

lost in the military service of the United States; which was referred to the Committee on Military Affairs.

Mr. TURNEY presented the petition of James M. Scantland, asking an increase of pension; which was referred to the Committee on Pensions.

On motion of Mr. BERRIEN, the petition of Moses E. Levy was withdrawn from the files of the Senate, and referred to the Committee on Private Land Claims.

On motion of Mr. YULEE, the petition of Isabella Street was withdrawn from the files of the Senate, and referred to the Committee on Private Land Claims.

On motion of Mr. YULEE, the petition of the Rev. John E. Tucker was withdrawn from the files of the Senate, and referred to the Committee on Military Affairs.

On motion of Mr. JOHNSON, of Maryland, the petition of Robert Sewell was withdrawn from the files of the Senate, and referred to the Committee on Claims.

RESOLUTIONS ADOPTED.

On motion of Mr. DOWNS,

Resolved, That the Committee on Finance be instructed to inquire into the expediency of establishing a mint in the gold region of California, to coin the gold offered by American citizens at such rate as to pay the expenses thereof, and remunerate the Government for the use of digging on the mineral lands belonging to the United States, until the same shall be sold.

On motion of Mr. BREESE,

Ordered, That so much of the President's message as relates to the graduation and reduction of the price of the public lands and granting preemption rights thereon, and all other matters pertaining to the subject of the public lands, be referred to the Committee on Public Lands.

On motion of Mr. ATHERTON,

Ordered, That so much of the message of the President of the United States as relates to a tariff of duties on imports; to the collection, custody, and disbursement of the public moneys; to the establishment of a branch mint in California, and the revenues of the Federal Government generally, be referred to the Committee on Finance.

PURCHASE OF CUBA.

Mr. MILLER submitted the following resolution; which lies over one day for consideration:

Resolved, That the President of the United States be requested to inform the Senate whether any and what negotiations or correspondence have taken place between this Government and the Government of Spain, or between any persons acting under the direction or authority of either Government, in relation to the purchase of Cuba by the United States; and that he communicate to the Senate copies of such negotiations or correspondence, so far as the same may be communicated consistently with the public interest.

NOTICES OF BILLS, ETC.

Mr. CAMERON gave notice that he should tomorrow, or on some subsequent day, ask leave to introduce a joint resolution authorizing Henry Simpson, administrator of George Simpson, to bring suit against the United States.

Mr. BADGER gave notice that he should tomorrow, or on some subsequent day, ask leave to introduce a bill for the relief of William Plummer, executor of Starkey Armistead, deceased.

Mr. BREESE gave notice that he would tomorrow, or on some subsequent day, ask leave to introduce a joint resolution to amend the act of 1837, to provide for the payment of horses lost while in the service of the United States.

Mr. BORLAND gave notice that he would tomorrow, or on some subsequent day, ask leave to introduce a bill to dispose of the Hot Springs of Arkansas, and the four sections of land reserved from sale by the act of Congress of 1832.

RECIPROCITY OF TRADE.

Mr. DIX gave notice that he should tomorrow move the Senate to take up the bill to admit certain articles, of the growth or production of Canada, into the United States free of duty, upon the condition that like articles, of the growth or production of the United States, are admitted into Canada free of duty.

BRANCH MINTS.

Mr. WESTCOTT stated that last session he had moved to reconsider the vote by which the bill for the establishment of branches of the United States mint at New York and Charleston was rejected. The motion had never been called up. He now gave notice that he would tomorrow move the Senate to reconsider said vote.

BILLS ON LEAVE,

Mr. DOUGLAS asked and obtained leave to introduce a bill granting to the State of Illinois the

right of way and a donation of public lands for making a railroad to connect the waters of the upper and lower Mississippi with the chain of lakes at Chicago; which was read twice, and referred to the Committee on Public Lands.

Mr. DOWNS asked and obtained leave to introduce a bill for a new selection of public lands in lieu of worthless school sections and sections of inferior quality, and for other purposes; which was read twice, and referred to the Committee on Public Lands.

Mr. KING asked and obtained leave to introduce a bill for the remission of duties on an equatorial telescope contracted for in London by the trustees of the University of Alabama; which was read twice, and referred to the Committee on Finance.

