

Chapter XCII.

APPROVAL OF BILLS BY THE PRESIDENT.

1. Provision of the Constitution. Section 3482.
 2. As to resolutions requiring approval. Sections 3483, 3484.
 3. Bills approved are deposited with the Secretary of State. Section 3485.
 4. Delay in presenting bills to President. Sections 3486-3488.¹
 5. Practice of the President in approving. Sections 3489-3492.
 6. Approval after adjournment for a recess. Sections 3493-3496.
 7. Exceptional instance of approval after final adjournment. Section 3497.
 8. Error in approval. Section 3498.
 9. Notification of the Houses as to approvals. Sections 3499-3504.
 10. Return of bills by President for correction of errors. Sections 3505-3519.
-

3482. Every bill which has passed the two Houses is presented to the President for his signature if he approve.

In general, orders, resolutions, and votes in which the concurrence of the two Houses is necessary must be presented to the President on the same condition as bills.

A concurrent resolution providing for final adjournment of the two Houses is not presented to the President for approval.

The Constitution of the United States, in section 7 of Article I, provides:

Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it, etc.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and before the same shall take effect shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

3483. Although the requirement of the Constitution seems specific, the practice of Congress has been to present to the President for approval only such concurrent resolutions as are legislative in effect.—On January 27, 1897, Mr. David B. Hill, of New York, from the Committee on the Judiciary, submitted to the Senate a report² which that committee had been directed to make on the subject of joint and concurrent resolutions and their approval by the President. The subject involved the construction of a portion of section 7 of Article I of the

¹ Method of taking enrolled bills to the President. Section 2601 of Volume III.

² Senate Report No. 1335, second session Fifty-fourth Congress.

Constitution.¹ The committee found that in the first twelve Congresses there were one or two instances of simple resolutions² being approved by the President; and that, with one or two exceptions, all joint resolutions were approved.³ These exceptions were in cases where Congress made requests or recommendations not involving any legislative act. In the first fifty years of the Government the whole number of joint resolutions did not exceed 200, but they gradually increased thereafter, until in the Forty-first Congress alone the number exceeded 500. The joint resolutions have been largely used since, but not to the extent reached in that Congress. Except in the few instances in the early Congresses, all joint resolutions have been presented to the President and have been acted on by him.

The committee found that the passage of concurrent resolutions began immediately upon the organization of the Government,⁴ but their use has been, not for the purpose of enacting legislation, but to express the sense of Congress upon a given subject, to adjourn longer than three days, to make, amend, or suspend joint rules, and to accomplish similar purposes, in which both Houses have a common interest, but with which the President has no concern.

The report continues:

They are frequently used in ordering the printing of documents, in paying therefor, and in incurring and paying other expenses where the moneys necessary therefor have previously been appropriated and set apart by law for the uses of the two Houses.

Concurrent resolutions from their very nature require the concurrence of both Houses to make them effectual, and if the Constitution in section 7, before quoted, has reference solely to the form, and not to the substance of such resolutions, they must of course be presented to the President for his approval.

For over a hundred years, however, they have never been presented. They have uniformly been regarded by all the Departments of the Government as matters peculiarly within the province of Congress alone. They have never embraced legislative provisions proper, and hence have never been deemed to require Executive approval.

This practical construction of the Constitution, thus acquiesced in for a century, must be deemed the true construction, with which no court will interfere (*Stuart v. Laird*, 1 Cranch, 299). If it be

¹ See section 3482.

² See 1 Stat. L., p. 96.

³ The early usage is illustrated by reference to the laws. 115 Resolutions joint in form, requesting the President to recommend a day of public humiliation and prayer, were not approved by the President. (2 Stat. L., p. 786.)

In the Eleventh Congress a joint resolution proposing amendment to Constitution was not signed by the President. (2 Stat. L., p. 613.) Nor one in the Third Congress. (1 Stat. L., p. 402.)

The joint resolution of the Eleventh Congress condemning the conduct of the British minister and pledging Congress to support the Executive and call into action the whole force of the nation to maintain the rights and honor of the country was approved by the President.

A joint resolution of the Ninth Congress requesting the President to express the recognition of Congress to the Danish consul at Tripoli for attentions to American sailors in captivity was approved by the President. (2 Stat. L., p. 410.)

Also joint resolution of the First Congress expressing recognition of Congress to National Assembly of France of tribute to Franklin, and requesting President to transmit, was approved. (1 Stat. L., p. 225.)

⁴ These early concurrent resolutions were called joint resolutions often, and received the readings of a bill. Thus, see the case of the resolution condemning the conduct of the British minister in 1809, and pledging the support of Congress to the Executive. (First session Eleventh Congress, *Annals*, pp. 481, 747, 1151.) On the other hand, matters of procedure of the two Houses, like arrangements for the electoral count, were provided by the adoption of simple resolutions in each House, sometimes not identical in form.

contended that the exception in section 7 (whereby adjournment resolutions are excluded from those which must be presented to the President, although they require the concurrence of both Houses) somewhat corroborates the theory that all other concurrent resolutions are intended to be included, regardless of their character, it may be answered that such exception was rendered necessary because of that other provision of the Constitution (Article I, section 5, subdivision 4) which prevents adjournments for more than three days without the consent of each House. Such adjournment resolutions were therefore constitutionally required to be concurrent because the "concurrence" of both Houses was under the Constitution itself necessary thereto to make them valid, and if there had been no exception contained in said section 7 all such resolutions would have been required to be presented to the President, which would be an unprofitable and useless proceeding, as Congress itself should have the sole right to determine the question of its own adjournment, the President being sufficiently protected in such matters by his power to convene Congress whenever he deems it desirable.

In other words, the exception was necessary in order to take certain adjournment resolutions out of the category of those "to which the concurrence of the Senate and House of Representatives may be necessary," under the other provisions of the Constitution, and for that good reason all adjournment resolutions were appropriately excepted.

After referring to Revised Statutes (second edition, 1878), sections 7, 8, and 205, and the printing law (chapter 23, laws of 1895, section 59) for evidences of the views taken by legislators of the subject, the committee came to the following conclusions:

It should also be stated that it has been the uniform practice of Congress, since the organization of the Government, not to present concurrent resolutions to the President for his approval, and to avoid incorporating in such resolutions any matter of strict legislation requiring such presentation. As a matter of propriety and expediency it is believed to be wise to continue that course in the future.

We conclude this branch of the subject by deciding the general question submitted to us, to wit, "whether concurrent resolutions are required to be submitted to the President of the United States," must depend, not upon their mere form, but upon the fact whether they contain matter which is properly to be regarded as legislative in its character and effect. If they do, they must be presented for his approval; otherwise, they need not be. In other words, we hold that the clause in the Constitution which declares that every order, resolution, or vote must be presented to the President, to "which the concurrence of the Senate and House of Representatives may be necessary," refers to the necessity occasioned by the requirement of the other provisions of the Constitution, whereby every exercise of "legislative powers" involves the concurrence of the two Houses; and every resolution not so requiring such concurrent action, to wit, not involving the exercise of legislative powers, need not be presented to the President. In brief, the nature or substance of the resolution, and not its form, controls the question of its disposition.

3484. The question as to whether or not concurrent resolutions should be sent to the President for his signature.—On November 24, 1903,¹ in the Senate, the President pro tempore,² referring to a question which had arisen on the previous day, said:

The Chair desires to call the attention of the Senate to a matter which came up in the Senate on yesterday. A concurrent resolution was under consideration and passed. The Senator from Colorado [Mr. Teller] asked the Chair if it went to the President and required his signature. The Chair replied, No. The Chair finds this article in the Constitution of the United States:

"Every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

¹ First session Fifty-eighth Congress, Record, p. 438.

² William P. Frye, of Maine, President pro tempore.

Within the experience of the Chair in the Senate no concurrent resolution has ever been sent to the President of the United States, nor has he ever signed one. The Chair has endeavored faithfully to find out how concurrent resolutions escape the provision of the Constitution. He has not been able to succeed.

This led to debate in the course of which the report of the Judiciary Committee in a former Congress was quoted with approval.¹

3485. A statute requires that bills signed by the President shall be received by the Secretary of State from the President.

When a bill returned without the President's approval is passed by the two Houses, the Secretary of State receives the bill from the presiding officer of the House in which it last was passed.

The act approved December 28, 1874,² provides:

Whenever a bill, order, resolution, or vote of the Senate and House of Representatives, having been approved by the President, or not having been returned by him with his objections, becomes a law or takes effect, it shall forthwith be received by the Secretary of State from the President; and whenever a bill, order, resolution, or vote is returned by the President with his objections, and on being reconsidered is agreed to be passed and is approved by two-thirds of both Houses of Congress, and thereby becomes a law or takes effect, it shall be received by the Secretary of State from the President of the Senate or Speaker of the House of Representatives, in whichever House it shall last have been so approved, and he shall carefully preserve the originals.

3486. Instance wherein a bill enrolled and signed by the presiding officers of the two Houses of one session was sent to the President and approved at the next session.—On December 8, 1904,³ Mr. Frank C. Wachter, of Maryland, chairman of the Committee on Enrolled Bills, offered the following:

Whereas the bill (H. R. 10516) for the relief of Edward J. Farrell passed both Houses at the second session of this Congress, but was enrolled too late to receive the signatures of the presiding officers of the two Houses and be presented to the President of the United States before the adjournment of the said second session; and

Whereas the bill (H. R. 11444) to grant certain lands to the State of Ohio passed both Houses and was signed by the presiding officers thereof, but failed to be presented to the President of the United States before the adjournment of the said second session: Therefore,

Resolved by the House of Representatives (the Senate concurring), That the said bills be, and are hereby, ordered to be reenrolled for the signatures of the presiding officers of the two Houses and for presentation to the President of the United States.

