Margaret Tisdale	8	4263
1776.	Increase of pension for Edwin Beckwith	8	4263
1777.	Pension for Martha Elizabeth Hench	8	4263
1778.	Increase of pension for James Mealey	8	4263
1779.	Increase of pension for Joseph A. Kerbey	8	4263
1780.	Increase of pension for Charles E. Pettis	8	4263
1781.	Increase of pension for William W. H. Davis	8	4263
1782.	Increase of pension for Pierson L. Shick	8	4263
1783.	Increase of pension for William H. Van Riper	8	4263
1784.	Increase of pension for Gibboney F. Hoop	8	4263
1785.	Military record of Michael Hayes	8	4263
1786.	Pension for Elizabeth Jacobs	8	4263
1787.	Increase of pension for Jacob Smith	8	4263
1788.	Increase of pension for Elizabeth J. Eagon	8	4263
1789.	Increase of pension for Ellen W. Rice	8	4263
1790.	Increase of pension for Orrin J. Wells	8	4263
1791.	Increase of pension for Nelson Churchill	8	4263
1792.	Pension for Christopher S. Stephens	8	4263
1793.	Increase of pension for Richard G. Watkins	8	4263
1794.	Increase of pension for John S. Bonham	8	4263
1795.	Increase of pension for James Austin	8	4263
1796.	To examine account of Cape Smythe Whaling and Trading Co.	8	4263
1797.	Increase of pension for Ebenezer W. Oakley	8	4263
1798.	Increase of pension for Rufus V. Lee	8	4263
1799.	Increase of pension for Thomas Swan	8	4263
1800.	Pension for Susan Walker	8	4263
1801.	Increase of pension for William H. Lessig	8	4263
1802.	Increase of pension for Maria V. Stadtmueller	8	4263
1803.	Increase of pension for John A. Eveland	8	4263
1804.	Increase of pension for Richard M. Kellough	8	4263
1805.	Increase of pension for Jackson L. Wilson	8	4263
1806.	Increase of pension for David Ham	8	4263
1807.	Increase of pension for John D. Sullivan	8	4263
1808.	Increase of pension for Harman Scramlin	8	4263
1809.	Increase of pension for Esek B. Chandler	8	4263
1810.	Increase of pension for Rachel Brown	8	4263
1811.	Increase of pension for George W. Bradshaw	8	4263
1812.	Increase of pension for Henry Weaver	8	4263
1813.	Increase of pension for Michael Volz	8	4263
1814.	Increase of pension for John W. Dick	8	4263
1815.	Increase of pension for John Revley	8	4263
1816.	Pension for Daniel L. Mallicoat	8	4263
1817.	Increase of pension for Henry Runnels	8	4263
1818.	Increase of pension for Stephen B. Todd	8	4263
1819.	Increase of pension for Orange Sells	8	4263
1820.	Increase of pension for William C. Banta	8	4263
1821.	Increase of pension for William W. Richardson	8	4263
1822.	Increase of pension for Joseph D. McClure	8	4263
1823.	Pension for Isaac M. Pangle	8	4263
1824.	Increase of pension for John H. Crawford	8	4263
1825.	Increase of pension for John W. Campbell	8	4263
1826.	Pension for James E. Dickey	8	4263
1827.	Increase of pension for John A. Robertson	8	4263
1828.	Increase of pension for Horatio N. Whitbeck	8	4263
1829.	Pension for Mary A. Lipps	8	4263
1830.	Increase of pension for Anthony J. Railey	8	4263
1831.	Pension for Angeline H. Taylor	8	4263
1832.	Pension for Carrie B. Farnham	8	4263
1833.	Increase of pension for Edmund B. Appleton	8	4263
1834.	Increase of pension for George W. White	8	4263
1835.	Increase of pension for Isaac Gibson	8	4263
1836.	Increase of pension for James E. Bader	8	4263
1837.	Increase of pension for Melinda Heard	8	4263
1838.	Increase of pension for William Warner	8	4263
1839.	Relief of F. C. Boucher	8	4263
1840.	Increase of pension for Clara M. Gihon	8	4263
1841.	Increase of pension for Merzellah Merrill	8	4263
1842.	Increase of pension for George W. Shaw	8	4263
1843.	Increase of pension for James F. Gray	8	4263
1844.	Increase of pension for John Lilley	8	4263
1845.	Increase of pension for Kate O. Phillips	8	4263
1846.	Investigation of charges against William A. Jones	8	4263
1847.	Increase of pension for Esther D. Haslam	8	4263
1848.	Allowance of claims for property taken during War with Spain	8	4263
1849.	Newport Bridge, Belt and Terminal Railway to bridge White River, Arkansas	8	4263
1850.	Increase of pension for Jesse M. Peck	8	4263

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1851.	Pension for Martha A. Cornish	8	4263
1852.	Building for Department of Agriculture	8	4263
1853.	Pension for Clara C. Hawks	8	4263
1854.	Increase of pension for Samuel Bortle	8	4263
1855.	Increase of pension for Julia L. Gordon	8	4263
1856.	Pension for Henrietta Gottweis	8	4263
1857.	Pension for Alfred Hatfield	8	4263
1858.	Increase of pension for David T. Bruck	8	4263
1859.	Pension for Robert Watts	8	4263
1860.	Pension for Samantha Towner	8	4263
1861.	Increase of pension for Mary J. Gillam	8	4263
1862.	Increase of pension for George Fusselman	8	4263
1863.	Increase of pension for James M. Conrad	8	4263
1864.	Increase of pension for Asa Worden	8	4263
1865.	Increase of pension for Charles Olson	8	4263
1866.	Pension for Nancy M. Williams	8	4263
1867.	Increase of pension for Benjamin F. Shearer	8	4263
1868.	Increase of pension for Elizabeth Wall	8	4263
1869.	Increase of pension for Charles P. Maxwell	8	4263
1870.	Increase of pension for William P. Schott	8	4263
1871.	Kansas City Outer Belt and Electric R.R. to bridge Missouri River in Wyandotte County, Kansas, and Clay County, Missouri	8	4263
1872.	Relief of Katie A. Nolan	8	4263
1873.	Increase of pension for David Vickers	8	4263
1874.	Increase of pension for Edgar A. Stanley	8	4263
1875.	Increase of pension for Eliza M. Miller	8	4263
1876.	Pension for Daniel Dougherty	8	4263
1877.	Pension for William Johnston	8	4263
1878.	Increase of pension for Daniel Thomas	8	4263
1879.	Pension for Mary E. Holbrook	8	4263
1880.	Increase of pension for Carrie M. Schofield	8	4263
1881.	Increase of pension for George W. Stott	8	4263
1882.	Increase of pension for Louisa N. Grinstead	8	4263
1883.	Increase of pension for Johann Conrad Haas	8	4263
1884.	Increase of pension for Margaret S. Tod	8	4263
1885.	Relief of surviving partners of Penny and Sons	8	4263
1886.	Increase of pension for Charles A. Cooke	8	4263
1887.	Pension for Mary J. Adams	8	4263
1888.	Increase of pension for John Miller	8	4263
1889.	Increase of pension for Samuel Hyman	8	4263
1890.	Increase of pension for George W. Berry	8	4263
1891.	Increase of pension for John H. Smith	8	4263
1892.	Pension for Martha G. Young	8	4263
1893.	Pension for William C. Roberts	8	4263
1894.	Increase of pension for Peter T. Norris	8	4263
1895.	Increase of pension for Andrew E. Hicks	8	4263
1896.	Increase of pension for Stiles L. Acee	8	4263
1897.	Pension for Martha A. Hollingsead	8	4263
1898.	Pension for John Williamson	8	4263
1899.	Increase of pension for Hannah E. James	8	4263
1900.	Increase of pension for Charles Sprague	8	4263
1901.	Increase of pension for James W. Poor	8	4263
1902.	Pension for John W. Thomas	8	4263
1903.	Increase of pension for Leon King	8	4263
1904.	Increase of pension for George Baker	8	4263
1905.	Increase of pension for John G. Heiser	8	4263
1906.	Pension for Lizzie Dunlap	8	4263
1907.	Increase of pension for Charlotte E. Baird	8	4263
1908.	Increase of pension for John Ludwig	8	4263
1909.	Pension for Mary Stone	8	4263
1910.	Relief of Riley Moutrey	8	4263
1911.	To pay F. Y. Ramsay, heir, balance due Joseph Ramsay	8	4263
1912.	Relief of George Lea Febiger	8	4263
1913.	To pay John F. Weston $241.60	8	4263
1914.	Increase of pension for Fannie S. Cross	8	4263
1915.	Increase of pension for Nancy J. McArthur	8	4263
1916.	To amend act to incorporate National Florence Crittenton Mission	8	4263
1917.	To authorize Potomac Western R.R. to build road through Arlington, etc.	8	4263
1918.	Minneapolis, Superior, St. Paul and Winnipeg Railway to bridge Mississippi River in Minnesota	8	4263
1919.	Appropriations for District of Columbia, 1903	8	4263
1920.	Anacostia and Potomac R.R. to extend line	8	4263
1921.	Use of electric conduits in D.C.	8	4263
1922.	To establish chaplaincy in D.C. in connection with jail, etc.	8	4263
1923.	Relief of holders of certain District special-tax scrip	8	4263
1924.	To abolish estates of curtesy and dower in D.C., etc.	8	4263
1925.	Increase of pension for Stephen Harris	8	4263
1926.	Pension for James E. Bates	8	4263
1927.	Increase of pension for Thomas Wilkinson	8	4263
1928.	Increase of pension for Marvin Chandler	8	4263
1929.	Increase of pension for George E. Bump	8	4263
1930.	To amend act requiring use of safety appliances on railroads	8	4263
1931.	Relief of G. W. Ratleff	9	4264
1932.	Relief of heir of Henry Opeman Bassett	9	4264
1933.	To pay for property destroyed in suppressing bubonic plague in Hawaii	9	4264
1934.	To appoint William P. Randall commander on retired list	9	4264
1935.	To appoint Arthur P. Osborn commander on retired list	9	4264
1936.	Increase of pension for James Brown	9	4264
1937.	Increase of pension for Millen McMillen	9	4264
1938.	To revive office of secretary of D.C.	9	4264
1939.	To omit extension of Kalorama ave., D.C., from Columbia road to 19th st.	9	4264
1940.	Final proof in desert-land entries in Yakima County, Wash.	9	4264
1941.	To grant certain lands near Denver, Colo., to South Platte Canal and Reservoir Co.	9	4264
1942.	To refer claims for extra payment for war-ships to Court of Claims	9	4264
1943.	Sale of timber on lands granted to New Mexico	9	4264
1944.	To set apart lands in South Dakota as Wind Cave national park	9	4264
1945.	To authorize employment of unskilled laborers in Census Office	9	4264
1946.	To restore John Walton Ross to active list of Navy	9	4264
1947.	Pension for James B. Mahan	9	4264
1948.	Increase of pension for Charles K. Batey	9	4264
1949.	Increase of pension for Albert M. Scott	9	4264
1950.	To authorize Pensacola, Ala. and Tenn. Ry. to bridge Alabama River in Wilcox County, Alabama	9	4264
1951.	To establish representative form of government for D.C.	9	4264
1952.	Expenditures for improvements at Lawton, Anadarko, and Hobart, Okla.	9	4264
1953.	To provide financial clerk for Police Court, D.C.	9	4264
1954.	Disposition of public lands and buildings in Porto Rico	9	4264
1955.	Increase of pension for Bailey O. Bowden	9	4264
1956.	Increase of pension for Adrian M. Snyder	9	4264
1957.	Reimbursement of Mellert Foundry and Machine Company	9	4264
1958.	Increase of pension for Milton Frazier	9	4264
1959.	Pension for Henry R. Gibbs	9	4264
1960.	Increase of pension for Corydon Millard	9	4264
1961.	Pension for Elizabeth D. Harding	9	4264
1962.	Pension for Abbie Bourke	9	4264
1963.	Increase of pension for Allen W. Merrill	9	4264
1964.	Increase of pension for Benjamin Grinnell	9	4264
1965.	Increase of pension for Thomas J. Pleasant	9	4264
1966.	Increase of pension for David E. Hall	9	4264
1967.	Pension for Cappa King	9	4264

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1968.	Pension for Elizabeth A. Nalley	9	4264
1969.	Increase of pension for Anne M. Luman	9	4264
1970.	Increase of pension for Elias Brewster	9	4264
1971.	Pension for Mary A. Peters	9	4264
1972.	Increase of pension for Timothy Donohoe	9	4264
1973.	Increase of pension for Charles M. Grainger	9	4264
1974.	Increase of pension for William H. Hudson	9	4264
1975.	Increase of pension for Silas Stotts	9	4264
1976.	Increase of pension for Fannie McHarg	9	4264
1977.	Increase of pension for James H. McKnight	9	4264
1978.	Pension for Joseph H. Woodruff	9	4264
1979.	Honorable discharge for Samuel Welch	9	4264
1980.	To regulate sale of viruses, and other products for prevention of disease, in D.C.	9	4264
1981.	Military record of Edward T. Lewis	9	4264
1982.	Relief of J. V. Worley	9	4264
1983.	Relief of George A. Rogers	9	4264
1984.	Pension for Etta A. Whitehouse	9	4264
1985.	Pension for Nancy M. Gunsally	9	4264
1986.	Increase of pension for Charles E. Brown	9	4264
1987.	Pension for Huldah A. Clark	9	4264
1988.	Military record of James M. Olmstead	9	4264
1989.	Pension for Catharine Freeman	9	4264
1990.	For resurvey of certain townships in San Diego Co., Cal.	9	4264
1991.	Rights of aliens to hold and own real estate in D.C.	9	4264
1992.	To pay burial expenses of Elmer B. Gavett	9	4264
1993.	Increase of pension for George W. Edgington	9	4264
1994.	Purchase of real estate at Wilmington, N.C.	9	4264
1995.	Pension for Michael Mullin	9	4264
1996.	Pension for Jennie M. Sawyer	9	4264
1997.	Increase of pension for Colmore L. Newman	9	4264
1998.	Pension for Calvin Duckworth	9	4264
1999.	Increase of pension for Caroline M. Stone	9	4264
2000.	Increase of pension for Thomas M. Owens	9	4264
2001.	Increase of pension for Samuel Brown	9	4264
2002.	Increase of pension for Henry P. Macloon	9	4264
2003.	Increase of pension for Jennett Stewart	9	4264
2004.	Increase of pension for Francis M. Beebe	9	4264
2005.	Increase of pension for Stanton L. Brabham	9	4264
2006.	Increase of pension for Susan A. Phelps	9	4264
2007.	Pension for John A. Kirkham	9	4264
2008.	Increase of pension for George Kerr	9	4264
2009.	Increase of pension for Baley W. Small	9	4264
2010.	Increase of pension for Hiram Janes	9	4264
2011.	Increase of pension for Joseph Mote	9	4264
2012.	Increase of pension for John A. Wright	9	4264
2013.	Increase of pension for John S. Crosser	9	4264
2014.	Increase of pension for John Q. A. Rider	9	4264
2015.	Increase of pension for Freeman R. Gove	9	4264
2016.	Increase of pension for William Kelley	9	4264
2017.	Increase of pension for Monora Stimson	9	4264
2018.	Increase of pension for William Clark	9	4264
2019.	Increase of pension for Newton W. Elmendorf	9	4264
2020.	Pension for James A. Chalfant	9	4264
2021.	Increase of pension for James H. Joseph	9	4264
2022.	Monument to Gen. Hugh Mercer at Fredericksburg, Va.	9	4264
2023.	Increase of pension for Ransom Simmons	9	4264
2024.	Increase of pension for William L. Church	9	4264
2025.	Increase of pension for Caroline A. Hammond	9	4264
2026.	Increase of pension for Edwin P. Johnson	9	4264
2027.	Increase of pension for John C. Nelson	9	4264
2028.	Increase of pension for George R. Baldwin	9	4264
2029.	Increase of pension for Alexander Murdock	9	4264
2030.	To authorize relinquishment of claims in national parks in California	9	4264
2031.	To pay for services, etc., furnished to Pan-American Exposition	9	4264
2032.	Court of Claims to determine claims of Chippewa Indians, White River or Confederated Bands of Ute Indians of Colorado, and Delaware Indians	9	4264
2033.	Increase of pension for William A. Henderson	9	4264
2034.	Increase of pension for William S. Frost	9	4264
2035.	Increase of pension for Betsey Jones	9	4264
2036.	Increase of pension for Robert P. McRae	9	4264
2037.	Pension for Susan J. Taylor	9	4264
2038.	Increase of pension for Mary A. Munson	9	4264
2039.	Increase of pension for George H. Young	9	4264
2040.	Increase of pension for Joseph Stonesifer	9	4264
2041.	Pension for William H. Ruggles	9	4264
2042.	Adjustment of rights of settlers on Navajo Reservation, Arizona	9	4264
2043.	Increase of pension for James S. Young	9	4264
2044.	Increase of pension for Grace M. Read	9	4264
2045.	Pension for James A. Clifton	9	4264
2046.	Increase of pension for Jonathan Walbert	9	4264
2047.	Increase of pension for William S. Hosack	9	4264
2048.	Increase of pension for Daniel J. Byrnes	9	4264
2049.	Pension for William H. Durham	9	4264
2050.	Increase of pension for Reuben Andrews	9	4264
2051.	Increase of pension for Charles H. Webb	9	4264
2052.	Increase of pension for Lizzie I. Rich	9	4264
2053.	Increase of pension for Warren C. Plummer	9	4264
2054.	Pension for John C. Clarke	9	4264
2055.	Increase of pension for William Barrett	9	4264
2056.	Increase of pension for Wallace Fairbank	9	4264
2057.	Pension for Preston W. Burford	9	4264
2058.	Increase of pension for Mary Elizabeth Fales	9	4264
2059.	Allotments to Indians of Lac Courte Oreille Reservation, Wisconsin	9	4264
2060.	Giving director of census additional power in matter of penal statistics	9	4264
2061.	Pension for John J. Southerland	9	4264
2062.	Increase of pension for William W. Anderson	9	4264
2063.	Increase of pension for James H. Chedester	9	4264
2064.	Time of holding district court at Philadelphia, Pa.	9	4264
2065.	To amend act creating middle judicial district of Pennsylvania	9	4264
2066.	For further distribution of reports of Supreme Court	9	4264
2067.	Relief of estate of William M. Morrison	9	4264
2068.	Sale of unsold portion of Umatilla Reservation, Oregon	9	4264
2069.	New division of southern judicial district of Georgia	9	4264
2070.	Payment of part of pension of Ira Steward to Adell Augusta Steward	9	4264
2071.	Pension for Mary J. Moore	9	4264
2072.	Increase of pension for James W. Young	9	4264
2073.	Increase of pension for William H. Snyder	9	4264
2074.	Increase of pension for Susan B. Lynch	9	4264
2075.	Increase of pension for William D. Smith	9	4264
2076.	Increase of pension for Sanders R. Seamonds	9	4264
2077.	Increase of pension for Ole Thompson	9	4264
2078.	Increase of pension for Thomas P. May	9	4264
2079.	Increase of pension for Thomas Sheridan	9	4264
2080.	Increase of pension for Charles A. Scott	9	4264
2081.	Increase of pension for Sarah D. Bereman	9	4264
2082.	Increase of pension for Eliza E. Littlefield	9	4264
2083.	Increase of pension for William J. Remington	9	4264
2084.	Increase of pension for Jason E. Freeman	9	4264
2085.	Increase of pension for Charles F. Coles	9	4264
2086.	Increase of pension for Peter Poutney	9	4264
2087.	Increase of pension for Thomas L. Collins	9	4264
2088.	Pension for Andrew Ady	9	4264
2089.	Pension for William G. Miller	9	4264
2090.	Pension for Jacob Findley	9	4264
2091.	Pension for Absolum Maynard	9	4264
2092.	Pension for Anne Bronson	9	4264
2093.	Increase of pension for George Atkinson	9	4264
2094.	To regulate use of reservoir sites designed for watering live stock	9	4264

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
2095.	Increase of pension for Abraham Park	9	4264
2096.	Increase of pension for Almond Partridge	9	4264
2097.	Increase of pension for Harvey B. Linton	9	4264
2098.	Granting lots in Gnadenhutten, Ohio, to school district	9	4264
2099.	To ratify agreement with Kansas or Kaw Indians of Oklahoma	9	4264
2100.	West Elizabeth and Dravosburg Bridge Co. to bridge Monongahela River in Pennsylvania	9	4264
2101.	Relief of I. I. Barber	9	4264
2102.	Relief of assignees of Addison C. Fletcher for use of patent	9	4264
2103.	For allotment of lands of Cherokee Indians	9	4264
2104.	Appropriations for deficiencies, 1902 and prior years	9	4264
2105.	For leasing of water-power created by public works	9	4264
2106.	Census Office to compile statistics of irrigation	9	4264
2107.	Tacoma and Seattle, Wash., to be ports of immediate transportation	9	4264
2108.	For removal of shoal in Hudson River, New York Harbor	9	4264
2109.	Increase of pension for John Marble	9	4264
2110.	Relief of William Victor Tomb	9	4264
2111.	To pay claims of letter-carriers barred by limitation	9	4264
2112.	Relief of Noah Dillard	9	4264
2113.	Relief of P. S. Corbett	9	4264
2114.	Relief of Angus A. McPhee	9	4264
2115.	Relief of Darwin S. Hall	9	4264
2116.	To prohibit destruction of fish and marine animals by explosives	9	4264
2117.	To ratify agreement with Turtle Mountain band of Chippewa Indians of North Dakota	9	4264
2118.	Maricopa County, Ariz., to issue bonds for construction of reservoirs	9	4264
2119.	Regulation of immigration; proposal for reenactment of immigration laws, with testimony, particularly on immigration through Canada	9	4264
2119.	Regulation of immigration; testimony on prevention of sale of liquor in immigrant stations, p. 173	9	4264
2120.	Monument to prison-ship martyrs at Fort Greene, Brooklyn, N.Y.	9	4264
2121.	Monumental column to commemorate battle of Princeton in New Jersey	9	4264
2122.	Extending time for construction of East Washington Heights Traction R.R.	9	4264
2123.	Disposition of useless papers in Treasury and War Departments	9	4264
2124.	Special regulations of D.C. commissioners for G.A.R. encampment	9	4264
2125.	Relief of heirs of Darius B. Randall	9	4264
2126.	To pay for property destroyed in suppressing bubonic plague in Hawaii	9	4264

House Reports

No.		Vol.	Serial
1.	Distribution to committees of topics in President's message	1	4399
2.	Appointment and compensation of employees of House	1	4399
3.	To train teachers of speech to deaf children	1	4399
4.	Revenue for Philippine Islands	1	4399
5.	Assignment of clerks to committees	1	4399
6.	Relief of Jeronemus S. Underhill	1	4399
7.	Relief of Atlantic Works	1	4399
8.	Allowance of claims for property taken during War with Spain	1	4399
9.	Relief of Carson-Newman College	1	4399
10.	Allowance of 4th of July claims	1	4399
11.	Civil war claims of Ohio, Michigan, Indiana, and Illinois	1	4399
12.	Relief of widow of Henry King	1	4399
13.	To refer Benjamin F. Fox to Court of Claims	1	4399
14.	Relief of William P. Marshall	1	4399
15.	Providing for construction of canal to connect Atlantic and Pacific oceans	1	4399
15.	Construction of Nicaragua Canal [Reprint of pt. 1, H. rp. 351, 56th Cong., 1st sess.]	1	4399
15.	Report of Isthmian Canal Commission, 1899-1901 [Reprint of pt. 1, S.doc. 54]	1	4399
16.	Refurnishing of House of Representatives, and improving ventilation	1	4399
17.	Relief of Charles H. Adams	1	4399
18.	Relief of Larrabee and Allen	1	4399
19.	Relief of Allaire Works	1	4399
20.	Relief of Hamilton M. Sailors	1	4399
21.	Relief of Confederates who surrendered at close of war	1	4399
22.	Franking privilege for Ida S. McKinley	1	4399
23.	To create permanent census office	1	4399
24.	Redemption of revenue stamps by commissioner of internal revenue	1	4399
25.	Return to owners of bank checks, etc., having imprinted revenue stamps	1	4399
26.	Cities in Indian Territory to issue bonds for waterworks	1	4399
27.	Execution in Philippines and Porto Rico of deeds for land in D.C.	1	4399
28.	To confirm title to lot in D.C. to Johanna C. Block	1	4399
29.	Appropriations for pensions, 1903	1	4399
30.	To regulate collection of taxes in D.C.	1	4399
31.	To incorporate Eastern Star Home for D.C.	1	4399
32.	Legal-tender silver dollars and subsidiary silver coinage. 2 pts.	1	4399
33.	Duluth, Minn., to build car transfer over Duluth Canal	1	4399
34.	Relief of owners of barge Charlie	1	4399
35.	Relief of S. J. Bayard Schindel	1	4399
36.	Repayment to Josiah B. Orbison	1	4399
37.	Relief of heirs of Tellisse W. Wilson	1	4399
38.	Increase in clerical force of House	1	4399
39.	To refer representatives of Sewell B. Corbett to Court of Claims	1	4399
40.	To pay funeral expenses, etc., of James V. Kennedy	1	4399
41.	Free homesteads on public lands in Colville Reservation, Wash.	1	4399
42.	To reduce number of land offices in Alaska	1	4399
43.	Increase of pension for Mary F. Hooper	1	4399
44.	Increase of pension for James D. Woodward	1	4399
45.	Increase of pension for Andrew H. Gifford	1	4399
46.	Increase of pension for David Cupps	1	4399
47.	Increase of pension for Cyrus Odell	1	4399
48.	Increase of pension for Uriah S. Karmany	1	4399
49.	Increase of pension for Levi Cross	1	4399
50.	Pension for Sarah Bowers	1	4399
51.	Increase of pension for Joseph Church	1	4399
52.	Pension for Sarah O. Fields	1	4399
53.	Increase of pension for Leighton J. Folsom	1	4399
54.	Increase of pension for Jeremiah Evans	1	4399
55.	Increase of pension for Henry S. Comer	1	4399
56.	Increase of pension for Mary C. Newcomb	1	4399
57.	Increase of pension for Jedediah S. Vallet	1	4399
58.	Pension for Joshua H. Buckingham	1	4399
59.	Pension for Sarah J. Rhoads	1	4399
60.	Increase of pension for Ambrose Burton	1	4399
61.	Additional messengers for doorkeeper of House	1	4399
62.	Bridge across Arkansas River near Fort Gibson, Ind. T.	1	4399

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
63.	Increase of pension for James Smith	1	4399
64.	Increase of pension for Robert M. Scott	1	4399
65.	Increase of pension for Thomas V. Stran	1	4399
66.	Lighthouse keeper's dwelling at Calumet Harbor, Ill.	1	4399
67.	Revenue steamer for Gulf of Mexico	1	4399
68.	Appropriations to supply urgent deficiencies	1	4399
69.	Life-saving station at Bogue Inlet, N.C.	1	4399
70.	To regulate taking of proofs and filings in public land cases	1	4399
71.	Relief of bona fide settlers in forest reserves	1	4399
72.	To increase amount of official bonds of marshals for Alaska	1	4399
73.	Bridge across Missouri River at St. Joseph, Mo.	1	4399
74.	Increase of pension for Susan M. Pardee	1	4399
75.	Increase of pension for Charles E. Bachelder	1	4399
76.	Pension for Aaron M. Applegate	1	4399
77.	Increase of pension for Hiram S. Kingsley	1	4399
78.	Pension for Catherine Pflueger	1	4399
79.	Increase of pension for John B. Wilcox	1	4399
80.	Pension for George R. Grubaugh	1	4399
81.	Increase of pension for Elisha B. Taylor	1	4399
82.	Pension for Helen M. Evans	1	4399
83.	Increase of pension for John C. Morrison	1	4399
84.	Pension for Frances A. Tillotson	1	4399
85.	Increase of pension for George B. Boyd	1	4399
86.	Increase of pension for Theodore Lane	1	4399
87.	Increase of pension for James Willard	1	4399
88.	Pension for Helen L. Pepper	1	4399
89.	Increase of pension for David A. Ireland	1	4399
90.	Increase of pension for Joseph R. Martin	1	4399
91.	Pension for Esther F. Moody	1	4399
92.	Increase of pension for Elizabeth O. Gould	1	4399
93.	Increase of pension for Martin V. Hathaway	1	4399
94.	Pension for Mary E. Davis	1	4399
95.	Increase of pension for George W. Thompson	1	4399
96.	Increase of pension for Helen F. M. Edwards	1	4399
97.	Increase of pension for Francis M. Thompson	1	4399
98.	Relief of surviving partners of Penny and Sons	1	4399
99.	Relief of Rasmussen and Strehlow	1	4399
100.	To pay damages for artillery explosion, Chicago, 1894	1	4399
101.	Relief of widow of Marshall McDonald, and Stephen C. Brown	1	4399
102.	Relief of James M. Chisham	1	4399
103.	Revenue steamer for use at Philadelphia, Pa.	1	4399
104.	Relief of B. F. Moody and Co.	1	4399
105.	To refer Sarah Grisson to Court of Claims	1	4399
106.	Relief of Christian Church, Henderson, Ky.	1	4399
107.	Pension for Mary A. Lamb	1	4399
108.	Increase of pension for Andrew Mulholland	1	4399
109.	Increase of pension for John Rapple	1	4399
110.	Increase of pension for George W. McClure	1	4399
111.	Pension for Mary Ann Merrow	1	4399
112.	Increase of pension for Charles N. Lee	1	4399
113.	Increase of pension for Lawrentus Lane	1	4399
114.	Increase of pension for Thomas H. McConnaughey	1	4399
115.	Increase of pension for Michael Dillon	1	4399
116.	Increase of pension for David Petee	1	4399
117.	Increase of pension for Marshall Bachelder	1	4399
118.	Increase of pension for Penrose W. Reagan	1	4399
119.	Increase of pension for Emil Frank	1	4399
120.	Increase of pension for George Patterson	1	4399
121.	Increase of pension for Samuel Briscoe	1	4399
122.	Increase of pension for Orrin J. Wells	1	4399
123.	Increase of pension for Gustav Schwartz	1	4399
124.	Increase of pension for Edward B. Scott	1	4399
125.	Election of Senators by direct vote of people	1	4399
126.	To legalize bridge over St. Lawrence River near Hogansburg, N.Y.	1	4399
127.	Southern Missouri and Arkansas R.R. to bridge Current River, Arkansas	1	4399
128.	Dwelling for light-keeper at Kewaunee, Wis.	1	4399
129.	Typhoid fever cases in D.C. to be reported to Health Dept.	1	4399
130.	Launch for customs service at Astoria, Oreg.	1	4399
131.	Civil war claim of Kentucky	1	4399
132.	To change office hours in office of D.C. gas inspector	1	4399
133.	Call for papers bearing upon court-martial of Hamilton H. Blunt	1	4399
134.	Admission to hall of House	1	4399
135.	Compulsory attendance of witnesses before registers and receivers	1	4399
136.	Increase of pension for Ida R. Siegfried	1	4399
137.	Pension for Julia Maher	1	4399
138.	Increase of pension for Virginia Terrill	1	4399
139.	Increase of pension for Martha V. Keenan	1	4399
140.	Increase of pension for Oliver P. Goodwin	1	4399
141.	Pension for Mary Tripp	1	4399
142.	Pension for Sarah T. Brewer	1	4399
143.	Pension for Katherine R. A. Ogden	1	4399
144.	Pension for Jennie A. McKinley	1	4399
145.	Increase of pension for Josefa T. Philip	1	4399
146.	Civil war claim of Illinois	1	4399
147.	To receive arrearages of taxes in D.C. at 6 per cent	1	4399
148.	To improve ventilation of mines in Territories	1	4399
149.	Immediate drawing of juries in D.C.	1	4399
150.	Increase of pension for John W. Taylor	1	4399
151.	Pension for Catharine Moore	1	4399
152.	Increase of pension for John L. Smith	1	4399
153.	Increase of pension for William M. Guy	1	4399
154.	Increase of pension for Jacob D. Caldwell	1	4399
155.	Increase of pension for Aaron C. Badger	1	4399
156.	Increase of pension for James Harper	1	4399
157.	Increase of pension for Elias Longman	1	4399
158.	Increase of pension for Mary Morley	1	4399
159.	Increase of pension for John H. Coates	1	4399
160.	Increase of pension for Henry Burns	1	4399
161.	Increase of pension for Henry N. Tracy	1	4399
162.	Increase of pension for Joseph W. Grant	1	4399
163.	Increase of pension for Alfred N. Mosier	1	4399
164.	Increase of pension for William Rheuby	1	4399
165.	Increase of pension for George Fowler	1	4399
166.	Increase of pension for Eunice P. Detweiler	1	4399
167.	Pension for Caroline N. Allen	1	4399
168.	Increase of pension for James Morris	1	4399
169.	Increase of pension for John L. Branson	1	4399
170.	Increase of pension for John Ferguson	1	4399
171.	Increase of pension for Alfred Bolton	1	4399
172.	Increase of pension for Francis M. Gilman	1	4399
173.	Decoration from Germany for Bowman H. McCalla	1	4399
174.	Decorations of honor from Italy for Eugene Wasdin and H. D. Geddings	1	4399
175.	Decoration from France for John M. Schofield	1	4399
176.	Decoration from France for Cornelius De W. Willcox	1	4399
177.	Decoration from Germany for Newton M. Brooks	1	4399
178.	Decoration from France for George W. Hill	1	4399
179.	Decoration from China for Hubbard T. Smith	1	4399
180.	Presents from Germany for Commander J. M. Miller, O. D. Norton, and E. V. Morgan, for assistance of Samoan Commission	1	4399
181.	Medal from Great Britain for Stephen L. Slocum	1	4399
182.	Medal from Turkey for William P. Scott	1	4399
183.	Relief of Daniel Cherry	1	4399
184.	Relief of widow of Thomas Chambers	1	4399
185.	Relief of Charles Hurrle	1	4399
186.	Jurisdiction of circuit courts of appeals as to injunctions and receivers	1	4399
187.	Call for information on U.S. receiving-ship Vermont	1	4399

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
188.	Payments for length of service of officers of Army	1	4399
189.	To pay stores and supplies claims reported by Court of Claims	2	4400
190.	Relief of George A. Orr	2	4400
191.	Relief of admrx. of surviving partner of Reaney, Son and Archbold	2	4400
192.	Relief of T. A. Woodress	2	4400
193.	To refer heirs of Griffith W. Paxson to Court of Claims	2	4400
194.	Relief of Confederates who surrendered at close of war	2	4400
195.	Relief of Morris F. Cawley	2	4400
196.	Relief of representatives of Pusey, Jones and Co.	2	4400
197.	Relief of First Baptist Church, Cartersville, Ga.	2	4400
198.	Relief of Poole and Hunt	2	4400
199.	To refer William C. O'Brien to Court of Claims	2	4400
200.	Relief of Atlantic Works	2	4400
201.	Increase of pension for Richard W. Musgrove	2	4400
202.	Increase of pension for Francis Pearson	2	4400
203.	Increase of pension for Benjamin Brittingham	2	4400
204.	Increase of pension for Daniel C. Knowles	2	4400
205.	Increase of pension for James R. McClellen	2	4400
206.	Increase of pension for Lucy B. Bevis	2	4400
207.	Pension for Joseph W. Mulford	2	4400
208.	Increase of pension for John Gagan	2	4400
209.	Increase of pension for Oscar Reed	2	4400
210.	Increase of pension for Edward M. Kanouse	2	4400
211.	Increase of pension for David Pollock	2	4400
212.	Increase of pension for James F. Charlesworth	2	4400
213.	Increase of pension for John Chandler	2	4400
214.	Increase of pension for Angeline Murray	2	4400
215.	Increase of pension for Eva H. McColley	2	4400
216.	Increase of pension for Mary Taylor	2	4400
217.	Pension for Christina Daniels	2	4400
218.	Pension for Lucinda W. Cavender	2	4400
219.	Increase of pension for Charles L. Sweatt	2	4400
220.	Increase of pension for John Vale	2	4400
221.	Increase of pension for Loren S. Richardson	2	4400
222.	Pension for Lizzie C. Young	2	4400
223.	Increase of pension for Mahlon C. Moores	2	4400
224.	Increase of pension for Frederick Shafer	2	4400
225.	Increase of pension for Napoleon B. Perkins	2	4400
226.	Pension for M. Callie Glover	2	4400
227.	Increase of pension for George W. Black	2	4400
228.	Increase of pension for James A. Edmonds	2	4400
229.	Increase of pension for Harrison T. De Long	2	4400
230.	Pension for Lizzie A. Campbell	2	4400
231.	Pension for Matilda Armstrong	2	4400
232.	Increase of pension for James D. Elderkin	2	4400
233.	Increase of pension for Tempy French	2	4400
234.	Pension for Benjamin Wylie	2	4400
235.	Pension for Laura B. Wear	2	4400
236.	Increase of pension for Rollin Tyler	2	4400
237.	Increase of pension for Dennis Hannifin	2	4400
238.	Increase of pension for William K. Hoffman	2	4400
239.	Increase of pension for Elmer L. Stevens	2	4400
240.	Pension for Annie S. Hummel	2	4400
241.	Increase of pension for Mary R. Miller	2	4400
242.	Increase of pension for Charles H. Baker	2	4400
243.	Increase of pension for Samuel Hymer	2	4400
244.	Pension for Norris L. Lungren	2	4400
245.	Increase of pension for Daniel T. Rose	2	4400
246.	Increase of pension for Dewit C. McCoy	2	4400
247.	Pension for Jane Taylor	2	4400
248.	Pension for Silas H. Cronk	2	4400
249.	Increase of pension for Charles F. Burger	2	4400
250.	Increase of pension for Wright H. Auchmoody	2	4400
251.	Increase of pension for Susan F. Connit	2	4400
252.	To establish light at Cape Romano, Fla.	2	4400
253.	Revenue steamer for use at Key West, Fla.	2	4400
254.	Relief of Charles H. Robinson	2	4400
255.	To change tax, etc., on oleomargarine	2	4400
256.	Lighthouse at Semiahmoo, Wash.	2	4400
257.	Right of way to Enid and Anadarko Railway through Oklahoma and Indian Territory	2	4400
258.	To prevent false branding of food and dairy products	2	4400
259.	St. Clair Terminal R.R. to bridge Monongahela River in Pennsylvania	2	4400
260.	Hawaiian silver coinage and silver certificates	2	4400
261.	To prevent sale of firearms, opium, and liquor in islands of the Pacific	2	4400
262.	To create permanent census office	2	4400
263.	Relief of assignee of Luke Christie	2	4400
264.	Relief of W. C. Taylor	2	4400
265.	Relief of William C. Marr	2	4400
266.	Relief of J. V. Davis	2	4400
267.	Relief of Julius E. Mugge	2	4400
268.	Relief of T. B. Stackhouse	2	4400
269.	For terms of U.S. courts at Catlettsburg, Ky.	2	4400
270.	To establish marine hospital at Buffalo, N.Y.	2	4400
271.	Relief of Edward R. Stackable	2	4400
272.	Relief of Sol Bear and Co.	2	4400
273.	Relief of James M. Stradling	2	4400
274.	Military record of William T. Pratt	2	4400
275.	Military record of John F. Antlitz	2	4400
276.	Relief of John Emerson	2	4400
277.	Extending time for railway bridge across Bayou Bartholomew, Arkansas	2	4400
278.	White River Railway to cross lands on upper White River, Arkansas	2	4400
279.	Memphis, Helena and Louisiana Railway to bridge White River, Arkansas	2	4400
280.	Memphis, Helena and Louisiana Railway to bridge Arkansas River, Arkansas	2	4400
281.	Relief of Frederick E. Coyne	2	4400
282.	Extending time for bridge across Missouri River at Yankton, S.Dak.	2	4400
283.	Transfer of library of State reports to Library of Congress	2	4400
284.	Consideration of oleomargarine bill	2	4400
285.	Call for information on withholding of rations from Indians	2	4400
286.	Relief of John Hornick	2	4400
287.	Relief of Louis Weber	2	4400
288.	Relief of Edward Kershner	2	4400
289.	To investigate right of President and Senate to alter tariff by treaty	2	4400
290.	Increase of pension for Kate Virginia Dewey Cushing	2	4400
291.	Pension for Mabel H. Lazear	2	4400
292.	Pension for Adella C. Chandler	2	4400
293.	Pension for Harry H. Sieg	2	4400
294.	Increase of pension for Richard Fristoe	2	4400
295.	Pension for Martha A. De Lamater	2	4400
296.	Pension for Lue Emma McJunkin	2	4400
297.	Increase of pension for George C. Leighton	2	4400
298.	Increase of pension for Joseph K. Ashby	2	4400
299.	Pension for Elizabeth W. Simmons	2	4400
300.	Increase of pension for Hiram Cronk	2	4400
301.	Pension for Malvina C. Stith	2	4400
302.	Pension for Benjamin F. Draper	2	4400
303.	Pension for Narcissa Tait	2	4400
304.	Pension for Mary A. House	2	4400
305.	Pension for Amanda Jacko	2	4400
306.	Pension for Thomas Butler	2	4400
307.	Increase of pension for John McGrath	2	4400
308.	Pension for Sarah McCord	2	4400
309.	Increase of pension for Henry B. Schroeder	2	4400
310.	Pension for Mary E. W. Morgan	2	4400
311.	Increase of pension for Mrs. A. Curtis Steever Carpenter	2	4400
312.	Increase of pension for Frances M. Reilly	2	4400

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
313.	Increase of powers of Spanish Treaty Claims Commission	2	4400
314.	To print report of National Soldiers' Home, 1901	2	4400
315.	To print Oil and gas fields of western interior coal measures, etc.	2	4400
316.	To print Iron-ore deposits of Lake Superior region	2	4400
317.	To print report of librarian of Congress, 1901	2	4400
318.	Relief of Jerome E. Morse	2	4400
319.	To nominate R. M. G. Brown to be commander on retired list	2	4400
320.	Repeal of war-revenue taxation	2	4400
321.	Relief of Robert J. Spottswood and heirs of William C. McClellan	2	4400
322.	Relief of Hugh C. Preston	2	4400
323.	Increase of pension for John G. Brower	2	4400
324.	Increase of pension for Charles H. Wickham	2	4400
325.	Increase of pension for William M. Strope	2	4400
326.	Increase of pension for Nathaniel Eaton	2	4400
327.	Increase of pension for John S. Hunter	2	4400
328.	Increase of pension for Israel P. Covey	2	4400
329.	Increase of pension for Alice M. Ballou	2	4400
330.	Pension for Nellie M. Emery	2	4400
331.	Increase of pension for Kephart Wallace	2	4400
332.	Pension for Thomas Hall	2	4400
333.	Pension for Kazier Washburn	2	4400
334.	Increase of pension for Henry Gifford Dunbar	2	4400
335.	Increase of pension for Carleton A. Trundy	2	4400
336.	Increase of pension for Sarah Maley	2	4400
337.	Increase of pension for Marcia M. Merritt	2	4400
338.	Increase of pension for Thomas W. Robinson	2	4400
339.	Pension for Susan Terry	2	4400
340.	Increase of pension for Henry Fisher	2	4400
341.	Increase of pension for Joel Metz	2	4400
342.	Increase of pension for William Eugas	2	4400
343.	Pension for John E. Farrell	2	4400
344.	Pension for Charles A. Sheafe	2	4400
345.	Increase of pension for William R. Underwood	2	4400
346.	Increase of pension for William H. Pierce	2	4400
347.	Pension for Theophilus Goodwin	2	4400
348.	Pension for Abbie E. Webster	2	4400
349.	Increase of pension for Selden E. Whitcher	2	4400
350.	Increase of pension for Harry L. Graham	2	4400
351.	Increase of pension for Moses Smith	2	4400
352.	Increase of pension for Abram O. Kindy	2	4400
353.	Pension for William C. Flowers	2	4400
354.	Pension for Lucy H. Bane	2	4400
355.	Increase of pension for Lucy M. Hill	2	4400
356.	Increase of pension for Lewis C. Killam	2	4400
357.	Increase of pension for James Mantach	2	4400
358.	Increase of pension for William J. Overman	2	4400
359.	Pension for Catherine Meade	2	4400
360.	Increase of pension for John S. Raulett	2	4400
361.	Pension for Caroline Fitzsimmons	2	4400
362.	Increase of pension for Henriette Salomon	2	4400
363.	Increase of pension for Aquila Wiley	2	4400
364.	Increase of pension for Thomas Young	2	4400
365.	Increase of pension for Wellington D. Curtis	2	4400
366.	Increase of pension for Horatio N. Warren	2	4400
367.	Increase of pension for Thomas Swan	2	4400
368.	Increase of pension for Thomas Bliss	2	4400
369.	Pension for Thomas E. Clark	2	4400
370.	Relief of P. A. McClain	2	4400
371.	Military record of James L. Proctor	2	4400
372.	Relief of executors of James B. Eads	2	4400
373.	Relief of estate of James Brown	2	4400
374.	Relief of admrx. of surviving partner of Neptune Works	2	4400
375.	Relief of representatives of Tomlinson, Hartupee and Co.	2	4400
376.	Cannon for Pennsylvania Society of Sons of the American Revolution	2	4400
377.	To remove charge of desertion from Ephraim H. Gallion	2	4400
378.	Relief of executors of James P. Willett	2	4400
379.	Washington and Oregon Railway to bridge Columbia River	2	4400
380.	Increase of pension for Cornelius Springer	2	4400
381.	Increase of pension for Ziba S. Wood	2	4400
382.	Increase of pension for Edward S. Dickinson	2	4400
383.	Increase of pension for Joseph Cowgill	2	4400
384.	Pension for Mary E. S. Hays	2	4400
385.	Increase of pension for Jacob Weidel	2	4400
386.	Increase of pension for Delia E. Slocum	2	4400
387.	Increase of pension for Myron C. Burnside	2	4400
388.	Increase of pension for George R. Chaney	2	4400
389.	Increase of pension for Silas Stotts	2	4400
390.	Increase of pension for Perry H. Alexander	2	4400
391.	Increase of pension for Benjamin G. Sargent	2	4400
392.	Increase of pension for John Craig	2	4400
393.	Pension for Harmon S. Gatlin	2	4400
394.	Increase of pension for Fred F. B. Coffin	2	4400
395.	Pension for Jane Hale	2	4400
396.	Increase of pension for James W. Roath	2	4400
397.	Increase of pension for Joseph B. Arbaugh	2	4400
398.	Increase of pension for Henry F. Benson	2	4400
399.	Increase of pension for Enoch A. White	2	4400
400.	Increase of pension for John Laughlin	2	4400
401.	Increase of pension for William B. Matney	2	4400
402.	Increase of pension for Elmer J. Starkey	2	4400
403.	Pension for John Fisher	2	4400
404.	Increase of pension for Otillia M. Smoot	2	4400
405.	Increase of pension for Cornelius Springer	2	4400
406.	Increase of pension for William Eastin	2	4400
407.	Increase of pension for Mahale Litton	2	4400
408.	Pension for Susan P. Crandall	2	4400
409.	Increase of pension for George McDaniel	2	4400
410.	Increase of pension for Elvira L. Wilkins	2	4400
411.	Increase of pension for John B. Kurth	2	4400
412.	Appropriations for legislative, executive, and judicial expenses, 1903	2	4400
413.	American register for barkentine Hawaii	2	4400
414.	Relief of Jacob L. Hanger	2	4400
415.	Lighthouse on Bluff Shoal, Pamlico Sound, North Carolina	2	4400
416.	Dwelling for keeper of fog-signal at Robinson Point, Washington	2	4400
417.	Fog-signal at Battery Point, Wash.	3	4401
418.	To increase limit of cost of light and fog-signal at Browns Point, Washington	3	4401
419.	Light and fog-signal at Burrows Island, Washington	3	4401
420.	Repayment to Mexico of Weil and La Abra awards	3	4401
421.	To relieve chain ferry-boats from necessity of carrying pilots	3	4401
422.	Pension for Dicey Woodall	3	4401
423.	Increase of pension for Mary Tate	3	4401
424.	Pension for Alice Bozeman	3	4401
425.	Pension for Sarah M. Smith	3	4401
426.	Increase of pension for Mariah J. Anderson	3	4401
427.	Pension for Elizabeth M. Folds	3	4401
428.	Employment of enlisted men in competition with local civilians	3	4401
429.	Establishment of national bureau of criminal identification	3	4401
430.	Central Railway of West Virginia to bridge Monongahela River	3	4401
431.	Transfer of causes in U.S. courts to adjoining district	3	4401
432.	Reciprocal recognition of boiler-inspection certificates	3	4401
433.	Protection of President, suppression of crime against government, etc.	3	4401

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
434. Delegate from Alaska to House of Representatives	3	4401
435. Relief of William C. Dodge	3	4401
436. Relief of widow of Charles B. Goldsborough	3	4401
437. Reimbursement of Mellert Foundry and Machine Company	3	4401
438. Relief of Angus A. McPhee	3	4401
439. Pension for Catherine Conroy	3	4401
440. Pension for Nancy E. Hardy	3	4401
441. Increase of pension for Mary E. Kelly	3	4401
442. Pension for Elizabeth Lowden	3	4401
443. Pension for John M. Core	3	4401
444. Increase of pension for Milton A. Embick	3	4401
445. Increase of pension for Daniel Schram	3	4401
446. Increase of pension for William H. Shaffer	3	4401
447. Pension for Eliza A. Wright	3	4401
448. Pension for Ezekiel J. Robinson	3	4401
449. Increase of pension for Jonas M. McCoy	3	4401
450. Increase of pension for William G. Johnson	3	4401
451. Increase of pension for Hinkley G. Knights	3	4401
452. Pension for Margaret Baker	3	4401
453. Increase of pension for Michael Farrell	3	4401
454. Pension for Mahala Jane Kuhn	3	4401
455. Increase of pension for Frank Seaman	3	4401
456. Increase of pension for Christine B. Knapp	3	4401
457. Increase of pension for Alfred H. Van Vliet	3	4401
458. Increase of pension for Charles Armstrong	3	4401
459. Pension for Susan H. Stevens	3	4401
460. Increase of pension for William S. Derby	3	4401
461. Pension for Sara B. Andrews	3	4401
462. Pension for John W. Moore	3	4401
463. Increase of pension for John O'Rourke	3	4401
464. Increase of pension for Richmond L. Booker	3	4401
465. Pension for Rebecca Dobbins	3	4401
466. Increase of pension for Samuel M. Graves	3	4401
467. Increase of pension for Lorenzo Blackman	3	4401
468. Increase of pension for William J. Simmons	3	4401
469. Increase of pension for Richard A. Lawrence	3	4401
470. Increase of pension for William Larzalere	3	4401
471. Increase of pension for Charles W. Thomas	3	4401
472. Transferring lot in Woodland Cemetery to Quincy, Ill.	3	4401
473. Military record of James A. Somerville	3	4401
474. To remove charge of desertion from Benjamin F. Burgess	3	4401
475. Relief of Winchester and Potomac Railroad Company	3	4401
476. Relief of Propeller Tow Boat Company	3	4401
477. To pay claims of citizens of Virginia for damages in War with Spain	3	4401
478. Relief of representatives of Gardner and Lake	3	4401
479. Relief of estate of Leander C. McLelland	3	4401
480. Transfer of Carroll County, Ga., to northern judicial district	3	4401
481. Relief of W. J. Tapp and Co.	3	4401
482. To establish mint at Tacoma, Wash.	3	4401
483. Military record of Ira J. Paxton	3	4401
484. Military record of Michael Hayes	3	4401
485. Relief of Sylvester D. Foss	3	4401
486. Relief of William P. Barry	3	4401
487. Relief of George E. Day	3	4401
488. To refer Thomas R. Hill to Court of Claims	3	4401
489. To refer William B. Payne to Court of Claims	3	4401
490. To refer Samuel M. Nally to Court of Claims	3	4401
491. Additional judges for Supreme Court of Oklahoma	3	4401
492. Increase of pension for David C. Maples	3	4401
493. Pension for Thomas F. Walter	3	4401
494. Transfer control of Government Hospital for Insane, Freedmen's Hospital, and Washington Hospital for Foundlings to Secretary of Interior	3	4401
495. Relief of widow of William Perine	3	4401
496. Relief of John J. Curtis	3	4401
497. Pension for Shadrack I. Corbett	3	4401
498. Pension for Marion Barnes	3	4401
499. Increase of pension for Samuel W. Skinner	3	4401
500. Increase of pension for William G. Taylor	3	4401
501. Increase of pension for Hugh R. Richardson	3	4401
502. Pension for Ruth B. Osborne	3	4401
503. Increase of pension for James R. Ambrose	3	4401
504. Pension for Laura A. Van Wye	3	4401
505. Increase of pension for Mourse R. Adams	3	4401
506. Increase of pension for Daniel Thomas	3	4401
507. Pension for Mary E. Chapman	3	4401
508. Increase of pension for Robert L. Ackridge	3	4401
509. Increase of pension for Theodore F. Collins	3	4401
510. Increase of pension for Richard N. Blodgett	3	4401
511. Pension for Isabella Compton	3	4401
512. Increase of pension for Joseph Seithen	3	4401
513. Increase of pension for Uriah Reams	3	4401
514. Pension for Cynthia M. Record	3	4401
515. Increase of pension for Benjamin F. Shearer	3	4401
516. Pension for Dennis Dyer	3	4401
517. Pension for Alida Payne	3	4401
518. Increase of pension for Lucinda C. Scott	3	4401
519. Increase of pension for Herbert A. Boomhower	3	4401
520. Increase of pension for Edgar A. Stanley	3	4401
521. Increase of pension for Martha A. Couch	3	4401
522. Increase of pension for Frederick M. Hahn	3	4401
523. Increase of pension for Margaret M. Boyd	3	4401
524. Pension for Susan J. Taylor	3	4401
525. Increase of pension for Gotthard Koerner	3	4401
526. Increase of pension for William J. Wallace	3	4401
527. Pension for George Tucker	3	4401
528. Increase of pension for Bessie H. Lester	3	4401
529. Pension for Nellie Bartlett	3	4401
530. Rights of way for railroads in Indian Territory	3	4401
531. Assistant clerks for Military Affairs Committee and Naval Affairs Committee	3	4401
532. Commutation of homestead entries on Sioux Reservation lands in S.Dak.	3	4401
533. Assistant clerk for Judiciary Committee	3	4401
534. Janitor for Printing Committee	3	4401
535. Increase of pension for Etta Scott Mitchell	3	4401
536. Pension for George H. Morton	3	4401
537. Pension for Lura B. Rogers	3	4401
538. Pension for Michael Tynan	3	4401
539. Increase of pension for Thompson B. Moore	3	4401
540. Increase of pension for Maria Louisa Michie	3	4401
541. Pension for John S. Lewis	3	4401
542. Pension for Hester Thomas	3	4401
543. To amend act to regulate privies in D.C.	3	4401
544. To mount with rollers, United States maps allotted to Congress	3	4401
545. Relief of Robert Hubbord	3	4401
546. Extending time for bridge across Niagara River	3	4401
547. Appropriations for Indian Department, 1903	3	4401
548. Marine hospital at Savannah, Ga.	3	4401
549. For further distribution of reports of Supreme Court	3	4401
550. Appropriations for Post-Office Department, 1903	3	4401
551. To amend act in relation to taxes and tax sales in D.C.	3	4401
552. Dwelling for light-keeper, Ecorse range-light station, Michigan	3	4401
553. To pay claim of Chamblin, Delaney and Scott	3	4401
554. To pay claim of Stephen B. Halsey	3	4401
555. Relief of owners of British ship Foscolia	3	4401
556. Consideration of bill to repeal war-revenue taxation	3	4401
557. Inspection of nursery stock, etc.	3	4401
558. Appropriations for diplomatic and consular service, 1903	3	4401

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
559.	Passports for residents of insular possessions	3	4401
560.	Relief of George A. Rogers	3	4401
561.	Honorable discharge for Charles H. Hawley	3	4401
562.	Military record of Albert S. Austin	3	4401
563.	To place William T. Godwin on retired list of Army	3	4401
564.	Relief of Edward Byrne	3	4401
565.	Relief of George K. Bowen	3	4401
566.	Relief of Emanuel Klauser	3	4401
567.	Relief of James W. Howell	3	4401
568.	Construction of Pacific cable	3	4401
569.	Homestead commutation for town sites on Wichita and Kiowa lands in Oklahoma	3	4401
570.	To set apart lands in Arizona as Petrified Forest national park	3	4401
571.	Honorable discharge for William J. Gardner	3	4401
572.	Relief of exr. of John D. Priddy	3	4401
573.	Relief of representatives of Napoleon B. Giddings	3	4401
574.	To refer Fannie Pemberton to Court of Claims	3	4401
575.	To legalize bridge over Little Tennessee River at Niles Ferry, Tennessee	3	4401
576.	Execution in Philippines and Porto Rico of deeds for land in D.C.	3	4401
577.	To divide Texas into 4 judicial districts	3	4401
578.	Military record of Clifford R. Dickson	3	4401
579.	Dothan, Hartford and Florida Railway to bridge St. Andrews Bay, Florida	3	4401
580.	Additional judges for Supreme Court of Oklahoma	3	4401
581.	Decorations from Germany and other foreign Governments for Bowman H. McCalla et al.	3	4401
582.	To change boundaries of judicial divisions in Alaska	3	4401
583.	To change boundaries of judicial districts in Indian Territory, etc.	3	4401
584.	Bridge across Missouri River at Kansas City, Mo.	3	4401
585.	Clerk for U.S. courts at Wilmington, N.C.	3	4401
586.	To ratify Arizona's appropriation for display at St. Louis exposition	3	4401
587.	Call for information on ownership of land in Cuba by nonresidents	3	4401
588.	Honorable discharge for Samuel Welch	3	4401
589.	School districts in Oklahoma to issue bonds	3	4401
590.	Relief of representatives of Neafie and Levy	3	4401
591.	Distribution of public documents to State colleges, etc.	3	4401
592.	Relief of Frank M. Vowells	3	4401
593.	Issue of patent to Clallam County, Wash.	3	4401
594.	Issue of patent to town site to Basin, Wyo.	3	4401
595.	Lighthouse at mouth of Oyster Bayou	3	4401
596.	To remove charge of desertion from John Glass	3	4401
597.	To classify employees of rural free-delivery service. 2 pts.	3	4401
598.	Bridge over Missouri River at South Omaha, Nebr.	3	4401
599.	To ratify provision for additional buildings for Arizona University	3	4401
600.	Relief of Henry L. McCalla	3	4401
601.	Relief of Navajo County, Ariz.	3	4401
602.	Relief of Thierman and Frost	3	4401
603.	Relief of John A. Mason	3	4401
604.	To aid schools of mines from proceeds of public lands	3	4401
605.	Revenue for Philippine Islands	3	4401
606.	Increase of pension for Pauline Lowe Murphy	3	4401
607.	Increase of pension for Rhody Ann Bradshaw	3	4401
608.	Increase of pension for Mary T. Bruce	3	4401
609.	Increase of pension for Adelaide Worth Bagley	3	4401
610.	Increase of pension for Mary J. Clark	3	4401
611.	Increase of pension for Anna B. McCurley	3	4401
612.	Increase of pension for James W. Lewis	3	4401
613.	Pension for Joseph Tusinski	3	4401
614.	Increase of pension for Frances K. Morrison	3	4401
615.	Increase of pension for Freeman R. E. Chanaberry	3	4401
616.	Increase of pension for Frances T. Anderson	3	4401
617.	Pension for Laura G. Weisenburger	3	4401
618.	Increase of pension for John Garner	3	4401
619.	Increase of pension for Elizabeth P. Searcy	3	4401
620.	Increase of pension for Anderson Howard	3	4401
621.	Increase of pension for Richard Owens	3	4401
622.	To promote efficiency of Revenue Cutter Service	3	4401
623.	Branch of National Soldiers' Home at Hot Springs, S.Dak.	3	4401
624.	Contest of Spears v. Burnett, Alabama	3	4401
625.	Contest of Moss v. Rhea, Kentucky	3	4401
626.	Relief of F. R. Lanson	3	4401
627.	Relief of Patrick Nolan	3	4401
628.	To duplicate lost check in favor of Stanley and Patterson	3	4401
629.	Bridge over Savannah River at Savannah, Ga.	3	4401
630.	Relief of heirs of Aaron Van Camp and Virginius P. Chapin	3	4401
631.	Missouri and Meramec Water Co. to take water from Missouri River	3	4401
632.	Increase of pension for Minnie E. King	3	4401
633.	To print proceedings of Schley Court of Inquiry	3	4401
634.	Pension for Nelson Johnson	3	4401
635.	Increase of pension for Albert D. Scovell	3	4401
636.	Increase of pension for George W. Guinn	3	4401
637.	Increase of pension for William D. Smith	3	4401
638.	Increase of pension for Hannibal C. St. Clair	3	4401
639.	Pension for Mary A. Carlile	3	4401
640.	Increase of pension for Frederick A. Condon	3	4401
641.	Increase of pension for John H. Jack	3	4401
642.	Increase of pension for Cornelia E. Wright	3	4401
643.	Increase of pension for Oswald Ahlstedt	3	4401
644.	Pension for Susan House	3	4401
645.	Increase of pension for Jesse C. Rhodabeck	3	4401
646.	Increase of pension for Michael Marnane	3	4401
647.	Pension for Blanche Duffy	3	4401
648.	Pension for William J. Jones	3	4401
649.	Pension for Elizabeth Rickey	3	4401
650.	Increase of pension for Daniel F. Thompson	3	4401
651.	Pension for Mary King	3	4401
652.	Increase of pension for John Hollister	3	4401
653.	Increase of pension for Caroline Mischler	3	4401
654.	Increase of pension for Patrick Lee	3	4401
655.	Increase of pension for Margaret Hoefer	3	4401
656.	Increase of pension for James F. Patton	3	4401
657.	Increase of pension for Frances Fuller Victor	3	4401
658.	Increase of pension for Thomas P. Smith	3	4401
659.	Increase of pension for Israel A. Benner	3	4401
660.	Increase of pension for Nathan H. Metcalf	3	4401
661.	Pension for Mary L. Dibert	3	4401
662.	Pension for Mary E. Holbrook	3	4401
663.	Increase of pension for James Austin	3	4401
664.	Pension for Adela S. Webster	3	4401
665.	Increase of pension for Sarah E. Allen	3	4401
666.	Increase of pension for Millen McMillen	3	4401
667.	Increase of pension for Francis W. Pool	3	4401
668.	Increase of pension for Thomas H. H. Gibbs	3	4401
669.	Increase of pension for Richard P. Nichuals	3	4401
670.	Increase of pension for William Christian	3	4401
671.	Increase of pension for James P. Burchfield	3	4401
672.	Increase of pension for John M. Howe	3	4401
673.	Increase of pension for Charles Misner	3	4401
674.	Increase of pension for Theresia Ziegenfuss	3	4401
675.	Pension for Elizabeth L. Beckett	3	4401
676.	Pension for Thomas G. Foster	3	4401
677.	Pension for Mary E. Holden	3	4401

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
678. Increase of pension for Barbara McDonald	3	4401
679. Increase of pension for Ephraim D. Dorman	3	4401
680. Increase of pension for Elijah E. Harvey	3	4401
681. Increase of pension for Reuben Wellman	3	4401
682. Increase of pension for Lewis W. Moore	3	4401
683. Increase of pension for Peter C. Monfort	3	4401
684. Increase of pension for Joseph H. Barnum	3	4401
685. Increase of pension for James Moore	3	4401
686. Pension for Benjamin E. Styles	3	4401
687. Pension for James D. Johnson	3	4401
688. Pension for Eliza Stewart	3	4401
689. Pension for Sarah H. H. Lowe	3	4401
690. Increase of pension for Noah F. Chafee	3	4401
691. Increase of pension for Henry Ball	3	4401
692. Pension for Anna Roderka	3	4401
693. Increase of pension for Robert Carpenter	3	4401
694. Pension for Mary Shelton Huston	3	4401
695. Increase of pension for Erastus C. Moderwell	3	4401
696. Increase of pension for Horatio N. Francis	3	4401
697. Increase of pension for Orra H. Heath	3	4401
698. Pension for Jacob Golden	3	4401
699. Increase of pension for Robert Miller	3	4401
700. Pension for Davis B. Salts	3	4401
701. Pension for Charles F. Merrill	3	4401
702. Increase of pension for Frank J. Clark	3	4401
703. Increase of pension for Mary E. Singley	3	4401
704. Increase of pension for Andrew Y. Transue	3	4401
705. Increase of pension for William R. Armstrong	3	4401
706. Increase of pension for Mary E. Stockings	3	4401
707. Increase of pension for John S. Campbell	3	4401
708. Increase of pension for Benjamin Contal	3	4401
709. Increase of pension for Enos G. Budd	3	4401
710. Increase of pension for William C. Holcomb	3	4401
711. Increase of pension for Margaret Hendry	3	4401
712. Increase of pension for Dorothy S. White	3	4401
713. Pension for Christiana Steiger	3	4401
714. Increase of pension for William Berry	3	4401
715. Increase of pension for Isaac H. Crim	3	4401
716. Increase of pension for John W. Gregg	3	4401
717. Increase of pension for Helen V. Rorer	3	4401
718. Pension for James E. Bates	3	4401
719. Increase of pension for Levi H. Winslow	3	4401
720. Increase of pension for Thomas Findley	3	4401
721. Pension for Josephine M. Dustin	3	4401
722. Increase of pension for Abraham N. Bradfield	3	4401
723. Increase of pension for Richard C. Smith	3	4401
724. Increase of pension for Robert M. McCullough	3	4401
725. Increase of pension for Mary Scott	3	4401
726. Increase of pension for Nathan W. Snee	3	4401
727. Pension for John W. Meade	3	4401
728. Increase of pension for William H. Dixon	3	4401
729. Pension for Ada L. McFarland	3	4401
730. Increase of pension for Philip Atwood	3	4401
731. Pension for Frances E. Stebbins	3	4401
732. Increase of pension for Alvin J. Hartzell	3	4401
733. To regulate exemption from taxation in D.C.	3	4401
734. Light and fog-signal on Mile Rocks, San Francisco Bay	3	4401
735. Fog-signal at Fort Winfield Scott, Fort Point, California	3	4401
736. Relief of officers and crew of U.S.S. Charleston	3	4401
737. Relief of William R. Wheaton and Charles H. Chamberlain	3	4401
738. Light and fog-signal on State Ledge, Boston Harbor	3	4401
739. To forbid insertion in bills of lading, of London clause exempting shipping companies from liability for damages, with minority report	4	4402
740. Relief of George Rushberger	4	4402
741. Relief of Julius A. Kaiser	4	4402
742. To pay F. Y. Ramsay, heir, balance due Joseph Ramsay	4	4402
743. Extending time for bridge over Mississippi River at Burlington, Iowa	4	4402
744. Light-ship for Blunts Reef, Cape Mendocino, California	4	4402
745. Light and fog-signal on Carquinez Strait, California	4	4402
746. Light and fog-signal on Southampton Shoal, San Francisco Bay	4	4402
747. Relief of admr. of Hamlin Caldwell	4	4402
748. Pittsburgh and Mansfield R.R. to bridge Monongahela River	4	4402
749. Relief of heirs of S. H. Hill	4	4402
750. Relief of widow of Daniel C. Trewhitt	4	4402
751. Relief of Joseph Swisher	4	4402
752. Relief of heirs of William Heryford	4	4402
753. To refer heirs of Richard F. Wasson to Court of Claims	4	4402
754. To refer heirs of Benjamin Lillard to Court of Claims	4	4402
755. Pension for Thomas Holloway	4	4402
756. Increase of pension for Almond Delamater	4	4402
757. Increase of pension for Elvin A. Esty	4	4402
758. Increase of pension for Mary A. Van Wormer	4	4402
759. Increase of pension for Charles E. Pettis	4	4402
760. Increase of pension for George M. Emery	4	4402
761. Increase of pension for Elias M. Haight	4	4402
762. Increase of pension for Abel Woods	4	4402
763. Pension for Simeon Partridge	4	4402
764. Increase of pension for Mary A. Andress	4	4402
765. Pension for John Watts	4	4402
766. Increase of pension for Joseph W. Burch	4	4402
767. Pension for Louisa White	4	4402
768. Increase of pension for Leath Gilliland	4	4402
769. Increase of pension for Marie J. Smyth	4	4402
770. Increase of pension for Adrian M. Snyder	4	4402
771. National military park at Fredericksburg, Va., and adjacent battlefields	4	4402
772. Right of way for railway through San Francisco Mts. forest reserve, Arizona	4	4402
773. Relief of estate of Henry C. Nields	4	4402
774. To refund duties paid in Porto Rico on imports from United States	4	4402
775. Monument at Washington to Benjamin F. Stephenson, founder of G.A.R.	4	4402
776. Honorable discharge for William A. Treadwell	4	4402
777. To take Calaveras groves of big trees in California for national parks	4	4402
778. To provide for homesteads of 320 acres in Alaska	4	4402
779. To omit signature of Secretary of Interior from letters patent	4	4402
780. Place of deposit of patent specifications in western Pennsylvania	4	4402
781. Eldorado and Bastrop Railway to bridge Ouachita River in Arkansas	4	4402
782. Wadley and Mt. Vernon Railroad to bridge Oconee River in Georgia	4	4402
783. To print report of commission to revise and compile laws of Porto Rico	4	4402
784. To print revised edition of report on diseases of horse	4	4402
785. To print report of commissioner of pensions, 1901	4	4402
786. To print gazetteer of Philippine Islands	4	4402
787. Revenue steamer for Albemarle and Pamlico sounds, North Carolina	4	4402
788. New division of western judicial district of Arkansas	4	4402
789. To change boundaries of judicial districts in Indian Territory, etc.	4	4402
790. Increase of salary for warden of D.C. jail	4	4402
791. To print revised edition of report on diseases of cattle	4	4402