The bill from the House for the punishment of false swearing in certain cases was read a first and second time, and referred to the Committee on the Judiciary.

EVERGLADES OF FLORIDA.

On motion of Mr. WESTCOTT, the Senate proceeded to consider the bill to authorize the draining of the Everglades in the State of Florida, and to grant the same to the said State for that purpose.

On motion of Mr. WESTCOTT, the bill was then postponed till Wednesday, and made the special order for that day.

ADMISSION OF CALIFORNIA AS A STATE.

Mr. DOUGLAS moved that the Senate take up the bill for the admission of California as a State into the Union, with a view to its reference; which motion having been agreed to, the bill was read a second time.

Mr. D. then moved that the bill, with the amendments subsequently offered by himself and printed, be referred to the Committee on Territories.

Mr. BERRIEN. The uniform practice of the Senate in disposing of a bill for the admission of a State is to refer it to the Committee on the Judiciary. I was struck the other day with the novel direction which it was proposed to give to this bill, and I have since requested one of the officers of the Senate to consult the Journal upon the subject. Upon looking at the Journal of the Senate, I find that, on the 14th of February, 1845, the bill for the admission of Florida into the Union was referred to the Committee on the Judiciary. On the 23d of December, 1846, the bill of the House of Representatives for the admission of Iowa into the Union was referred to the Committee on the Judiciary. On the 17th of February, 1847, the bill for the admission of Wisconsin was referred to the Committee on the Judiciary. Now, I am not aware of any reason why the practice of the Senate should be departed from in this instance. Bills for the organization of territorial governments have been uniformly referred to the Committee on Territories, whilst those for the admission of States into the Union have been invariably referred to the Committee on the Judiciary. I do not see the chairman of the Committee on the Judiciary in his place, and suppose he is absent, or I should have submitted this matter to him.

Mr. DOUGLAS. If it were the opinion of the Senate that it is for the general good that all bills for the admission of new States into the Union should go to the Committee on the Judiciary, I would not be tenacious. I do not desire any departure from the regular practice of the Senate in behalf of this bill. I do think, however, that the Senator from Georgia [Mr. BERRIEN] has overlooked at least one instance which the Journal furnishes in regard to the reference of bills of this class. The history of the rule in regard to the reference of such bills, as I understand it, is this: For many years the Territorial Committee had no existence in the Senate. There was a Committee on Territories in the House of Representatives long before the establishment of such a committee in the Senate, and in the other House it was the province of the Territorial Committee to take charge of all bills of this description. As far as I know, this practice has been uniform. But there being no Territorial Committee in the Senate, the practice obtained of referring such bills to the Committee on the Judiciary. And it was only a few months after the adoption of the rule in the Senate for the establishment of the Committee on Territories that the bill for the admission of Iowa (to which the Senator has alluded) was brought into the Senate. Last year a bill was

passed for the admission of Wisconsin into the Union; and when that bill was under consideration, without intending to infringe upon the former practice of the Senate, I moved its reference to the Committee on Territories. The same objection was then made that has now been made, but the motion prevailed, and the reference was made. With the assistance of one of the clerks I examined the record on Saturday, and found that I did myself make the report upon which that bill was considered and passed. I am therefore compelled to say that the practice to which the Senator from Georgia has referred was overruled, upon the last reference by the Senate of a bill of this kind—the reference having been made to the Committee on Territories. I merely state this without any feeling whatever.

Mr. BERRIEN interposed here, and read from the Senate Journal, 29th Congress, 2d session, page 200, the proceedings by which the bill from the House of Representatives for the admission of Wisconsin was read the first and second time by unanimous consent, and referred to the Committee on the Judiciary. This (he said) was in 1847.

Mr. DOUGLAS. Yes, sir; I admit that. But the bill to which I refer is the bill of 1848. If there is the least embarrassment about this in the minds of Senators, and the Secretary will bring in the record, it will be found, that when the bill of 1848 for the admission of Wisconsin came in from the other House, it went to the Committee on Territories, which afterwards reported upon it, and the bill passed.