The resolution was agreed to by the House.

On December 12,⁴ in the Senate, the resolution was referred to the Committee on Rules and was not reported therefrom.

The Senate having taken no action on the resolution, the bill (H. R. 10516) was reenrolled as of the third session, signed by the presiding officers, and transmitted to the President, who signed it.⁵

¹ See section 3483 of this chapter.

² 18 Stat. L., p. 294. A law on this subject had existed from 1789 and had been amended in 1838. (See sec. 204 of Revised Statutes.)

³ Third session Fifty-eighth Congress, Record, p. 66.

⁴ Record, p. 125.

⁵ See history of bill (H. R. 10516) in indexes of Journal and Record.

The bill (H. R. 11444) relating to Ohio lands, was transmitted to the President without reenrollment, appearing as a bill of the second session.¹ After receiving an opinion from the Attorney-General the President signed the bill.²

3487. Enrolled bills pending at the close of a session were at the next session of the same Congress ordered to be treated as if no adjournment had taken place.—On August 21, 1856,³ Mr. James Pike, of New Hampshire, by unanimous consent, presented the following resolution:

Resolved (the Senate concurring), That such bills as passed both Houses at the last session and for want of time were either not presented to the two Houses for the signatures of their presiding officers, or, having been thus signed were not presented to the President for approval, be now reported or presented to the President as if no adjournment had taken place.

¹The chairman of the Committee on Enrolled Bills took this action after he had considered the following precedents furnished to him by Mr. William Tyler Page, for many years clerk of the Committee on Accounts:

“Touching the matter of the right of the chairman of the Committee on Enrolled Bills to present to the President of the United States a bill passed at the last session of Congress too late to be presented to the President before adjournment, I beg to state that I have had my memory as to a precedent for such action confirmed by the Journals of the Fiftieth Congress. In the first session of that Congress there were passed by both Houses of Congress bills of the following numbers and titles, to wit:

“H. R. 11139, an act to authorize the building of a bridge or bridges across the Mississippi River at La Crosse, Wis.

“H. R. 11262, an act to authorize the construction of bridges across the Kentucky River and its tributaries, by the Richmond, Irvine and Beattyville Railroad Company.

“H. R. 1152, an act for the relief of the legal representatives of Eliza M. Ferris.

“These several acts, as stated, were passed by both Houses and, on October 17, 1888, first session Fiftieth Congress, page 2932 of the Journal of the House, they were reported by the chairman of the Committee on Enrolled Bills as having been examined by said committee and found duly enrolled, whereupon, said bills were signed by the Speaker of the House.

“These acts were not presented to the President of the United States until the succeeding session of Congress, when, on December 7, 1888, there appears this entry in the Journal:

“Mr. Kilgore, from the Committee on Enrolled Bills, reported that he did on yesterday present to the President of the United States bills of the House numbered H. R. 11262, H. R. 11139, H. R. 1152.” (House Journal, p. 57, second session Fiftieth Congress.)

“In the Journal of the same session, on page 115, there appears the following entry:

“A message in writing was received from the President of the United States * * * informing the House that he did at the dates named approve bills of the House of the following titles, namely:

“On the 10th, H. R. 11139, an act to authorize the building of a bridge or bridges across the Mississippi River at LaCrosse, Wis.

“H. R. 11262, an act to authorize the construction of bridge or bridges across the Kentucky River and its tributaries, by the Richmond, Irvine and Beattyville Railroad Company.

“H. R. 1152, an act for the relief of the legal representatives of Eliza M. Ferris.”

²See history of bill (H. R. 11444) in the indexes.

³Second session Thirty-fourth Congress, Journal, p. 1352; Globe, p. 4.

In this case Congress was immediately convened to pass an army appropriation bill, which had failed at the regular session. Several bills were left enrolled but not signed at the adjournment. At that time a joint rule presented the resumption of business from a former session immediately.

Formerly the joint rules provided that no bill from one House should be sent for concurrence to the other on either of the last three days of the session, and also that no bill should be sent to the President for his approval on the last day of the session. On June 20, 1874, a proposition to suspend these rules caused some debate as to the useful purpose they were intended to serve, and upon the fact, then alleged, that they had uniformly been suspended since 1822. They were suspended on this occasion. (First session Forty-third Congress, Record, p. 5309.)

3488. The resolution offered by Mr. Pike on August 21, 1856, was agreed to by the House on the same day, slight opposition only being made on the ground that it was unconstitutional. The Senate on the same day announced by resolution that they had concurred in the resolution.

3489. At the close of the Fifty-ninth Congress the President approved bills as of the hour and minute of the calendar day instead as of the legislative day.—At the close of the last session of the Fifty-ninth Congress the calendar day of March 3, 1907, was Sunday. The House and Senate, in accordance with the usual practice, did not hold a legislative day of March 3, but by recesses continued the legislative day of March 2 until noon, March 4. It had heretofore been the practice of the President of the United States, in approving bills on the forenoon of March 4, to approve them as of the legislative day. Thus on noon, Monday, March 4, 1889¹ (but on the legislative day of March 2 in both House and Senate), the Congress adjourned sine die. Just before adjournment a message from the President of the United States informed the House that he did, “on the 2d day of March, 1889,” sign certain bills, among them the sundry civil appropriation bill (H. R. 12008) and the deficiency appropriation bill (H. R. 12571). Yet the House journal shows² that these bills were not signed by the Speaker until the early hours of the calendar day of March 4, and the Senate Journal shows the same conclusively.³ Therefore the President in his message referred to the legislative day and not the calendar day. And such had been the practice,⁴ the President’s approval being dated as of the legislative day and not the calendar day.

In 1907, at the close of the Fifty-ninth Congress, for the first time the President of the United States⁵ made the late approvals of specific date on the calendar day. Thus the sundry civil appropriation bill⁶ was signed “approved March 4, 1907, 11 a. m.,” and the deficiency appropriation bill⁷ was “approved March 4, 1907, 11 a. m.,” also the act “to promote the safety of travelers upon railroads by limiting the hours of service of employees thereon”⁸ was “approved March 4, 1907, 11.50 a. m.”⁹

¹ First session Fiftieth Congress, House Journal, p. 776; Senate Journal, p. 549.

² House Journal, p. 767.

³ Senate Journal, p. 539.

⁴ See 28 Stat. L., and others; and also House and Senate Journals of second session Fifty-third Congress.

⁵ Theodore Roosevelt.

⁶ Public act No. 253, 34 Stat. L.

⁷ Public act No. 254.

⁸ Public act No. 274.

⁹ Hon. John F. Lacey, of Iowa, who had examined the subject of the approval of bills previous to this innovation, gives the reasons which make the new method of approval desirable: “The legislative day is a fiction. By recesses it sometimes appears that the legislative day in the Senate is March 3, whilst in the House it is March 2.

“An enrolled bill reaches the President before noon, March 4, and he considers the actual end of March 3 to be at noon of March 4; so the bill bears date of approval as March 3. The presumption of the law is that a bill signed March 3 was the law of the land from the first moment of that day.

“It sometimes happens that individual rights accrue on the day of the bill’s approval, and it has

3490. The approval of a bill by the President of the United States is valid only with his signature.—On February 26, 1825,¹ President Monroe sent to the House a message stating that just before the termination of the last session of Congress a bill “concerning wrecks on the coast of Florida” was presented to him with many others and approved, and, as he thought, signed. It appeared, however, after the adjournment, that the evidence of such approbation had not been attached to it. Whether the act might be considered in force under such circumstances was a point which did not belong to him to decide. To remove all doubts he submitted the propriety of passing a declaratory act.

The message was referred to the Judiciary Committee, and on February 28² Mr. Daniel Webster, of Massachusetts, from that committee, reported a bill to carry into effect the original object intended by the said act. The opinion of the Judiciary Committee, he said, was that the bill had no validity until signed by the President, and they therefore reported a bill in the original form, but having a prospective operation only. This bill was passed by the House and became a law, the approval of the President being messaged to the House March 3, 1825.³

3491. An instance where the President, in announcing his approval of a bill, gave his reasons for so doing.—On August 14, 1848,⁴ President Polk sent a message to the House announcing his approval of the bill (H. R. 201) entitled “An act to establish the Territorial government of Oregon.” This message “departed from the form of notice observed in other cases,” and the President explaining this on the ground of the importance of the subject. He then proceeded to give at length his reasons for approving the bill.

been recently held that evidence will be admitted by the court as to the exact moment of the Presidential approval.

“You will find the cases on the exact time of the taking effect of the tariff act of 1894 in the following references: *U. S. v. Stoddard et al.* (89 Fed., 699, affirmed on appeal in circuit court of appeals); *U. S. v. Stoddard et al.* (91 Fed., 1005; 33 Circuit Court of Appeals, 175). In *Nunn v. William Gerst Brewing Co.*, the United States circuit court of appeals, Taft, Lurkin, and Day, J. J., held that the Dingley Act took effect July 24, 1897, at 4 minutes past 4 o'clock p. m., Washington time. *Carriage Co. v. Stengel* (95 Fed., 637; 37 Circuit Court of Appeals, 210); *U. S. v. Iselin* (87 Fed., 194).