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
792.	Right of way for Hawaii Ditch Co., Limited, over public lands in Hawaii	4	4402
793.	Lights to mark Broad Sound Channel in Boston Harbor	4	4402
794.	Irrigation and reclamation of arid lands. 2 pts.	4	4402
795.	Appropriations for rivers and harbors, 1903	4	4402
796.	Relief of Morgan's Louisiana and Texas R.R. and S.S. Company	4	4402
797.	Relief of Charles P. Culver	4	4402
798.	Relief of John Donahue	4	4402
799.	Relief of owners of British ship Foscolia	4	4402
800.	Relief of Willis Benefield	4	4402
801.	Relief of widow of Joseph T. H. Hall	4	4402
802.	Relief of heirs of Aaron Van Camp and Virginius P. Chapin	4	4402
803.	Pension for Susan Warner	4	4402
804.	Increase of pension for Charles R. Bridgman	4	4402
805.	Pension for Archer Bartlett	4	4402
806.	Increase of pension for John W. Burnham	4	4402
807.	Pension for Martha R. Osbourn	4	4402
808.	Pension for Alexander Beachboard	4	4402
809.	Pension for Martin Essex	4	4402
810.	Increase of pension for Sidney Leland	4	4402
811.	Increase of pension for John E. White	4	4402
812.	Increase of pension for Cynthia A. McKenny	4	4402
813.	Increase of pension for Remembrance J. Williams	4	4402
814.	Increase of pension for Hiram H. Kingsbury	4	4402
815.	Increase of pension for George W. Parker	4	4402
816.	Increase of pension for Franklin B. Delany	4	4402
817.	Pension for Charles Maschmeyer	4	4402
818.	Increase of pension for Thomas J. Stowers	4	4402
819.	Increase of pension for Friedrich Weimar	4	4402
820.	Pension for Ella Bailey	4	4402
821.	Increase of pension for Williamanna E. Lynde	4	4402
822.	Pension for Maggie Helmbold	4	4402
823.	Increase of pension for Chritianna Leach	4	4402
824.	Pension for Gilbert P. Howe	4	4402
825.	Increase of pension for Peter Poutney	4	4402
826.	Increase of pension for Sybil F. Hall	4	4402
827.	Increase of pension for Charles S. Wilson	4	4402
828.	Pension for Margaret Scanlon	4	4402
829.	Increase of pension for Lucy W. Smith	4	4402
830.	Increase of pension for Elizabeth K. Prescott	4	4402
831.	Increase of pension for Lonson R. Burr	4	4402
832.	Increase of pension for Sarah Vandemark	4	4402
833.	Increase of pension for Alexander Scott	4	4402
834.	Increase of pension for Joseph A. Nunez	4	4402
835.	Increase of pension for Lorenzo Weeks	4	4402
836.	Increase of pension for John McGrath	4	4402
837.	Increase of pension for Albert S. Whittier	4	4402
838.	Pension for Abby Clark McNett	4	4402
839.	Pension for Sara B. Andrews	4	4402
840.	Increase of pension for Alice De K. Shattuck	4	4402
841.	Increase of pension for Elizabeth P. Sigfried	4	4402
842.	Increase of pension for William H. Mackey	4	4402
843.	Increase of pension for Elizabeth A. Shaw	4	4402
844.	Increase of pension for Emily J. Tallman	4	4402
845.	Increase of pension for Annie McElheney	4	4402
846.	Increase of pension for John A. Hazelton	4	4402
847.	Pension for James B. Harris	4	4402
848.	Increase of pension for La Myra V. Kendig	4	4402
849.	Increase of pension for Franklin Taylor	4	4402
850.	Increase of pension for Robert E. Stephens	4	4402
851.	Increase of pension for Michael Samelsberger	4	4402
852.	Increase of pension for Henry E. De Marse	4	4402
853.	Increase of pension for Joseph M. Clough	4	4402
854.	Increase of pension for Ann Demonbrun	4	4402
855.	To transfer census records in Interior Department to Census Office	4	4402
856.	Payment of certain claims under Bowman act	4	4402
857.	Extra pay for volunteers against Philippine insurrection who entered service under act of Mar. 2, 1899	4	4402
858.	Relief of Gustav Augerstein	4	4402
859.	To refer William T. Trammell to Court of Claims	4	4402
860.	Relief of admr. of James Walker	4	4402
861.	Relief of Erick Haugen	4	4402
862.	Relief of James S. Frizzell	4	4402
863.	To refer representatives of James M. Alexander to Court of Claims	4	4402
864.	Relief of Joseph B. McClintock	4	4402
865.	Relief of estate of Thomas V. Stirman	4	4402
866.	Relief of Thomas C. Isgrigg	4	4402
867.	Relief of Indiana State Board of Agriculture	4	4402
868.	Relief of admr. of Marcus L. Broadwell	4	4402
869.	Relief of Flora A. Darling	4	4402
870.	Monument to mark site of Fort Phil Kearny massacre	4	4402
871.	Adjudication of claims of J. F. Bailey and Co., etc., by Court of Claims	4	4402
872.	Reserving in Oregon, as park, Crater Lake and environs	4	4402
873.	To remove charge of desertion from Stephen A. Toops	4	4402
874.	Relief of widow of Frank Armin	4	4402
875.	To construct road to national cemetery at Wilmington, N.C.	4	4402
876.	Extension of charters of national banks	4	4402
877.	Relief of William Leech	4	4402
878.	To construct road to national cemetery at Dover, Tenn.	4	4402
879.	To remove charge of desertion from Patrick Cassidy	4	4402
880.	Relief of Thomas McEntee	4	4402
881.	Military record of Reinhard Schneider	4	4402
882.	Disposition of useless papers in Executive Departments	4	4402
883.	Pension for Christopher S. Stephens	4	4402
884.	Increase of pension for James Todd	4	4402
885.	Increase of pension for Sylvester Holiday	4	4402
886.	Pension for Alice Angel	4	4402
887.	Increase of pension for Evaline Wilson	4	4402
888.	Pension for Dennis J. Kelly	4	4402
889.	Increase of pension for Benjamin W. Howard	4	4402
890.	Pension for John Y. Corey	4	4402
891.	Increase of pension for James R. Wilson	4	4402
892.	Increase of pension for Hugh Cool	4	4402
893.	Increase of pension for William R. Howsley	4	4402
894.	Increase of pension for David A. Frier	4	4402
895.	Increase of pension for Mary Louise Worden	4	4402
896.	Pension for Hannah T. Knowles	4	4402
897.	Increase of pension for Stephen May	4	4402
898.	Pension for Michael Mullin	4	4402
899.	Increase of pension for Mary F. Key	4	4402
900.	Increase of pension for John L. Bowman	4	4402
901.	Pension for India Stewart	4	4402
902.	Increase of pension for Marie U. Nordstrom	4	4402
903.	Increase of pension for Emma McLaughlin	4	4402
904.	Increase of pension for Russel A. Williams	4	4402
905.	Pension for Ann Eliza Trout	4	4402
906.	Increase of pension for Louis Hahn	4	4402
907.	Pension for Annie D. Taggart	4	4402
908.	Increase of pension for John W. Acker	4	4402
909.	Increase of pension for Jason Leighton	4	4402
910.	Increase of pension for John Costello	4	4402
911.	Pension for Kate Pearce	4	4402
912.	Increase of pension for William H. Allen	4	4402
913.	Pension for Charlotte H. Race	4	4402
914.	Increase of pension for David E. Hall	4	4402
915.	Pension for Emma R. Pawling	4	4402
916.	Increase of pension for Lizzie B. Green	4	4402
917.	Increase of pension for Clara A. Penrose	4	4402
918.	Increase of pension for James F. Gray	4	4402
919.	Increase of pension for Jennie C. Ruckle	4	4402

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
920. Pension for Christina Heitz	4	4402
921. Increase of pension for George E. Houghton	4	4402
922. Increase of pension for Michael J. Daly	4	4402
923. Increase of pension for Heber C. Griffin	4	4402
924. Increase of pension for William B. Rowe	4	4402
925. Pension for Abbie M. Packard	4	4402
926. Increase of pension for Erastus D. Canfield	4	4402
927. Increase of pension for Jane E. Tompkins	4	4402
928. Increase of pension for Theophile A. Dauphin	4	4402
929. Increase of pension for Jacob Barton	4	4402
930. Pension for Lydia Carr	4	4402
931. Increase of pension for Peter C. Cleek	4	4402
932. Increase of pension for James A. Bramble	4	4402
933. Increase of pension for Ida C. Emery	4	4402
934. Increase of pension for Rachel S. Lyman	4	4402
935. Increase of pension for William H. H. Scott	4	4402
936. Increase of pension for Thomas Thatcher	4	4402
937. Pension for Anna O. Brush	4	4402
938. Increase of pension for Frederick E. Rogers	4	4402
939. Increase of pension for George W. Dodge	4	4402
940. Increase of pension for William Holgate	4	4402
941. Increase of pension for Matthew C. Medbury	4	4402
942. Increase of pension for John Reep	4	4402
943. Relief of estate of M. J. Grealish	4	4402
944. To remove charge of desertion from Ephraim W. Reynolds	4	4402
945. Tents for reunion of United Confederate Veterans at Dallas, Tex.	4	4402
946. Issue of bonds by Santa Cruz County, Ariz.	4	4402
947. To place Paul Crum on muster rolls of 1st North Dakota Infantry	4	4402
948. Marine hospital at Pittsburgh, Pa.	4	4402
949. Monument at Charlotte, N.C., in honor of William E. Shipp, who lost his life in charge of San Juan Hill, Santiago	4	4402
950. Invitations to dedication of statue of Comte de Rochambeau	4	4402
951. Protection of game and wild birds in Alaska	4	4402
952. Suppression of train robberies	4	4402
953. To ratify agreement with Indians of Devils Lake Reservation, North Dakota	4	4402
954. To ratify agreement with Indians of Rosebud Reservation, South Dakota	4	4402
955. To quitclaim land in Newport, R.I., to Lorillard Spencer	4	4402
956. To create Territory of Jefferson out of what is now Indian Territory	4	4402
957. Military record of Calvin A. Rice	4	4402
958. To remove charge of desertion from Abram Williams	4	4402
959. Military record of Henry M. Holmes	4	4402
960. Military record of John O'Brien	4	4402
961. Relief of Levi L. Reed	4	4402
962. Military record of Richard H. Marsh	4	4402
963. Military record of Albert Boker	4	4402
964. Relief of Matthew T. Lewis	4	4402
965. To remove charge of desertion from Elias B. Bell	4	4402
966. Regulation of importation of eggs of game-birds	4	4402
967. Call for information as to action of State Dept. in case of H. W. Thomas	4	4402
968. Transfer of forest reserves to Dept. of Agriculture, etc. 2 pts.	4	4402
969. To ratify agreement with Indians of Klamath Reservation, Oregon	4	4402
970. Call for information as to conduct of Army Transport Service	4	4402
971. Relief of John G. Rose	4	4402
972. Relief of H. B. Freeman	4	4402
973. To remove charge of desertion from Henry A. Cryderman	4	4402
974. To place Martin H. Gerry on retired list of Navy	4	4402
975. Relief of Florence Lambert	4	4402
976. Relief of James C. Drake	4	4402
977. Relief of William D. Rutan	4	4402
978. Relief of David Tweed	4	4402
979. Classification of clerks in Census Office	4	4402
980. To remove charge of desertion from Hugh Cosgrove	4	4402
981. Relief of Howard Bonner	4	4402
982. Regulation of immigration; proposal for reenactment of immigration laws	4	4402
983. Surrender of United States prisoners to States for trial	4	4402
984. Increase of pension for Asa Tarbox	4	4402
985. Increase of pension for John McDonald	4	4402
986. Increase of pension for Israel Haller	4	4402
987. Pension for Sarah A. Carter	4	4402
988. Pension for Martha A. Hollingsead	4	4402
989. Increase of pension for Ella R. Graham	4	4402
990. Increase of pension for Allen Hockenbury	4	4402
991. Increase of pension for Henry M. Taylor	4	4402
992. Increase of pension for Andrew B. Spurling	4	4402
993. Increase of pension for James E. Dexter	4	4402
994. Increase of pension for John G. Hutchinson	4	4402
995. Pension for Chester E. Wadsworth	4	4402
996. Increase of pension for George Farne	4	4402
997. Increase of pension for Caleb W. Story	4	4402
998. Increase of pension for George W. Myers	4	4402
999. Increase of pension for Daniel J. Mahoney	4	4402
1000. Increase of pension for Isaiah Tufford	4	4402
1001. Increase of pension for Charles C. Dudley	4	4402
1002. Pension for William Kaste	4	4402
1003. Pension for Eliza J. West	4	4402
1004. Increase of pension for Carlin Hamlin	4	4402
1005. Increase of pension for Pauline M. Roberts	4	4402
1006. Increase of pension for Margaret Dunn	4	4402
1007. Increase of pension for William T. Hamilton	4	4402
1008. Increase of pension for Torgus Haraldson	4	4402
1009. Pension for Carl Jordan	4	4402
1010. Increase of pension for Emory S. Foster	4	4402
1011. Increase of pension for Richmond M. Curtis	4	4402
1012. Increase of pension for Samuel M. Howard	4	4402
1013. Increase of pension for John G. Sanders	4	4402
1014. Increase of pension for John Barnard	4	4402
1015. Pension for John S. James	4	4402
1016. Pension for Sarah Frances Taft	4	4402
1017. Increase of pension for Thomas B. Wilson	4	4402
1018. Increase of pension for Charles W. Foster	4	4402
1019. Increase of pension for Jonathan H. Slocum	4	4402
1020. Pension for Augusta Turner	4	4402
1021. Increase of pension for John Huffman	4	4402
1022. Increase of pension for Leander Parmelee	4	4402
1023. Increase of pension for James R. Brockett	4	4402
1024. Increase of pension for Abbie George	4	4402
1025. Pension for Clara C. Hawks	4	4402
1026. Pension for Louisa Gregg	4	4402
1027. Increase of pension for Mary Morgan	4	4402
1028. Increase of pension for Edwin J. Godfrey	4	4402
1029. Increase of pension for Nathaniel C. Goodwin	4	4402
1030. Increase of pension for Thomas Kirwan	4	4402
1031. Increase of pension for Mary Etna Poole	4	4402
1032. Increase of pension for George Daniels	4	4402
1033. Pension for William C. Hickox	4	4402
1034. Increase of pension for Charles H. Stone	4	4402
1035. Increase of pension for George W. Butler	4	4402
1036. Increase of pension for James W. Poor	4	4402
1037. Increase of pension for Elbridge Franklin	4	4402
1038. Increase of pension for Stanton L. Brabham	4	4402
1039. Increase of pension for James Matthews	4	4402
1040. Increase of pension for Georgie Josephine Walcott	4	4402
1041. Increase of pension for Allen W. Merrill	4	4402
1042. Increase of pension for Mary V. Walker	4	4402

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1043.	Pension for Sarah B. Clingerman	4	4402
1044.	Increase of pension for James H. Dunn	4	4402
1045.	Increase of pension for Leroy S. Smith	4	4402
1046.	Increase of pension for Mary Ann E. Sperry	4	4402
1047.	Increase of pension for Lunsford Y. Bailey	4	4402
1048.	Pension for Isaac M. Pangle	4	4402
1049.	Pension for Mary Sweeney	4	4402
1050.	Increase of pension for John S. Burket	4	4402
1051.	Increase of pension for Charles H. Ferguson	4	4402
1052.	Increase of pension for Theron R. Mack	4	4402
1053.	Increase of pension for Robert S. Woodbury	4	4402
1054.	Increase of pension for Harrison C. Vore	4	4402
1055.	Pension for Margaret Tisdale	4	4402
1056.	Increase of pension for George H. Evans	4	4402
1057.	Increase of pension for William Paul	4	4402
1058.	Increase of pension for Albert J. Hart	4	4402
1059.	Pension for Mary A. Lipps	4	4402
1060.	Pension for Andrew J. Felt	4	4402
1061.	Pension for Lucy M. Ferman	4	4402
1062.	Pension for William A. Hopper	4	4402
1063.	Increase of pension for William H. Wood	4	4402
1064.	Increase of pension for Gottlieb Kafer	4	4402
1065.	Increase of pension for Thomas Feneran	4	4402
1066.	Pension for Amelia A. Russell	4	4402
1067.	Increase of pension for Samuel Bortle	4	4402
1068.	Increase of pension for George W. Shaw	4	4402
1069.	Increase of pension for Thomas E. Sauls	4	4402
1070.	Increase of pension for James E. Horton	4	4402
1071.	Increase of pension for Eugene J. Oulman	4	4402
1072.	Increase of pension for Edward H. Armstrong	4	4402
1073.	To print Review of world's commerce and Commercial Relations, 1901	4	4402
1074.	To print report from Committee on Interoceanic Canals	4	4402
1075.	Relief of William H. Hugo	4	4402
1076.	Relief of Kimball Union Academy	4	4402
1077.	To pay settlers on Round Valley Reservation in California	4	4402
1078.	Extending time for bridge over Missouri River at St. Charles, Mo.	4	4402
1079.	Life-saving station on Ocracoke Island, North Carolina	4	4402
1080.	Branch of National Soldiers' Home near Denver, Colo.	4	4402
1081.	Allotments to Indians of Lac Courte Oreille Reservation, Wisconsin	4	4402
1082.	Tents for encampment of Knights of Pythias at San Francisco, Cal.	4	4402
1083.	Extending time for bridge over Missouri River at Oacoma, S.Dak.	4	4402
1084.	Bridge across Neuse River at Kinston, N.C.	4	4402
1085.	Land office at Greatfalls, Mont.	4	4402
1086.	To give title to land at Baton Rouge to Louisiana State University	4	4402
1087.	Relief of estate of George W. Saulpaw	4	4402
1088.	To accept smaller guaranty companies as surety on official bonds, etc.	4	4402
1089.	To amend Revised Statutes relative to reserve national banks	4	4402
1090.	Janitor for Enrolled Bills Committee	4	4402
1091.	Appropriations for Army, 1903	4	4402
1092.	To increase subsidiary silver coinage. 2 pts.	4	4402
1093.	To confirm title to indemnity school lands in Washington	4	4402
1094.	To promote efficiency of militia	5	4403
1095.	Relief of heirs of Mary Clark and Jenny Clark	5	4403
1096.	Relief of heirs of those killed by explosion at Naval Torpedo Station, Newport, R.I.	5	4403
1097.	Extending time for construction of East Wash. Heights Traction R.R.	5	4403
1098.	To quitclaim lot 4, square 1113, Washington, D.C., to Wm. H. Dix	5	4403
1099.	Oath to ownership of vessels owned by corporations	5	4403
1100.	For promotion of anatomical science and to prevent desecration of graves in District of Columbia	5	4403
1101.	Increase of pension for Maria Louisa Michie	5	4403
1102.	Increase of pension for George C. Tillman	5	4403
1103.	Increase of pension for Edward Thompson	5	4403
1104.	Pension for Oliver Gisborne	5	4403
1105.	Increase of pension for Catharine F. Edmunds	5	4403
1106.	Increase of pension for John Hall	5	4403
1107.	Pension for James T. Steele	5	4403
1108.	Increase of pension for Edwin P. Johnson	5	4403
1109.	Increase of pension for John Gaston	5	4403
1110.	Increase of pension for Annie L. Evens	5	4403
1111.	Pension for Frank W. Lynn	5	4403
1112.	Increase of pension for John J. Martin	5	4403
1113.	Increase of pension for Charles A. Perkins	5	4403
1114.	Pension for Emily Briggs	5	4403
1115.	Pension for Mina Weirauch	5	4403
1116.	Increase of pension for Caroline A. Hammond	5	4403
1117.	Increase of pension for Irenia C. Hill	5	4403
1118.	Increase of pension for Lewis H. Delony	5	4403
1119.	Pension for Washington Ojers	5	4403
1120.	Pension for Matilda C. Clarke	5	4403
1121.	Increase of pension for Zachariah R. Saunders	5	4403
1122.	Pension for James F. P. Johnston	5	4403
1123.	Increase of pension for Richard Trist	5	4403
1124.	Increase of pension for Samuel Hyman	5	4403
1125.	Pension for Hannah A. Timmons	5	4403
1126.	Increase of pension for Ole Oleson	5	4403
1127.	Increase of pension for Ann E. Austin	5	4403
1128.	Pension for Minnie M. Rice	5	4403
1129.	Increase of pension for Frances C. Haughton	5	4403
1130.	Increase of pension for Joseph Westbrook	5	4403
1131.	Increase of pension for Alexander F. McConnell	5	4403
1132.	Increase of pension for John J. Wolfe	5	4403
1133.	Increase of pension for Frederick Wright	5	4403
1134.	Increase of pension for Adolph Becker	5	4403
1135.	Pension for Clara B. Townsend	5	4403
1136.	Pension for Ole Steensland	5	4403
1137.	Pension for Henry S. Foster	5	4403
1138.	Increase of pension for Alonzo Lewis	5	4403
1139.	Increase of pension for Albion P. Stiles	5	4403
1140.	Increase of pension for Aaron S. Gatliff	5	4403
1141.	Increase of pension for James D. Bowland	5	4403
1142.	Pension for Robert C. Ballard	5	4403
1143.	Increase of pension for William T. Peterson	5	4403
1144.	Increase of pension for S. Agnes Young	5	4403
1145.	Increase of pension for Robert Stewart	5	4403
1146.	Increase of pension for William Kelley	5	4403
1147.	Increase of pension for Charlotte E. Baird	5	4403
1148.	Pension for Joseph P. O'Brien	5	4403
1149.	Increase of pension for James Brown	5	4403
1150.	Pension for Emsley Kinsauls	5	4403
1151.	Pension for Elizabeth A. Burrill	5	4403
1152.	Increase of pension for Louisa M. Macfarlane	5	4403
1153.	Increase of pension for Walter C. Tuttle	5	4403
1154.	Pension for M. C. Rogers	5	4403
1155.	Pension for Ruth Bartlett	5	4403
1156.	Increase of pension for John M. Brown	5	4403
1157.	Pension for Hannah C. Chase	5	4403
1158.	Increase of pension for John M. Seydel	5	4403
1159.	Increase of pension for Andrew Ray	5	4403
1160.	Pension for Frances L. Ackley	5	4403
1161.	Increase of pension for Henry I. Smith	5	4403
1162.	Pension for John S. Nelson	5	4403
1163.	Increase of pension for Martha A. Greenleaf	5	4403
1164.	Increase of pension for James Lehew	5	4403
1165.	Increase of pension for Julius W. Clark	5	4403
1166.	Pension for Nadine A. Turchin	5	4403
1167.	To ratify agreement with Indians of Crow Reservation in Montana	5	4403

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1168.	Increase of pension for Myra W. Robinson	5	4403
1169.	To remove charge of desertion from Abner H. Goyt	5	4403
1170.	Relief of John B. Burns, alias John B. Wilson	5	4403
1171.	Appropriations for legislative, executive, and judicial expenses, 1903	5	4403
1172.	Relief of Henry La Croix	5	4403
1173.	To pay Wyoming for care of Yellowstone Park, 1884-86	5	4403
1174.	To refer owners of Southern Railway Lighter 10 to Court of Claims	5	4403
1175.	Relief of Noah Dillard	5	4403
1176.	Relief of Joseph A. Jennings	5	4403
1177.	To pay heirs of Peter Johnson	5	4403
1178.	Relief of Austin A. Yates	5	4403
1179.	Relief of H. B. Matteosian	5	4403
1180.	Hawaiian silver coinage and silver certificates	5	4403
1181.	Souvenir medals for Washington Monument Assoc. of Alexandria, Va.	5	4403
1182.	Increase of pension for Augustus E. Hodges	5	4403
1183.	Increase of pension for Charles Edward Price Lance	5	4403
1184.	Increase of pension for Robert G. Scroggs	5	4403
1185.	Increase of pension for Margaret M. Grant	5	4403
1186.	Increase of pension for Henry W. Gaskill	5	4403
1187.	Increase of pension for Solomon P. Brockway	5	4403
1188.	Increase of pension for John Marble	5	4403
1189.	Increase of pension for Andrew J. Freeman	5	4403
1190.	Increase of pension for Mary E. Pettit	5	4403
1191.	Increase of pension for Thomas Wilkinson	5	4403
1192.	Increase of pension for Oscar W. Lowery	5	4403
1193.	Increase of pension for Neil Gillespy	5	4403
1194.	Increase of pension for John Glenn	5	4403
1195.	Pension for Mary Holmes	5	4403
1196.	Increase of pension for Harman Scramlin	5	4403
1197.	Pension for Eliza B. Gamble	5	4403
1198.	Pension for Mary C. Trask	5	4403
1199.	Increase of pension for Sanders R. Seamonds	5	4403
1200.	Increase of pension for Daniel Sims	5	4403
1201.	Increase of pension for Charles F. Coles	5	4403
1202.	Increase of pension for Peter T. Norris	5	4403
1203.	Increase of pension for Rachel Brown	5	4403
1204.	Increase of pension for Justus Canfield	5	4403
1205.	Increase of pension for Sarah E. Merritt	5	4403
1206.	Increase of pension for James S. Peery	5	4403
1207.	Increase of pension for Thomas Milsted	5	4403
1208.	Pension for Anna J. Thomas	5	4403
1209.	Increase of pension for Lawson Williams	5	4403
1210.	Increase of pension for Eliza J. Noble	5	4403
1211.	Increase of pension for Isadora F. Maxfield	5	4403
1212.	Pension for James B. Hashbargar	5	4403
1213.	Increase of pension for Jesse M. Peck	5	4403
1214.	Increase of pension for John A. Eveland	5	4403
1215.	Pension for Susan Walker	5	4403
1216.	Increase of pension for Ransom Simmons	5	4403
1217.	Pension for Hugh McGuckin	5	4403
1218.	Increase of pension for Kate H. Clements	5	4403
1219.	Extending Loudon Park national cemetery, Baltimore, Md.	5	4403
1220.	Wearing of military badges at ceremonies	5	4403
1221.	Western Bridge Co. to bridge Ohio River at Allegheny, Pa.	5	4403
1222.	Appointment of managers of National Soldiers' Home	5	4403
1223.	Time for holding terms of court in eastern district of Pennsylvania	5	4403
1224.	Call for papers on request of Lt. Gen. N. A. Miles to be assigned to Philippines	5	4403
1225.	To train teachers of speech to deaf children	5	4403
1226.	To encourage industrial education in States	5	4403
1227.	To establish industrial education in Territories, etc.	5	4403
1228.	Completion of Baltimore light and fog-signal, Patapsco River	5	4403
1229.	To refer Jacob B. Phillips to Court of Claims	5	4403
1230.	Relief of representative of William Kendall	5	4403
1231.	Chinese exclusion, with minority report	5	4403
1232.	Relief of Gottlob Schlecht, Maurice D. Higgins, etc.	5	4403
1233.	Increase of pension for Arthur H. Perkins	5	4403
1234.	Relief of Gustave Villouet	5	4403
1235.	To remove charge of desertion from Bernhard Reuter	5	4403
1236.	Military record of G. W. Rand	5	4403
1237.	Relief of Sidney F. Shaw	5	4403
1238.	Cannon for grave of Daniel Morgan at Winchester, Va.	5	4403
1239.	Increase of pension for Colmore L. Newman	5	4403
1240.	Increase of pension for Frances E. Scott	5	4403
1241.	Pension for William P. Featherstone	5	4403
1242.	Pension for Helen F. Lasher	5	4403
1243.	Pension for Esther A. C. Hardee	5	4403
1244.	Increase of pension for Isaac Phipps	5	4403
1245.	Pension for Ida D. Greene	5	4403
1246.	Increase of pension for Katharine Rains Paul	5	4403
1247.	Increase of pension for Patrick Moran	5	4403
1248.	Pension for Erwin A. Burke	5	4403
1249.	Increase of pension for Joseph Culbreath	5	4403
1250.	Increase of pension for Henry C. Helphinstine	5	4403
1251.	Pension for William E. Gray, of Macon, Ga.	5	4403
1252.	Increase of pension for William G. Gray, of Tishomingo County, Miss.	5	4403
1253.	Increase of pension for Frances Gurley Elderkin	5	4403
1254.	Consideration of bill to promote efficiency of Revenue Cutter Service	5	4403
1255.	Call for investigation of Commercial Cable Co. for violation of antitrust law	5	4403
1256.	Transportation of mail by pneumatic tubes, etc.	5	4403
1257.	Relief of officers of North Carolina College of Agric. and Mechanic Arts	5	4403
1258.	Use of Governors Island by Boston, Mass.	5	4403
1259.	To allow Y.M.C.A. buildings on military reservations	5	4403
1260.	Appropriations for sundry civil expenses, 1903	5	4403
1261.	Relief of Eliza Ellen Ehle	5	4403
1262.	Deviations allowed in adjusting weights of silver coins	5	4403
1263.	Light and fog-signal at Mukilteo Point, Washington	5	4403
1264.	Additional funds for light and fog-signal at Browns Point, Washington	5	4403
1265.	Fog-signal at Battery Point, Wash.	5	4403
1266.	Light and fog-signal at Burrows Island, Washington	5	4403
1267.	Bridge over Missouri River at Parkville, Mo.	5	4403
1268.	Relief of J. J. L. Peel	5	4403
1269.	Relief of widow and heirs of Samuel A. Muhleman	5	4403
1270.	Relief of David V. Howell	5	4403
1271.	Relief of Elizabeth McKinney	5	4403
1272.	Relief of Thomas F. Tobey	5	4403
1273.	To place Elias H. Parsons on retired list of Army	5	4403
1274.	Relief of Joseph B. Sargent	5	4403
1275.	Free homesteads on ceded portion of Ute Reservation in Colorado	5	4403
1276.	Reciprocity with Cuba. 5 pts.	5	4403
1277.	Light-ship on Southeast Shoal, Point au Pelee Passage, Lake Erie	5	4403
1278.	Relief of admr. of William Ivers	5	4403
1279.	Relief of John W. Gummo	5	4403
1280.	To refer John J. Vincent to Court of Claims	5	4403
1281.	To refer Washington College, Tenn., to Court of Claims	5	4403

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1282.	Relief of Sarah A. Clapp	5	4403
1283.	To refer Amos L. Griffith to Court of Claims	5	4403
1284.	To refer heirs of Samuel I. Gustin to Court of Claims	5	4403
1285.	Relief of Edwin F. Mathews	5	4403
1286.	To refer admrx. of B. Franks to Court of Claims	5	4403
1287.	Relief of Virginia on account of payments in 1898 for volunteers	5	4403
1288.	Relief of Myron Powers	5	4403
1289.	To refer Louis Levy to Court of Claims	5	4403
1290.	Relief of John W. Williams	5	4403
1291.	To refer Henry Judge to Court of Claims	5	4403
1292.	Extending time for presenting claims for additional bounties	5	4403
1293.	Relief of James E. Wilson	5	4403
1294.	Relief of Thomas Hoyne	5	4403
1295.	To refund taxes paid by Anheuser-Busch Brewing Association	5	4403
1296.	Relief of Edward S. Crill	5	4403
1297.	Improvement of old military cemetery on Fort Crawford reservation, Prairie du Chien, Wis.	5	4403
1298.	Relief of Samuel McJunkin	5	4403
1299.	Military record of George Frey	5	4403
1300.	To remove charge of desertion from Robert Pratt	5	4403
1301.	To remove charge of desertion from Simeon Van Akin	5	4403
1302.	Relief of Cumberland Presbyterian Church, Clifton, Tenn.	5	4403
1303.	Relief of Merritt and Chapman Derrick and Wrecking Co.	5	4403
1304.	To refer St. Andrews Lodge, F.A.M., Cynthiana, Ky., to Ct. of Cls.	5	4403
1305.	To refer heirs of Edward P. Lee, etc., to Court of Claims	5	4403
1306.	Relief of Christ Episcopal Church, Holly Springs, Miss.	5	4403
1307.	Relief of admrx. of William Stewart	5	4403
1308.	To remove charge of desertion from Thomas Blackburn	5	4403
1309.	Statehood for Oklahoma, Arizona, and New Mexico	5	4403
1310.	To refer Mrs. E. Taylor to Court of Claims	5	4403
1311.	Relief of Merritt and Chapman Derrick and Wrecking Co.	5	4403
1312.	Relief of Mary E. O. Dashiell	5	4403
1313.	Reorganization of consular service	5	4403
1314.	To legalize Manual of surveying instructions, 1902	5	4403
1315.	To confirm title to indemnity school lands in Nebraska	5	4403
1316.	To pay claims of letter-carriers barred by limitation	5	4403
1317.	Revenue steamer for use at Philadelphia, Pa.	5	4403
1318.	For education of blind	5	4403
1319.	To forbid interstate traffic in adulterated food, etc.	5	4403
1320.	Relief of Alexander S. Rosenthal	5	4403
1321.	Increase of pension for Mary Jane Faulkner	5	4403
1322.	Increase of pension for Louise Ward	5	4403
1323.	Increase of pension for Charles B. Wingfield	5	4403
1324.	Increase of pension for Susan Hays	5	4403
1325.	Increase of pension for Samuel J. Lambden	5	4403
1326.	Pension for Robert Watts	5	4403
1327.	Pension for Mary J. Fitch	5	4403
1328.	Pension for Frances J. Abercrombie	5	4403
1329.	Increase of pension for Thomas Wells	5	4403
1330.	Increase of pension for Richard G. Watkins	5	4403
1331.	Pension for Alice D. H. Krause	5	4403
1332.	Pension for John J. Manner	5	4403
1333.	Pension for John Conter	5	4403
1334.	Relief of Thomas F. Tobey	5	4403
1335.	To place Elias H. Parsons on retired list of Army	5	4403
1336.	Appropriations for fortifications and ordnance, 1903	5	4403
1337.	Appropriations to supply additional urgent deficiencies	5	4403
1338.	Increase of pension for John Blackler	5	4403
1339.	Pension for Elizabeth D. Harding	5	4403
1340.	Pension for Susan E. Clark	5	4403
1341.	Increase of pension for Uriah Garber	5	4403
1342.	Increase of pension for James H. McKnight	5	4403
1343.	Pension for Sarah Anne Harris	5	4403
1344.	Increase of pension for George W. Hatton	5	4403
1345.	Increase of pension for Caroline R. Boyd	5	4403
1346.	Increase of pension for Joseph D. McClure	5	4403
1347.	Increase of pension for William J. Remington	5	4403
1348.	Increase of pension for George H. Smith	5	4403
1349.	Increase of pension for Edwin M. Dunning	5	4403
1350.	Pension for Hannah H. Graham	5	4403
1351.	Pension for Christopher Columbus Sheets	5	4403
1352.	Increase of pension for William Wheeler	5	4403
1353.	Increase of pension for Charles E. Miller	5	4403
1354.	Increase of pension for Charles De Arnaud	5	4403
1355.	Pension for Henrietta Gottweis	5	4403
1356.	Pension for Mary E. F. Gilman	5	4403
1357.	Increase of pension for David T. Nuttle	5	4403
1358.	Pension for Dewitt Clinton Letts	5	4403
1359.	Increase of pension for Albertine Schoenecker	5	4403
1360.	Increase of pension for William H. Rightmire	5	4403
1361.	Increase of pension for Charles P. Maxwell	5	4403
1362.	Increase of pension for Warren W. H. Lawrence	5	4403
1363.	Increase of pension for Peter Bittman	5	4403
1364.	Increase of pension for William H. Van Riper	5	4403
1365.	Pension for Mary J. Adams	5	4403
1366.	Increase of pension for James Curley	5	4403
1367.	Increase of pension for Aaron S. Post	5	4403
1368.	Increase of pension for James Merrick	5	4403
1369.	Increase of pension for Benjamin F. H. Luce	5	4403
1370.	Increase of pension for William H. Hoxie	5	4403
1371.	Increase of pension for Edgar A. Hamilton	5	4403
1372.	Pension for Sidney Cable	5	4403
1373.	Increase of pension for Abby T. Daniels	5	4403
1374.	Increase of pension for Ernest Wagner	5	4403
1375.	Increase of pension for Christian Christianson	5	4403
1376.	Increase of pension for Caroline M. Stone	5	4403
1377.	Increase of pension for Gilbert G. Gabrion	5	4403
1378.	Increase of pension for Charles Allen	5	4403
1379.	Pension for Wesley Brummett	5	4403
1380.	Increase of pension for Milton Brown	5	4403
1381.	Increase of pension for James D. Lafferty	5	4403
1382.	Increase of pension for Cyrenus Larrabee	5	4403
1383.	Increase of pension for John Robinson	5	4403
1384.	Pension for Mary Stone	5	4403
1385.	Increase of pension for Jacob Smith	5	4403
1386.	Increase of pension for Charles Ambrook	5	4403
1387.	Increase of pension for George W. Wertz	5	4403
1388.	Increase of pension for James Cooley	5	4403
1389.	Increase of pension for Sarah H. Lake	5	4403
1390.	Increase of pension for Elizabeth Steele	5	4403
1391.	Increase of pension for Thomas Sherry	5	4403
1392.	Increase of pension for James Van Zant	5	4403
1393.	Increase of pension for Florian V. Sims	5	4403
1394.	Increase of pension for William Hoag	5	4403
1395.	Increase of pension for James F. Campbell	5	4403
1396.	Increase of pension for Ellen W. Rice	5	4403
1397.	Pension for John S. Whitlege	5	4403
1398.	Pension for Alfred Hatfield	5	4403
1399.	Increase of pension for John Peterson	5	4403
1400.	Increase of pension for James C. G. Smith	5	4403
1401.	Pension for Adelbert L. Orr	5	4403
1402.	Increase of pension for David Topper	5	4403
1403.	Pension for Eleanore F. Adams	5	4403

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1404.	Increase of pension for Mary J. Gillam	5	4403
1405.	Increase of pension for Benjamin E. Morgan	5	4403
1406.	Increase of pension for Emma Sophia Harper Cilley	5	4403
1407.	Increase of pension for Nelson Churchill	5	4403
1408.	Increase of pension for Annie E. Brown	5	4403
1409.	Increase of pension for Gibboney F. Hoop	5	4403
1410.	Increase of pension for John H. Smith	5	4403
1411.	Pension for Annie Shinn	5	4403
1412.	Pension for Egbert A. Stricksma	5	4403
1413.	Pension for Calvin Duckworth	5	4403
1414.	Increase of pension for Henry Runnels	5	4403
1415.	Selection of indemnity school lands by Utah	5	4403
1416.	Honorable discharge for Eli Norris	5	4403
1417.	Honorable discharge for William H. Sutliff	5	4403
1418.	Honorable discharge for Frederick A. Noeller	5	4403
1419.	Military record of H. J. Rowell	5	4403
1420.	To regulate use of telephone wires in D.C.	5	4403
1421.	Military record of Levi Wells	5	4403
1422.	Protection of President, suppression of crime against government, etc.	5	4403
1423.	Contest of Horton v. Butler, Missouri, with minority report	6	4404
1424.	To apportion term of office of senators of Hawaii	6	4404
1425.	To maintain gold standard, amend national banking laws, with views and minority report, 3 pts.	6	4404
1426.	Increase of pension for John H. Lauchly	6	4404
1427.	Pension for Rodney W. Anderson	6	4404
1428.	Increase of pension for Harvey B. Linton	6	4404
1429.	Increase of pension for John Brill	6	4404
1430.	Increase of pension for Moses Whitcomb	6	4404
1431.	Increase of pension for Thomas J. Pleasant	6	4404
1432.	Increase of pension for John Beeson	6	4404
1433.	Increase of pension for Henry E. Williams	6	4404
1434.	Pension for Ellen D. Campbell	6	4404
1435.	Increase of pension for Charles H. Helmcamp	6	4404
1436.	Increase of pension for William Matthews	6	4404
1437.	Increase of pension for Charles Dalrymple	6	4404
1438.	Increase of pension for Frederick O. Clark	6	4404
1439.	Increase of pension for George W. Barry	6	4404
1440.	Increase of pension for Henry Runnebaum	6	4404
1441.	Increase of pension for William A. Campbell	6	4404
1442.	Increase of pension for Francis W. Anderton	6	4404
1443.	Increase of pension for Charles M. Montgomery	6	4404
1444.	Increase of pension for Robert A. Pinn	6	4404
1445.	Increase of pension for William Warner	6	4404
1446.	Increase of pension for John Lilley	6	4404
1447.	Increase of pension for George K. Thompson	6	4404
1448.	Increase of pension for Frederick A. Slocum	6	4404
1449.	Increase of pension for Aurelia M. Power	6	4404
1450.	Increase of pension for William L. Church	6	4404
1451.	Increase of pension for William G. Buchanan	6	4404
1452.	Pension for Margaret A. Stuart	6	4404
1453.	Pension for Sarah L. Bates	6	4404
1454.	Increase of pension for David T. Bruck	6	4404
1455.	Increase of pension for William Kunselman	6	4404
1456.	Increase of pension for Carrie M. Schofield	6	4404
1457.	Pension for Daniel L. Mallicoat	6	4404
1458.	Increase of pension for Lavalette D. Dickey	6	4404
1459.	Increase of pension for Agnes Clark	6	4404
1460.	Increase of pension for Marvin Chandler	6	4404
1461.	Increase of pension for James M. Ashley	6	4404
1462.	Pension for Mary Shearer	6	4404
1463.	Increase of pension for Charles S. Ely	6	4404
1464.	Relief of Henry Lane	6	4404
1465.	Relief of George C. Ellison	6	4404
1466.	To refer owners of tug Hudson to Court of Claims	6	4404
1467.	To repay unexpended moneys deposited for mining claims	6	4404
1468.	Irrigation and reclamation of arid lands	6	4404
1469.	Washington Gaslight Co. to buy Georgetown Gaslight Co., etc. 2 pts.	6	4404
1470.	Relief of University of Kansas	6	4404
1471.	Relief of John L. Young	6	4404
1472.	Relief of Herman C. Schumm	6	4404
1473.	To amend act for relief of Chippewa Indians in Minnesota	6	4404
1474.	Payment of salary and funeral expenses of Charles T. Parker	6	4404
1475.	Payment to Charles E. Glynn	6	4404
1476.	Additional clerk for Enrolled Bills Committee	6	4404
1477.	Temporary custodians for certain files from House document room	6	4404
1478.	Relief of Charles E. Sapp	6	4404
1479.	Relief of William M. Bird, James F. Redding, and Henry F. Welch	6	4404
1480.	Increase of pension for Alice A. Fitch	6	4404
1481.	Increase of pension for Susan A. Phelps	6	4404
1482.	Increase of pension for Caleb C. Briggs	6	4404
1483.	Increase of pension for William C. David	6	4404
1484.	Pension for William C. Roberts	6	4404
1485.	Increase of pension for Mary E. Barger	6	4404
1486.	Increase of pension for John S. Bonham	6	4404
1487.	Increase of pension for Richard M. Kellough	6	4404
1488.	Increase of pension for John Ludwig	6	4404
1489.	Increase of pension for William M. Barstow	6	4404
1490.	Increase of pension for Marietta Elizabeth Stanton	6	4404
1491.	Increase of pension for Charles D. Palmer	6	4404
1492.	Increase of pension for Pitsar Ingram	6	4404
1493.	Increase of pension for Margaret McCuen	6	4404
1494.	Increase of pension for Otto H. Hasselman	6	4404
1495.	Pension for Dollie M. Cronkite	6	4404
1496.	Pension for Lucinda A. Sirwell	6	4404
1497.	Increase of pension for Ole Thompson	6	4404
1498.	Increase of pension for Daniel Donne	6	4404
1499.	Increase of pension for John Canty	6	4404
1500.	Increase of pension for William H. Chapman	6	4404
1501.	Pension for Nancy A. Killough	6	4404
1502.	Increase of pension for Ira L. Evans	6	4404
1503.	Increase of pension for John Revley	6	4404
1504.	Contest of Walker v. Rhea, Virginia	6	4404
1505.	Relief of J. V. Worley	6	4404
1506.	Increase of pension for Courtland C. Matson	6	4404
1507.	Increase of pension for Ebenezer Wilson	6	4404
1508.	Increase of pension for Martin Boice	6	4404
1509.	Increase of pension for Pheobe L. Peyton	6	4404
1510.	Duplicate certificates of discharge	6	4404
1511.	Relief of Abram G. Hoyt	6	4404
1512.	Washington and Oregon Railway to bridge Columbia River	6	4404
1513.	To donate to Alabama spars of captured Spanish ships	6	4404
1514.	Contest of Fowler v. Thomas, North Carolina	6	4404
1515.	Right of way to Clearwater Valley R.R. through Nez Perce Indian lands in Idaho	6	4404
1516.	Increase of pension for William W. Richardson	6	4404
1517.	Increase of pension for Phineas Curran	6	4404
1518.	To allow sale or lease of Santa Fe Pacific Railroad	6	4404
1519.	To grant lands in ceded portion of Fort Hall Reservation to Idaho	6	4404
1520.	To alter plan for improvement of Everett Harbor, Wash.	6	4404
1521.	Relief of Madison County, Ky.	6	4404
1522.	To limit meaning of word conspiracy in labor troubles. 2 pts.	6	4404
1523.	To readjust accounts of certain registers and receivers	6	4404
1524.	To ratify agreement with Indians of Crow Reservation in Montana	6	4404

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1525.	Date of commencement of pensions to children	6	4404
1526.	To amend act to restore widows' pensions forfeited by remarriage	6	4404
1527.	Pension for Ida S. McKinley	6	4404
1528.	Contest of Lentz v. Tompkins, Ohio	6	4404
1529.	Relief of Florida Brewing Co.	6	4404
1530.	Call for information as to shipments of horses, etc., to South Africa	6	4404
1531.	Call for information as to British and Canadian encroachments on Alaska	6	4404
1532.	To grant settlers right to buy pasture land on certain reservations	6	4404
1533.	Increase of pension for Jane K. Hill	6	4404
1534.	Pension for Ida M. Briggs	6	4404
1535.	Pension for Mary Louise Lowry	6	4404
1536.	Pension for Dorcas McArdle	6	4404
1537.	Increase of pension for Obed D. Jasper	6	4404
1538.	Pension for Zebulon A. Shipman	6	4404
1539.	Increase of pension for Susan A. Volkmar	6	4404
1540.	Government for Philippine Islands	6	4404
1541.	Right of way to Omaha Northern Railway through Omaha and Winnebago reservations in Nebraska	6	4404
1542.	Relief of George W. King	6	4404
1543.	Relief of widow of Charles B. Goldsborough	6	4404
1544.	Increase of pension for Thomas W. Dodge	6	4404
1545.	Control of dogs in D.C.	6	4404
1546.	To fix age limit of patrons of billiard and pool tables in D.C.	6	4404
1547.	National forest reserve in southern Appalachian Mountains	6	4404
1548.	Storm-warning station at South Manitou Island, Lake Michigan	6	4404
1549.	Payments to registers and receivers in Kansas from sales of Osage lands	6	4404
1550.	Privileges for policemen stationed at street-railway crossings in D.C.	6	4404
1551.	Additional circuit judge for 2d judicial circuit	6	4404
1552.	To grant use for railroad purposes of reservation at Choctaw Point, Alabama	6	4404
1553.	Rank of major-general for commandant of Marine Corps	6	4404
1554.	U.S. and West Indies R.R. and S.S. Co. to bridge Manatee River in Florida	6	4404
1555.	To remove charge of desertion from Lorenzo Marchant	6	4404
1556.	To restore James G. Field to active list of Navy	6	4404
1557.	New Orleans and Mississippi Midland R.R. to bridge Pearl River	6	4404
1558.	To remove charge of desertion from Frederick Schulte	6	4404
1559.	Bridge over Chattahoochee River at or below Columbus, Ga.	6	4404
1560.	For promotion of anatomical science and to prevent desecration of graves in District of Columbia	6	4404
1561.	Remailing of undelivered 3d- and 4th-class matter	6	4404
1562.	Right of way to Warrior Southern Ry. through reservation on Black Warrior River in Alabama	6	4404
1563.	Increase of pension for Eunice A. Smith	6	4404
1564.	Increase of pension for Helen A. B. Du Barry	6	4404
1565.	Increase of pension for James W. Humphrey	6	4404
1566.	Increase of pension for Mary A. Munson	6	4404
1567.	Increase of pension for Benjamin F. Wells	6	4404
1568.	Increase of pension for Annie Cotter	6	4404
1569.	Increase of pension for Charles F. Smith	6	4404
1570.	Increase of pension for Charles Dixon	6	4404
1571.	Increase of pension for Silas D. Strong	6	4404
1572.	Increase of pension for Warren B. Nudd	6	4404
1573.	Increase of pension for Maria L. Godfrey	6	4404
1574.	Increase of pension for Charles F. Rand	6	4404
1575.	Increase of pension for Minerva Melton	6	4404
1576.	Increase of pension for Edgar T. Daniels	6	4404
1577.	Increase of pension for James Austin	6	4404
1578.	Increase of pension for Augustin M. Adams	6	4404
1579.	Increase of pension for Charles E. Brown	6	4404
1580.	Increase of pension for William Belk	6	4404
1581.	Increase of pension for John Washburn	6	4404
1582.	Increase of pension for Ellen J. Clark	6	4404
1583.	Increase of pension for Inez E. Perrine	6	4404
1584.	Increase of pension for Mary Beals	6	4404
1585.	Increase of pension for Jethro M. Getman	6	4404
1586.	Increase of pension for Zeno T. Griffen	6	4404
1587.	Increase of pension for Charles L. Cummings	6	4404
1588.	Increase of pension for Thomas S. Rowan	6	4404
1589.	Increase of pension for Andrew E. Hicks	6	4404
1590.	Increase of pension for Charles D. Coyle	6	4404
1591.	Increase of pension or Samuel Ashmore	6	4404
1592.	Increase of pension for Albert Deits	6	4404
1593.	Increase of pension for Oliver Kerr	6	4404
1594.	Increase of pension for Nellie Loucks	6	4404
1595.	Increase of pension for Samuel L. Leffingwell	6	4404
1596.	Increase of pension for Anna E. Luke	6	4404
1597.	Pension for Laura Newman	6	4404
1598.	Pension for Laura Levenseler	6	4404
1599.	Increase of pension for James A. McKeehan	6	4404
1600.	Increase of pension for Abner J. Pettee	6	4404
1601.	Increase of pension for John Brown	6	4404
1602.	To change tax, etc., on oleomargarine	6	4404
1603.	For terms of U.S. courts at Kansas City, Kans.	6	4404
1604.	Rebuilding draw span of bridge over Mississippi River at Quincy, Ill.	6	4404
1605.	Relief of Charles A. Cutler	6	4404
1606.	Relief of Frank J. Burrows	6	4404
1607.	Relief of Robert D. McAfee and John Chiatovich	6	4404
1608.	To ratify agreement with Kansas or Kaw Indians of Oklahoma	6	4404
1609.	Relief of estate of Sven J. Johnson	6	4404
1610.	To examine routes for Chesapeake and Delaware Canal	6	4404
1611.	Light-keeper's dwelling at Grosse Isle, north channel range, Detroit R.	6	4404
1612.	Light-keeper's dwelling at Grosse Isle, south channel range, Detroit R.	6	4404
1613.	New division of southern judicial district of Georgia	6	4404
1614.	Call for information as to steps taken against beef trust	6	4404
1615.	Relief of devisees of James W. Schaumburg	6	4404
1616.	Relief of widow of Charles G. Eddy	6	4404
1617.	Relief of W. J. Kountz	6	4404
1618.	Clerk for Elections Committee No. 3	6	4404
1619.	Relief of Jacob Swigert	6	4404
1620.	Appropriations for Military Academy, 1903	6	4404
1621.	Increase of pension for Levi H. Collins	6	4404
1622.	Increase of pension for Francis Scott	6	4404
1623.	Increase of pension for Eliza Knight	6	4404
1624.	Pension for William A. Miller	6	4404
1625.	Increase of pension for Lemuel Grove	6	4404
1626.	Increase of pension for Andrew R. Jones	6	4404
1627.	Increase of pension for John C. Campbell	6	4404
1628.	Increase of pension for Thomas Sheridan	6	4404
1629.	Increase of pension for Anna L. Cory	6	4404
1630.	Pension for Ida M. Warren	6	4404
1631.	Increase of pension for John Compton	6	4404
1632.	Increase of pension for William H. McCarter	6	4404
1633.	Increase of pension for Elizabeth A. Capehart	6	4404
1634.	Pension for Nannie C. Tramel	6	4404
1635.	Pension for Ada S. Kaempfer	6	4404
1636.	Increase of pension for John S. Robinson	6	4404
1637.	Increase of pension for John English	6	4404
1638.	Pension for Thomas H. Devitt	6	4404

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.	Vol.	Serial
1639. Pension for Angeline H. Taylor	6	4404
1640. Increase of pension for William Holdridge	6	4404
1641. Tents for encampment of Spanish-American War Veterans at Indianapolis, Ind.	6	4404
1642. Bridge across Red River at Shreveport, La.	6	4404
1643. Right of way to Oklahoma and Western R.R. through Fort Sill military reservation, Oklahoma	6	4404
1644. Transmission of original papers in appeals	6	4404
1645. Issue of patent to Clallam County, Wash.	6	4404
1646. Increase of pension for James S. Young	6	4404
1647. Increase of pension for William S. Hosack	6	4404
1648. Increase of pension for James H. McVicker	6	4404
1649. Call for proceedings of court-martial of Littleton W. Waller	6	4404
1650. Military record of Peter Connell	6	4404
1651. Relief of James McKenzie	6	4404
1652. To postpone payment of taxes on real estate in D.C. for 1903	6	4404
1653. Cannon for statue of Alexander Macomb at Detroit, Mich.	6	4404
1654. To grant lands to Colorado Springs, Colo.	6	4404
1655. To amend act for relief of Chippewa Indians in Minnesota	6	4404
1656. Relief of I. R. Harkrader	6	4404
1657. Relief of New York, New Haven and Hartford R.R.	6	4404
1658. To pay for goods lost by fire at Ellis Island	6	4404
1659. Relief of R. D. Ashford	6	4404
1660. Expenditures for improvements at Lawton, Anadarko, and Hobart, Okla.	6	4404
1661. To amend section of Revised Statutes relating to design patents	6	4404
1662. Relief of widow of Nathan Cook Meeker	6	4404
1663. Relief of indigent Choctaw and Chickasaw Indians	6	4404
1664. Relief of Harry C. Mix	6	4404
1665. Bridge over Tennessee River in Marion County, Tenn.	6	4404
1666. Relief of Levi Maxted	6	4404
1667. Military record of Benjamin F. Herrington	6	4404
1668. To remove charge of desertion from John G. Wolf	6	4404
1669. Vote of thanks to John Hay for memorial address on William McKinley	6	4404
1670. Increase of pension for Isabella H. Thompson	6	4404
1671. Increase of pension for James M. Conrad	6	4404
1672. Increase of pension for August Schill	6	4404
1673. Increase of pension for Ada Trowbridge	6	4404
1674. Increase of pension for William H. Wheeler	6	4404
1675. Increase of pension for Lydia M. Granger	6	4404
1676. Increase of pension for Charles C. Washburn	6	4404
1677. Increase of pension for William Blanchard	6	4404
1678. Increase of pension for William H. White	6	4404
1679. Increase of pension for Leon King	6	4404
1680. Increase of pension for Jesse W. Bice	6	4404
1681. Pension for Ira P. Smith	6	4404
1682. Increase of pension for William Clark	6	4404
1683. Increase of pension for James Scannell	6	4404
1684. Increase of pension for Susan Parker	6	4404
1685. Increase of pension for Frederick Benefeldt	6	4404
1686. Increase of pension for Abbie George	6	4404
1687. Increase of pension for Moses S. Curtis	6	4404
1688. Pension for Erma G. Harvey	6	4404
1689. Increase of pension for James Frey	6	4404
1690. Pension for Hiram J. Springfield	6	4404
1691. Increase of pension for Mary S. Downing	6	4404
1692. Increase of pension for James W. Hankins	6	4404
1693. Increase of pension for Evaline Jenkins	6	4404
1694. Increase of pension for George F. Bowers	6	4404
1695. Increase of pension for Johann Conrad Haas	6	4404
1696. Increase of pension for John Whalen	6	4404
1697. Increase of pension for Levi Hatchett	6	4404
1698. To amend act to establish uniform system of bankruptcy. 2 pts.	6	4404
1699. To confirm port of entry at Greatfalls, Mont.	6	4404
1700. Statistics of trade between U.S. and its noncontiguous territory	6	4404
1701. To adopt metric system as standard weights and measures	6	4404
1702. To refund taxes paid on legacies to charities, etc.	6	4404
1703. Relief of T. J. Coleman	6	4404
1704. Relief of Nelson Dalbec	6	4404
1705. Relief of Ramon O. Williams and Joseph A. Springer	6	4404
1706. Relief of P. B. S. Pinchback	6	4404
1707. Relief of Patrick J. Madden	6	4404
1708. Free entry of statue of Comte de Rochambeau	6	4404
1709. To fix name and pay of storekeepers-gaugers	6	4404
1710. Appropriations for Department of Agriculture, 1903	6	4404
1711. Increase of pension for William H. Norton	6	4404
1712. Increase of pension for Thomas E. James	6	4404
1713. Pension for Jane Caton	6	4404
1714. Increase of pension for John H. Crawford	6	4404
1715. Increase of pension for Kate O. Phillips	6	4404
1716. Pension for Ida M. Kinney	6	4404
1717. Increase of pension for Albert H. Steifenhofer	6	4404
1718. Increase of pension for Samuel P. Milburn	6	4404
1719. Increase of pension for Kate W. Milward	6	4404
1720. Increase of pension for Mary Murphy	6	4404
1721. Pension for Charles Blitz	6	4404
1722. Pension for Melissa Burton	6	4404
1723. Increase of pension for John B. Greenhalgh	6	4404
1724. Pension for Mary E. Culver	6	4404
1725. Pension for Elizabeth McDonald	6	4404
1726. Increase of pension for James N. Gates	6	4404
1727. Pension for Cora E. Brown	6	4404
1728. Increase of pension for Bernard McCormick	6	4404
1729. Pension for Amos Allport	6	4404
1730. Time for holding U.S. courts in South Dakota	7	4405
1731. To remove charge of desertion from David A. Lane	7	4405
1732. Statutes of limitations to apply to suits for recovery of Indian lands	7	4405
1733. Consideration of amendments to oleomargarin bill	7	4405
1734. To print report of governor of Oklahoma, 1901	7	4405
1735. To regulate printing of American Ephemeris and Nautical Almanac	7	4405
1736. Payment to V. Baldwin Johnson	7	4405
1737. Removal of port of entry from Edenton to Elizabeth, N.C.	7	4405
1738. Equalization of outage allowance on distilled spirits	7	4405
1739. Increase of pension for William Sheldon	7	4405
1740. For term of district court at Roanoke, Va.	7	4405
1741. Final proof in desert-land entries in Yakima Co., Wash.	7	4405
1742. Increase of pension for Arthur P. Lovejoy	7	4405
1743. Increase of pension for widow of Admiral Joseph Fyffe	7	4405
1744. Increase of pension for Genevieve Almira Sprigg Ludlow	7	4405
1745. Increase of pension for Delania Ferguson	7	4405
1746. Pension for Amanda C. Bayliss	7	4405
1747. Pension for John R. Homer Scott	7	4405
1748. Increase of pension for Waity West	7	4405
1749. Increase of pension for James H. Walker	7	4405
1750. Pension for Patrick J. Murphy	7	4405
1751. Pension for Hannah T. Knowles	7	4405
1752. Increase of pension for Charles Haltenhof	7	4405
1753. Pension for Elizabeth I. Ogden	7	4405
1754. Pension for Abbie Bourke	7	4405
1755. Pension for Lockie W. Reeves	7	4405

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1756.	Pension for Hester A. Furr	7	4405
1757.	Pension for John York	7	4405
1758.	Pension for Johanna Buse	7	4405
1759.	Increase of pension for Louisa N. Grinstead	7	4405
1760.	Increase of pension for James C. Pettee	7	4405
1761.	Pension for Forrest E. Andrews	7	4405
1762.	Increase of pension for William E. Ball	7	4405
1763.	Increase of pension for William D. Tanner	7	4405
1764.	Increase of pension for Edward R. Blain	7	4405
1765.	Pension for Matthew V. Ellis	7	4405
1766.	Pension for Presley P. Medlin	7	4405
1767.	Pension for Anne Bronson	7	4405
1768.	Pension for Eliza A. Brownlow	7	4405
1769.	To ratify act of Arizona authorizing expenditures by Maricopa County	7	4405
1770.	Military record of Harrison Wagner	7	4405
1771.	Military record of James Addy	7	4405
1772.	Military record of Samuel Savits	7	4405
1773.	Military record of Henry Stufflebam	7	4405
1774.	To open for settlement 480,000 acres of Kiowa lands in Oklahoma	7	4405
1775.	Assistant driver for folding-room wagon	7	4405
1776.	To allow dockets of judgments or decrees of U.S. courts to be copied	7	4405
1777.	To remove dishonorable discharge from records of John Shamburger, Louis Smith, and Henry Metzger	7	4405
1778.	Military record of James M. Olmstead	7	4405
1779.	To appoint Alexander D. B. Smead as captain in Army	7	4405
1780.	Relief of M. R. W. Grebe	7	4405
1781.	Relief of Gottlieb C. Rose	7	4405
1782.	White River Railway to bridge White River, Arkansas	7	4405
1783.	Increase of pension for Francis C. Baker	7	4405
1784.	Relief of Mille Lac Chippewa Indians of Minnesota	7	4405
1785.	Classification of mineral lands in California. 2 pts.	7	4405
1786.	To authorize expenditure for folding speeches, House of Representatives	7	4405
1787.	To confirm to South Dakota title to land from Fort Sisseton Reservation	7	4405
1788.	Rank and pay of retired officers of Navy ordered into active service	7	4405
1789.	To amend act creating middle judicial district of Pennsylvania	7	4405
1790.	Appropriations for District of Columbia, 1903	7	4405
1791.	To refund certain license taxes to liquor dealers in D.C.	7	4405
1792.	Appropriations for naval service, 1903	7	4405
1793.	To enforce 8-hour day in work for United States	7	4405
1794.	To authorize erection of certain public buildings, etc.	7	4405
1795.	To pay Henry B. Davis balance due for surveying public lands	7	4405
1796.	Relief of H. Glafcke	7	4405
1797.	Relief of Lebbeus H. Rogers and admrs. of William B. Moses	7	4405
1798.	Increase of pension for Ransford T. Chase	7	4405
1799.	Increase of pension for Marietta L. Adams	7	4405
1800.	Increase of pension for Benjamin Grinnell	7	4405
1801.	Increase of pension for George Atkinson	7	4405
1802.	Increase of pension for Edmund B. Appleton	7	4405
1803.	Increase of pension for John M. Crist	7	4405
1804.	Pension for Hiram A. Sheldon	7	4405
1805.	Pension for Enoch Voyles	7	4405
1806.	Increase of pension for Henry Forcht	7	4405
1807.	Pension for Lillie May Fifield	7	4405
1808.	Increase of pension for Cornelia S. Ribble	7	4405
1809.	Increase of pension for Frances H. Anthony	7	4405
1810.	Increase of pension for Robert R. Strong	7	4405
1811.	Pension for Jacob B. Mock	7	4405
1812.	Increase of pension for Griffith Evans	7	4405
1813.	Increase of pension for Henry E. Murphy	7	4405
1814.	Increase of pension for George W. Mathews	7	4405
1815.	Increase of pension for William H. Temple	7	4405
1816.	Increase of pension for Jackson L. Wilson	7	4405
1817.	Increase of pension for George Chamberlin	7	4405
1818.	Pension for Joseph H. Woodruff	7	4405
1819.	Increase of pension for Franklin Snyder	7	4405
1820.	Increase of pension for Thomas L. Nelson	7	4405
1821.	Increase of pension for George McDowell	7	4405
1822.	Increase of pension for David M. McKnight	7	4405
1823.	Increase of pension for Eben C. Winslow	7	4405
1824.	Increase of pension for Emma S. Hanna	7	4405
1825.	Increase of pension for Philo F. Englesby	7	4405
1826.	Consideration of public buildings bill	7	4405
1827.	American register for steamer Brooklyn	7	4405
1828.	Sale of timber on lands granted to New Mexico	7	4405
1829.	Relief of owners of Norwegian steamship Nicaragua	7	4405
1830.	Increase of pension for Morris M. Comstock	7	4405
1831.	Increase of pension for Anthony J. Railey	7	4405
1832.	Relief of Ramon O. Williams and Joseph A. Springer	7	4405
1833.	Relief of devisees of James W. Schaumburg	7	4405
1834.	Relief of exr. of Granville Garnett	7	4405
1835.	Assessment and collection of taxes on personal property in D.C.	7	4405
1836.	Call for information as to treatment by Russia of American Jews	7	4405
1837.	Call for information as to military orders issued by Gen. Jacob H. Smith	7	4405
1838.	Call for information as to eligible lists of Civil Service Commission and appointments therefrom	7	4405
1839.	American register for bark Homeward Bound	7	4405
1840.	Resurvey of lands in Wyoming	7	4405
1841.	American register for steamer Eagle	7	4405
1842.	American register for ship Antiope	7	4405
1843.	American register for ship Melanope	7	4405
1844.	American register for barge Admiral Tromp	7	4405
1845.	Fish hatchery in Maryland	7	4405
1846.	Adjustment of rights of settlers on Navajo Reservation, Arizona	7	4405
1847.	To amend act for prevention of smoke in D.C.	7	4405
1848.	Fish hatchery in Florida	7	4405
1849.	Fish hatchery in South Carolina	7	4405
1850.	Call for information as to instructions of War Dept. to Gen. Jacob H. Smith relating to military operations in Samar	7	4405
1851.	To regulate use of reservoir sites designed for watering live stock	7	4405
1852.	Granting lands to cemetery association, Rochford, S.Dak.	7	4405
1853.	Recognition of military service of 1st Ohio Light Artillery	7	4405
1854.	Appropriations for diplomatic and consular service in Cuba	7	4405
1855.	Pension for Rebecca Coppinger	7	4405
1856.	Increase of pension for Ann E. Collier	7	4405
1857.	Pension for John Coolen	7	4405
1858.	Increase of pension for Etta Adair Anderson	7	4405
1859.	Pension for Ada V. Park	7	4405
1860.	Increase of pension for Elizabeth G. Getty	7	4405
1861.	Pension for Jeremiah Horan	7	4405
1862.	Pension for Arthur J. Bushnell	7	4405
1863.	Pension for Martha G. Young	7	4405
1864.	Increase of pension for William G. De Garis	7	4405
1865.	Pension for Mary Pitman	7	4405
1866.	Pension for Nancy M. Gunsally	7	4405
1867.	Increase of pension for Elizabeth Wall	7	4405
1868.	Increase of pension for William G. Cantley	7	4405
1869.	Pension for Mary A. Bailey	7	4405