Mr. JOHNSON, of Georgia. If I remember distinctly the proceedings in the case of the bill for the admission of Iowa, the point was this: It depended on the character of the question to arise out of the bill referred. The Senate did determine that matter affecting the organization of territorial governments should be referred to the Committee on Territories. But the bill now under consideration is for the admission of a State into the Union, which presents the question in a very different point of view. Such a bill involves the consideration of questions very different from those coming before a committee called upon to organize a territorial government. I consider it exceedingly proper that this bill should be referred to the Judiciary Committee, in accordance with the decisions and practice referred to by my honorable colleague [Mr. BERRIEN]. The Senator from Illinois has only established the point that the Senate has determined that bills for the organization of territorial governments should go to the Territorial Committee; but where it is proposed to admit a State into the Union, the question assumes a different character, and should be referred to the Committee on the Judiciary. I consider it exceedingly proper that such bills should be so referred, in view of the peculiar character of the questions which must arise upon their examination before the committee—questions respecting the nature and extent of the powers to be conferred. The admission of a State into the Union, it seems to me, involves the consideration of matters much more delicate and responsible than those which pertain to the organization of a territorial government. I am decidedly in favor of referring this bill to the Committee on the Judiciary.

Mr. BUTLER. As chairman of the Judiciary Committee, it may be expected that I should say something on the subject under discussion. The precedent referred to by the chairman of the Committee on Territories [Mr. DOUGLAS] was in reference to the admission of Wisconsin into the Union as a State. That bill was referred to the Committee on Territories, but under such circumstances as to give the precedent little authority. It is, by the acknowledgment of all, a deviation from the uniform usages of this body. I was not present when this bill was passed into a law, and cannot speak of the discussion which may have taken place at the time. I recollect, however, that at the same time there was a bill for the organization of the territorial government of Minnesota, and it was necessary to define the limits of the State before the boundaries of the Territory could be indicated. The matter involved in both these bills was so much alike as to make a reference to the same committee not improper then.

The bill now under consideration is of a distinct character, and, as an illustration of the propriety of its being referred to the Committee on the Judiciary, it might be said that it involves grave

Senate

William Plummer, executor of Starkey Armistead, deceased; which was read a first and second time, and referred to the Committee on the Judiciary.

REPORTS FROM COMMITTEES.

Mr. BREESE, from the Committee on Public Lands, reported a bill making a grant of a right of way and a donation of public lands to the State of Illinois, in aid of certain railroads connecting the Mississippi and the chain of lakes at Chicago, without amendment, and the report was ordered to be printed.

Mr. BENTON, from the Committee on Military Affairs, reported a bill for the relief of Major Baker; which was read a first time, and ordered to a second reading.

Mr. ATCHISON, from the Committee on Indian Affairs, reported a bill to authorize the Secretary of War to make reparation for the killing of a Caddo boy by volunteer troops in Texas; which was read a first time.

Mr. ATCHISON said he was instructed to move for the immediate passage of this bill. He accordingly moved that it be read a second time.

The bill was then read a second time, and taken up for consideration, as in Committee of the Whole.

Mr. ATCHISON submitted some documents from the War Department in relation to this case, which were read.

The case was that of a Caddo boy who was unfortunately killed by our volunteers. Such was the excitement caused by the circumstance, that it had nearly produced a war. An arrangement, however, was effected, by which it was agreed that the United States should pay five hundred dollars as a reparation. The bill accordingly appropriates that sum.

The bill was reported without amendment, and was then read a third time, and passed.

BILL WITHDRAWN.

Mr. KING stated that he had yesterday introduced a bill for the remission of duty on an equatorial telescope, contracted for in London by the trustees of the University of Alabama, which had been referred. On examining the appropriation bill of last session, he found a clause which he had overlooked, and which covered the case. He therefore moved that the Committee on Finance be discharged from the further consideration of the bill. The motion was agreed to, and the committee was discharged from the bill.

NOTICES OF BILLS.

Mr. DOWNS gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a joint resolution to authorize the Secretary of the Treasury to contract for carrying the mail from New Orleans to Vera Cruz.

Mr. JOHNSON, of Louisiana, gave notice that he would to-morrow, or on some subsequent day, ask leave to introduce a bill.

RESOLUTIONS, ETC.

On motion of Mr. YULEE, it was

Ordered, That so much of the President's message as relates to the United States navy, be referred to the Committee on Naval Affairs.