“As to the hour when a new State constitution takes effect, see *Louisville v. Bank* (104 U. S., 469): ‘When justice requires it, the precise hour may be ascertained;’ *Bank v. Burkhardt* (100 U. S., 686), *Burgess v. Salmon* (97 U. S., 381), *Lapeyre v. U. S.* (17 Wallace, U. S. C. C.), was mere dictum so far as it discusses this question.

“The old English rule was that a statute took effect the first day of the session. This was changed by 33 Geo. III, chapter 13. The United States Supreme Court has recognized the rule in *Mathews v. Zane* (7 Wheaton, 164) that a Federal statute takes effect at the actual date of its approval.

“As the hour of approval is the moment of actual enactment, the President takes the actual calendar as his guide.

The Code Napoléon fixed the time of taking effect of a statute at one day after promulgation, with additional time of one day for every 20 leagues distance from the capital.”

¹Second session Eighteenth Congress, Journal, p. 276.

²Journal, p. 279; Debates, p. 697.

³Journal, p. 315.

⁴First session Thirtieth Congress, Globe, p. 1081; second session Thirtieth Congress, Journal, p. 54.

On January 14, 1875,¹ President Grant announced his approval of the bill (S. 1044) "to provide for the resumption of specie payments" by a message to the Senate, in which he said:

I venture upon this unusual method of conveying the notice of approval to the House, in which the measure originated, because of its great importance to the country at large and in order to suggest further legislation which seems to me essential to make this law effective.

Then the message proceeded with recommendations.

3492. The act of President Tyler in filing with a bill an exposition of his reasons for signing it was examined and severely criticised by a committee of the House.

In 1842 a committee of the House discussed the act of President Jackson in writing above his signature of approval a memorandum of his construction of the bill.

On June 27, 1842,² a message was received from President John Tyler, announcing that he had approved and signed an act originating in the House of Representatives "for the apportionment of Representatives among the several States according to the Sixth Census." The message also continued as follows:

and have caused the same to be deposited in the office of the Secretary of State, accompanied by an exposition of my reasons for giving it my sanction.

Mr. John Quincy Adams, of Massachusetts, said that this message was a novelty in the history of the country. The Constitution required the President, if he approve a bill, to sign it and not accompany his signature with reasons. After dwelling on the danger of the precedent Mr. Adams moved that the message be referred to a select committee, and that the committee have power to send for persons and papers. On June 29 this motion was agreed to, and the committee was appointed as follows: Messrs. Adams, John Pope, of Kentucky; Thomas M. T. McKennan, of Pennsylvania; Robert M. T. Hunter, of Virginia, and George H. Proffit, of Indiana.

On July 16, 1842, Mr. Adams made a report, and on August 2 and August 11 he attempted, by a suspension of the rules, to bring the report before the House, but on each occasion failed to obtain the needed two-thirds.

The report³ reviews the constitutional provisions relating to the presentation of bills to the President, beginning with the first injunction, "that if he approve he shall sign it," and goes on to say:

That is all his power; that is all his duty. No power is given him to alter, to amend, to comment, or to assign reasons for the performance of his duty. His signature is the exclusive evidence admitted by the Constitution of his approval, and all addition of extraneous matter can, in the opinion of the committee, be regarded in no other light than a defacement of the public records and archives.

The report then goes on to show that the Department of State was instituted for the express purpose of providing for the safe-keeping of the acts, records, and seal of the United States, and to quote the law providing for the deposit of copies of laws with the Secretary of State as soon as they are signed by the Executive or become laws without his signature. The committee do not approve the deposit

¹ Messages and Papers of the Presidents, Vol. VII, p. 314.

² Second session Twenty-seventh Congress, Journal, pp. 1025, 1030, 1080, 1202, 1263; Globe, pp. 688, 689, 693, 694, 760.

³ House report No. 909, second session Twenty-seventh Congress.

of a bill in the office of the Secretary, taking the ground that the law requires the President personally to deliver it to the proper custodian; but they waive this point in order to discuss the propriety of depositing with the act the reasons of the Executive:

The committee can find in the Constitution and laws of the United States no authority given to the President for depositing in the Department of State an exposition of his reasons for signing an act of Congress made by his signature a law, and most especially none for making the deposit in company with the law. No such power is expressly conferred by the Constitution; none such is necessary or proper for giving effect to any other power expressly granted to him. They believe it to be a power the toleration of which would be of the most dangerous and pernicious tendency; and they deem it the duty of the House to arrest and resist this first attempt to exercise it. They have reason to believe that, unless disavowed and discountenanced in this first example, its consequences may contribute to prostrate in the dust the authority of the very law which the President has approved with the accompaniment of this most extraordinary appendage, and to introduce a practice which would transfer the legislative power of Congress itself to the arbitrary will of the Executive.

The deposit in the Department of State by the President of an exposition of his reasons for signing a law to accompany the law itself has been hitherto without example. One instance has indeed occurred, on the 31st of May, 1830, when President Jackson, within an hour before the close of that session of Congress, sent to this House a message informing them that he had approved and signed a bill making appropriations for examinations and surveys, and also for certain works of internal improvements; but that, as the phraseology of the section which appropriated the sum of \$8,000 for the road from Detroit to Chicago might be construed to authorize the application for the continuance of the road beyond the limits of the Territory of Michigan, he desired to be understood as having approved that bill with the understanding that the road authorized by that section was not to be extended beyond the limits of the said Territory.

This was a simple message to the House, informing them what construction he gave to one section of a law which he had approved and signed; but not informing them that he had added anything to his signature upon the bill itself. The most exceptionable part of this transaction was therefore unknown to the House, and they could take no action upon it. They laid the message on the table.

It is indeed true that the construction which the President announced to the House he had given, in approving and signing the bill, to that section which appropriated money for a road from Detroit to Chicago, was directly in the face of the letter of the law, and of the understanding with which it had been passed by both Houses of Congress. No court of justice, without violating all the rules of construction observed in judicial tribunals, could have sanctioned that construction. But that part of the act was to be executed by the President himself. By the partial and imperfect execution of it, arresting the road at the limits of the Territory instead of extending it to Chicago, he defeated the intention of the legislature; but he had a conscientious constitutional scruple to sustain him. There was no appeal from his arbitrary decision. The completion of the road, directed by the solemn act of the Legislature, was prevented by the will of the President, regulated by his construction of the law, and the internal improvement of the country by the power of the National Legislature has from that day been suppressed and nullified.

The real character of the message of President Jackson was an objection to that section of the bill which made the appropriation for the road from Detroit to Chicago; and so it was understood at the time. It was in substance an objection to one section of the bill and in form an approval of the bill.

The committee are of opinion that this form of proceeding was unwarranted by the Constitution; but the President, in that case, set an example far more dangerous and unwarrantable without giving any notice of it to the House. Immediately over his signature to the bill he made on the parchment on which the bill was engrossed an interpolation in the following words: "I approve this bill and ask a reference to my communication to Congress of this date in relation thereto." And in this condition with this extraneous matter entered upon this act, referring to another document not published with the law, and never acted upon by either House of Congress, this act was published by the Secretary of State, and with this unwarranted statement by the President upon its face forming, to all appearance, a part of the law.

The exposition of the President's reasons for signing the apportionment bill has hitherto not been published with the law. The precedent alleged in justification of the President's act on this occasion has not, in this case, been followed by him. The law has been published by authority of the Secretary of State, without the exposition of the President's reasons for signing it, which he had caused to be deposited in the office of the Secretary, with the law. And this fact leaves it open to conjecture still more painful what lawful and honorable purpose could he answered by the deposit in the archives of state of an argument for affixing his signature to an act which he approved.

An argument for the performance of an indispensable duty would seem to be, at least, a work of idle supererogation. As well might the President have caused to be deposited in the Department of State an exposition of his reasons for performing the most sacred of his obligations as a citizen or as a man, as he could for assigning reasons to record his fulfilment of the obligation which he could not, without violation of his solemn oath, have omitted to do.

A resolution of this House has at length drawn forth from the Department of State an authenticated copy of this exposition of reasons, but, the committee are constrained to say, without producing so much as a plausible reason for the deposit of those reasons in the office of the Department with the law.

After discussing the reasons of the President, the report continues:

The committee consider the act of the President notified by him to the House of Representatives in his message of the 25th ultimo, as unauthorized by the Constitution and laws of the United States, pernicious in its immediate operation, and imminently dangerous in its tendencies. They believe it to be the duty of the House to protest against it, and to place upon their Journal an earnest remonstrance against its ever being again repeated. They report, therefore, the following resolution:

Resolved, That the House of Representatives consider the act of the President of the United States, notified to them by his message of the 25th ultimo, viz, his causing to be deposited in the office of the Secretary of State with the act of Congress entitled 'An act for an apportionment of Representatives among the several States according to the sixth census,' approved and signed by him, an exposition of his reasons for giving to the said act his sanction as unwarranted by the Constitution and laws of the United States, injurious to the public interests, and of evil example for the future; and this House do hereby solemnly protest against the said act of the President and against its ever being repeated or adduced as a precedent hereafter."

3493. President Johnson contended that he might not approve bills during a recess of Congress.—On July 8, 1867,¹ Mr. Joseph W. McClurg, of Missouri, submitted the following:

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives be instructed and directed, and is hereby instructed and directed, to reenroll House Resolution No. 6 of this, the Fortieth Congress, that the same may be again signed by the presiding officers of the Senate and House, and be again presented to the President for his approval.