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1870.	To continue publication of Supplement to Revised Statutes	7	4405
1871.	To amend act to create new division in western district of Missouri	7	4405
1872.	To incorporate Lake Erie and Ohio River Ship Canal Co.	7	4405
1873.	Marine biological station in Oregon or Washington	7	4405
1874.	Port Arthur, Tex., to be subport of entry	7	4405
1875.	Crow Wing County, Minn., to bridge Mississippi River	7	4405
1876.	Building of dam across Rainy River by Koochiching Company	7	4405
1877.	Relief of George E. W. Sharretts	7	4405
1878.	Increase of pension for William H. Snyder	7	4405
1879.	Increase of pension for Elbert N. Remson	7	4405
1880.	To change terms of circuit courts within 1st circuit	7	4405
1881.	Fish hatchery in Yakima County, Wash.	7	4405
1882.	Fog-signal at entrance to harbor, Holland, Mich.	7	4405
1883.	Life-saving station at or near Eagle Harbor, Mich.	7	4405
1884.	To establish depot for Revenue Cutter Service at Baltimore, Md.	7	4405
1885.	Fish hatchery in Nebraska	7	4405
1886.	Biological station for Gulf of Mexico	7	4405
1887.	Fish hatchery in Arkansas	7	4405
1888.	Construction by Canada of dam in St. Lawrence River	7	4405
1889.	Census Office to compile statistics of irrigation	7	4405
1890.	To place James W. Long on retired list of Army	7	4405
1891.	To remove charge of desertion from Jonas Albert	7	4405
1892.	Pension for Lizana D. Streeter	7	4405
1893.	Increase of pension for John Smith	7	4405
1894.	Increase of pension for Christopher C. Perry	7	4405
1895.	Increase of pension for Stephen Harris	7	4405
1896.	Increase of pension for Thomas P. May	7	4405
1897.	Pension for Garrett Stanley	7	4405
1898.	Pension for Nancy M. Williams	7	4405
1899.	Increase of pension for William Brown	7	4405
1900.	Pension for Peter Buckley	7	4405
1901.	Increase of pension for Henry P. Hudson	7	4405
1902.	Increase of pension for Elias A. Calkins	7	4405
1903.	Increase of pension for Otis R. Freeman	7	4405
1904.	Pension for Harriet T. Milburn	7	4405
1905.	Increase of pension for George W. De Graw	7	4405
1906.	Increase of pension for Eleanor Emerson	7	4405
1907.	Increase of pension for Edwin Beckwith	7	4405
1908.	Increase of pension for John G. Heiser	7	4405
1909.	Increase of pension for John Miller	7	4405
1910.	Pension for Samantha B. Van Brocklin	7	4405
1911.	Pension for Mary C. Bickerstaff	7	4405
1912.	Increase of pension for George H. Young	7	4405
1913.	Increase of pension for William F. Horn	7	4405
1914.	Increase of pension for Henry W. Edens	7	4405
1915.	Increase of pension for Alfred M. Wheeler	7	4405
1916.	Increase of pension for Hallowell Goddard	7	4405
1917.	Pension for Samuel S. Beaver	7	4405
1918.	Increase of pension for Paul Fuchs	7	4405
1919.	Pension for Mary F. Zollinger	7	4405
1920.	Quartermaster's warehouse at Omaha, Nebr.	7	4405
1921.	Increase of pension for Thomas Finegan	7	4405
1922.	Increase of pension for George G. Sabin	7	4405
1923.	Increase of pension for Horatio N. Whitbeck	7	4405
1924.	Increase of pension for Elizabeth C. Vincent	7	4405
1925.	Increase of pension for De Witt C. Bennett	7	4405
1926.	Pension for Ruth H. Ferguson	7	4405
1927.	Increase of pension for Joseph D. Hazzard	7	4405
1928.	Increase of pension for Maria J. Wilson	7	4405
1929.	Relief of William E. Anderson	7	4405
1930.	To lease lands on Fort Sill Reservation for benefit of Apache prisoners	7	4405
1931.	Disposition of public lands and buildings in Porto Rico	7	4405
1932.	Uniform system of registration of births and deaths	7	4405
1933.	Relief of Charles R. Hooper	7	4405
1934.	To amend act authorizing bridge across Missouri River near Omaha	7	4405
1935.	Relief of Ferdinand Hansen	7	4405
1936.	To ratify agreement with Indians of Red Lake Reservation, Minnesota	7	4405
1937.	Claim of John L. Smithmeyer and Paul J. Pelz, architects for Library of Congress building	7	4405
1938.	Fish hatchery in Utah	7	4405
1939.	Fish hatchery in Michigan	7	4405
1940.	To refer owners of Southern Railway Lighter 10 to Court of Claims	7	4405
1941.	Appeals to Supreme Court from Spanish Treaty Claims Commission	7	4405
1942.	Churches in D.C. outside fire limits	7	4405
1943.	Fish hatchery in Pennsylvania	7	4405
1944.	Printing of publications of Geological Survey	7	4405
1945.	To print franks required for sending out seed	7	4405
1946.	To print Course of study for Indian schools	7	4405
1947.	To print Preliminary description of southern half of Black Hills, and adjoining regions in South Dakota and Wyoming	7	4405
1948.	To print papers relating to Louisiana Purchase	7	4405
1949.	To print calendars of correspondence of Jefferson, Madison, and Monroe as bulletins of State Department	7	4405
1950.	To print revised edition of report on diseases of horse	7	4405
1951.	To print report of Five Civilized Tribes Commission, 1901	7	4405
1952.	To print Thomas Jefferson's Morals of Jesus of Nazareth	7	4405
1953.	To print revised edition of report on diseases of cattle	7	4405
1954.	To print report of irrigation investigations in California	7	4405
1955.	To print report on southern Appalachian region	7	4405
1956.	To print report relating to rural free-delivery service, 1901	7	4405
1957.	To print report on Mountain Meadow massacre	7	4405
1958.	To print certain volumes of land and pension decisions	7	4405
1959.	To print report on precious metals and report of director of Mint	7	4405
1960.	Increase of pension for George F. Gregg	7	4405
1961.	Pension for Mary Welch	7	4405
1962.	Increase of pension for James B. Martin	7	4405
1963.	Increase of pension for John Murphy	7	4405
1964.	Pension for Abner H. Lester	7	4405
1965.	Increase of pension for Julia B. Shurtleff	7	4405
1966.	Increase of pension for John L. Moore	7	4405
1967.	Pension for William McDaniel	7	4405
1968.	Increase of pension for Charles Olson	7	4405
1969.	Pension for Fannie Reardon	7	4405
1970.	Increase of pension for Alexander Murdock	7	4405
1971.	Pension for John S. Upshaw	7	4405
1972.	Increase of pension for John T. Mull	7	4405
1973.	Increase of pension for Robert Hargreaves	7	4405
1974.	Pension for Margaret Ann West	7	4405
1975.	Increase of pension for Benjamin Zane	7	4405
1976.	Pension for Amelia Engel	7	4405
1977.	Increase of pension for William Harrington	7	4405
1978.	Increase of pension for Charles H. Hazzard	7	4405
1979.	Increase of pension for Emma L. Kimble	7	4405
1980.	Increase of pension for Helen M. Worthen	7	4405
1981.	Pension for John W. Smoot	7	4405
1982.	Increase of pension for Oliver K. Wyman	7	4405
1983.	Increase of pension for James Welch	7	4405

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
1984.	Relief of William Dugdale	7	4405
1985.	Relief of widow of Daniel Fulford	7	4405
1986.	To refund penalty to Bank of Colfax, Iowa	7	4405
1987.	Relief of John F. Finney	7	4405
1988.	Relief of Robert Brigham	7	4405
1989.	Relief of heirs of widow of John Kennedy	7	4405
1990.	Relief of citizens of French West Indies	7	4405
1991.	For promotion of Joseph M. Simms	7	4405
1992.	Increase of pension for Nancy J. McArthur	7	4405
1993.	Pension for Augustus Blount	7	4405
1994.	Pension for Catharine Freeman	7	4405
1995.	Increase of pension for John A. Robertson	7	4405
1996.	Increase of pension for Wallace K. May	7	4405
1997.	Increase of pension for Bailey O. Bowden	7	4405
1998.	Increase of pension for George Fusselman	7	4405
1999.	Increase of pension for Elizabeth J. Emery	7	4405
2000.	Increase of pension for John W. Campbell	7	4405
2001.	Increase of pension for Hiram S. Leffingwell	7	4405
2002.	Increase of pension for Esek B. Chandler	7	4405
2003.	Increase of pension for Thomas M. Owens	7	4405
2004.	Increase of pension for James M. Travis	7	4405
2005.	Increase of pension for Elizabeth J. Eagon	7	4405
2006.	Pension for James E. Dickey	7	4405
2007.	Increase of pension for Pierson L. Shick	7	4405
2008.	Increase of pension for George Baker	7	4405
2009.	Increase of pension for William Lowe	7	4405
2010.	Pension for Lizzie Dunlap	7	4405
2011.	Increase of pension for Fannie S. Cross	7	4405
2012.	Pension for Jennie M. Sawyer	7	4405
2013.	Increase of pension for Arthur L. Currie	7	4405
2014.	Increase of pension for Benjamin Russell	7	4405
2015.	Increase of pension for Jesse H. Hubbard	7	4405
2016.	Increase of pension for Jonathan O. Thompson	7	4405
2017.	To place Henry Biederbick, etc., on retired list of Army	7	4405
2018.	Nashville Terminal Co. to bridge Cumberland River in Tennessee	7	4405
2019.	Right of way to Alafia, Manatee and Gulf Coast Railway through Gasparilla Island in Florida	7	4405
2020.	Retirement of George M. Sternberg, Surgeon-general of Army, as major-general	7	4405
2021.	To refer Louis Scofield to Court of Claims	7	4405
2022.	To refer heir of Matthew Wright to Court of Claims	7	4405
2023.	To refer William E. Cummin to Court of Claims	7	4405
2024.	Relief of Howard Lodge 13, I.O.O.F., Gallatin, Tenn.	7	4405
2025.	Relief of estate of Thomas J. Coward	7	4405
2026.	To refer heirs of James Goodloe to Court of Claims	7	4405
2027.	To refer R. H. Dunaway to Court of Claims	7	4405
2028.	To refer Alfred Griffith to Court of Claims	7	4405
2029.	Relief of John A. Meroney	7	4405
2030.	Relief of Howard Lodge 13, I.O.O.F., Gallatin, Tenn.	7	4405
2031.	To refer representatives of James Smith and others to Court of Claims	7	4405
2032.	To refer estate of August Heberlein to Court of Claims	7	4405
2033.	To refer Mrs. A. E. Hardin to Court of Claims	7	4405
2034.	Relief of Samuel B. Bootes	7	4405
2035.	To refer heirs of John C. Pierce to Court of Claims	7	4405
2036.	To refer representatives of H. S. Thompson to Court of Claims	7	4405
2037.	Relief of widow of George Dalton	7	4405
2038.	Relief of representatives of John W. Hancock	7	4405
2039.	To pay J. B. McRae	7	4405
2040.	Relief of Mount Zion Society for destruction of property in South Carolina, 1865-68	7	4405
2041.	To pay claim of M. A. Gantt and Son	7	4405
2042.	Pedestal for statue of Henry W. Longfellow at Washington, D.C.	7	4405
2043.	To establish national military park commission	7	4405
2044.	Relief of Judd O. Hartzell	7	4405
2045.	Bridge over Savannah River from Aiken Co., S.C., to Richmond Co., Ga.	7	4405
2046.	To fix pay of district superintendents in Life-Saving Service	7	4405
2047.	To restore Henry D. Hall to Revenue Cutter Service	7	4405
2048.	To confirm title to certain State school indemnity selections, etc.	7	4405
2049.	Relief of Inez Shorb White	7	4405
2050.	To pay for clerical services rendered Rivers and Harbors Committee	7	4405
2051.	Extra pay for elevator men in House wing of Capitol	7	4405
2052.	To purchase medicine case for use in House	7	4405
2053.	To pay funeral expenses, etc., of William J. Glenn	7	4405
2054.	Monument to Gen. Hugh Mercer at Fredericksburg, Va.	7	4405
2055.	Time of holding courts for southern district of West Virginia	7	4405
2056.	Increase of fees for jurors	7	4405
2057.	Grant of lands in Alaska to Trans-Alaskan Railway	7	4405
2058.	Relief of widow of Samuel W. Thome	7	4405
2059.	Federal Railroad to bridge Missouri River at Oacoma, S.Dak.	7	4405
2060.	To indemnify American Surety Company of New York for moneys paid as security in suits against Mission Indians of California	7	4405
2061.	Federal Railroad to bridge Missouri River at Oacoma, S.Dak.	7	4405
2062.	To encourage salmon culture in Alaska	7	4405
2063.	N. F. Thompson et al. to build dam in Tennessee River at Muscle Shoals, Ala.	7	4405
2064.	Harriman Southern R.R. to bridge Tennessee River, Tennessee	7	4405
2065.	Use of new Government Printing Office by G.A.R.	7	4405
2066.	To grant land to Nellie Ett Heen	7	4405
2067.	To print digest of customs laws and decisions	7	4405
2068.	Dam across Noxubee River at Macon, Miss.	7	4405
2069.	Increase of pension for William H. Hudson	7	4405
2070.	Increase of pension for Charles O. Baldwin	7	4405
2071.	Increase of pension for Stephen B. Todd	7	4405
2072.	Increase of pension for Samuel Brown	7	4405
2073.	Increase of pension for Sarah F. Baldwin	7	4405
2074.	Increase of pension for Thomas Graham	7	4405
2075.	Increase of pension for George W. White	7	4405
2076.	Increase of pension for Vesta A. Brown	7	4405
2077.	Increase of pension for William P. Schott	7	4405
2078.	Increase of pension for Mary L. Doane	7	4405
2079.	Increase of pension for Charles G. Howard	7	4405
2080.	Increase of pension for Daniel A. Hall	7	4405
2081.	Increase of pension for Dennis Cosier	7	4405
2082.	Increase of pension for Nimrod Headington	8	4406
2083.	Increase of pension for Amos Moulton	8	4406
2084.	Increase of pension for Eliphlet Noyes	8	4406
2085.	Increase of pension for Eri W. Pinkham	8	4406
2086.	Increase of pension for William Phillips	8	4406
2087.	Increase of pension for Gustavus C. Pratt	8	4406
2088.	Increase of pension for Horace L. Richardson	8	4406
2089.	Pension for Stephen A. Seavey	8	4406
2090.	Increase of pension for George W. Youngs	8	4406
2091.	To print report of commissioner-general to Paris Exposition of 1900	8	4406
2092.	To print history of Boston Navy-Yard	8	4406
2093.	To print Decay of timber and methods of preventing it	8	4406
2094.	To print report of Experiment Stations Office, 1901	8	4406

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
2095.	To print Tables of and index to Congressional series of documents	8	4406
2096.	To print reports of Gettysburg National Park Commission, 1893-1901	8	4406
2097.	To print List of books on irrigation	8	4406
2098.	To print Primer of forestry	8	4406
2099.	To ratify agreement with Indians of Rosebud Reservation, S.Dak.	8	4406
2100.	Additional life-saving station on Monomoy Island, Massachusetts	8	4406
2101.	To sell part of Fort Niobrara military reservation to Valentine, Nebr.	8	4406
2102.	Relief of parties from whom cigars sold by Wm. M. Jacobs were seized, Lancaster, Pa.	8	4406
2103.	Sale of sites for manufacturing plants in Indian Territory	8	4406
2104.	To refer claim of Joseph W. Parish to Secretary of Treasury	8	4406
2105.	Bridge over Missouri River at Pierre, S.Dak.	8	4406
2106.	To adjust pensions of those who have lost limbs, etc.	8	4406
2107.	Pensionable status of ex-Confederates and former deserters	8	4406
2108.	To refer estate of Oswald Carl Zabel to Court of Claims	8	4406
2109.	Relief of Robert D. Benedict	8	4406
2110.	Relief of admr. of W. W. Cobbs	8	4406
2111.	Relief of David H. Lewis	8	4406
2112.	Payments to employees on new building for Government Printing Office	8	4406
2113.	Relief of John H. McLaughlin	8	4406
2114.	Relief of N. F. Palmer, Jr., and Co.	8	4406
2115.	Relief of Samuel H. Sentenne and Paul Boileau	8	4406
2116.	Relief of Katie A. Nolan	8	4406
2117.	Time of opening mineral lands on Spokane Reservation, Wash.	8	4406
2118.	Increase of pension for Isaac Gibson	8	4406
2119.	Increase of pension for Charles F. Wright	8	4406
2120.	Increase of pension for John C. Nelson	8	4406
2121.	Increase of pension for William F. Stanley	8	4406
2122.	Increase of pension for Mary Nichols	8	4406
2123.	Pension for Jacob Findley	8	4406
2124.	Pension for John A. Kirkham	8	4406
2125.	Pension for Samantha Towner	8	4406
2126.	Increase of pension for Edwin M. Gowdey	8	4406
2127.	Increase of pension for George E. Bump	8	4406
2128.	Increase of pension for Ebenezer W. Oakley	8	4406
2129.	Pension for Carrie B. Farnham	8	4406
2130.	Increase of pension for Peter Dugan	8	4406
2131.	Increase of pension for Henry Hunt	8	4406
2132.	Increase of pension for Charles K. Batey	8	4406
2133.	Increase of pension for George R. Baldwin	8	4406
2134.	Pension for Martha A. Cornish	8	4406
2135.	Increase of pension for Andrew J. Fogg	8	4406
2136.	Increase of pension for Warren Y. Merchant	8	4406
2137.	Increase of pension for Hannah A. Van Eaton	8	4406
2138.	Increase of pension for John P. Collier	8	4406
2139.	Increase of pension for Calvin N. Perkins	8	4406
2140.	Increase of pension for John Housiaux	8	4406
2141.	Increase of pension for Martha Clark	8	4406
2142.	Pension for Helena Sudsburg	8	4406
2143.	Increase of pension for Henry J. Edge	8	4406
2144.	Appropriations to supply additional urgent deficiencies	8	4406
2145.	Commutation for good conduct for U.S. prisoners	8	4406
2146.	Increase of pension for William McCord	8	4406
2147.	Increase of pension for Henry Rogers	8	4406
2148.	Increase of pension for Charles T. Crooker	8	4406
2149.	Pension for Charlotte M. Howe	8	4406
2150.	Increase of pension for Anne Dowery	8	4406
2151.	Increase of pension for Annie E. Joseph	8	4406
2152.	Pension for Samuel H. Chamberlin	8	4406
2153.	Military record of Michael Mullett	8	4406
2154.	Tunnel under San Francisco Bay, with openings on Goat Island	8	4406
2155.	Care of Confederate Mound in Oak Woods Cemetery, Chicago	8	4406
2156.	Relief of McClure and Willbanks	8	4406
2157.	Military record of Carl W. Albrecht	8	4406
2158.	Delegate from Porto Rico to House of Representatives	8	4406
2159.	To pay John F. Lawson	8	4406
2160.	Increase of pension for James P. McClure	8	4406
2161.	Relief of crew of Galveston life-saving station, damaged in storm of 1900	8	4406
2162.	Tennessee Central Railway to bridge Emory River, Tennessee	8	4406
2163.	Littlefalls, Minn., to bridge Mississippi River	8	4406
2164.	To confirm title to indemnity school lands in State of Washington	8	4406
2165.	To authorize relinquishment of claims in national parks in California	8	4406
2166.	San Francisco and Piedmont Railway terminal on Goat Island	8	4406
2167.	San Francisco and Piedmont Railway terminal on Goat Island	8	4406
2168.	National trophy and prizes for rifle competition	8	4406
2169.	Bridge over Waccamaw River at Conway, S.C.	8	4406
2170.	Additional copies of Congressional Record	8	4406
2171.	Consideration of bill to regulate immigration	8	4406
2172.	Call for information from Navy Department on bombardment of Taku forts in China	8	4406
2173.	To print House manual, 57th Congress, 2d session	8	4406
2174.	Pension for William A. Nelson	8	4406
2175.	Pension for William F. Bowden	8	4406
2176.	Pension for John W. Thomas	8	4406
2177.	Increase of pension for Cornelia A. Dennis	8	4406
2178.	Increase of pension for Margaret S. Tod	8	4406
2179.	Increase of pension for Hugh J. Reynolds	8	4406
2180.	Pension for John Williamson	8	4406
2181.	Pension for Luther G. Edwards	8	4406
2182.	Pension for William Dixon	8	4406
2183.	Increase of pension for Jennie M. Wagner	8	4406
2184.	Increase of pension for Marcellus M. M. Martin	8	4406
2185.	Increase of pension for Ella B. S. Mannix	8	4406
2186.	Increase of pension for Hattie M. Whitney	8	4406
2187.	Charter for Society of Army of Santiago de Cuba	8	4406
2188.	Home for aged Negroes from funds due dead Negro soldiers	8	4406
2189.	Payment of C. Edward Artist, Edward F. Stahle, and Stahle and Artist	8	4406
2190.	Increase of pension for William W. H. Davis	8	4406
2191.	Extra space for railroads in D.C. during G.A.R. encampment	8	4406
2192.	To amend act to establish code of law for D.C.	8	4406
2193.	Consideration of conference reports	8	4406
2194.	Creation of Commission to inquire into condition of colored people, with minority report	8	4406
2195.	Pensions for survivors of Indian wars	8	4406
2196.	Relief of James M. Willbur	8	4406
2197.	Anacostia and Potomac River R.R. to extend line	8	4406
2198.	Pension for William F. Randolph	8	4406
2199.	Pension for Anna May Hogan	8	4406
2200.	Increase of pension for John R. Curry	8	4406
2201.	Increase of pension for Hiram H. Thomas	8	4406
2202.	Increase of pension for Timothy Donohoe	8	4406
2203.	Increase of pension for Peter J. Osterhaus	8	4406
2204.	Increase of pension for John D. Thompson	8	4406
2205.	Increase of pension for Mary Breckons	8	4406

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
2206.	Increase of pension for Clarence D. Hess	8	4406
2207.	Increase of pension for Emma F. Shilling	8	4406
2208.	Pension for John H. Whidden	8	4406
2209.	Increase of pension for Cynthia J. Shattuck	8	4406
2210.	Increase of pension for James H. Joseph	8	4406
2211.	Increase of pension for Charles Barrett	8	4406
2212.	Increase of pension for James H. Chedester	8	4406
2213.	Pension for Mary Florence Von Steinwehr	8	4406
2214.	Increase of pension for Henry Thomas	8	4406
2215.	Increase of pension for James E. McNair	8	4406
2216.	Pension for Edd Lodge	8	4406
2217.	Increase of pension for Elizabeth Whitty	8	4406
2218.	Pension for James A. Clifton	8	4406
2219.	Increase of pension for Charles F. Smith	8	4406
2220.	Pension for John J. Southerland	8	4406
2221.	Increase of pension for Lewis G. Latour	8	4406
2222.	Increase of pension for Benjamin S. Bogardus	8	4406
2223.	Increase of pension for Francis M. McAdams	8	4406
2224.	Increase of pension for William W. Anderson	8	4406
2225.	Increase of pension for Edward N. Goff	8	4406
2226.	Pension for Julia McCarthy	8	4406
2227.	Increase of pension for Benjamin S. Harrower	8	4406
2228.	Increase of pension for Joseph Mote	8	4406
2229.	Increase of pension for William R. Raymond	8	4406
2230.	Increase of pension for William A. Henderson	8	4406
2231.	Increase of pension for Edgar T. Chamberlin	8	4406
2232.	Pension for John W. Bruff	8	4406
2233.	Increase of pension for James Irvine	8	4406
2234.	Increase of pension for Jason E. Freeman	8	4406
2235.	Increase of pension for Lizzie I. Rich	8	4406
2236.	Pension for Washington T. Filson	8	4406
2237.	Pension for David B. Wood	8	4406
2238.	Increase of pension for Horace Fountain	8	4406
2239.	Additional clerks for Enrolled Bills Committee	8	4406
2240.	To amend Indian appropriation act, 1903	8	4406
2241.	Relief of F. H. Driscoll	8	4406
2242.	Relief of widow of Frank H. Morris	8	4406
2243.	Relief of settlers on grants in aid of construction of wagon roads	8	4406
2244.	Relief of settlers on Wisconsin Central and Dalles military road grants	8	4406
2245.	To incorporate General Education Board	8	4406
2246.	Establishment of fish hatcheries and biological stations	8	4406
2247.	Terms of circuit court of appeals, 8th circuit	8	4406
2248.	Relief of William J. Smith and D. M. Wisdom	8	4406
2249.	Relief of Columbia Hospital, Columbia, S.C., and A. E. Boozer	8	4406
2250.	To refer Peter Guttormson to Court of Claims	8	4406
2251.	Charleston, Suburban and Summerville Ry. to bridge Ashley River, South Carolina	8	4406
2252.	Relief of John D. Chadwick	8	4406
2253.	Relief of admr. of B. H. Sowder	8	4406
2254.	Relief of Thomas Monteith	8	4406
2255.	Relief of George T. Larkin	8	4406
2256.	To print volume on farm animals	8	4406
2257.	Relief of certain enlisted men of 20th New York Volunteer Infantry	8	4406
2258.	Relief of Welz and Zerweck	8	4406
2259.	Consideration of bill to increase subsidiary silver coinage	8	4406
2260.	Increase of pension for George Kerr	8	4406
2261.	Increase of pension for George Heinzman	8	4406
2262.	Increase of pension for Benjamin White	8	4406
2263.	Pension for David S. Taylor	8	4406
2264.	Increase of pension for John McArthur	8	4406
2265.	Increase of pension for Baley W. Small	8	4406
2266.	Increase of pension for Nelson Brown	8	4406
2267.	Increase of pension for Mary E. Adams	8	4406
2268.	Increase of pension for John S. Crosser	8	4406
2269.	Increase of pension for Joseph S. Mess	8	4406
2270.	Increase of pension for Henry Hunterson	8	4406
2271.	Increase of pension for Ann Comins	8	4406
2272.	Increase of pension for Otis A. Barlow	8	4406
2273.	Pension for Samuel J. Vickers, Christopher Vickers, and Jane Vickers	8	4406
2274.	Increase of pension for John M. Wheeler	8	4406
2275.	Pension for Jemima McClure	8	4406
2276.	Increase of pension for Betsey Gumm	8	4406
2277.	To repay excess price to settlers on forfeited railroad lands	8	4406
2278.	To authorize New Mexico to issue certain bonds	8	4406
2279.	Adjustment of swamp-land grants	8	4406
2280.	Call for information as to Uinta Valley Reservation, Utah	8	4406
2281.	Fees of marshals, deputy marshals, and witnesses in Indian Territory	8	4406
2282.	Statue of Casimir Pulaski, Revolutionary hero, at Washington, D.C.	8	4406
2283.	Clerk for minority members of House	8	4406
2284.	Extra pay for Deruelle S. Porter	8	4406
2285.	Extra pay for Herman Gauss	8	4406
2286.	Control of national penitentiaries	8	4406
2287.	Pension for Mary J. Moore	8	4406
2288.	Increase of pension for Adelaide G. Hatch	8	4406
2289.	Increase of pension for Clara W. McNair	8	4406
2290.	Pension for Margaret Bell	8	4406
2291.	Pension for William G. Miller	8	4406
2292.	Pension for Ellen F. Pook	8	4406
2293.	Increase of pension for Mary A. E. Scott	8	4406
2294.	Increase of pension for John W. Huckelberry	8	4406
2295.	Pension for Martin Greeley	8	4406
2296.	Pension for William H. Ruggles	8	4406
2297.	Pension for James A. Chalfant	8	4406
2298.	Pension for Mary E. Aitken	8	4406
2299.	Pension for Julia Lee	8	4406
2300.	To regulate printing of United States maps	8	4406
2301.	To refer William H. Diamond to Court of Claims	8	4406
2302.	Relief of Anna Eliza Isabella Von Hemert	8	4406
2303.	To prevent extermination of seals. 2 pts.	8	4406
2304.	Call for report of investigation of alleged British supply camp in La.	8	4406
2305.	Granting lots in Gnadenhutten, Ohio, to school district	8	4406
2306.	Military record of John P. Evans	8	4406
2307.	To remove charge of desertion from William Harig	8	4406
2308.	Relief of George P. White	8	4406
2309.	Consideration of bill for protection of President, etc.	8	4406
2310.	Pension for Cappa King	8	4406
2311.	Increase of pension for Jane Brosnan	8	4406
2312.	Pension for Johniken L. Mynatt	8	4406
2313.	Pension for Mary A. Peters	8	4406
2314.	Increase of pension for Monora Stimson	8	4406
2315.	Increase of pension for Henry P. Macloon	8	4406
2316.	Increase of pension for Luman Fuller	8	4406
2317.	Increase of pension for Albert H. Phillips	8	4406
2318.	Increase of pension for Charles M. Grainger	8	4406
2319.	Increase of pension for Hiram A. Hober	8	4406
2320.	Increase of pension for Jonathan Walbert	8	4406
2321.	Increase of pension for Amos W. Marsh	8	4406
2322.	Pension for Samantha Yant	8	4406
2323.	Increase of pension for Alonzo Carpenter	8	4406
2324.	Increase of pension for Jennett Stewart	8	4406
2325.	Increase of pension for Hiram Janes	8	4406
2326.	Payment of part of pension of Ira Steward to Adell Augusta Steward	8	4406
2327.	Increase of pension for R. Sherman Langworthy	8	4406
2328.	Increase of pension for Daniel Ridinger	8	4406
2329.	Increase of pension for Henry W. Tryon	8	4406
2330.	Increase of pension for William H. Thomas	8	4406
2331.	Increase of pension for Joshua Weaver	8	4406

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
2332.	Increase of pension for Edwin Young	8	4406
2333.	Relief of widow of Joseph T. H. Hall	8	4406
2334.	Newport Bridge, Belt and Terminal Railway to bridge White River in Arkansas	8	4406
2335.	To remove charge of desertion from Charles F. Woodford	8	4406
2336.	Medals for David H. Jarvis, Ellsworth P. Bertholf, and Samuel J. Call, Revenue Cutter Service, for overland expedition to Point Barrow, Alaska, for relief of whalers	8	4406
2337.	To remove charge of desertion from Martin Barley	8	4406
2338.	Relief of George W. Richardson	8	4406
2339.	Relief of Francis S. Davidson	8	4406
2340.	Relief of James S. Harber	8	4406
2341.	Naco, Ariz., to be subport of entry	8	4406
2342.	Call for information as to expenditures of military government of Cuba	8	4406
2343.	Increase of pension for Joseph W. Robertson	8	4406
2344.	To quitclaim land to Genevieve Laighton	8	4406
2345.	To purchase manuscript of Historical register, U.S. Army, 1789-1901	8	4406
2346.	Increase of pension for Susan E. Duncan	8	4406
2347.	Signing of bills of exceptions in Alaskan and Territorial courts	8	4406
2348.	Transportation of Govt. supplies to Philippines in American vessels	8	4406
2349.	Monument to prison-ship martyrs at Fort Greene, Brooklyn, N.Y.	8	4406
2350.	Call for information as to compensation of military governor of Cuba	8	4406
2351.	Selection of indemnity school lands by Minnesota	8	4406
2352.	To extend lien for mariners' wages to masters of vessels	8	4406
2353.	To extend lien for mariners' wages to masters of vessels	8	4406
2354.	To extend lien for mariners' wages to masters of vessels	8	4406
2355.	To extend lien for mariners' wages to masters of vessels	8	4406
2356.	To amend navigation laws	8	4406
2357.	Change in mode of investigating conduct of officers of steam vessels by jury trial	8	4406
2358.	To extend lien for mariners' wages to masters of vessels	8	4406
2359.	Change in mode of investigating conduct of officers of steam vessels by jury trial	8	4406
2360.	Change in mode of investigating conduct of officers of steam vessels by jury trial	8	4406
2361.	Bridge over Missouri River in Cass Co., Nebr., and Mills Co., Iowa	8	4406
2362.	Pension for James B. Mahan	8	4406
2363.	Pension for John H. Roberts	8	4406
2364.	Increase of pension for John W. Craine	8	4406
2365.	Increase of pension for Albert M. Scott	8	4406
2366.	Increase of pension for Freeman R. Gove	8	4406
2367.	Increase of pension for John J. Cross	8	4406
2368.	Increase of pension for Dudley Cary	8	4406
2369.	Increase of pension for George Riddle	8	4406
2370.	Increase of pension for Mary E. Fleming	8	4406
2371.	Pension for Fannie Frost	8	4406
2372.	Increase of pension for Henry Hale	8	4406
2373.	Pension for John A. Reilley	8	4406
2374.	Increase of pension for Newton W. Elmendorf	8	4406
2375.	Increase of pension for Eberhard P. Lieberg	8	4406
2376.	Pension for Hester A. Farnsworth	8	4406
2377.	Increase of pension for Alexander Curd	8	4406
2378.	Increase of pension for John H. Everitt	8	4406
2379.	Increase of pension for William Burke	8	4406
2380.	Increase of pension for Queen Esther Grimes	8	4406
2381.	Pension for Abner D. Rutherford	8	4406
2382.	Increase of pension for Maggie L. Reaver	8	4406
2383.	Increase of pension for George W. Mathews	8	4406
2384.	Increase of pension for Robert Lemon	8	4406
2385.	Increase of pension for John Wright	8	4406
2386.	Increase of pension for William Kelley	8	4406
2387.	Pension for Elizabeth A. Nalley	8	4406
2388.	Pension for Margaret Brennan	8	4406
2389.	Increase of pension for Lillie V. Ball	8	4406
2390.	Increase of pension for Anson Greenman	8	4406
2391.	Increase of pension for John Downing	8	4406
2392.	Pension for John C. Clarke	8	4406
2393.	Pension for Herman J. Miller	8	4406
2394.	Increase of pension for Edmond Likes	8	4406
2395.	Increase of pension for Daniel J. Byrnes	8	4406
2396.	Increase of pension for Benjamin F. Barrett	8	4406
2397.	Pension for Rebecca L. Chambers	8	4406
2398.	Increase of pension for Eliza A. Rickards	8	4406
2399.	Pension for Calvin W. Clark	8	4406
2400.	Increase of pension for Francis M. Beebe	8	4406
2401.	Increase of pension for James J. Wilson	8	4406
2402.	Increase of pension for Anne M. Luman	8	4406
2403.	Pension for Mary J. Markel	8	4406
2404.	Increase of pension for John A. Wright	8	4406
2405.	Increase of pension for Lambert Johnston	8	4406
2406.	Pension for Emily S. Barrett	8	4406
2407.	Increase of pension for James W. Young	8	4406
2408.	Increase of pension for Warren C. Plummer	8	4406
2409.	Increase of pension for John Q. A. Rider	8	4406
2410.	Increase of pension for John D. Binford	8	4406
2411.	Pension for Mary V. Scriven	8	4406
2412.	Sale of unsold portion of Umatilla Reservation, Oregon	8	4406
2413.	Other than trial judge to sign bills of exceptions	8	4406
2414.	Relief of heirs of Joseph W. Etheridge and widow of J. M. Richardson	8	4406
2415.	To increase efficiency of Public Health and Marine Hospital Service	8	4406
2416.	To beautify monument on Moores Creek battle-field, N.C.	8	4406
2417.	To defray expenses of Frank D. Koonce	8	4406
2418.	Monument in Sumter, S.C., to Gen. Thomas Sumter	8	4406
2419.	Monuments to Gens. Francis Nash and William Lee Davidson of North Carolina	8	4406
2420.	Tacoma and Seattle, Wash., to be ports of immediate transportation	8	4406
2421.	Call for information as to Americans held by British as prisoners of war	8	4406
2422.	Pension for Nelson W. Wade	8	4406
2423.	Increase of pension for William D. Stites	8	4406
2424.	Increase of pension for Thomas Hannah	8	4406
2425.	Relief of Daniel J. Ockerson	8	4406
2426.	Relief of William B. Horner	8	4406
2427.	Relief of certain members of 7th Michigan Cavalry Volunteers	8	4406
2428.	Relief of Peter Fisher	8	4406
2429.	Relief of Herman B. Robb	8	4406
2430.	Relief of George W. C. Smith	8	4406
2431.	Reimbursement of University of Missouri	8	4406
2432.	Relief of Lawrence H. Knapp	8	4406
2433.	Relief of estate of Peter McEnery	8	4406
2434.	Relief of Ellen and Mattie Mansfield	8	4406
2435.	Relief of William S. Tildon	8	4406
2436.	Relief of representatives of Sarah J. Montgomery	8	4406
2437.	Relief of Salvador Costa	8	4406
2438.	Consideration of bill authorizing construction of Pacific cable	8	4406
2439.	To refer Cumberland Pres. Church, Charlotte, Tenn., to Ct. of Claims	8	4406
2440.	To refer Berks County Agricultural Society to Court of Claims	8	4406

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
2441.	Pension for William Mennecke	8	4406
2442.	Increase of pension for George W. Edgington	8	4406
2443.	Increase of pension for Allen C. Davis	8	4406
2444.	Increase of pension for Parmenas F. Harris	9	4407
2445.	Increase of pension for James Wilkinson	9	4407
2446.	Increase of pension for Charles H. Webb	9	4407
2447.	Pension for Absolum Maynard	9	4407
2448.	Pension for Samantha A. Newcomb	9	4407
2449.	Increase of pension for Joseph Stonesifer	9	4407
2450.	Pension for Charles Moyer	9	4407
2451.	Increase of pension for James P. Thomas	9	4407
2452.	Increase of pension for Thomas D. Utter	9	4407
2453.	Increase of pension for Esther D. Haslam	9	4407
2454.	Increase of pension for Linda W. Slaughter	9	4407
2455.	Increase of pension for James S. Myers	9	4407
2456.	Relief of heirs of George T. Howard	9	4407
2457.	Payment to daughter of arrears of pension due William N. Tucker	9	4407
2458.	Relief of Valdemar Poulsen	9	4407
2459.	Removal of suits from State to Federal courts	9	4407
2460.	Right of way for telegraph and telephone lines in Alaska	9	4407
2461.	Increase of pension for Charles A. Scott	9	4407
2462.	Statue of John Paul Jones at Washington, D.C.	9	4407
2463.	Relief of Charles H. Warren	9	4407
2464.	Pension for Martha E. Kendrick	9	4407
2465.	Increase of pension for Clayton P. Van Houten	9	4407
2466.	Increase of pension for Henry Loor Reger	9	4407
2467.	Pension for Fredereka Seymore	9	4407
2468.	Increase of pension for Elizabeth A. Turner	9	4407
2469.	Increase of pension for Louisa A. Crosby	9	4407
2470.	Increase of pension for Oceana B. Irwin	9	4407
2471.	Pension for Isabella H. Irish	9	4407
2472.	Increase of pension for Grace M. Read	9	4407
2473.	Pension for Maria M. C. Smith	9	4407
2474.	Pension for Michael Conlon	9	4407
2475.	Increase of pension for Susan B. Lynch	9	4407
2476.	Increase of pension for Helen Olivia Leckie	9	4407
2477.	Pension for Huldah A. Clark	9	4407
2478.	Inspection of oars carried on passenger vessels	9	4407
2479.	Consideration of bill to aid in reclamation of arid lands	9	4407
2480.	West Elizabeth and Dravosburg Bridge Co. to bridge Monongahela River in Pennsylvania	9	4407
2481.	Minneapolis, Superior, St. Paul and Winnipeg Ry. to bridge Mississippi River in Minnesota	9	4407
2482.	Bridges over Calumet River in Hammond, Ind., and Hyde Park Tp., Ill.	9	4407
2483.	To place James W. Long on retired list of Army	9	4407
2484.	To remove charge of desertion from Thomas Cordingly	9	4407
2485.	Purchase of real estate at Wilmington, N.C.	9	4407
2486.	Limit of navigability of Osage River	9	4407
2487.	Luna County, N.Mex., to issue bonds	9	4407
2488.	To amend Revised Statutes on internal revenue tax on fermented liquors	9	4407
2489.	Additional U.S. commissioners and constables in Indian Territory	9	4407
2490.	Relief of John Richards	9	4407
2491.	Relief of Joseph Fields	9	4407
2492.	Additional punishment on 2d or other conviction for counterfeiting	9	4407
2493.	To ratify agreement between Dawes Commission and Choctaw and Chickasaw Indians	9	4407
2494.	Appropriations for deficiencies, 1902 and prior years	9	4407
2495.	To ratify proposed agreement between Dawes Commission and Creek Indians	9	4407
2496.	Government for Philippine Islands	9	4407
2497.	Statue of Baron Steuben, Revolutionary hero, at Washington, D.C.	9	4407
2498.	Increase of pension for John Fler	9	4407
2499.	Increase of pension for John A. Rotan	9	4407
2500.	Increase of pension for Gilbert Barkalow	9	4407
2501.	Increase of pension for Cornelia F. Whitney	9	4407
2502.	Increase of pension for Oscar Van Tassell	9	4407
2503.	Increase of pension for Jane M. Meyer	9	4407
2504.	Increase of pension for Henry Jennings	9	4407
2505.	Increase of pension for Martha A. Johnston	9	4407
2506.	Pension for Hulda Milligan	9	4407
2507.	Increase of pension for James K. Van Matre	9	4407
2508.	Increase of pension for Angus Cameron	9	4407
2509.	Increase of pension for Matthew B. Noel	9	4407
2510.	Increase of pension for Frederick Bulkley	9	4407
2511.	Increase of pension for Charles C. Davis	9	4407
2512.	Increase of pension for Robert H. Busteed	9	4407
2513.	Increase of pension for Lucy A. Turner	9	4407
2514.	Increase of pension for David O. Carpenter	9	4407
2515.	Increase of pension for Abbie C. Bremner	9	4407
2516.	Increase of pension for David J. Newman	9	4407
2517.	Increase of pension for John Cook	9	4407
2518.	Increase of pension for John R. Sandsbury	9	4407
2519.	Increase of pension for Charles W. Rose	9	4407
2520.	Increase of pension for William H. Green	9	4407
2521.	Increase of pension for Isaac Rhodes	9	4407
2522.	Increase of pension for William A. P. Fellows	9	4407
2523.	Increase of pension for William M. Hodge	9	4407
2524.	Increase of pension for James Thompson	9	4407
2525.	Pension for Rebecca H. Geyer	9	4407
2526.	Increase of pension for Merzellah Merrill	9	4407
2527.	Increase of pension for Stanley M. Caspar	9	4407
2528.	Increase of pension for George A. Mercer	9	4407
2529.	Increase of pension for Willie Thomas	9	4407
2530.	Pension for Cherstin Mattson	9	4407
2531.	Pension for Joanna Rommel	9	4407
2532.	Pension for Ellen A. Sager	9	4407
2533.	Increase of pension for Sidney N. Lund	9	4407
2534.	Increase of pension for Lysander D. Trent	9	4407
2535.	Increase of pension for John R. Curry	9	4407
2536.	Increase of pension for Francis M. McCoy	9	4407
2537.	Increase of pension for John W. Covey	9	4407
2538.	Increase of pension for David Brobst	9	4407
2539.	Increase of pension for John H. Dittman	9	4407
2540.	Increase of pension for James M. Spencer	9	4407
2541.	Increase of pension for William H. Loyd	9	4407
2542.	Increase of pension for Mathias Custers	9	4407
2543.	Increase of pension for Dennis F. Andre	9	4407
2544.	Pension for Elizabeth M. Sale	9	4407
2545.	Pension for Levin W. Bothum	9	4407
2546.	Pension for Mary E. Morgan	9	4407
2547.	Increase of pension for Henry J. Feltus	9	4407
2548.	Pension for Nettie A. Buell	9	4407
2549.	Increase of pension for Jennie H. Cramer	9	4407
2550.	Increase of pension for Alfred J. Isaacs	9	4407
2551.	Increase of pension for Frederick Hart	9	4407
2552.	Increase of pension for Romantus Lake	9	4407
2553.	Information as to dismissal of Rebecca J. Taylor from War Department for writing newspaper article	9	4407
2554.	To appoint George H. Paul warrant machinist in Navy	9	4407
2555.	Appeals from land decisions to Court of Appeals of D.C.	9	4407
2556.	Cannon for statue of Maj. Gen. William J. Sewell, U.S. Volunteers, at Trenton, N.J.	9	4407
2557.	Payment to John Douglas	9	4407
2558.	Extra pay for elevator men in House wing of old library space	9	4407
2559.	For compilation and index of House reports, 49th-56th Congress	9	4407
2560.	Janitor for Elections Committee No. 2	9	4407
2561.	To pay Mabel Crump Curtis	9	4407
2562.	To remove charge of desertion from Jacob Bowman	9	4407

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
2563.	To amend act requiring use of safety appliances on railroads	9	4407
2564.	Honorable discharge for Charles H. Hawley	9	4407
2565.	Appointment of John Russell Bartlett as rear-admiral on retired list	9	4407
2566.	Term of circuit court of appeals at Atlanta, Ga.	9	4407
2567.	To reimburse John Waller	9	4407
2568.	Relief of Miami Indians of Indiana	9	4407
2569.	To open for settlement 25,000 acres of Kiowa lands in Oklahoma	9	4407
2570.	Increase of pension for Charles A. Cooke	9	4407
2571.	Increase of pension for Mary A. Moore	9	4407
2572.	Increase of pension for Ann E. Tillson	9	4407
2573.	Increase of pension for Augusta Neville Leary	9	4407
2574.	Increase of pension for Peter Tuper	9	4407
2575.	Increase of pension for Milton Noakes	9	4407
2576.	Increase of pension for Magnus J. Cohn	9	4407
2577.	Pension for Thomas Alton	9	4407
2578.	Pension for Minerva Robinson	9	4407
2579.	Pension for Margaret Fox	9	4407
2580.	Increase of pension for Benjamin H. Downing	9	4407
2581.	Support of Permanent International Commission of Congresses of Navigation	9	4407
2582.	To refer representatives of Sewell B. Corbett and others to Ct. of Cls.	9	4407
2583.	Pension for Susan Kennedy	9	4407
2584.	Increase of pension for Jesse A. McIntosh	9	4407
2585.	Relief of Columbia Brewing Co.	9	4407
2586.	To grant California indemnity in lieu of land for Torros Reservation	9	4407
2587.	To diminish number of appraisers at Philadelphia and Boston	9	4407
2588.	To increase salary of special examiner of drugs at Philadelphia	9	4407
2589.	Increase of pension for Edward T. Durant	9	4407
2590.	Wilmington, N.C., to be port of immediate transportation	9	4407
2591.	Allotment of lands in Allegany and Cattaraugus reservations	9	4407
2592.	To remove charge of desertion from Bernhard Stueber	9	4407
2593.	Military record of Alexander Nugent	9	4407
2594.	Relief of John R. Hoops	9	4407
2595.	To remove charge of desertion from John Donohue	9	4407
2596.	Relief of George S. McKee	9	4407
2597.	Relief of George W. Ingram	9	4407
2598.	To remove charge of desertion from Luther Cline	9	4407
2599.	Relief of John W. Dampman	9	4407
2600.	Honorable discharge for Richard P. Gardner	9	4407
2601.	Relief of John McGowan	9	4407
2602.	Honorable discharge for Franz Spamer	9	4407
2603.	Relief of Erwin Johnson	9	4407
2604.	Relief of James Pendergras	9	4407
2605.	Military record of Stephen W. Coakley	9	4407
2606.	To set apart lands in South Dakota as Wind Cave national park	9	4407
2607.	Relief of James E. Tolfree	9	4407
2608.	Relief of Charles Blake	9	4407
2609.	Relief of exr. of Alexander W. Goodwin	9	4407
2610.	To allow cattle to be kept on cars for 40 hours without unloading	9	4407
2611.	To pay for clerical services rendered Accounts Committee	9	4407
2612.	Stenographer for journal clerk of House	9	4407
2613.	Extra payment to Enoch G. Johnson	9	4407
2614.	For term of district court at Roanoke, Va., etc.	9	4407
2615.	Relief of William A. Williams	9	4407
2616.	Pension for Louisa L. Kerr	9	4407
2617.	Increase of pension for Asa Worden	9	4407
2618.	Increase of pension for Alonzo F. Canfield	9	4407
2619.	Increase of pension for Daniel P. Marshall	9	4407
2620.	Increase of pension for David Vickers	9	4407
2621.	Increase of pension for Lyman A. L. Gilbert	9	4407
2622.	Increase of pension for Maria V. Stadtmueller	9	4407
2623.	Increase of pension for George S. Graham	9	4407
2624.	Increase of pension for John D. Sullivan	9	4407
2625.	Increase of pension for Henry C. Trout	9	4407
2626.	Increase of pension for William H. Lessig	9	4407
2627.	Increase of pension for Joseph S. Chilcoat	9	4407
2628.	Increase of pension for Rufus V. Lee	9	4407
2629.	Increase of pension for George F. White	9	4407
2630.	Increase of pension for Sarah E. Yemans	9	4407
2631.	Increase of pension for David Ham	9	4407
2632.	Increase of pension for John Murphy	9	4407
2633.	Increase of pension for Katharine W. Clarke	9	4407
2634.	Increase of pension for Robert Clark	9	4407
2635.	Increase of pension for James E. Bader	9	4407
2636.	Pension for Charles P. Bigelow	9	4407
2637.	Pension for Alexander Gossett	9	4407
2638.	Increase of pension for George W. Bradshaw	9	4407
2639.	Pension for Charles E. Peake	9	4407
2640.	Increase of pension for William F. Angevine	9	4407
2641.	Pension for William L. Whetsell	9	4407
2642.	Relief of C. W. Colehour	9	4407
2643.	Relief of heirs of John A. Dolan	9	4407
2644.	Soldiers' homestead privileges for certain Missouri troops	9	4407
2645.	Call for information as to payments out of Cuban funds	9	4407
2646.	Pensions for officers and men of Life-Saving Service	9	4407
2647.	Pension for James H. Powell	9	4407
2648.	Increase of pension for James D. Sims	9	4407
2649.	Increase of pension for Helen N. Packard	9	4407
2650.	Increase of pension for John A. Sare	9	4407
2651.	Increase of pension for Regina F. Palmer	9	4407
2652.	Increase of pension for Leonard S. Grove	9	4407
2653.	Pension for Elizabeth C. Gates	9	4407
2654.	Increase of pensions granted for total deafness	9	4407
2655.	To confirm lease made by Seneca Indians of New York to John Quilter for oil and gas purposes	9	4407
2656.	Adjudication of Indian depredation claims	9	4407
2657.	To define assessments on oil-mining claims	9	4407
2658.	Right of way to Williams and Cataract Canyon R.R. through Supai Reservation, Arizona	9	4407
2659.	Conference reports on sundry civil appropriation bill. 2 pts.	9	4407
2660.	Additional recording districts in Indian Territory	9	4407
2661.	Term of circuit court of appeals at Fort Worth, Tex.	9	4407
2662.	Appropriation for W. T. Whitaker Home for white orphan children in Indian Territory	9	4407
2663.	To receive Arturo R. Calvo, of Costa Rica at Military Academy	9	4407
2664.	Indian agricultural school at or near Wahpeton, N.Dak.	9	4407
2665.	To fix penalty for horse and cattle stealing in Indian Territory	9	4407
2666.	For allotment of lands of Cherokee Indians in Indian Territory	9	4407
2667.	Increase of pension for Absalom Case	9	4407
2668.	Pension for Benjamin F. Wilson	9	4407
2669.	Increase of pension for John G. Nowman	9	4407
2670.	Cannon for monument to soldiers of Worcester County, Mass.	9	4407
2671.	Term of circuit court of appeals at Montgomery, Ala.	9	4407
2672.	To grant lands to Alabama for benefit of common schools	9	4407
2673.	Increase of pension for Lewis F. Ross	9	4407
2674.	For removal of shoal in Hudson River, New York Harbor	9	4407

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
2675.	Correction of errors in appropriations for Cumberland River, Tennessee	9	4407
2676.	To set apart lands in South Dakota as Wind Cave national park	9	4407
2677.	Granting title to lands to Juneau, Alaska, for school purposes	9	4407
2678.	Resurvey of lands in Wyoming	9	4407
2679.	To ratify agreement with Indians of Lower Brule Reservation, S.Dak.	9	4407
2680.	Permission to build locks and dams in Pond River, Kentucky	9	4407
2681.	To authorize Absentee Wyandot Indians to select lands	9	4407
2682.	Honorable discharge for Eugene H. Ely	9	4407
2683.	Resurvey of certain townships in San Diego County, Cal.	9	4407
2684.	Relief of estate of George Lea Febiger	9	4407
2685.	Terms of United States courts at Spartanburg, S.C.	9	4407
2686.	Increase of pension for Joseph A. Kerbey	9	4407
2687.	To limit distribution of Woodsman's handbook	9	4407
2688.	To print memorial addresses on Lincoln, Garfield, and McKinley	9	4407
2689.	To print Congressional directory, from Continental Congress to 57th Congress	9	4407
2690.	To bind reserved sets of Congressional documents	9	4407
2691.	Relief of Herbert Cushman	9	4407
2692.	Errors in dates of appointments to rank of certain Army officers	9	4407
2693.	Jurisdiction over site of Dayton Branch of National Soldiers' Home	9	4407
2694.	Relief of George A. Detchemendy	9	4407
2695.	Charter for Association of Military Surgeons of United States	9	4407
2696.	Special regulations of D.C. commissioners for G.A.R. encampment	9	4407
2697.	Relief of Hiram C. Walker	9	4407
2698.	Relief of Benjamin Franklin Handforth	9	4407
2699.	Terms of United States courts at Wilkesboro, N.C.	9	4407
2700.	Military record of John Shelton	9	4407
2701.	Relief of Frank J. Burrows	9	4407
2702.	Not to grant patents for methods in dentistry, medicine, and surgery	9	4407
2703.	To establish branch mint at Omaha, Nebr.	9	4407
2704.	Jurisdiction over certain crimes on Indian reservations in S.Dak.	9	4407
2705.	Pensacola, Alabama and Tennessee Railway to bridge Alabama River, Wilcox County, Ala.	9	4407
2706.	Extending time for bridge across Corpus Christi Channel, Tex.	9	4407
2707.	Kansas City Outer Belt and Electric R.R. to bridge Missouri River between Wyandotte County, Kansas, and Clay County, Missouri	9	4407
2708.	To regulate compensation of customs inspectors, New York City	9	4407
2709.	Military record of John Finn	9	4407
2710.	To print House calendars, July 1, 1902	9	4407
2711.	To print new edition of 1st rp. of Daughters of American Revolution	9	4407
2712.	To amend Revised Statutes relating to tobacco	9	4407
2713.	To regulate sale of viruses, and other products for prevention of disease, in D.C.	9	4407
2714.	Portal, N.Dak., to be port of immediate transportation	9	4407
2715.	To loan arms to institutions in D.C. having companies of Boys' Brigades	9	4407
2716.	To place Thomas H. Carpenter on retired list of Army	9	4407
2717.	Relief of Henry Cook	9	4407
2718.	Monument to commemorate battle at Fort Recovery, Ohio, 1791, and defeat of Gen. St. Clair	9	4407
2719.	Relief of John F. Bransford	9	4407
2720.	To appoint Robert Platt to rank of commander	9	4407
2721.	Medals for officers and men of U.S.S. Kearsarge for sinking Confederate ship Alabama	9	4407
2722.	For appointment of boards of investigation and arbitration	9	4407
2723.	Conference report on bill making appropriations for D.C., 1903	9	4407
2724.	Disposition of useless papers in Treasury and War Departments	9	4407
2725.	Relief of Augustus G. Kellogg	9	4407
2726.	Relief of William Victor Tomb	9	4407
2727.	Maricopa County, Ariz., to issue bonds for construction of reservoirs	9	4407
2728.	Relief of Henry G. Rogers	9	4407
2729.	To amend act to incorporate National Florence Crittenton Mission	9	4407
2730.	Relief of Jackson Pryor	9	4407
2731.	To provide for organization of corporations in Alaska	9	4407
2732.	Thanks of Congress to Admiral Louis Kempff for meritorious conduct at Taku, China	9	4407
2733.	Relief of I. I. Barber	9	4407
2734.	To fix time for consideration of bill to promote efficiency of militia	9	4407
2735.	To admit resident commissioner from Porto Rico to floor of House	9	4407
2736.	To allow printing of illustrations of coins in numismatic books, etc.	9	4407
2737.	Report on appointment and compensation of employees of House	9	4407
2738.	To establish assay office at Baker City, Oreg.	9	4407
2739.	To regulate use of forest-reserve timber	9	4407
2740.	Relief of Francis M. Oliver	9	4407
2741.	Military record of William Fields	9	4407
2742.	Consideration of conference reports	9	4407
2743.	Suspension of rules of House of Representatives	9	4407
2744.	Contest of Wilson v. Lassiter, Virginia	9	4407
2745.	Monument at Cowpens battle ground, S.C. commemorative of Gen. Daniel Morgan	9	4407
2746.	To pay W. L. Walter for services to Elections Committee, No. 3	9	4407
2747.	Granting to North Dakota land for school of forestry at Bottineau	9	4407
2748.	To refund duties paid on merchandise from Porto Rico	9	4407
2749.	Investigation of allegations of corruption and bribery of members of Congress in negotiations for purchase of Danish West Indies	9	4407
2750.	Monumental column to commemorate battle of Princeton	9	4407

Senate Documents

No.		Vol.	Serial
1.	Receipts and expenditures of Senate, 1901	1	4219
2.	Public property of Secretary of Senate, 1901	2	4220
3.	Public property of Sergeant-at-Arms of Senate, 1901	2	4220
4.	Congressional directory, 57th Congress, 1st session, 3 editions	3	4221
5.	Examining boards to act on retirement of naval officers, etc.	2	4220
6.	Retirement of petty officers and enlisted men of Navy	2	4220
7.	Rank and pay of retired naval officers ordered into active service	2	4220
8.	Promotion of officers of Navy and Marine Corps advanced for heroism	2	4220
9.	Rank and pay of officers retired under sec. 8 and 9 of personnel act	2	4220

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
10.	To change title, age limit, and number of cadets at Naval Academy	2	4220
11.	Appointment of civil engineers in Navy	2	4220
12.	To increase number of naval constructors	2	4220
13.	To revive grade of vice-admiral, etc.	2	4220
14.	Sale and proceeds of condemned property of Senate, 1901	2	4220
15.	Mailing of laws and journals of 21st Legislative Assembly of Arizona	2	4220
16.	Expenditures at Springfield Armory, and arms manufactured, 1901	2	4220
17.	Report of attorney-general of Porto Rico, 1901	2	4220
18.	List of lots in Washington, D.C., assigned to original proprietors	2	4220
19.	Annual report of public printer, 1901	2	4220
20.	Report on operations, expenditures, and condition of work of Astrophysical Observatory, 1892-1901	4	4222
21.	Data regarding employees of Interstate Commerce Commission	2	4220
22.	Data regarding employees of Civil Service Commission	2	4220
23.	Data regarding employees of Labor Department	2	4220
24.	Data regarding employees of Agriculture Department	2	4220
25.	Data regarding employees of Government Printing Office	2	4220
26.	Correspondence of Jefferson and Monroe on Monroe doctrine and annexation of Cuba	2	4220
27.	Annual report of Nicaragua Maritime Canal Co., 1901	2	4220
28.	Agreement with Indians of Lower Brule Reservation, S.Dak.	2	4220
29.	Operations on new building of Government Printing Office, 1901	2	4220
30.	Transfer from Buffalo of Charleston, S.C., exhibits	2	4220
31.	Agreement with Indians of Rosebud Reservation, South Dakota	2	4220
32.	Data regarding employees of Treasury Department	2	4220
33.	Data regarding employees of Justice Department	2	4220
34.	To indemnify confederated bands of Ute Indians for land of their reservation in Colorado	2	4220
35.	Annual report of librarian of Congress, 1901	5	4223
36.	To equalize pay of naval officers with that of army officers	2	4220
37.	Convening of general courts-martial at remote naval stations	2	4220
38.	To secure civilian witnesses before naval courts	2	4220
39.	To permit use of depositions before naval courts	2	4220
40.	Use by United States of devices invented by its naval officers	2	4220
41.	To legalize cadet store fund, Naval Academy	2	4220
42.	To appoint inspector of accounts in office of Secretary of Navy	2	4220
43.	Liability of sureties on bonds of naval officers	2	4220
44.	Employment of civilian mariners in charge of naval colliers	2	4220
45.	Guaranties on proposals for naval supplies	2	4220
46.	To make changes in navy rations	2	4220
47.	To fix compensation of pay clerks in Navy	2	4220
48.	To construct practice-ship for Naval Academy	2	4220
49.	To increase Marine Corps	2	4220
50.	Annual report of Superintendent of Coast and Geodetic Survey, 1901	6	4224
51.	Annual report of superintendent of Congressional Library building and grounds, 1901	2	4220
52.	Methods of taking depositions in Spanish treaty claims outside U.S.	2	4220
53.	Report on tests of Gathmann gun and 12-inch army rifle	2	4220
54.	Report of Isthmian Canal Commission. 2 pts.	7	4225
55.	Title of Yankton Indians to Pipestone Reservation, Minn.	2	4220
56.	Synopsis of pension laws of foreign nations	2	4220
57.	Findings of Court of Claims in case of admr. of Catharine Crittenden	2	4220
58.	To grant California indemnity in lieu of lands for Torros Reservation	2	4220
59.	Disbursements for colleges of agriculture and mechanic arts, 1902	2	4220
60.	Special allowances for entertainment for certain naval officers	2	4220
61.	To pay claim of Jessie Benton Fremont	2	4220
62.	Whaling and sealing claims against Russia	8	4226
63.	Sale of lands on Otoe and Missouria Reservation in Nebraska and Kansas	8	4226
64.	Data regarding employees of Interior Department	8	4226
65.	Data regarding employees of State Department	8	4226
66.	Data regarding employees of Navy Department	8	4226
67.	[Blank]		
68.	Rp. of Comn. to Revise and Codify Criminal and Penal Laws, 1901. 2 pts.	9	4227
69.	Condition of work of Spanish Treaty Claims Commission, Dec. 1901	8	4226
70.	Corrections in final list of lots in D.C. sold by U.S.	8	4226
71.	Receipts and disbursements of Louisiana Purchase Exposition Company to Nov. 1, 1901	8	4226
72.	Report on claim of William Hardman	8	4226
73.	Petition for commercial reciprocity between U.S. and Cuba	8	4226
74.	Franchise granted to railway corporation in Puerto Rico	8	4226
75.	Franchise granted to Port America Company to build railroads in Porto Rico	8	4226
76.	Franchise granted to W. S. H. Lothrop for electric railway in Ponce, P.R.	8	4226
77.	Organization of government for Porto Rico, etc.	8	4226
78.	Dock-charges at London upon flour and other American products	8	4226
79.	1st annual report of governor of Porto Rico, May 1, 1900-May 1, 1901	10	4228
80.	Sale of allotted lands by Indians of Siletz Reservation, Oregon	8	4226
81.	To readjust compensation of customs inspectors at New York	8	4226
82.	Leases of public property granted by Treasury Department, 1901	8	4226
83.	Construction by Canada of dam in St. Lawrence River	8	4226
84.	Report on southern Appalachian region	11	4229
85.	Clayton-Bulwer and Hay-Pauncefote treaties	8	4226
86.	Amounts paid for ocean mail service, 1889-1901	8	4226
87.	Contracts with steamship lines between U.S. and foreign countries	8	4226
88.	Disposition of useless papers in Civil Service Commission	8	4226
89.	Findings of Court of Claims in case of A. L. Dunlap	8	4226
90.	Dock-charges in foreign countries upon American products	8	4226
91.	Findings of Court of Claims in case of admrx. of William Henderson	8	4226
92.	Examination for promotion of warrant officers in Navy	8	4226
93.	To establish naval engineering experiment station at Annapolis	8	4226
94.	Methods of taking depositions in Spanish treaty claims outside U.S.	8	4226
95.	Report on claim of Giuseppe Defina	8	4226
96.	Dock-charges at London upon flour and other American products	8	4226

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
97.	Disposition of useless papers in Treasury Department	8	4226
98.	Report on introduction of reindeer in Alaska, 1901	12	4230
99.	Operations of Bureau of Animal Industry, 1901	12	4230
100.	Claim of owners of British steamship Lindisfarne for demurrage	12	4230
101.	Synopsis of report on steamship subsidies	12	4230
102.	Report of committee on legislation of National Association of Railway Commissioners, 1901	12	4230
103.	Proceedings of 16th convention of American Instructors of the Deaf	12	4230
104.	Treaty-making powers of Senate	12	4230
105.	Findings of Court of Claims in case of John R. and Charles F. Taylor	12	4230
106.	Arguments opposed to Chinese exclusion law	12	4230
107.	Petition of sundry steamship, insurance, and railroad companies for lighthouses at Pollock Rip Shoals	12	4230
108.	Findings of Court of Claims in case of Ella A. Hall	12	4230
109.	Findings of Court of Claims in case of ship Galen	12	4230
110.	Findings of Court of Claims in case of brig William	12	4230
111.	Findings of Court of Claims in case of brig Betsey	12	4230
112.	Findings of Court of Claims in case of schooner Betsey	12	4230
113.	Findings of Court of Claims in case of admr. of Henry M. Baker	12	4230
114.	Findings of Court of Claims in case of admr. of Augustin Broussard	12	4230
115.	Findings of Court of Claims in case of admr. of Elijah Thompson	12	4230
116.	Findings of Court of Claims in case of brig Betsey	12	4230
117.	Findings of Court of Claims in case of brig Hannah	12	4230
118.	Findings of Court of Claims in case of schooner Hope	12	4230
119.	Findings of Court of Claims in case of schooner Bee	12	4230
120.	Findings of Court of Claims in case of schooner Betsey	12	4230
121.	To restore William McCarty Little to active list of Navy	12	4230
122.	To provide for enrollment and organization of naval reserve	12	4230
123.	Report of Isthmian Canal Commission on proposal of New Panama Canal Co.	12	4230
124.	Findings of Court of Claims in case of schooner Clarissa	12	4230
125.	Findings of Court of Claims in case of brig Sabatus Neptune	12	4230
126.	Findings of Court of Claims in case of schooner Esther	12	4230
127.	Findings of Court of Claims in case of schooner Mary	12	4230
128.	To construct dam to control waters of Lake Tahoe in California and Nevada	12	4230
129.	Findings of Ct. of Claims in claim of admrx. of Clementina H. Holman	12	4230
130.	Findings of Court of Claims in claim of exrx. of Jacob A. Wolfson	12	4230
131.	Findings of Court of Claims in claim of heir of Nancy Eddins	12	4230
132.	To provide for strengthening Marine Corps	12	4230
133.	Report of legislative department of American Anti-Saloon League, 1901	12	4230
134.	Memoranda relating to tariff between United States and Philippines	13	4231
135.	Report on leasing of Indian reservations	13	4231
136.	Abstracts showing demand for topographical work of Geological Survey	13	4231
137.	Some reasons for Chinese exclusion	13	4231
138.	Report on salmon fisheries of Alaska, 1901	13	4231
139.	Judgments of circuit and district courts against United States	13	4231
140.	Repairs, etc., to public building in Ellsworth, Me.	13	4231
141.	Hearing on construction of Pacific cable	13	4231
142.	Deficiency estimate for printing and binding, Treasury Department	13	4231
143.	Estimate for repairs to Butler Building, D.C.	13	4231
144.	Urgent deficiency estimate, Treasury Department	13	4231
145.	Judgments of Court of Claims in Indian depredation claims	13	4231
146.	Judgments of Court of Claims requiring appropriation	13	4231
147.	Urgent deficiency estimate for Indian service	13	4231
148.	Claim of New Hampshire for interest on money paid during Civil War	13	4231
149.	Payments to registers and receivers in Kansas from sales of Osage lands	13	4231
150.	Deficiency estimate for inspectors, for asst. Attorney-General for Interior Dept.	13	4231
151.	Patent Office, 1901, with indexes	14	4232
152.	Estimate to pay John G. Ames for Comprehensive index, 1881-93	13	4231
153.	Report of National Academy of Sciences, 1901	13	4231
154.	Leasing of Indian lands, Uinta Valley Reservation, Utah	13	4231
155.	Annual report of Capital Traction Co., D.C., 1901	13	4231
156.	Deficiency estimate for quarters, Marine Corps, 1902	13	4231
157.	Imprisonment for crimes against national currency act	13	4231
158.	Claim of Rhode Island for interest on money paid during Civil War	13	4231
159.	To grant protection to Porto Rican sugars and tobacco	13	4231
160.	Steps taken to secure interest on subsidy debt of Kansas Pacific Ry.	13	4231
161.	Memorial of University of Alabama for opening navigable rivers	13	4231
162.	Letter of Chinese minister on Chinese exclusion	13	4231
163.	Judgments of Court of Claims in Indian depredation claims	13	4231
164.	Deficiency estimate in appropriations for fortifications	13	4231
165.	Findings of Court of Claims in case of exr. of James Warr	13	4231
166.	Petition for suspension of hostilities in Philippine Islands	13	4231
167.	Status of Missouri Home Guards of 1861	13	4231
168.	Statistics of oleomargarine, oleo oil, and filled cheese, 1900 and 1901	13	4231
169.	Report of commissioner of labor on Hawaii, 1901	13	4231
170.	Findings of Court of Claims in case of heirs of Richard Randall	13	4231
171.	Correspondence relating to customs tariff affecting Philippines	15	4233
172.	Punishments under act 292 passed by Philippine Commission to define crimes of treason, sedition, insurrection and conspiracy	16	4234
173.	Comparison of U.S. laws against treason, sedition, etc., and provisions of act 292 of Philippine Comn.	16	4234
174.	Unveiling of monument to Perry in Japan	16	4234
175.	Amounts expended for war-ships since 1883	16	4234

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
176.	Memorandum from National Civil Service Reform League	16	4234
177.	Increase in force of office of register of Treasury	16	4234
178.	Findings of Court of Claims in claim of admr. of Patrick Gilfoil	16	4234
179.	Findings of Court of Claims in claim of admrx. of Dennis O'Dea	16	4234
180.	Improvements in harbor, South Haven, Mich.	16	4234
181.	Statement showing adulteration of food and drink	16	4234
182.	Treaty of peace between U.S. and Spain, Paris, Dec. 10, 1898	16	4234
183.	Nation as land owner	16	4234
184.	Proposed extension of Washington Navy-Yard	16	4234
185.	Court-martial of Captain Hamilton H. Blunt for disorderly conduct and disrespect	16	4234
186.	Annual report of Washington, Alexandria and Mount Vernon Ry., 1901	16	4234
187.	Federal party message to Congress, Manila, Nov. 1901, requesting definition by Congress of future of Philippines	16	4234
188.	Data regarding employees of Census Office	16	4234
189.	To connect Club and Plantation creeks, Ga.	16	4234
190.	Documents relating to injunctions in conspiracy cases	16	4234
191.	Reenactment of Chinese exclusion law	16	4234
192.	Findings of Court of Claims in case of Erastus S. Joslyn	16	4234
193.	Improvement of Winyah Bay, S.C.	16	4234
194.	Increase in clerical force, office of surveyor-general, Louisiana	16	4234
195.	Findings of Court of Claims in case of admr. of Thomas B. Flower	16	4234
196.	Hearings concerning salaries of chiefs of divisions, Library of Congress	16	4234
197.	Findings of Court of Claims in case of brig Patty	16	4234
198.	Account for services of Edward A. McIlhenny	16	4234
199.	Reciprocity treaty with France	16	4234
200.	Compilation of treaties, laws, and Presidential messages on protection of native races against liquor traffic and opium	16	4234
201.	Conduct and management of Indian schools	16	4234
202.	To transfer Richmond P. Hobson to retired list of Navy	16	4234
203.	Social features of post exchange	16	4234
204.	Findings of Court of Claims in case of Richard P. Blackistone	16	4234
205.	Charges against Army of cruelty to Filipinos. 2 pts.	15	4233
206.	Printing of annual report, etc., of Geological Survey	16	4234
207.	Article from 1881 on construction of Nicaragua Canal, by U. S. Grant	16	4234
208.	Preservation of American bison in U.S. and Canada	16	4234
209.	Data regarding employees in rural free-delivery service	16	4234
210.	Estimate of appropriation for Naval Observatory	16	4234
211.	Findings of Court of Claims in case of schooner Sally	16	4234
212.	Hearings on leasing of Indian lands within Uintah Reservation, Utah	16	4234
213.	Facts relating to Government transports. 2 pts.	16	4234
214.	Communication relative to salaried force, office of Treasurer of U.S.	16	4234
215.	Findings of Court of Claims in case of Mattie H. Jarnagin	16	4234
216.	Findings of Court of Claims in case of admrx. of John Flower	16	4234
217.	Findings of Court of Claims in case of Horace Resley	16	4234
218.	Findings of Court of Claims in case of admrx. of Robert Raiford	16	4234
219.	Findings of Court of Claims in case of Daniel E. Kimball	16	4234
220.	Findings of Court of Claims in case of John H. Alphin	16	4234
221.	Apportionment among the States in classified civil service	16	4234
222.	Postage on certain periodicals, etc.	16	4234
223.	Hearings on bills on oleomargarine, etc.	17	4235
224.	Findings of Court of Claims in case of D. E. Kimball and J. H. Alphin	17	4235
225.	Findings of Court of Claims in case of brig Happy Return	17	4235
226.	Leasing and selling of lands by Creek Indians in Indian Territory	17	4235
227.	Interest on money borrowed by California	17	4235
228.	Proceedings on censure of Benjamin R. Tillman and John L. McLaurin, Senators from South Carolina	17	4235
229.	Hearings on bills to prevent desecration of flag	17	4235
230.	Data regarding employees of Post-Office Department	17	4235
231.	Findings of Court of Claims in case of admr. of Elizabeth Burke	17	4235
232.	Public lands withdrawn from settlement	17	4235
233.	Memoirs of National Academy of Sciences, v. 8, no. 6: Experimental inquiry into nutritive value of alcohol	18	4236
234.	Estimate for salary of director of Naval Observatory	17	4235
235.	Receipts and disbursements of Louisiana Purchase Exposition Company, 1902, Jan.	17	4235
236.	Necessity for hall of records in Washington, D.C.	17	4235
237.	Distribution of American Ephemeris and Nautical Almanac	17	4235
238.	Petition from Alaska Chamber of Commerce	17	4235
239.	Apportionment among the States in classified civil service	17	4235
240.	Wagon road and railroad grants in Oregon	17	4235
241.	Findings of Court of Claims in case of exr. of Daniel Heflebower	17	4235
242.	Jurisdiction over suits by and against Indians	17	4235
243.	Restoration of annuities to Santee Sioux Indians	17	4235
244.	Veto of bill to remove charge of desertion from John Glass	17	4235
245.	Advantages of Aputi route for Panama Canal	17	4235
246.	Report on construction of railroads in Cuba, Jan. 1, 1899-Feb. 26, 1902	17	4235
247.	Memorial from Delaware Indians for difference in coin value of payments made to them, 1862-78	17	4235
248.	Findings of Court of Claims in case of heirs of Henry C. Toms	17	4235
249.	Findings of Ct. of Claims in case of heirs of J. Clemson and J. C. Cookson	17	4235
250.	Findings of Court of Claims in case of admr. of Eliza Lawrence	17	4235
251.	Findings of Court of Claims in case of widow of John W. Leftwich	17	4235
252.	Mail pay in Foreign Mail Service under subsidy bills	17	4235
253.	Hearings on bill for construction of interoceanic canal. 3 pts.	19	4238
254.	To forbid employment of Chinese on American vessels	17	4235
255.	Amendments to judiciary act asked in railroad merger case	17	4235
256.	Crowded condition of vaults of subtreasury in San Francisco, Cal.	17	4235
257.	Veto of bill for honorable discharge of Chas. H. Hawley	17	4235
258.	Veto of bill for relief of James W. Howell	17	4235

