

poses to the local authorities over ground outside the navy-yard walls. I trust there will be no objection to the bill.

Mr. McMILLAN. I think that bill had better go over. I should like to look into it.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The bill will be passed over.

SALMON FISHERIES OF THE COLUMBIA.

The next bill on the Calendar was the bill (S. No. 492) for the protection of the salmon fisheries of the Columbia River.

Mr. CAMERON, of Wisconsin. That bill has not been reported by any committee. I think it had better go over.

The VICE-PRESIDENT. Objection being made, the bill will be passed over.

REVISED STATUTES.

The next bill on the Calendar was the bill (S. No. 541) to amend an act entitled "An act to provide for the preparation and publication of a new edition of the Revised Statutes of the United States," approved March 2, 1877; which was considered as in Committee of the Whole.

The act referred to is by this bill amended by striking out from the ninth and tenth lines of section 4, as published in the nineteenth volume of the Statutes at Large, the words "and conclusive;" and, in the tenth line, the words "and treaties;" and by inserting after the word "Territories," at the end of the eleventh line, "but shall not preclude reference to, nor control, in case of any discrepancy, the effect of any original act as passed by Congress since the 1st day of December, 1873."

Mr. CHRISTIANCY. The bill was reported from the Committee on the Revision of the Laws. It is a unanimous report, after a conference with the same committee of the House of Representatives. The principle of the bill is this, which it is proper to explain: The Revised Statutes, the present edition, on their adoption repealed all the laws which were re-enacted in them, and it was found that there were a great many errors in the revision adopted, which altered the law contrary to the intention of Congress in the passage of them. We have been constantly correcting those errors, but the courts cannot look back to the original and be governed by that, because the original act has been repealed and the revision has made itself conclusive evidence. Now, to avoid any such result as that it has been thought best by the committees of both Houses that the revision should only be made evidence, but should not preclude the court from looking back at the original act as passed; that is, in regard to acts which have been embodied in the edition since the other revision took effect, since December 1, 1873. I think the committee were unanimous in that principle. I think it is a very proper act to be passed, and it is very essential that it should be adopted as soon as possible in order that the compiler may know what course he is to take.

Mr. DAVIS, of Illinois. It makes the revision only *prima facie* evidence.

Mr. CHRISTIANCY. That is it.

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

SOLDIERS OF THE MEXICAN WAR.

The next bill on the Calendar was the bill (H. R. No. 376) for the payment to the officers and soldiers of the Mexican war of the three months' extra pay provided for by the act of July 19, 1848.

The Committee on Military Affairs proposed to amend the bill by inserting the following proviso:

Provided, That the provisions of this act shall include also the officers, petty officers, seamen, and marines of the United States Navy employed in the prosecution of said war.

Mr. SARGENT. Is there a report?

Mr. MORRILL. I think before we act upon this bill we ought to have some report from the committee and perhaps from the Pension Bureau and the Secretary of War as to the amount that will be involved in such an appropriation. I therefore object to its consideration at the present time.

The PRESIDING OFFICER. Objection is made, and the bill goes over. The next bill will be reported.

J. A. HENRY.

The next bill on the Calendar was the bill (S. No. 33) for the relief of R. W. Corbin and others, the consideration of which was resumed as in Committee of the Whole.

The Committee on Claims proposed to amend the bill by striking out all after the enacting clause and in lieu thereof inserting:

That the Secretary of the Treasury be, and hereby is, directed to pay the sum of \$52, without interest, to J. A. Henry, for rent of one house in Little Rock, Arkansas, from October 1, to November 30, 1864, used for quarters for teamsters, under contract with the said Henry, at a monthly rental of \$26 per month, and for which a voucher, duly signed and certified by the proper quartermaster, was given; and the said sum of \$52 is hereby appropriated to pay the same.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill for the relief of J. A. Henry."

THOMAS BAYNE.