The circumstances under which this resolution was offered were as follows: The Fortieth Congress had, by concurrent resolution, taken a recess from March 30, 1867, until July 3, 1867. Previous to this recess the resolution No. 6 had passed both Houses and been signed by the presiding officers of each, but by an oversight it was not presented to the President until two days after the Congress had adjourned for the recess. The President did not sign the resolution, but filed it in the State Department with this indorsement:

The first session of the Fortieth Congress adjourned on the 30th day of March, 1867. This bill, which was passed during that session, was not presented for my approval by Hon. Edmund G. Ross, of the Senate of the United States, and a member of the Committee on Enrolled Bills, until Monday, the 1st day of April, 1867, two days after the adjournment. It is not believed that the approval of any bill after the adjournment of Congress, whether presented before or after such adjournment, is

¹First session Fortieth Congress, Journal, p. 170; Globe, pp. 510, 512, 606.

authorized by the Constitution of the United States, that instrument expressly declaring that no bill shall become a law the return of which may have been prevented by the adjournment of Congress. To concede that, under the Constitution, the President, after the adjournment of Congress, may, without limitation in respect to time, exercise the power of approval and thus determine at his discretion whether or not bills shall become laws, might subject the legislative and executive departments of the Government to influences most pernicious to correct legislation and sound public morals, and, with a single exception, occurring during the prevalence of civil war, would be contrary to the established practice of the Government from its inauguration to the present time. This bill will therefore be filed in the office of the Secretary of State without my approval.

ANDREW JOHNSON.

WASHINGTON, D.C., *April 20, 1867.*

The Speaker,¹ after stating that the gentleman from Missouri had risen for a privileged question, said:

The opening sentence of that indorsement is this: "The first session of the Fortieth Congress adjourned on the 30th day of March, 1867." If that were true, there is no question that the President would not have the power to sign the bill, but the first session of the Fortieth Congress did not adjourn on the 30th day of March, 1867; they took a recess only until the 3d day of July, at which time, if a quorum did not appear in each House, it was provided that the first session should stand adjourned without day. If Congress had adjourned on the 30th of March last, then it could not now be in session unless it has been called together by proclamation of the President. The Constitution of the United States declares that "Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day." By law Congress has enacted that the first session of such Congress hereafter shall begin on the 4th day of March, leaving the provision in regard to the other sessions to remain as it was. If the first session of Congress had adjourned on the 30th of March it could not have met, unless at the call of the President, before the first Monday in December next. The question is whether the President has the right, according to usage, according to law, and according to the Constitution, to sign a bill during this prolonged recess. The Chair is of the opinion that there is no question as to his power to sign a bill during a recess of a session of the two Houses of Congress. This power has been exercised frequently, and as well by the present occupant of the Presidential chair as by his predecessors. Congress has been in the usage of taking a recess over the Christmas holidays for ten days or two weeks under that clause of the Constitution which allows the two Houses to take a recess for more than three days by concurrent resolution. During the last holiday recess, from the 20th of December to the 3d of January following, a bill granting land to aid in the construction of a military road from Eugene City to the eastern boundary of Oregon, which had previously passed, was signed by the President on the 26th of December, in the midst of this two weeks' recess, and has been properly published as one of the laws of the United States. If he could sign a bill during a recess of two weeks, it seems as if there could be no question that he has the power to sign a bill or to refuse to sign it where a recess may last three, four, or five weeks, or months. When Congress adjourns without day it is an entirely different question, and the Chair thinks that the President could not sign a bill presented after that adjournment. But this session has not adjourned; it is the same session which passed the bill, and under the existing state of facts the Chair thinks that the House might direct the reenrollment of the bill, so that it may again be submitted to the President. It is, however, for the House to decide.

The House, after brief debate, during which the point was made that the bill was already a law because of the lapse of ten days without the return of it with objections, agreed to the resolutions, ayes 71, noes 28.

The resolution came up in the Senate on the same day, and the consideration was deferred until July 12, when the subject was debated, both on its merits and in respect of a rule of the Senate that no general legislation should be taken up during the session. The resolution was finally declared out of order under the

¹ Schuyler Colfax, of Indiana, Speaker.

rule. Before this decision was reached the question was considered on its merits. Mr. John B. Henderson, of Missouri, recalled that on the 12th of March, 1863, after the adjournment of Congress, the President signed a bill under which thirty or forty millions of property had been collected and turned into the Treasury. The point was also made that under the joint rules the Committee on Enrolled Bills were expected to report the fact of their presentation of bills to the President, and this report should be entered on the Journals. In the present case such report had not and could not be made. The point that the bill had become a law by reason of the failure of the President to return it was also considered.

This resolution was not considered again. At the next session of Congress a new joint resolution to effect the same purpose for the Missouri troops was introduced in the House and passed there, as House Resolution 147.

3494. On January 24, 1868,¹ the Senate received from President Johnson a message responding to the inquiry of the Senate in regard to the bill (S. 141) "for the further security of equal rights in the District of Columbia." The message states the facts in regard to this bill and the object of the inquiry:

Inasmuch as the bill "for the further securing of equal rights in the District of Columbia," has not become a law in either of the modes designated in the section above quoted (law of Sept. 15, 1789), it has not been delivered to the Secretary of State for record and promulgation. The Constitution expressly declares that "if any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he has signed it unless the Congress by their adjournment prevent its return, in which case it shall not be a law." As stated in the preamble to the resolution the bill to which it refers was presented for my approval on the 11th day of December, 1867. On the 20th of the same month and before the expiration of the ten days after the presentation of the bill to the President, the two Houses, in accordance with a concurrent resolution adopted on the 3d of December, adjourned until the 6th of January, 1868. Congress by their adjournment thus prevented the return of the bill within the time prescribed by the Constitution. and it was therefore left in the precise condition in which that instrument positively declares a bill "shall not be a law."

If the adjournment in December did not cause the failure of this bill, because not such an adjournment as is contemplated by the Constitution in the clause which I have cited, it must follow that such was the nature of the adjournments during the past year, on the 30th day of March until the first Wednesday in July, and from the 20th of July until the 21st of November. Other bills will therefore be affected by the decision, which may be rendered in this case, among them one having the same title as that named in the resolution, and containing similar provisions, which, passed by both Houses in the month of July last, failed to become a law by reason of the adjournment of Congress before ten days for its consideration had been allowed the Executive.

Mr. George F. Edmunds, of Vermont, in making a motion to refer the message to the Judiciary Committee, referred to a case which arose in New Hampshire in 1863, and which was passed on by the supreme court of that State, the decision being that the construction held by President Johnson was not correct. Both Mr. Edmunds and Mr. Charles Sumner, of Massachusetts, held that the recess adjournment was not like an adjournment sine die. The motion to refer to the Judiciary Committee was agreed to.

On February 17, 1868,² Mr. Edmunds reported, with the unanimous approval of the Judiciary Committee a bill (S. 366) "regulating the presentation of bills to the

¹Second session Fortieth Congress, *Globe*, p. 720.

²Second session Fortieth Congress, *Globe*, pp. 1204, 1371, 1404, 1406, 1834, 1840, 2078.

President and the return of the same.” On February 24 this bill was taken up. It provided that the ten days mentioned in section 7 of article 1 of the Constitution, within which the President of the United States is required to return to the House in which it originated any bill not approved by him, shall be held and construed to be ten calendar days (Sundays excepted) next after the day of the presentation of any such bill to him; and the adjournment of Congress which shall prevent the return of any such bill by the President to that House in which it originated, is to be held and construed to be the final adjournment of a session, and not an adjournment of either or both Houses of Congress, acting by themselves or with the consent of each other, as provided for in the Constitution, to a particular day. And if at any time within those ten days the President shall desire to return a bill to the House in which it originated, or send a message to such House that he has signed the same, when such House is not sitting, it is to be lawful for him to return such bill or send such message to the office of the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and the Secretary or Clerk is to indorse thereon the day on which the return shall be made or the message received, and make entry of the fact of such return or the receipt of such message in his journal of the proceedings; and such return or sending of such message is to be deemed and taken to be a return of the bill to the House in which it originated, or a sending of a message to the House to all intent and purposes. Every bill which, having passed both Houses of Congress and having been presented to the President as provided in the Constitution, shall not have been returned by the President with his objections thereto to that House in which it originated within the time herein defined and declared is to be a law; and it is to be the duty of the President in such case immediately to deliver such bill so having become a law to the Secretary of State, who shall receive and proceed with the same in the same manner as may be provided by law for bills signed by the President, and to certify thereon and in the promulgation thereof that such bill has become a law for the cause stated. The time mentioned in the act is to be computed by excluding the day on which a bill may be presented to the President and including the tenth day (Sundays excepted) thereafter.

This bill, after debate, passed the Senate on March 24 by a vote of yeas 29, nays 11. It was sent to the House, but not acted on.

3495. The Supreme Court affirmed the validity of an act presented to the President while Congress was sitting, and signed by him within ten days, but after the Congress had adjourned for a recess.—In the case of *La Abra Silver Mining Company v. United States*, the Supreme Court of the United States rendered, through Mr. Justice Harlan, an opinion¹ as to the power of the President to approve a bill after the adjournment of Congress for a recess within a session.