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
259.	Political affairs in Philippine Islands	17	4235
260.	Citizens of New Hampshire in classified service	17	4235
261.	Methods of taking depositions in Spanish treaty claims outside U.S.	17	4235
262.	Findings of Court of Claims in case of admr. of S. N. Clark	17	4235
263.	Findings of Court of Claims in case of Gertrude Nolasco	17	4235
264.	Claims of citizens of U.S. against Colombia, 2 pts.	17	4235
265.	Receipts and disbursements of Louisiana Purchase Exposition Company, 1902, Feb.	17	4235
266.	Paper on amendment to bill to limit meaning of conspiracy	17	4235
267.	Letters, etc., concerning improvement of post exchange	17	4235
268.	Petition for defeat of oleomargarine bill	17	4235
269.	Report on origin and prevalence of leprosy in U.S.	20	4239
270.	Measures for maintaining diplomatic and consular service in Cuba	20	4239
271.	Statement of traffic relations with Pacific railroads	20	4239
272.	To confirm title of lots in D.C. to Thomas H. G. Todd	20	4239
273.	Articles entitled Will Philippines pay? and Real feelings of Filipinos	20	4239
274.	Memorial of Creek Nation relating to capitalization of Creek annuities	20	4239
275.	Citizens of South Carolina in classified service	20	4239
276.	Letter relating to bill for increase in Pay Corps of Navy	20	4239
277.	Protest of Oklahoma Live Stock Assoc. against oleomargarin bill	20	4239
278.	Letters adverse to bill to limit meaning of conspiracy, etc.	20	4239
279.	Letter on amendment providing test of pneumatic tube service	20	4239
280.	Gazetteer of Philippine Islands	21	4240
281.	To forbid employment of Chinese on American vessels	20	4239
282.	Chemical analysis of mineral waters of hot springs of Arkansas, and geological sketch	20	4239
283.	Legal and traffic relations between U.S. and railroads in Philippines	20	4239
284.	Treaty with Denmark for cession of Danish West Indies	20	4239
285.	Persons examined by Civil Service Commission, 1884-1901	20	4239
286.	Alleged order for massacre of foreign residents of Manila	20	4239
287.	Claim of George A. K. Morris against Nicaragua	20	4239
288.	Free transportation of goods for private firms by Government transports	20	4239
289.	Homestead rights of veteran soldiers and marines	20	4239
290.	Petition from Wm. P. Randall to be placed on retired list	20	4239
291.	Compilation of laws, etc., relating to exclusion of Chinese	20	4239
292.	Complete exclusion of Japanese and Chinese from American territory	20	4239
293.	Allowing certain corporations to be sureties	20	4239
294.	Memorial of Delaware Indians for land-bounty warrants	20	4239
295.	Letter relative to medical inspection of schools in D.C.	20	4239
296.	Findings of Court of Claims in claims of O. H. P. Wayne	20	4239
297.	Findings of Court of Claims in claim of admr. of Josiah J. Bryan	20	4239
298.	To pension Yankton Sioux Indian Scouts under command of Gen. Alfred Sully, 1864-65	20	4239
299.	List of claims before Spanish Treaty Claims Commission, etc.	20	4239
300.	Regulations relating to Chinese exclusion	20	4239
301.	Appeal for indemnity by owners of S.S. Nicaragua	20	4239
302.	Improvement of navigation between Charleston, S.C., and McClellanville	20	4239
303.	Letters and papers relating to construction of an Isthmian canal	20	4239
304.	Objections to amendments to Pacific Coast bill for Chinese exclusion	22	4241
305.	Proposed repeal of new D.C. divorce law	22	4241
306.	To allow corporations to own more land in Philippine Islands	22	4241
307.	Report of Grant Statue or Memorial Commission	22	4241
308.	Receipts and disbursements of Louisiana Purchase Exposition Company, 1902, Mar.	22	4241
309.	Improvement of Providence Hospital, Washington, D.C.	22	4241
310.	Hearing on bill to forbid use in bills of lading of London clause exempting shipping companies from liability for damages	22	4241
311.	Memorial on claims of Nez Perce Indians for lands in Oklahoma	22	4241
312.	Relief of Morgan's Louisiana and Texas R.R. and S.S. Company	22	4241
313.	Payment of Choctaw warrants held by James M. Shackelford	22	4241
314.	Report relating to resolution concerning pan-American railway	22	4241
315.	Veto of bill for right of way through San Francisco Mts. forest reserve, Arizona	22	4241
316.	Progress of beet-sugar industry in U.S., 1901	22	4241
317.	List of references on reciprocity	22	4241
318.	Seizure of vessels and occupation of wharves, etc., Santiago de Cuba	22	4241
319.	Rights of Mississippi Choctaws in Choctaw Nation	22	4241
320.	Suppression of certain municipalities by legislative assembly in Porto Rico without jurisdiction	22	4241
321.	Decision of Court of Claims in Rebellion war claims of loyal States	22	4241
322.	Memorial from Delaware Indians for difference in coin value of claim payments made to them, 1862-78	22	4241
323.	Petitions of Filipinos asking for retention of United States Army	22	4241
324.	Petition of Lower Brule Indians for allotments on Rosebud Reservation, South Dakota	22	4241
325.	Annual report of Baltimore and Washington Transit Co., 1900 and 1901	22	4241
326.	Findings of Court of Claims in case of admr. of David Smith	22	4241
327.	Protection against fire, Columbia Institution for Deaf and Dumb	22	4241
328.	Findings of Court of Claims in case of admr. of Jordan Broadway	22	4241
329.	Longevity pay for officers of Revenue Cutter Service	22	4241
330.	Report of delegates to International American Conference, 1901-02	22	4241
331.	Hearings on affairs in Philippine Islands, 3 vols.	23	4242
331.	Hearings on affairs in Philippine Islands, 3 vols.	24	4243
331.	Hearings on affairs in Philippine Islands, 3 vols.	25	4244
332.	Conference report on bill making appropriations for Indian Dept.	22	4241
333.	Postponement of Louisiana Purchase Exposition for 1 year	22	4241
334.	Findings of Court of Claims in cause of Eastern Cherokees	22	4241

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
335.	Findings of Court of Claims in cause of admr. of David J. Jameson	22	4241
336.	Reports in regard to Buffington-Crozier disappearing gun-carriage	22	4241
337.	To appropriate $15,000 for W. T. Whitaker Orphan Home for white children in Indian Territory	22	4241
338.	Enlistment of dental surgeons in Navy	22	4241
339.	Expenditures on account of Philippine Commission, etc.	22	4241
340.	Treaties with certain Indian tribes in Oregon, etc.	22	4241
341.	Opening of Kiowa, Comanche, and Apache lands, Okla.	22	4241
342.	Estimate for new hospital at Fort Riley, Kans.	22	4241
343.	Adjudication and payment of claims for Indian depredations	26	4245
344.	Statement in relation to award made Eastern Cherokee Indians, moneys withheld under their several treaties, and findings of Court of Claims	26	4245
345.	Necessity for protection of lower end of Proving Ground, Sandy Hook	26	4245
346.	Extension for 10 years of patent for art of wireless telegraphy, etc.	26	4245
347.	Issuance of military orders relating to concentration in southern Luzon of Philippine citizens to protect them from insurrectionaries	26	4245
348.	Schedule of useless papers in Treasury Department	26	4245
349.	To refer claims of Delaware Indians to Court of Claims	26	4245
350.	For construction of breakwater in Hilo Bay, Hawaii	26	4245
351.	Collection of taxes and licenses in District of Columbia	26	4245
352.	Compensation for overtime of employees of Executive Office, President of U.S.	26	4245
353.	Reimbursement of Charles Anderson	26	4245
354.	Number of disappearing gun-carriages constructed, etc.	26	4245
355.	Synopsis of reports on Buffington-Crozier disappearing gun-carriages	26	4245
356.	Report of irrigation investigations in California	27	4246
357.	Documents relating to interoceanic canal	26	4245
358.	Five franchises granted by Executive Council of Porto Rico	26	4245
359.	Argument for national conservatory of music and art	26	4245
360.	Findings of Court of Claims in cause of Thomas E. Streeter	26	4245
361.	Hearing on bills relating to service pensions	26	4245
362.	Report of Rochambeau Statue Committee	26	4245
363.	Inauguration of Estrada Palma as president of Cuba	26	4245
364.	Memorial from Cherokee Indians for payment of claim	26	4245
365.	Petition of F. N. Thorpe for new edition of charters, constitutions, and organic laws of U.S.	26	4245
366.	Additional appropriation for Industrial Home School, D.C.	26	4245
367.	Information as to quarters rented by Treasury Department	26	4245
368.	Information as to quarters rented by Labor Department	26	4245
369.	Information in regard to Government transports	26	4245
370.	Transcript of military record of John R. Brooke	26	4245
371.	Number of barbette gun carriages and contracts for ordnance with Bethlehem Iron Co. and Bethlehem Steel Co.	26	4245
372.	Money expended for naval operations in Philippines	26	4245
373.	Information as to quarters rented by War Department	26	4245
374.	Information as to quarters rented by Department of Justice	26	4245
375.	Historical events connected with acquisition of Philippines, prepared by New England Anti-Imperialistic League	26	4245
376.	Copy of Senate's congratulatory resolution forwarded to Cuba	26	4245
377.	Information as to quarters rented by Department of Agriculture	26	4245
378.	Advisability of purchasing letter-boxes for patrons on free delivery routes	26	4245
379.	Hearing on bill to prevent sale of liquor in immigrant stations, etc.	26	4245
380.	Information as to quarters rented by Civil Service Commission	26	4245
381.	Memorial on leasing of nonmineral lands of Creek Indians	26	4245
382.	Civil revenues and expenditures, Philippine Islands, 1898-1901	26	4245
383.	Medals for officers and soldiers of United States Army	26	4245
384.	Information as to quarters rented by Navy Department	26	4245
385.	Appliances for escape and protection from fire for Garfield Hospital, D.C.	26	4245
386.	Information as to quarters rented by State Department	26	4245
387.	Reasons for selection of Captain Crozier as chief of ordnance	26	4245
388.	Our commercial relations with Cuba and Philippine Islands	26	4245
389.	Information as to quarters rented by Interior Department	26	4245
390.	Whether Filipinos may come to U.S. and state their views to President or Congress	26	4245
391.	Depth of water in channel leading to Mare Island Navy-Yard, California	26	4245
392.	Destruction of fish in shore waters by explosive fishing	26	4245
393.	Dispatch concerning earthquake at Panama in 1882	26	4245
394.	Conditions of sale of army transport Egbert	26	4245
395.	Hearings on staff corps increase and submarine boats for Navy	26	4245
396.	Claims growing out of seizure of British schooners E. R. Nickerson, etc.	26	4245
397.	Information as to quarters rented by Post-Office Department	26	4245
398.	Information as to quarters rented by Interstate Commerce Commission	26	4245
399.	Speeches and reports on proposed change in election of Senators	26	4245
400.	Plan for study of man, paper by Arthur MacDonald	26	4245
401.	Extracts from Five years at Panama, book by Wolfred Nelson	26	4245
402.	Plea for District of Columbia, by disfranchised taxpayer; plan for residents and government to pay property tax	26	4245
403.	Watershed of Mount Rainier forest reserve as affected by grazing	26	4245
404.	Debates in Federal Convention of 1787 on election of Senators	26	4245
405.	Message from President on reciprocity with Cuba	26	4245
406.	Speeches and reports on proposed change in election of Senators	26	4245
407.	Hearings on Moriarty submarine boat	28	4247
408.	Receipts and disbursements of Louisiana Purchase Exposition Company, 1902, Apr.	28	4247
409.	Claim of Guy N. Stockslager	28	4247
410.	Estimates for surveys and allotments of Walker River reservation, Nev.; Uintah reservation, Utah; and Spokane reservation, Wash.	28	4247

LEGISLATIVE INTENT SERVICE · (800) 666-1917

No.		Vol.	Serial
411.	Reports on consulates and consular agencies	29	4248
412.	Paper showing Missouri volunteers and militia in Union and Confederate service	28	4247
413.	Hearings on shoddy vs. pure wool	28	4247
414.	Claims for loss of steamers Osceola and Peerless	28	4247
415.	Receipts and disbursements of Louisiana Purchase Exposition Company, 1901, Dec.	28	4247
416.	Statement of money paid on account of 2d Philippine Commission, etc.	28	4247
417.	Reappropriation for Engraving and Printing Bureau	28	4247
418.	Laws enacted at last session of Legislative Assembly, Porto Rico	28	4247
419.	Payment of Herman D. Crow for legal services	28	4247
420.	Memorial presenting claims of loyal Creeks	28	4247
421.	Report on general staff bill	28	4247
422.	Philippine situation, speech of A. J. Beveridge, June 3, 1902	28	4247
423.	Judgments of Court of Claims in Indian depredation claims	28	4247
424.	Judgments of Court of Claims requiring appropriation	28	4247
425.	Claim of Vermont for interest on money paid during Civil War. 2 pts.	28	4247
426.	Estimates of deficiencies in appropriations, 1902 and prior years [bound with House Documents; at end of volume]	41	4308
427.	Estimate of deficiency for enforcement of Chinese exclusion act	28	4247
428.	Additional deficiency appropriation for collecting revenue from customs	28	4247
429.	Claim of Indiana for interest on money paid during Civil War	28	4247
430.	Claims allowed under appropriations exhausted, etc.	28	4247
431.	Hearing on application by Alphonso B. Bowers for extension of patents	28	4247
432.	Judgments against U.S. by circuit and district courts	28	4247
433.	Letter on bills to establish national park at Fort Stevens, D.C.	28	4247
434.	Ethics of fight for Cuban reciprocity	28	4247
435.	Florida seeking clarification on dispensary law, newspaper clipping from Press and Banner, Abbeville, S.C., on controlled sale of liquor	30	4249
436.	Steel trust both prince and pauper, paper by Byron W. Holt	30	4249
437.	World's sugar problem, paper by Byron W. Holt	30	4249
438.	Wire-rope trust paid Republicans $100,000 in 1896, paper by Byron W. Holt	30	4249
439.	Deadly parallel on Cuban tariff reduction, etc., compilation of newspaper clippings by T. G. Palmer	30	4249
440.	Petition of E. G. Rathbone praying Congress to investigate his conduct in Cuba as Director-General of Posts	30	4249
441.	Necessity for regulating sale of milk and cream in and for D.C.	30	4249
442.	Number of bills referred to Senate Committee on Pensions, 57th Congress, 1st session	30	4249
443.	Conference report on bill temporarily to provide civil government in Philippines	30	4249
444.	Chronological history of appropriation bills, 57th Congress, 1st session	30	4249
445.	Facts in relation to preservation of American bison	30	4249
446.	Extracts on irrigation of arid lands	30	4249
447.	Annual report of National Society of Daughters of American Revolution, 1901	31	4250
448.	Statement of revenues and expenditures in Cuba, May 1-June 20, 1900	30	4249
449.	Appropriations made during 57th Congress, 1st session; offices created, and salaries increased	32	4251
450.	Memoirs of National Academy of Sciences, v. 8, no. 7; West Indian madreporarian polyps	18	4237
451.	Memorial addresses on James H. Kyle, Senator from South Dakota	33	4252
452.	Treaties, laws, etc., relating to Indian affairs, 2 vols.	34	4253
452.	Treaties, laws, etc., relating to Indian affairs, 2 vols.	35	4254
453.	Gettysburg National Park Commission reports, 1893-1901	36	4255

House Documents

No.		Vol.	Serial
1.	State of the Union address	1	4268
	Foreign relations, 1901, [following p. lxxx]	1	4268
	Foreign relations, 1901, appendix: Affairs in China [following p. 574]	1	4268
2.	Annual report of Secretary of War, 1901, Vol. 1, pt. 1	2	4269
	Annual report of Secretary of War, 1901, Vol. 1, pt. 2: Chiefs of bureaus	3	4270
	Annual report of Secretary of War, 1901, Vol. 1, pt. 3: Lieutenant-general commanding Army; miscellaneous	4	4271
	Annual report of Secretary of War, 1901, Vol. 1, pt. 4: Lieutenant-general commanding Army; Division of Philippines	5	4272
	Annual report of Secretary of War, 1901, Vol. 1, pt. 5: Lieutenant-general commanding Army; military operations in northern and southern Luzon	6	4273
	Annual report of Secretary of War, 1901, Vol. 1, pt. 6: Lieutenant-general commanding Army; military operations in Visayas Mindanao and Jolo, and China	7	4274
	Annual report of Secretary of War, 1901, Vol. 1, pt. 7: Lieutenant-general commanding Army; Division of Philippines, supplementary	8	4275
	Annual report of Secretary of War, 1901, Vol. 1, pt. 8: Report of Philippine Commission	9	4276
	Annual report of Secretary of War, 1901, Vol. 1, pt. 9: Report of Philippine Commission	10	4277
	Annual report of Secretary of War, 1901, Vol. 1, pt. 10: Public laws passed by Philippine Commission	11	4278
	Annual report of Secretary of War, 1901, Vol. 2: Engineers, five pts. and supp.	12	4279
	Annual report of Secretary of War, 1901, Vol. 2: Engineers, five pts. and supp.	13	4280
	Annual report of Secretary of War, 1901, Vol. 2: Engineers, five pts. and supp.	14	4281
	Annual report of Secretary of War, 1901, Vol. 2: Engineers, five pts. and supp.	15	4282
	Annual report of Secretary of War, 1901, Vol. 2: Engineers, five pts. and supp.	16	4283
	Annual report of Secretary of War, 1901, Vol. 2: Engineers, supplement: Mississippi River Commission and Missouri River Commission	17	4284
	Annual report of Secretary of War, 1901, Vol. 3: Ordnance Department	18	4285
3.	Annual report of Secretary of Navy, 1901, 2 pts.	19	4286
3.	Annual report of Secretary of Navy, 1901, 2 pts.	20	4287
4.	Annual report of Postmaster General, 1901	21	4288
5.	Annual report of Secretary of Interior, 1901	22	4289
	Annual report of Commissioner of General Land Office, 1901 [following p. cclxxix]	22	4289
	Annual report of Commissioner of Indian Affairs, 1901, 2 vols.	23	4290
	Annual report of Commissioner of Indian Affairs, 1901, 2 vols.	24	4291

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
5.	Annual report of Commissioner of Patents, 1901, p. 5	25	4292
	Annual report of Commissioner of Pensions, 1901, p. 9	25	4292
	Annual report of Commissioner of Railroads, 1901, p. 173	25	4292
	Annual report of Director of Twelfth Census, 1901, p. 327	25	4292
	Annual report on receipt, distribution and sale of public documents, 1901, p. 339	25	4292
	Annual report of Board of Visitors of Government Hospital for Insane, 1901, p. 349	25	4292
	Annual report of Freedmens Hospital, 1901, p. 459	25	4292
	Annual report of Washington Hospital for Foundlings, 1901, p. 479	25	4292
	Annual report of President of Howard University, 1901, p. 481	25	4292
	Annual report of Columbia Institution for Deaf and Dumb, 1901, p. 495	25	4292
	Annual report of Architect of U.S. Capitol, 1901, p. 511	25	4292
	Annual report of Superintendent of Yellowstone National Park, 1901, p. 531	25	4292
	Annual report of Superintendent of Yosemite National Park, 1901, p. 551	25	4292
	Annual report of Superintendent of Sequoia and General Grant National Parks, 1901, p. 555	25	4292
	Annual report of Superintendent of Hot Springs Reservation, 1901, p. 563	25	4292
	Annual report of Inspector of Coal Mines in Indian Territory, 1901, p. 591	25	4292
	Annual report of Inspector of Coal Mines in New Mexico, 1901, p. 673	25	4292
	Annual report of Governor of Alaska, 1901, p. 5	26	4293
	Annual report of Governor of Arizona, 1901, p. 89	26	4293
	Annual report of Governor of Hawaii, 1901, p. 231	26	4293
	Annual report of Governor of Oklahoma, 1901, p. 319	26	4293
	Annual report of Commissioner of Interior for Porto Rico, 1901, p. 447	26	4293
	Annual report of Commissioner of Education for Porto Rico, 1901, p. 493	26	4293
	Annual report of Governor of New Mexico, 1901	27	4294
	Annual report of Director of Geological Survey, 1901, pt. 1a: Report of Director	28	4295
	Annual report of Director of Geological Survey, 1901, pt. 1b: Asphalt and bituminous rock deposits, p. 209	28	4295
	Annual report of Director of Geological Survey, 1901, pt. 2: Ore deposits	29	4296
	Annual report of Director of Geological Survey, 1901, pt. 3: Coal, oil, cement, chalk	30	4297
	Annual report of Director of Geological Survey, 1901, pt. 4: Hydrography	31	4298
	Annual report of Commissioner of Education, 1901, 2 vols.	32	4299
	Annual report of Commissioner of Education, 1901, 2 vols.	33	4300
6.	Annual report of Secretary of Agriculture, 1901	34	4301
7.	Annual report of Commissioners of District of Columbia, 1901	35	4302
8.	Annual report of Secretary of Treasury on state of finances, 1901	36	4303
9.	Annual report of Attorney General, 1901	37	4304
10.	Annual report of Comptroller of Currency, 1901, vol. 1	38	4305
10.	Annual report of Comptroller of Currency, 1901, vol. 2: National banks	39	4306
11.	Annual report of Commissioner of Internal Revenue, 1901	40	4307
12.	Estimates of appropriations, 1903	41	4308
13.	Foreign Commerce and Navigation of U.S., 1901, vol. 1	42	4309
13.	Foreign Commerce and Navigation of U.S., 1901, vol. 2: Imports and exports, 1892-1901	43	4310
14.	Report of Navigation Bureau, Treasury Dept., 1901	44	4311
15.	Monthly Summary of Commerce and Finance, 1901, July	45	4312
	Monthly Summary of Commerce and Finance, 1901, Aug.	45	4312
	Monthly Summary of Commerce and Finance, 1901, Sept.	45	4312
	Monthly Summary of Commerce and Finance, 1901, Oct.	46	4313
	Monthly Summary of Commerce and Finance, 1901, Nov.	46	4313
	Monthly Summary of Commerce and Finance, 1901, Dec.	46	4313
	Monthly Summary of Commerce and Finance, 1902, Jan.	47	4314
	Monthly Summary of Commerce and Finance, 1902, Feb.	47	4314
	Monthly Summary of Commerce and Finance, 1902, Mar.	47	4314
	Monthly Summary of Commerce and Finance, 1902, Apr.	48	4315
	Monthly Summary of Commerce and Finance, 1902, May	48	4315
	Monthly Summary of Commerce and Finance, 1902, June	48	4315
16.	Annual list of merchant vessels, 1901	49	4316
17.	Mineral Resources of United States, calendar year 1900	50	4317
18.	Annual report of Commissioner of Labor, 1901; Strikes and lockouts	51	4318
19.	Report of Weather Bureau, 1901, vol. 1; Report and meteorological tables for 1900	52	4319
19.	Report of Weather Bureau, 1901, vol. 2; Barometry	53	4320
20.	American Ephemeris and Nautical Almanac for 1902, 2d edition	54	4321
21.	Annual report of Clerk of House, 1901	55	4322
22.	Executive reports to be made at 57th Congress, 1st session	55	4322
23.	Public property of Sergeant-at-Arms of House, 1901	55	4322
24.	Report of sergeant-at-arms of House on receipts and disbursements	55	4322
25.	Inventory of books, maps, and pamphlets, in House folding room, 1901	55	4322
26.	Judgments of Court of Claims requiring appropriation	55	4322
27.	Request from Hawaiian Legislature for imposition of duty on coffee	55	4322
28.	Methods of construction of 2 battle-ships and 2 armored cruisers	55	4322
29.	Expenditures of Department of Agriculture, 1901	34	4301
30.	Contingent expenses of Treasury Department, 1901	55	4322
31.	Expenditures of Smithsonian Institution, 1901	55	4322
32.	Expenditures of Labor Department, 1901	55	4322
33.	Claims of owners of burned buildings, Hot Springs, Ark.	55	4322
34.	Report on work and need for extension of time of Industrial Commission	55	4322
35.	Receipts and expenditures of United States, 1901	41	4308
36.	Emoluments of customs officers, 1901	55	4322

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
37.	Expenditures of Fish Commission, 1901	55	4322
38.	Information as to annuities of Sac and Fox Indians	55	4322
39.	Report of National Soldiers' Home, 1901	56	4323
40.	Contested election cases in 57th Congress	55	4322
41.	Journals of 1st Legislative Assembly of Porto Rico	57	4324
42.	Exports declared for United States, 1901, Apr.-June	58	4325
43.	Estimate of appropriation for stationery for Treasury Department	55	4322
44.	Estimate for clerk for superintendent of Indian schools	55	4322
45.	Estimate for increase in salary of consul-general at Antwerp	55	4322
46.	Awards of contracts for surveying public lands within railroad grants	55	4322
47.	Estimate for publication of manuscript journals of City Council of Washington for 1802-18	55	4322
48.	Judgments of Court of Claims in Indian depredation claims	55	4322
49.	Deficiency estimate for Court of Claims printing and binding	55	4322
50.	Survey of Tennessee River from Scott Point, Tenn., to lock A	59	4326
51.	Contingent expenses of Interior Department, 1901	55	4322
52.	Report of Commission to revise and compile laws of Porto Rico	60	4327
53.	Water-supply papers 53; geology and water resources of Nez Perce Co., Idaho, pt. 1	61	4328
54.	Water-supply papers, 54; geology and water resources of Nez Perce Co., Idaho, pt. 2	61	4328
55.	Water-supply papers 55; geology and water resources of Yakima Co., Wash.	61	4328
56.	Water-supply papers 56; methods of stream measurement	61	4328
57.	Water-supply papers 57; deep borings in U.S., pt. 1	61	4328
58.	Water-supply papers 58; storage of water on Kings River, Cal.	61	4328
59.	Water-supply papers 59; development and application of water in southern California, pt. 1	61	4328
60.	Water-supply papers 60; development and application of water in southern California, pt. 2	61	4328
61.	Urgent deficiency estimates	41	4308
62.	Letter amending estimates for Light-House Board	55	4322
63.	Receipts and expenditures of treasurer of Porto Rico, Oct. 1900-Oct. 1901	55	4322
64.	Receipts and expenditures of auditor of Porto Rico, Nov. 1900-Oct. 1901	57	4324
65.	Estimate for lighthouse and fog-signal at Mount Cornelia, Florida	55	4322
66.	Letter recommending light on breakwater at Conneaut, Ohio	55	4322
67.	Letter recommending lighthouse tender on Portage Lake and River, Michigan	55	4322
68.	Letter recommending fog-signal at Piedras Blancas, Cal.	55	4322
69.	Estimate for light-vessel on Southeast Shoal, Lake Erie	55	4322
70.	Estimate for light-keeper's dwelling at Stonington, Conn.	55	4322
71.	Estimate for lighthouse tender in Superior and St. Louis bays, Lake Superior	55	4322
72.	Estimate for light and fog-signal on Mile Rocks, San Francisco Bay	55	4322
73.	Letter relating to proposed fog-signal station at Piedras Blancas, Cal.	55	4322
74.	Letter recommending tender and scow for 4th lighthouse district	55	4322
75.	Letter recommending light upon Bluff Shoal, N.C.	55	4322
76.	Aids to navigation on inland route between Charleston, S.C., and Fernandina, Fla.	55	4322
77.	Revised estimate for salaries of employees of treasurer of U.S.	55	4322
78.	Conveyance of inherited lands by heirs of certain Indians	55	4322
79.	Agreement with Indians of Klamath Reservation, Oreg.	55	4322
80.	Letter recommending building for Y.M.C.A. at Fort Hancock, N.J.	55	4322
81.	Recognition of services of Indian police of Standing Rock Reservation, N.Dak.	55	4322
82.	Patrols for protection of timber on ceded Chippewa reservations, Minn.	55	4322
83.	Report of Freedman's Savings and Trust Co., 1901	55	4322
84.	Contingent expenses of War Department, 1901	55	4322
85.	Annual report of Ordnance and Fortification Board, 1900-1901	55	4322
86.	Findings of Court of Claims in case of sloop Henrietta	55	4322
87.	Letter forwarding journals of 34th Legislative Assembly, N.Mex.	55	4322
88.	Manual of House of Representatives, 57th Congress	63	4330
89.	Additional estimates for National Soldiers' Home	55	4322
90.	Estimate of appropriation for Washington Barracks, D.C.	55	4322
91.	Examination and survey of inner harbor, Galveston, Tex.	55	4322
92.	Estimate for guns and land for fortifications	55	4322
93.	Estimate for land for agricultural purposes, Haskell Institute, Kans.	55	4322
94.	Deficiency estimate for establishment of military post at Manila	55	4322
95.	Deficiency estimate for Interior Department, 1901 and 1902	55	4322
96.	Supplemental estimate of appropriation for Military Academy	55	4322
97.	Finances and expenditures of Post-Office Department, 1901	55	4322
98.	Agreement with Indians of Devils Lake Reservation, North Dakota	55	4322
99.	Supplemental estimates for navy-yards and stations	55	4322
100.	Additional appropriation, light and fog-signal station, St. Martins Island, Lake Michigan	55	4322
101.	Sums to be credited to Chickasaw, Seneca, and Eastern Shawnee Indians	55	4322
102.	Estimate for electric plant at Dayton Branch, National Soldiers' Home	55	4322
103.	Recommendation for relief of heirs of C. K. Bowen	55	4322
104.	Estimate for light and fog-signal at Hog Island Shoal, Rhode Island	55	4322
105.	Claims of American citizens on account of Boxer uprisings in China	55	4322
106.	Deficiency estimate for printing and binding for Court of Claims	55	4322
107.	Estimates for range-lights on St. Phillips Island	55	4322
108.	Defense of suits before Spanish Treaty Claims Commission, estimate of appropriation	55	4322
109.	Defense of suits before Spanish Treaty Claims Commission, estimate of appropriation	55	4322
110.	Letter recommending light at mouth of Piankatank River, Va.	55	4322
111.	Estimate for purchase of Round Island, Hudson River	55	4322
112.	Purchase of site for life-saving station at Longbranch, N.J.	55	4322

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
113.	Deficiency estimate for ordnance and ordnance stores	55	4322
114.	Findings of Court of Claims in case of admr. of Caroline H. Heater	55	4322
115.	Findings of Court of Claims in case of Josiah Standley	55	4322
116.	Findings of Court of Claims in case of Benjamin R. Poole	55	4322
117.	Findings of Court of Claims in case of admrx. of Sarah J. Keys	55	4322
118.	Findings of Court of Claims in case of Nathan Gardner	55	4322
119.	Findings of Court of Claims in case of exrx. of Ambrose W. Gray	55	4322
120.	Findings of Court of Claims in case of admr. of Joseph A. Aldrich	55	4322
121.	Findings of Court of Claims in case of admr. of Jonathan D. Vaughan	55	4322
122.	Findings of Court of Claims in case of admr. of Pleasant O. Grimes	55	4322
123.	Findings of Court of Claims in case of admr. of George Chrissinger	55	4322
124.	Deficiency estimate for Navy Department	55	4322
125.	Estimate of appropriation from Commission to Five Civilized Tribes	55	4322
126.	Estimate for barracks, quarters, etc., in Philippine Islands	55	4322
127.	Deficiency estimate for rent, fuel, and light for post-offices	55	4322
128.	Deficiency estimate for contingent expenses of State Department	55	4322
129.	Deficiency estimate to pay George V. Borchsenius	55	4322
130.	Appropriation for clerks, Stationery, Printing, and Blanks Division, Treasury Dept.	55	4322
131.	Judgment in favor of H. H. Thornton and Ben De Rochblave	55	4322
132.	Draft of bill to amend law on storekeepers and gaugers	55	4322
133.	Additional punishment upon 2d or other conviction of counterfeiting	55	4322
134.	Findings of Court of Claims in case of admr. of Cyrus Snuffer	55	4322
135.	Findings of Court of Claims in case of admr. of Henry Sanger	55	4322
136.	Findings of Court of Claims in case of admrx. of William R. Pritchett	55	4322
137.	Inspection of branches of National Soldiers' Home, Aug.-Nov., 1901	56	4323
138.	Report on highway bridge across Potomac River, Washington, D.C.	64	4331
139.	Report of board on establishment of naval station in Porto Rico	64	4331
140.	Report of commission on establishment of naval station in Philippines	64	4331
141.	Appropriation for removal of obstruction in St. Clair River, Michigan	64	4331
142.	Findings of Court of Claims in case of exr. of Barney Ott	64	4331
143.	Findings of Court of Claims in case of admr. of Thomas R. Hawkins	64	4331
144.	Findings of Court of Claims in case of heir of Gabriel Hardison	64	4331
145.	Statistical Abstract of United States, 1901	65	4332
146.	Papers relating to claim of O. H. Walters	64	4331
147.	Correspondence relating to claim of William H. Bean	64	4331
148.	Findings of Court of Claims in case of John Mullican	64	4331
149.	Letter recommending change in light at Shinnecock Bay, New York	64	4331
150.	Responsibility of John Newton for loss of clothing and equipage	64	4331
151.	Supplemental report of claims for property taken during War with Spain	64	4331
152.	Consular Reports, v. 68, Jan.-Apr. 1902, nos. 256-259	66	4333
153.	Estimate for payment of award to Chile	64	4331
154.	Deficiency estimate for printing and binding	64	4331
155.	Deficiency estimate for Medicine and Surgery Bureau, Navy	64	4331
156.	Deficiency estimate for Public Library, D.C.	64	4331
157.	Deficiency estimate for printing and binding for Interior Department	64	4331
158.	Deficiency estimate on account of Yellowstone National Park	64	4331
159.	Estimate of appropriation for miscellaneous advertising for War Department	64	4331
160.	Estimate for rental of additional room for Statistics Bureau	64	4331
161.	Abstract of proposals for materials and labor for Engineer Department	64	4331
162.	Estimate for improving Mount Vernon Square, D.C.	64	4331
163.	Estimate of appropriation for Springfield Armory	64	4331
164.	Additional cost for locks and dams on Mississippi River, between St. Paul and Minneapolis, Minn.	64	4331
165.	Locks and dams on Black Warrior and Tombigbee rivers, Alabama	64	4331
166.	Payment to North Amer. Transportation and Trading Co. for supplies	64	4331
167.	Draft of bill relating to Stockbridge and Munsee Indians of Wisconsin	64	4331
168.	Draft of joint resolution to print Report on testing hydraulic cements	70	4337
169.	Deficiency estimate for Togus Branch of National Soldiers' Home	70	4337
170.	Estimate for rental of tabulating machine for Statistics Bureau	70	4337
171.	Expenditures of Coast and Geodetic Survey, 1901	70	4337
172.	To increase supply of water for Military Academy, West Point	70	4337
173.	Findings of Court of Claims in case of ship Rose	70	4337
174.	Payment of claim of Illinois Central Railroad	70	4337
175.	Agreement with Indians of Grande Ronde Reservation, Oreg.	70	4337
176.	Examination and survey of Kissimmee River, Fla., etc.	59	4326
177.	Industrial Commission reports, v. 08; Chicago labor disputes of 1900	71	4338
178.	Industrial Commission reports, v. 09; transportation, 2d report	72	4339
179.	Industrial Commission reports, v. 10; agriculture and agricultural labor	73	4340
180.	Industrial Commission reports, v. 11; agriculture, 2d report; taxation	74	4341
181.	Industrial Commission reports, v. 12; capital and labor employed in mining	75	4342
182.	Industrial Commission reports, v. 13; trusts and industrial combinations, 2d report	76	4343
183.	Industrial Commission reports, v. 14; capital and labor in manufactures and general business, 2d report	77	4344
184.	Industrial Commission reports, v. 15; immigration; education	78	4345
185.	Industrial Commission reports, v. 16; foreign legislation on matters affecting general labor	79	4346
186.	Industrial Commission reports, v. 17; labor organizations, labor disputes, etc.; railway labor	80	4347
187.	Industrial Commission reports, v. 18; industrial combinations in Europe	81	4348
188.	Estimate for consulate at Puerto Cortez, Honduras	70	4337

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
189.	Permanent annual appropriation for collecting revenue from customs	70	4337
190.	Estimate for San Antonio Arsenal, Texas	70	4337
191.	Estimate for heating and lighting plant for Govt. Hospital for Insane	70	4337
192.	Leases of public property granted by War Department, 1901	70	4337
193.	Draft of bill to regulate use of forest-reserve timber	70	4337
194.	Amount of payments by Mexico under Weil and La Abra awards	70	4337
195.	Unsatisfactory work on Cullum Memorial Hall at West Point	70	4337
196.	Estimates for collecting customs, 1903	70	4337
197.	Claim of Horton W. Stickle	70	4337
198.	Transfer of certain buildings at Key West to Convent of Mary Immaculate	70	4337
199.	Findings of Court of Claims in case of admr. of Epsie Jackson	70	4337
200.	Findings of Court of Claims in case of heirs of Elizabeth Lewis	70	4337
201.	Findings of Court of Claims in case of admr. of Thomas J. White	70	4337
202.	Sale of old custom-house at Buffalo, N.Y.	70	4337
203.	Estimate for payment of judgments in favor of Wichita and other Indians in Oklahoma	70	4337
204.	Findings of Court of Claims in case of heir of L. H. Grimes	70	4337
205.	Findings of Court of Claims in case of admr. of Samuel Hicks	70	4337
206.	Findings of Court of Claims in case of admr. of Thomas J. White	70	4337
207.	Findings of Court of Claims in case of admr. of Thomas H. Coates	70	4337
208.	Findings of Court of Claims in case of admrx. of John A. Horn	70	4337
209.	Findings of Court of Claims in case of Albert G. Milikien	70	4337
210.	Findings of Court of Claims in case of Mary Baker	70	4337
211.	Estimate for public building at Harrisonburg, Va.	70	4337
212.	Sewer facilities for public building at Mobile, Ala.	70	4337
213.	Site, etc., for statue of Rochambeau in Washington, D.C.	70	4337
214.	Findings of Court of Claims in case of admr. of Hamlin Caldwell	70	4337
215.	Findings of Court of Claims in case of admr. of Jehu C. Lamb	70	4337
216.	Deficiency estimate for Patent Office	70	4337
217.	Deficiency estimate for postage-stamps and envelopes	70	4337
218.	Deficiency estimate for assay office at Seattle, Wash.	70	4337
219.	Estimate for protection and administration of forest reserves	70	4337
220.	Estimate for salaries and expenses, Internal Revenue Office	70	4337
221.	Estimate for filling in Fort Monroe reservation, Va.	70	4337
222.	Estimate for International Bureau of Weights and Measures	70	4337
223.	List of officers delinquent in their accounts, 1901	70	4337
224.	Refunds of customs duties, 1901	70	4337
225.	Claim of Frederick E. Coyne	70	4337
226.	Estimate for improvement of Potomac Park, D.C.	70	4337
227.	Estimate for defense of harbor of San Luis d'Apra, Guam	70	4337
228.	Estimate for light and fog-signal station at Racine Reef, Wis.	70	4337
229.	Annual report of Georgetown Barge, Dock, Elevator and Ry. Co., 1901	70	4337
230.	Estimate for new light at Ashtabula Harbor, Ohio	70	4337
231.	Estimate for light-keeper's dwelling at Fort Pulaski, Ga.	70	4337
232.	Letter canceling estimate for keeper's dwelling at Point Sur, Cal.	70	4337
233.	Estimate for examining subtreasuries and depositaries, 1902	70	4337
234.	Estimate for payment of claims for rebate on tobacco	70	4337
235.	Estimate for salary of interpreter at Tutuila naval station	70	4337
236.	Deficiency estimate for San Francisco mint	70	4337
237.	Claim of McClure and Willbanks	70	4337
238.	Judgments of Court of Claims requiring appropriation	70	4337
239.	Transfer of appropriation from Warrior and Tombigbee rivers, Ala.	70	4337
240.	Deficiency estimate for District of Columbia	70	4337
241.	Estimate for sites for fortifications and seacoast defenses for Hawaii	70	4337
242.	Estimate of appropriation for Watertown Arsenal	70	4337
243.	Letter relating to removal of Hendersons Point, Portsmouth, N.H.	70	4337
244.	Supplemental deficiency estimates	41	4308
245.	Findings of Court of Claims in case of admr. of James Warters	70	4337
246.	Findings of Court of Claims in case of admrs. of Jonathan B. Benson	70	4337
247.	Findings of Court of Claims in case of exr. of Isaac Motter	70	4337
248.	Claims allowed under appropriations exhausted, etc.	70	4337
249.	Investigation of fisheries and fishing laws of Hawaii	70	4337
250.	Register of Navy and Marine Corps, Jan. 1, 1902	83	4350
251.	Establishment of naval station in Porto Rico	70	4337
252.	Estimate of appropriation for Sandy Hook Proving Ground, New Jersey	70	4337
253.	Deficiency estimate for Military Academy, 1900 and 1901	70	4337
254.	Supplemental estimate for pay of Philippine scouts	70	4337
255.	Deficiency estimate for reimbursement to contract surgeons	70	4337
256.	Findings of Court of Claims in case of Elizabeth Norris	70	4337
257.	Estimate for erection of legation buildings at Seoul, Korea	70	4337
258.	Receipts and disbursements of Louisiana Purchase Exposition Company, 1901, Nov.	70	4337
259.	Deficiency estimate for Fish Commission	70	4337
260.	Estimate for salaries in office of surveyor of D.C.	70	4337
261.	Letter relating to relief of James M. Marshall	70	4337
262.	Estimates for binding population schedules of 11th census, etc.	70	4337
263.	Supplemental estimate for ordnance, ordnance stores, and supplies	70	4337
264.	Estimate for payment of claims for interest on moneys paid by Maine and Pennsylvania in suppressing rebellion	70	4337
265.	Estimate for rental of quarters at Cleveland, Ohio	70	4337
266.	Estimate for Court of Private Land Claims	70	4337
267.	Papers relating to claim of F. M. Hutchinson	70	4337
268.	Findings of Court of Claims in case of admr. of William O'Neil	70	4337

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
269.	Findings of Court of Claims in case of Tabitha Nicewaner	70	4337
270.	Findings of Court of Claims in case of brig Polly	70	4337
271.	Findings of Court of Claims in case of brig Dolphin	70	4337
272.	Findings of Court of Claims in case of admr. of Philip Bush	70	4337
273.	Findings of Court of Claims in case of Richard H. Shropshire	70	4337
274.	Use of Camp McDowell military reservation for Mohave Apache Indians in Arizona	70	4337
275.	Annual report on production of precious metals, 1900	84	4351
276.	Findings of Court of Claims in case of John B. Klepper	70	4337
277.	Findings of Court of Claims in case of admr. of Joseph H. Egner	70	4337
278.	Findings of Court of Claims in case of admrx. of Asa F. Allen	70	4337
279.	Findings of Court of Claims in case of David Rudy	70	4337
280.	Findings of Court of Claims in case of admr. of Pinckney Halton	70	4337
281.	Findings of Court of Claims in case of admr. of Richard W. Johnson	70	4337
282.	Findings of Court of Claims in case of Mississippi Manufacturing Co.	70	4337
283.	Naval War Records, series 1, vol. 13: South Atlantic blockading squadron, May 1862-Apr. 1863	85	4352
284.	Deficiency estimate for contingent expenses of Marine Corps	70	4337
285.	Deficiency estimate for shooting galleries and ranges for Army	70	4337
286.	Deficiency estimate for Department of Agriculture	70	4337
287.	Deficiency estimate for engraving and printing geological maps	70	4337
288.	Estimate for reconstruction of Fort Hamilton, N.Y.	70	4337
289.	Findings of Court of Claims in case of admr. of David S. Ripley	70	4337
290.	Findings of Court of Claims in case of schooner Good Intent	70	4337
291.	Findings of Court of Claims in case of ship Governor Bowdoin	70	4337
292.	Deficiency estimate for Equipment Bureau, Navy	70	4337
293.	Asking authority to cover into Treasury so-called retained bounty fund	70	4337
294.	Papers relating to claim of Gellatly, Hankey and Co.	70	4337
295.	To settle title to public buildings and land in Porto Rico	70	4337
296.	Leasing of lands on Fort Sill military reservation, Oklahoma	70	4337
297.	Increased estimate for completing Illinois and Mississippi Canal	70	4337
298.	Findings of Court of Claims in case of brig Ranger	70	4337
299.	Findings of Court of Claims in case of ship Caroline	70	4337
300.	Judgments against National Soldiers' Home at Dayton, Ohio	70	4337
301.	Findings of Court of Claims in case of schooner Three Friends	70	4337
302.	Findings of Court of Claims in case of Mary E. Burke	70	4337
303.	Estimate for increase in salary of commissioner of Indian affairs	70	4337
304.	Estimate for employees in Loans and Currency Division, Treasury Dept.	70	4337
305.	Annual report of Interstate Commerce Commission, 1901	87	4354
306.	American Republics Bureau monthly bulletins, 1902, Jan.-June	88	4355
306.	American Republics Bureau monthly bulletins, 1902, July-Dec.	89	4356
307.	Estimate for increase of salary of 1st assistant Secretary of Interior	70	4337
308.	Change of estimates of appropriation for National Bureau of Standards	70	4337
309.	Recommending sale of old custom-house at Kansas City, Mo.	70	4337
310.	Geological Survey monographs, v. 41; Glacial formations and drainage features of Erie and Ohio basins	91	4358
311.	Estimate for inspectors for office of asst. Attorney-General for Interior Dept.	70	4337
312.	Estimate for salaried force of National Bank Redemption Agency	70	4337
313.	Estimate for expenditures of Joshua W. Jacobs	70	4337
314.	Claim of Miguel Crow, known as Isaac Crow	70	4337
315.	Reimbursement of Honolulu fire department	70	4337
316.	Findings of Court of Claims in case of admrs. of Charles Hickerson	70	4337
317.	Findings of Court of Claims in case of admr. of John Smith	70	4337
318.	Findings of Court of Claims in case of admrx. of John T. Palmatory	70	4337
319.	Relief of Warner's Ranch and other Mission Indians in California	70	4337
320.	Commercial Relations of United States with foreign countries, 1901, 2 vols.	92	4359
320.	Commercial Relations of United States with foreign countries, 1901, 2 vols.	93	4360
321.	Power of Congress over forest reserves in States	70	4337
322.	Estimate for storehouse at Washington Navy-Yard	70	4337
323.	Estimate for increase of water-supply for Washington, D.C.	70	4337
324.	Estimate for contingent expenses of Marine Corps	70	4337
325.	Findings of Court of Claims in case of schooner Polly	70	4337
326.	Findings of Court of Claims in case of admr. of William L. Ward	70	4337
327.	Annual report of East Washington Heights Traction R.R., 1901	70	4337
328.	Recommendations relating to estimates for Military Academy	70	4337
329.	Additional appropriation for tender in 7th lighthouse district	70	4337
330.	Estimate for clerk hire for Immigration Bureau	70	4337
331.	Estimate for publication of azimuth tables	70	4337
332.	Findings of Court of Claims in case of schooner Ariel	70	4337
333.	Law requiring lighthouse work to be done under contract	70	4337
334.	Annual report on agricultural experiment stations, 1901	34	4301
335.	Waterway connecting Puget Sound with lakes Union and Washington	70	4337
336.	Final report on survey of Ohio River, Marietta to Big Miami	59	4326
337.	Disposition of useless papers in Executive Departments	70	4337
338.	Papers in claim of A. C. Jewell	70	4337
339.	Lens glass for lighthouses to be imported free of duty	70	4337
340.	Annual report of Columbia Railway, 1901	70	4337
341.	Annual report of Washington and Great Falls Electric Ry., 1901	70	4337
342.	Annual report of City and Suburban Railway, 1901	70	4337

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
343.	Annual report of Anacostia and Potomac River Railroad, 1901	70	4337
344.	Annual report of Georgetown and Tennallytown Railway, 1901	70	4337
345.	Annual report of Metropolitan Railroad, D.C., 1901	70	4337
346.	Annual report of Brightwood Railway, 1901	70	4337
347.	Findings of Court of Claims in case of heir of Frank Holthoff	70	4337
348.	Findings of Court of Claims in case of snow Eliza	70	4337
349.	Findings of Court of Claims in case of schooner Hazard	70	4337
350.	Findings of Court of Claims in case of admr. of Francis J. Smith	70	4337
351.	Resolutions from American Chamber of Commerce at Manila	70	4337
352.	Abstract of militia force of United States, 1901	70	4337
353.	Exports declared for United States, 1901, July-Sept.	58	4325
354.	Bill for purchase of cattle for Northern Cheyennes, Mont.	70	4337
355.	Estimate of appropriation for Schuylkill Arsenal, Philadelphia	70	4337
356.	Estimate for Apache prisoners on Fort Sill military reservations, Oklahoma	70	4337
357.	Estimate of appropriation for additional employees in Patent Office	70	4337
358.	Estimate for Submarine Defense School, Fort Totten, N.Y.	70	4337
359.	Estimate for penitentiary at Atlanta, Ga.	70	4337
360.	Estimate for office of register of wills, D.C.	70	4337
361.	Findings of Court of Claims in case of Elias R. Core	70	4337
362.	Growth of criminal law of United States, speech by D. K. Watson before Columbian Law School, D.C.	70	4337
363.	Use on war-ships of petroleum from California and Texas	70	4337
364.	Expenditures under contingent appropriations for Navy Dept., 1901	70	4337
365.	Findings of Court of Claims in case of brig Industry	70	4337
366.	Findings of Court of Claims in case of brig Sally	70	4337
367.	Findings of Court of Claims in case of admr. of Jack Frank	70	4337
368.	Findings of Court of Claims in case of admr. of Benjamin F. Rohrback	70	4337
369.	Findings of Court of Claims in case of brig Good Intent	70	4337
370.	Revised estimate for clerks for Marine Hospital Service	70	4337
371.	Estimate of cost of locks and dams in Allegheny River, Pa.	70	4337
372.	Claims arising from burning of steamer Wynoka	70	4337
373.	For support of Permanent International Commission of Congresses of Navigation	94	4361
374.	Establishment of lighthouse depot at Minnesota Point near Duluth, Minn.	94	4361
375.	Estimate for salaries of employees in Rural Free Delivery Division	94	4361
376.	Findings of Court of Claims in case of admr. of Henry Clevenger	94	4361
377.	Labor Department bulletins, v. 7, 1902, nos. 38-43	95	4362
378.	Annual report of Washington and Marlboro Electric Ry., 1901	94	4361
379.	Estimate for penitentiary at Fort Leavenworth	94	4361
380.	Industrial Commission reports, v. 19; final report	82	4349
381.	Lights in Boston Harbor	94	4361
382.	Findings of Court of Claims in case of Robert H. Boteler	94	4361
383.	Findings of Court of Claims in case of admr. of John W. Hawkins	94	4361
384.	Estimate for Arkansas Hot Springs Reservation	94	4361
385.	Discontinuance or abandonment and medical statistics of U.S.S. Vermont as receiving ship	94	4361
386.	Estimate for payment of claim of Alaska Commercial Company	94	4361
387.	Establishment of beacon light at Cabras Island, Porto Rico	94	4361
388.	Findings of Court of Claims in case of sloop Cornelia	94	4361
389.	Findings of Court of Claims in case of Aaron B. Hoffman	94	4361
390.	Estimate for improving road to Fort Mott, New Jersey	94	4361
391.	Issuing or withholding of rations from Indians	94	4361
392.	Estimate for site for military post at Skagway, Alaska	94	4361
393.	Estimate for increase in salary of janitor at Franklin School, D.C., etc.	94	4361
394.	Estimate for land for Army target range at Des Moines, Iowa	94	4361
395.	Apportionment of members of Hawaiian Legislature	94	4361
396.	Estimate for international exchanges of public documents	94	4361
397.	Findings of Court of Claims in case of brig Louisa	94	4361
398.	Findings of Court of Claims in case of brig Mercury	94	4361
399.	Findings of Court of Claims in case of Jesse Keys	94	4361
400.	To omit signature of Secretary of Interior from letters patent for inventors	94	4361
401.	Deficiency estimates for Treasury Department	94	4361
402.	Findings of Court of Claims in case of ship Glasgow	94	4361
403.	Right of way across lands adjacent to Illinois and Mississippi Canal	94	4361
404.	Documents relating to claim of William S. Beauchamp	94	4361
405.	Estimates for hospitals at Mare Island Navy-Yard, California	94	4361
406.	Condition of Indians on reservations	94	4361
407.	Estimate for road from Aqueduct Bridge to Fort Myer, Va.	94	4361
408.	Claim of Robert Birnie	94	4361
409.	Findings of Court of Claims in case of Frederick Demmien	94	4361
410.	Petition for bills to promote efficiency of clerical service, Navy	94	4361
411.	Estimate for boundary line between Montana and Idaho	94	4361
412.	Findings of Ct. of Cls. in case of admr. of Lydia Hoff and Hannah Updike	94	4361
413.	Deficiency estimate for District of Columbia	94	4361
414.	Estimate for officers' quarters at Sitka, Alaska, etc.	94	4361
415.	Schedule of useless papers in Interior Department	94	4361
416.	Deficiency estimate of contingent expenses of President of U.S.	94	4361
417.	To reimburse Oscar F. Long	94	4361
418.	Deficiency estimate for printing and binding for Post-Office Department	94	4361
419.	Petition from Guam relating to permanent government	94	4361
420.	Findings of Court of Claims in case of admr. of Susan Hoffman	94	4361
421.	Findings of Court of Claims in case of Andrew H. Reinhart	94	4361
422.	Findings of Court of Claims in case of exrs. of Jacob Avey	94	4361

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
423.	Findings of Court of Claims in case of admr. of Benjamin A. Hummer	94	4361
424.	Estimate for naval station at Cavite, P.I.	94	4361
425.	Appropriation to reimburse Major Bellinger, quartermaster, for expenditure made in restoring steamship Fanita	94	4361
426.	Estimate for National Soldiers' Home at Johnson City, Tenn.	94	4361
427.	Findings of Court of Claims in case of John T. Cunnyngham	94	4361
428.	Ownership of real estate in Cuba	94	4361
429.	Fire escapes for appraisers' warehouse building, New York City	94	4361
430.	Publications of Naval Observatory, 2d series, v. 2	96	4363
431.	Report of Excise Board, D.C., Oct. 31, 1901	94	4361
432.	Findings of Court of Claims in case of schooner Betsey and Lucy	94	4361
433.	Deficiency estimate for cleaning streets in D.C.	94	4361
434.	Estimate for education in Alaska	94	4361
435.	Deficiency estimate for Government Hospital for Insane	94	4361
436.	Estimate for temporary quarters for public offices, Los Angeles, Cal.	94	4361
437.	Papers relating to claim of John and David West	94	4361
438.	Estimate for improvement of Howard Park, D.C.	94	4361
439.	Estimate for wagon for office of sealer of weights and measures, D.C.	94	4361
440.	Civilian engineers employed in river and harbor work, 1901	94	4361
441.	Establishment of lighthouse districts in Porto Rico and Alaska	94	4361
442.	Findings of Court of Claims in case of heirs of Ephraim Riddlemoser	94	4361
443.	Letter recommending lighthouse and fog-signal at Hunts Point, N.Y.	94	4361
444.	Deficiency estimate for printing and binding for War Department	94	4361
445.	Estimate of appropriation for Naval Training Station, Newport, R.I.	94	4361
446.	Estimate for new hospital at Fort Totten, N.Y.	94	4361
447.	Findings of Court of Claims in case of schooner Friendship	94	4361
448.	Final report on survey of Ouachita and Black rivers, Ark. and La.	94	4361
449.	Cost of manufacture of guns at various arsenals, 1901	94	4361
450.	Condolences from Portugal on death of President McKinley	94	4361
451.	Recommending addition to court-house and post-office in New York City	94	4361
452.	Agreement and memorial of Kaw Indians of Oklahoma	94	4361
453.	Estimate for Sandy Hook Proving Ground, New Jersey	94	4361
454.	Estimate for printing and binding for Department of Agriculture	94	4361
455.	Device to file money-order statements for auditor for Post-Office Dept.	94	4361
456.	Request that Manual of surveying instructions be legalized	94	4361
457.	Findings of Court of Claims in case of David G. Orr	94	4361
458.	Findings of Court of Claims in case of admr. of Mark Cadle	94	4361
459.	Findings of Court of Claims in case of William B. Horner	94	4361
460.	Findings of Court of Claims in case of admrx. of Murtha Walsh	94	4361
461.	Geol. Surv. bull. 179; Bibliography of fossil vertebrata	97	4364
462.	Geol. Surv. bull. 180; Occurrence and distribution of corundum in U.S.	98	4365
463.	Geol. Surv. bull. 181; Primary triangulation and primary traverse, 1901	98	4365
464.	Geol. Surv. bull. 182; Report on economic geology of Silverton quadrangle, Colorado	98	4365
465.	Geol. Surv. bull. 183; Gazetteer of Porto Rico	98	4365
466.	Geol. Surv. bull. 184; Oil and gas fields of western interior coal measures, etc.	98	4365
467.	Geol. Surv. bull. 185; Results of spirit leveling, 1901	99	4366
468.	Geol. Surv. bull. 186; On pyrite and marcasite	99	4366
469.	Geol. Surv. bull. 187; Geographic dictionary of Alaska	99	4366
470.	Geol. Surv. bull. 188; Bibliography of North American geology, 1892-1900	100	4367
471.	Geol. Surv. bull. 189; Index to North American geology, 1892-1900	100	4367
472.	Geol. Surv. bull. 190; Gazetteer of Texas	101	4368
473.	Geol. Surv. bull. 191; North American geologic formation names	101	4368
474.	Geol. Surv. bull. 192; Gazetteer of Cuba	101	4368
475.	Geol. Surv. bull. 193; Geological relations and distribution of platinum, etc.	101	4368
476.	Relating to old court-house and post-office building, Indianapolis, Ind.	94	4361
477.	Refund of revenues on importations from Porto Rico and Philippines	94	4361
478.	Papers relating to claim of Louis Koers	94	4361
479.	Proposed law relating to buildings at Perry and Kingfisher, Okla.	94	4361
480.	Estimate for penitentiary at Atlanta, Ga.	94	4361
481.	Water-supply papers 61; deep borings in U.S., pt. 2	61	4328
482.	Water-supply papers 62; hydrography of southern Appalachian region, pt. 1	61	4328
483.	Water-supply papers 63; hydrography of southern Appalachian region, pt. 2	61	4328
484.	Water-supply papers 64; accuracy of stream measurements	61	4328
485.	Proceedings of Court of Inquiry into conduct of Rear Admiral Winfield Schley in harbor of Santiago, 2 vols.	103	4370
485.	Proceedings of Court of Inquiry into conduct of Rear Admiral Winfield Schley in harbor of Santiago, 2 vols.	104	4371
486.	Urgent deficiency estimate for construction and repair of hospitals	94	4361
487.	Deficiency estimate for printing and binding for Library of Congress	94	4361
488.	Estimate for purchase of land at Fort Leavenworth reservation, Kansas	94	4361
489.	Estimate for enlarging facilities at powder depot near Dover, N.J.	94	4361
490.	Recommending new light and fog signal at Oakland, Cal.	94	4361
491.	Estimate for clearing Potomac River of ice annually, etc.	94	4361
492.	Urgent deficiency estimate for Marine Corps	94	4361
493.	Condition of Warner's Ranch and other Mission Indians of California	94	4361
494.	Findings of Court of Claims in case of admr. of Andrew McWilliams	94	4361
495.	Deficiency estimate for Geological Survey	94	4361
496.	Urgent deficiency estimate for plans for public buildings	94	4361
497.	Deficiency estimate for National Soldiers' Home at Hampton, Va.	94	4361
498.	Findings of Court of Claims in case of admrx. of Benjamin F. Trowell	94	4361
499.	Findings of Court of Claims in case of ship James and William	94	4361
500.	Draft of bill for extension of Yellowstone Park	94	4361
501.	Findings of Court of Claims in case of Mary E. O. Dashiell	94	4361

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
502.	Estimate for fish hatchery at San Marcos, Tex.	94	4361
503.	For increase of salaries of 7 chiefs of bureaus of State Department	94	4361
504.	Findings of Court of Claims in case of admr. of Leroy L. Hill	94	4361
505.	Reimbursement of S. J. Bayard Schindel	94	4361
506.	Estimate for officers' quarters at Rock Island Arsenal	94	4361
507.	Deficiency estimate for printing and binding for Dept. of Agriculture	94	4361
508.	Tests of metals at Watertown Arsenal, 1901	105	4372
509.	Resolution of Porto Rico Executive Council on postal savings-banks	94	4361
510.	Report of Committee on Awards of World's Columbian Commission, 2 vols.	106	4373
510.	Report of Committee on Awards of World's Columbian Commission, 2 vols.	107	4374
511.	Proposed agreement with Creek Indians in Indian Territory	94	4361
512.	Agreement with Choctaw and Chickasaw Indians in Indian Territory	94	4361
513.	Estimate for addition to Fort Taylor, Fla.	94	4361
514.	Estimate for forage, Marine Corps	94	4361
515.	Estimate for construction of military post at Des Moines, Iowa	94	4361
516.	Estimate for pumping plant at Industrial Home School, D.C.	94	4361
517.	Recommending appropriation for Military Academy	94	4361
518.	Request of Gen. Miles to be assigned to duty in Philippines	94	4361
519.	To pay employees on Govt. Printing Office building for Sept. 17-19, 1901	94	4361
520.	Estimate for mint at San Francisco, Cal.	94	4361
521.	Findings of Ct. of Cls. in case of Dorcas, Elizabeth, and Samuel McCammon	94	4361
522.	System of taxation to provide free schools in Indian Territory	94	4361
523.	Claim of Daniel Lewis	94	4361
524.	Estimate for defense of suits before Spanish Treaty Claims Commission	94	4361
525.	Exports declared for United States, 1901, Oct.-Dec.	58	4325
526.	Additional estimate for rapid-fire guns	94	4361
527.	Findings of Court of Claims in case of William S. Tildon	94	4361
528.	Estimate for improvements and repairs, D.C.	94	4361
529.	Ownership of land in Cuba by aliens	94	4361
530.	Increase of salary of consul at Odessa, Russia	94	4361
531.	To authorize sale of timber on Jicarilla Apache Reservation, Arizona and New Mexico	94	4361
532.	Agreement with Chippewa Indians of Red Lake Reservation in Minnesota	94	4361
533.	Findings of Court of Claims in case of admrx. of Frederick Read	94	4361
534.	Annual report of American National Red Cross, 1901	94	4361
535.	Reciprocity with Cuba, hearings before Ways and Means Committee	108	4375
536.	Estimate for quarters for marines on island of Culebra	94	4361
537.	Investigations of conduct of Army Transport Service to Manila. 2 pts.	109	4376
538.	Impossibility of furnishing report of improvements in Missouri River	94	4361
539.	Request for retirement of George M. Sternberg, Surgeon-General of Army, as major-general	94	4361
540.	To permit construction of batteries for mortars	94	4361
541.	Findings of Court of Claims in case of Hermann Graef	94	4361
542.	Findings of Court of Claims in case of exrs. of Allen Black	94	4361
543.	Findings of Court of Claims in case of heirs of James Jennings	94	4361
544.	Findings of Court of Claims in case of heir of Emeline P. Hutchins	94	4361
545.	Estimate for public schools and Health Department, D.C.	94	4361
546.	Findings of Court of Claims in case of John W. Reeser	94	4361
547.	Estimate for quarantine station at Portland, Me.	94	4361
548.	Findings of Court of Claims in case of schooner George and Jane	94	4361
549.	Supplemental estimate for Columbia Hospital for Women, D.C.	94	4361
550.	Estimate for military prison at Alcatraz Island, Cal.	94	4361
551.	Estimate for protection of Orient Point light station, Long Island, N.Y.	94	4361
552.	Memorial from Cherokee Indians, with bill for allotment of lands in Indian Territory	94	4361
553.	Consular Reports, v. 69, May-Aug. 1902, nos. 260-263	67	4334
554.	Claim of Harry C. Claiborne	94	4361
555.	Additional storage space, Marine Corps, Philadelphia, Pa.	94	4361
556.	History of project for bridge across Potomac River as memorial to enlisted men of Civil War	94	4361
557.	American Republics Bureau, annual report of director, 1901	90	4357
557.	American Republics Bureau: Geographical sketch of Brazil [following p. xv]	90	4357
557.	American Republics Bureau: Report on coffee, with special reference to Costa Rican product [following p. 233]	90	4357
558.	Allotment of lands on Pottawatomie and Kickapoo reservations in Kansas	94	4361
559.	Reimbursement of H. B. Riden and William W. Thompson	94	4361
560.	Estimate for pianos for new school buildings, D.C.	94	4361
561.	Estimate for repairs at Rockland Lake light, Hudson River, N.Y.	94	4361
562.	Protest of Chinese Government against exclusion of Chinese from Philippines	94	4361
563.	State of Cuban sugar crop	94	4361
564.	Estimate for improvement of Govt. lot, Mt. Moriah Cemetery, Philadelphia	94	4361
565.	Findings of Court of Claims in case of admr. of E. E. Cooper	94	4361
566.	Findings of Court of Claims in case of admr. of John T. Gray	94	4361
567.	Veto of bill to pension Thomas F. Walter	94	4361
568.	Shipments of horses, mules, and other supplies from Louisiana to South Africa	110	4377
569.	Estimate for payment of claims for rebate on tobacco and snuff	110	4377
570.	Estimate for land for road to Schooner Ledge light station, Pa.	110	4377
571.	Conclusions regarding receipts and expenditures of Texas, on account of Greer County, 2 pts.	110	4377
572.	Supplemental appropriation in suit of Thornton and De Rochblave	110	4377
573.	Recommendations as to condition of House document room	110	4377
574.	Additional estimate for buildings at Forts Myer and Ethan Allen	110	4377
575.	Estimate for sea wall at Fort Morgan, Ala.	110	4377
576.	Investigations as to British encroachments in Alaska in progress	110	4377
577.	Claim of Independent Line for damages to steamer Manatee	110	4377
578.	Reduction of duty on sugar in Philippine Islands	110	4377
579.	Findings of Court of Claims in case of admr. of C. F. Cunningham	110	4377