Mr. FOOTE submitted the following resolution, which lies over:

Resolved, That the resolution of the Senate, authorizing the Vice President to appoint the superintendent of the auditor, be, and the same is hereby, rescinded; and that the superintendent now in charge be continued, at his present compensation, under the authority of the Sergeant-at-arms.

On motion of Mr. BALDWIN,

Resolved, That the Committee on Military Affairs be instructed to ascertain, so far as the same may be practicable, and report to the Senate the particulars of the contract existing between the Government of New Granada and Messrs. Aspinwall, Stephens, & Chauncey, in regard to the construction of the proposed railroad across the Isthmus of Panama, and the terms on which the use of such railroad for the transit of passengers and merchandise is secured to the Government and people of New Granada and of the United States.

The following resolution, submitted by Mr. NILES, was taken up and agreed to:

Resolved, That the committee to audit and control the contingent accounts of the Senate be instructed to inquire into the construction and effect of the resolution of the Senate adopted at the last session, in relation to reporting and publishing the debates of the Senate, and whether any modification thereof is required; and the said committee also ascertain the expense which has been incurred under said resolution since its adoption.

PURCHASE OF CUBA.

The following resolution, submitted yesterday

by Mr. MILLER, was taken up for consideration:

Resolved, That the President of the United States be requested to inform the Senate whether any and what negotiations or correspondence have taken place between this Government and the Government of Spain, or between any persons acting under the direction or authority of either Government, in relation to the purchase of Cuba by the United States; and that he communicate to the Senate copies of such negotiations or correspondence, so far as the same may be communicated consistently with the public interest.

Mr. BERRIEN. Mr. President, I would suggest to the mover of the resolution, [Mr. MILLER,] whether it would not be better to transfer it to the Executive session.

It seems to me, sir, to be an interference, which is not according to the usage of the Senate, with the Executive powers of the Government. The very fact of the pendency of the negotiation, if any negotiation be pending, and the fact that the President is authorized by the Constitution to enter into such negotiations, show the importance of preserving the secrecy upon which the success of a negotiation in a great measure must depend.

I do not believe myself that any importance is to be attached to the present inquiry, because I do not believe that any such negotiations are pending. But we should refrain from interfering with what properly belongs to the President by virtue of powers in him vested by the Constitution of the United States; and we should, at least, protect the Executive from an exposure which may prove injurious to a negotiation.

I would suggest, therefore, to the mover of the resolution the propriety of waiving that inquiry here, and making it the subject of inquiry in Executive session.

Mr. MILLER. Mr. President, in submitting that resolution, I had no intention at all to interfere with the executive power of the President. It is well known, probably, to the Senate, that for some time the public prints and the public mind have been somewhat excited by the rumors relative to this question—I mean the purchase of Cuba. I did not presume, nor can I presume, that the President has opened any negotiations of that kind. On a subject of such importance it is not to be presumed, I apprehend, that the Executive, without giving any intimation whatever to the country, has commenced such a negotiation. This resolution was offered merely for the purpose of satisfying the public mind upon this question, and not with any design of encroaching upon the powers of the Executive. I believe there are many precedents for a resolution of this kind. I believe such resolutions were offered in regard to Oregon and Texas, in open session, and no objection was urged against them.

Without saying what course I shall adopt myself in reference to this matter, I am willing to allow the resolution to pass over.

The resolution was passed over accordingly.

The following resolutions, submitted by Mr. BALDWIN, on the 18th of February last, were taken up for consideration; and, upon motion of Mr. B., who said that the subject had been anticipated by other action of the Government, were laid upon the table:

Resolved, That the amount collected by the army of the United States in Mexico from the revenues of that Republic, and from the contributions levied on the people thereof by order of the President of the United States for the support of the army, ought to be applied to the payment *pro rata* of the awards in favor of claimants under the convention between the United States and the Mexican Republic of the 11th of April, 1839, for which the proceeds of the direct taxes of the Mexican Republic were solemnly pledged by the convention of the 30th January, 1843.

Resolved, That it pertains exclusively to Congress to raise and support armies by appropriations of money to that use for a limited term, and that no power is conferred by the Constitution on the President to apply any moneys collected under the authority of the United States to the support of the army without a specific appropriation therefor.