The ground of this contention,

the opinion holds in considering this branch of the case,

is that having met in regular session at the time appointed by law, the first Monday of December, 1892, and having on the 22d day of that month (two days after the presentation of the bill to the President) by

¹ 175 U.S., p. 451.

the joint action of the two Houses taken a recess to a named day, January 4, 1893, Congress was not actually sitting when the President on the 28th day of December, 1892, by signing it formally approved the act in question. The proposition, plainly stated, is that a bill passed by Congress and duly presented to the President does not become a law if his approval be given on a day when Congress is in recess. This implies that the constitutional power of the President to approve a bill so as to make it a law is absolutely suspended while Congress is in recess for a fixed time. It would follow from this that if both Houses of Congress by their joint or separate action were in recess from some Friday until the succeeding Monday, the President could not exercise that power on the intervening Saturday. Indeed, according to the argument of counsel the President could not effectively approve a bill on any day when one of the Houses, by its own separate action, was legally in recess for that day in order that necessary repairs be made in the room in which its sessions were being held. Yet many public acts and joint resolutions of great importance together with many private acts have been treated as valid and enforceable which were approved by the President during the recesses of Congress covering the Christmas holidays.¹

The opinion proceeds to quote the clauses of the Constitution bearing on the case, sections 4, 5, 7, and 8, of Article I, and continues:

It is said that the approval by the President of a bill passed by Congress is not strictly an executive function, but is legislative in its nature; and this view, it is argued, conclusively shows that his approval can legally occur only on a day when both Houses are actually sitting in the performance of legislative functions. Undoubtedly the President when approving bills passed by Congress may be said to participate in the enactment of laws which the Constitution requires him to execute. But that consideration does not determine the question before us. As the Constitution, while authorizing the President to perform certain functions of a limited number that are legislative in their general nature, does not restrict the exercise of those functions to the particular days on which the two Houses are actually sitting in the transaction of public business, the court cannot impose such a restriction upon the Executive. It is made his duty by the Constitution to examine and act upon every bill pawed by Congress. The time within which he must approve or disapprove a bill is prescribed. If he approve a bill, it is made his duty to sign it. The Constitution is silent as to the time of his signing, except that his approval of a bill duly presented to him—if the bill is to become a law merely by virtue of such approval—must be manifested by his signature within ten days, Sundays excepted, after the bill has been presented to him. It necessarily results that a bill when so signed becomes from that moment a law. But in order that his refusal or failure to act may not defeat the will of the people, as expressed by Congress, if a bill be not approved and be not returned to the House in which it originated within that time, it becomes a law in like manner as if it had been signed by him. We perceive nothing in these constitutional provisions making the approval of a bill by the President a nullity if such approval occurs while the two Houses of Congress are in recess for a named time. After a bill has been presented to the President, no further action is required by Congress in respect of that bill unless it be disapproved by him and within the time prescribed by the Constitution be returned for reconsideration. It has properly been the practice of the President to inform Congress by message of his approval of bills, so that the fact may be recorded. But the essential thing to be done in order that a bill may become a law by the approval of the President is that it be signed within the prescribed time after being presented to him. That being done, and as soon as done, whether Congress is informed or not by message from the President of the fact of his approval of it, the bill becomes a law, and is delivered to the Secretary of State as required by law.

Much of the argument of counsel seems to rest upon the provision in relation to the final adjournment of Congress for the session, whereby the President is prevented from returning, within the period prescribed by the Constitution, a bill that he disapproves and is unwilling to sign. But the Constitution places the approval and disapproval of bills, as to their becoming laws, upon a different basis. If the President does not approve a bill, he is required within a named time to send it back for consideration. But if by its action, after the presentation of a bill to the President during the time given him by the Constitution for an examination of its provisions and for approving it by his signature, Congress puts it out of his power to return it, not approved, within that time to the House in which it originated, then the bill fails and does not become a law.

¹Here are quoted acts passed in the years from 1862 to 1897.

Whether the President can sign a bill after the final adjournment of Congress for the session is a question not arising in this case, and has not been considered or decided by us. We adjudge—and touching this branch of the case adjudge nothing more—that the act of 1892 having been presented to the President while Congress was sitting, and having been signed by him when Congress was in recess for a specified time, but within ten days, Sundays excepted, after it was so presented to him, was effectively approved, and immediately became a law, unless its provisions are repugnant to the Constitution.¹

3496. The President, in the opinion of the Attorney-General, may sign a bill at any time within ten days after Congress has adjourned for a recess.—On December 28, 1892,² the Attorney-General of the United States (Mr. W. H. H. Miller) rendered to the President an opinion, of which the following is the syllabus:

When Congress adjourns, not sine die, for a longer period than ten days, exclusive of Sundays, and certain bills at a time less than ten days prior to such adjournment are placed in the President's hands for approval or disapproval, it is competent for him to approve any bill during the period of such adjournment. Semble, that bills not signed, coming to him under such circumstances, would not become a law at the expiration of the ten days. In view of the uncertainty it is advised that bills coming to the President during a recess of Congress, or within ten days prior thereto, be signed or vetoed as they meet his approval or disapproval, and, in case of veto, be returned to Congress when it reconvenes; any question as to their validity can then be settled by the courts.

In his opinion the Attorney-General says:

On the 22d of December, by a concurrent resolution, the two Houses of Congress adjourned until the 4th day of January next. That resolution reads as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 22, they will stand adjourned until Wednesday, January 4, 1893.”

The time covered by this adjournment, exclusive of Sundays, exceeds ten days. Shortly before the adjournment, certain bills passed by the two Houses of Congress having been placed in your hands for approval or disapproval, you now ask whether it is competent for you to give such approval or disapproval during the period of such adjournment.

Your right to approve is settled in the affirmative by the Supreme Court in *Seven Hickory v. Ellery* (103 U. S., 423). That was a case arising under the constitution of Illinois, but as to this question that instrument was identical with the Federal Constitution. The decision goes so far as to uphold the approval of a bill within the ten days, even though the adjournment be sine die. But the question as to a temporary adjournment on unsigned bills remains.

No formal opinion by any of my predecessors, so far as the records of this Department show, has been given upon this question. I find, however, memoranda communicated by Attorney-General Devens to President Hayes, as follows: [Here Mr. Devens states that he finds no decisions of courts of the United States in which the clause of the Constitution in question is construed. He cites three State decisions in similar cases—45 N. H., 610; 39 Cal., 206, and 33 Ill., 135, 139, 153.]

“In this conflict of authorities it is impossible conclusively to answer the question whether, if Congress should take a recess after a bill was sent to the President for his signature so long in duration that he would not have an opportunity to return the same within ten days with his objections, such bill having been presented to him at such time that the ten days would not be given to him for consideration previous to the recess, such bill would become a law in like manner as if he had signed it. At the same time, the best opinion to which I can arrive is that in the case supposed the bill would not become a law at the expiration of the ten days. There is no mode provided by which the President can during the recess communicate with the House, and one of two results must follow: Either the bill becomes a law when he has not had the time prescribed by the Constitution for consideration and reflection—

¹ On March 31, 1840, President Van Buren approved a bill of the House (No. 18) “additional to the act on the subject of Treasury notes,” and omitted to send notice of this approval to the House. (First session Twenty-sixth Congress, Journal, p. 1370.)

² Opinions of Attorney-General, Vol. XX, p. 503.

tion upon it, or else, Congress taking a recess under such circumstances and thus preventing him from communicating with them, the bill does not become a law because by their own act of adjournment they have prevented him from having the time for consideration which is intended by the Constitution. [Here follows a brief reference to the clause of the Constitution providing for the return of a vetoed bill.] * * * All these provisions indicate that in order to enable the President to return a bill the House should be in session; and if by their own act they see fit to adjourn and deprive him of the opportunity to return the bill, with his objections, and are not present themselves to receive and record these objections and to act thereon, the bill can not become a law unless ten days shall have expired during which the President will have had the opportunity thus to return it.¹ There is no suggestion that he may return it to the Speaker, or Clerk, or any officer of the House; but the return must be made to the House as an organized body.”

Hon. George F. Edmunds, President pro tempore of the Senate, in a note to President Arthur under date of December 24, 1884, expressing a like opinion, says:

“A bill * * * has passed both Houses of Congress and was presented for my signature after both Houses have adjourned until 5th of January. This is more than ten days, and, if it were now presented to you, you could not return it with your objections. I do not know what the practice has been, but it would seem to me as if the bill could not become a law constitutionally; but if you think it can I will send it to you.”

This note was probably not carefully considered, but it is of value as the impression of a lawyer and legislator of great ability and experience.

The Attorney-General, after discussing the nature of the recess in question, concludes that it is not an adjournment within the meaning of the clause of the Constitution under discussion. As the approval or disapproval of a bill by the President has been sometimes held to be a legislative act, required to be done while the Congress is in session, the Attorney-General finds difficulties in giving a definite opinion, and concludes upon the whole that the course indicated in the syllabus should be pursued.

On January 4, 1893,² on the reassembling of Congress after the recess, the President communicated to the Senate notice that he had approved sundry bills on December 22 and December 28, during the recess, but there appears no message of disapproval of any bill.

3497. An instance where the President signed a bill after the adjournment of Congress.—On May 16, 1864,³ the House ordered—

that the Committee on the Judiciary be instructed to inquire and report to the House by what warrant or authority the act⁴ entitled “An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States” was approved on the 12th day of March, 1863, and whether said act is still in force.

On June 11, 1864, Mr. James F. Wilson, of Iowa, from the committee, made this report:⁵

On the reception of this resolution the committee caused a note to be addressed to the Secretary of State, asking to be informed whether, “as a matter of fact, it appeared on the original files in the State Department that the act referred to was approved on the 12th day of March, 1863.”