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
580.	Relinquishment of land to Winthrop, Mass., for roadway	110	4377
581.	Additional estimate for improvements and repairs on streets, D.C.	110	4377
582.	Disposition of useless papers in War Department	110	4377
583.	Estimate for dedication of statue of Rochambeau in D.C.	110	4377
584.	Estimate for contingent expenses of diplomatic and consular service	110	4377
585.	Findings of Court of Claims in case of admrx. of Jacob Eberhardt	110	4377
586.	Report on extension of Capitol building and renovation of rotunda	110	4377
587.	Findings of Court of Claims in case of heirs of Mary Dees	110	4377
588.	Deficiency estimates	41	4308
589.	Claims allowed under appropriations exhausted, etc.	110	4377
590.	Treatment by Russia of American citizens of Jewish faith	110	4377
591.	Findings of Court of Claims in case of John S. Watkins	110	4377
592.	Judgments of Court of Claims requiring appropriation	110	4377
593.	Judgment by circuit court of U.S. in favor of John B. Suttles, Jr.	110	4377
594.	Patent Office decisions, 1901	111	4378
595.	Draft of bill for relief of Samuel B. Bootes	110	4377
596.	Instructions for government of armies of U.S. in the field, etc.	110	4377
597.	Urging joint resolution to print Report on testing hydraulic cements	110	4377
598.	Relief of W. H. H. Benyaurd, F. A. Mahan, and C. H. McKinstry	110	4377
599.	Persons on registers of Civil Service Commission eligible to appointment, etc.	110	4377
600.	Recommendations as to balance of appropriation for Paris Exposition	110	4377
601.	Presidential message for relief of people of Martinique and St. Vincent	110	4377
602.	Deficiency in appropriation for school at Sac and Fox Agency, Iowa	110	4377
603.	Mileage of officers of Revenue Cutter Service detailed for duty in Life-Saving Service	110	4377
604.	Estimate for survey of boundaries of Colorado, N.Mex., and Okla.	110	4377
605.	Special report of Mountain Meadows massacre, by J. H. Carleton; reprint of 1859 report alleging responsibility of Mormons for murder of Arkansas emigrants passing through Utah in 1857	110	4377
606.	Findings of Court of Claims in case of William E. Carhart	110	4377
607.	Relief of Delos K. Lonewolf	110	4377
608.	Claims of legal representatives of Brownlow and Haws, and others	110	4377
609.	Findings of Court of Claims in case of heir of Eliza Wood	110	4377
610.	Hearing on agricultural lands in Alaska	110	4377
611.	Letters from Colombian minister and other correspondence on interoceanic canal	110	4377
612.	Veto of bill for relief of Harry C. Mix	110	4377
613.	Estimate to satisfy judgment in favor of Rachel A. P. Dyer	110	4377
614.	Estimate for rental of quarters for National Standards Bureau	110	4377
615.	Thanks of French Government for relief of people of Martinique	110	4377
616.	Findings of Court of Claims in case of admr. of Hugh B. Porter	110	4377
617.	Deficiency estimate for surveying Fort Buford military reservation, North Dakota	110	4377
618.	Sites for military posts and camp grounds	112	4379
619.	Findings of Court of Claims in case of admr. of Turner Vaughan	110	4377
620.	Calendar of correspondence of James Monroe in State Department, 2 pts.	113	4380
621.	Calendar of correspondence of James Madison in State Department, 2 pts.	114	4381
622.	Calendar of correspondence of Thomas Jefferson in State Department, pt. 1: Letters from Jefferson	115	4382
622.	Calendar of correspondence of Thomas Jefferson in State Department, pt. 2: Letters to Jefferson	116	4383
623.	Findings of Court of Claims in case of admr. of Asa Tucker	110	4377
624.	Deficiency estimate for Department of Justice	110	4377
625.	Improvements at Ellis Island station	110	4377
626.	To pay claim of John Stewart	110	4377
627.	Papers relating to claim of Herman Uthoff	110	4377
628.	Tests of Gathmann torpedo gun and 12-inch army rifle	110	4377
629.	Disposition of useless papers in Ordnance Department	110	4377
630.	Estimates for repair of Naval Laboratory, Brooklyn, N.Y.	110	4377
631.	Claim of estate of George L. Febiger	110	4377
632.	Findings of Court of Claims in case of admr. of Martha W. Lansden	110	4377
633.	Findings of Court of Claims in case of William A. Walker	110	4377
634.	Findings of Court of Claims in case of admrx. of John N. Slosson	110	4377
635.	Geol. Surv. bull. 194; Northwest boundary of Texas	102	4369
636.	Revision of Government salary tables	110	4377
637.	Findings of Court of Claims in case of admrx. of Wiley J. Jamison	110	4377
638.	Information as to buildings in U.S. owned or rented by Government	110	4377
639.	Exports declared for United States, 1900, July-1901, June	58	4325
640.	Estimate for electrical devices in vaults in certain public buildings	110	4377
641.	Additional deficiency estimate for collecting revenue from customs	110	4377
642.	Communications relating to Gasparilla Island military reservation, Florida	110	4377
643.	Report of board on adjustment of Osage traders' claims	110	4377
644.	Claim of Alaska Commercial Co. for logs purchased by Ralph McCoy	110	4377
645.	Communications of Navy Department in relation to bombardment of Taku forts in China	110	4377
646.	Estimate for expenses in matter of Pious fund of the Californias	110	4377
647.	Additional deficiency estimate for stationery for Treasury Department	110	4377
648.	Deficiency estimate for Department of Justice	110	4377
649.	Report of investigation of alleged British supply camp in Louisiana	110	4377
650.	Estimate for payment of B. A. Nymeyer for surveys of public lands	110	4377
651.	Deficiency estimate for employees on Washington Aqueduct, etc.	110	4377
652.	Funds of commission to Paris Exposition, 1900	110	4377
653.	Estimate for rent and other expenses of Treasury Department	110	4377
654.	Claim of Michigan for interest on money paid during Civil War	110	4377
655.	Field operations of Division of Soils, 1901	117	4384
656.	Credit in accounts of Marion P. Maus	110	4377
657.	Estimate for road to national cemetery, Balls Bluff, Va.	110	4377

LEGISLATIVE INTENT SERVICE (800) 666-1917

No.		Vol.	Serial
658.	Letter relating to road to national cemetery, Balls Bluff, Va.	110	4377
659.	Claims of Ohio and Illinois for interest on money paid during Civil War	110	4377
660.	Judgments in cases of U.S. v. Simon Marks et al.	110	4377
661.	Yearbook of Department of Agriculture, 1901	118	4385
662.	Estimate for purchase of dictionary of Spanish language	110	4377
663.	Estimate for steam launch for penitentiary at McNeils Island, Washington	110	4377
664.	Estimate for rental of temporary quarters at Springfield, Ill.	110	4377
665.	Findings of Court of Claims in case of admr. of Septimus Brown	110	4377
666.	Letter relating to printing of U.S. maps	110	4377
667.	Estimate for purchase of collection of butterflies and moths of Hermann Strecker	110	4377
668.	Deficiency estimate for contingent expenses of Justice Department	110	4377
669.	Estimate for court-house and jail at Juneau, Alaska	110	4377
670.	Estimate for vaults in public building at St. Paul, Minn.	110	4377
671.	Report of surveys and examination of Uinta Valley Reservation, Utah	110	4377
672.	American citizens detained by British authorities as prisoners of war	110	4377
673.	Findings of Court of Claims in case of admr. of Philip J. Buckey	110	4377
674.	Claim of St. Charles College, Mo.	110	4377
675.	Public property of Doorkeeper of House, 1901	110	4377
676.	Receipt and distribution of public documents by Treasury Dept., 1901	110	4377
677.	Sale of waste paper by Doorkeeper of House	110	4377
678.	Promotions in Army of officers retired within 1 year after promotion	110	4377
679.	Payments to F. B. Thurber and others out of Cuban funds for purpose of advocating reciprocal reduction in tariff	110	4377
680.	Calendars of House, July 1, 1902	119	4386
681.	Naval War Records, series 1, vol. 14: South Atlantic blockading squadron, Apr.-Sept. 1863	86	4353
682.	Annual report of Bureau of Animal Industry, 1901	120	4387
683.	Exports declared for United States, 1902, Jan.-Mar.	58	4325
684.	Water-supply papers 65; operations at river stations, 1901, pt. 1	62	4329
685.	Water-supply papers 66; operations at river stations, 1901, pt. 2	62	4329
686.	Water-supply papers 67; motions of underground waters	62	4329
687.	Water-supply papers 68; water storage in Truckee Basin, Cal.-Nev.	62	4329
688.	Water-supply papers 69; water-powers of Maine	62	4329
689.	Water-supply papers 70; geology, etc., of Patrick and Goshen Hole quadrangles, Wyoming and Nebraska	62	4329
690.	Water-supply papers 71; irrigation systems of Texas	62	4329
691.	Water-supply papers 72; sewage pollution near New York City	62	4329
692.	Water-supply papers 73; water storage on Salt River, Ariz.	62	4329
693.	Geol. Surv. bull. 195; Structural details in Green Mountain region, Vermont and eastern New York	102	4369
694.	Geol. Surv. bull. 196; Topographic development of Klamath Mountains, Oregon and California	102	4369
695.	Geol. Surv. bull. 197; Origin of certain place names in U.S.	102	4369
696.	Geol. Surv. bull. 198; Berea grit oil sand in Cadiz quadrangle, Ohio	102	4369
697.	Geol. Surv. bull. 199; Geology and water resources of Snake River Plains of Idaho	102	4369
698.	Geol. Surv. bull. 200; Borax deposits of Death Valley and Mohave Desert	102	4369
699.	Geol. Surv. bull. 201; Primary triangulation and primary traverse, 1902	102	4369
700.	Geol. Surv. bull. 202; Tests for gold and silver in shales from western Kansas	102	4369
701.	Geol. Surv. bull. 203; Bibliography and index of North American geology, 1901	102	4369
702.	Annual report of American Historical Association, 1901, vol. 1	121	4388
702.	Annual report of American Historical Association, 1901, vol. 2, pt. 1: Georgia and state rights, monograph by Ulrich B. Phillips	122	4389
702.	Annual report of American Historical Association, 1901, vol. 2, pt. 2: Report of Public Archives Commission	122	4389
703.	Annual report of Civil Service Commission, 1901	123	4390
704.	Army register, 1902	83	4350
705.	Report of Fish Commission, 1901	124	4391
706.	Fish Commission bulletin, v. 21, 1901	125	4392
707.	Report of Smithsonian Institution, 1901, pt. 1	126	4393
707.	Report of Smithsonian Institution, 1901, pt. 2; National Museum	127	4394
708.	Special Consular Reports, v. 23, pt. 1; gas and oil engines in foreign countries	69	4336
708.	Special Consular Reports, v. 23, pt. 2; silver and plated ware in foreign countries	69	4336
709.	Annual report of Bureau of Ethnology, 1899; Report of Director, and paper on aboriginal pottery of eastern United States	128	4395
710.	Consular Reports, v. 70, Sept.-Dec. 1902, nos. 264-267	68	4335
711.	Memorial addresses on Amos J. Cummings, Representative from New York	129	4396
712.	Memorial addresses on Marriott Brosius, Representative from Pennsylvania	129	4396
713.	Memorial addresses on J. William Stokes, Representative from South Carolina	129	4396
714.	Memorial addresses on Peter J. Otey, Representative from Virginia	129	4396
715.	Memorial addresses on Robert E. Burke, Representative from Texas	129	4396
716.	Memorial addresses on Rufus K. Polk, Representative from Pennsylvania	129	4396
717.	Official opinions of Attorneys-General, v. 23	130	4397
718.	Document index, 57th Congress, 1st session	131	4398

57th Congress, 2d Session
Dec. 1, 1902 – Mar. 4, 1903

Senate Reports

No.		Vol.	Serial
2127.	Relief of Emilie L. Major and others	1	4410
2128.	Relief of I. Winslow Ayer	1	4410
2129.	To promote efficiency of militia	1	4410
2130.	Increase of pension for Arthur P. Lovejoy	1	4410
2131.	Pension for Emily S. Barrett	1	4410
2132.	Increase of pension for John Robinson	1	4410
2133.	Increase of pension for Allen M. Ripley	1	4410
2134.	Increase of pension for Mary A. Noyes	1	4410
2135.	Increase of pension for Charles C. Chesley	1	4410
2136.	Pension for Rachel E. Bullard	1	4410
2137.	Increase of pension for Ann A. Hersum	1	4410
2138.	Increase of pension for Ephraim Cunningham	1	4410

LEGISLATIVE INTENT SERVICE (800) 666-1917

CIS US SERIAL SET INDEX

PART V

55TH-57TH CONGRESSES

1897-1903

Congressional Information Service, Inc. Washington, D.C.

LEGISLATIVE INTENT SERVICE (800) 666-1917

PATCHOGUE RIVER
Calling for plans for dredging Patchogue River, Long Island
H.rp. 207 (55-2) 3717
Examination and survey of Great South Bay and Patchogue River, New York
H.doc. 103 (56-2) 4135
Examination of Patchogue River and Great South Bay, N.Y.
H.doc. 133 (56-1) 3959
Examination of Patchogue River, N.Y.
H.doc. 171 (56-1) 3959
PATENT
see also Invention
see also Patent Office
see also Patentees
see also Patents (land)
Classification of patents
S.rp. 780 (55-2) 3622; H.rp. 285 (55-2) 3718; H.rp. 1272 (55-2) 3721
Estimate for purchase of patent of G. Gerdom for gas-check. 2 pts.
H.doc. 123 (55-3) 3807
Extension for 10 years of patent for art of wireless telegraphy, etc.
S.doc. 346 (57-1) 4245
For commissioners to revise patent laws
S.rp. 1115 (55-2) 3625; H.rp. 1256 (55-2) 3721
Granting extension of patent to Mary J. Day for improvement in ironing board
S.rp. 1116 (55-2) 3625; H.rp. 1065 (55-2) 3720
Granting I. T. Thrash extension of patent for medical composition
H.rp. 1288 (55-2) 3721
Hearing on application by Alphonso B. Bowers for extension of patents
S.doc. 431 (57-1) 4247
Letter on use by U.S. of patents invented by its naval officers
S.doc. 54 (56-1) 3848
Limiting terms of patents by terms of prior foreign patents
H.rp. 2614 (56-2) 4213
Not to grant patents for methods in dentistry, medicine, and surgery
H.rp. 2702 (57-1) 4407
Place of deposit of patent specifications in western Pennsylvania
S.rp. 1294 (57-1) 4262; H.rp. 780 (57-1) 4402
Preliminary report of Patent and Trade-mark Laws Commission
S.doc. 43 (56-1) 3846
Purchase of Gerdom patent gas-check for breech-loading guns
H.doc. 127 (56-1) 3959
Relief of assignees of Addison C. Fletcher for use of patent
S.rp. 879 (55-2) 3622; H.rp. 787 (55-2) 3719; H.rp. 1667 (55-3) 3840; S.rp. 630 (56-1) 3889; S.rp. 2102 (57-1) 4264
Relief of Berdan Firearms Manufacturing Company for use of patent
S.rp. 1653 (55-3) 3739
Relief of heirs of E. S. Allin and U.S. Regulation Firearms Co. for use of patent
S.rp. 1938 (56-2) 4064
Report of Patent and Trade-mark Laws Commission
S.doc. 20 (56-2) 4031
To allow temporary injunctions in patent cases
H.rp. 2967 (57-2) 4413
To amend Revised Statutes relating to patents
H.rp. 410 (55-2) 3718; H.rp. 1535 (55-2) 3722
To amend section of Revised Statutes on design patents
S.rp. 1139 (57-1) 4261
To amend section of Revised Statutes relating to design patents
H.rp. 1661 (57-1) 4404
To buy patent of Beverly Kennon for counterpoise battery
S.rp. 691 (55-2) 3622
To extend patent of James H. Burnam
S.rp. 1558 (56-1) 3895; H.rp. 1284 (56-1) 4025
To extend patent to Daniel T. Lawson
H.rp. 2124 (55-3) 3841
To extend patent to Sarah A. Hoskins
H.rp. 2102 (55-3) 3841
To extend patents of Seth H. Smith
H.rp. 2072 (55-3) 3841; H.rp. 565 (56-1) 4023
To let guardian of inventor who has become insane apply for patent
H.rp. 1133 (55-2) 3720
To omit signature of Secretary of Interior from letters patent
H.rp. 779 (57-1) 4402
To omit signature of Secretary of Interior from letters patent for inventors
H.doc. 400 (57-1) 4361
To omit signature of Secretary of Interior from patents
S.rp. 873 (57-1) 4260
To purchase patent of Gregory Gerdom
S.rp. 1309 (55-2) 3627
Use by Navy Dept. of breech mechanism under patent of Frank F. Fletcher
S.doc. 42 (55-3) 3728
Use by U.S. of patents invented by naval officers
S.rp. 215 (56-1) 3886; S.rp. 122 (57-1) 4257
Use by War Dept. of breech mechanism under Fletcher's patent
S.doc. 44 (55-3) 3728
PATENT OFFICE
Annual report of Commissioner of Patents, 1897, p. 3
H.doc. 5 (55-2) 3642
Annual report of Commissioner of Patents, 1898, p. 91
H.doc. 5 (55-3) 3758
Annual report of Commissioner of Patents, 1899, p. 5
H.doc. 5 (56-1) 3917
Annual report of Commissioner of Patents, 1900, p. 5
H.doc. 5 (56-2) 4103
Annual report of Commissioner of Patents, 1901, p. 5
H.doc. 5 (57-1) 4292
Annual report of Commissioner of Patents, 1902, p. 5
H.doc. 5 (57-2) 4460
Commissioner of Patents to control registration of names of transportation companies
S.rp. 2482 (56-2) 4067; H.rp. 2737 (56-2) 4214; S.rp. 983 (57-1) 4261
Deficiency estimate for Patent Office
H.doc. 216 (57-1) 4337
Deficiency estimate for postage for Patent Office
H.doc. 223 (55-2) 3679
Deficiency estimates for Patent Office
H.doc. 193 (55-3) 3812; H.doc. 333 (56-2) 4155
Estimate for elevator in Patent Office building
H.doc. 567 (56-1) 3995
Estimate of appropriation for additional employees in Patent Office
H.doc. 357 (57-1) 4337
Estimates for salaries of additional employees in Patent Office, 1899
H.doc. 531 (55-2) 3692
Issuance of letters rogatory by commissioner of patents, etc.
H.rp. 3142 (57-2) 4413
Patent Office decisions, 1897
H.doc. 566 (55-2) 3701
Patent Office decisions, 1898
H.doc. 310 (55-3) 3835
Patent Office decisions, 1899
H.doc. 710 (56-1) 4003
Patent Office decisions, 1900
H.doc. 518 (56-2) 4178
Patent Office decisions, 1901
H.doc. 594 (57-1) 4378
Patent Office decisions, 1902
H.doc. 460 (57-2) 4541
Patent Office deficiency estimate for postage to foreign countries
H.doc. 681 (56-1) 4000
Patent Office deficiency estimates for postage to foreign countries
S.doc. 202 (56-1) 3854
Patent Office, 1897, with indexes
S.doc. 185 (55-2) 3609
Patent Office, 1898, with indexes
S.doc. 104 (55-3) 3733
Patent Office, 1899, with indexes
S.doc. 185 (56-1) 3855
Patent Office, 1900, with indexes
S.doc. 138 (56-2) 4041

LEGISLATIVE INTENT SERVICE (800) 666-1917

Patent Office, 1901, with indexes
S.doc. 151 (57-1) 4232
Patent Office, 1902, with indexes
H.doc. 342 (57-2) 4527
Urgent deficiency estimates for Patent Office
H.doc. 269 (56-1) 3976

PATENTEES
Estimate for printing index of patentees, 1790-1873
S.doc. 135 (55-3) 3735

PATENTS (LAND)
Estimate for indexing patent records of General Land Office
H.doc. 449 (55-2) 3692
Hearings as to lands patented to Pacific railroads, etc.
S.rp. 1171 (55-2) 3625
Issue of patent to Clallam County, Wash.
S.rp. 949 (57-1) 4261; H.rp. 593 (57-1) 4401; H.rp. 1645 (57-1) 4404
Issue of patent to town site to Basin, Wyo.
S.rp. 845 (57-1) 4260; H.rp. 594 (57-1) 4401
Patents for settlers in Florida under armed-occupation act
S.rp. 157 (55-1) 3570
Recorder of General Land Office to issue copies of patents, etc.
H.rp. 3873 (57-2) 4415
To issue patent to Buffalo, Wyo., for certain lands
H.rp. 3777 (57-2) 4415
To issue patent to land to Elreno, Okla., for cemetery purposes
S.rp. 717 (56-1) 3889; H.rp. 403 (56-1) 4022
To issue patents to Indians of Siletz Reservation in Oregon for lands above 80 acres
H.rp. 791 (56-1) 4023
Women not to forfeit homestead patent by marriage
S.rp. 1333 (56-1) 3894; H.rp. 779 (56-1) 4023

PATHOLOGIST
Estimate for dental pathologist to Army Medical Museum
H.doc. 210 (55-2) 3679

PATRICK QUADRANGLE
Water-supply papers 70; geology, etc., of Patrick and Goshen Hole quadrangles, Wyoming and Nebraska
H.doc. 689 (57-1) 4329

PATRIOT (SHIP)
Findings of Court of Claims in case of brig Patriot
H.doc. 411 (57-2) 4531

PATRIOTIC
see also list of terms under Commemoration
Patriotic studies, outline for study of legislative and other questions
S.doc. 53 (57-2) 4420
Recognizing patriotic benevolence of Helen M. Gould for her gifts and services to wounded soldiers
S.rp. 1656 (55-3) 3739

PATROLS
Appropriation for renewal of patrol system, D.C.
H.doc. 11 (55-1) 3571
Patrols for protection of timber on ceded Chippewa reservations, Minn.
H.doc. 82 (57-1) 4322

PATRONS
Advisability of purchasing letter-boxes for patrons on free delivery routes
S.doc. 378 (57-1) 4245
To fix age limit of patrons of billiard and pool tables in D.C.
S.rp. 554 (57-1) 4259; H.rp. 1546 (57-1) 4404

PATTERSON, JOSIAH
Contest of Patterson v. Carmack, Tennessee, with minority report
H.rp. 895 (55-2) 3720

PATTERSON (SHIP)
Repairs on steamers Blake and Patterson
H.doc. 223 (56-1) 3974

PATTY (SHIP)
Findings of Court of Claims in case of brig Patty
S.doc. 197 (57-1) 4234

PATUXENT RIVER
Examination and survey of Patuxent River, Md., at Bristol Bar
H.doc. 170 (56-1) 3959

PAUPER
see also Destitute
see also Indigent
see also Poor
Laboratory for study of criminal, pauper, and defective classes
S.rp. 2668 (57-2) 4411; H.rp. 3172 (57-2) 4414
Steel trust both prince and pauper, paper by Byron W. Holt
S.doc. 436 (57-1) 4249

PAVEMENT
Letter on paving roadway adjacent to Census Office
S.doc. 44 (56-2) 4033
To pave Wyoming avenue west of Connecticut avenue, D.C.
S.rp. 1669 (57-1) 4263
To pave 14th street and Lydecker avenue, D.C.
S.rp. 714 (56-1) 3889

PAWNEE
Sale of allotted lands by Pottawatomie, Pawnee, Peoria, and Miami Indians in Oklahoma
H.doc. 158 (55-3) 3807

PAWTUCKET RIVER
Examination and survey of Pawtucket or Seekonk River, R.I.
H.doc. 113 (56-1) 3959
Examination of Pawtucket or Seekonk River, R.I.
H.doc. 89 (56-2) 4135

PAY (WAGES)
see also Allowance (share)
see also Compensation
see also Differential
see also Emoluments
see also Longevity
see also Paymaster
see also Per diem
see also Salaries
see also Wages
see also list of terms under Payment
Additional deficiency estimate for pay of Army
H.doc. 350 (55-2) 3679
Additional estimate for pay of Army, 1899
H.doc. 343 (55-2) 3679
Allotments of pay of enlisted men
H.doc. 573 (56-1) 3995
Assignment of pay accounts by contract surgeons and dental surgeons
H.doc. 233 (57-2) 4496
Compilation of reports of Committee on Foreign Relations, 1789-1901, vol. 3: Claims against foreign countries; Claims against U.S. by U.S. citizens, foreign citizens, diplomatic and consular officers of U.S. for reimbursement and extra pay
S.doc. 231 (56-2) 4049
Deficiency estimate for pay, etc., of Army
H.doc. 344 (55-2) 3679
Deficiency estimate for pay, Marine Corps
H.doc. 474 (56-2) 4163
Deficiency estimate for pay, Navy Dept.
H.doc. 442 (55-2) 3692
Deficiency estimate for pay of Army
S.doc. 250 (55-2) 3611
Deficiency estimate for pay of enlisted men in Army
S.doc. 79 (55-1) 3562
Deficiency estimate for pay of Military Academy
H.doc. 550 (56-1) 3995; H.doc. 277 (56-2) 4155
Deficiency estimate for pay of Navy and Marine Corps
S.doc. 115 (55-1) 3562
Deficiency estimate under pay of Navy
S.doc. 307 (55-2) 3615
Detail and payment of gaugers, storekeeper-gaugers, etc.
H.doc. 418 (56-1) 3984
Estimate for excess pay of employees of War Dept.
H.doc. 482 (56-1) 3988

LEGISLATIVE INTENT SERVICE (800) 666-1917

57TH CONGRESS,
1ST SESSION.

S. 4647.

IN THE SENATE OF THE UNITED STATES.

MARCH 21, 1902.

MR. PRITCHARD introduced the following bill; which was read twice and referred to the Committee on Patents.

A BILL

To amend section forty-nine hundred and twenty-nine of the Revised Statutes, relating to design patents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and twenty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4929. Any person who has invented any new, original, and artistic design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country 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

LEGISLATIVE INTENT SERVICE (800) 666-1917

law and other due proceedings had, the same as in cases of inventions or discoveries covered by section forty-eight hundred and eighty-six, obtain a patent therefor."

57TH CONGRESS, 1ST SESSION. S. 4647.

A BILL

To amend section forty-nine hundred and twenty-nine of the Revised Statutes, relating to design patents.

By Mr. PRITCHARD.

MARCH 21, 1902.—Read twice and referred to the Committee on Patents.

LEGISLATIVE INTENT SERVICE (800) 666-1917

[Calendar No., 1147.

57TH CONGRESS,
1ST SESSION.

S. 4647.

[Report No. 1139.]

IN THE SENATE OF THE UNITED STATES.

MARCH 21, 1902.

Mr. PRITCHARD introduced the following bill; which was read twice and referred to the Committee on Patents.

APRIL 15, 1902.

Reported by Mr. MALLORY, with an amendment.

[Omit the part struck through and insert the part printed in italics.]

A BILL

To amend section forty-nine hundred and twenty-nine of the Revised Statutes, relating to design patents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and twenty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

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LEGISLATIVE INTENT SERVICE (800) 666-1917

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, the same as in cases of inventions or discoveries covered by section forty-eight hundred and eighty-six, obtain a patent therefor."

CALENDAR NO. 1147.

57TH CONGRESS, 1ST SESSION. } S. 4647.

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To amend section forty-nine hundred and twenty-nine of the Revised Statutes, relating to design patents.

By Mr. PRITCHARD.

MARCH 21, 1902.—Read twice and referred to the Committee on Patents.

APRIL 15, 1902.—Reported with an amendment.

LEGISLATIVE INTENT SERVICE (800) 666-1917

57TH CONGRESS,
1ST SESSION.

S. 4647.

IN THE HOUSE OF REPRESENTATIVES.

APRIL 21, 1902.

Referred to the Committee on Patents.

AN ACT

To amend section forty-nine hundred and twenty-nine of the Revised Statutes, relating to design patents.

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LEGISLATIVE INTENT SERVICE (800) 666-1917

fees required by law and other due proceedings had, the same as in cases of inventions or discoveries covered by section forty-eight hundred and eighty-six, obtain a patent therefor."

Passed the Senate April 19, 1902.

Attest: CHARLES G. BENNETT,
Secretary.

57TH CONGRESS, 1ST SESSION. } S. 4647.

AN ACT

To amend section forty-nine hundred and twenty-nine of the Revised Statutes, relating to design patents.

APRIL 21, 1902.—Referred to the Committee on Patents.

LEGISLATIVE INTENT SERVICE (800) 666-1917

CONGRESSIONAL RECORD

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

FIFTY-SEVENTH CONGRESS, FIRST SESSION;

ALSO

SPECIAL SESSION OF THE SENATE.

VOLUME XXXV.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1902.

LEGISLATIVE INTENT SERVICE (800) 666-1917

INDEX

TO THE

CONGRESSIONAL RECORD.

FIFTY-SEVENTH CONGRESS, FIRST SESSION.

FROM DECEMBER 2, 1901, TO JULY 1, 1902.

LEGISLATIVE INTENT SERVICE (800) 666-1917

HISTORY

OF

BILLS AND JOINT RESOLUTIONS.

SENATE BILLS.

S. 1—

To make uniform the obligations of all banks, to make certain the parity of all kinds of money, and to secure to the people in all sections of the country an equal opportunity to freely use paper money.

Mr. Hoar; Committee on Finance 120.

S. 2—

Relating to the election of Senators.

Mr. Hoar; Committee on Privileges and Elections 120.

S. 3—

For the protection of the President of the United States, and for other purposes.

Mr. Hoar; Committee on Judiciary 120.

S. 4—

To fix the salaries of the Vice-President and certain judges of the United States, and of the members of the two Houses of Congress.

Mr. Hoar; Committee on Judiciary 120.

S. 5—

For the relief of the legal representatives of Paul Curtis, deceased.

Mr. Hoar; Committee on Claims 120.—Reported back for reference to Court of Claims (S. REPORT 1942) 6897.

S. 6—

Granting an increase of pension to Charles H. Stone.

Mr. Hoar; Committee on Pensions 120.—Reported back with amendments (S. REPORT 605) 2292.—Passed Senate 2621.—Referred to House Committee on Invalid Pensions 2706.—Reported back (H. R. REPORT 1034) 2986.—Passed House 3382, 3400.—Examined and signed 3534, 3538.—Approved by President 4087.

S. 7—

Granting an increase of pension to William H. Thomas.

Mr. Hoar; Committee on Pensions 120.—Reported back with amendment.(S. REPORT 1581) 5617.—Passed Senate 5924.—Referred to House Committee on Invalid Pensions 6016.—Reported back (H. R. REPORT 2330) 6255.—Passed House 6823, 6834.—Examined and signed 7038, 7055.—Approved by President 7654.

S. 8—

Granting a pension to Sara B. Andrews.

Mr. Hoar; Committee on Pensions 120.—Reported back with amendments (S. REPORT 235) 993.—Passed Senate 1741.—Referred to House Committee on Invalid Pensions 1863.—Reported back with amendment (H. R. REPORT 859) 2607.—Passed House 2866, 2875.—Examined and signed 3034, 3040.—Approved by President 3449.

S. 9—

Granting an increase of pension to Mourse R. Adams.

Mr. Hoar; Committee on Pensions 120.—Reported back with amendment (S. REPORT 186) 749.—Amended and passed Senate 1111.—Referred to House Committee on Invalid Pensions, 1197.—Reported back (H. R. REPORT 505) 1723.—Passed House 2249, 2258.—Examined and signed 2334, 2357.—Approved by President 2564.

S. 10—

Granting a pension to Edwin Roswell.

Mr. Hoar; Committee on Pensions 120.—Reported back adversely (S. REPORT 675) and indefinitely postponed 2556.

S. 11—

Granting a pension to William Burns.

Mr. Hoar; Committee on Pensions 120.—Reported back adversely (S. REPORT 591) and indefinitely postponed 2292.

S. 12—

Granting a pension to Martha L. Laberass.

Mr. Hoar; Committee on Pensions 120.

S. 13—

Granting an increase of pension to George Daniels.

Mr. Hoar; Committee on Pensions 120.—Reported back with amendments (S. REPORT 607) 2292.—Passed Senate 2621.—Referred to House Committee on Invalid Pensions 2706.—Reported back (H. R. REPORT 1032) 2986.—Passed House 3382, 3400.—Examined and signed 3534, 3538.—Approved by President 4087.

S. 14—

Granting a pension to George F. Howe.

Mr. Hoar; Committee on Pensions 120.

S. 15—

Granting a pension to Erastus E. Edmunds.

Mr. Hoar; Committee on Pensions 120.

S. 16—

Granting a pension to Benjamin Eaton.

Mr. Hoar; Committee on Pensions 120.

S. 17—

Granting a pension to Elizabeth A. Collins.

Mr. Hoar; Committee on Pensions 120.

S. 18—

For the relief of the legal representatives of Napoleon B. Giddings.

Mr. Cockrell; Committee on Military Affairs 120.—Reported back (S. REPORT 55) 536.—Passed Senate 729.—Referred to House Committee on War Claims 776.—Reported back (H. R. REPORT 573) 2011.

S. 19—

For the relief of George A. Orr.

Mr. Cockrell; Committee on Military Affairs 120.—Reported back (S. REPORT 56) 536.—Passed Senate 729.—Referred to House Committee on War Claims 776.—Reported back with amendment (H. R. REPORT 190) 1102.—Senate requests House to return bill 6123.—House returns bill 6210.—Indefinitely postponed (see bill H. R. 8587) 6263.

S. 20—

For the relief of Joseph W. Carmack.

Mr. Cockrell; Committee on Military Affairs 120.—Reported back (S. REPORT 57) 536.—Passed Senate 729.—Referred to House Committee on War Claims 776.—Senate requests House to return bill 6188.—House returns bill 6254.—Reconsidered in Senate and indefinitely postponed (see bill H. R. 8587) 6365.

S. 21—

For the relief of John S. Neet, jr.

Mr. Cockrell; Committee on Military Affairs 120.—Reported back (S. REPORT 58) 536.—Passed Senate 730.—Referred to House Committee on War Claims 776.—Senate requests House to return bill 6188.—House returns bill 6254.—Reconsidered in Senate and indefinitely postponed (see bill H. R. 8587) 6365.

S. 22—

For the relief of Ezra S. Havens.

Mr. Cockrell; Committee on Military Affairs 120.—Reported back (S. REPORT 59) 536.—Passed Senate 730.—Referred to House Committee on War Claims 776.—Senate requests House to return bill 6188.—House returns bill 6254.—Reconsidered in Senate and indefinitely postponed (see bill H. R. 8587) 6365.

S. 23—

For the relief of Laura S. Gillingwaters.

Mr. Cockrell; Committee on Military Affairs 120.—Reported back (S. REPORT 60) 536.—Passed Senate 730.—Referred to House Committee on Military Affairs 776.

LEGISLATIVE INTENT SERVICE (800) 666-1917

S. 4629—
Granting an increase of pension to John Behymer.
Mr. Foraker; Committee on Pensions 3044.

S. 4630—
Granting an increase of pension to Martin Howe.
Mr. Foraker; Committee on Pensions 3044.

S. 4631—
Granting a pension to Charles E. Cole.
Mr. Foraker; Committee on Pensions 3044.

S. 4632—
Granting an increase of pension to Samuel Sines.
Mr. Foraker; Committee on Pensions 3044.

S. 4633—
Granting a pension to Charles Hoselton.
Mr. Foraker; Committee on Pensions 3044.

S. 4634—
Granting a pension to Robert Levitt.
Mr. Foraker; Committee on Pensions 3044.

S. 4635—
For the relief of the estates of Collins Adams and Lucy V. Weatherred, deceased.
Mr. Foster of Louisiana; Committee on Claims 3044.

S. 4636—
For the relief of the estate of Carroll Jones, deceased.
Mr. Foster of Louisiana; Committee on Claims 3044.

S. 4637—
For the relief of Francois Petitfils.
Mr. Foster of Louisiana; Committee on Claims 3044.

S. 4638—
Granting a pension to Helena Sudsberg.
Mr. McComas; Committee on Pensions 3044.—Reported back with amendment (S. REPORT 1211) 4510.—Passed Senate 4615.—Referred to House Committee on Invalid Pensions 4722.—Reported back (H. R. REPORT 2142) 5715.—Passed House 5886, 5896, 5930.—Examined and signed 6016, 6079.—Approved by President 6376.

S. 4639—
Granting an increase of pension to John W. Shetter.
Mr. Spooner; Committee on Pensions 3045.

S. 4640—
Removing the charge of desertion from the record of Robert V. Hancock.
Mr. Spooner; Committee on Military Affairs 3045.

S. 4641—
For the relief of Benjamin Franklin Handforth.
Mr. Deboe; Committee on Claims 3112.—Reference changed to Committee on Military Affairs 3873.—Reported back with amendments (S. REPORT 1564) and passed Senate 5536.—Referred to House Committee on Military Affairs 5613.—Reported back with amendment (H. R. REPORT 2698) 7488.—Consideration objected to 7772.

S. 4642—
Granting an increase of pension to Anne Dowery.
Mr. Deboe; Committee on Pensions 3112.—Reported back with amendment (S. REPORT 1242) 4559.—Passed Senate 4716.—Referred to House Committee on Invalid Pensions 4793.—Reported back (H. R. REPORT 2150) 5715.—Passed House 5887, 5896, 5930.—Examined and signed 6016, 6079.—Approved by President 6377.

S. 4643—
Granting an increase of pension to Phoebe L. Peyton.
Mr. Nelson; Committee on Ponsions 3112.—Reported back with amendments (S. REPORT 928) 3447.—Passed Senate 3553.—Referred to House Committee on Invalid Pensions 3641.—Reported back (H. R. REPORT 1509) 3868.—Passed House 4070, 4078.—Examined and signed 4254, 4210.—Approved by President 4465.

S. 4644—
For the relief of Richard Berry.
Mr. Pritchard; Committee on Claims 3112.

S. 4645—
For the relief of Mrs. M. Elizabeth Hartgrove and others.
Mr. Pritchard; Committee on Claims 3112.

S. 4646—
To provide for the erection of a monument to Gen. Nathaniel Greene on the battlefield of Guilford Court-House.
Mr. Pritchard; Committee on Library 3112.

S. 4647—
To amend section 4929 of the Revised Statutes, relating to design patents.
Mr. Pritchard; Committee on Patents 3112.—Reported back with amendment (S. REPORT 1139) 4140.—Passed Senate 4433.—Referred to House Committee on Patents 4504.—Reported back and passed House 4724.—Examined and signed 4797, 4849.—Approved by President 5203.

S. 4648—
Granting an increase of pension to Nehemiah P. Oakes.
Mr. Pritchard; Committee on Pensions 3112.

S. 4649—
Granting a pension to Ola A. House.
Mr. Pritchard; Committee on Pensions 3112.

S. 4650—
Granting an increase of pension to Delania Ferguson.
Mr. Pritchard; Committee on Pensions 3112.—Reported back with amendment (S. REPORT 1116) 4084.—Passed Senate 4431.—Referred to House Committee on Pensions 4505.—Reported back (H. R. REPORT 1745) 4654.—Passed House 4687, 4691.—Examined and signed 4793, 4797.—Approved by President 5071.

S. 4651—
Granting a pension to John Gallaps.
Mr. Pritchard; Committee on Pensions 3112.

S. 4652—
Granting a pension to Margaret Lipps.
Mr. Pritchard; Committee on Pensions 3112.

S. 4653—
Granting a pension to Alice Smith.
Mr. Pritchard; Committee on Pensions 3112.

S. 4654—
Granting a pension to Isaac F. Moore.
Mr. Pritchard; Committee on Pensions 3112.

S. 4655—
Granting an increase of pension to Oliver K. Wyman.
Mr. Dillingham; Committee on Pensions 3112.—Reported back with amendment (S. REPORT 1124) 4084.—Passed Senate 4432.—Referred to House Committee on Invalid Pensions 4504.—Reported back (H. R. REPORT 1982) 5337.—Passed House 5879, 5896, 5929.—Examined and signed 6016, 6079.—Approved by President 6377.

S. 4656—
Granting an increase of pension to Orlando S. Osborn.
Mr. Dillingham; Committee on Pensions 3112.

S. 4657—
To aid in the erection of a statue of Commodore John D. Sloat, United States Navy, at Monterey, Cal.
Mr. Perkins; Committee on Library 3112.—Reported back with amendments (S. REPORT 1435) 5159.—Consideration objected to 7377.—Passed Senate 7649.—Referred to House Committee on Library 7705.

S. 4658—
Granting an increase of pension to Charles F. Rand.
Mr. Gallinger; Committee on Pensions 3112.—Reported back (S. REPORT 827) 3184.—Passed Senate 3233.—Referred to House Committee on Invalid Pensions 3361.—Reported back (H. R. REPORT 1574) 4136.—Passed House 4678, 4691.—Examined and signed 4793, 4797.—Approved by President 5071.

S. 4659—
Granting an increase of pension to Henry V. Sims.
Mr. Hawley; Committee on Pensions 3112.

S. 4660—
For the relief of the estate of Zeno T. Harris, deceased.
Mr. Carmack; Committee on Claims 3112.

S. 4661—
To correct the military record of William H. Everson.
Mr. Penrose; Committee on Military Affairs 3112.

S. 4662—
For the relief of David K. Maxwell.
Mr. Pettus; Committee on Claims 3112.

S. 4663—
To authorize the Shreveport Bridge and Terminal Company to construct and maintain a bridge across Red River, in the State of Louisiana, at or near Shreveport.
Mr. Foster of Louisiana; Committee on Commerce 3112.—Reported back with amendments (S. REPORT 1058) 3973.—Passed Senate 4429.—Referred to House Committee on Interstate and Foreign Commerce 4505.—House requested to return bill 4511.—House returns bill 4554.—Reconsidered and indefinitely postponed (see bill H. R. 12867) 4569.

LEGISLATIVE INTENT SERVICE (800) 666-1917

CONGRESSIONAL RECORD

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

FIFTY-SEVENTH CONGRESS, FIRST SESSION;

ALSO

SPECIAL SESSION OF THE SENATE.

VOLUME XXXV.

WASHINGTON:
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1902.

LEGISLATIVE INTENT SERVICE (800) 666-1917

VOLUME XXXV, PART IV.

CONGRESSIONAL RECORD,

FIFTY-SEVENTH CONGRESS, FIRST SESSION.

LEGISLATIVE INTENT SERVICE (800) 666-1917

crew will carry through the valley 60 cars, and that the same engine and crew can haul only from 18 to 20 cars over the uneven country of other sections. Now, what does that mean? If a railroad can be constructed in this valley for one-third of the cost in other places, and operated for one-third of the cost, it means that the freights of the great West and Northwest can be carried to the seaport of New Orleans much cheaper than they can possibly be carried elsewhere, and that the people of the whole Union are interested in preserving the valley from floods.

In conclusion, Mr. Chairman, allow me to say that I think Congress pursued a wise and just policy when many years ago it began the improvement of this great river. There is certainly no river so national in character and no project more important and far-reaching than the improvement of such a river. I sincerely hope that the project will never be abandoned until that whole valley has been protected, and until those courageous people who have done so much for themselves—who have spent $2.25 for every dollar spent by the General Government—shall have been placed in a position of perfect safety, in such a position that immigration will flow there from all parts of the world, and that we shall speedily have a population of from 15,000,000 to 16,000,000 of thriving, prosperous citizens of these great United States. [Applause.]

SENATE.

FRIDAY, *March 21, 1902.*

Prayer by Rev. F. J. PRETTYMAN, D. D., of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved. It is approved.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President pro tempore:

A bill (H. R. 1325) granting an increase of pension to William J. Wallace;

A bill (H. R. 2123) granting a pension to Elizabeth M. Folds;

A bill (H. R. 2547) granting an increase of pension to William M. Guy;

A bill (H. R. 2669) granting a pension to Isabella Compton;

A bill (H. R. 2786) granting an increase of pension to William K. Hoffman;

A bill (H. R. 3769) granting a pension to Susan Terry;

A bill (H. R. 3873) granting a pension to William C. Flowers;

A bill (H. R. 4468) granting an increase of pension to John B. Kurth;

A bill (H. R. 5073) granting a pension to Christina Daniels;

A bill (H. R. 5109) granting an increase of pension to Frederick M. Hahn;

A bill (H. R. 6487) granting a pension to Kaize Washburn;

A bill (H. R. 6864) granting an increase of pension to Milton A. Embick;

A bill (H. R. 7320) granting an increase of pension to James Mantach;

A bill (H. R. 7424) granting an increase of pension to John Craig;

A bill (H. R. 7771) granting an increase of pension to Frank Seaman;

A bill (H. R. 7846) granting a pension to Michael Tynan;

A bill (H. R. 7968) granting a pension to Morris L. Lungren;

A bill (H. R. 8292) granting a pension to Hester Thomas;

A bill (H. R. 9296) granting a pension to Mary E. Chapman;

A bill (H. R. 9991) for the relief of F. E. Coyne;

A bill (H. R. 10132) granting an increase of pension to John Garult; and

A bill (H. R. 10956) granting an increase of pension to Frances K. Morrison.

PETITIONS AND MEMORIALS.

Mr. HOAR presented a petition of sundry citizens of Massachusetts, praying for the passage of the so-called Grout bill, to regulate the manufacture and sale of oleomargarine; which was ordered to lie on the table.

He also presented a petition of Painters' Local Union No. 48, American Federation of Labor, of Worcester, Mass., and a petition of the Loom Fixers' Association, American Federation of Labor, of Fall River, Mass., praying for the enactment of legislation providing an educational test for immigrants to this country; which were ordered to lie on the table.

He also presented a petition of sundry citizens of Lowell, Mass., praying for the enactment of legislation to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of Bricklayers, Masons, and Plasterers' Local Union No. 13, American Federation of Labor, of Taunton, Mass., and a petition of the Granite Cutters' Local Union, American Federation of Labor, of New Bedford, Mass., praying for the reenactment of the Chinese exclusion law; which were ordered to lie on the table.

Mr. MITCHELL presented a petition of Carpenters' Local Union No. 536, American Federation of Labor, of Baker City, Oreg., praying for the enactment of legislation providing an educational test for immigrants to this country; which was ordered to lie on the table.

He also presented petitions of Mount Hood Division, No. 91, Order of Railway Conductors, of Portland; of Leather Workers and Horse Goods Local Union No. 56, of Portland; or Cigar Makers' Local Union No. 202, of Portland, and of Local Union No. 91, of Cornucopia, all of the American Federation of Labor, in the State of Oregon, praying for the reenactment of the Chinese-exclusion law; which were ordered to lie on the table.

He also presented petitions of sundry citizens of Liberal, Perrydale, Eugene, Dilley, and Scappoose, all in the State of Oregon, praying for the passage of the so-called Grout bill, to regulate the manufacture and sale of oleomargarine; which were ordered to lie on the table.

He also presented a petition of sundry citizens of Mosier, Oreg., praying for the enactment of legislation providing for the election of United States Senators by a direct vote of the people; which was referred to the Committee on Privileges and Elections.

He also presented a petition of the Chamber of Commerce of Stockton, Cal., praying that an appropriation be made for the construction of a diverting canal to carry the flood waters of Mormon Channel into the Calaveras River, in that State; which was referred to the Committee on Commerce.

Mr. SCOTT presented a petition of Iona Grange, No. 299, Patrons of Husbandry, of Hoodsville, W. Va., praying for the adoption of an amendment to the Constitution providing for the election of United States Senators by a direct vote of the people; which was referred to the Committee on Privileges and Elections.

He also presented a petition of Bricklayers' Local Union No. 1, of Wheeling, W. Va., praying for the reenactment of the Chinese-exclusion law; which was ordered to lie on the table.

He also presented memorials of Neff Bros. & Co., of Sistersville; the C. L. Ritter Lumber Company, of Charles Town; of J. W. Penn, of Bluefield; of J. L. Pentz, of Charles Town; of the Bolin & Bruce Company, of Bluefield; of F. Howald, of Rush Run, and of L. V. Rogers, of Grafton, all in the State of West Virginia, remonstrating against the passage of the so-called Grout bill, to regulate the manufacture and sale of oleomargarine; which were ordered to lie on the table.

Mr. PERKINS presented a petition of the Chamber of Commerce of Stockton, Cal., praying that an appropriation be made for the construction of a diverting canal to carry the flood waters of Mormon Channel into the Calaveras River, in that State; which was referred to the Committee on Commerce.

He also presented a petition of Local Division No. 115, Order of Railway Conductors, of San Francisco, Cal., praying for the reenactment of the Chinese-exclusion law; which was ordered to lie on the table,

He also presented a petition of sundry officers of the National Guard of the State of California, praying for the enactment of legislation to increase the efficiency of the militia; which was referred to the Committee on Military Affairs.

He also presented petitions of sundry citizens of San Francisco; of Local Union No. 376, of Vallejo; of the Amalgamated Society of Engineers, of Sacramento, and of Painters, Paper Hangers, and Decorators' Local Union No. 267, of Los Angeles, all of the American Federation of Labor, in the State of California, praying for the enactment of legislation providing an educational test for immigrants to this country; which were ordered to lie on the table.

He also presented petitions of sundry citizens of Scotts Valley, Hollister, Petaluma, Areata, Pescadero, San Luis Obispo, Cayucos, Tomales, and Alton, all in the State of California, praying for the passage of the so-called Grout bill, to regulate the manufacture and sale of oleomargarine; which were ordered to lie on the table.

Mr. DILLINGHAM presented a petition of sundry citizens of Morrisville, Vt., praying for the passage of the so-called Grout bill, to regulate the manufacture and sale of oleomargarine; which was ordered to lie on the table.

He also presented a petition of Local Division No. 24, Order of Railway Conductors, of St. Albans, Vt., praying for the enactment of legislation to exclude Chinese laborers from the United States and their insular possessions; which was ordered to lie on the table.

Mr. GALLINGER presented a petition of Concord Division,

LEGISLATIVE INTENT SERVICE (800) 666-1917

report thereon. This soldier has died since the date the bill passed the House of Representatives, and I ask for its indefinite postponement.

The PRESIDENT pro tempore. The bill will be indefinitely postponed.

Mr. GALLINGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 11011) granting an increase of pension to Emily J. Tallman;

A bill (H. R. 10906) granting a pension to John W. Meade;

A bill (H. R. 9178) granting an increase of pension to John M. Howe;

A bill (H. R. 1694) granting an increase of pension to Henry Ball;

A bill (H. R. 2781) granting an increase of pension to Patrick Lee;

A bill (H. R. 5862) granting an increase of pension to Rollin Tyler; and

A bill (H. R. 1696) granting an increase of pension to Frederick A. Condon.

Mr. GALLINGER, from the Committee on Pensions, to whom was referred the bill (H. R. 10044) granting an increase of pension to William Larzalere, reported it with an amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (H. R. 10924) granting an increase of pension to Elias M. Haight, reported it without amendment, and submitted a report thereon.

Mr. SCOTT, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 637) for the erection of a public building at Georgetown, S. C., reported it with an amendment to the title, and submitted a report thereon.

JOHN Y. COREY.

Mr. GALLINGER. Mr. President, a few days ago the Senate passed a bill (S. 4366) granting a pension to John Y. Corey. It went to the House of Representatives, but that body passed a separate bill granting a pension to the same soldier, but at a different rate. I now report back the bill (H. R. 10404) granting a pension to John Y. Corey, with an amendment, and ask for its present consideration.

The PRESIDENT pro tempore. It will be read to the Senate.

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

The amendment of the Committee on Pensions was, in line 8, before the word "dollars," to strike out "twelve" and insert "twenty-five;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John Y. Corey, late of Company B, Eighth Regiment United States Infantry, and pay him a pension at the rate of $25 per month.

The amendment was agreed to.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. GALLINGER. I move that the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 4366) granting a pension to John Y. Corey.

The motion was agreed to.

BILLS INTRODUCED.

Mr. DEBOE introduced a bill (S. 4641) for the relief of Benjamin Franklin Handforth; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 4642) granting an increase of pension to Annie Dowery; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. NELSON introduced a bill (S. 4643) granting an increase of pension to Phœbe L. Peyton; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PRITCHARD introduced a bill (S. 4644) for the relief of Richard Berry; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 4645) for the relief of Mrs. M. Elizabeth Hartgrove and others; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 4646) to provide for the erection of a monument to Gen. Nathaniel Greene on the battlefield of Guilford Court-House; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the Library.

He also introduced a bill (S. 4647) to amend section 4929 of the Revised Statutes, relating to design patents; which was read twice by its title, and referred to the Committee on Patents.

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

A bill (S. 4648) granting an increase of pension to Nehemiah P. Oakes;

A bill (S. 4649) granting a pension to Ola A. House;

A bill (S. 4650) granting an increase of pension to Delania Ferguson;

A bill (S. 4651) granting a pension to John Gallaps;

A bill (S. 4652) granting a pension to Margaret Lipps;

A bill (S. 4653) granting a pension to Alice Smith; and

A bill (S. 4654) granting a pension to Isaac F. Moore.

Mr. DILLINGHAM introduced a bill (S. 4655) granting an increase of pension to Oliver K. Wyman; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 4656) granting an increase of pension to Orlando S. Osborn; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 4657) for the erection of a statue of Commodore John D. Sloat in the city of Monterey, Cal.; which was read twice by its title, and referred to the Committee on the Library.

Mr. GALLINGER introduced a bill (S. 4658) granting an increase of pension to Charles F. Rand; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HAWLEY introduced a bill (S. 4659) granting an increase of pension to Henry V. Sims; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CARMACK introduced a bill (S. 4660) for the relief of the estate of Zeno T. Harris, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. PENROSE introduced a bill (S. 4661) to correct the military record of William H. Everson; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. PETTUS introduced a bill (S. 4662) for the relief of David K. Maxwell; which was read twice by its title, and referred to the Committee on Claims.

Mr. FOSTER of Louisiana introduced a bill (S. 4663) to authorize the Shreveport Bridge and Terminal Company to construct and maintain a bridge across Red River, in the State of Louisiana, at or near Shreveport; which was read twice by its title, and referred to the Committee on Commerce.

Mr. FORAKER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 4664) granting a pension to Maurice W. Canaan;

A bill (S. 4665) granting a pension to Sarah J. Fisher;

A bill (S. 4666) granting a pension to Ed. M. Duff;

A bill (S. 4667) granting a pension to Charles J. Terwilliger;

A bill (S. 4668) granting a pension to John I. Throckmorton;

A bill (S. 4669) granting an increase of pension to John Irvin;

A bill (S. 4670) granting an increase of pension to Franklin Wise;

A bill (S. 4671) granting an increase of pension to William A. Aultman;

A bill (S. 4672) granting an increase of pension to Cyrus Spriggs;

A bill (S. 4673) granting a pension to George S. Foreman;

A bill (S. 4674) granting an increase of pension to John G. Reece;

A bill (S. 4675) granting an increase of pension to Lillian T. Wood;

A bill (S. 4676) granting a pension to Isaac Neer;

A bill (S. 4677) for the relief of John E. Welch; and

A bill (S. 4678) granting an increase of pension to Granville M. Hemphill.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. HARRIS submitted an amendment providing that all enlisted men who served as commissioned officers of United States Volunteers organized in 1898 and 1899, or who have served or may be serving in the Porto Rico Provisional Regiment or in the Philippine Scouts, may have such period of service counted as if it had been rendered as enlisted men and they be entitled to all continuous-service pay, and to count such service in computing the time necessary to enable them to retire, intended to be proposed by him to the Army appropriation bill; which was referred to the Committee on Military Affairs, and ordered to be printed.

Mr. PERKINS submitted an amendment proposing to appropriate $100,000 for improving Oakland Harbor, California, intended to be proposed by him to the river and harbor appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

LEGISLATIVE INTENT SERVICE (800) 666-1917

VOLUME XXXV, PART IV.

CONGRESSIONAL RECORD,

FIFTY-SEVENTH CONGRESS, FIRST SESSION.

LEGISLATIVE INTENT SERVICE (800) 666-1917

to officers in the Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

By Mr. ALLEN of Kentucky: Petitions of Federal Labor Unions No. 9316 and No. 9384, of Caseyville; Labor Union No. 9812, and Mine Workers' Union No. 993, of Nortons Gap, Ky., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. APLIN: Petition of St. Joseph's Polish Society, of Bay City, Mich., favoring the passage of House bill 16, for the erection of a statue to the late Brigadier-General Count Pulaski at Washington, D. C.—to the Committee on the Library.

By Mr. BELL: Resolution of the League of American Sportsmen, favoring the passage of House bill 10306, for the preservation of wild animals and game birds—to the Committee on the Territories.

Also, resolutions of the National Encampment at Springfield, Ill., Spanish War Veterans, for allowance of travel pay from Manila to San Francisco, Cal.—to the Committee on Military Affairs.

By Mr. BURLESON: Petitions of officers of Company A, Signal Corps, of the Texas Volunteer Guards, favoring House bill 11654, increasing the efficiency of the militia—to the Committee on the Militia.

By Mr. BUTLER of Pennsylvania (by request): Resolutions of Colonel George F. Smith Post, No. 130, of Westchester, and Phœnixville Post, No. 45, Department of Pennsylvania, Grand Army of the Republic, favoring House bill No. 3067, relating to pensions—to the Committee on Invalid Pensions.

By Mr. CASSINGHAM: Resolutions of Lithographers' International Beneficial Association of the United States and Canada, favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. DEEMER: Resolutions of General Mansfield Post, No. 48; Colonel S. D. Barrows Post, No. 385; George Cook Post, No. 315, and George W. Moyer Post, No. 379, Grand Army of the Republic, Department of Pennsylvania, favoring the passage of House bill 3067—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petition of Martha Proven and other citizens of Bellevue, Pa., favoring an amendment to the Constitution making polygamy a crime—to the Committee on the Judiciary.

Also, report of the committee on foreign commerce and the revenue laws of the Chamber of Commerce of the State of New York, urging the reduction of the tariff on the imports into the United States from the island of Cuba—to the Committee on Ways and Means.

By Mr. GRIFFITH: Evidence to accompany House bill 13094, granting an increase of pension to John Parker—to the Committee on Invalid Pensions.

Also, testimony to accompany House bill 10740, to amend the military record of Henry Davis—to the Committee on Military Affairs.

By Mr. HAMILTON: Resolutions of Harlow Briggs Post, No. 80, Grand Army of the Republic, Department of Michigan, protesting against granting pensions to ex-Presidents or their widows—to the Committee on Invalid Pensions.

By Mr. HANBURY: Resolutions of the Eighteenth Assembly District Republican Club, of Brooklyn, N. Y., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, resolutions of Carpenters' Union No. 639, of Brooklyn, N. Y., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. HEMENWAY: Resolution of Labor Union No. 8398, of Boonville, Ind., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. HITT: Resolution of the League of American Sportsmen, favoring the passage of House bill 10306, for the preservation of wild animals and game birds—to the Committee on the Territories.

By Mr. JACKSON of Kansas: Resolutions of Federal Labor Union No. 8460, of Stippville, and Union No. 8454, of Independence, Kans., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. JOY: Coupon petitions of 1,075 readers of the St. Louis Evening Star, asking Congressmen to vote for House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. LAWRENCE: Resolutions of Central Labor Union of Adams, Mass., and Boot and Shoe Workers' Union of Dalton, Mass., favoring an educational test for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. McCLELLAN: Petition of Loyal Lodge, No. 406, Association of Machinists, favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

Also, resolutions of the Chamber of Commerce of the State of New York, favoring a reduction of not less than 50 per cent of the duty on Cuban sugar and tobacco—to the Committee on Ways and Means.

By Mr. NEVIN: Resolutions of Lithographers Protective Beneficial Association, Coshocton, Ohio, for the exclusion of illiterate immigrants—to the Committee on Immigration and Naturalization.

By Mr. OTJEN: Petition of citizens of Alexandria, Va., protesting against the "Jim Crow" car law—to the Committee on the Judiciary.

Also, resolution of Stuart Reed Lodge, No. 300, Association of Machinists, Milwaukee, Wis., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. PATTERSON of Pennsylvania: Resolutions of Mine Workers' Union No. 169, of McAdoo; Labor Unions No. 9182, of Ashland, and No. 8874, of Shenandoah, Pa., favoring an educational restriction on immigration—to the Committee on Immigration and Naturalization.

By Mr. ROBINSON of Indiana: Petition of Oswald Bruckner and 126 other citizens of Fort Wayne, Ind., on tariff and reciprocity—to the Committee on Ways and Means.

By Mr. RUSSELL: Resolution of commissioned officers of the Second Regiment Connecticut National Guard, favoring House bill 9972, increasing the efficiency of the militia—to the Committee on Militia.

Also, petition of H. J. Kilroy and other citizens of Norwich, Conn., in favor of House bills 178 and 179, for the repeal of the tax on distilled spirits—to the Committee on Ways and Means.

Also, resolutions of New London Lodge, Association of Machinists, New London, Conn., for the exclusion of illiterate immigrants—to the Committee on Immigration and Naturalization.

Also, petition of the Business Men's Association of Waterbury, Conn., favoring an appropriation for a public building at Waterbury—to the Committee on Public Buildings and Grounds.

By Mr. SCOTT: Resolutions of the Industrial Council of Pittsburg, Kans., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SHACKLEFORD: Petition of John Brooks, for reference of war claim to the Court of Claims—to the Committee on War Claims.

By Mr. THAYER: Resolutions of Boot and Shoe Workers' Union No. 52, of North Grafton, Mass., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. WARNOCK: Petition of Subordinate Association No. 19, of Lithographers' International Protective and Beneficial Association, favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

Also, petition of T. D. Weld and others, of the Eighth Congressional district of Ohio, for an amendment to the Constitution preventing polygamous marriages—to the Committee on the Judiciary.

By Mr. ZENOR: Proof to accompany House bill 3005, for the relief of John Hammond—to the Committee on Invalid Pensions.

SENATE.

TUESDAY, *April 15, 1902.*

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

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

HOUSE BILLS REFERRED.

The following bills, received yesterday from the House of Representatives, were severally read twice by their respective titles, and referred to the Committee on Military Affairs:

A bill (H. R. 3592) for the relief of Henry Lane;

A bill (H. R. 9455) to remove the charge of desertion standing against the name of Lorenzo Marchant;

A bill (H. R. 9723) granting an honorable discharge to Levi Wells; and

A bill (H. R. 11621) to correct the military record of H. J. Rowell.

The House pension bills received yesterday were severally read twice by their titles, and referred to the Committee on Pensions.

The bill (H. R. 8326) to set apart certain lands in the Territory of Arizona as a public park, to be known as the Petrified Forest National Park, was read twice by its title, and referred to the Committee on Public Lands.

SCHOONER GEORGE AND JANE.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of

LEGISLATIVE INTENT SERVICE (800) 666-1917

He also presented a petition of sundry citizens of West Virginia, praying for the adoption of certain amendments to the internal-revenue laws relative to the tax on distilled spirits; which was referred to the Committee on Finance.

Mr. COCKRELL presented a petition of Colonel Hassendeubel Post, No. 13, Department of Missouri, Grand Army of the Republic, of St. Louis, Mo., praying for the enactment of legislation authorizing the construction of war vessels in the navy-yards of the country; which was referred to the Committee on Naval Affairs.

He also presented a memorial of Typographical Union No. 206, of Sedalia, Mo., remonstrating against the enactment of legislation permitting the importation of books printed in a foreign language; which was referred to the Committee on Patents.

He also presented a memorial of Cigar Makers' Local Union No. 23, of Springfield, Mo., remonstrating against the enactment of legislation to reduce the import duty on cigars from Cuba and the Philippines; which was referred to the Committee on Finance.

Mr. COCKRELL. In support of Senate bill 2974, granting an increase of pension to Samuel J. Boyer, I present the affidavit of Dr. W. E. Dawson of April 12, 1902, showing total blindness. I move that the affidavit be referred to the Committee on Pensions, to be considered in connection with the bill.

The motion was agreed to.

Mr. FRYE presented a petition of the League of American Sportsmen, praying for the enactment of legislation providing for the protection of game in the Western States; which was referred to the Committee on Forest Reservations and the Protection of Game.

DIVORCE LAW OF THE DISTRICT OF COLUMBIA.

Mr. WELLINGTON. I present a document relating to the divorce law of the District of Columbia. It is practically the same as Senate Document No. 174, Fifty-sixth Congress, first session, with additions. I move that it be printed as a document and referred to the Committee on the District of Columbia.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. MALLORY, from the Committee on Patents, to whom was referred the bill (S. 4647) to amend section 4929 of the Revised Statutes, relating to design patents, reported it with an amendment, and submitted a report thereon.

Mr. HANNA, from the Committee on Naval Affairs, to whom was referred the bill (S. 4577) for the relief of William McCarty Little, reported it with an amendment, and submitted a report thereon.

Mr. DEBOE, from the Committee on Pensions, to whom was referred the bill (H. R. 6760) granting a pension to Susan House, reported it without amendment, and submitted a report thereon.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 2699) to provide for the temporary detention of persons dangerously insane in the District of Columbia, reported it with an amendment, and submitted a report thereon.

He also, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (S. 5153) granting an increase of pension to Eri W. Pinkham;

A bill (H. R. 11550) granting an increase of pension to William G. Gray; and

A bill (H. R. 2207) granting an increase of pension to Louis Hahn.

Mr. PENROSE, from the Committee on Post-Offices and Post-Roads, to whom were referred the following bills, reported them severally without amendment:

A bill (S. 2229) for the relief of J. M. Bloom;

A bill (S. 3779) for the relief of Thomas J. McGinnis; and

A bill (S. 2709) for the relief of John F. Finney.

PRINTING OF GENERAL INFORMATION SERIES.

Mr. PLATT of New York. I am directed by the Committee on Printing to report a joint resolution, and I ask for its present consideration.

The joint resolution (S. R. 79) providing for the printing of 3,000 copies of each volume of the General Information Series, the annual publication of the Office of Naval Intelligence, Navy Department, in addition to the number now authorized by law, was read the first time by its title, and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter there shall be printed, in addition to the number now authorized by law, of each volume of General Information Series, the annual publication of the Office of Naval Intelligence, Navy Department, 3,000 copies, of which 1,000 copies shall be for the use of the Senate and 2,000 copies for the use of the House of Representatives.

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

There being no objection, the joint resolution was considered as in Committee of the Whole.

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

MANUAL OF SURVEYING.

Mr. HANSBROUGH. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 12536) to further amend section 2399 of the Revised Statutes of the United States, to report it favorably without amendment, and I ask unanimous consent, it being a short bill, that it be considered at this time.

The PRESIDENT pro tempore. The bill will be read in full to the Senate for its information.

The Secretary read the bill, as follows:

Be it enacted, etc., That section 2399 of the Revised Statutes of the United States, as amended by act of Congress of October 1, 1890 (Stat. L., vol. 26, p. 650), and act of Congress of August 15, 1894 (Stat. L., vol. 28, p. 285), be further amended so as to read as follows, namely:

"SEC. 2399. The printed Manual of Surveying Instructions for the survey of the public lands of the United States and private land claims, prepared at the General Land Office, and bearing date January 1, 1902, the instructions of the Commissioner of the General Land Office, and the special instructions of the surveyor-general, when not in conflict with said printed manual or the instructions of said Commissioner, shall be taken and deemed to be a part of every contract for surveying the public lands of the United States and private land claims."

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

Mr. RAWLINS. I do not quite understand the purpose of the bill.

Mr. HANSBROUGH. The bill simply reenacts the existing law legalizing the Manual of Surveying Instructions. It merely changes the date in the law, as has been the custom heretofore. The urgency of the case is owing to the fact that the printed instructions are now in the hands of the printer, and the passage of the bill at this time will obviate delay.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment.

Mr. QUAY. As it seems that nothing is indicated in the title of the bill, I should be very glad to have the Senator from North Dakota explain its purpose.

Mr. HANSBROUGH. I thought I had explained the purpose of the bill. In order to make it more clear, I think it would be well to have the report of the House committee read.

The PRESIDENT pro tempore. The report will be read.

The Secretary read as follows:

Mr. LACEY, from the Committee on the Public Lands, submitted the following report (to accompany H. R. 12536):

Your committee recommend the passage of the bill without amendment.

The bill was introduced at the request of the Department of the Interior, as contained in the following House document:

[House Document No. 456, Fifty-seventh Congress, first session.]

DEPARTMENT OF THE INTERIOR,
Washington, March 11, 1902.

SIR: I inclose a copy of a letter from the Commissioner of the General Land Office, dated the 8th instant, in which he has asked that the Congress be requested to legalize the Manual of Surveying Instructions, dated January 1, 1902, approved by the Department December 30, 1901, and now in the hands of the printer, by an act in the usual form and as embodied in his letter.

I have the honor to recommend that the legalizing measure, as requested by the Commissioner, be enacted into law, and invite attention to the suggestion of early action.

Very respectfully, THOS. RYAN, *Acting Secretary.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., March 8, 1902.

SIR: I have the honor to request that Congress may be requested to legalize the Manual of Surveying Instructions, dated January 1, 1902, recently approved by the Department, and now in the hands of the Printer, by the following act, which is in the same language as the act legalizing the Manual of 1894 (see U. S. Stats., vol. 28, p. 285).

* * * * * * *

I have the honor to ask that the immediate attention of Congress may be at once called to this proposed legislation in order that the date of Congressional enactment may be inserted in the manual when issued.

Very respectfully, BINGER HERMANN, *Commissioner.*

The SECRETARY OF THE INTERIOR.

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

IRRIGATION STATISTICS.

Mr. HANSBROUGH, from the Committee on Public Lands, to whom was referred the concurrent resolution submitted by Mr. MITCHELL on the 12th instant, authorizing the Director of the Census to complete certain statistics relating to the present condition of irrigation, asked to be discharged from its present consideration and that it be referred to the Committee on the Census; which was agreed to.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Mr. CULLOM (for Mr. MASON) introduced a bill (S. 5259) granting a pension to Isadore T. W. Gillmore; which was read twice

LEGISLATIVE INTENT SERVICE (800) 666-1917

By Mr. SUTHERLAND: Petition of the Commercial Club of Salt Lake City, Utah, in favor of the annexation of a portion of Arizona to Utah—to the Committee on the Territories.

By Mr. TATE: Paper to accompany House bill 13706, granting a pension to Arelia C. Pool—to the Committee on Pensions.

Also, paper to accompany House bill 12930, granting a pension to Theodore Cole—to the Committee on Invalid Pensions.

By Mr. TOMPKINS of Ohio: Resolution of Columbus (Ohio) Board of Trade, favoring House bill 8337 and Senate bill 3575, amending the interstate-commerce act—to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG: Petition of H. W. Flickinger and other citizens of Philadelphia, Pa., favoring an amendment to the Constitution making polygamy a crime—to the Committee on the Judiciary.

SENATE.

