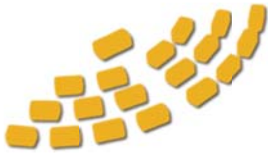

LEGISLATIVE
INTENT SERVICE, INC.

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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.

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60.	Increase of pension for Ambrose Burton	1	4399
61.	Additional messengers for doorkeeper of House	1	4399
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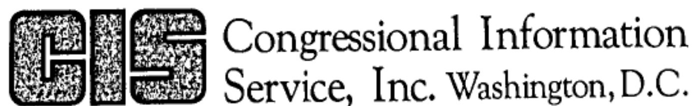

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57TH CONGRESS, 1ST SESSION.

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section forty-nine hundred and twenty-nine of the Re-
4 vised Statutes be, and the same is hereby, amended so as to
5 read as follows:
6 "SEC. 4929. Any person who has invented any new, origi-
7 nal, and artistic design for an article of manufacture, not known
8 or used by others in this country before his invention thereof,
9 and not patented or described in any printed publication in
10 this or any foreign country before his invention thereof,
11 or more than two years prior to his application, and not in
12 public use or on sale in this country for more than two years
13 prior to his application, unless the same is proved to have
14 been abandoned, may, upon payment of the fees required by

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1 law and other due proceedings had, the same as in cases of
2 inventions or discoveries covered by section forty-eight hun-
3 dred 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.

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[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.

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7 original, and ~~artistic~~ *ornamental* design for an article of man-
8 ufacture, not known or used by others in this country before
9 his invention thereof, and not patented or described in any
10 printed publication in this or any foreign country before his
11 invention thereof, or more than two years prior to his appli-
12 cation, and not in public use or on sale in this country for

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1 more than two years prior to his application, unless the same
2 is proved to have been abandoned, may, upon payment of the
3 fees required by law and other due proceedings had, the same
4 as in cases of inventions or discoveries covered by section
5 forty-eight hundred and eighty-six, obtain a patent therefor."

CALENDAR NO., 1147.

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

[Report No. 1139.]

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.
APRIL 15, 1902.—Reported with an amendment.

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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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section forty-nine hundred and twenty-nine of the Re-
4 vised Statutes be, and the same is hereby, amended so as to
5 read as follows:
6 "SEC. 4929. Any person who has invented any new,
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8 ture, not known or used by others in this country before
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10 printed publication in this or any foreign country before his
11 invention thereof, or more than two years prior to his appli-
12 cation, and not in public use or on sale in this country for
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14 is proved to have been abandoned, may, upon payment of the

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1 fees required by law and other due proceedings had, the same
2 as in cases of inventions or discoveries covered by section
3 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.

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OF

BILLS AND JOINT RESOLUTIONS.

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S. 3—

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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,

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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.

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CONGRESSIONAL RECORD,

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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

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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

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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.

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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.

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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 attendance 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.

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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.

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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.

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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

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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

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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

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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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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.

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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.

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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

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57TH CONGRESS, } SENATE. { REPORT
1st Session. } { 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

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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 as 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 appearanc 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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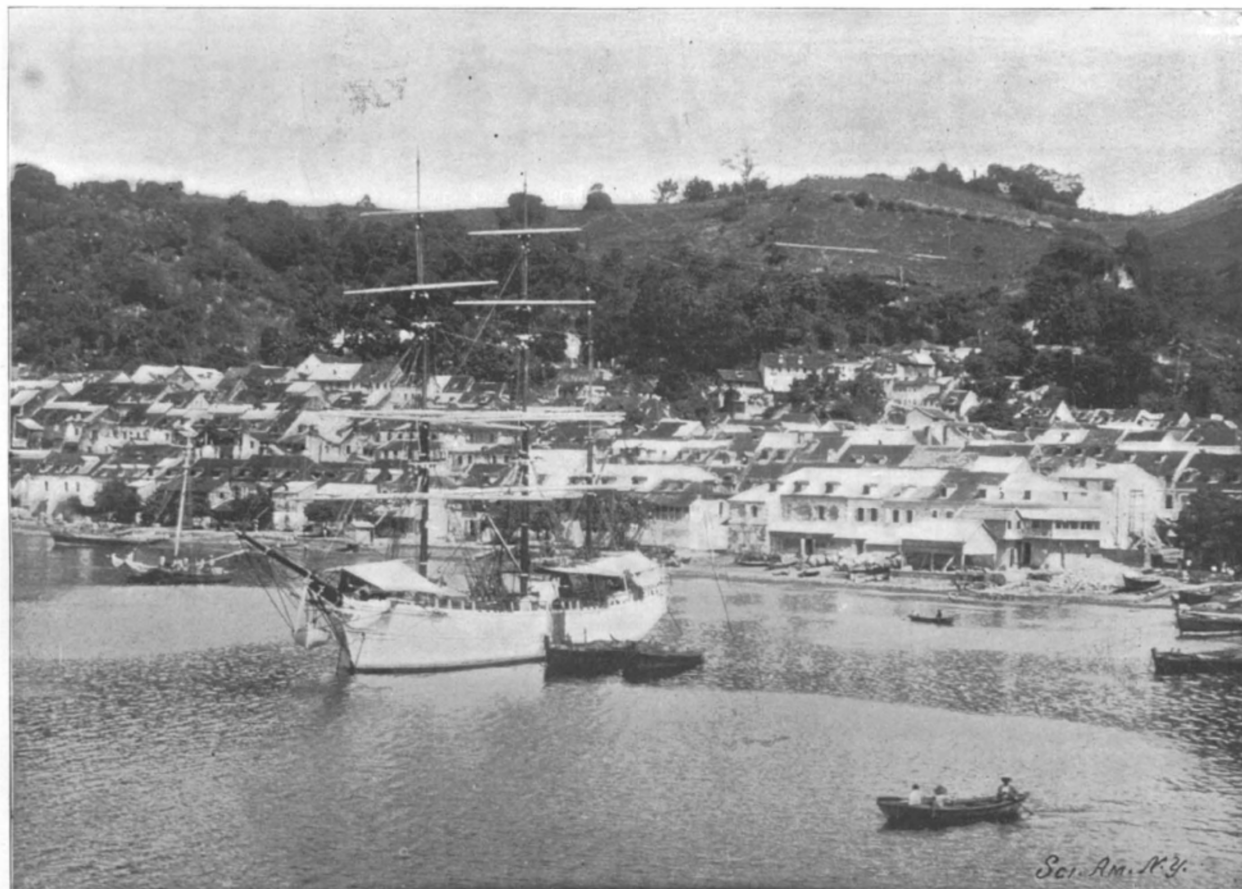
The Cathedral is seen in the center of the town. Pelée's summit is to the right, cloud-capped.