In reply to this note, the Secretary of State responded that “the original act is, to all appearances, regular in every respect of form; as to the date of its approval—that of 12th of March, 1863—the words

¹ This question was subject of a decision in Connecticut about 1904.

² Second session Fifty-second Congress, Record, p. 301.

³ First session Thirty-eighth Congress, Globe, p. 2290.

⁴ See 12 Stat. L., p. 820.

⁵ House Report No. 108, first session Thirty-eighth Congress.

⁶ House Report No. 108, first session Thirty-eighth Congress.

and figures 'approved March 12, 1863,' are in the handwriting of the President, and followed by his signature."

Thus it appears, from the original files in the State Department, that said act was approved March 12, 1863, and this is true, in fact, as to the date of approval.

The section of the Constitution of the United States bearing upon this question reads as follows:

"If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law."

The committee are informed that in the great press of business immediately preceding the adjournment of Congress on the 4th of March, 1863, the act which is made the subject-matter of inquiry by the resolution of the House was passed to the Secretary of the Treasury for examination, as it related particularly to his Department. It did not reach the President again until after the adjournment of Congress, when it was approved by him under the belief that the last clause of the section of the Constitution, above quoted, was designed more especially to prevent Congress from enacting laws without the approval of the Executive, which might be done by the passage of bills by the two Houses, followed by an adjournment, before the President could examine and return them, were it not for the declaration that in such cases the bills shall not be laws; and did not relate to cases wherein the Executive should approve bills sent to him by Congress within ten days, even though an adjournment should occur before the return of the bills.

That there is force and plausibility in this position, a little reflection will discover to any mind; but the committee can not receive it as a correct interpretation of the Constitution.

The ten days' limitation contained in the section above quoted refers to the time during which Congress remains in session, and has no application after adjournment. Hence, if the Executive can hold a bill ten days after adjournment, and then approve it, he can as well hold it ten months before approval. This would render the laws of the country too uncertain, and could not have been intended by the framers of the Constitution.

The spirit of the Constitution evidently requires the performance of every act necessary to the enactment and approval of laws to be perfect before the adjournment of Congress.

The committee, therefore, conclude that the act referred to, approved March 12, 1863, is not in force; and in this conclusion the committee are unanimous.¹

3498. A bill that had not actually passed, having been enrolled and signed by the President of the United States, was disregarded by the Executive, and Congress passed another bill.—On March 11, 1836,² the House considered a joint resolution (No. 2) to place the name of Benedict Alford on the pension roll. The Debates of March 18,³ give the following explanation of the presentation of this resolution:

At the first session of the Twenty-third Congress a bill passed the House of Representatives granting pensions to Benedict Alford and Robert Brush, soldiers of the Revolutionary war. By the Journals of the Senate it appears that this bill was indefinitely postponed in that body, and the House of Representatives was so notified. And it is also so entered on the Journal of the House. The postponement of the bill in the Senate in the last hour of the session was inadvertently overlooked by the enrolling clerk, as well as by the Committee on Enrolled Bills in the House, and it was enrolled and signed by the officers of the two Houses, and presented to, and approved by, the President. A few days after the adjournment of Congress the error was discovered in the Clerk's office in the House of Representatives, and notice of the fact was immediately given to the War Department. The Secretary of War thereupon declined complying with the provisions of the bill, under the conviction that it was not a valid statute. At the last session of Congress the President communicated the fact to the Senate by message. No

¹The act of July 2, 1864 (13 Stat. L., p. 375), was amendatory of the act "approved March 12, 1863," thereby indicating that the latter act was still considered a law. (See Globe, first session, thirty-eighth Congress, p. 2820, for debate on the bill S. 232.)

²First session Twenty-fourth Congress, Journal, pp. 470, 498, 525, 526; Debates, pp. 2747, 2881.

³Debates, p. 2881.

action in the case was, however, had in either House at the last session. At the present session Benedict Alford again presented his petition, which was referred to the Committee on Revolutionary Pensions. The committee reported that, in its opinion, the act was a valid one, and that no further legislation was necessary to give a pension to the petitioner, which, in their opinion, the Secretary of War was bound to pay him. A member of the committee, differing with the majority, after the report was made, moved the resolution directing the Secretary of War to execute the act, which had passed in the manner herein stated.

The subject was elaborately discussed on March 11 and 18, and after various methods of procedure had been proposed, the House finally—

Resolved, That the joint resolution to place the names of Benedict Alford and Robert Brush on the pension list be referred to the Committee on Revolutionary Pensions, with instruction to report a bill for the relief of Benedict Alford and Robert Brush.

Such a bill was duly reported and became a law.¹

3499. The President sometimes, at the close of a Congress, informs the House as to both the bills he has signed and those he has allowed to fail.— In 1873, on March 3,² the last day of the session and the Congress, the President sent a message to the House giving notice both of the bills that he approved,³ and also of those which did not receive his signature and failed to become laws.

3500. On December 14, 1842,⁴ President Tyler sent a message to the House informing that body that he had failed to sign two bills at the close of the preceding session of Congress—the bill relating to the sale of the public lands and the granting of preemption rights, and the bill regulating the taking of testimony in contested election cases. The President abstained from expressing an opinion as to the merits of these bills which had thus failed to become laws, but stated that they were sent to him too late for him to have time to read them through and sign them. He expressed a strong opinion in favor of an adherence to the then existing joint rule of the two Houses which prohibited the presentation of a bill to the President on the last day of the session.

3501. On December 18, 1843,⁵ President Tyler communicated to the House his reasons for withholding his signature from the bill “directing payment of the certificates of awards issued by the commissioners under the treaty with the Cherokee Indians.” This bill had been sent to the President in the closing hours of the previous Congress, and had consequently failed to become a law.

3502. On December 6, 1832,⁶ President Jackson transmitted to the House of Representatives a message stating his objections to the bill “for the improvement of certain harbors and the navigation of certain rivers,” which was not received by him a sufficient length of time before the close of the last session to enable him to examine it before adjournment, and from which he had withheld his signature, so that it had not become a law.

It does not appear that any action was taken on this message.

¹Journal, pp. 618, 810, 823.

²Third session Forty-second Congress, Journal, p. 592; Globe, p. 2137.

³The President by message informs the House from time to time of bills which he has approved.

⁴Third session Twenty-seventh Congress, Journal, p. 57.

⁵First session Twenty-eighth Congress, Journal, p. 69.

⁶Second session Twenty-second Congress, Journal, p. 24; Debates, p. 819.

3503. The President notifies the House of bills that have become laws without his approval.—On February 22 and March 2, 1861,¹ President Buchanan notified the House of bills that had become laws without his signature through the expiration of the ten days' limit prescribed by the Constitution.

3504. An instance where the President communicated his omission to sign a bill through the committee appointed to notify him that Congress was about to adjourn.—On May 31, 1830,² Mr. Henry W. Dwight, of Massachusetts, from the joint committee appointed to wait on the President of the United States and inform him that, unless he might have other communications to make to Congress, the two Houses were ready to close the present session by an adjournment, reported that they had fulfilled their duties; and that they were informed by the President that he had no further communications to make to Congress at the present session; but that he had retained, for further consideration, two bills, viz, the bill (H. R. 304) making appropriations for building light-houses and light-boats, etc., and the bill (S. 74) to authorize a subscription for stock on the part of the United States in the Louisville and Portland Canal Company.

The House adjourned sine die soon after, no further communication being received from the President.

3505. An instance where the President returned a bill already signed by him in order that enrollment might be corrected.—On March 12, 1804,³ the House unanimously resolved that the Joint Committee on Enrolled Bills be instructed to wait on the President of the United States and lay before him the engrossed bill entitled "An act for the relief of the captors of the Moorish armed ships *Meshouda* and *Mirboha*," with the several amendments, as the same was finally passed by both Houses of Congress, and to state the variance between the said engrossed bill and the enrollment thereof as approved by the President; and to request that he will cause the said enrolled bill to be returned to this House, in which it originated, for the purpose of rendering the said bill conformable with the engrossed bill and the amendments thereto as passed by the two Houses of Congress.

The Senate having concurred, and the joint committee having performed the duty and reported, a message was later received from the President transmitting the bill. The bill was then committed to the Joint Committee for Enrolled Bills, with instructions to make the corrections and report the same to the two Houses.

It appears that the President⁴ had already approved the bill, and on February 24, 1804, had announced that fact by message to the House.⁵

On March 17, 1804,⁶ Mr. Jacob Richards, of Pennsylvania, from the joint committee on enrolled bills, reported that the committee had corrected the variance between the engrossed bill and the enrollment thereof, as approved by the President of the United States on the 24th ultimo, and that the said enrolled bill had been

¹ Second session Thirty-sixth Congress, Journal, pp. 424, 480.

² First session Twenty-first Congress, Journal, p. 312.

³ First session Eighth Congress, Journal, pp. 641, 649, 650.

⁴ Thomas Jefferson, President.

⁵ Journal, p. 600. See history of House bill No. 160.

⁶ Journal, p. 660.

rendered conformable with the engrossed bill and the amendments thereto, as the same was finally passed by both Houses of Congress.

Thereupon the Speaker signed the said enrolled bill.

On March 19¹ a message from the President announced that he had that day approved the bill.

3506. A bill wrongly enrolled was recalled from the President, who erased his signature, and recommitted to the Committee on Enrolled Bills with instructions.—On January 4, 1901,² Mr. John F. Lacey, of Iowa, as a privileged resolution, offered the following:

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is hereby requested to return to the House the bill (H. R. 2955) entitled "An act providing for a resurvey of township No. 8 of range No. 30 west, of the sixth meridian, in Frontier County, State of Nebraska," in order to correct an error whereby the bill has been enrolled as an act of the first instead of the second session of the Fifty-sixth Congress.