SATURDAY, *April 19, 1902.*

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

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved. It is approved.

PETITIONS AND MEMORIALS.

Mr. DILLINGHAM presented petitions of the trustees of the Howard Relief Society of Vermont; of Quarrymen's Union No. 9666, of Graniteville; of Local Union No. 8693, of Brattleboro; of the American Federation of Labor, and of G. L. Blodgett Lodge, No. 495, Brotherhood of Railroad Trainmen, of St. Johnsbury, all in the State of Vermont, praying for the enactment of legislation providing an educational test for immigrants to this country; which were referred to the Committee on Immigration.

Mr. FAIRBANKS presented a petition of Hod Carriers' Local Union No. 7343, American Federation of Labor, of South Bend, Ind., praying for the enactment of legislation providing an educational test for immigrants to this country; which was referred to the Committee on Immigration.

He also presented the petition of William Watson Woollen, of Indianapolis, Ind., praying for the enactment of legislation providing for the protection of game in Alaska; which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. HOAR presented a memorial of the Central Labor Union of Taunton, Mass., remonstrating against any reduction of the impost duty on cigars imported from Cuba or the Philippine Islands; which was referred to the Committee on Finance.

He also presented a petition of the Merchants' Association of Fitchburg, Mass., praying for the enactment of legislation to secure the greatest efficiency in the consular service of the Government, particularly as it relates to our export trade; which was referred to the Committee on Foreign Relations.

He also presented petitions of Rubber Workers' Local Union No. 8622, of Cambridge; of Boot and Shoe Workers' Local Union No. 275, of Avon, and of the Central Labor Union, of Taunton, all in the State of Massachusetts, praying for the enactment of legislation providing an educational test for immigrants to this country; which were referred to the Committee on Immigration.

Mr. DOLLIVER presented a petition of Lodge No. 247, Brotherhood of Railroad Trainmen, of Sioux City, Iowa, praying for the passage of the so-called Foraker-Corliss safety-appliance bill; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Commercial Club, of Muscatine, Iowa, praying for the enactment of legislation providing for the reorganization of the consular service; which was ordered to lie on the table.

He also presented a petition of sundry citizens of Ottumwa, Iowa, praying for the enactment of legislation providing for the appointment of a commission to investigate the results of the operation of equal suffrage in the States where it has been tried; which was referred to the Committee on Privileges and Elections.

He also presented petitions of Federal Labor Union No. 6303, of Muscatine; of Federal Labor Union No. 7217, of Des Moines, and of Federal Labor Union No. 7310, of Centerville, all of the American Federation of Labor, in the State of Iowa, praying for the enactment of legislation providing an educational test for immigrants to this country; which were referred to the Committee on Immigration.

Mr. SIMMONS presented a petition of the Central Labor Union, American Federation of Labor, of Charlotte, N. C., praying for the enactment of legislation authorizing the construction of war vessels in the navy-yards of the country; which was referred to the Committee on Naval Affairs.

He also presented petitions of Federal Labor Union No. 9564, of Concord; of Central Labor Union, of Charlotte, and of Local Union No. 224, of Charlotte, all of the American Federation of Labor, in the State of North Carolina, praying for the enactment of legislation providing an educational test for immigrants to this country; which were referred to the Committee on Immigration.

REPORTS OF COMMITTEES.

Mr. WETMORE, from the Committee on the Library, to whom was referred the bill (S. 479) to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, late President of the United States, reported adversely thereon, and the bill was postponed indefinitely.

Mr. GALLINGER, from the Committee on Pensions, to whom were referred the following bills, reported them each without amendment, and submitted reports thereon:

A bill (S. 5214) granting an increase of pension to Charles F. Smith; and

A bill (H. R. 11545) granting an increase of pension to Caroline R. Boyd.

Mr. GALLINGER, from the Committee on Pensions, to whom was referred the bill (H. R. 13371) granting an increase of pension to Charles D. Palmer, reported it with an amendment, and submitted a report thereon.

Mr. QUARLES, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 53) for the protection of cities and towns in the Indian Territory, and for other purposes, reported it with an amendment, and submitted a report thereon.

Mr. JONES of Arkansas, from the Committee on Indian Affairs, to whom was referred the bill (S. 3296) to pay certain Choctaw (Indian) warrants held by James M. Shackelford, reported it without amendment.

The PRESIDENT pro tempore. The bill will be placed on the Calendar.

Mr. JONES of Arkansas. Connected with the bill, I present a letter from the Secretary of the Interior to the chairman of the Committee on Indian Affairs, and one from the Commissioner of Indian Affairs to the Secretary of the Interior bearing upon this matter, which I move be printed as a document.

The motion was agreed to.

Mr. TURNER, from the Committee on Pensions, to whom was referred the bill (S. 288) granting an increase of pension to De Witt C. Bennett, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 4129) granting an increase of pension to Lonson R. Burr, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 4141) granting an increase of pension to John Cook, reported it with amendments, and submitted a report thereon.

HERBERT A. BOOMHOWER.

Mr. GALLINGER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 4821) granting an increase of pension to Herbert A. Boomhower, 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 amendment.

J. H. GALLINGER,
J. C. PRITCHARD,
PARIS GIBSON,
Managers on the part of the Senate.

S. W. SMITH,
A. B. DARRAGH,
RUDOLPH KLEBERG,
Managers on the part of the House.

The report was agreed to.

BILLS INTRODUCED.

Mr. MCMILLAN introduced a bill (S. 5333) for the relief of George E. Rogers; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 5334) requiring places of business in the District of Columbia to be closed on Sunday; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 5335) granting a pension to Ransom M. Fillmore; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 5336) granting a pension to Ann M. Green; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GAMBLE (for Mr. BURNHAM) introduced a bill (S. 5337) granting an increase of pension to Marietta L. Adams; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 5338) granting an increase of pension to John Cook; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

LEGISLATIVE INTENT SERVICE (800) 666-1917

LEWIS G. LATOUR.

The bill (S. 2048) granting an increase of pension to Louis G. Latour was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "of," to strike out the name "Louis" and insert "Lewis;" and in line 8, before the word "dollars," to strike out "fifty" and insert "thirty;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Lewis G. Latour, late of Company H, Fourteenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments were agreed to.

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

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

The title was amended so as to read: "A bill granting an increase of pension to Lewis G. Latour."

MAY D. LISCUM.

The bill (S. 5059) granting a pension to May D. Liscum was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of May D. Liscum, widow of Emerson H. Liscum, late colonel Ninth Regiment United States Infantry and brigadier-general United States Volunteers, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill granting an increase of pension to May D. Liscum."

AMELIA ENGEL.

The bill (S. 2551) granting a pension to Amelia Engel was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 6, after the word "late," to strike out "private" and insert "of;" and in line 9, before the word "dollars," to strike out "twelve" and insert "eight;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Amelia Engel, widow of Valentine Engel, late of Company G, Seventy-fifth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $8 per month.

The amendments were agreed to.

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

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

GEORGE A. MERCER.

The bill (S. 3781) granting a pension to George A. Mercer was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with amendments, in line 7, before the word "Infantry," to insert "Volunteer;" in line 8, before the word "dollars," to strike out "thirty-five" and insert "thirty," and in the same line, after the word "month," to insert "in lieu of that he is now receiving;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of George A. Mercer, late of Company E, First Regiment Pennsylvania Reserves Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendments were agreed to.

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

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

The title was amended so as to read: "A bill granting an increase of pension to George A. Mercer."

JOANNA ROMMEL.

The bill (S. 2935) granting a pension to Joanna Rommel was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Joanna Rommel, widow of Benson M. Rommel, late of Company C, Second Regiment New Jersey Volunteer Infantry, and to pay her a pension of $8 per month.

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

DAVID O. CARPENTER.

The bill (S. 2638) granting a pension to David O. Carpenter was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of David O. Carpenter, late of Company K, Sixth Regiment West Virginia Volunteer Cavalry, and pay him a pension of $20 per month in lieu of that he is now receiving.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill granting an increase of pension to David O. Carpenter."

JOSEPH TUSINSKI.

The bill (H. R. 8553) granting a pension to Joseph Tusinski was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Joseph Tusinski, late a private in Company E, Fourteenth Regiment United States Infantry.

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

PAULINE M. ROBERTS.

The bill (H. R. 10951) granting an increase of pension to Pauline M. Roberts was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Pauline M. Roberts, widow of Samuel Roberts, late major, Seventy-second Regiment Pennsylvania Volunteer Infantry, and to pay her a pension of $25 per month and $2 per month additional on account of the minor child of the officer until such child shall have arrived at the age of 16 years in lieu of that she is now receiving.

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

MARY ANN E. SPERRY.

The bill (H. R. 9140) granting an increase of pension to Mary Ann E. Sperry was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary Ann E. Sperry, widow of John J. Sperry, late lieutenant-colonel One hundred and sixth Regiment Pennsylvania Volunteer Infantry, and to pay her a pension of $24 per month in lieu of that she is now receiving.

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

MARY E. S. HAYS.

The bill (H. R. 8631) granting a pension to Mary E. S. Hays was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Mary E. S. Hays, widow of David S. Hays, late surgeon, One hundred and tenth Regiment Pennsylvania Volunteer Infantry, and to pay her a pension of $20 per month.

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

MARY A. ANDRESS.

The bill (H. R. 9494) granting an increase of pension to Mary A. Andress was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, in line 9, to strike out in the proviso the following:

That in the case of the death of the helpless child, Lula Belle Andress, on whose account the pension of Mary A. Andress is increased, the pension of said Mary A. Andress shall continue only at the rate of $12 per month from and after the date of the death of said helpless child.

And insert:

That in the event of the death of Lula Belle Andress, helpless and dependent child of said Philip Andress, the additional pension herein granted shall cease and determine.

So as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Andress, widow of Philip Andress, late of Company F, Eleventh Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided, however*, That in the event of the death of Lula Belle Andress, helpless and dependent child of said Philip Andress, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DESIGN PATENTS.

The bill (S. 4647) to amend section 4929 of the Revised Statutes, relating to design patents, was considered as in Committee of the Whole.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The bill was reported from the Committee on Patents with an amendment, on page 1, in line 7, before the word "design," to strike out "artistic" and insert "ornamental;" so as to make the bill read:

Be it enacted, etc., That section 4929 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country 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, the same as in cases of inventions or discoveries covered by section 4886, obtain a patent therefor."

The amendment was agreed to.

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

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

WILLIAM M'CARTY LITTLE.

The bill (S. 4577) for the relief of William McCarty Little was considered as in Committee of the Whole.

The bill was reported from the Committee on Naval Affairs with an amendment, in line 5, after the word "list," to insert "with the rank and pay of that grade from the date of appointment under this act;" so as to make the bill read:

Be it enacted, etc., That the President is authorized to appoint Lieut. William McCarty Little, now on the retired list of the Navy, to be a captain on said retired list, with the rank and pay of that grade from the date of appointment under this act.

The amendment was agreed to.

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

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

CARE OF INSANE PERSONS.

The bill (S. 2699) to provide for the temporary detention of persons dangerously insane in the District of Columbia was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with an amendment, in section 1, page 2, line 23, after the word "court," to strike out:

Any such alleged insane person apprehended with or without an order aforesaid may be detained in any legally established hospital in said District, including the Government Hospital for the Insane, the officer in charge of which for the time being is willing to receive and detain him; and, either pending the completion of arrangements for the reception and detention of any such alleged insane person in any such hospital aforesaid, or if no such arrangements can be made, such alleged insane person may be received and detained at any police station house or at the house of detention in said District. Any officer in charge of any lawfully established hospital in the District of Columbia may receive any alleged insane person who has been apprehended as aforesaid, and, having done so, shall detain such person for the period specified in the order authorizing such detention, or, if no such order has been issued, for a period not to exceed seventy-two hours, unless otherwise directed by the supreme court of the District of Columbia or by some court having appellate jurisdiction over said supreme court: *Provided, however*, That if two or more physicians in regular attendance at such hospital

And in lieu thereof to insert:

Any such alleged insane person apprehended with or without an order aforesaid may be detained in the Government Hospital for the Insane or in any other hospital in said District which, in the judgment of the health officer of said District, is properly constructed and equipped for the reception and care of such person, and the officer in charge of which for the time being is willing to receive and detain him; and either pending the completion of arrangements for the reception and detention of any such alleged insane person in any hospital aforesaid, or, if no such arrangements can be made, such alleged insane person may be received and detained in any police station house or in the House of Detention in said District. The superintendent of the Government Hospital for the Insane shall receive any alleged insane person who has been apprehended under any order aforesaid and has been delivered to him, and shall detain such person for the period specified in such order; and the officer in charge of any other hospital aforesaid in the District of Columbia may receive any alleged insane person who has been apprehended with or without an order aforesaid, and, having done so, shall detain such person for the period specified in the order authorizing such detention, or, if no such order has been issued, for a period not exceeding seventy-two hours, unless otherwise directed by the supreme court of the District of Columbia or by some court having appellate jurisdiction over said supreme court: *Provided, however*, That if the superintendent of the Government Hospital for the Insane or two or more physicians in regular attendence at any other hospital aforesaid;

The amendment was agreed to.

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

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

PUBLIC BUILDING AT MARBLEHEAD, MASS.

Mr. SCOTT. I desire, out of order, to report, with an amendment from the Committee on Public Buildings and Grounds, the bill (S. 1478) for the erection of a public building at Marblehead, Mass.

Mr. HOAR. I ask unanimous consent that that bill may be put upon its passage at the present time for reasons which, if necessary, I can state.

The PRESIDING OFFICER (Mr. KEAN in the chair). The Senator from Massachusetts asks unanimous consent for the present consideration of the bill which has just been reported by the Senator from West Virginia (Mr. SCOTT). Is there objection?

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

The amendment of the Committee on Public Buildings and Grounds was to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the United States post-office and other governmental offices in the town of Marblehead and State of Massachusetts, the cost of said site and building, including said vaults, heating and ventilating apparatus, elevators, and approaches, not to exceed the sum of $50,000.

Proposals for the sale of land suitable for said site shall be invited by public advertisement in one or more of the newspapers of said town of largest circulation for at least twenty days prior to the date specified in said advertisement for the opening of said proposals.

Proposals made in response to said advertisement shall be addressed and mailed to the Secretary of the Treasury, who shall then cause the said proposed sites, and such others as he may think proper to designate, to be examined in person by an agent of the Treasury Department, who shall make written report to said Secretary of the results of said examination and of his recommendation thereon, and the reasons therefor, which shall be accompanied by the original proposals and all maps, plats, and statements which shall have come into his possession relating to the said proposed sites.

If, upon consideration of said report and accompanying papers, the Secretary of the Treasury shall deem further investigation necessary, he may appoint a commission of not more than three persons, one of whom shall be an officer of the Treasury Department, which commission shall also examine the said proposed sites, and such others as the Secretary of the Treasury may designate, and grant such hearings in relation thereto as they shall deem necessary; and said commission shall within thirty days after such examination make to the Secretary of the Treasury written report of their conclusion in the premises, accompanied by all statements, maps, plats, or documents taken by or submitted to them, in like manner as hereinbefore provided in regard to the proceedings of said agent of the Treasury Department; and the Secretary of the Treasury shall thereupon finally determine the location of the building to be erected.

The compensation of said commissioners shall be fixed by the Secretary of the Treasury, but the same shall not exceed $6 per day and actual traveling expenses: *Provided, however*, That the member of said commission appointed from the Treasury Department shall be paid only his actual traveling expenses.

The building shall be unexposed to danger from fire by an open space of at least 40 feet on each side, including streets and alleys.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to provide for the purchase of a site and the erection of a public building thereon at Marblehead, in the State of Massachusetts."

ERI W. PINKHAM.

The bill (S. 5153) granting an increase of pension to Eri W. Pinkham was considered as in Committee of the Whole. It proposes to place on the pension roll the name of Eri W. Pinkham, late of Company E, First Regiment New Hampshire Volunteer Cavalry, and to pay him a pension of $30 per month in lieu of that he is now receiving.

Mr. COCKRELL. Let the report be read in that case, Mr. President.

The PRESIDING OFFICER. The report will be read.

The Secretary read the following report, submitted by Mr. GALLINGER on the 15th instant:

The Committee on Pensions, to whom was referred the bill (S. 5153) granting an increase of pension to Eri W. Pinkham, have examined the same and report:

This bill proposes to increase from $12 to $30 per month the pension of Eri W. Pinkham, of Nashua, N. H., who served in Company E, First Regiment New Hampshire Volunteer Cavalry, from March 29, 1865, to July 15, 1865, when he was honorably discharged.

Mr. Pinkham is now receiving a pension of $12 per month under the act of June 27, 1890, for total inability to earn a support by manual labor. His medical examination shows that he is totally blind and helpless from locomotor ataxia. He is bedridden and dependent on assistance for the most trivial services. His condition in every respect is pitiable in the extreme and such as excites the greatest measure of sympathy. His physician states that his condition is hopeless.

Mr. Pinkham is as poor financially as he is helpless physically. In his stricken condition he has no means of support except his pension, and how inadequate this is may well be imagined when his need for medicine and medical attendance is so great. He has borne an excellent character and is in every way worthy, and your committee report the bill back favorably with a recommendation that it pass.

Mr. COCKRELL. I ask the Senator reporting this bill if the pension received at present by this applicant is under the law of June 27, 1890?

Mr. GALLINGER. It is.

Mr. COCKRELL. Then of course it can not be increased by the Pension Bureau.

Mr. GALLINGER. It can not be increased by the Pension Bureau.

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

LEGISLATIVE INTENT SERVICE (800) 666-1917

Anna F. Crawford, to be postmaster at Cameron, in the county of Milam and State of Texas, in place of Wilber F. Crawford, deceased.

Henry Riley, to be postmaster at Cornwall, in the county of Orange and State of New York. Office became Presidential April 1, 1902.

Benjamin Jacobs, to be postmaster at Pencoyd, in the county of Montgomery and State of Pennsylvania. Office became Presidential April 1, 1902.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 26, 1902.

CHIEF OF BUREAU OF NAVIGATION.

Rear-Admiral Henry C. Taylor, United States Navy, to be Chief of the Bureau of Navigation, in the Department of the Navy, from the 29th day of April, 1902.

PROMOTIONS IN THE NAVY.

Lieut. Edwin H. Tillman, to be a lieutenant-commander in the Navy, from the 5th day of March, 1902.

Lieut. (Junior Grade) Gilbert S. Galbraith, to be a lieutenant in the Navy, from the 5th day of March, 1902.

Lieut. (Junior Grade) Roscoe Spear, to be a lieutenant in the Navy, from the 5th day of March, 1902.

PROMOTIONS IN THE MARINE-HOSPITAL SERVICE.

Asst. Surg. Hill Hastings, of Kentucky, to be a passed assistant surgeon in the Marine-Hospital Service of the United States.

First Assistant Engineer George B. Maher, of the District of Columbia, to be a chief engineer in the Revenue-Cutter Service of the United States.

POSTMASTERS.

Joseph L. Sanders, to be postmaster at Auburn, in the county of Providence and State of Rhode Island.

Roswell A. Moore, to be postmaster at Kensington, in the county of Hartford and State of Connecticut.

Moses P. Stiles, to be postmaster at Norway, in the county of Oxford and State of Maine.

Frederick L. Scott, to be postmaster at Farmington, in the county of Hartford and State of Connecticut.

Stith Bolling, to be postmaster at Petersburg, in the county of Dinwiddie and State of Virginia.

E. W. Thayer, to be postmaster at Spring Valley, in the county of Fillmore and State of Minnesota.

Loren A. Brooks, to be postmaster at Renville, in the county of Renville and State of Minnesota.

Clarence H. Drake, to be postmaster at Choteau, in the county of Teton and State of Montana.

James R. White, to be postmaster at Kalispell, in the county of Flathead and State of Montana.

W. Lee Brand, to be postmaster at Salem, in the county of Roanoke and State of Virginia.

George W. Baber, to be postmaster at Paris, in the county of Edgar and State of Illinois.

Samuel E. Stafford, to be postmaster at Elkhorn, in the county of McDowell and State of West Virginia.

Sumner W. Thompson, to be postmaster at Davis, in the county of Tucker and State of West Virginia.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April 26, 1902.*

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

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

EULOGIES ON THE LATE SENATOR KYLE.

Mr. BURKE of South Dakota. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from South Dakota asks unanimous consent for the present consideration of a resolution which will be reported by the Clerk.

The Clerk read as follows:

Resolved, That Saturday, May 10, following the conclusion of eulogies upon the late Hon. Rufus K. Polk, be set apart for the purpose of paying a tribute of respect to the memory of the late Hon. James H. Kyle, a Senator from the State of South Dakota.

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

There was no objection.

The resolution was agreed to.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. McCLEARY, from the Committee on Appropriations, reported the bill (H. R. 14019) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes; which was read a first and second time, and, with the accompanying report, ordered to be printed and referred to the Committee of the Whole House on the state of the Union.

Mr. BENTON. Mr. Speaker, I reserve all points of order.

The SPEAKER. The gentleman from Missouri [Mr. BENTON] reserves all points of order.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 4903. An act for the relief of Emma Morris—to the Committee on Claims.

S. 3250. An act granting an increase of pension to Winfield S. Piety—to the Committee on Invalid Pensions.

S. 4088. An act granting an increase of pension to Henry Jennings—to the Committee on Invalid Pensions.

S. 5314. An act to confirm and legalize prior admissions to citizenship of the United States where the judge or clerk of the court administering the oath to the applicant or his witnesses has failed to sign or seal the record oath or the judgment of admission, and to establish a proper record of such citizenship—to the Committee on Immigration and Naturalization.

S. 4829. An act granting an increase of pension to Nimrod Headington—to the Committee on Invalid Pensions.

S. 4256. An act granting an increase of pension to Henry W. Edens—to the Committee on Invalid Pensions.

S. 3997. An act granting an increase of pension to Otis A. Barlow—to the Committee on Invalid Pensions.

S. 3668. An act granting an increase of pension to Hulda Milligan—to the Committee on Invalid Pensions.

S. 2703. An act granting an increase of pension to James S. Myers—to the Committee on Invalid Pensions.

S. 182. An act granting a pension to Mary F. Zollinger—to the Committee on Invalid Pensions.

S. 4732. An act granting an increase of pension to Charles H. Hazzard—to the Committee on Invalid Pensions.

S. 4706. An act granting a pension to William Harrington—to the Committee on Invalid Pensions.

S. 3331. An act granting a pension to Ada V. Park—to the Committee on Invalid Pensions.

S. 5321. An act granting a pension to Rebecca H. Geyer—to the Committee on Invalid Pensions.

S. 3730. An act granting an increase of pension to Jonas Olmstead—to the Committee on Invalid Pensions.

S. 3661. An act granting an increase of pension to George W. Edmonds—to the Committee on Invalid Pensions.

S. 4638. An act granting a pension to Mrs. Joseph M. Sudsberg—to the Committee on Invalid Pensions.

S. 2336. An act granting an increase of pension to Rebecca Coppinger—to the Committee on Pensions.

S. 3341. An act granting an increase of pension to Robert H. Busteed—to the Committee on Invalid Pensions.

S. 3676. An act to authorize the Secretary of War to acquire, by purchase or condemnation, Constitution Island, in the State of New York—to the Committee on Military Affairs.

S. 4759. An act granting an increase of pension to Martha Clark—to the Committee on Invalid Pensions.

S. 2084. An act granting an increase of pension to Samuel Ewing—to the Committee on Invalid Pensions.

S. 1797. An act granting an increase of pension to Benjamin Russell—to the Committee on Invalid Pensions.

S. 5294. An act granting on increase of pension to William F. Horn—to the Committee on Invalid Pensions.

S. 5337. An act granting an increase of pension to Marietta L. Adams—to the Committee on Invalid Pensions.

S. 4862. An act granting an increase of pension to James Welch—to the Committee on Invalid Pensions.

S. 1463. An act for the erection of a public building at Kingston, N. Y.—to the Committee on Public Buildings and Grounds.

S. 4975. An act for the erection of a public building at Crookston, Minn.—to the Committee on Public Buildings and Grounds.

S. 4141. An act granting an increase of pension to John Cook—to the Committee on Invalid Pensions.

S. 288. An act granting an increase of pension to De Witt C. Bennett—to the Committee on Invalid Pensions.

S. 3296. An act to pay certain Choctaw (Indian) warrants held by James M. Shackelford—to the Committee on Invalid Pensions.

S. 5214. An act granting an increase of pension to Charles F. Smith—to the Committee on Invalid Pensions.

S. R. 88. Joint resolution providing for the printing of an edition of 10,000 copies of Bulletin No. 14 of the Bureau of Plant Industry—The Decay of Timber and Methods of Preventing it—to the Committee on Printing.

S. 1359. An act authorizing an increase of pension in certain cases—to the Committee on Invalid Pensions.

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The SPEAKER. Is there objection?

Mr. RICHARDSON of Tennessee. Mr. Speaker, I desire to ask the gentleman if this bill has been considered by any committee.

Mr. HENRY C. SMITH. Yes, sir; it is reported unanimously by the committee; it passed the Fifty-sixth Congress, and has been reported favorably and recommended for the past seven years.

Mr. RICHARDSON of Tennessee. How much does the bill carry?

Mr. HENRY C. SMITH. It carries $5,000.

Mr. RICHARDSON of Tennessee. Is that the limit in the bill that can be expended under it?

Mr. HENRY C. SMITH. Yes, sir; it is for a light-house keeper's dwelling. The nearest point at which the keeper can now live is a mile away, and he must row through the water; and in the spring and fall ice forms there when the channel is open. There is no question about the necessity of the house, and by reason of the condition of the ground there will be a large expense for the foundation.

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

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

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

JAMES G. FIELD.

Mr. RIXEY. Mr. Speaker, I ask unanimous consent for the present consideration of the following Senate bill.

The bill was read, as follows:

A bill (S. 1321) to restore to the active list of the Navy the name of James G. Field.

Be it enacted, etc., That the President of United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint James G. Field, assistant surgeon, United States Navy, retired, to the active list of the Navy as a surgeon (with rank of lieutenant) not in line of promotion.

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

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

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

ESTABLISHING TERM OF UNITED STATES DISTRICT COURT AT ROANOKE CITY, VA.

Mr. OTEY. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 12648.

The bill was read, as follows:

A bill (H. R. 12648) establishing a regular term of United States district court in Roanoke City.

Be it enacted, etc., That a regular term of the district court of the United States for the western district of Virginia shall be held in each year in the city of Roanoke, Va., on the second Monday in February.

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

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

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

TERMS OF SENATORS IN HAWAII.

Mr. POWERS of Maine. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 13076.

The bill was read, as follows:

A bill (H. R. 13076) to apportion the term of office of senators elected at the first general election in the Territory of Hawaii.

Be it enacted, etc., That the several senators elected in the First, Second, Third, and Fourth senatorial districts at the first general election held in the Territory of Hawaii shall, except as hereinafter provided, each hold office for the term of four years from the date of such election.

SEC. 2. That for the First senatorial district N. Russel and J. D. Paris shall each hold office as a senator for such district for the term of two years.

That for the Second senatorial district William White shall hold office as a senator for such district for the term of two years.

That for the Third senatorial district D. Kanuha, George R. Carter, and William Achi shall each hold office as a senator for such district for the term of two years.

That for the Fourth senatorial district I. H. Kahilina shall hold office as a senator for such district for the term of two years.

The SPEAKER. Is there objection?

Mr. RICHARDSON of Tennessee. Mr. Speaker, I do not want to object to the consideration of the bill; but I would like to ask the gentleman if it is usual for Congress to designate in cases like this the members who shall have one-year, two-year, three-year, and four-year terms?

Mr. POWERS of Maine. I will state to the gentleman from Tennessee what has induced this action. By the organic act it was provided that 15 senators should be elected, and that when the senate assembled they should agree upon 7 to hold for two years and the remaining 8 for four years.

Mr. RICHARDSON of Tennessee. That is what I supposed; and that is the reason I ask the gentleman why the change.

Mr. POWERS of Maine. They got together and failed to do this. The Secretary of the Interior called attention to it, and made this statement about it, which I will read from the report:

It is very important, especially in a new Territory like Hawaii, that a matter such as this should not remain in a state of uncertainty or confusion. Unless it is adjusted before that time it is likely to cause much confusion at the election in the approaching November, and may lead to serious difficulty in the organization of the next succeeding Territorial legislature.

Our attention was called to it by the Secretary, and he was asked to name those who should be senators for two years and those who should be for four. A short time ago, when President Dole was before the committee, on being asked what was the most important matter necessary to be considered for the best interests of Hawaii, he stated that one of the urgent things that should be attended to, if we would avoid confusion, for them to have legislation, to have an election in November, was for Congress to comply with the recommendation of the Secretary of the Interior and determine, as they had failed to do, who should hold office for two years and who for four years. I have here the report of his testimony.

Mr. ROBINSON of Indiana. If I may interrupt the gentleman, I will state that the bill has received the consideration of the Committee on Territories, and I heartily concur in the statement of the gentleman. Certainly no objection ought to be made to the consideration.

Mr. POWERS of Maine. This matter has received the consideration of the entire committee and has the indorsement of the entire committee after having investigated it, as the gentleman from Indiana has stated.

Mr. RICHARDSON of Tennessee. The only trouble in my mind was I was quite sure the organic act had prescribed a method of choosing the senators and providing for their terms, and I could not understand why we should be called upon by an act of Congress to designate senators and fix their terms.

Mr. POWERS of Maine. Simply because the legislature failed to do it.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

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

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

AMENDING SECTION 4929, REVISED STATUTES.

Mr. REEVES. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 4647) to amend section 4929 of the Revised Statutes, relating to design patents.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 4929 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country 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, the same as in cases of inventions or discoveries covered by section 4886, obtain a patent therefor."

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

The bill was ordered to be read the third time, was read the third time, and passed.

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

Mr. REEVES. Mr. Speaker, I move that the House bill corresponding to the Senate bill lie on the table.

The motion was agreed to.

RAILWAY ACROSS OMAHA AND WINNEBAGO RESERVATION, NEBR.

Mr. ROBINSON of Nebraska. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 3663) to amend an act entitled "An act granting the right to the Omaha Northern Railway Company to construct a railway across, and establish stations on, the Omaha and Winnebago Reservation, in the State of Nebraska, and for other purposes," by extending the time for the construction of said railway.

The Clerk read the bill, as follows:

Be it enacted, etc., That the time prescribed by an act of Congress approved the 26th day of March, 1898, entitled "An act granting the right to the Omaha Northern Railway Company to construct a railway across and establish stations on the Omaha and Winnebago Reservation, in the State of Nebraska, and for other purposes," for the construction of said railway be, and the same is hereby, extended for a period of three years from the 26th day of March, 1901.

SEC. 2. That all other provisions of said act are hereby continued in full force and effect.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Brotherhood of Railway Employees, all of San Francisco, Cal., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. KERN: Petitions of Hy. F. Stumpf, of Waterloo, and William Ebers, of Bremen, Ill., favoring House bill 9206—to the Committee on Agriculture.

By Mr. LANHAM: Resolutions of Lodge No. 20, Locomotive Firemen, of Paris, Tex., in favor of the exclusion of Chinese laborers—to the Committee on Foreign Affairs.

By Mr. McCALL: Petition of citizens of Somerville, Mass., for the repeal of the tariff on beef, veal, mutton, and pork—to the Committee on Ways and Means.

By Mr. McCLEARY: Resolutions of the Northwestern Manufacturers' Association, the Commercial Club, and the Jobbers' Union, of St. Paul, Minn., indorsing legislation for the irrigation of arid lands—to the Committee on Irrigation of Arid Lands.

Also, resolutions of the Northwestern Manufacturers' Association, approving the reorganization of the consular service—to the Committee on Foreign Affairs.

Also, resolutions of Release Lodge, No. 579, Brotherhood of Locomotive Firemen, Montevideo, Minn., favoring an educational test for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MOODY of Massachusetts: Petition of residents of Danvers, Mass., favoring House bills 11535 and 11536, for the protection of birds—to the Committee on Agriculture.

Also, petition of the Sons of Poland, of Salem, Mass., favoring the erection of a monument to Count Pulaski—to the Committee on the Library.

By Mr. NEVILLE: Petitions of W. W. Fought, W. F. Miles, A. F. Maloy, and other citizens of Duel County, Nebr., opposing the leasing of public lands—to the Committee on the Public Lands.

Also, paper to accompany House bill 5171, for the relief of Catherine Grace—to the Committee on Claims.

By Mr. RICHARDSON of Alabama: Petition of John H. Hollingsworth, jr., of Limestone County, Ala., asking that his claim be referred to the Court of Claims under the Bowman Act—to the Committee on War Claims.

By Mr. ROBINSON of Louisiana: Petition of Louis V. Porche, of Point Coupee, La., for reference of war claim to Court of Claims—to the Committee on War Claims.

By Mr. RUPPERT: Resolutions of the New York Produce Exchange, favoring the passage of House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, resolutions of Division No. 54, Order of Railway Conductors, Bohemian Typographical Union, No. 131, New York Hackmen's League, and Sixth Branch, Amalgamated Society of Carpenters, all of New York City, favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. RYAN: Resolution of Missouri, Kansas, and Oklahoma Association of Lumber Dealers, for legislation amending the existing interstate-commerce act—to the Committee on Interstate and Foreign Commerce.

By Mr. SHACKLEFORD: Resolutions of Carpenters' Union No. 945, of Jefferson City, Mo., in favor of the exclusion of Chinese laborers, etc.—to the Committee on Foreign Affairs.

By Mr. SHAFROTH: Petitions of the Patriotic Order of Sons of America, Camp No. 15, of Denver, Colo., and citizens of Lake County, Colo., for more rigid restriction of immigration—to the Committee on Immigration and Naturalization.

Also, resolutions of German-American Central Verein, Denver, Colo., against any proposition to restrict the immigration of healthy and honest persons—to the Committee on Immigration and Naturalization.

Also, resolutions of the Chamber of Commerce and citizens of Cripple Creek, Colo., in favor of the Chinese-exclusion act—to the Committee on Foreign Affairs.

Also, resolutions of Bricklayers and Masons' Union of Leadville, Colo., in regard to employees in navy-yards and for the enforcement of the eight-hour law—to the Committee on Naval Affairs.

By Mr. SMITH of Illinois: Resolutions of Mine Workers' Unions No. 757, of Elkville, and No. 1880, of Marion, Ill., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. SNOOK: Petition of Jennie Burns, to accompany House bill to amend the military record of Daniel Burns—to the Committee on Military Affairs.

By Mr. SNODGRASS: Petition of Gincey Edwards, of Sumner County, Tenn., for reference of war claim to the Court of Claims—to the Committee on War Claims.

By Mr. SPIGHT: Papers to accompany bill for the relief of W. D. Aston—to the Committee on War Claims.

By Mr. SULZER: Resolutions of Local Assembly No. 6909, Knights of Labor, Brooklyn, N.Y.; New York Produce Exchange, and executive committee of bricklayers' unions of New York City, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, resolutions of Baltimore Typographical Union No. 12, and of Central Trades and Labor Council of New Orleans, La., against the passage of House bill 5777, amending the copyright laws—to the Committee on Patents.

Also, resolutions of the Merchants' Association of New York, urging reciprocity with Cuba upon the basis of not less than 40 per cent reduction—to the Committee on Ways and Means.

Also, resolutions of the Thirteenth Club of the City of New York, in opposition to sending a special embassy to attend the coronation of King Edward VII—to the Committee on Foreign Affairs.

Also, petition of W. J. Quinn, Dr. F. W. Grube, and others, of New York City, for the repeal of the tariff on beef, veal, mutton, and pork—to the Committee on Ways and Means.

Also, resolutions of the Maritime Association of the Port of New York, urging the passage of House bill 163, to pension employees and dependents of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of the same association, in relation to the ship-subsidy bills—to the Committee on Interstate and Foreign Commerce.

By Mr. TIRRELL: Resolutions of Bay State Lodge No. 73, Brotherhood of Locomotive Firemen, of Worcester, Mass., favoring the Chinese-exclusion act—to the Committee on Foreign Affairs.

By Mr. YOUNG: Petition of the American Wireless Telephone and Telegraph Company, for the extension of patent No. 350299—to the Committee on Patents.

Also, petition of Encampment No. 33, Union Veteran Legion, urging the passage of a service pension bill—to the Committee on Invalid Pensions.

SENATE.

TUESDAY, *April 29, 1902.*

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

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SCOTT, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal, without objection, will stand approved.

COLUMBIA INSTITUTION FOR DEAF AND DUMB.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the president of the Columbia Institution for the Deaf and Dumb submitting an estimate of appropriation to provide for suitable protection against disaster by fire to the buildings of that institution, $3,291; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

THE REVENUE-CUTTER SERVICE.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the chief of the division of Revenue-Cutter Service submitting an additional estimate of appropriation, $115,000, to meet the requirements in the matter of longevity pay for officers of the Revenue-Cutter Service for the fiscal year ending June 30, 1903, etc.; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

C. M. BROADWAY.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings filed by the court in the cause of C. M. Broadway, administrator of Jordan Broadway, deceased, *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, 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 amendment of the Senate to the bill (H. R. 13031) to prohibit the coming into and to regulate the residence within the United States, its Territories, and all territory under its jurisdiction, and the District of Columbia, of Chinese and persons of Chinese descent.

The message also returned to the Senate, in compliance with its request, the bill (S. 312) providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year.

LEGISLATIVE INTENT SERVICE (800) 666-1917

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 President pro tempore:

A bill (S. 234) granting an increase of pension to James Frey;
A bill (S. 319) granting a pension to Ida M. Warren;
A bill (S. 324) granting an increase of pension to Nellie Loucks;
A bill (S. 636) to remove the charge of desertion against David A. Lane;
A bill (S. 694) granting a pension to James Caton;
A bill (S. 715) to provide for two additional associate justices of the supreme court of the Territory of Oklahoma, and for other purposes;
A bill (S. 899) granting an increase of pension to George F. Bowers;
A bill (S. 1321) to restore to the active list of the Navy the name of James G. Field;
A bill (S. 1363) granting an increase of pension to James A. McKeehan;
A bill (S. 1625) granting an increase of pension to Jethro M. Getman, alias James M. Getman;
A bill (S. 1629) granting an increase of pension to James W. Humphrey;
A bill (S. 1638) granting a pension to John R. Homer Scott;
A bill (S. 1643) granting an increase of pension to Ellen J. Clark;
A bill (S. 1814) granting an increase of pension to Anna E. Luke;
A bill (S. 1881) to correct the military record of Peter Connell;
A bill (S. 2305) granting an increase of pension to Lemuel Grove;
A bill (S. 2346) granting a pension to Amanda C. Bayliss;
A bill (S. 2455) granting an increase of pension to Genevieve Almira Sprigg Ludlow;
A bill (S. 2533) to remove the charge of desertion against Frederick Schulte or Schuldt;
A bill (S. 2738) granting an increase of pension to James W. Hankins;
A bill (S. 2805) granting an increase of pension to Anna L. Cory;
A bill (S. 2943) granting an increase of pension to Thomas S. Rowan;
A bill (S. 2971) granting an increase of pension to Silas D. Strong;
A bill (S. 3108) granting an increase of pension to Inez E. Perrine;
A bill (S. 3217) granting an increase of pension to Charles Dixon;
A bill (S. 3252) granting an increase of pension to Jesse W. Bice;
A bill (S. 3321) granting a pension to Patrick J. Murphy;
A bill (S. 3334) granting an increase of pension to Thomas E. James;
A bill (S. 3472) granting an increase of pension to Zeno T. Griffin;
A bill (S. 3519) granting an increase of pension to Charles L. Cummings;
A bill (S. 3633) granting an increase of pension to Samuel L. Leffingwell;
A bill (S. 3634) granting an increase of pension to Elizabeth A. Capehart;
A bill (S. 3663) to amend an act entitled "An act granting the right to the Omaha Northern Railway Company to construct a railway across and establish stations on the Omaha and Winnebago Reservation, in the State of Nebraska, and for other purposes," by extending the time for the construction of said railway;
A bill (S. 3672) granting an increase of pension to James Scannell;
A bill (S. 3820) granting an increase of pension to Warren B. Nudd;
A bill (S. 3991) granting an increase of pension to Waity West;
A bill (S. 4042) granting an increase of pension to William H. Norton;
A bill (S. 4056) granting an increase of pension to Minerva Nelton;
A bill (S. 4111) granting an increase of pension to Abner J. Pettee;
A bill (S. 4335) granting an increase of pension to John Brown;
A bill (S. 4339) authorizing the White River Railway Company to construct a bridge across the White River in Arkansas;
A bill (S. 4381) granting an increase of pension to John S. Robinson;
A bill (S. 4514) granting an increase of pension to Mary Beals;
A bill (S. 4535) granting an increase of pension to Lydia M. Granger;
A bill (S. 4619) granting an increase of pension to Clifford Neff Fyffe;
A bill (S. 4647) to amend section 4929 of the Revised Statutes relating to design patents;
A bill (S. 4650) granting an increase of pension to Delania Ferguson;
A bill (S. 4658) granting an increase of pension to Charles I. Rand;
A bill (S. 4740) granting an increase of pension to Maria L. Godfrey;
A bill (S. 4749) granting an increase of pension to Eunice A. Smith;
A bill (S. 4969) granting an increase of pension to Abbie George;
A bill (H. R. 282) granting an increase of pension to John O'Rourke;
A bill (H. R. 2599) granting an increase of pension to John Hall;
A bill (H. R. 2660) granting an increase of pension to Henry Runnebaum;
A bill (H. R. 4426) granting an increase of pension to Daniel Sims;
A bill (H. R. 4543) granting an increase of pension to George W. Parker;
A bill (H. R. 5111) granting an increase of pension to James D. Rowland;
A bill (H. R. 5711) granting an increase of pension to James R. Brockett;
A bill (H. R. 5789) granting an increase of pension to Joseph Seithen;
A bill (H. R. 6205) granting an increase of pension to Richmond M. Curtis;
A bill (H. R. 6356) granting an increase of pension to William G. Taylor;
A bill (H. R. 7116) granting an increase of pension to Alex. F. McConnell;
A bill (H. R. 8562) granting an increase of pension to Sarah Ciples, now Vandemark;
A bill (H. R. 9144) granting an increase of pension to James R. Wilson;
A bill (H. R. 9370) granting an increase of pension to John J. Wolfe;
A bill (H. R. 9952) granting a pension to William P. Featherstone;
A bill (H. R. 10361) granting an increase of pension to Alex. Scott;
A bill (H. R. 11091) granting an increase of pension to James Cooley;
A bill (H. R. 11112) granting an increase of pension to S. Agnes Young;
A bill (H. R. 11168) granting an increase of pension to Isaac Phipps;
A bill (H. R. 11977) granting a pension to Sidney Cable;
A bill (H. R. 12504) granting a pension to James B. Hashbargar;
A bill (H. R. 12550) granting an increase of pension to James E. Horton;
A bill (H. R. 13031) to prohibit the coming into and to regulate the residence within the United States, its Territories, and all territory under its jurisdiction, and the District of Columbia, of Chinese and persons of Chinese descent; and
A bill (H. R. 13066) granting an increase of pension to Obed D. Jasper.

PETITIONS AND MEMORIALS.

Mr. SCOTT presented petitions of Bluestone Lodge, No. 446, Brotherhood of Locomotive Engineers, of Bluefield; and of New River Division, No. 140, Order of Railway Conductors, of Hinton, in the State of West Virginia, praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of a substitute therefor; which were ordered to lie on the table.

Mr. DILLINGHAM presented a petition of Federal Union, No. 9635, American Federation of Labor, of Vergennes, Vt., praying for the enactment of legislation providing an educational test for immigrants to this country; which was referred to the Committee on Immigration.

Mr. KEAN presented petitions of Local Division No. 85, Order of Railroad Telegraphers, of Trenton; of Lodge No. 11, Brotherhood of Locomotive Firemen, of Phillipsburg, and of Local Division No. 312, Order of Railway Conductors, of Weehawken, all in the State of New Jersey, praying for the passsage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the adoption of the proposed substitute therefor; which were ordered to lie on the table.

Mr. FAIRBANKS presented a memorial of the M. Henock Company, of La Porte, Ind., remonstrating against the adoption of an amendment to the internal-revenue law relative to the tax on distilled spirits; which was referred to the Committee on Finance.

He also presented a petition of Fort Wayne Lodge, No. 136, Brotherhood of Railroad Trainmen, of Fort Wayne, Ind., praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of restraining orders and injunctions in certain cases, and remonstrating

LEGISLATIVE INTENT SERVICE (800) 666-1917

there is another at Middletown, Conn., and another in Maine, and another at the State College in Pennsylvania. The Secretary of Agriculture said before our committee that every bit of this work ought to be done here in the city of Washington, and that it ought to be done by the Chemical Bureau at the Department of Agriculture; that the tendency of it would be to make the men in charge of the Bureau more proficient and would enable the Department of Agriculture to get better men.

And what else? In the Bureau of Plant Industry there is another chemical laboratory with appliances and material, and chiefs and assistant chiefs, and clerks, and assistants, and stenographers; and upon the proposition of consolidating these chemical bureaus the only answer that the chief of this Bureau could make, reduced to writing, and the only argument that he could make to sustain it was that it would be just as reasonable to have all the stenographers and all the typewriters under one head, and if you wanted any typewriting done or any stenographic work done that you should go to that one department of stenography.

Now, I submit, Mr. Chairman and gentlemen, that it is absolutely useless to have these chemical bureaus in these various departments, and that the chemistry of this Government ought to be under one controlling and proficient head, and that we ought to put a stop to this increase of bureaus and this duplication of work.

That is all I care to say.

The CHAIRMAN. The gentleman from Connecticut [Mr. HENRY] makes the point of order against the amendment, and the Chair sustains the point of order.

On motion of Mr. WADSWORTH, the committee rose; and the Speaker having resumed the chair, Mr. POWERS of Maine, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 13895) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1903, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

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

H. R. 5111. An act granting an increase of pension to James D. Bowland;

H. R. 13031. An act to prohibit the coming into and to regulate the residence within the United States, its Territories, and all territory under its jurisdiction, and the District of Columbia, of Chinese and persons of Chinese descent; and

H. R. 5711. An act granting increase of pension to James R. Brockett.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 1321. An act to restore to the active list of the Navy the name of James G. Field;

S. 3663. An act to amend an act entitled "An act granting the right to the Omaha Northern Railway Company to construct a railway across, and establish stations on, the Omaha and Winnebago Reservation, in the State of Nebraska, and for other purposes," by extending the time for the construction of said railway.

S. 4339. An act authorizing the White River Railway Company to construct a bridge across the White River in Arkansas;

S. 715. An act to provide for two additional associate justices of the supreme court of the Territory of Oklahoma, and for other purposes; and

S. 4647. An act to amend section 4929 of the Revised Statutes, relating to design patents.

ENROLLED BILLS PRESENTED TO THE PRESIDENT OF THE UNITED STATES.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had presented this day to the President of the United States for his approval bill of the following title:

H. R. 13031. An act to prohibit the coming into and to regulate the residence within the United States, its Territories, and all territory under its jurisdiction, and the District of Columbia, of Chinese and persons of Chinese descent.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 1191. An act for the relief of the legal devisees of James W. Schaumburg—to the Committee on Claims.

S. 3967. An act for the relief of Ramon O. Williams and Joseph A. Springer—to the Committee on Claims.

S. 4419. An act to incorporate the General Education Board—to the Committee on Education.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. WOODS, until Wednesday next, on account of important business.

To Mr. STEELE, indefinitely, on account of important business.

To Mr. GARDNER of Michigan, for one week, on account of important business.

And then, on motion of Mr. WADSWORTH (at 5 o'clock and 3 minutes p. m.), the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communication was taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of State submitting an additional estimate of appropriation for the dedication of the statue of Rochambeau—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. MOODY of Oregon, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 11062) to amend an act entitled "An act to make certain grants of land to the Territory of New Mexico, and for other purposes," reported the same with amendment, accompanied by a report (No. 1828); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13174) granting an increase of pension to Ransford T. Chase, reported the same with amendment, accompanied by a report (No. 1798); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5337) granting an increase of pension to Marietta L. Adams, reported the same without amendment, accompanied by a report (No. 1799); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7040) granting an increase of pension to Benjamin F. Grinnel, reported the same with amendments, accompanied by a report (No. 1800); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8414) granting an increase of pension to George Atkinson, reported the same with amendments, accompanied by a report (No. 1801); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13597) granting an increase of pension to Edmund B. Appleton, reported the same with amendments, accompanied by a report (No. 1802); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8487) granting a pension to John M. Crist, reported the same with amendments, accompanied by a report (No. 1803); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13891) granting a pension to Hiram A. Sheldon, reported the same with amendments, accompanied by a report (No. 1804); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12377) granting a pension to Capt. Enoch Voyles, reported the same with amendments, accompanied by a report (No. 1805); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7021) granting an increase of pension to Henry Forcht, reported the same with amendment, accompanied by a report (No. 1806); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5321) granting a pension to Lillie May Fifield, reported the same with amendment, accompanied by a report (No. 1807); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2787) granting a

LEGISLATIVE INTENT SERVICE (800) 666-1917

of Division No. 26, of Brunswick; of Tom Wolfkill Division, No. 437, of Cumberland; of Knobly Division, Order of Railway Conductors, of Cumberland; of D. F. Conner Lodge, No. 502, of Hagerstown, all of the State of Maryland; of Ticonic Division, No. 508, Brotherhood of Locomotive Engineers, of Bangor; of Moorhead Lodge, No. 443, of Bangor; of Pleasant River Division, No. 440, of Henderson; of Brotherhood of Locomotive Engineers of Portland; of Order of Railway Conductors of Portland; of H. W. Longfellow Lodge, No. 82, Brotherhood of Railroad Trainmen, of Portland; of Kennebec Lodge, No. 343, of Waterville; all of the State of Maine; of Division No. 553, Brotherhood of Locomotive Engineers, of Fresno, Cal.; of Division No. 20, of Logansport; Ind.; of Order of Railway Conductors, Atlanta Division, No. 180, Atlanta, Ga.; of Order of Railway Conductors, Division No. 96, of Montgomery, Ala.; of Brotherhood of Locomotive Engineers, Atlanta Division, No. 207, of Atlanta, Ga.; of Phoenix Lodge, No. 216, of Jackson, Tenn.; of Division No. 309, of Jacksonville, Fla.; of Grand Lodge, No. 278, of San Bernardino, Cal.; of Herington Division, Brotherhood of Locomotive Engineers, of Herington; of Brotherhood of Railroad Trainmen of Greenleaf; of Brotherhood of Railroad Trainmen of Goodland; of Emporia Lodge, No. 53, Brotherhood of Railroad Trainmen, of Emporia; of Dodge City Division, No. 300, of Dodge City; of Order of Railway Conductors, Chanute Lodge, No. 265, Chanute; of Brotherhood of Locomotive Engineers of Chanute; of Lodge No. 434, Atchison; of Order of Railway Conductors of Arkansas City; of Brotherhood of Locomotive Engineers, Division No. 396, of Argentine; of Division No. 364, of Wichita; of Brotherhood of Railroad Trainmen, Lodge No. 366, of Wichita; of Division No. 338, Order of Railway Conductors, of Wichita; of Panhandle Division, No. 277, of Wellington; of Topeka Division, No. 179, of Topeka; of De Soto Division, No. 234, of Topeka; of Pittsburg Division, No. 107, of Pittsburg; of Parsons Division, No. 161, of Parsons; of Division No. 179, of Parsons; of Osawatomie Lodge, No. 65, of Osawatomie; of Osawatomie Lodge, No. 63, of Osawatomie; of Fall River Lodge, No. 391, of Neodesha; of Emporia Division, No. 330, of Emporia; of Junction Lodge, No. 342, of Junction City; of F. C. Smith Lodge, No. 155, of Herington; of Order of Railway Conductors, Kansas Division, No. 298, of Herington, all of the State of Kansas; of Armory Division, No. 207, Order of Railway Conductors, of Armory; of Boston Division, No. 122, Order of Railway Conductors, of Boston; of Puritan Lodge, No. 621, of Boston; of City Point Lodge, No. 507; of Bunker Hill Lodge, No. 404, Brotherhood of Railroad Trainmen, of Boston; of Mount Hope Lodge, No. 475, of Fall River; of Hoosac Tunnel Lodge, No. 93, of Fitchburg; of Division No. 191, of Fitchburg; of Deerfield Valley Division, No. 112, of Greenfield; of Bay State Division, No. 413, Order of Railway Conductors, of Lawrence; of Spindle City Lodge, No. 233, of Lowell; of Pioneer Lodge, No. 238, of Merrick; of New England Division, No. 157, Order of Railway Trainmen, of North Easton; of Framingham Lodge, No. 236, of South Framingham; of Springfield Division, No. 63, of Springfield; of City of Homes Lodge, No. 622, of Springfield; of Old Colony Lodge, No. 70, of Taunton; of Woronoco Lodge, Brotherhood of Railroad Trainmen, of Westfield; of Worcester Division, No. 64, Brotherhood of Locomotive Engineers, of Worcester, all of the State of Massachusetts; of Brotherhood of Railroad Trainmen of Cherokee; of Hand in Hand Lodge, No. 183, Brotherhood of Railroad Trainmen, of Clinton; of Brotherhood of Railroad Trainmen of Austin; of Maple Leaf Lodge, No. 585, of Dubuque; of Division No. 113, of Des Moines; of G. E. Boynton Lodge, No. 138, of Eagle Grove; of Order of Railway Conductors of Eagle Grove; of Division No. 181, of Eldon; of Brotherhood of Railroad Trainmen of Estherville; of Fort Dodge Division, Order of Railway Conductors, of Fort Dodge; of Division No. 538, of Marion; of Division No. 2680, of Marion; of Division No. 117, of Mason City; of Oskaloosa Lodge, Brotherhood of Railroad Trainmen, Oskaloosa, all in the State of Iowa, praying for the enactment of legislation providing an educational test for immigrants to this country; which were referred to the Committee on Immigration.

COLLECTION OF TAXES IN THE DISTRICT OF COLUMBIA.

Mr. STEWART. I present an argument submitted to the Board of Trade of the District of Columbia relative to the bill to regulate the assessment and collection of taxes and licenses in the District of Columbia, and for other purposes. I move that the argument be printed as a document, and that it lie on the table, as the bill has already been reported.

The motion was agreed to.

REPORT OF A COMMITTEE.

Mr. GAMBLE, from the Committee on Indian Depredations, to whom was recommitted the bill (S. 3544) to amend an act entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891, reported it with amendments, and submitted a supplemental report thereon.

GRAND ARMY ENCAMPMENT.

Mr. McMILLAN. I am directed by the Committee on the District of Columbia, to whom was referred the joint resolution (S. R. 87) to permit steam railroads in the District of Columbia to occupy additional parts of streets in order to accommodate the traveling public attending the encampment of the Grand Army of the Republic in October, 1902, to report it favorably without amendment. It is a matter that will take but a moment, and I ask for the immediate consideration of the joint resolution.

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

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

BILLS AND JOINT RESOLUTION INTRODUCED.

Mr. McMILLAN introduced a bill (S. 5714) to promote the efficiency of the Life-Saving Service; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 5715) to provide for the opening and closing of alleys and the opening of minor streets in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. BARD introduced a bill (S. 5716) for the relief of Capt. Charles Anderson; which was read twice by its title.

Mr. BARD. I present sundry papers relative to the claim of Capt. Charles Anderson, assistant surgeon, United States Volunteers, Manila, P. I. I move that the papers be printed as a document, and that they be referred, with the bill, to the Committee on Claims.

The motion was agreed to.

Mr. BLACKBURN introduced a bill (S. 5717) granting a pension to Laura Shaver; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. JONES of Arkansas introduced a bill (S. 5718) providing for the sale of sites for manufacturing or industrial plants in the Indian Territory; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CLAPP introduced a bill (S. 5719) granting an increase of pension to Sidney V. Lund; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 5720) granting an increase of pension to Amos S. Glenn; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. HANSBROUGH introduced a bill (S. 5721) authorizing the Secretary of War to procure suitable medals for presentation to certain members of Young's Scouts; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 5722) granting an increase of pension to Ezra W. Cartwright; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 5723) granting an increase of pension to Ole Hexom; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. HALE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (S. 5724) for the relief of Paymaster James E. Tolfree, United States Navy;

A bill (S. 5725) for the relief of Pay Clerk Charles Blake, United States Navy; and

A bill (S. 5726) for the relief of Omenzo G. Dodge.

Mr. FRYE introduced a bill (S. 5727) granting an increase of pension to Calvin C. Hussey; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 5728) granting an increase of pension to Jacob Foust; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5729) to correct the military record of John Nott Schermerhorn; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MITCHELL introduced a bill (S. 5730) granting an increase of pension to Frederic Lockley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MORGAN introduced a bill (S. 5731) for the relief of Peter F. Kendall; which was read twice by its title, and referred to the Committee on Claims.

Mr. SCOTT introduced a bill (S. 5732) establishing a regular term of United States district court in Lewisburg, W. Va.; which

LEGISLATIVE INTENT SERVICE (800) 666-1917

By Mr. SIBLEY: Resolution of Lodge No. 105, Brotherhood of Railroad Trainmen, Oil City, Pa., favoring the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. SMITH of Kentucky: Papers to accompany bill for the relief of the Methodist Episcopal Church South, New Haven, Ky.—to the Committee on War Claims.

By Mr. SULZER: Petitions of Louise B. Wallace, W. E. Thompson, Alexander Geddes, and 11 others; also W. A. Duvall, Thomas O. Crouse, and 5 other citizens, all of Baltimore, Md., praying for intervention between the Boer Republic and Great Britain to the end that hostilities may cease—to the Committee on Foreign Affairs.

By Mr. WANGER: Resolution of Lieutenant John H. Fisher Post, No. 101, of Hatboro, Grand Army of the Republic. Department of Pennsylvania, favoring the passage of House bill 3067—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: Papers to accompany House bill granting a pension to Robert H. Maricle—to the Committee on Invalid Pensions.

By Mr. WOOTEN: Resolutions of Local Branch No. 28, United Brotherhood of Leather Workers on Horse Goods, protesting against the President's order prohibiting utterances by Government employees—to the Committee on the Judiciary.

Also, resolutions of Cattle Raisers' Association of Texas, favoring the passage of the Foraker-Corliss safety-appliance bill—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of the same association, protesting against leasing public lands to individuals and private corporations—to the Committee on the Public Lands.

Also, resolution of the same association, favoring the passage of House bill 6565, known as the Grosvenor pure-fiber bill—to the Committee on Ways and Means.

Also, resolutions of the same association, in favor of certain bills affecting the cattle interests—to the Committee on Agriculture.

SENATE.

FRIDAY, *May 9, 1902.*

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

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SPOONER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

PETITIONS AND MEMORIALS.

Mr. SPOONER presented a petition of the Federated Trades Council, of Madison, Wis., praying for the enactment of legislation providing an educational test for immigrants to this country; which was referred to the Committee on Immigration.

He also presented resolutions adopted at a meeting of the Turn Verein, of Sheboygan, and of the Gymnastic Association, of Milwaukee, in the State of Wisconsin, expressing sympathy with the people of the South African Republic and the Orange Free State; which were referred to the Committee on Foreign Relations.

He also presented petitions of Local Division No. 176, Brotherhood of Locomotive Engineers, of Baraboo; of Local Division No. 68, Order of Railway Conductors, of Baraboo; of Hall of Fox River Division, No. 373, Order of Railway Conductors, of Green Bay; of Hall of Guard Rail Lodge, No. 168, Brotherhood of Locomotive Firemen, of North La Crosse, and of Local Division No. 297, Brotherhood of Locomotive Engineers, of Green Bay, all in the State of Wisconsin, praying for the passage of the so-called Hoar bill to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of any substitute therefor; which were referred to the Committee on the Judiciary.

Mr. KEAN presented a petition of the Woman's Christian Temperance Union, of Avon, N. J., praying for the appointment of a commission to investigate the practical working of woman suffrage in Wyoming, Colorado, Utah, and Idaho; which was referred to the Committee on Woman Suffrage.

He also presented a petition of the Morris County Retail Liquor Dealers and Hotel Keepers' Protective Association, of Morristown, N. J., praying for the adoption of certain amendments to the internal-revenue law relative to the tax on distilled spirits; which was referred to the Committee on Finance.

He also presented a petition of Newark Lodge, No. 219, Brotherhood of Railroad Trainmen, of Newark, N. J., praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of any substitute therefor; which was referred to the Committee on the Judiciary.

Mr. CLAPP presented a petition of the Northwestern Furriers' Union, of St. Paul, Minn., praying for the enactment of legislation providing an educational test for immigrants to this country; which was referred to the Committee on Immigration.

Mr. CULLOM presented petitions of Local Division No. 294, Brotherhood of Locomotive Engineers, of Chicago; of Lodge No. 456, Brotherhood of Railroad Trainmen, of Chicago; of Lodge No. 375, Brotherhood of Locomotive Trainmen, of Chicago, and of Local Division No. 31, Brotherhood of Locomotive Engineers, of Aurora, all in the State of Illinois, praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of any substitute therefor; which were referred to the Committee on the Judiciary.

He also presented the petition of A. Y. Trogdon, of Paris, Ill., praying that relief be granted him for the prosecution of certain pension claims; which was referred to the Committee on Pensions.

Mr. COCKRELL presented a resolution adopted at a meeting of the Rockspring Turn Verein, of Rockspring, Mo., expressing sympathy with the people of the South African Republic and the Orange Free State; which was referred to the Committee on Foreign Relations.

He also presented a petition of Local Division No. 55, Order of Railway Conductors, of Kansas City, Mo., praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of any substitute therefor; which was referred to the Committee on the Judiciary.

Mr. HALE presented petitions of the Board of Trade of Portland and of the Portland Marine Society, of Portland, in the State of Maine, praying for the enactment of legislation granting pensions to surfmen and increasing the pay of superintendents of the Life-Saving Service; which were referred to the Committee on Commerce.

He also presented a petition of Aroostook Lodge, No. 393, Brotherhood of Railroad Trainmen, of Houlton, Me., praying for the passage of the so-called Hoar anti-injunction bill, to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of any substitute therefor; which was referred to the Committee on the Judiciary.

He also presented petitions of the New Hampshire Annual Conference of the Methodist Episcopal Church and of the Presbytery of New York, praying for the enactment of legislation increasing the pay of chaplains in the United States Navy, etc.; which were referred to the Committee on Naval Affairs.

Mr. BLACKBURN presented petitions of sundry citizens of Jessamine County, Harrison County, Bourbon County, Anderson County, Fayette County, and Franklin County, all in the State of Kentucky, praying for the adoption of certain amendments to the internal-revenue law relative to the tax on distilled spirits; which were referred to the Committee on Finance.

Mr. DEPEW presented a petition of the Central Republican Club of New York City, N. Y., praying for the enactment of legislation to increase the salaries of letter carriers; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. PENROSE presented petitions of Division No. 215, of Bowling Green; of Simon Kenton Lodge, No. 345, of Covington; of Division No. 239, Order of Railway Conductors, of Lexington; of Adair Division, No. 365, of Louisville; of Cumberland Mount Lodge, of Somerset; of the Order of Railroad Telegraphers, of Russell; of Chesapeake Lodge, No. 454, of Russell; of the Brotherhood of Railroad Trainmen of Louisville; of Division No. 89, Order of Railway Conductors, of Louisville, all of the State of Kentucky; of Local Union No. 278, of Lebanon; of Delaware Lodge, No. 123, Brotherhood of Railroad Trainmen, of Wilmington; of Brotherhood of Railroad Trainmen, Brandywine Lodge, No. 528, of Wilmington; Order of Railway Conductors, Division No. 224, of Wilmington, all of the State of Delaware; of Locomotive Engineers, Division No. 216, of Pine Bluff; of Cotton Belt Division, Order of Railway Conductors, of Pine Bluff; of Locomotive Engineers, Division No. 182, of Little Rock; of Division No. 554, of Little Rock; of Big Rock Lodge, No. 49, Brotherhood of Railroad Trainmen, of Little Rock, all of the State of Arkansas; of Savage Mountain Lodge, No. 22, of Mount Savage; of Monumental Division, No. 52, of Baltimore; of Baltimore Division, No. 337, Order of Railway Conductors; of Brotherhood of Railway Trainmen, Lodge No. 124, of Baltimore; of Good Intent Lodge, No. 447, of Baltimore; of Monumental Lodge, No. 438, of Baltimore; of Brotherhood of Railroad Trainmen of Brunswick;

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LEGISLATIVE INTENT SERVICE (800) 666-1917

of Division No. 26, of Brunswick; of Tom Wolfkill Division, No. 437, of Cumberland; of Knobly Division, Order of Railway Conductors, of Cumberland; of D. F. Conner Lodge, No. 502, of Hagerstown, all of the State of Maryland; of Ticonic Division, No. 508, Brotherhood of Locomotive Engineers, of Bangor; of Moorhead Lodge, No. 443, of Bangor; of Pleasant River Division, No. 440, of Henderson; of Brotherhood of Locomotive Engineers of Portland; of Order of Railway Conductors of Portland; of H. W. Longfellow Lodge, No. 82, Brotherhood of Railroad Trainmen, of Portland; of Kennebec Lodge, No. 343, of Waterville; all of the State of Maine; of Division No. 553, Brotherhood of Locomotive Engineers, of Fresno, Cal.; of Division No. 20, of Logansport; Ind.; of Order of Railway Conductors, Atlanta Division, No. 180, Atlanta, Ga.; of Order of Railway Conductors, Division No. 96, of Montgomery, Ala.; of Brotherhood of Locomotive Engineers, Atlanta Division, No. 207, of Atlanta, Ga.; of Phoenix Lodge, No. 216, of Jackson, Tenn.; of Division No. 309, of Jacksonville, Fla.; of Grand Lodge, No. 278, of San Bernardino, Cal.; of Herington Division, Brotherhood of Locomotive Engineers, of Herington; of Brotherhood of Railroad Trainmen of Greenleaf; of Brotherhood of Railroad Trainmen of Goodland; of Emporia Lodge, No. 53, Brotherhood of Railroad Trainmen, of Emporia; of Dodge City Division, No. 300, of Dodge City; of Order of Railway Conductors, Chanute Lodge, No. 265, Chanute; of Brotherhood of Locomotive Engineers of Chanute; of Lodge No. 434, Atchison; of Order of Railway Conductors of Arkansas City; of Brotherhood of Locomotive Engineers, Division No. 396, of Argentine; of Division No. 364, of Wichita; of Brotherhood of Railroad Trainmen, Lodge No. 366, of Wichita; of Division No. 338, Order of Railway Conductors, of Wichita; of Panhandle Division, No. 277, of Wellington; of Topeka Division, No. 179, of Topeka; of De Soto Division, No. 234, of Topeka; of Pittsburg Division, No. 107, of Pittsburg; of Parsons Division, No. 161, of Parsons; of Division No. 179, of Parsons; of Osawatomie Lodge, No. 65, of Osawatomie; of Osawatomie Lodge, No. 63, of Osawatomie; of Fall River Lodge, No. 391, of Neodesha; of Emporia Division, No. 330, of Emporia; of Junction Lodge, No. 342, of Junction City; of F. C. Smith Lodge, No. 155, of Herington; of Order of Railway Conductors, Kansas Division, No. 298, of Herington, all of the State of Kansas; of Armory Division, No. 207, Order of Railway Conductors, of Armory; of Boston Division, No. 122, Order of Railway Conductors, of Boston; of Puritan Lodge, No. 621, of Boston; of City Point Lodge, No. 507; of Bunker Hill Lodge, No. 404, Brotherhood of Railroad Trainmen, of Boston; of Mount Hope Lodge, No. 475, of Fall River; of Hoosac Tunnel Lodge, No. 93, of Fitchburg; of Division No. 191, of Fitchburg; of Deerfield Valley Division, No. 112, of Greenfield; of Bay State Division, No. 413, Order of Railway Conductors, of Lawrence; of Spindle City Lodge, No. 233, of Lowell; of Pioneer Lodge, No. 238, of Merrick; of New England Division, No. 157, Order of Railway Trainmen, of North Easton; of Framingham Lodge, No. 236, of South Framingham; of Springfield Division, No. 63, of Springfield; of City of Homes Lodge, No. 622, of Springfield; of Old Colony Lodge, No. 70, of Taunton; of Woronoco Lodge, Brotherhood of Railroad Trainmen, of Westfield; of Worcester Division, No. 64, Brotherhood of Locomotive Engineers, of Worcester, all of the State of Massachusetts; of Brotherhood of Railroad Trainmen of Cherokee; of Hand in Hand Lodge, No. 183, Brotherhood of Railroad Trainmen, of Clinton; of Brotherhood of Railroad Trainmen of Austin; of Maple Leaf Lodge, No. 585, of Dubuque; of Division No. 113, of Des Moines; of G. E. Boynton Lodge, No. 138, of Eagle Grove; of Order of Railway Conductors of Eagle Grove; of Division No. 181, of Eldon; of Brotherhood of Railroad Trainmen of Estherville; of Fort Dodge Division, Order of Railway Conductors, of Fort Dodge; of Division No. 538, of Marion; of Division No. 2680, of Marion; of Division No. 117, of Mason City; of Oskaloosa Lodge, Brotherhood of Railroad Trainmen, Oskaloosa, all in the State of Iowa, praying for the enactment of legislation providing an educational test for immigrants to this country; which were referred to the Committee on Immigration.

COLLECTION OF TAXES IN THE DISTRICT OF COLUMBIA.

Mr. STEWART. I present an argument submitted to the Board of Trade of the District of Columbia relative to the bill to regulate the assessment and collection of taxes and licenses in the District of Columbia, and for other purposes. I move that the argument be printed as a document, and that it lie on the table, as the bill has already been reported.

The motion was agreed to.

REPORT OF A COMMITTEE.