The next bill on the Calendar was the bill (S. No. 349) to authorize the commissioners of the District of Columbia to refund a certain tax erroneously collected, which was considered as in Committee of the Whole. It authorizes the commissioners of the District of Columbia to refund to Thomas Bayne the amount of a certain tax erroneously collected of him, with interest thereon from the date of payment, the tax having been assessed as the cost of a brick foot-pavement laid down in front of square 726, in the city of Washington, on the east side of First street, east, between A and B streets, north, and chargeable to square 726, but by mistake assessed against the lots in square 687, on the west side of First street, east, then owned or represented by Bayne.

The Committee on the District of Columbia reported the bill with amendments.

The first amendment was, in line 5, after the name "Thomas Bayne," to insert "if in their judgment he is entitled to the same."

Mr. SARGENT. Did the committee ascertain the facts recited in the bill?

Mr. ROLLINS. It did. There is no printed report in the case, but I have a very brief written report which explains the bill fully, and if it is desired it can be read.

Mr. SARGENT. Cannot the Senator state it verbally?

Mr. ROLLINS. It seems that in 1871 Thomas Bayne, the party for whose relief the passage of this bill is asked, represented certain persons who owned certain lots of lands in square 687, adjoining First street, east, which is the northeast quarter of the present Capitol grounds, between A and B streets, north. The District authorities directed that a brick side-walk should be constructed upon the east side of First street, but in assessing the tax they assessed it upon the lots on the west side of First street, so that the owners of the lots in square 687 were called upon to pay the tax which should have been assessed against the owners of lots of land in square 726; and this bill is to authorize the commissioners to refund that tax erroneously assessed.

Mr. SARGENT. What is the amount of it?

Mr. ROLLINS. Two hundred and ninety-seven dollars and ninety cents. The District Legislative Assembly passed an act refunding this tax, but before the bill was signed by the governor the government was displaced; and the commissioners now say that they have no authority whatever to refund this tax. The bill simply gives them the authority to refund it, if they shall upon examination find the request a just and equitable one. That is all.

Mr. HOAR. I should like to ask the Senator from New Hampshire whether the parties taxed had it in their power to refuse payment at the time; or why did they not sue the officer at the time?

Mr. ROLLINS. Before the tax was paid the Government took possession of the land for the extension of the Capitol grounds and refused to pay for it until this tax was paid. The owners paid the tax, looking to future action of Congress or of the District government to relieve them of their difficulty.

Mr. HOAR. This bill seems to apply to a very small sum, but it appears to me to involve a very important principle, which applies to every tax almost that has been assessed under the authority of the National Government or of the State governments, from trifling sums like this to the cotton-tax, involving many millions of dollars; and for one, I am opposed to the repayment to any person, by the authority of the Government, of any tax which he claims has been erroneously collected, either under a mistake of constitutional power or of legal interpretation or of the facts, after the time for settling the matter has gone by. The effect of such a principle is that you put upon one year or one generation the burdens which belong to its predecessor, when the holders of the property, the inhabitants of municipalities have changed altogether. Each year and each generation ought to bear its own burdens; and of necessity the taxation, the assessing upon individuals of their share of those burdens, must be done in a certain rude and inexact manner. There is a liability to mistake. And one generation, or one party in power, the people in one year, may entertain different opinions as to the construction of the Constitution or the construction of the law, or as to what the fact was, from the people of a prior generation.

Now, to illustrate by a strong case: nearly or quite the whole of one great party in this country believed for a long time that a tariff for protection was unconstitutional, and that all duties assessed upon imports for such purposes were in violation of the Constitution itself. Now, suppose when nearly all the expenses of the Government had been paid from such an imposition there should come in power a party entertaining the view that it was unconstitutional, is it the duty of that party immediately to refund and add to the burdens of their year a provision for the expenses of the previous year which had been defrayed, as they think, in an illegal fashion? It seems to me there is but one safe rule, and that is when a tax has been paid into the Treasury, whether by mistake or otherwise, to allow the party the remedy by resisting its payment and compelling the Government to resort to legal process or by suit against the officer who collects it. In this case, according to the statement of the Senator in charge of the bill, the party voluntarily and for the sake of induc-