In offering the resolution Mr. Lacey explained that the bill was enrolled and signed by the Speaker of the House in the preceding session—that is, the first session of the Fifty-sixth Congress. But the President of the Senate did not sign it until the second session. When it was transmitted to the President of the United States he signed it,³ but it was afterwards discovered that the act, while approved as of the second session, was enrolled as of the first session.⁴ The President thereupon erased his name, and called the attention of the Speaker to the situation.

The resolution was considered and agreed to by the House.

On January 5,⁵ the President, by message, returned the bill to the House.

Thereupon Mr. Lacey offered, as privileged, the following resolution:

Resolved, That the message and House bill 2955 be recommitted to the Committee on Enrolled Bills, with instructions that it be reenrolled as a bill of the second session of the Fifty-sixth Congress.

The resolution was agreed to.

3507. Bills sent to the President but not yet signed by him are sometimes recalled by concurrent resolution of the two Houses.

It is for the House and not the Speaker to determine whether or not a proposed action is within the constitutional power of the House.

Instance wherein an enrolled bill recalled from the President was afterwards amended. (Footnote.)

On July 7, 1890,⁶ Mr. George W. E. Dorsey, of Nebraska, moved that the rules be suspended so as to pass the following concurrent resolution:

Resolved by the House of Representatives (the Senate concurring), That the President be requested to return to the House of Representatives the bill (H. R. 5974) extending the time of payment of purchasers of land to the Omaha tribe of Indians in the State of Nebraska, and for other purposes.

¹ Journal, p. 663.

² Second session Fifty-sixth Congress, Journal, p. 85; Record, p. 553.

³ The bill was actually received at the White House December 19, and was signed December 21, 1900.

⁴ See Senate Joint Resolution No. 64, of first session Fifty-fifth Congress, for an instance where the Speaker did not at the subsequent session sign a resolution enrolled as of the first session.

⁵ Journal, p. 90; Record, p. 606.

⁶ First session Fifty-first Congress, Journal, p. 828.

Mr. W. C. P. Breckinridge, of Kentucky, made the point of order that it was out of the power of the House or the two Houses of Congress under the Constitution to recall a bill from the President.

After debate on the point of order, the Speaker¹ overruled the same, although without passing on the constitutional question raised, which was a matter for the House to consider in passing upon the question and not for the Chair to decide, ruling that the motion was a legitimate and proper parliamentary motion, in order under the rules.²

3508. On February 13, 1896,³ Mr. Joseph W. Bailey, of Texas, by unanimous consent,⁴ presented, and the House agreed to, the following resolution:

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is hereby requested to return to the House Senate bill 79, for the correction of a verbal error.

3509. On April 3, 1902,⁵ in the Senate, the following message was received:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 1st instant (the House of Representatives concurring), I return herewith Senate bill No. 2291, entitled "An act for the promotion of anatomical science and to prevent the desecration of graves in the District of Columbia."

THEODORE ROOSEVELT.

WHITE HOUSE, April 3, 1902.

Mr. Jacob H. Gallinger, of New Hampshire, said the bill had been returned for the purpose of having it amended.

By the advice of the President pro tempore⁶ the bill was referred to the Committee on the District of Columbia.

3510. The process of recalling from the President and amending an enrolled bill.—On February 13, 1906⁷ in the Senate, Mr. John T. Morgan, of Alabama, offered the following resolution, which was agreed to:

Resolved by the Senate (the House of Representatives concurring), That the President is requested to return to the House of Representatives House bill 297, to authorize the construction of dams and power stations on the Tennessee River at Muscle Shoals, Alabama, for the purpose of amendment.

Mr. Morgan explained the purpose of the resolution as follows:

That bill passed both Houses and went to the President. There is a difficulty in the draft of the bill which has challenged the attention of the President and raises in his mind an objection to the bill, which difficulty can be removed by amendment exactly in accordance with the purpose for which the bill was offered.

¹ Thomas B. Reed, of Maine, Speaker.

² The Houses call only for bills which have not yet been signed by the President, or which are supposed not to have been signed.

³ First session Fifty-fourth Congress, Record, p. 1703.

⁴ This bill was taken up on February 18, and, by unanimous consent, the votes whereby it had been ordered to a third reading and passed were reconsidered, the amendment was made, and the bill was, by unanimous consent, passed. (Record, first session Fifty-fourth Congress, p. 1904.) Resolutions asking for the recall of a bill have usually been presented by unanimous consent (see Congressional Record, first session Fiftieth Congress, p. 7996), although on June 2, 1896, one was presented as privileged. (See Congressional Record, first session Fifty-fourth Congress, p. 6009.)

⁵ First session Fifty-seventh Congress, Record, p. 3614.

⁶ William P. Frye, of Maine, President pro tempore.

⁷ First session Fifty-ninth Congress, Record, p. 2475.

On the same day the resolution was agreed to by the House,¹ and on the next day² the bill was returned by the President to the House.

On February 23,³ the House agreed to the following resolution, after some debate as to the method of procedure:

Resolved by the House of Representatives (the Senate concurring), That the action of the Speaker of the House of Representatives and of the President pro tempore of the Senate in signing the enrolled bill H. R. 297—"An act to authorize the construction of dams and power stations on the Tennessee River at Muscle Shoals, Alabama"—be rescinded, and that in the reenrollment of the bill the following amendments be made:

Amend section 1 of the enrolled bill by striking out, after the word "elect," at the end of line 5, section 1, page 1, the following: "between the mouth of Malletts Creek on the east, and," in line 6 of said section and insert in lieu thereof "and the Secretary of War may approve between a point on the southern side of the river opposite to or below the head or opening of the canal constructed by the United States on the north side of the river, on the east, and." Insert after the word "river," in line 10 of said section 1, page 1, the following: "between the two points above mentioned."

Amend by adding, after the word "war," in line 13, of said section 1, page 1, of said enrolled bill, the following: "for the protection of navigation and the property and other interests of the United States;" so that said section 1 of the enrolled bill when amended will read as follows:

"Be it enacted, etc., That any person, company, or corporation having authority therefor under the laws of the State of Alabama may hereafter erect, maintain, and use a dam or dams * * * etc.

Amend section 2, page 1, of said enrolled bill, by striking out after the word "canal," in line 25, page 1, of said section, all down to and including the word "river," in line 25 of said section 2.

Amend said section 2, page 1, of the enrolled bill, by striking out after the word "canal," in line 28, page 1, all down to and including the word "river," in line 29, and insert in lieu thereof the following: "or the Tennessee River;" so that said section 2 of the enrolled bill as amended will read as follows:

"SEC. 2. That detailed plans for the construction and operation of a dam or dams and other appurtenant and necessary works shall be submitted * * *" etc.

Amend section 3, page 2, of said enrolled bill, by striking out all after the word "otherwise," in line 17, of said section 3, page 2, down to and including the word "damage" at the end of line 18 of said section and page, and insert in lieu thereof the following: "in a court of competent jurisdiction;" so that said section 3 of said enrolled bill after being so amended will read:

"SEC. 3. That the Government of the United States reserves * * *" etc.

On February 28⁴ the Senate concurred in the action of the House, although a question was raised as to the propriety of the action.

3511. On March 23, 1906,⁵ by unanimous consent Mr. John H. Stephens, of Texas, offered the following resolution, which was agreed to:

Be it resolved by the House of Representatives (the Senate concurring), That the President be, and hereby is, requested to return to the House the bill (H. R. 431) to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations in Oklahoma Territory.

On March 29, 1906,⁶ the Speaker said:

The Chair lays before the House the following message from the President of the United States, which it is proper to say was received in the legislative day of yesterday, but owing to the business of the House it was not convenient to lay it before the House at that time.

¹ Record, p. 2506.

² Record, p. 2553.

³ Record, pp. 2889–2900.

⁴ Record, pp. 3050, 3102.

⁵ First session Fifty-ninth Congress, Record, p. 4201.

⁶ Record, pp. 4154–4156.

The Clerk read as follows:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 26th instant (the Senate concurring), I return herewith House bill No. 431, entitled "An act to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations in Oklahoma Territory."

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 28, 1906.*

Mr. Stephens, of Texas, offered the following resolution in reference to the same matter and asked unanimous consent for its present consideration:

Be it resolved by the House of Representatives (the Senate concurring), That the action of the Speaker of the House of Representatives and of the Vice-President of the United States and the President of the Senate in signing the enrolled bill H. R. No. 431, entitled "A bill to open for settlement 505,000 acres of land in the Kiowa, Comanche, and Apache Indian reservations in Oklahoma Territory," be, and hereby is, rescinded, and that in the reenrollment of the said bill (H. R. 431) the following amendments be made, viz: * * *

Mr. J. Warren Keifer, of Ohio, having objected, the message and bill were referred to the Committee on Indian Affairs.

3512. On March 3, 1904,¹ in the Senate, the President pro tempore laid before the Senate the following message from the President of the United States; which was read:

To the Senate:

In compliance with the resolution of the Senate of the 1st instant (the House of Representatives concurring), I return herewith Senate bill No. 2323, entitled "An act relating to ceded lands on the Fort Hall Indian Reservation."

THEODORE ROOSEVELT.