Mr. GAMBLE, from the Committee on Indian Depredations, to whom was recommitted the bill (S. 3544) to amend an act entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891, reported it with amendments, and submitted a supplemental report thereon.

GRAND ARMY ENCAMPMENT.

Mr. McMILLAN. I am directed by the Committee on the District of Columbia, to whom was referred the joint resolution (S. R. 87) to permit steam railroads in the District of Columbia to occupy additional parts of streets in order to accommodate the traveling public attending the encampment of the Grand Army of the Republic in October, 1902, to report it favorably without amendment. It is a matter that will take but a moment, and I ask for the immediate consideration of the joint resolution.

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

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

BILLS AND JOINT RESOLUTION INTRODUCED.

Mr. McMILLAN introduced a bill (S. 5714) to promote the efficiency of the Life-Saving Service; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 5715) to provide for the opening and closing of alleys and the opening of minor streets in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. BARD introduced a bill (S. 5716) for the relief of Capt. Charles Anderson; which was read twice by its title.

Mr. BARD. I present sundry papers relative to the claim of Capt. Charles Anderson, assistant surgeon, United States Volunteers, Manila, P. I. I move that the papers be printed as a document, and that they be referred, with the bill, to the Committee on Claims.

The motion was agreed to.

Mr. BLACKBURN introduced a bill (S. 5717) granting a pension to Laura Shaver; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. JONES of Arkansas introduced a bill (S. 5718) providing for the sale of sites for manufacturing or industrial plants in the Indian Territory; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CLAPP introduced a bill (S. 5719) granting an increase of pension to Sidney V. Lund; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CULLOM introduced a bill (S. 5720) granting an increase of pension to Amos S. Glenn; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. HANSBROUGH introduced a bill (S. 5721) authorizing the Secretary of War to procure suitable medals for presentation to certain members of Young's Scouts; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 5722) granting an increase of pension to Ezra W. Cartwright; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 5723) granting an increase of pension to Ole Hexom; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. HALE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (S. 5724) for the relief of Paymaster James E. Tolfree, United States Navy;

A bill (S. 5725) for the relief of Pay Clerk Charles Blake, United States Navy; and

A bill (S. 5726) for the relief of Omenzo G. Dodge.

Mr. FRYE introduced a bill (S. 5727) granting an increase of pension to Calvin C. Hussey; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 5728) granting an increase of pension to Jacob Foust; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 5729) to correct the military record of John Nott Schermerhorn; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MITCHELL introduced a bill (S. 5730) granting an increase of pension to Frederic Lockley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MORGAN introduced a bill (S. 5731) for the relief of Peter F. Kendall; which was read twice by its title, and referred to the Committee on Claims.

Mr. SCOTT introduced a bill (S. 5732) establishing a regular term of United States district court in Lewisburg, W. Va.; which

LEGISLATIVE INTENT SERVICE (800) 666-1917

was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 5733) granting an increase of pension to John W. Slack; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SPOONER introduced a bill (S. 5734) granting an increase of pension to Elijah A. Woodward; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. HOAR introduced a bill (S. 5735) to fix the compensation of criers and bailiffs in the United States courts; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PENROSE introduced a joint resolution (S. R. 96) to provide for the printing of additional volumes of the reports of the Industrial Commission; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Printing.

AMENDMENTS TO BILLS.

Mr. CLARK of Montana submitted an amendment proposing to appropriate $2,000 for grading, regulating, and macadamizing Kansas avenue, in Petworth subdivision, from Trenton to Utica streets, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. STEWART submitted an amendment intended to be proposed by him to the bill (S. 1694) to provide for compensation for certain employees of the Treasury, War, and Navy departments; which, with the accompanying papers, was ordered to lie on the table and to be printed.

He also submitted an amendment intended to be proposed by him to the bill (S. 3544) to amend an act entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891; which was referred to the Committee on Indian Depredations, and ordered to be printed.

Mr. PENROSE submitted an amendment relative to the completion of contracts by the Carnegie Steel Company, Limited, intended to be proposed by him to the naval appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Naval Affairs.

Mr. BARD, Mr. BURTON, Mr. CLAPP, Mr. CLAY, Mr. GAMBLE, Mr. MARTIN, Mr. PENROSE, and Mr. TALIAFERRO submitted amendments intended to be proposed by them to the bill (H. R. 14018) to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes; which were referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

SAFETY APPLIANCES ON RAILROADS.

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

The resolution was read, as follows:

Resolved, That the Interstate Commerce Commission be, and it is hereby, directed to send to the Senate copies of the reports of its inspectors showing the condition and defects of safety appliances and the practice of operating trains by train or power brakes, as required by the act to promote the safety of employees and travelers upon railroads, approved March 2, 1893, on the following-named railroads and their leased lines: Baltimore and Ohio; Chesapeake and Ohio; Cincinnati, New Orleans and Texas Pacific; Erie; Illinois Central; Lehigh Valley; Louisville and Nashville; Lake Shore and Michigan Southern; New York, New Haven and Hartford; Norfolk and Western; Pennsylvania; Queen and Crescent; Southern, and Southern Pacific.

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

Mr. KEAN. I should like to see it in print. Let it go over for one day. I shall not object to its consideration after I have had an opportunity to look at it.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, its enrolling clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. 8007) granting an increase of pension to James W. Lewis;

A bill (H. R. 11850) granting an increase of pension to Susan A. Volkmar; and

A bill (H. R. 12552) granting a pension to Erwin A. Burke, alias B. A. Erwin.

The message also transmitted resolutions of the House relative to the death and funeral of Rear-Admiral William T. Sampson.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had on this day approved and signed the act (S. 4647) to amend section 4929 of the Revised Statutes, relating to design patents.

MILITARY ORDERS IN THE PHILIPPINES.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution submitted by Mr. CULBERSON on the 7th instant, as follows:

Resolved, That the Secretary of War be, and he is hereby, directed to send to the Senate the following:

1. Copies of all orders, instructions, letters, and cablegrams which have at any time been sent by the War Department to the civil or military authorities of the United States in the Philippines relating to reconcentration, and especially copies of any such orders, instructions, letters, and cablegrams which relate to the orders of Brig. Gen. J. F. Bell, dated Batangas, December 8 and 9, 1901, on the subject of reconcentration, and also copies of all orders, instructions, letters, and cablegrams which have at any time been received by the War Department from the civil or military authorities of the United States in the Philippines on the subject of reconcentration.

2. Copies of all orders, instructions, letters, and cablegrams which have at any time been sent by the War Department to the civil or military authorities of the United States in the Philippines in reference to the order of Brig. Gen. Jacob H. Smith to Maj. L. W. T. Waller, United States Marine Corps, and copies of all orders, instructions, letters, or cablegrams which have at any time been received by the War Department from the civil or military authorities of the United States in the Philippines in reference to said order of General Smith.

Mr. CULBERSON. Mr. President, substantially all of the facts asked for in the resolution are given in Senate Document 347 of this session. There is a question in my mind, however, whether there is a full answer to a portion of the second paragraph. I feel assured that there is no further information in the possession of the Secretary of War on the subject, and I have no disposition to press the resolution. It may be indefinitely postponed.

The PRESIDENT pro tempore. The resolution will be indefinitely postponed.

ELECTION OF UNITED STATES SENATORS.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

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

Resolved by the Senate, That the Committee on Privileges and Elections be, and are hereby, discharged from further consideration of House joint resolution No. 41, entitled "A resolution proposing an amendment to the Constitution providing for the election of Senators of the United States," and that such resolution be placed upon the Calendar.

Mr. BERRY. Mr. President, on the second day of the present session of Congress the Senator from Oregon [Mr. MITCHELL] and myself each introduced a joint resolution proposing an amendment to the Constitution to elect United States Senators by the people. On the same day those resolutions were referred to the Committee on Privileges and Elections. That has been more than five months ago.

On the 14th day of February a joint resolution, which had come from the House and had been passed by the House for the same purpose, was referred to the Committee on Privileges and Elections. That resolution had passed the House of Representatives unanimously. It was referred to that committee, as I stated, on the 14th of February, which is almost three months ago.

On the 11th day of March I asked the chairman of the Committee on Privileges and Elections [Mr. BURROWS] in open Senate if it was probable that a report would be made on any one of these resolutions. He stated at the time what I will read. I shall not read all of his statement, but I will read a portion of it. In the course of the colloquy which ensued the Senator from Michigan stated:

> I will say to the Senator that there is no disposition, so far as I know, on the part of the committee to shirk any responsibility in that matter, and the measure will be considered by the committee and action taken and a report made to the Senate.
>
> Mr. BERRY. In time to secure a vote during the present session of Congress?
>
> Mr. BURROWS. I have no doubt about it.

That was on the 11th day of March, almost two months ago. Some five weeks ago I was told by members of the committee that on the following Tuesday there would undoubtedly be a report made, either favorably or adversely. When that Tuesday had passed I was informed that for some cause a vote could not be secured, but it would certainly be taken on the following Tuesday. I waited until after that Tuesday, and was again told that they had been unable to get a report either one way or the other, but on the next Tuesday it was absolutely certain that a decision would be reached. On the next Tuesday no report came, and I was told then that on account of the absence of the Senator from Massachusetts [Mr. HOAR] no action had been taken, but on the following Tuesday there would be no objection. On last Tuesday, when it was certain, as I thought, that a report would be made, I was told that the committee had met and had not

LEGISLATIVE INTENT SERVICE (800) 666-1917

57TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1139.

AMENDING SECTION 4929, REVISED STATUTES.

APRIL 15, 1902.—Ordered to be printed.

Mr. MALLORY, from the Committee on Patents, submitted the following

REPORT.

[To accompany S. 4647]

The Committee on Patents, to whom was referred the bill (S. 4647) to amend section 4929, Revised Statutes, relating to design patents, have considered the same and report:

The object sought by the proposed amendment is to conform the existing law to the manifest requirements of design patent law as distinguished from the law governing the subject of mechanical patents. Under existing law the courts have been compelled to strain the meaning of the word "useful" to its utmost limit in order not to do injustice to design patentees, and in some instances the purpose of Congress in enacting design patent legislation has been conspicuously evaded and aborted because of the inappropriate language found in the Revised Statutes bearing on the subject of design patents.

The committee approve the bill, but suggest and recommend that it be amended by striking out the word "artistic," in line 7 of page 1, and inserting the word "ornamental" in lieu thereof.

With this amendment the committee recommend that the bill pass.

Special attention is invited to the explanation of the purpose and effect of the bill, made before the committee by the Commissioner of Patents, which explanation is herewith submitted.

DEPARTMENT OF THE INTERIOR, UNITED STATES PATENT OFFICE,
Washington, D. C., March 27, 1902.

DEAR SIR: I send a memorandum relating to a bill to amend section 4929, relating to design patents, S. 4647, which has been suggested by me, because it seemed necessary that the statute covering design patents should represent more closely than it does at the present time the practice in the light of the decisions of the courts bearing upon this question.

The existing statute, section 4929, is almost identical with the first statute extending the protection of the patent laws to designs, which was the act of August 29, 1842. This act was replaced by that of March 2, 1861, which reenacted in substance the same things. The word "useful" was introduced into this section of the statute by the

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act of July 8, 1870, and as amended this resulted in the present section 4929 of the Revised Statutes.

Section 4929, as it stands at the present time, contains the specific statement of a number of different subjects to which designs may be applied. The proposed statute removes all this specific statement, for the reason that as the statute stands it does not include all the subjects which ought to be included, and from the inclusion of a portion it suggests the noninclusion of those not mentioned. It is to be noticed, however, that in spite of this enumeration of subjects of designs the act of February 4, 1887, which furnishes a remedy for infringement of design patents, gives this remedy against those who, without the consent of the owner, apply the design secured to "any article of manufacture," or to those who sell or expose for sale "any article of manufacture to which such design" shall be applied. Therefore, if the remedy is in terms applicable to any article of manufacture, the enabling act means nothing more by the enumeration of a lot of different subjects, and they have been on this account removed from the proposed statute.

The proposed statute further introduces the necessary prerequisites to obtaining a design patent, some of which were omitted from the existing statute and have been construed to be essential, by reason of section 4933, which is to the effect that all the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries, not inconsistent therewith, shall apply to patents for designs. In view of this section the courts have construed into the design patent law those prerequisites to the grant of patents which are found in section 4886, relating to mechanical patents, and it is to be presumed that by parity of reasoning the amendments introduced into section 4886 by the act of March 3, 1897, are all to be construed as necessary to be complied with for the grant of a design patent. Therefore this section as proposed contains all of these prerequisites which are required to be observed by section 4886 as amended at the present time.

In the proposed section the word "useful" has been eliminated, and the word "artistic" has been inserted as qualifying the designs covered by the statute. The reason for this change is, that at the present time the construction given to this statute by the courts has reached this position. After the insertion of the word "useful" by the act of July 8, 1870, the Supreme Court of the United States passed upon this question in Lehnbeuter *v.* Holthaus (105 U. S., 94), and said, speaking of the design in this case: "It is sufficient if it is new and useful. The patent is prima facie evidence of both novelty and utility." It is perfectly apparent that any other ruling would have been to remove by construction the word "useful" from the statute, which was beyond the province of judicial construction.

In Smith *v.* Whitman Saddle Co., decided at the October term, 1892 (148 U. S., 674), Chief Justice Fuller said:

"* * * the word 'useful,' which is in section 4929, was not contained in the act of 1842, under which the patent in Gorham Co. *v.* White was granted. So that now where a new and original shape or configuration of an article of manufacture is claimed, its utility may be also an element for consideration." (Citing Lehnbeuter *v.* Holthaus, 105 U. S., 94.)

Although the Supreme Court has thus indicated, in effect, this, that since the word "useful" is in the statute it must be an element for consideration, it has never been stated what the consideration is which can be given to utility in respect to a design, and the same court stated with approval in the same opinion the language used by Mr. Justice Brown when district judge for the eastern district of Michigan (148 U. S., p. 679):

"To entitle a party to the benefit of the act in either case (mechanical inventions or designs) there must be originality and the exercise of the inventive faculty. In the one there must be novelty and utility; in the other, originality and beauty."

The court of appeals of the District of Columbia, in re Tournier (94 O. G., 2166), speaking of these two Supreme Court decisions, said:

"We do not, however, understand the court as intending to go further than this, and to hold that functional utility is to be regarded as a controlling or even an essential element in a patent for a design. For if so the design patents would virtually be placed upon the same footing and with the same requirements of patents for mechanical inventions."

The trouble of late years under this statute has been that inventors who have been unable to show any novel function arising from change of form in their mechanical cases, have sought to obtain design patents for the very same subject-matter that had failed to show any mechanical utility. Things had passed finally to this point, that design patents were asked for to cover a lot of things for which it was perfectly evident that the design-patent act was never intended at the time of its passage.

Recently the United States circuit court of appeals for the second circuit, in the

LEGISLATIVE INTENT SERVICE (800) 666-1917

case of Rowe *v.* Blodgett (112 Fed. Rep., 61), affirming the decision of the circuit court, quoted and adopted the language which had been used in the court below, as follows:

"I decide this case upon the broader ground that patents for designs are intended to apply to matters of ornament, in which the utility depends upon the pleasing effect imparted to the eye, and not upon any new function. * * * Design patents refer to appearance, not utility. Their object is to encourage works of art and decoration, which appeal to the eye, to the æsthetic emotions, to the beautiful. A horseshoe calk is a mere bit of iron or steel, not intended for display, but for an obscure use, and adapted to be applied to the shoe of a horse for use in snow, ice, and mud. The question an examiner asks himself while investigating a device for a design patent is not 'What will it do?' but 'How does it look?' 'What new effect does it produce upon the eye?' The term 'useful' in relation to designs means adaptation to producing pleasant emotions. 'There must be originality and beauty. Mere mechanical skill is not sufficient.'"

The present situation, then, is this: We have the word "useful" in the statute. The Supreme Court says consideration must be given to it, and now the court says as to the nature of the consideration to be given to it that the term "useful" is "adaptation to producing pleasant emotions." This is something very different from mechanical utility. This is best set forth in the statute if we erase the word "useful" and insert the word "artistic," which is done in the proposed statute.

It is thought that if the present bill shall become a law the subject of design patents will occupy its proper philosophical position in the field of intellectual production, having upon the one side of it the statute providing protection to mechanical constructions possessing utility of mechanical function, and upon the other side the copyright law, whereby objects of art are protected, reserving to itself the position of protecting objects of new and artistic quality pertaining, however, to commerce, but not justifying their existence upon functional utility. If the design patent does not occupy this position there is no other well-defined position for it to take. It has been treated of late years as an annex to the statute covering mechanical cases, since the introduction of the word "useful" into it. It is thought that this practice should no longer continue.

Respectfully, yours,

F. I. ALLEN, *Commissioner.*

Hon. J. C. PRITCHARD,
United States Senate, Washington, D. C.

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These, which may be said to be of doubtful validity as trademarks, should, if actually used, be placed on the register in order that others may be notified that they are the subject of a claim of right and may thus be led to avoid their use. The law of France, which permits any mark, whatever its character, to be placed on the register, leaving the question of the validity of the mark to be determined by the courts, is in the interest of the public and is not detrimental to any interest.

The bill which I propose gives, in case of a registered mark, power to the court to increase the damages found by the jury. It further provides that the courts, in case of a registered mark, may order the destruction of copies of infringing marks, labels, etc., and provides that an injunction granted in our Circuit Court may be enforced in any other circuit, as in case of injunction granted under the copyright law, without the necessity of a new suit. The bill also gives the United States courts jurisdiction in respect to controversies arising between citizens of the same State, in respect to registered trademarks under certain conditions, and provides for exclusion at custom houses of merchandise falsely bearing a registered trademark.

All these advantages are given by the proposed bill only in case the trademark has been registered and the purpose of incorporating these provisions in the bill is to induce registration.

I don not include in the bill which I have proposed a provision for a criminal remedy against willful infringers. Such a provision is found in the laws of all foreign countries which have trademark laws, and I consider such a provision logical and in many respects desirable. I doubt whether Congress would enact such a provision into law. Certainly its enactment would be very strongly opposed and the opposition would be of such character as to preclude the possibility of the passage of the bill for a long time to come. A provision for a criminal remedy against infringers may, if the demand for it is sufficiently general, be enacted as a separate measure after the registration of trademarks has been provided for.

I have, in the bill which I have submitted, sought to modify the present law with the purpose of inducing mere general registration rather than to introduce any radically new principle. So far as it could be done with clearness, I have preserved the language of existing statutes and I have endeavored to avoid anything which would interfere with the common law rights now enjoyed by trademark owners. I have recognized that the basis of ownership is use of the mark and that registration is declaratory of the claim of right not in any sense attributive of ownership. At the same time the bill, for the purpose of inducing registration, provides for securing to a registrant certain advantages which he would not obtain otherwise.

In the report of the commission, copies of which are obtainable from Congress, the bill which I submit is accompanied by full notes setting forth, with reference to each section of the bill, the old law, the reason for the change and so far as possible the source of the language used.

I believe that Congress should be strongly urged to enact into law a bill of the general tenor and effect of the bill proposed by me. That changes in the wording of the bill, as I have drawn it, may be made with advantage, I do not doubt, and may be made without difficulty. That something should be done by Congress in the matter of trademark registration there is no doubt. That Congress will do nothing in the matter, unless the need for legislation is strongly urged upon the committees having charge of the subject, goes without saying.

Present Status of the Law Relating to Designs.

By Harold Binney, of the New York Bar.

On May 9, 1902, a bill completely re-drafting the design statute, sections 49 and 29, became a law. Notwithstanding that the new section entirely rewords the provisions for the granting of design patents, it appears that it was passed without the approval of the profession; and, indeed, while the Patent Law Association at Washington was getting an expression of opinion on the subject. The bill was reported as amended on April 15, passed the Senate without debate April 19; was referred to the House of Representatives April 21, and was reported back to the House and passed April 26. Examined and signed April 29, it was approved by the President May 9. Therefore, it appears that the entire history of the bill covers a period of only a little more than a month. As far ac can be learned, no discussion of the bill whatever was had. From the report of the Patent Law Association of Washington, it appears that when this bill was before the house committee, the chairman of the house committee stated that he would like to hear the Patent Law Association upon the matter, and the Commissioner of Patents so informed the association; that the association prepared a printed circular letter for the purpose of obtaining the opinions of some four or five hundred representative patent attorneys throughout the country, and that the bill was passed without affording the association an opportunity to receive replies or to be heard in the matter at all.

Before May 9, the section read:

"Section 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, statute, 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 (patter), 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."

As now amended it reads:

"Section 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others, in this country before his invention thereof and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees re-

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quired by law and other due proceedings had, the same as in cases of inventions or discoveries covered by section 4886, obtain a patent therefor."

To what extent, then, does the new section alter the pre-existing law as regards the question of patentability of different classes of design? The present paper is restricted to this inquiry.

The power of Congress to protect designs, like its power in regard to mechanical patents, arises in Article 1, Section 8, of the constitution. The first general design statute was passed in 1842; this was followed by the law of 1861. The law of 1861, in turn, was repealed by the Consolidated Patent Act of July 8, 1870, which is substantially re-enacted in the Revised Statutes. All these acts up to the present time have specifically recognized four classes of designs, the first three of which "plainly refer to ornament or to ornament and utility, and the last to new shapes or forms of manufactured articles." (Smith v. Whitman, Saddle Co., 148 U. S. 674.) Under R. S. 4929 before amendment, the three classes which "plainly refer to ornament" were as follows:

(1) Any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief;

(2) Any new and original design for the printing of woolen, print, cotton or other fabrics;

(3) 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.

Under the amended statutes these classes are included, if at all, in the one phrase:

"Any new, original and ornamental design for an article of manufacture."

As, however, all the articles named in the three classes "which plainly refer to ornament" are articles of manufacture and as the term "design' is broad enough to include "impression, ornament, pattern, print or picture," it does not appear that the new section has changed the law as regards such three classes or ornamental designs, with the probable exception of pure works of the fine art already protected by R. S. 4992.

But, on the other hand, the fourth class of designs expressed in the phrase "any new, useful and original shape or configuration of any article of manufacture" is either not protected at all under the amended section, or is included in the same phrase "new, original and ornamental design."

A shape or configuration may certainly be included by the word "design," and if by judicial interpretation of the former statute the term "useful" has come to be really synonymous with the newly introduced qualification "ornamental," no real change has been made in the law. The amendment would then stand as an unnecessary and uncalled for re-enactment of the pre-existing law in new terms which require judicial interpretation merely to establish the fact that nothing has been changed but the words.

If, on the other hand, the pre-existing law covered and protected a certain class of designs, the object of which is pure utility as distinguished from a physchological requirement of adornment, then the amendment entirely removes such designs from all protection.

The word "useful" in the section has received repeated attention in the decisions and has been given a meaning inconsistent with the idea of mere utility, but not consistent with the idea of utility combined with either neatness, or attractiveness, in appearance.

In Rowe v. Blodgett, 112 Fed. Rep. 61, the Circuit Court of Appeals for the Second Circuit in quoting and approving Judge Townsend's decision on a design for a horseshoe calk involving no attempt at ornamentation or attractiveness of appearance, said:

Several defenses were urged, but Judge Townsend at circuit held as follows:

"I decide this case upon the broader ground that patents for designs are intended to apply to matters of ornament, in which the utility depends upon the pleasing effect imparted to the eye, and not upon any new function. The advantage claimed by complainant for the increased flat surface afforded by the curved line, which is the essential feature of his patent, is to enhance the mechanical utility of the calk by thus making a stouter shoulder, which would not so readily become bruised out of shape, and which, therefore, could be more easily removed with a wrench, when worn, from the shoe. It is significant in this connection, that the patentee first applied for this essential feature of downward projecting curved lines on the sides of the base, as a mechanical invention, which application was rejected, and that he then attempted to cover the same feature by a design patent. Design patents refer to appearance, not utility. Their object is to encourage works of art and decoration which appeal to the eye, to the aesthetic emotions, to the beautiful. A horseshoe calk is a mere bit of iron or steel, not intended for display, but for an obscure use, and adapted to be applied to the shoe of a horse for use in snow, ice and mud. The question an examiner asks himself, while investigating a device for a patent design patent is not 'What will it do?' but 'How does it look?' 'What new effect does it produce upon the eye?' The term 'useful,' in relation to designs, means adaption to producing pleasant emotions. There must be 'originality and beauty. Mere mechanical skill is not sufficient.' Northrup v. Adams, 2 Ban. & A. 567, Fed. Cas. No. 10328, approved in Smith v. Saddle Co., 148 U. S. 679, 13 Sup. Ct. 768, 37 L. Ed. 606; Ex parte Parkinson (1871) Dec. Com. Pat. 251."

"We prefer to rest our affirmance on concurrence with these views."

Again in Westinghouse Electric & Manufacturing Co. v. Triumph Electric Co., 97 Fed. Rep. 99, the Court of Appeals for the Sixth Circuit said:

"We should think it very doubtful whether the word 'useful,' introduced by revision of the patent laws into the statute, is to have the same meaning as it has in the section providing for patents for useful inventions. The whole purpose of Congress, as pointed out by Mr. Justice Strong, speaking for the Supreme Court, in the case of Gorham Co. v. White, 14 Wall. 511, was to give encouragement to the decorative arts. It contemplated not so much utility as appearance. 'The law manifestly contemplates that giving certain new and original appearances to a manufactured article may enhance its salable value, may enlarge the demand for it, and may be a meritorious service to the public. It is the appearance itself which attracts attention and calls our favor or dislike. It is the appearance itself, therefore, no matter by what agency caused, that constitutes mainly, if not entirely, the contribution to the public which the law deems worthy of recompense.' This decision was rendered at a time when the statute of 1861 was in force. By that statute a design patent was provided for 'any new and original shape or configuration of any article of manufacture.' The word 'useful' did not appear in this phrase. It did, however, appear in another part of the same section, to wit, 'any new and useful pattern, or print, to be either worked into or worked on, or printed, or painted, or cast, or otherwise fixed on any article of manufacture.' By the act of 1870, which was a revision as well as amendment of the patent laws, the word 'useful,' was transferred from the office of qualifying patterns and prints to that of qualifying shapes or configurations of matter. 12 Stat. 246. We cannot infer from the transfer of a single word from one phrase to another, where both are in parimateria, that thereby, as to one of the classes of designs protected by the statute, the whole purpose of Congress, as pointed out by the Supreme Court, wa

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changed. We must infer that the term 'useful' was inserted merely, out of abundant caution, to indicate that things which were vicious and had a tendency to corrupt, and in this sense were not useful, were not to be covered by the statute. As already said, that statute is a revision, and the presumption of the legislative intention to change the meaning by a change of language is by no means so strong as when the sole object of the statute is to amend."

In the case of Untermeyer vs. Freund, 37 Fed. Rep. 42, Judge Cox says:

"It must be beautiful. It must appeal to the eye. . . . If it proves to be pleasing, attractive and popular, if it creates a demand for the goods of its originator. . . it will be protected. . . The object of the law is to encourage those who have industry and genius sufficient to originate objects which give pleasure to the sense of sight."

On the other hand, and even before the change of position of the word "useful" to qualify the phrase "shape or configuration," in Gorham v. White, Judge Blatchford at Circuit had said:

"A design for a configuration of an article of manufacture is embraced within the statute as a patentable design, as well as for an ornament to be placed on an article of manufacture.

"The object of the former may be solely increased utility, while the object of the latter may solely be increased gratification to a cultivated taste addressed through the eye." (7 Blatch. 513.)

And on appeal of this time honored case (which overruled only the finding of infringement), the Supreme Court said:

"The appearance may be the result of peculiarity of configuration, or of ornament alone; but in whatever way produced, it is the new thing or product which the patent law regards."

Again, in the showcase decision, Lehnbeuter v. Holthaus, 105 U. S. 94, the Court said of the design:

"Whether it is more graceful or beautiful than older designs it is not for us to decide. It is sufficient if it is new and useful."

Can the new requirement of the amended statute, "new, original and ornamental" be reconcilable with this expression of the Supreme Court that "it is sufficient if it is new and useful?"

But perhaps the most authoritative case of all is the famous saddle case, Smith v. Whitman Saddle Co., 148 U. S. 674, which distinguishes Gorham v. White and approves Lehnbeuter v. Holthaus. After quoting at some length from Gorham v. White, the Supreme Court said:

"This language was used in reference to ornamentation merely, and moreover, the word 'useful,' which is in section 4929, was not contained in the act of 1842, under which the patent in Gorham Co. v. White was granted. So that now where a new and original shape or configuration of an article or manufacture is claimed, its utility may be also an element for consideration. Lehnbeuter v. Holthaus, 105 U. S. 94."

And in the same case the Court clearly classifies the subjects of designs and divides them categorically into the ornamental and the useful, thus:

"The first three of these classes plainly refer to ornament or to ornament and utility, and the last to new shapes or forms of manufactured articles, and it is under the latter clause that this patent was granted."

It would seem that certainly wherever the aesthetic sense is involved in a design either in respect to ornament, or in respect to the beauty that flows from the mere neatness and fitness of shapes, the statute before amendment certainly afforded protection. Whereas, now the requirement "ornamental" would seem incapable of so broad a meaning. There is certainly a class of designs wherein neatness or fitness of shape is involved solely for the purpose of improved appearance or attractiveness, and yet where ornamentation is neither sought for nor present. This field of effort the amended statute leaves unprotected. Secondly, while it is debatable whether merely useful shapes where utility and not appearance is the sole object, were or were not protected under the statute, it is quite certain now that neither the saddle of the Whitman case nor the showcase of Lehnbeuter v. Holthaus would be protected under the amended statute.

The amendment has not even the excuse of following Rowe v. Blodgett, since, literally, much that appeals to the eye and pleases the aesthetic sense because of simplicity, neatness or symmetry of appearance is the antithesis of ornamentation, and may probably be held not "ornamental." The amendment seems to stand as a needless piece of ill-considered and ill-timed legislation. Finally, I cannot do better than quote the following arraignment of the amendment as given in the circular prepared against the bill by the Patent Law Association of Washington:

"Can there be any question, then, that a statute which cuts out 'a new and useful shape or configuration' and condenses the statute to 'new, original and ornamental' may be termed and adjudged a restriction of the present law?

"Can there be any question that in examining shapes or configurations a new requirement is imposed by the proposed statute?"

Patent Litigation From The Expert's Standpoint.

By Arthur S. Browne, of Washington, D. C.

The great expense of patent litigation in equity, a denial of justice in many instances, and frequently entirely, prevents suits on valid patents of minor importance which have been openly and wilfully infringed. The expense is largely attributable to the employment of experts, and the manner in which their evidence is taken. In the great majority of cases, however, the expert is as necessary as the lawyer, and the problem in which all are interested is how the undoubted objections are to be overcome or reduced. The suggestion of an official expert to sit with the court as its assessor may be excellent, but the official expert can no more replace the opposing experts than can the judge the opposing lawyers. Truth is best attained as the result of a contest in which both sides are presented with zeal, candor, knowledge and ability.

The prime difficulty is one for which both counsel and experts are responsible and which it is entirely within their power to cure. The method of taking testimony before a powerless examiner, leaves counsel and witnesses free to do what they please, and this liberty is too often abused. A lawyer should ask no question which would be ruled out before a judge and jury, and, as the expert presumably does not know the law, he should be instructed by the counsel calling him to refrain from

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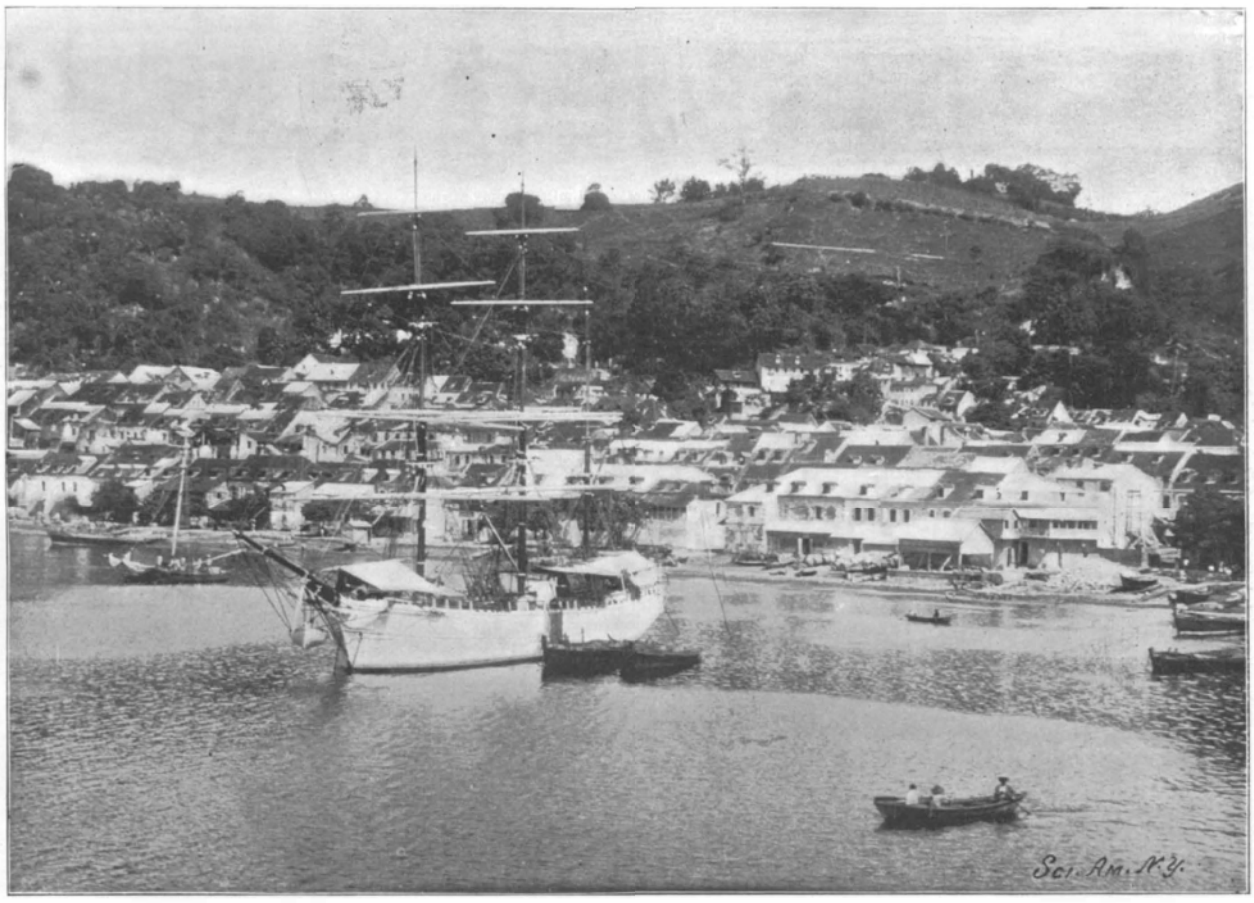
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The Cathedral is seen in the center of the town. Pelée's summit is to the right, cloud-capped.

The Roadstead and Town of St. Pierre, with the Ridge leading up to Mont Pelee in the Background.



Photos by Wm. H. Rau.

A Near View of St. Pierre from the Roadstead.

THE GREAT DISASTER IN THE WEST INDIES.—[See page 365.]

LIS - 8

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degree of temperature it may have been heated, and it will not crack. Mr. Hutton employed the Moissan furnace for his researches, but incorporated some special features of his own design. The furnace was composed of a lower grooved block of magnesia with arrangements for the arc carbons, placed at right angles to the groove in the lower block, and an upper block plate. The graphitic carbon support—graphitic carbon was employed, as this material is absolutely pure, so that the fused silica cannot become impregnated with ashes—fitted into the groove. The quartz to be fused was granulated and placed upon the carbon support. A current of 300 amperes and 50 volts was brought to play upon the quartz, and in a few seconds it was melted. The support was then pushed further in, so that a fresh quantity of the powdered silica was brought under the influence of the arc. By this means Mr. Hutton has been successful in making rods and tubes one foot long from powdered quartz. In the manufacture of thick tubes of quartz Mr. Hutton employed a quartz mould with a carbon core about one-eighth inch in diameter with carbons to support it at either end. In the course of these experiments Mr. Hutton observed that the silica in the immediate neighborhood of the arc was inclined to change to silicon, but the black stain disappeared immediately the portion was removed from the center of the arc. The silica does not adhere to the carbon, as might be supposed, as it is powdered, so it can be easily separated from the core and the carbon support. Mr. Hutton, however, has not yet succeeded in obtaining a tube quite immune from bubbles, but he found that after the tubes had been made, if they were once more heated in the arc, they were considerably improved.

A NEW REVISED DESIGN PATENT LAW.

Congress has recently revised and amended the law concerning Design Patents, which act was approved May 9, 1902, and section 4,929 of the Revised Statutes was amended. The statute before and after amendment is shown in parallel columns for purposes of comparison:

Statute. R. S. Sec. 4,929.	Statute. Sec. 4,929 as amended by Act of May 9, 1902.
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-rellevo, 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,	Any person who has invented any new, original and ornamental design for an article of manufacture not known or used by others in this country before his invention thereof and not patented or described in any printed publication in this or any foreign country before his invention thereof or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned,
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.	may, upon payment of the fees required by law and other due proceedings had, the same as in cases of inventions or discoveries, covered by sec. 4,886, obtain a patent therefor.

The changes made by the amendment are the following:

1. The word "useful" is omitted, and the word "ornamental" substituted in place thereof, as qualifying the designs.

2. The term "an article of manufacture" is made to replace the specification of particular matters in the prior statute.

3. The statutory bars to the issuance of a patent which were construed into the prior statute by virtue of the provisions of section 4,933 R. S., are included in in terms in the amended statute.

As to the substitution of the word *ornamental* for the word "useful," it is to be noticed that the form of section 4,929, as it appeared before amendment, in the Revised Statutes, was substantially the same as in the first design patent act of 1842, excepting that the law of 1870 removed the word "useful" from its place before the word "pattern" to the clause next succeeding, where it was inserted as qualifying shape or configuration. From the time of the first passage of this law in 1842 down to 1869, it was said by Commissioner Foote in *ex parte* Jason Crane:

"The construction which has been given to that act by the office ever since its passage in 1842 is that it relates to designs for ornament merely, something of an artistic character, as contradistinguished to those of convenience or utility."

And the Supreme Court of the United States said in the case of the Gorham Company v. White, decided in December, 1871:

"The acts of Congress which authorize the grant of patents for designs were plainly intended to give encouragement to the decorative arts. They contemplate not so much utility as appearance."

Commissioner Foote, however, held in the Crane case that a useful design might receive protection under the statute, and in this he was followed by Commissioner Fisher in *ex parte* Bartholomew, decided in December, 1869.

This practice was reversed in 1871, by Commissioner Leggett in *ex parte* Parkinson, who said:

"The law has provided for granting patents to the inventors or discoverers of new and useful arts, machines, manufactures, and compositions of matter, and also of any improvements thereof. The law authorizing design patents was intended to provide for an entirely different class of inventions, inventions in the field of æsthetics, taste, beauty, ornament.

"The question an examiner asks himself while investigating a device for a design patent is not 'What will it do?' but 'How does it look?' 'What new effect does it produce upon the eye?' The term 'useful' in relation to designs means adaptation to producing pleasant emotions."

It is thus apparent that there has been diversity of opinion as to the meaning of this design patent statute among the different Commissioners, and the statute has received different interpretations at different times.

In the case of Smith v. Whitman Saddle Company, 148 U. S., 674, the Supreme Court said, speaking of this statute:

"To entitle a party to the benefit of the act, in either case (mechanical inventions or designs), there must be originality, and the exercise of the inventive faculty; in the one there must be novelty and utility; in the other originality and beauty. Mere mechanical skill is insufficient. There must be something akin to genius, an effort of the brain as well as the hand. The adaptation of the old devices or forms to new purposes, however convenient, useful, or beautiful they may be in their new rôle, is not invention."

It is to be observed that in this opinion the "utility" of the mechanical patent statute is placed in opposition to the "beauty" of the design patent statute, although the word "useful" was in each of these statutes.

In 1899 the Circuit Court of Appeals of the Sixth Circuit, in the case of Westinghouse Electric Company v. Triumph Electric Company, spoke in regard to this matter, saying:

"We should think it very doubtful whether the word 'useful,' introduced by revision of the patent laws into the statute, is to have the same meaning as it has in the section providing for patents for useful inventions. The whole purpose of Congress, as pointed out by Mr. Justice Strong, speaking for the Supreme Court, in the case of Gorham Co. v. White (14 Wall., 511), was to give encouragement to the decorative arts. It contemplated not so much utility as appearance. We must infer that the term 'useful' was inserted merely out of abundant caution to indicate that things which were vicious and had a tendency to corrupt and in this sense were not useful, were not to be covered by the statute."

Referring to the case of Smith v. Whitman Saddle Company, the Court of Appeals of the District of Columbia said, in *ex parte* Tournier, 94 O. G., 2,126, February, 1901:

"We do not, however, understand the court as intending to go further than this and to hold that functional utility is to be regarded as a controlling or even an essential element in a patent for a design. For if so, the design patents would virtually be placed upon the same footing and with the same requirements of patents for mechanical inventions."

Following this same view of the force to be given to the word "useful" in this statute, the Circuit Court of Appeals of the Second Circuit, in the case of Rowe v. Blodgett & Clapp Company, 112 Fed. Rep., 61, adopted the language of the Circuit Court and referred to this subject as follows:

"I decide this case upon the broader ground that patents for designs are intended to apply to matters of ornament, in which the utility depends upon the pleasing effect imparted to the eye and not upon any new function. Design patents refer to appearance, not utility. Their object is to encourage works of art and decoration which appeal to the eye, to the æsthetic emotions, to the beautiful."

And in this case the court criticized the attitude of the Patent Office, saying:

"The practice of the Patent Office in issuing design patents seems not to have been uniform. Prior to 1871 it was not only liberal but lax, until in a carefully considered opinion Commissioner Leggett (*ex parte* Parkinson) conformed it to a construction of the law which subsequently found approval in the cases above cited."

This opinion concludes:

"But the designs of articles of manufacture not otherwise entitled to receive design pateats cannot justify the issuance of such patents on any theory that the design is a trademark."

In view of these decisions, section 4,929 was difficult to understand in respect to the question of utility, and it resulted from this that many applications for design patents were filed for unpatentable subject-matter, to the disparagement of the whole patent system.

Immediately following the publication of the decision of the Circuit Court of Appeals in Rowe v. Blodgett, present Commissioner of Patents Allen squared the practice of the Patent Office with it and drafted the new section of the statute above quoted, which was introduced in Congress as Senate Bill 4,647.

The Commissioner also submitted a written argument in its favor, which was embodied in the favorable report of the Patent Committee of the Senate. The new law is the first to set up a clear distinction between patents for articles having a shape or form relating to mechanical function only and things whose shape is ornamental and intended to produce pleasing emotions, without reference to functional utility.

In Commissioner Allen's argument before the Senate Committee on patents he said:

"It is thought that if the present bill shall become a law the subject of design patents will occupy its proper philosophical position in the field of intellectual production, having upon the one side of it the statute providing protection to mechanical constructions possessing utility of mechanical function, and upon the other side the copyright law, whereby objects of art are protected, reserving to itself the position of protecting objects of new and artistic quality pertaining however, to commerce, but not justifying their existence upon functional utility. If the design patent does not occupy this position there is no other well-defined position for it to take. It has been treated of late years as an annex to the statute covering mechanical cases, since the introduction of the word 'useful' into it. It is thought that this practice should no longer continue."

In view of these decisions of the courts, construing the meaning of the word "useful" in the prior statute, the amendment which strikes out the word "useful" and substituting "ornamental" in its place, clears up the proper construction of the statute and expresses what was already included by construction of the prior statute, making the statute itself a guide to practice.

THE BRITISH SUBMARINES.

BY ERNEST ASHLEY.

During the last few weeks Submarine No. 1, one of five submarines now being constructed by Messrs. Vickers, Sons & Maxim for the British Admiralty, at a cost of £34,000 each, has been submitted to exhaustive trials at Barrow. The vessel was taken off Molney Island, where she maintained a speed of eight knots an hour, and when traveling with her turret awash the speed is considerably over that. Afterward she was submerged to the depth of 15 feet and for six miles the submarine ran under these conditions. The submarine was accompanied by the Furness Railway's twin-screw tugboat "Furness," with divers on board in case of emergency. The trials were conducted by Capt. Baron, R. N., D. S. O., and Capt. Cable, the celebrated submarine expert, who represents the inventors. The engineer officers and men attached to H. M. S. "Hazard" have been instructed in the construction and mechanism of the submarine by Capt. Cable and Mr. Monell. The boat is of the improved Holland type, the patent rights of which throughout the world—except in the United States of America—have been purchased by Messrs. Vickers. The boat has a length of 63 feet 4 inches, with a diameter of 11 feet 9 inches and a displacement of 120 tons when totally submerged. The hulls are divided internally into water-tight compartments by steel bulkheads. A 160 horse-power four-cylinder Otto gasoline engine is used for surface work. A 70 horse-power dynamo is run by her gas engine to store electricity when the boat is on the surface, and when going under, the gas engine is thrown out of gear and the dynamo is used as an electric motor, taking current from the cells it has stored. Should a torpedo be discharged from beneath the surface, trimming and ballast tanks, working automatically, compensate for the lessened displacement and maintain the ship in horizontal position. The submarine is capable of traveling 400 miles without exhausting the fuel supply, and to remain under water 48 hours at a stretch. Selected crews are to be trained this summer for the working of the new craft. Capt. Cable has now left for America.

SCIENCE NOTES.

In the museum at the University of Arizona at Tucson, a skeleton of a very large whale found in the desert south of Yuma has been mounted. Other finds of rare value have been made in this same region. In the University museum are the tusks and lower jaw of an elephant found in the Yuma desert.

The journey of a bottle from central Illinois to the Pacific Ocean has just come to light through the receipt of a letter by Walter Roeder, of Bloomington, Ill., from Jesse Wilson, of Santa Monica, Cal., saying that he had found a bottle off the coast of California which contained a letter written by Roeder and asking the finder to inform him when and where it was found. The letter was written on January 27, 1900, and after being placed in the bottle the receptacle was cast into the water of the Mackinaw River, ten miles west of Bloomington. The bottle must have followed the river until the confluence with the Illinois was reached and thence floated to the Mississippi and through the Gulf of Mexico to the Atlantic Ocean. The currents of the ocean are supposed to have carried the bottle around Cape Horn and thence up the Pacific coast. The journey exceeded 10,000 miles. The bottle and message betrayed little evidence of the long journey.

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PRITCHARD, Jeter Connelly, (1857 - 1921)

Senate Years of Service: 1895-1903
Party: Republican



Library of Congress

PRITCHARD, Jeter Connelly, (father of George Moore Pritchard), a Senator from North Carolina; born in Jonesboro, Washington County, Tenn., July 12, 1857; apprenticed to the printer's trade; moved to Bakersville, Mitchell County, N.C., in 1873; became joint editor and owner of the Roan Mountain Republican; attended the Martins Creek Academy in Tennessee; presidential elector on the Republican ticket in 1880; elected to the State house of representatives in 1884, 1886, and 1890; studied law; admitted to the bar in 1889 and commenced practice in Marshall, N.C.; unsuccessful candidate for lieutenant governor in 1888; unsuccessful Republican candidate for United States Senator in 1891; president of the North Carolina Protective Tariff League in 1891; unsuccessful candidate for election in 1892 to the Fifty-third Congress; elected as a Republican to the United States Senate in 1894 to fill the vacancy caused by the death of Zebulon B. Vance; reelected in 1897 and served from January 23, 1895, to March 3, 1903; chairman, Committee on Civil Service and Retrenchment (Fifty-fourth and Fifty-fifth Congresses), Committee on Patents (Fifty-sixth and Fifty-seventh Congresses); justice of the supreme court of the District of Columbia 1903-1904; judge of the United States Circuit Court of Appeals, Fourth Judicial Circuit from 1904 until his death in Asheville, N.C., on April 10, 1921; interment in Riverside Cemetery.

LEGISLATIVE INTENT SERVICE (800) 666-1917

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UNITED STATES SUPREME COURT.

ANDREW L. EATON,
Petitioner,
v.
E. J. LEWIS,
Respondent,

October term, 1903.

No. —

Brief for Petitioner.

This is a petition for a writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit.

The Circuit Court of Appeals affirmed (127 Fed. Rep., 1018), without opinion, a final decree (p. 38) dismissing the petitioner's (complainant's) bill of complaint (brought in the Circuit Court for the Southern District of New York; p. 1) with costs, in accordance with an opinion of His Honor Judge Wheeler, which opinion reads as follows (p. 34):

This suit is brought upon three patents, Nos. 30,518, 30,519 and 30,520, dated April 11, 1899, and granted to the plaintiff for designs for belt-fastener plates. They are used for holding the ends of belting together to form machinery belts, and their operation is wholly mechanical. The specifications respectively refer to drawings on which straight parallel sides or ends are marked A, semi-circular ends or swells, A1, midway projecting points at the sides, A2, easy curves between these points and swells, A3, and holes for

LEGISLATIVE INTENT SERVICE (800) 666-1917

rivets in the centres of the circular ends and swells, a; and that of 30,518 sets forth:

"The plate is longer in one direction than the other, with rounded ends and parallel sides, having an outwardly extending point or projection on each of the latter at the transverse center line.

The leading feature of my design is the contour above described, consisting of the straight parallel sides A, semi-circular ends A1, and the points A2 arranged oppositely at the mid-length, with the hole *a* at the center of each of the rounded ends": that of 30,519:

"The plate is of a general rectangular form having oppositely-extending semi-circular portions on the ends at each corner and an outwardly-projecting point on each side on the transverse center line.

The leading feature of my design is the contour above described, consisting of the straight parallel ends A, the semi-circular swells A', arranged oppositely at the corners on said ends and extending outwardly, the points or projections A2 at the mid-width on each side joined by easy curves A3 to the swells, the holes *a* at the center of each of the latter, and the holes *a'* on the longitudinal center line." That of 30,520:

"The plate is of a general rectangular form having oppositely-extending semi-circular portions at each corner and an outwardly-projecting point at each end on the center line.

The leading feature of my design is the contour above described, consisting of the straight parallel sides A, the semi-circular swells A' arranged oppositely and extending outwardly, the points or projections A2 on each end at the mid-width joined by easy curves A3 to the semi-circular swells, and the holes *a* at the center of each of the latter."

This case was argued Dec. 20; Rowe vs. Blodgett, upon a design patent for the shape of a removable calk for a horseshoe, 98 Off. Gaz. 1286, in the Circuit Court of Appeals of this circuit had been decided Nov. 14 but had not appeared, except from the Circuit Court, 103 Fed. 873; and was not cited nor has it been noticed till now. The Circuit Court of Appeals said:

"Several defenses were urged, but Judge Townsend at circuit held as follows:

LEGISLATIVE INTENT SERVICE (800) 666-1917

"I decide this case upon the broader ground that patents for designs are intended to apply to matters of ornament, in which the utility depends upon the pleasing effect imparted to the eye and not upon any new function. The advantage claimed by complainant for the increased flat surface afforded by the curved line, which is the essential feature of his parent, is to enhance the mechanical utility of the calk by thus making a stouter shoulder, which would not so readily become bruised out of shape, and which, therefore, could be more easily removed with a wrench, when worn, from the shoe. It is significant, in this connection, that the patentee first applied for this essential feature of downward projecting curved lines on the sides of the base as a mechanical invention, which application was rejected, and that he then attempted to cover the same feature of a design patent. Design patents refer to appearance, not utility. Their object is to encourage works of art and decorations which appeal to the eye, to the æsthetic emotions, to the beautiful. A horseshoe-calk is a mere bit of iron or steel, not intended for display, but for an obscure use, and adapted to be applied to the shoe of a horse for use in snow, ice and mud. The question an Examiner asks himself while investigating a device for a design patent is not "What will it do?" but "How does it look?" "What new effect does it produce upon the eye?" The term "useful," in relation to designs, means adaptation to producing pleasant emotions. There must be "originality and beauty. Mere mechanical skill is not sufficient." (1 Northrup v. Adams, 2 Ban. & A. 567; *Fed. Cas. No. 10,328* approved in Smith v. Saddle Co., *63 O. G., 912*; *148 U. S., 676*; *13 Sup. Ct., 768*; 37 L. Ed. 66; *ex parte Parkinson*, (1871), Dec. Com. Pat. 251.)'

"We prefer to rest our affirmance on concurrence with these views."

That case seems to cover and control this. The projecting points at the middle of the sides of the fasteners of each of these patents serve to mark where to place the fasteners equally upon the ends of the belting to be joined, but that advantage is mechanical, and not æsthetic. Here as there a mechanical patent was applied for and here one was obtained; and here as there the appearance of the articles in use would be wholly immaterial. According to the principles of that case, as understood, this suit cannot be maintained.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Assignments of Error in the Circuit Court of Appeals.

1. That the Court erred in holding Letters Patent No. 30,518 not good and valid in law.

2. That the Court erred in holding Letters Patent No. 30,519 not good and valid in law.

3. That the Court erred in holding Letters Patent No. 30,520 not good and valid in law.

4. That the Court erred in holding that the complainant possesses no exclusive rights under Letters Patent No. 30,518 to the manufacture, use and sale in the United States of belt fastener plates made in accordance with the design specified therein.

5. That the Court erred in holding that the complainant possesses no exclusive rights under Letters Patent No. 30,519 to the manufacture, use and sale in the United States of belt fastener plates made in accordance with the design specified therein.

6. That the Court erred in holding that the complainant possesses no exclusive rights under Letters Patent No. 30,520 to the manufacture, use and sale in the United States of belt fastener plates made in accordance with the design specified therein.

7. That the Court erred in holding that the complainant possesses no exclusive rights as against the respondent under Letters Patent No. 30,518 to the manufacture, use and sale in the United States of belt fastener plates made in accordance with the design specified therein.

8. That the Court erred in holding that the complainant possesses no exclusive rights as against the respondent under Letters Patent No. 30, 519 to the manufacture, use and sale in the United States of belt fastener plates made in accordance with the design specified therein.

9. That the Court erred in holding that the complainant possesses no exclusive rights as against the respondent under Letters Patent No. 30,520 to the manufacture, use and sale in the United States of belt fastener plates made in accordance with the design specified therein.

10. That the Court erred in holding that a design patent for a design such as is specified in letters Patent

LEGISLATIVE INTENT SERVICE (800) 666-1917

No. 30,518 could not be granted under Section 4929 of the Revised Statutes as it read at the time said Letters Patent were issued.

11. That the Court erred in holding that a design patent for a design such as is specified in Letters Patent No. 30,519 could not be granted under Section 4929 of the Revised Statutes as it read at the time said Letters Patent were issued.

12. That the Court erred in holding that a design patent for a design such as is specified in Letters Patent No. 30,520 could not be granted under Section 4929 of the Revised Statutes as it read at the time said Letters Patent were issued.

13. That the Court erred in not holding that the designs specified in Letters Patent No. 30,518, 30,519 and 30,520 were "new, useful and original" shapes or configurations of an "article of manufacture" within the meaning of Section 4929 of the Revised Statutes.

14. That the Court erred in holding that the case of Rowe v. Blodgett, 103 Fed. Rep., 873, controls this case.

15. That the Court erred in holding that Letters Patent Nos. 30,518, 30,519 and 30,520 cannot be sustained without departing from Rowe v. Blodgett, 103 Fed. Rep., 873.

16. That the Court erred in not holding that the shape or configuration of each of the *designs* in suit *itself* is useful, as well as new and original, within the meaning of Section 4929 of the Revised Statutes; and that this is so even admitting that the design in suit in Rowe v. Blodgett, 103 Fed. Rep., 876, was not patentable under said Section.

17. That the Court erred in holding that a design disclosing a new shape for an article of manufacture, to be patentable under Section 4929 of the Revised Statutes as it read at the time Letters Patent Nos. 30,518, 30,519 and 30,520 were issued, must be artistic and ornamental and pleasing to the eye.

18. That the Court erred in holding that the appearance of the designs in suit is wholly immaterial.

19. That the Court erred in holding that the operation of the belt fastener plates in suit is wholly mechanical.

20. That the Court erred in holding that the object of Section 4929 of the Revised Statutes as it read when

LEGISLATIVE INTENT SERVICE (800) 666-1917

Letters Patent Nos. 30,518, 30,519 and 30,520 were granted was "to encourage works of art and decoration which appeal to the eye, to the æsthetic emotions, to the beautiful," and nothing else.

21. That the Court erred in not holding that the respondent infringed Letters Patent Nos. 30,518, 30,519 and 30,520 and ordering an accounting as prayed in the Bill of Complaint.

22. That the Court erred in decreeing as he did on May 8, 1902.

Design Patent Laws.

August 29, 1842; 5 U. S. Stats. at L., p. 543, Sec. 3. (See p. 15 of what may be termed the "*Appendix*" of our brief.)

March 2, 1861; 12 U. S. Stats. at L., p. 248, Sec. 11. (See p. 16 of what may be termed the "*Appendix*" of our brief.)

July 8, 1870; 16 U. S. Stats. at L., p. 209, Sec. 71. (See this page, post, and p. 8.)

May 9, 1902; 32 U. S. Stats. at L., p. 193, Chap. 783. (See p. 10, *post*.)

PATENTABILITY.

Among the assignments or error in the Circuit Court of Appeals, the complainant claims (13, p. 42).

> That the Court erred in not holding that the designs specified in Letters Patent No. 30,518, 30,519 and 30,520 were "new, useful, and original" shapes or configurations of an "article of manufacture" within the meaning of Section 4929 of the Revised Statutes.

Section 4929, R. S., **at the time these design patents were issued,** read as follows (italics ours):

> Any person who, by his own industry, genius, 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

LEGISLATIVE INTENT SERVICE (800) 666-1917

> of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, patent, [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 complainant claims that his design patents were properly grantable under the words "*any new, useful, and original shape or configuration of any article of manufacture*".

These words have already been construed by this honorable Court, in Smith v. Whitman Saddle Company, 148 U. S., 674; and this honorable Court said (italics, etc., ours):

> Section 4929 of the Revised Statutes provides that: "*** any new and original design for a manufacture, ***; any new and original design for the printing of woolen, ***; any new and original impression, ***; *or any new, useful, and original shape or configuration of any article of manufacture,* * * *".
>
> The first three of these classes plainly refers to ornament, or to ornament and utility, and, the last to new shapes or forms of manufactured articles; and it is under the latter clause that this patent was granted.
>
> In Gorham Manufacturing Co. v. White, 14 Wall. 511, 524, it was said by this Court, speaking through Mr. Justice Strong, that the acts authorizing the grants of patents for designs contemplated "not so much utility as appearance ***". *This language was used in reference to ornamentation merely*, and moreover the word "useful," which is in Section 4929, was not contained in the act of 1842, under which the patent in Gorham v. White, was granted. *So that now where a new and original shape or configuration of an article of manufacture is claimed, its utility may be also an element for consideration.* Lehnbeuter v. Holthaus, 105 U. S. 94.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The complainant claims that the fact that his belt-fastener plates are used to fasten together the ends of *machinery* belts does not make them any the less articles of manufacture, nor ought it to invalidate the Patents; that the only question is whether the *designs themselves* are, as he claims his are, "new", "useful" and "original".

If this honorable Court is to say, as it has said, that designs for *some* articles of manufacture *even though used for practical purposes* are valid, is it to say that others are invalid because used for other practical purposes; and, if so, *why*, and *where is it to draw the line?* The statute says ANY article of manufacture Ought not this honorable Court limit this Section *only as its wording limits it*, as shown particularly in "1st" under "II" near the bottom of page 11, post?

As to the designs in suit being "new" and "original", we do not understand that His Honor Judge Wheeler held otherwise.

As to their being "*useful*", we submit that this is *admitted by* the pleadings. The bill of complaint alleges (paragraphs 1, 2 and 3) that the designs in suit are "useful"; and this is not denied by the answer, as we construe it.

Indeed, even if it were not admitted by the pleadings, we submit that, as the respondent is selling the same designs and formerly sold them under the employment of the complainant, it does not lie in his mouth to deny that they are useful. See Lehnbeuter v. Holthaus, *post*.

Indeed, even if it were not admitted by the pleadings and even if the respondent were not estopped, as stated, we submit that the record *shows* that the designs in suit come *especially* within this portion of the language of Section 4929.

It is, we submit, *apparent to the casual observer even that at least they are more pleasing to the eye than former belt fastener plates*, and the record shows (p. 13) also that, after the invention of his new designs, the complainant

LEGISLATIVE INTENT SERVICE (800) 666-1917

> met the respondent in the streets of New York City and stated to him that he had some new *designs* in belt fastener plates which he considered far superior to those which he had formerly sold. The respondent then went to *see* these *designs* and thereupon again entered the employ of the complainant, this time selling the three new *designs* above referred to.

It also is shown (p. 13) that the **"SHAPE OR CONFIGURATION"** of each plate—that is, the *design*—**ITSELF IS "USEFUL"** *also* in that it enables—*and it is the very thing that enables*—the plate to be accurately and more easily adjusted to the ends of the belt, *thereby saving time, and also avoiding the punching of useless holes, which weaken the belt.*

In fact, *the ground upon which His Honor Judge Wheeler determined the case was not,* we submit, *raised by the answer,* nor by counsel orally at the time of the argument or in his brief *in the Circuit Court.*

The language found in the answer (p. 8), viz:

> but whether any of the provisions or requirements of law were duly or at all complied with he has no knowledge or information, and cannot set forth, and leave the complainant to make such proof thereof as he may be advised.

we submit, refers simply to the language of the complaint (paragraphs 1, 2 and 3) wherein the complainant alleges

> that he applied for Letters Patent of the United States, for said design *** complying with all the requirements of the statutes in such cases made and provided

—meaning thereby that the *form* of his application, etc., conformed with the law.

Indeed, that Section 4929 as given (pp. 6 and 7, *supra*) means what we claim it means is apparent, we think, also from the fact that Congress has amended

LEGISLATIVE INTENT SERVICE (800) 666-1917

this Section so that now design patents may be granted only for

> any new, original, and **ORNAMENTAL** design for an article of manufacture * * *.

Of course, if the new law means only what the old meant there was no need to *amend*.

We call attention also to *ex parte* Steck, 98 O. G., 228; *ex parte* Fenno, C. D. 1871, 52; *in re* Tournier, 94 O. G., 2166; Stearns v. Beard, 46 Fed. Rep., 193, a case decided by His Honor Judge Coxe, and Hutter v. Broome, Rep., 655—all quoted in the brief for the appellee in Bradley v. Eccles, *post*.

WE CALL ATTENTION ALSO ESPECIALLY TO **WHAT MAY BE TERMED** THE "APPENDIX" OF OUR BRIEF.

We submit also that, as there is now this new law, the Courts (even admitting that they ever had the power so to do) no longer have any reason for construing Section 4929 as it existed narrowly; for *henceforth* only *"ornamental"* designs *can* issue, however they construe the old law.

Rowe v. Blodgett.

Among the assignments of error in the Circuit Court of Appeals, the complainant claims also (p. 42):

> That the Court erred in holding that the case of Rowe v. Blodgett, 103 Fed. Rep., 873, controls this case.
>
> That the Court erred in holding that letters Patent Nos. 30,518, 30,519 and 30,520 cannot be sustained without departing from Rowe v. Blodgett, 103 Fed Rep., 873.
>
> That the Court erred in not holding that the

LEGISLATIVE INTENT SERVICE (800) 666-1917

shape or configuration of each of the *designs* in suit *itself* is useful, as well as new and original, within the meaning of Section 4929 of the Revised Statutes; and that this is so even admitting that the design in suit in Rowe v. Blodgett, 103 Fed Rep., 873, was not patentable under said Section.

We submit this for the following reasons:

I. Because it does not appear that the language of Section 4929 was called to the attention of the Circuit Court of Appeals for the Second Circuit when Rowe v. Blodgett was decided; nor that the language of this honorable Court in Smith v. Whitman Saddle Company, *supra*, interpreting Section 4929, was called to their attention.

II. Because, even admitting that the language of Section 4929 and the language of Smith v. Whitman Saddle Co. interpreting it was considered by the Circuit Court of Appeals for the Second Circuit in Rowe v. Blodgett, we submit, the patent there in question might very well be held not to show a "new, useful, and original *shape or configuration*" of an article of manufacture, whereas, we submit, the patents in suit do.

To be more specific:

1st. Rowe's design is for a "horse shoe calk"; and, though the *calk* perhaps, was useful, it *might* very well be held that the *design itself* added nothing to its value nor served any purpose, either artistic or practical. See pp. 13 and 14, *post*.

In other words, it seems to us, Congress did *not* intend, by the words "any new, useful, and original shape or configuration of any article of manufacture," that design patents should be granted simply for an "*article of manufacture*" that is "useful," even if the design were "new" and "original", but that the "*shape or configuration*" *itself* must be "*useful*", either artistically or from a practical standpoint, (as well as "new" and "original").

2d. Rowe v. Blodgett is based, as stated, upon:

LEGISLATIVE INTENT SERVICE (800) 666-1917

> Northrup v. Adams, 2 Ban. & A., 567, Fed. Cas. No. 10,328, approved in Smith v. Saddle Company, 148 U. S. 679, 13 Sup. Ct. 768, 37 L. E. D. 606; *ex parte* Parkinson (1871), Dec. Com. Pat. 251.

a. Northrup v. Adams relates to a design for a "provision or cheese safe", with an ogee moulding, doors, etc., *all the elements of which design were shown to be old;* and the patent was held invalid upon this ground, viz. that no inventive faculty had been shown. It was not held invalid, we submit, upon any ground applicable to the case at bar.

Moreover, it was *this* portion of the opinion, as will be seen by examining the opinion of this honorable Court in Smith v. Whitman Saddle Company, that was approved by this honorable Court in that case.

Indeed this honorable Court did not "approve" *fully* "this portion", for your honors say:

> (The exercise of the inventive or originative faculty is required, and a person cannot be permitted to select an existing form and simply put it to a new use any more than he can be permitted to take a patent for the mere double use of a machine. *If, however, the selection and adaptation of an existing form is more than the exercise of the imitative faculty and the result is in effect a new creation, the design may be patentable.*)

The interpretation given by this honorable Court, in Smith v. Whitman Saddle Company, to the word "useful" has already been given and supports, as we submit and as we have stated, our position.

Indeed, just as in the Rowe case, it might very well be held that none of the elements of the *design* for this "provision or cheese safe" served any special usefulness. The "provision or cheese safe"—that is, the *"article of manufacture"*—may have been useful, so

LEGISLATIVE INTENT SERVICE (800) 666-1917

far as we know, without the *"shape or configuration"* of this article of manufacture being "useful".

b. Smith v. Whitman Saddle Company, already referred to was decided upon the ground of *non-infringement.*

c. Ex parte Parkinson relates to a design for a "claw hammer", and was denied upon the ground that this was *not "materially" different* from those that preceded it.

d. In re Seaman, 4 O. G., 691, which case also was cited in the opinion of Rowe v. Blodgett, relates to a "lamp chimney cleaner" or "mere swab".

We submit, therefore, that, as stated, *even had the Circuit Court of Appeals for the Second Circuit and Judge Townsend interpreted this portion of Section 4929 as this honorable Court has interpreted it,* they would still have been *justified* in declaring invalid the design patent there in suit, although his Honor Judge Wheeler and the Circuit Court of Appeals for the Second Circuit, we submit, were not justified in declaring invalid the present design patents.

In the Rowe case, the facts, as given by the Circuit Court of Appeals for the Second Circuit, are as follows (italics ours):

> There is nothing in the record to indicate that there is anything attractive about the appearance of the complainant's calk, or that the downward projecting curved lines appeal in any way to the eye, *or serve to commend the article to purchasers*, except for the suggestion that, seeing those lines, they will know the calk on which they appear is the product of the patentee and not of some other maker. But the designer of articles of manufacture not otherwise entitled to receive design patents cannot justify the issuance of such patents on any theory that the design is a trade mark.

Indeed, Judge Townsend's opinion shows also (italics ours):

LEGISLATIVE INTENT SERVICE (800) 666-1917

> The downward projecting curved lines on the side of the base or shoulder are only such changes from the prior art as would be made by the ordinary mechanic *without the exercise of any inventive faculty* or are the result of mere accident or carelessness in forming the calks ***. It appears that, if the tool were run down sufficiently far upon the bar of metal, the base of the conical end of the calk described a circle, leaving the under side of the base or shoulder straight across on all four sides; but *if there chanced to be any variation in the side of the metal, or carelessness in manipulating the tool, a flat surface might be left on one or more of the sides of the base or shoulder, causing a curved line like that claimed by complainant in his patent* * * *. The defendant further shows by comparison of a *calk made for complainant* more than *six years prior to the patent in suit* with a calk made for him under the patent in suit and a calk sold by the defendant, and the only difference between the three is in the degree of flat surface on the base or shoulder of the calk and of the set screw groove, and that, therefore, the three are identical in law.

In other words, at stated, we submit that the *shape* or *configuration itself* of the Rowe design *might* very well be held to be neither "new" nor "useful" even as that word was interpreted by this honorable Court; while, we submit, as stated, the *designs in suit are* useful—both artistically, to not a little extent, if we consider the subject-matter, and practically, to a considerable extent.

Nor, we submit, was His Honor Judge Wheeler, in any event, justified in arguing:

> Here as there [in the Rowe case] a mechanical patent was applied for and here one was obtained.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The original designs of the complainant (See Comp. Ex. 1), made in "the last part of March or early in April, 1898," (p. 13) were simply for the contour of the plates and did not show any embossing. Plates without the embossing were received from the manufacturer in the early part of May of the same year (p. 13) and, in June of the same year (p. 13), the respondent began selling these unembossed plates under the employment of the complainant (p. 14) and soon after (p. 14) began selling the same plates on his own account; "The complainant learned of this in January, 1899; and in order to protect his inventions and especially against the respondent, he accordingly" on February 23d (p. 14) applied for the patents in suit. It was not until "about the time of applying for said patents," (p. 14) that the "complainant began embossing some of his plates" (p. 14); and "he told his said attorney that he would like to have this included in the specifications, *if it could be included without injuring his said original designs; and the paragraph in each as to the 'leading feature' was inserted therein at his special instance and direction*" (p. 14).