Resolved, That the President be requested to communicate to the Senate a particular account of all moneys collected from the revenues of Mexico, or from military contributions levied by his authority, and of the manner in which the same has been disposed of or applied.

The following resolution, submitted by Mr. JOHNSON, of Maryland, on the 28th April last, was taken up for consideration, and on motion of Mr. J., laid upon the table:

Resolved, That the President of the United States be requested to inform the Senate whether any officers are now in the military or civil service of the United States, under appointments from the President, which have not been submitted to the Senate; and, if there be any such appointments, that he state the date of such appointments, and why it is

that it has not been in the power of the President to submit them to the consideration of the Senate.

The following resolution, by Mr. HUNTER, reported from the Committee on the Public Buildings and Grounds, on the 9th August last, was taken up for consideration, and, at the suggestion of Mr. H., laid over for the present:

Resolved, That a sum not exceeding \$8,770, be expended out of the contingent fund of the Senate in completing the system of ventilating and warming the Senate chamber, commenced and proposed by John Skirving: *Provided, however*, That the money shall be expended, and the work executed, under the direction of the Secretary of the Senate.

The following resolution, submitted by Mr. CAMERON on the 10th August last, was taken up, for consideration, and, at the suggestion of Mr. C., laid over for the present:

Resolved, That the Secretary of War be requested to communicate to the Senate any information that may be within the knowledge of the department in reference to claims made against the Cherokees who are parties to the treaty of August 6, 1846, especially against that portion of the nation called old settlers, or Western Cherokees, for services or any other aid and assistance rendered the said Cherokees in the prosecution of their claim, which resulted in the treaty afterwards. If such claims are based on written contracts, he is requested to state whether the contracts were made by the duly authorized representatives of the Cherokees in their *national* or *aggregate* capacity, for the benefit of those who are made recipients by the treaty in all moneys arising out of the settlement of their claims. And also whether, within the knowledge of the department, such contracts have been fully and faithfully complied with, as far as practicable, by the other parties named in them. And that he will communicate the evidence upon which he bases his opinion, with any paper in the possession of the department showing the extent of the services rendered, and the character of the claims thus made against the moneys which may be awarded under the treaty of August 6, 1846.

BILLS INTRODUCED ON LEAVE.

Mr. BREESE, agreeably to notice, asked and obtained leave to bring in a joint resolution explaining the act to provide payment for horses and other property lost while engaged in the military service, approved 18th January, 1848; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

Mr. BADGER, in pursuance of notice, asked and obtained leave to introduce a bill for the relief of William Plummer, executor of Starkey Armistead, deceased.

Mr. BADGER. Before I move the reference of this bill, I wish, in three words, to state to the Senate the nature of the bill, and to call the attention of the committee to it.

In the year 1829 an action was brought in the district court of the United States, in North Carolina, holden at Albemarle, in that State, upon a duty bond. Judgment was afterwards recovered upon the bond, and in 1835 Plummer, in whose behalf the proceeding took place, as the executor of Armistead, paid the full amount of the judgment, interest, and costs into the clerk's office of the court in which judgment was rendered. Things remained in this condition until 1846, nearly eighteen years afterwards, when application was made to the district judge to have satisfaction entered, and the execution quashed. This application was overruled. Thereupon a *scire facias* was sued out of the United States court to show cause why execution should not cease on the original judgment. The judge held, however, that it did not appear that the judgment had been satisfied, and his award was against the application. It is to relieve the party from this proceeding that this bill has been introduced. While up, I will add, that the difficulty, or supposed difficulty, of the case has arisen from this circumstance: it has been the uniform practice of the State court, in times past, when judgment has been rendered, for the parties against whom such judgment was rendered, either before or after execution issued, to pay the money into the hands of the clerk of the court in which such judgment was rendered. Some five and twenty years ago a question was raised as to the validity of such payment; the question was carried to the Supreme Court, and that court sustained the validity of the payment in this case; but having intimated some doubt as to the regularity of the practice, the State Legislature immediately passed an act to give validity to what had been the previous custom. In consequence of this, it has happened that the same course of proceeding has been adopted in the courts of the United States, without an exception being taken, as far as known, until 1846; the clerk of the district court who received the money not having reported it to the treasury; the collector living in the same town,