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.]

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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-relievo, or bas relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture to be printed, painted, cast or otherwise placed on or worked into any article of manufacture; or any new, useful and original shape or configuration of any article of manufacture,	Any person who has invented any new, original and ornamental design for an 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,	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,	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.	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 patents 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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Biographical Directory of the United States Congress

1774 - Present

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.

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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

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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:

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"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* ap proved 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.

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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

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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

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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

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> 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.

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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

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> 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

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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

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> 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:

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> 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

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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):

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> 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.

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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.

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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,

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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

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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".

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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

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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.

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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.

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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-

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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

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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
> 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:

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> 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

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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.

JOHN H. HAZELTON,

Solicitor for Andrew L. Eaton, Petitioner.

John H. Hazelton,
George C. Hazelton, Jr.,
Of Counsel.

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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.

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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-

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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

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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-

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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.

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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-

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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.

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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,

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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:

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"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?

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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

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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—

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'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).

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"Acting Commissioner Duncan in the case of *Ex parte Fenno* (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

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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-

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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

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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).

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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.

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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.

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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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section forty-nine hundred and twenty-nine of the Re-
4 vised Statutes be, and the same is hereby, amended so as to
5 read as follows:
6 "SEC. 4929. Any person who has invented any new,
7 original, and artistic design for an article of manufacture, not
8 known or used by others in this country before his invention
9 thereof and not patented or described in any printed publica-
10 tion in this or any foreign country before his invention thereof,
11 or more than two years prior to his application, and not in
12 public use or on sale in this country for more than two years
13 prior to his application, unless the same is proved to have
14 been abandoned, may upon payment of the fees required by

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

57TH CONGRESS, 1ST SESSION. } H. R. 12807.

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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.

1 *Be it enacted by the Senate and House of Representa-*
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3 That section forty-nine hundred and twenty-nine of the Re-
4 vised Statutes be, and the same is hereby, amended so as to
5 read as follows:
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7 original, and ~~artistic~~ *ornamental* design for an article of manu-
8 facture, not known or used by others in this country before
9 his invention thereof and not patented or described in any
10 printed publication in this or any foreign country before his
11 invention thereof, or more than two years prior to his appli-
12 cation, and not in public use or on sale in this country for

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1 more than two years prior to his application, unless the same
2 is proved to have been abandoned, may upon payment of the
3 fees required by law and other due proceedings had, the same
4 as in cases of inventions or discoveries covered by section
5 forty-eight hundred and eighty-six, obtain a patent therefor."

57TH CONGRESS, 1ST SESSION. } H. R. 12807.

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OF

BILLS AND JOINT RESOLUTIONS.

HOUSE BILLS.

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Mr. McCleary; Committee on Agriculture 51.

H. R. 2—

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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—

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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.

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Mr. Ketcham; Committee on Public Buildings and Grounds 51.

H. R. 7—

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H. R. 10—

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Mr. Davidson; Committee on Agriculture 51.

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Mr. Henderson; Committee on Public Buildings and Grounds 51.

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H. R. 15—

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Mr. Boutell; Committee on Education 51.—Reported back with amendments (H. R. REPORT 1318) 3589.

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H. R. 12786—

Granting a pension to George W. Arnold.

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H. R. 12787—

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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.

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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—

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Mr. Tompkins of Ohio; Committee on Invalid Pensions 3037.

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To remove charge of desertion against William F. Elliott and granting his widow, Lydia, a pension of $24 per month.

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H. R. 12793—

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Mr. Tompkins of Ohio; Committee on Invalid Pensions 3037.

H. R. 12794—

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Mr. Wachter; Committee on Judiciary 3037.—Reference changed to Committee on Claims 3535.

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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.

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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) 6364.—Amended and passed Senate 6805.—House concurs in Senate amendment 7303.—Examined and signed 7416, 7419, 7547.—Approved by President 7782.

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Mr. Graff; Committee on Agriculture 3104.

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Mr. Babcock; Committee on District of Columbia 3104.

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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—

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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

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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.

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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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