WHITE HOUSE, *March 2, 1904.*

Thereupon Mr. Fred T. Dubois, of Idaho, submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives and of the President pro tempore of the Senate in signing the enrolled bill (S. 2323) relating to ceded lands on the Fort Hall Indian Reservation be rescinded, and that in the reenrollment of the bill the word "thirty-five," in line 16 of the enrolled bill, be stricken out and the word "thirty-four" be substituted therefor, so as to correctly describe the range, inaccurately stated in the bill.

On March 4² the concurrent resolution was agreed to by the House,

Thereupon the Speaker canceled his signature.

3513. On March 22, 1904,³ the Speaker⁴ laid before the House the following concurrent resolution relating to a bill returned by the President of the United States on the request of the two Houses:

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives and of the President pro tempore of the Senate in signing the enrolled bill (S. 2323) relating to ceded lands on the Fort Hall Indian Reservation be rescinded, and that in the reenrollment of the bill all after "namely," in line 13 of the enrolled bill, down to and including line 20 of said bill, be stricken out and the following inserted: "Lot 4, section 1, township 7 south, range 34 east,

¹ Second session Fifty-eighth Congress, Record, p. 2740.

² Journal, p. 386; Record, p. 2839.

³ Second session Fifty-eighth Congress, Record, p. 3509.

⁴ Joseph G. Cannon, of Illinois, Speaker.

and the southeast quarter of the northeast quarter, section 18, township 7 South, range 35 east, and the east half of the southeast quarter of section 21, township 6 south, range 34 east, and which have heretofore been appraised, shall be paid for at the said appraised value at the time of and by the person making entry of the respective tracts upon which such improvements are situated," so as to correctly describe the range, inaccurately stated in the bill.

The House, by unanimous consent, considered the resolution and agreed to it. Thereupon the Speaker canceled his signature.

3514. On March 15, 1902,¹ the following message was received:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 14th instant (the Senate concurring), I return herewith the bill (H. R. 5224) entitled "An act for the relief of Edward Kershner."

THEODORE ROOSEVELT.

WHITE HOUSE, *March 15, 1902.*

The message having been read, Mr. Alston G. Dayton, of West Virginia, by unanimous consent, presented the following resolution, which was agreed to:

Resolved, That the message of the President and the bill (H. R. 5224) for the relief of Edward Kershner be transmitted to the Senate, with the request that the Senate reconsider its action in passing said bill, in order that an amendment may be made to the same by striking out the word "director" and inserting in lieu thereof the word "inspector."

On the same day, in the Senate,² the bill was, by unanimous consent, considered, the vote whereby the Senate had passed the bill was reconsidered, and the amendment suggested by the House was agreed to. The bill was then passed as amended.

On March 17,³ the bill with the Senate amendment was taken up in the House and the amendment was concurred in.

3515. On April 15, 1902,⁴ in the Senate, the President pro tempore⁵ laid before the Senate the following message:

IN THE HOUSE OF REPRESENTATIVES, *April 14, 1902.*

Resolved, That the bill (H. R. 11418) entitled "A bill granting an increase of pension to Hannah T. Knowles," with the accompanying message of the President be transmitted to the Senate by the Clerk, with the request that the Senate reconsider its action in passing the bill, in order that the bill may be amended as follows:

Change the title so as to read: "A bill granting a pension to Hannah T. Knowles."

Change the initial letter in name of the deceased sailor from "T" to "M," so as to read: "William M. Knowles."

Mr. Jacob H. Gallinger, of New Hampshire, being recognized when the message was read, said:

Mr. President, a few days ago a Senate bill was recalled from the President precisely similar to this one. Understanding that after a bill had been signed by the presiding officers of the two Houses of Congress it could not be reconsidered and amended, I introduced a new bill, which was passed through the Senate and sent to the other House. I want now to ask the Chair whether, in his opinion, it is competent for this body to reconsider and amend a bill that has received the signatures of the presiding officers of the two Houses?

¹ First session Fifty-seventh Congress, Record, p. 2876.

² Record, p. 2845.

³ Record, p. 2926.

⁴ Record, p. 4141.

⁵ William P. Frye, of Maine, President pro tempore.

The President pro tempore said:

In the opinion of the Chair, the only remedy in such a case is the introduction of a new bill.

Thereupon, on motion of Mr. Gallinger, the resolution of the House of Representatives was laid on the table.

On April 7¹ the Senate considered a new bill (S. 5046) for the promotion of anatomical science, etc., in the District of Columbia, in place of a similar bill (S. 2291) which had been recalled from the President after it had passed the two Houses.

3516. On January 31, 1901,² the President of the United States, in accordance with a request of the House and Senate, returned the bill (H. R. 5048) entitled "An act to confirm in trust to the city of Albuquerque, in the Territory of New Mexico, the town of Albuquerque grant, and for other purposes."

On motion of Mr. John F. Lacey, of Iowa, by unanimous consent, the vote on the passage of the bill was reconsidered.

Thereupon Mr. Pedro Perea, of New Mexico, offered this amendment:

At the end of section 1 strike out the period and place a semicolon and add the following: "and also reserving therefrom any private land grants that may have been or may hereafter be confirmed by the Court of Private Land Claims or other authority of the United States."

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

On February 2³ the bill, with the amendment of the House, was laid before the Senate. A question was raised as to the procedure; and the bill and amendment, after debate, were referred to the Committee on Rules.

On February 4⁴ the House, on motion of Mr. Perea, passed a resolution requesting the Senate to return the bill to the House.

On February 6,⁵ the bill having been returned from the Senate, Mr. Lacey, by unanimous consent, presented, and the House agreed to, this resolution:

Resolved, That the vote whereby the House agreed to the amendment to the bill (H. R. 5048) to confirm to the city of Albuquerque, in the Territory of New Mexico, the town of Albuquerque land grant, and for other purposes, be reconsidered, and that said amendment be withdrawn; and that the bill be transmitted to the Senate.

On February 7,⁶ in the Senate, by unanimous consent, the votes whereby the bill was ordered to be read a third time and passed were reconsidered, and an amendment, identical with that first agreed to by the House, was adopted. The amendment was then ordered to be engrossed, and the bill was ordered to be read a third time and passed.

On February 8,⁷ on motion of Mr. Perea, the House concurred in the Senate amendment.

The bill was then reenrolled, signed by Speaker and President pro tempore, and transmitted to the President of the United States for approval.

¹ Record, p. 3754.

² Second session Fifty-sixth Congress, Record, p. 1762; Journal, p. 178.

³ Record, pp. 1843-1845.

⁴ Journal, p. 191; Record, p. 1920.

⁵ Journal, p. 198; Record, p. 2046.

⁶ Record, p. 2054.

⁷ Journal, p. 211; Record, p. 2179.

3517. On February 5, 1901,¹ the Speaker laid before the House a message from the President of the United States, returning, in accordance with the request of the House and Senate, the bill (H.R. 10761) entitled "An act granting an increase of pension to Oliver H. Cram."

Thereupon, by unanimous consent, Mr. James W. Ryan, of Pennsylvania, offered the following resolution:

Resolved by the House of Representatives (the Senate concurring), That the Committee on Enrolled Bills of the two Houses be authorized and directed to correct the enrolled bill of the House (H.R. 10761) entitled "An act granting an increase of pension to Oliver H. Cram," by striking out the words "Oliver H. Cram" wherever they occur in the title and text and inserting "Orville H. Cram."

The resolution was agreed to.

3518. On August 16, 1888,² the enrolled bill (H. R. 10060) "prescribing the times for sales and for notice of sales of property in the District of Columbia for overdue taxes" was reported in House and Senate and signed by the Speaker and President pro tempore.

On August 27³ the House considered by unanimous consent, and passed, a concurrent resolution requesting the President of the United States to return the bill to the House. The Senate passed this resolution in concurrence, and the same day the President returned the bill to the House by a message,⁴ and both were referred to the Committee for the District of Columbia.

On September 25,⁵ in the House, by unanimous consent, the votes on the passage and engrossment and third reading were reconsidered, the bill was amended, and as amended was again engrossed, read a third time, and passed.

On September 26⁶ the amendments were concurred in by the Senate.

On September 28⁷ the bill was reported from the Committee on Enrolled Bills as duly enrolled, and was signed by the Speaker, and on October 1⁸ the President pro tempore of the Senate signed the same.

The bill subsequently became a law by the President's signature.⁹

3519. An error in a bill that has gone to the President of the United States may be corrected by a joint resolution.—A clerical error in a bill that has gone to the President may be corrected by the passage of a joint resolution. See joint resolution No. 31, reported from the Committee on Enrolled Bills on May 13, 1846, and passed by the House that day.¹⁰

On May 15,¹¹ the President approved the resolution.

Also, on June 26, another.¹²

¹ Second session Fifty-sixth Congress, Journal, p. 194; Record, p. 1971.

² First session Fiftieth Congress, Record, pp. 7614, 7642.

³ Record, pp. 7973, 7996; Journal, p. 2672.

⁴ Record, p. 8012; Journal, p. 2684.

⁵ Record, p. 8935; Journal, p. 2832.

⁶ Record, p. 8951; Senate Journal, p. 1466. The Senate Journal shows that "the additional amendments of the House" were agreed to by the Senate, and that this was the extent of the Senate's action.

⁷ Record, p. 9018.

⁸ Record, p. 9052.

⁹ Record, p. 9536.

¹⁰ First session Twenty-ninth Congress, Journal, p. 809.

¹¹ Journal, p. 815.

¹² Journal, p. 1006.