The mechanical patent (Comp. Ex. 11), of which His Honor Judge Wheeler speaks, was applied for "especially to protect *the idea of embossing*" (p. 14), *which not only strengthens the plates but, by raising one side of the rivets used, enables the operator more easily to remove these rivets.*

The respondent never has sold *embossed plates*, and *no infringement of embossed* plates or of this *mechanical* patent *is claimed*. This mechanical patent was introduced *by the complainant* and not by the respondent, and *to show more conclusively*—by showing that a separate patent was applied for to cover especially the embossing, *which is stamped on by a distinct operation*—that the *design* for the *contour simply* was a *material* part of the designs in suit.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Nor, we submit, was His Honor Judge Wheeler, in any event, *quite* justified *in arguing* (italics ours):

> Here as there [in the Rowe case] the appearance of the article in use would be *wholly* immaterial.

1st. The designs here in suit, we submit, are used where they can be and are continually seen by the workmen in the shop; and it is impossible to say how many of the purchasers of the hundreds of thousands sold were bought because the designs were more pleasing to the eye than those that preceded them.

Also see pp. 8 and 9, *supra*.

2d. In any event, *this* respondent, who is selling the same designs and *who formerly sold them for the complainant*, we submit, should not be privileged to deny this fact. See "Relation of Parties," p. 25, *post*.

Nor, we submit, was His Honor Judge Wheeler quite justified in stating that "their operation is wholly mechanical."

It is true that these belt-fastener plates are used on machinery belts; but, we submit, technically, they have no "mechanical" "operation".

We imagine, however, that His Honer intended merely that the plates in suit were used *for practical purposes* rather than for artistic purposes.

(This, of course, we concede; and it is for this very reason that we think that they come especially within the fourth class, rather than any other mentioned in Section 4929.)

So far as they have any "operation" at all, these plates are similar, we submit, to a watch case or a badge or a bicycle saddle or the covering for a lock to a door. None of these move or operate *by or within themselves*. Just as the plates in suit are fastened by rivets,

LEGISLATIVE INTENT SERVICE (800) 666-1917

entirely separate from themselves, the watch case is fastened by a hinge; the badge is fastened by a pin; the bicycle saddle is fastened by bolts or screws; and the covering for the lock to a door is fastened by screws.

Indeed, design patents for the following, and many others, have already been adjudicated and held valid:

Harness trimmings, Theberath v Rubber & Celluloid Harness Trimming Co., 3 Fed. R., 151.

Corsets, Kraus v. Fitzpatrick, 34 Fed. R., 39.

Lamp chimneys, Macbeth v. Gillinder, 54 Fed. R., 169.

Jewelry pins, Foster v. Crossin, Fed. R., 400.

Watch cases, Untermeyer v. Freund, 58 Fed. R., 205.

Casing for hay-fork pulley, Stearns v. Beard, 46 Fed. R., 193.

Footed bottles and jars, Ripley v. Elsoy Glass Co., 49 Fed. R., 927.

Radiator, Eclipse Mfg. Co. v. Adkins, 44 Fed. R., 280.

Carriage lamp, Britton v. White Mfg. Co. 61 Fed. R., 93.

Saloon bar fixtures, R. Rothchild's Sons' Co. v Mantel, 68 Fed. R., 716.

Bicycle Saddle, Mesinger Bicycle Saddle Co. v. Humber, 94 Fed. R., 672.

Portable lamp body, Am. El. Nov. & Man. Co. v. Acme, etc., 98 Fed. R., 895.

Spoon and fork handles, Gorman Co. v. White, 14 Wall, 511.

Indeed, also, His Honor Judge Lacombe, who sat on the Circuit Court of Appeals for the Second Circuit in the case at bar, in Flomerwelt v. Newwitter, 98 Fed. Rep., 696, 1898, seems without question to have recognized the propriety of issuing under the law (though he declared the patent void for prior use by another) a design for

LEGISLATIVE INTENT SERVICE (800) 666-1917

a cuff button; and the "operation" of a cuff button is even more like that of the plate in suit. The cuff button simply serves to hold together the two ends of the cuff; and the plates in suit simply serve to hold together the two ends of the belt. Indeed, a cuff button *itself* performs the *entire* operation, while in the suit at bar, it is the rivets in the main that bind.

Judge Lacombe said:

> * * * * complainant had the right to take out a patent for a mechanical construction and a separate patent for the designs of his buttons.

We call attention to these cases merely to show that, as already stated, the "operation", so-called. of the plates in suit, namely, that they are used for the *practical* purposes mentioned, should not affect our right to design patents provided we come otherwise within Section 4929.

Very likely in these cases, the design for the watch case, that for the jewelry pin, that for the college badge and perhaps that for the carriage lamp had some peculiar "ornamentation", and it was perhaps for this rather than for the "shape or configuration" that the patents were granted; *but the design for the bicycle saddle must,* like the plates here in suit, *have been granted mainly because of some practical advantage that the design served*—probably because its shape was peculiarly fitted to support the human frame. The first, therefore, would come *more particularly* within the first class named in Section 4929, viz.: "any new and original design for a manufacture," which is anything made of raw material, though they may have embodied *also* a "new, useful, and original shape or configuration," while the last, like the plates in suit, would come *more particularly* within the last class named in Section 4929, viz: "any new, useful, and original shape or configuration of any article of manufacture".

LEGISLATIVE INTENT SERVICE (800) 666-1917

Bradley v. Eccles.

In this suit (126 Fed. Rep., 945) decided by the Circuit Court of Appeals for the Second Circuit just previous to the case at bar, two design patents were declared invalid.

Design patent 32,747, for a draft arm, was held invalid because

> The patent in suit is anticipated by the structure shown in complainant's patent of 1892 * * *.

Design patent 28,571, for a washer for thill-couplings, was held invalid because

> *When so placed it is as much out of sight as was the horseshoe calk in Rowe v. Blodgett, 112 F. R. 61, with which cause the one at bar seems to be on all fours.*

As to this opinion, as applied to the present case, we call attention to our comments on "Rowe v. Blodgett", p. 10, *supra.*

Besides, as shown by the brief there of counsel for the appellant:

> Attempt will be made to show that it did *not require invention* to produce a washer of the shape shown and described by the design patent under consideration, in order that the packing might fit around the spherical knuckle to prevent rattling, but that a washer used in a thill coupling having a spherical recess and a spherical knuckle fitted in a recess *would naturally fill up and take the shape of the space between the knuckle and the recess.*
>
> The *prior art* shows that before Bradley appeared in the field with his alleged design it was a common expedient to place a washer between the recess of the draft-iron and the draft-eye of a thill coupling to prevent rattling and

LEGISLATIVE INTENT SERVICE (800) 666-1917

that *when so placed the washer took the shape of the parts between which it was put.*

That Bradley considered knuckles of *different shape* to be the *equivalent* is clear from his patent No. 485,856 where in Figs. 3, 4 and 5 he shows three forms of knuckles; one is a spherical knuckle, another the same form as that shown on the left of Fig. 3 of the Temple patent, and the third that shown in the second to the right in said figure.

That Bradley was *not the first* to make a thill coupling the draft-iron of which had a spherical knuckle formed on the end thereof and which knuckle fitted in a spherical recess in the draft-iron is shown in the U. S. patents to Murray, No. 357,221 and No. 377,861, and Canadian patent No. 29,861, pages 74-77; 86-90, printed record.

The Court's attention is particularly called to this Canadian patent, and on reference to the drawing and description of that patent it will be seen that it shows and describes a washer to be used between the knuckle of a draft-iron and a draft-eye, which is *substantially the form* shown in this design patent.

ANTICIPATION.

Thompson's "Connecting Link" (Def. Ex. 1) and a belt-fastener plate (Def. Ex. ½) similar thereto formerly manufactured by the complainant and sold by the respondent under his employment (pp. 12 and 13), and three patents to Smith Nos. 247,219 (Def. Ex. 5), 262, 626 (Def. Ex. 6) and 300,026 (Def. Ex. 7), respectively, are set up by the respondent to show anticipation.

We submit that none of them show it, and, indeed, that the respondent has not made out even a *prima facie* case of anticipation.

In order to anticipate a *design* patent, the same or substantially the same *design* must be disclosed.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The Smith Patents.

That none of these disclose the design of any one of the complainant's Patent's, we submit, is perfectly apparent *from even a cursory examination of them.*

Indeed, no one of them is a patent for a design—all being mechanical patents. Besides, the device shown in Patent No. 247,219 and that shown in No. 262,626 are not used for the same purpose as complainant's, but are fasteners for the straps on boot-tops; while the device shown in Patent No. 300,026, though used for the same purpose as complainant's, has long, curving sides, curving inward, and does not use rivets as do the inventions in suit, but has a clasp "B", used on the *inner* side of the belt, which, of course, makes a lump at this point in the belt and makes it rigid, thereby rendering the running of the belt unsmooth and straining both it and the fastener whenever this part passes over the wheels or pulleys.

Thompson's "Connecting Link.".

Thompson's "Connecting Link", also, it will be seen even from a cursory examination, in no way anticipates either the four (Comp. Ex. 3) or the six hole plate (Comp. Ex. 4) of the complainant; for it is in no way like them in design.

The only contention that can have the *least* basis to stand on, *upon even a cursory examination,* is that Thompson's "Connecting Link" anticipates the complainant's *two*-hole plate (Comp. Ex. 2). This contention, however, *upon examination of the exhibits and the facts of the case,* will be found to be unsound. Thompson's "Connecting Link" has neither of the guiding points of the complainant's two-hole plate; and these points, we submit, are sufficient in themselves to show novelty.

LEGISLATIVE INTENT SERVICE (800) 666-1917

By means of these points, the operator is able instantly to adjust the plates, so that one-half exactly is on either end of the belt, so that it is straight in line with the belt and so that he need not drive the rivet twice. The last is an advantage in that every additional hole in the belt weakens it to that extent. These points, therefore, not only add very materially to the attractiveness of the plate but are very useful practically *in adjusting the plate to the ends of the belt.* Indeed, it will be noted that the complainant for a time sold only plates (Deft. Ex. ½) similar to this "Connecting Link," and that he invented the design for his two-hole plate *especially to overcome the objections to Def. Ex. ½*, and, having invented the new design, discarded Def. Ex. ½ entirely. Moreover, the respondent even, when the complainant advised him of the new designs and he saw them, returned to the employ of the complainant, for whom he had sold Def. Ex. ½ (p. 13), and sold the new designs (p. 14), and is now selling the new designs and does not sell Def. Ex. ½.

INVENTION.

It also may, perhaps, be contended that there is not sufficient invention shown in the designs in suit to warrant an adjudication in their favor; but we submit that this cannot be sustained, for it has been held (See Smith v. Stewart, 55 Fed. R., 481):

> All the Statute, as commonly interpreted, requires is the production of a new and pleasing [or "useful"] design which may add value to the object for which it is intended. The invention consists in this, however simple it may be.

Indeed, that the complainant, without the assistance of wealth, could build up his present business upon the merits only of his invention, and that the respond-

LEGISLATIVE INTENT SERVICE (800) 666-1917

ent, who was twice in his employ (p. 13), desires to avail himself of these inventions, speak for themselves as to the selling quallities and merit thereof and as to their greater selling qualities and merit than any belt-fastener plates preceding them.

In this connection, we call especial attention to the *hundreds of thousands* of these plates that have been sold to *well-known* factories, breweries, publishing houses, etc., that use them (p. 15).

This, of itself, even were the case a doubtful one, would go far toward sustaining the Patents: See Keystone Mfg. Co. v. Adams, 151 U. S., 139; Adams v. Bellaire Stamping Co., 141 U. S., 539; and Magowan v. New York Belting and Packing Co., 141 U. S., 332.

INFRINGEMENT.

It is apparent from a cursory glance, and is we understand, admitted, that the three designs now sold by the respondent (two-hole, Comp. Ex. 5; four-hole, Comp. Ex. 6; and six-hole, Comp. Ex. 7) are identical with Comp. Exs. 2, 3 and 4—that is with complainant's designs as shown in the drawings of his patents, *except for the embossing*.

It may, perhaps, be contended, however, that the Patents in suit cover only plates which have *all* of the details shown in the drawings accompanying the specifications and not plates which have simply the *contour* therein shown, without the embossing.

We submit, however, that this is not sound, but that the Patents in suit are infringed by any plates which show a *material part* of the designs shown in the specifications.

That this is so, we cite the following:

Dryfoos v. Friedman, 18 Fed. R., 824 (827), a case decided by His Honor Judge Wheeler himself. He said:

> As argued for the orator, there doubtless

LEGISLATIVE INTENT SERVICE (800) 666-1917

> might be an infringement of a patented design without taking the whole of it.

Tompkins v. Willets Manufacturing Co., 23 Fed. R., 895 (896):

> In approaching this subject, the rule with reference to patents should be kept steadily in view. It is by no means necessary that the patented thing should be copied in every particular.

Redway *et al.* v. Ohio Stove Co., 38 Fed. R., 582, a design for a cooking-stove:

> The defendant's design omits the bird and the butterfly, and in other but minor details is different from the complainant's but the general appearance and effect of the two are the same, and bring the defendant's design clearly within the rule laid down in Gorham Co. v. White, cited *supra*.

Smith v. Stewart, 55 Fed. R., 481:

> Did the defendant's infringe? They copied the rug literally, except the border. In the printed drawings which accompany the patent the border is so imperfect that the peculiar character of its figures cannot be ascertained. The rug copied was manufactured [illegible] patent with an oak-leaf border, which the proofs show corresponds with the photographs of the original design deposited in the patent office. I do not, however, deem this important. The distinguishing and dominating feature of the design is the panel. A common observer would not discover any difference between the plaintiff's and the defendant's rugs, granting that the borders are dissimilar.

And that the contour of these plates *is* a material part of these designs cannot be questioned.

The Patents themselves say:

LEGISLATIVE INTENT SERVICE (800) 666-1917

> The leading feature of my design is the contour above described * * *

Moreover, the Statement of Facts shows (p. 14), and this is verified by the *original designs* (Comp. Ex. 1), that the complainant had no embossing at first; that the Patents in suit were gotten especially (p. 14) to protect the complainant against the acts of the respondent, who, as shown by the Statement of Facts and as the complainant knew, was not manufacturing embossed plates; and that the above provision in the specifications *was inserted therein at the express instance and direction* (p. 14) of the complainant *in view of the acts of the respondent.*

Besides, for nearly a year after Comp. Ex. 1 was made, complainant sold only the unembossed plates (p. 14); during part of that time, the respondent sold such plates under the employ of the complainant (p. 14), and has never sold the embossed plates; the respondent left the employ of the complainant and began selling unembossed plates previous to the making of embossed plates by the complainant (p. 14); and unembossed as well as embossed plates are still sold by the complainant, some customers preferring one and some the other, and some having no preference (p. 14).

In fact, the complainant took out an entirely distinct —a *mechanical*—Patent (No. 643,348; Comp. Ex. 11) to protect especially the idea of embossing (p. 14).

RELATION OF PARTIES.

Moreover, so far at least *as this case* is concerned, equity should favor the complainant; for the respondent has been engaged in selling these very designs for the complainant, has represented to others under the employment of the complainant their merits and has received payment therefor from the complainant, and

LEGISLATIVE INTENT SERVICE (800) 666-1917

is now representing on his own account to the public their merits and receiving money therefor.

In Steam-Gauge & Lantern Co. v. Ham Manufacturing Co., 28 Fed. R., 618, on a motion for a preliminary injunction, although there was no previous adjudication of the validity of the patent, it was said:

> The fact that the defendant's president was, a few months ago the president of the complainant; that, with one exception, the trustees of the defendant but recently occupied positions of confidence and trust under the complainant and continually recognized and asserted the validity of the Stetson patent * * * predisposes the Court to hold the defendant to a stricter accountability than an ordinary infringer.
>
> The defendant is not in a position to demand that the rules of equity shall be strained in its behalf.

To the same effect is Corser v. Battleboro Overall Co., 59 Fed. R., 781.

We submit, therefore, that a writ of certiorari should be granted (and that the decree below should be reversed, and that each and all of the Patents in suit should be held valid and infringed, and that an accounting should be ordered, etc.), with costs and disbursements.

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John H. Hazelton,

George C. Hazelton, Jr.,

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LEGISLATIVE INTENT SERVICE (800) 666-1917

Patent Legislation in the Fifty-seventh Congress, First Session.

Report of the Patent Law Association of Washington.

The work of the Patent Law Association has again, of necessity, been mainly negative. In preceding years it has printed a digest of the bills presented. With a few exceptions, the bills have proceeded upon the usual lines. Fewer objectional ones, however, were presented at this session than at the recent preceding ones. Probably no good purpose could be served by now listing or digesting them.

One bill had the general approval of all—that relieving the Secretary of the Interior from signing patents, which became a law on April 11, 1902.

Other bills which have previously been generally considered and approved have been held over until the next session. It did not seem expedient to become involved in general patent legislation, with so many other matters of an immediate practical nature demanding attention.

One bill had unanimous approval, the bill, now a law, which gave to the Patent Office an addition of thirty-five to the examining corps.

The history of the design statute, given below, illustrates the necessity of impressing upon the Congress the fact that the real parties in interest in any change in the patent statutes affecting patent rights or the scope of the patent protection are the inventors and manufacturers and their representatives, the patent attorneys. It is asserted as a self-evident proposition that no bill affecting these matters should be passed until the parties in interest have had ample opportunity to be heard.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The design bill became a law without hearing or debate and at the very time that, upon the invitation of the House committee, this Association was at the effort and expense of securing the views of representative patent counsel throughout the country.

The Design Statutes.

(S. 4647 and H. R. 12807.)

Inasmuch as S. 4647 was substituted for H. R. 12,807, it is sufficient to give the history of S. 4647.

This bill was insroduced March 21, 1902. It was reported with amendment April 15, passed the Senate without debate April 19, referred to the House of Representatives April 21, reported back and passed the House April 26. It was examined and signed April 29, and approved by the President May 9. Though this bill was of peculiar interest to inventors and manufacturers, it passed both the House and Senate without a single hearing or reference beyond the endorsement of the Commissioner of Patents.

An illustration of the consideration it had may be found in the *Congressional Record* of April 26, 1902, at page 5009. The following is the whole of the proceedings:

> "Mr. REEVES: Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 4647) to amend Section 4929 of the Revised Statutes, relating to design patents.
>
> "The clerk read the bill as follows:
>
> "'*Be it enacted, etc.*, That Section 4929 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:
>
> "'SEC. 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign coun-

LEGISLATIVE INTENT SERVICE (800) 666-1917

try before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country 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, the same as in cases of inventions or discoveries covered by Section 4886, obtain a patent therefor.'"

"The SPEAKER: Is there objection? (After a pause): The Chair hears none.

"The bill was ordered to be read the third time, was read the third time, and passed.

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

"Mr. REEVES: Mr. Speaker, I move that the House bill corresponding to the Senate bill lie on the table.

"The motion was agreed to."

When this bill was before the House committee, before it had passed the Senate, the chairman of the House committee stated that he would like to hear the Patent Law Association upon the matter. The Commissioner of Patents on April 5 so informed representatives of the Association. These representatives after discussing the matter with the commissioner of Patents, prepared a printed circular letter of some twelve pages on April 15, 1902. This letter was sent to three hundred and fifty representative patent attorneys throughout the country, in addition to the members of the Patent Law Association of Washington and representatives of the Chicago Patent Bar Association: so that over five hundred were advised. The purpose of the circular was to obtain the opinions of patent attorneys generally, to be reported to a meeting of the Patent Law Association of Washington to form an element of the discussion. While this letter was out the bill passed the Senate on April 19. Inasmuch, however, as the House Committee had especially asked this

LEGISLATIVE INTENT SERVICE (800) 666-1917

hearing, no especial attention was paid to the bill in the Senate, though it had been clearly understood before that no patent bills would be taken up and passed except upon consideration by the patent bar.

The passage of the bill by the House on April 26 came as a great surprise to every one, including even those in favor of the bill.

A committee of the Patent Law Association immediately waited upon the chairman of the House committee, who, after being reminded of the circumstance, regretted the oversight, but was unable to do anything at that stage. The committee then waited upon the President and was referred to the Secretary of the Interior. The committee had a full consultation with the Commissioner of Patents, explained the position of the Association and what had been done. At a meeting of the Association on April 30 the course of the committee was approved and it was instructed to prepare a history of this statute for distribution, in case it should pass.

The many letters received by the committee in reply to the circular of April 15 were submitted at the meeting. Nearly 90 per cent of these were opposed to the bill, and at the meeting the committee were unanimously instructed to oppose its approval by the President.

The committee and some representative officers of the association prepared a brief against the bill having previously presented a protest to the Secretary of the Interior, accompanied by the letters, in reply to the circular. The matter had been assigned for disposition to the Assistant Attorney General for the Interior Department. This brief (*a copy of which accompanies this statement*) was submitted to him on Thursday, May 8. On the next day the bill was sent to the President with a brief statement to the general effect that the Secretary of the Interior saw no reason for recommending the refusal of approval of the bill.

The situation was a peculiar and delicate one for the Assistant Attorney General, and in the brief time al-

LEGISLATIVE INTENT SERVICE (800) 666-1917

lowed he could probably not be expected to measure the merits of the question, and he was, of course, not responsible for the bill having passed without any hearing by the only parties in interest.

The accompanying brief presents the views of the Association.

There were some suggestions made to the Secretary of the Interior to the effect that the attorneys were not disinterested in this matter or had not had the matter fairly presented to them. These and arguments of a similar nature do not appear to require any answer.

Manufacturers and inventors should impress upon their representatives in Congress that no changes should be made in the patent law until all interests shall have had a full hearing in both Houses. Patent attorneys who receive this paper should call the attention of their clients to the matter. This suggestion, it is hoped, may be taken as an earnest one. Certainly the clients may broadly ask their representatives to see that no patent, trademark, or copyright bill, good or bad, shall pass Congress until they have had a hearing or a representation.

By order of the Association:

WM. CRANCH MC INTYRE,
President.

A. P. GREELEY,
Secretary.

WALTER F. ROGERS,
Chairman of Committee.

3721

LEGISLATIVE INTENT SERVICE (800) 666-1917

The Proposed Amendment of the Design Statute, R. S. U. S., Section 4929.

BRIEF AGAINST THE BILL.

The principal objections to this bill are that it removes from the protection of the law that most important class of designs relying solely upon "shape or configuration"; that it substitutes for judicially interpreted and approved terms of long standing a phrase susceptible of misinterpretation and of harsh and restrictive construction; that it provides a new statute where none was needed and none demanded.

The existing statute was enacted at the behest of manufacturers and inventors. They will not willingly see it restricted.

The premature passing of the bill has prevented the opposition which would undoubtedly have met it. A practically universal criticism and complaint will follow its approval.

EXISTING STATUTES.

"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, statute, altro-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,** [pattern,] **print or picture** to be printed, painted, cast, or other-

LEGISLATIVE INTENT SERVICE (800) 666-1917

wise **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."

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.

Chapter 105, of February 4, 1887, provides a remedy for the unauthorized use of patented designs applied to any article of manufacture.

The Proposed Bill.

"SEC. 4929. Any person who has **invented** any **new, original,** and **ornamental design for an article of manufacture** not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country 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, the same as in cases of inventions or discoveries covered by this section forty-eight hundred and eighty-six, obtain a patent therefor."

NOTE.—The preceding statutes of 1842 and 1861, substantially the same as the present law, will be found in the appendix.

LEGISLATIVE INTENT SERVICE (800) 666-1917

The Scope of the Present Law.

Section 4929 provides for grant of a patent for "any new and original design for

1. Manufacture.
2. Bust.
3. Statue.
4. Alto-relievo or bas-relief.
5. Printing on fabrics.
6. Impression, ornament, pattern, print or picture to be placed on or worked into any article of manufacture.

7. Any new, useful and original shape or configuration of any article of manufacture."

The existing statute draws a clear line of demarcation between those designs which have been classed as "ornamental" by the Supreme Court and enumerated from 1-6 above, and "new, useful, and original shape or configuration," set forth at 7. Under the proposed statute the test of the patentability of a design will consist solely in determining whether the same is "new, original, and *ornamental.*"

Definition and Classification of Gorham v. White.

The Supreme Court, in leading case of Gorham v. White, 81 U. S., 14; L. Ed., 20, 731; 2 O. G., 592, defined the scope of the law and stated the classes of designs created and protected by it in the following language:

"The law manifestly contemplates that giving certain new and original appearance to a manufactured article may enhance its salable value, may enlarge the demand for it, and may be a meritorious service to the public. It therefor proposes to secure, for a limited time, to the ingenious producer of those appearances the advantages flowing from them. Manifestly, the mode in which those appearances are produced has very little.

LEGISLATIVE INTENT SERVICE (800) 666-1917

if anything, to do with giving increased salableness to the article. It is the apearance itself which attracts the attention and calls out favor or dislike.

"It is the appearance itself, therefore, no matter by what agency caused, that constitutes mainly, if not entirely, the contribution to the public which the law deems worthy of recompense. **The appearance may be the result of peculiarity of configuration, or of ornament alone, or of both conjointly;** but, in whatever way produced, it is the new thing or product which the patent law regards."

And again, referring to the two kinds of designs embodied in the handle for table-spoons and forks before the Court, it was said of the same, **"the outline or configuration is most impressive to the eye."**

The Supreme Court in this, while differing from the Court below (Blatchford) as to infringement, agrees with his statement that—

"A design for a configuration of an article of manufacture is embraced within the statute as a patentable design, as well as for an ornament to be placed on the article of manufacture.

"The object of the former may solely be increased utility, while the object of the latter may solely be increased gratification to a cultivated taste, addressed through the eye."

Gorham *v.* White, 7 Blatchf., 513.

The Rule of Novelty.

The Supreme Court of the United States in the case of Lehnbeuter *v.* Holthaus, 105 U. S. 94; L. Ed., 26, 940—a design for a show-case—used the following language in defining the rule of novelty as governing patentability:

LEGISLATIVE INTENT SERVICE (800) 666-1917

"The design patent of the complainants differs essentially from any other which has been called to our attention. It is not covered by other patent which are set out in the record. Whether it is more graceful or beautiful than older designs is not for us to decide. It is sufficient if it is new and useful."

The Classification of Smith v. Whitman Saddle Co.

The Supreme Court of the United States, in the famous Saddle case, Smith *v.* Whitman Saddle Co.,.148 U. S. 674; L. Ed., 37, 606; 63 O. G., 912, repeated the classification of designs into two distinct divisions in the following language:

"The first three of these classes plainly refer to ornament, or to ornament and utility, and the last to new shapes or forms of manufactured articles; and it is under the latter clause that this patent was granted."

Can there be any possible question that the present law provides for two distinct classes of designs?

Can there be any question that the first class is for "new, original, and ornamental" designs, and the second for "new shapes or forms"?

Can there be any question, then, that a statute which cuts out "a new and useful shape or configuration" and condenses the statute to "new, original, and ornamental" may be termed and adjudged a restriction of the present law?

Can there be any question that in examining shapes or configurations a new requirement is imposed by the proposed statute?

If, as has been declared, the practice will remain absolutely unchanged and the scope of the law unaffected, what need is there for a change?

If the proposed statute neither adds to nor takes from the old law, except to render it more "philosophically symmetrical," is it advisable to make the change and give basis for contention on questions now settled by sixty years of practice and litigation?

LEGISLATIVE INTENT SERVICE (800) 666-1917

Is artistic phrasing more important than judicially ascertained meaning?

Who has demanded, requested, or known of the proposed change?

Rowe v. Blodgett.

The Circuit Court of Appeals in Rowe v. Blodgett, 112 Fed. Rep., 61, decided November 14, 1901, criticised the practice of the Patent Office in patenting a design for a horseshoe calk. The point of the holding is in this language:

"The term 'useful,' in relation to designs, means adaptation to producing pleasant emotions. 'There must be originality and beauty. Mere mechanical skill is not sufficient.'"

In the presentation of this case there was no discussion of the statute. This criticism of the practice under an existing statute seems hardly a good reason for rewriting the statute so that the Patent Office shall thereafter make no mistake about horseshoe calks.

The statute itself, the rule of novelty, is settled by the decisions of the Supreme Court cited herein.

In the saddle case nothing was said about beauty or esthetics. The horseshoe calks may possibly be ruled out, but hardly saddles or show-cases.

Something was said about "beauty" in Lehnbeuter *v.* Holthaus in the quotations given, but straight to the point that *novelty*, not beauty, is the criterion.

The Rule of the Patent Office in Ex Parte Steck.

The present Commissioner of Patents has admirably stated the meaning and scope of the existing design statute in his opinion rendered December 31, 1901, in the *ex parte* case of Steck, 98 O. G., p. 228.

The language is so apt and the arguments so nearly in line with the opinion of the patent bar that it is

LEGISLATIVE INTENT SERVICE (800) 666-1917

quoted herein at length for convenient reference. It may be observed that the opinion is divided into two parts, the first a general discussion of the law as applicable to articles of manufacture, and the second a special discussion of the law as related to machines. It is the first part, the general discussion, which is herein quoted, the second part manifestly having no bearing on this discussion.

Ex Parte Steck.

"This is a petition from the action of the examiner of designs refusing to allow a patent in this case on the ground that the application is not limited to a single definite article of manufacture.

"This action relates to the merits (*Ex parte Adams*, 84 O. G., 311; *Ex parte Sherman & Harms*, 89 O. G., 2067), and the petition would be dismissed with this statement if it were not for the fact that there seems to be some confusion as to the treatment which should be accorded design applications of this kind. **Because of this confusion it is thought best to take this opportunity to indicate some line of practice which should be followed.** In doing this it will be necessary to consider the merits of this case to a certain extent.

"It must be apparent that a design having reference to the parts of a machine or to an instrument made primarily for the performance of a mechanical function must, if it is patentable at all, come under that clause of section 4929, Revised Statutes, which refers to "any new, useful, and original shape or configuration of any article of manufacture."

"Some Commissioners have taken the position that such mechanical devices are not patentable as designs. Commissioner Leggett, for instance, in considering a design for a claw-hammer, said that the law—

LEGISLATIVE INTENT SERVICE (800) 666-1917

'was intended to provide for an entirely different class of inventions in the field of esthetics, taste, beauty, ornament,'

and that—

'by "article of manufacture" as used in this section the legislature evidently meant only ornamental articles, articles used simply for decoration' (*Ex parte Parkinson*, C. D. 1871, 251).

"The circuit court took a similar view in considering a design for a horseshoe calk in the case of *Rowe v. Blodgett & Clapp Company* (103 Fed. Rep., 873).

"Most of the Commissioners, however, have not adopted that view, and prior to *Ex Parte Parkinson* Commissioner Foote had announced in *Ex Parte Crane* (C. D. 1869, 7) that—

'there is a large class of improvements in manufactured articles that are not regarded as new inventions, or as coming within the scope of general patent laws. They add to the market value and salability of such articles, and often result from the exercise of much labor, genius, and expense. They promote the best interests of the country, as well as the creations of inventive talent. It seems to me to have been the intent of Congress to extend to all such cases a limited protection and encouragement. Wherever there shall be produced by the exercise of industry, genius, efforts and expense any new and original design, form, or configuration or arrangement of a manufactured article, it comes within the provisions and objects of the act creating design patents, whatever be its nature, and whether made for ornament merely, or intended to promote convenience and utility.'

"This decision was approved by Commissioner Fisher, who was Commissioner at the time that the design law was changed by the insertion of the word 'useful' in the clause quoted above, in the case of *Ex parte Bartholomew* (C. D. 1869, 103).

LEGISLATIVE INTENT SERVICE (800) 666-1917

"Acting Commissioner Duncan in the case of *Ex parte Femmo* (C. D. 1871, 52), decided soon after the law was changed, said:

'There is here no limitation as to the use to which the article, wrought into the particular shape designed for it, is to be subjected; and no suggestion that mere beauty of form or ornamental configuration are the ends sought. In fact, the language quoted expressly implies that utility may be the sole object had in view, in the invention or selection of the particular form to be impressed upon the manufacture: and I am of the opinion that under the present statute, if a new and at the same time useful shape be devised for a particular article of manufacture, even though no ornamental effect be produced thereby, the inventor of the same is entitled to protection for it under the design section of the patent law.'

"These decisions, made at the time that the law was changed, are entitled to much weight in determining the intent of the law. If there were doubt upon the subject they should control (*Bate Refrigerator Co. v. Sulzberger*, 70 O. G., 1633; *Bronson Co. v. Duell*, 95 O. G., 229).

"It is believed that it was the intent of the law that design patents should be granted upon mechanical devices or 'articles of manufacture' of a new shape or configuration, notwithstanding the fact that the shape was adopted primarily for the performance of a mechanical function and not for the purpose of beauty. It may please the taste better than those that have gone before it, or it may not, but this is not controlling, so long as the shape is new and is the result of inventive thought. Our ideas of beauty are derived to a certain extent from our sense of the fitness of things for the purpose for which they were designed, and therefore it is practically impossible to disassociate the idea of beauty from the idea of use in all articles intended for mechanical use. It seems to have been the intention of Congress in placing

LEGISLATIVE INTENT SERVICE (800) 666-1917

the word 'useful' in the statute merely to leave no room for doubt of the fact that articles intended for mechanical use could be made the subjects of design patents.

"The question how far the use or usefulness of the device for the performance of a mechanical function should enter into the consideration of design cases is one of some difficulty. The Court of Appeals, in one of the latest cases upon this subject, said, *In re Tournier* (94 O. G., 2166):

'But since the introduction of the word "useful" into the statute, the Supreme Court of the United States has held, in more than one case that in certain classes of designs embraced by statute, in addition to the mere esthetical or artistic effect of the design upon the senses of the spectator, the element of functional utility may be considered in determining the question of the patentability of the design claimed (*Lehnbeuter v. Holthaus*, 21 O. G., 1783; 105 U. S., 94; *Smith v. Whitman Saddle Co.*, 63 O. G. 912; 148 U. S., 674).

'We do not, however, understand the court as intending to go further than this, and to hold that functional utility is to be regarded as a controlling or even as an essential element in a patent for a design. For if so, the design patents would virtually be placed upon the same footing and with the same requirements of patents for mechanical inventions.'

"It seems clear, as stated by the court, that functional utility cannot be given the same consideration and effect in design cases as in mechanical. For instance, an article which is useful for the performance of a mechanical function may be old in a mechanical sense—in the sense that it performs the same function in substantially the same way as previous articles—but at the same time it may be new and original in shape and patentable as a design. On the other hand, two articles may upon mere inspection appear to be of substantially the same shape, so that they would not be distinguished by their appearance as separate designs, but at the same time embody such differences as would make them perform different mechanical func-

LEGISLATIVE INTENT SERVICE (800) 666-1917

tions and constitute different mechanical inventions. Inventions in mechanical cases are judged by the novelty of the functions performed or the manner of performing them, whereas in designs they are judged by the appearance of the article. It is the shape or configuration which is patented in design cases, and the patent does not give protection against the use of devices which perform the same function in substantially the same way, but only against the use of devices having the same appearance without regard to their functions.

"As said by the Supreme Court in *Gorham v. White* (2 O. G., 502):

'If in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same, if the resemblance is such as to deceive such an observer, inducing him to purchase one supposing it to be the other, the first one patented is infringed by the other.'

"This is the sole test of infringement in all design cases, notwithstanding the insertion of the word "useful" in the statute. It is also the test of anticipation, under the wellsettled principle that what would infringe if later, would anticipate if earlier.

"A design which is ornamental may be useful from the standpoint of beauty, and even where it is not ornamental it may be useful and is not to be refused because of its lack of beauty, so long as the shape is new and original."

Some Reasons Against the Bill.

1. The design statutes were enacted and amplified at the behest of manufacturers and inventors. It is proposed by the bill to amend and restrict without their knowledge or consent.

2. Section 4929 of the Revised Statutes of the United States is not one which concerns merely bureau

LEGISLATIVE INTENT SERVICE (800) 666-1917

practice or administration. It is a statute creating and protecting property rights.

3. It has been argued in defense of the bill that it need not lead to any radical change in the present practice of the Patent Office. If that be so, the bill is not needed.

4. History demonstrates that the purpose of one administration to "liberally" interpret a statute to popularize it cannot govern succeeding administrations.

5. The Supreme Court of the United States has expressly divided the designs protected by the statute into two classes. See Gorham *v.* White and Smith *v.* Whitman Saddle Co., (cited herein). Such a division would have been obviously impossible under the wording of the proposed law.

6. It seems to be the idea that the single phrase "ornamental design" is sufficient to cover all the designs which *deserve* protection. But the Supreme Court makes practically the same phrase refer to one class of designs only, while upholding another and distinct class under another clause of the statute.

7. The simple test applied by the Supreme Court under the present statute is novelty. A double test is now imposed by the proposed bill, the additional one being of great difficulty, subject to a thousand shades of philosophical speculation.

8. For sixty years the design laws have provided protection for a "new shape or configuration of an article of manufacture." This clause has been interpreted and sustained. To now strike it from the statute must, beyond a question, limit and restrict that statute.

9. No such limitation is demanded or required. No elimination of the phrase is asked by the parties interested. It is the firm opinion of their representatives that the change is not only unnecessary, but certain to be annoying and injurious.

10. "Every innovation occasions more harm and derangement of order by its novelty than benefit by its abstract utility" (Broom's Legal Maxims, pp. 139, 140).

LEGISLATIVE INTENT SERVICE (800) 666-1917

11. The proposed change puts the statute into the field of "esthetics" already covered by the coypright law.

12. The proposed change is academic and restrictive. The testimony of the overwhelming majority, already in evidence, calls for an enlargement rather than a restriction, and suggests the avoidance of such elusive and debatable adjectives as "ornamental" whenever possible.

13. The letters in evidence are from well-known practitioners, and from men who have been assistant examiners, examiners, examiners-in-chief, law clerks, assistant commissioners, text-writers and lecturers, and who have also had experience in actual practice and know the needs and views of manufacturers and inventors. Of the very few who write in favor of the bill it is apparent on the face of the letters that fewer yet of them have quite caught the idea and that others are looking to another point, the need for a closer examination of applications on the question of *novelty* under the existing law.

Many of these letters against the bill give intrinsic evidence of a knowledge of the subject had by the profession. They contain many pointed practical arguments against the bill.

14. The Patent Law Association of Washington has, as the record shows, cast its vote against the bill.

15. This bill was passed at a time when the Patent Law Association was collecting the views of representative men preparatory to a discussion of the bill upon the specific invitation of the House committee, extended directly and particularly through the courtesy of the Commissioner of Patents. It was prematurely passed, without debate in either House, without reference to anything but the single argument of the Commissioner of Patents, and because the facts of the request for the Association to present its views had been temporarily overlooked and forgotten.

LEGISLATIVE INTENT SERVICE (800) 666-1917

16. It is admitted on all hands that no such bill should ever pass through Congress without an opportunity for those most interested to be heard.

17. This bill changing a sixty-year-old law went through in five weeks. It affects industries in every State and Territory, and the many thousands of interested parties could be reached promptly only through their representatives, the patent lawyers and solicitors.

18. Ten days after the receipt of the invasion of the House Committee, the committee of the Association had consulted with the Association, received its authority, consulted many members individually, digested the apparent arguments as fairly as possible, printed them, and mailed a circular letter to three hundred and fifty representative men.

19. There was no occasion for haste. There was no demand for the change. There was no danger to be averted, no condition to be met, no impelling necessity of any kind calling for such unprecedented speed. It is a clear case of impetuous legislation under a mistaken impression that the interested parties had been heard.

Respectfully submitted.

WALTER F. ROGERS,
WALLACE A. BARTLETT,
ARTHUR S. BROWNIE,
WM. W. DODGE,
GEO. P. WHITTLESEY,
Standing Committee on Laws and Rules.

WM. CRANCH MCINTYRE,
President

J. H. WHITAKER,
First Vice-President.

THE PATENT LAW ASSOCIATION OF WASHINGTON

To

The Honorable SECRETARY OF THE INTERIOR,
Hon. WILLIS VAN DEVANTER,
Assistant Attorney General for the Interior Department.

LEGISLATIVE INTENT SERVICE (800) 666-1917

57TH CONGRESS, 1ST SESSION.

H. R. 12807.

IN THE HOUSE OF REPRESENTATIVES.

MARCH 20, 1902.

Mr. REEVES introduced the following bill; which was referred to the Committee on Patents and ordered to be printed.

A BILL

To amend section forty-nine hundred and twenty-nine, Revised Statutes, relating to design patents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and twenty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 4929. Any person who has invented any new, original, and artistic design for an article of manufacture, not known or used by others in this country before his invention thereof and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country 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

LEGISLATIVE INTENT SERVICE (800) 666-1917

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LEGISLATIVE INTENT SERVICE (800) 666-1917

57TH CONGRESS, 1ST SESSION.

H. R. 12807.

[Report No. 1661.]

IN THE HOUSE OF REPRESENTATIVES.

MARCH 20, 1902.

Mr. REEVES introduced the following bill; which was referred to the Committee on Patents and ordered to be printed.

APRIL 18, 1902.

Reported with an amendment, referred to the House Calendar, and ordered to be printed.

[Omit the part struck through and insert the part printed in italics.]

A BILL

To amend section forty-nine hundred and twenty-nine, Revised Statutes, relating to design patents.

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LEGISLATIVE INTENT SERVICE (800) 666-1917

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LEGISLATIVE INTENT SERVICE (800) 666-1917

X re H.R. 12807

CONGRESSIONAL RECORD

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

FIFTY-SEVENTH CONGRESS, FIRST SESSION;

ALSO

SPECIAL SESSION OF THE SENATE.

VOLUME XXXV.

WASHINGTON:
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1902.

LEGISLATIVE INTENT SERVICE (800) 666-1917

INDEX

TO THE

CONGRESSIONAL RECORD.

FIFTY-SEVENTH CONGRESS, FIRST SESSION.

FROM DECEMBER 2, 1901, TO JULY 1, 1902.

LEGISLATIVE INTENT SERVICE (800) 666-1917

HISTORY

OF

BILLS AND JOINT RESOLUTIONS.

HOUSE BILLS.

H. R. 1—

To make oleomargarine and other imitation dairy products subject to the laws of the State, Territory, or District into which they are transported, and to change the tax on oleomargarine.

Mr. McCleary; Committee on Agriculture 51.

H. R. 2—

To enable the people of New Mexico to form a constitution and State government and to be admitted into the Union on an equal footing with the original States.

Mr. Rodey; Committee on Territories 51.

H. R. 3—

To amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

Mr. Littlefield; Committee on Judiciary 51.

H. R. 4—

To amend an act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," by increasing the tax on oleomargarine in certain cases, and to make oleomargarine and imitation dairy products subject to the laws of the State or Territory into which they are transported.

Mr. Tawney; Committee on Agriculture 51.

H. R. 5—

To authorize the construction, operation, and maintenance of telegraphic cables between the United States of America and Hawaii, Guam, and Philippine Islands, and other countries, and to promote commerce.

Mr. Corliss; Committee on Interstate and Foreign Commerce 51.—Reported back with amendment (H. R. REPORT 568) 1959.—Made special order 6574.—Debated 6580, 6612, 6614.—Enacting clause stricken out 6635.

H. R. 6—

For the erection of a public building at Kingston, N. Y.

Mr. Ketcham; Committee on Public Buildings and Grounds 51.

H. R. 7—

Authorizing the Secretary of War to cause to be erected monuments and markers on the battlefield of Gettysburg, Pa., to commemorate the valorous deeds of certain regiments and batteries of the United States Army.

Mr. Mahon; Committee on Military Affairs 51.

H. R. 8—

To repeal an act to establish a uniform system of bankruptcy throughout the United States, approved July 1, 1898.

Mr. Cousins; Committee on Judiciary 51.

H. R. 9—

To establish a commission, who shall investigate all duties on imports and recommend changes therein, negotiate reciprocal trade treaties and recommend the adoption of the same, and collect such information with regard to products, manufactures, and commerce as will aid it in the performance of its duties and promote and provide for the general welfare.

Mr. Fowler; Committee on Ways and Means 51.

H. R. 10—

To make oleomargarine and other imitation dairy products subject to laws of State or Territory into which they are transported, and to change the tax on oleomargarine.

Mr. Davidson; Committee on Agriculture 51.

H. R. 11—

To confer jurisdiction on the Court of Claims to try and render final judgment in certain claims of the State of Indiana.

Mr. Hemenway; Committee on War Claims 51.

H. R. 12—

For the purchase of a site and the erection of a public building thereon in the city of Elizabeth, N. J.

Mr. Fowler; Committee on Public Buildings and Grounds 51.

H. R. 13—

To provide for the purchase of a site and the erection of a public building thereon at Waterloo, in the State of Iowa.

Mr. Henderson; Committee on Public Buildings and Grounds 51.

H. R. 14—

To establish the department of commerce, labor, and manufactures.

Mr. Brownlow; Committee on Interstate and Foreign Commerce 51.

H. R. 15—

To provide for the purchase of a site and for the erection of a public building thereon at the city of Wheeling, State of West Virginia.

Mr. Dovener; Committee on Public Buildings and Grounds 51.

H. R. 16—

To provide for the erection of a bronze equestrian statue to the memory of the late Brig. Gen. Count Casimir Pulaski at Washington, D. C.

Mr. Brick; Committee on Library 51.—Reported back with amendments (H. R. REPORT 2282) 6077.—Debated, amended, and passed House 7768.—Referred to Senate Committee on Library 7747.

H. R. 17—

Requiring all corporations engaged in interstate commerce to file returns with the Secretary of the Treasury, disclosing their true financial condition, and of their capital stock, and imposing a tax upon such as have outstanding capital stock unpaid in whole or in part.

Mr. Littlefield; Committee on Judiciary 51.

H. R. 18—

To provide for the education of the blind, etc.

Mr. Boutell; Committee on Education 51.—Reported back with amendments (H. R. REPORT 1318) 3589.

H. R. 19—

To maintain the parity of the money of the United States.

Mr. Overstreet; Committee on Banking and Currency 51.

H. R. 20—

To amend an act entitled "An act to provide revenue for the Government and to encourage the industries of the United States," approved July 24, 1897.

Mr. Moody of Massachusetts; Committee on Ways and Means 51.

H. R. 21—

For the protection of colored citizens of the United States against lynching, in default of protection by the States.

Mr. Moody of Massachusetts; Committee on Judiciary 51.

H. R. 22—

To provide for the purchase of a site and the erection of a public building thereon at Hammond, in the State of Indiana.

Mr. Crumpacker; Committee on Public Buildings and Grounds 51.

LEGISLATIVE INTENT SERVICE (800) 666-1917

H. R. 12782—
Granting a pension to Asa C. Eastman.
Mr. Powers of Maine; Committee on Invalid Pensions 3036.

H. R. 12783—
To correct the military record of William H. Harris.
Mr. Ryan; Committee on Military Affairs 3036.

H. R. 12784—
Granting an increase of pension to Ira Munson
Mr. Salmon; Committee on Invalid Pensions 3037.

H. R. 12785—
Granting an increase of pension to John M. Barron.
Mr. Schirm; Committee on Invalid Pensions 3037.

H. R. 12786—
Granting a pension to George W. Arnold.
Mr. Shattuc; Committee on Invalid Pensions 3037.

H. R. 12787—
Granting a pension to Jefferson G. Brown.
Mr. Smith of Kentucky; Committee on Invalid Pensions 3037.

H. R. 12788—
Granting a pension to Elizabeth McDonald.
Mr. Sperry; Committee on Invalid Pensions 3037.—Reported back with amendment (H. R. REPORT 1725) 4555.—Passed House 4686, 4690.—Referred to Senate Committee on Pensions 4705.—Reported back (S. REPORT 1368) 5017.—Passed Senate 5064.—Examined and signed 5531, 5534, 5587.—Approved by President 5872.

H. R. 12789—
Granting an increase of pension to Alexander S. Hempstead.
Mr. Tompkins of Ohio; Committee on Invalid Pensions 3037.

H. R. 12790—
Granting an increase of pension to William R. Milot.
Mr. Tompkins of Ohio; Committee on Invalid Pensions 3037.

H. R. 12791—
Granting an increase of pension to Matthew Cherry.
Mr. Tompkins of Ohio; Committee on Invalid Pensions 3037.

H. R. 12792—
To remove charge of desertion against William F. Elliott and granting his widow, Lydia, a pension of $24 per month.
Mr. Tompkins of Ohio; Committee on Military Affairs 3037.

H. R. 12793—
Restoring name of Acsah Barnes to pension roll and granting her a pension.
Mr. Tompkins of Ohio; Committee on Invalid Pensions 3037.

H. R. 12794—
To refer to the Court of Claims the claim of Benjamin A. Pillsbury, owner of the schooner A. B. Sherman, for damages caused by collisions with United States war ships.
Mr. Wachter; Committee on Judiciary 3037.—Reference changed to Committee on Claims 3535.

H. R. 12795—
To provide for the erection of a monument to Maj. Gen. Thomas Sumpter.
Mr. Lever; Committee on Library 3036.—Reported back with amendments (H. R. REPORT 2418) 6528.

H. R. 12796—
Providing for free homesteads in the Ute Indian Reservation in Colorado.
Mr. Bell; Committee on Public Lands 3036.—Reported back with amendments (H. R. REPORT 1275) 3492.—Debated and passed House 5493.—Referred to Senate Committee on Indian Affairs 5537.—Reference changed to Committee on Public Lands 5952.—Reported back (S. REPORT 1744) 6214.—Passed Senate 6317.—Examined and signed 6479, 6506, 6527.—Approved by President 6883.

H. R. 12797—
To ratify act numbered 65 of the Twenty-first Arizona legislature.
Mr. Smith of Arizona; Committee on Territories 3036.—Reported back (H. R. REPORT 1769) 4654.—Passed House 4725.—Referred to Senate Committee on Territories 4746.—Reported back (S. REPORT 1612) 5618.—Passed Senate 6437.—Examined and signed 6527, 6529, 6710.—Approved by President 6883.

H. R. 12798—
To fix the status of the officers of the Porto Rico Provisional Regiment of Infantry.
Mr. Graff; Committee on Insular Affairs 3036.

H. R. 12799—
To prevent robbing the mail, to provide a safer and easier method of sending money by mail, and to increase the postal revenues.
Mr. Gardner of Michigan; Committee on Post-Office and Post-Roads 3036.

H. R. 12800—
Granting an increase of pension to Horatio N. Whitbeck.
Mr. Burton; Committee on Invalid Pensions 3037.—Reported back with amendment (H. R. REPORT 1923) 5147.—Debated and passed House 5241, 5245.—Referred to Senate Committee on Pensions 5285.—Reported back with amendment (S. REPORT 1828) 6304.—Amended and passed Senate 6805.—House concurs in Senate amendment 7303.—Examined and signed 7416, 7419, 7547.—Approved by President 7782.

H. R. 12801—
To pay D. Van Aken & Co. for services rendered in the relief of United States transport Manitoba, and United States naval boat Saturn, and the Van Aken expedition.
Mr. Nevin; Committee on Claims 3037.

H. R. 12802—
Granting a pension to William H. McKenny.
Mr. Williams of Illinois; Committee on Invalid Pensions 3037.

H. R. 12803—
Granting a pension to Robert J. Tate.
Mr. Williams of Illinois; Committee on Invalid Pensions 3037.

H. R. 12804—
Making appropriation for the support of the Army for the fiscal year ending June 30, 1903.
Mr. Hull, from Committee on Military Affairs (H. R. REPORT 1091) 3079, 3104.—Debated 3257, 3284, 3306, 3344, 3346, 3355.—Amended and passed House 3356.—Referred to Senate Committee on Military Affairs 3449.—Reported back with amendments (S. REPORT 1414) 5091.—Debated, amended, and passed Senate 5253, 5263.—Reconsidered in Senate, debated, amended, and passed Senate 5315.—House nonconcurs in Senate amendments 5688.—Senate insists upon its amendments 5844, 5956, 6118, 6859, 7075.—Conference appointed 5688, 7075, 7113.—Conference report made and agreed to 7195, 7210.—Senate further insists upon its amendments and second conference appointed 7197, 7263.—Conference report made and agreed to 7365, 7387, 7390.—Examined and signed 7546, 7550, 7614.—Approved by President 7781.

H. R. 12805—
Requiring the Anacostia and Potomac River Railroad Company to extend it Eleventh street line, and for other purposes.
Mr. Mercer; Committee on District of Columbia 3104.—Reported back with amendment (H. R. REPORT 2197) 5899.—Passed House 5937.—Referred to Senate Committee on District of Columbia 5955.—Reported back (S. REPORT 1920) 6713.—Amended and passed Senate 7516.—House disagrees to Senate amendments 7608.—Senate insists upon its amendments 7634.—Conference appointed 7608, 7634.—Conference report made and agreed to 7657, 7706.—Examined and signed 7721, 7731.—Approved by President 7794.

H. R. 12806—
To amend an act entitled "An act to provide revenue for the Government and to encourage the industries of the United States," approved July 24, 1897.
Mr. Mann; Committee on Ways and Means 3104.

H. R. 12807—
To amend section 4929, Revised Statutes, relating to design patents.
Mr. Reeves; Committee on Patents 3104.—Reported back with amendment (H. R. REPORT 1661) 4420.—Laid on table (see bill S. 4647) 4724.

H. R. 12808—
To regulate the manufacture and sale of process butter and renovated butter.
Mr. Graff; Committee on Agriculture 3104.

H. R. 12809—
Regulating bone or fertilizing factories in the District of Columbia.
Mr. Babcock; Committee on District of Columbia 3104.

H. R. 12810—
For the relief of William Lewis Bryan.
Mr. Blackburn; Committee on Claims 3104.

H. R. 12811—
For the relief of William McCarty Little.
Mr. Bull; Committee on Naval Affairs 3104.

H. R. 12812—
Granting an increase of pension to Otis T. Hooper.
Mr. Currier; Committee on Invalid Pensions 3104.

LEGISLATIVE INTENT SERVICE (800) 666-1917

CONGRESSIONAL RECORD

CONTAINING

THF PROCEEDINGS AND DEBATES

OF THE

FIFTY-SEVENTH CONGRESS, FIRST SESSION;

ALSO

SPECIAL SESSION OF THE SENATE.

VOLUME XXXV.

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1902.

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HOUSE OF REPRESENTATIVES.

FRIDAY, *April 18, 1902.*

The House met at 11 o'clock a. m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

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

CUBAN RECIPROCITY BILL.

Mr. PAYNE. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 12765.

The SPEAKER. The gentleman from New York moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 12765.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. SHERMAN in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 12765, the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 12765) to provide for reciprocal trade relations with Cuba.

Mr. RICHARDSON of Tennessee. Mr. Chairman, if I had been called to prepare a bill to present to this House to accomplish the avowed objects of the pending bill, I would not have presented the measure which we are now considering. The object of this bill, as expressed in its caption and declared by its friends, is "To provide for reciprocal trade relations with Cuba." It is to obtain the trade of that country through the principle of reciprocity; that is, they shall have our trade and we shall have theirs. This is what is meant by reciprocal trade relations between two countries. Desiring to bring about reciprocal trade relations with Cuba, I would not have presented exactly this measure, and not because it is not a measure starting in the proper direction, for it is; but I would not have stopped exactly where the friends of the pending bill stopped. I would have recommended a reduction of the tariff rates at least 40 per cent instead of 20 per cent.

Mr. Chairman, there have been a variety, a great variety, of opinions developed and expressed during this long debate. It has been an able debate. While I do not agree with all that has been said by gentlemen who advocate the passage of this bill, I do agree with them in the conclusions they reach, that the bill should pass. Certain landmarks, Mr. Chairman, have been established by this debate, fully developed by what has occurred in the House and before the country during its pendency. If nothing else has been established there is one fact settled beyond peradventure, it seems to me, that is of incalculable advantage to the country. What is that? It is that there is a way to provide for and obtain, or to have reciprocal trade relations with, a country by and through appropriate legislation. How is that to be done? Exactly along the line of this bill.

If you want the trade of a people, you must deal fairly with them; if you want them to buy from you, you must buy from them. Therefore, the first step that the wise men took when they commenced to frame this bill was to plant a Democratic landmark from which they can not escape. What is that? Lower your tariff wall and make trade relations freer and fairer. You want to establish relations, you want to develop trade with Cuba. How are you going to do it? Why do you not pursue the Republican policy of placing a higher tariff against Cuba and Cuban tariff? Would not that be the Republican idea? What is the Democratic idea? Reduce your tariff walls, reduce your tariff, and provide for reciprocal trade relations in this way.

So, then, Mr. Chairman, without dwelling upon this important fact, this grand landmark is here planted and definitely established by this debate. Republican leaders must confess hereafter that when we want to provide wider fields for our products, if we want to extend our trade with any country and open new markets, we must pull down the immense tariff wall which surrounds this country. That fact, then, is established. I said that I thought they had started in the proper direction. I said they did not go as far as they ought to have gone, in my judgment. It may be I am mistaken in this. The witnesses differ in view; some gentlemen who testified before the Ways and Means Committee in the long hearings before that Committee before the bill was presented were of opinion that it was necessary that there should be 50 per cent reduction in favor of Cuban products before we would get the trade of the islands. Others said 40 per cent; General Wood, I believe, thought 40 would give it; others 33, and others a still lower sum.

The gentleman who framed the bill must have thought that 20 per cent reduction would give us that trade. Having the honor of a seat on that committee, I concurred in reporting this bill and giving it a favorable recommendation. I did so because, while I doubted, and expressed that doubt when I cast my vote in committee for the bill, that it would accomplish the purpose in view; yet I thought I might possibly be mistaken in this respect, and it would bring about the reciprocal trade between the two countries so earnestly desired. Therefore, without agreeing to the arguments which gentlemen have adduced in favor of the bill, without subscribing in toto to the report made by the learned chairman of the Ways and Means Committee, without indorsing all of the arguments and reasons which constrained him to support the bill, and hoping it might be properly amended in the House, I did agree that the bill should be reported to the House with a favorable recommendation.

Having done that, Mr. Chairman, I owe it to my party associates and possibly to the country to state briefly some of the reasons which constrained me to report the bill favorably. The first reason was that it reduces the outrageously high protective rates, now fixed by the Dingley law upon sugar and all other Cuban products, 20 per cent. Some say that only one industry is chiefly affected. Let us look at it for a moment. It is not only one commodity, but the bill applies to all products coming from Cuba,—sugar, tobacco, and everything else. Sugar we all know is the chief commodity coming from that island. This reduction is not a small matter. How much sugar do we consume? I will not weary you with figures, but the total consumption of sugar in the United States per year is about 2,500,000 tons. How much do we make in the United States? About one-third of this, including Hawaii and Porto Rico. The beet sugar and cane production in this country is about 800,000 tons. Therefore, we must import about two-thirds of the sugar consumed by the American people, or about 1,600,000 tons. Where does it come from? About one-half of it—800,000 tons—comes from Cuba, or will do so this year, and the remaining half, in round numbers, from other countries, mainly from Germany.

Now, then, on one-half of this one article that the American people import for consumption, we get a reduction by this bill of 20 per centum of the present rate. Some say, Mr. Chairman, that that will not affect the price. The principle is that the reduction of tariff duties will lower the price of the imported article in this country. That is a Democratic contention. I do not know how much it will lower it to the consumer, but it is a step in the right direction. The object of lowering the rate is to benefit the consumer in this country, and therefore because the bill reduces the rate of the Dingley tariff upon one of the highest schedules in it, the sugar schedule, for about one-half of the amount consumed—that is, imported into the United States—I believe the bill should pass.

There is another view of the question. Some say they are tired of sentimentalism; but, frown upon that idea as we will, there is a sentiment in the country, and properly, too, that we should do something for these wards, I may almost call them, of the United States in Cuba. I know it is contended by gentlemen on this side of the House that we have done enough for Cuba. There has not been a day, Mr. Chairman, since the beginning of the month of April, 1898, when war was declared by the United States against Spain, that the hand of the United States, the military power of the United States, has not rested with controlling and dominating influence upon the island and the people of Cuba. We are there now. We intend to stay there as long as it is necessary. How long that will be I do not know.

I am not going to discuss the effect of the Platt amendment. My friend from New York, Mr. MCCLELLAN, made a proper statement, as I believe, of the effect of that piece of legislation upon the island. Others have followed. Under the Platt amendment I believe that with the power exerted by it, and by all the surrounding circumstances, over the people of Cuba we may look at them somewhat in the sense of wards.

This bill will give Cuba a 20 per cent advantage. How much it will amount to can be easily figured. Whatever it is, whether it reduces the price of sugar to the American consumer or not, it does benefit the people of Cuba to that extent. It goes beyond that. There are two purposes accomplished, either one of which would be sufficient to control my action in supporting the bill. Of course, in saying this I will add that I do not wish to do violence to any industry in this country. I know that our beet-sugar friends complain that they are going to be uprooted, yet they will tell you that it is not going to affect the price of sugar to the consumer of sugar in the United States. Well, if it is not going to affect the price to the consumer, how will the beet-sugar man be injured? Let us go a little further.

Mr. HAMILTON. Mr. Chairman——

Mr. RICHARDSON of Tennessee. No; I can not yield. I prefer not to be interrupted.

Mr. HAMILTON. I simply rose for information; not to have any controversy with the gentleman; I am not given to that.

Mr. RICHARDSON of Tennessee. I understand that, but I prefer not to yield, for I am not really in a physical condition to

LEGISLATIVE INTENT SERVICE (800) 666-1917

A letter from the Acting Secretary of War relating to the reimbursement of Messrs. H. B. Riden and William W. Thompson—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Interior, transmitting, with a report from the Commissioner of Indian Affairs, a draft of a bill relating to the sale of certain Pottawatomie and Kickapoo Indian lands—to the Committee on Indian Affairs, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. FLYNN, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 4556) to amend an act entitled "An act to supplement existing laws relating to the disposition of lands, etc.," approved March 3, 1901, reported the same with amendment, accompanied by a report (No. 1660); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. REEVES, from the Committee on Patents, to which was referred the bill of the House (H. R. 12807) to amend section 4929, Revised Statutes, relating to design patents, reported the same with amendment, accompanied by a report (No. 1661); which said bill and report were referred to the House Calendar.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 13819) for the relief of certain indigent Choctaw and Chickasaw Indians in the Indian Territory, and for other purposes, reported the same without amendment, accompanied by a report (No. 1663); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LACEY, from the Committee on Indian Affairs, to which was referred the bill of the Senate (S. 1305) for the relief of Mrs. Arivella D. Meeker, reported the same with amendment, accompanied by a report (No. 1662); which said bill and report were referred to the Private Calendar.

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 4446) for the relief of Harry C. Mix, reported the same without amendment, accompanied by a report (No. 1664); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. YOUNG: A bill (H. R. 13817) to establish a fish-hatching and fish station in the State of Pennsylvania—to the Committee on the Merchant Marine and Fisheries.

By Mr. CURTIS: A bill (H. R. 13818) to allot the lands of the Cherokee tribe of Indians in the Indian Territory, and for other purposes—to the Committee on Indian Affairs.

Also, from the Committee on Indian Affairs, a bill (H. R. 13819) for the relief of certain indigent Choctaw and Chickasaw Indians in the Indian Territory, and for other purposes—to the Union Calendar.

By Mr. TONGUE: A joint resolution (H. J. Res. 182) authorizing the Director of the Census to compile statistics relating to irrigation—to the Select Committee on the Census.

By Mr. GROSVENOR: Memorial of the legislature of Ohio, favoring schools of mines—to the Committee on Mines and Mining.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills of the following titles were introduced and severally referred as follows:

By Mr. BRICK: A bill (H. R. 13820) granting a pension to Mary S. Mattingly—to the Committee on Invalid Pensions.

Also, a bill (H. R. 13821) for the relief of Martin D. Puckett—to the Committee on War Claims.

By Mr. BURK of Pennsylvania: A bill (H. R. 13822) granting a pension to Hannah T. Knowles—to the Committee on Pensions.

By Mr. CANDLER: A bill (H. R. 13823) for the relief of the heirs of George W. Gardner, deceased—to the Committee on War Claims.

By Mr. COONEY: A bill (H. R. 13824) granting a pension to Fielding W. Means—to the Committee on Invalid Pensions.

By Mr. DAYTON: A bill (H. R. 13825) to remove the charge of desertion from George W. Phillips—to the Committee on Military Affairs.

By Mr. ELLIOTT: A bill (H. R. 13826) granting an increase of pension to Francis N. Bonnean—to the Committee on Pensions.

By Mr. GOOCH: A bill (H. R. 13827) for the relief of Mary Zepf, widow of Louis Zepf, deceased—to the Committee on War Claims.

By Mr. HAMILTON: A bill (H. R. 13828) granting an increase of pension to George N. Dutcher—to the Committee on Invalid Pensions.

By Mr. JACKSON of Kansas: A bill (H. R. 13829) granting a pension to Andrew J. Howell—to the Committee on Invalid Pensions.

By Mr. JOY: A bill (H. R. 13830) for the relief of Edward Cahalan—to the Committee on War Claims.

By Mr. LEVER: A bill (H. R. 13831) to correct the military record of James O'C. Cassidy—to the Committee on Military Affairs.

By Mr. MAHON: A bill (H. R. 13832) granting an increase of pension to Henry Reed—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 13833) for the relief of Mary L. Bernard—to the Committee on War Claims.

Also, a bill (H. R. 13834) to place Dr. Henry Smith on the retired list of the Army—to the Committee on Military Affairs.

Also, a bill (H. R. 13835) for the relief of Martha Louisa Whittaker—to the Committee on War Claims.

By Mr. McRAE: A bill (H. R. 13836) granting an increase of pension to Samuel Hodges—to the Committee on Invalid Pensions.

By Mr. MEYER of Louisiana: A bill (H. R. 13837) authorizing the Commissioners of the District of Columbia to receive and audit certificate of indebtedness No. 14780—to the Committee on the District of Columbia.

By Mr. MOSS: A bill (H. R. 13838) granting an increase of pension to Valentine Moulder—to the Committee on Invalid Pensions.

Also, a bill (H. R. 13839) granting an increase of pension to John W. B. Huntsman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 13840) granting an increase of pension to W. L. Kingrey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 13841) granting an increase of pension to Richard F. Hargis—to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 13842) granting a pension to Charles S. Moy—to the Committee on Invalid Pensions.

By Mr. THOMAS of Iowa: A bill (H. R. 13843) granting an increase of pension to O. D. Heald—to the Committee on Invalid Pensions.

By Mr. YOUNG: A bill (H. R. 13844) granting an increase of pension to Lawson T. Pearson—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 13845) for the relief of the widow of Joseph Culley—to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER: Resolutions of the Maritime Association of the Port of New York, urging the passage of House bill 163, to pension employees and dependents of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

Also, petition of Steam Pipe Coverers of Buffalo, N. Y., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. APLIN: Resolutions of Polish societies of Bay City and Gaylord, Mich., favoring the erection of a statue to the late Brigadier-General Count Pulaski, at Washington—to the Committee on the Library.

By Mr. BINGHAM: Petitions of E. H. Coates, S. H. Chapman, and others, of Philadelphia, Pa., for the adoption of a proposed amendment to the act of February 10, 1891, for the prevention of counterfeiting of United States coin—to the Committee on the Judiciary.

Also, resolution of the Philadelphia Maritime Exchange, urging the passage of House bill 163, to pension employees and dependents of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

Also, petition of James A. Donnelly and others, of Philadelphia, Pa., in favor of House bills 178 and 179, for the repeal of the tax on distilled spirits—to the Committee on Ways and Means.

LEGISLATIVE INTENT SERVICE (800) 666-1917

57TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1661.

DESIGN PATENTS.

APRIL 18, 1902.—Referred to the House Calendar and ordered to be printed.

Mr. REEVES, from the Committee on Patents, submitted the following

REPORT.

[To accompany H. R. 12807.]

The Committee on Patents, to whom was referred House bill 12807, respectfully submits the following report:

Section 4929 of the Revised Statutes, relating to design patents, is as follows:

> 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 (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 fee prescribed, and other due proceedings had, the same as in cases of inventions or discoveries, obtain a patent therefor.

The bill proposes to amend said section of the Statutes by striking out unnecessary language of the statute and by omitting the word "useful" as applied to design patents by said section and substituting the word "ornamental."

In Smith *v.* Whitman Saddle Company (148 U. S., 674) Chief Justice Fuller said:

> * * * the word "useful" which is in section 4929 was not contained in the act of 1842, * * * So that now, where a new and original shape or configuration of an article of manufacture is claimed, its utility may be also an element for consideration.

Without stating what consideration can be given to "utility" in respect to design patents, the court in the same case approves the language used by Mr. Justice Brown when district judge for the eastern district of Michigan, as follows:

> To entitle a party to the benefit of the act, in either case (mechanical inventions or designs), there must be originality and the exercise of the inventive faculty. In the one there must be novelty and utility; in the other, originality and beauty.

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REEVES, Walter, (1848 - 1909)



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REEVES, Walter, a Representative from Illinois; born near Brownsville, Fayette County, Pa., September 25, 1848; moved with his parents to Illinois in 1856, where they settled upon a farm in La Salle County; attended the public schools; taught school; studied law; was admitted to the bar in Mount Vernon, Ill., in 1875, and commenced practice in Streator, Ill.; elected as a Republican to the Fifty-fourth and to the three succeeding Congresses (March 4, 1895-March 3, 1903); chairman, Committee on Patents (Fifty-seventh Congress); was not a candidate for renomination in 1902; unsuccessful candidate for the Republican nomination for Governor in 1900; resumed the practice of law; died in Streator, La Salle County, Ill., April 9, 1909; interment in Riverview Cemetery.

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