McGowan had selected three expert advisers, who were to sit with him at the hearing and assist him in consideration of the evidence after it should be closed, at 12:30 o'clock.

The Acting Mayor believed he would be in a position to act on the code by to-morrow night, and had planned to return it to the Board of Aldermen to-morrow or Friday.

While he was engaged in a further study of the subject in the Mayor's office yesterday afternoon Assistant Corporation Counsel Crowell, the Mayor's adviser, walked into the room with a telegram in his hand. It was addressed to Mr. Crowell, and in it Mayor McClellan announced that he had decided to return to the city and handle the code personally.

Mr. McGowan could hardly believe the news at first. He had heard nothing directly from Mayor McClellan and had not the slightest inkling that the code was to be taken out of his hands in so unceremonious a manner. To the newspaper men Mr. McGowan had no comment to make on the Mayor's decision. "It speaks for itself," he said. "If the Mayor wishes to return and resume his official responsibilities, that is his right. I shall turn the code over to him to-morrow, and my responsibility in the case will cease."

CALL IT SHABBY TREATMENT.

Friends of Mr. McGowan who heard of the sudden determination of Mayor McClellan to supersede him and the indirect way in which the announcement was made had no hesitation in denouncing it as shabby treatment. They declared that it would probably end the friendly relations that have existed between the Mayor and Mr. McGowan.

If it be true, as is so often asserted, that Charles F. Murphy, Daniel F. Cohalan and other members of Tammany Hall have an interest in the National Fireproofing Company, which is to benefit so largely by the new code, to veto the measure would be to deal a blow of tremendous force. Mr. Murphy might well afford to pledge the support of the Tammany organization to advance aspirations for a governorship nomination rather than see the code go by the board.

Persons familiar with the political methods of Senator McCarren do not hesitate to say he would be only too glad to lend his support in the state convention to a person who might be responsible for defeating the efforts of the Tammany organization to get the new code added to the city ordinances.

So far as is known Mayor McClellan has received no assurances of support from either side in his hankering after the Democratic nomination for Governor a year from next fall. It is a question as to whether the support of Tammany or of McCarren would be the most valuable. Murphy controlled the last convention by joining with "Fingey" Conners in the nomination of Lewis Stuyvesant Chanler for Governor, but those who have kept track of the state situation are inclined to think that McCarren may be able to make a combination with Conners which will place the Tammany vote in the minority at the next convention.

MAYOR MUST HOLD HEARING.

It is assumed that, as Mr. McGowan ordered to-day's hearing in his capacity as Acting Mayor, Mayor McClellan will be obliged to hold it as announced. Mayor McClellan will have to preside, according to the charter. The outlook is that the hearing will be one of the most stormy ever held. Those in favor of the code were hastily lining up their forces last night.

Under the charter, as construed by Assistant Corporation Counsel Crowell, the Mayor has until September 14 to act on the code. The charter says that city ordinances shall be returned to the Board of Aldermen within ten days after their receipt by the Mayor, or at the next meeting of the board. On the day the code was passed the board adjourned until September 14. It will hold an extraordinary meeting next Monday to fix the tax rate, but it is held that the charter referred to a regular meeting.

If the Mayor vetoes the code, there is not the ghost of a chance of its being passed over his veto, as that would require a two-thirds vote.

Although a variety of interests have opposed the code, the main fight seems to have been between the concrete interests, as represented by the Roebling Construction Company, and the hollow tile interests, as represented by the National Fireproofing Company. Richard Croker is interested in the Roebling company, his son being secretary of the company, and there has been much talk that his visit to this country last winter was largely to try to prevent the passage of a code that would interfere with the virtual monopoly of the concrete interests and create a monopoly for the hollow tile business, backed by Charles F. Murphy and other Tammanyites.

M'CARREN SURPRISED.

Says He Sees No Political Significance in Mayor's Return.

Senator McCarren expressed surprise last night when informed that Mayor McClellan was expected to return from his vacation to take action on the new building code, but professed to see no political significance in the Mayor's move. He said that he had no communication of any kind regarding the Mayor's attitude toward the code.

"Do you think that Mayor McClellan will hold his power of veto as a club over Murphy's head to get political preferment in the future?" the Senator was asked.

"I know nothing about what the Mayor intends to do," was the reply. "I know nothing of any plan to get the Mayor back into the good graces of Tammany Hall."

Senator McCarren said that he had not expressed any opinion to the Mayor as to what action would be acceptable to Brooklyn. "The votes of the aldermen from this borough against the code speak for themselves."

HUNDRED ASKS HAFFEN'S REMOVAL

Fears Bronx Official Would Influence Election by Means of Padded Payrolls.

Representatives of the Committee of One Hundred will attend the hearing before Governor Hughes to-morrow on the report of Commissioner Wallace MacFarlane deciding that certain acts of President Haffen of The Bronx were sufficient to subject him to removal.

Commissioner MacFarlane stated that he would not pass on the advisability of the removal of President Haffen, irrespective of the force of the evidence, in view of the fact that his term would soon expire and a municipal election was impending. The executive committee of the Committee of One Hundred expressed its views on the subject in a statement issued last night:

The immediate removal of Borough President Haffen is necessary in order to secure the fairness of the municipal election in The Bronx. The report of Commissioner MacFarlane shows that Mr. Haffen has used the powers of his office for the perpetuation of his political machine. That he would use these powers for the purpose of improperly influencing the coming election, if he is not quickly removed, is clearly to be presumed from his past record.

There are large sums of city money still at the disposal of Mr. Haffen, and this money should be expended in the interests of the people of The Bronx for necessary public improvements, instead of being held by Mr. Haffen for a sudden padding of the payrolls to remunerate his political supporters shortly before the election.

SHEVLIN'S BONDMAN LOCKED UP.

Herman Sacks, of Brooklyn, was taken from that city on requisition yesterday and lodged in the county jail at Jersey City, after Judge Carey had fixed the bail at $10,000. Sacks, who is said to be a professional bondsman, became surety for $2,000 for Vincent Shevlin, the special officer charged with killing Harry Marshall, on May 17, 1907, during the longshoremen's strike in Hoboken. Shevlin was indicted for murder, but is a fugitive. When the property given by Sacks as security was inquired into it was found that its value was not over $300.

MR. TAFT NOT YIELDING

STANDS SQUARELY BY HIS DEMANDS.

Warns Senators of What May Happen to Schedules if the Pending Tariff Bill Fails.

[From The Tribune Bureau.]

Washington, July 20.—The President is still standing squarely on his demand for free hides, free iron ore, free petroleum and free coal, and for the House rate of $1 a thousand feet on lumber.

The Senate leaders are authority for the statement that if the President would accept free hides, free iron ore, free petroleum, a duty of 45 cents on coal and $1 25 on lumber, the conferrees could reach an agreement on all other points in dispute within twenty-four hours, and make their reports to their respective houses. They also express willingness to throw in the Senate rates, which are the Dingley rates, on gloves and hosiery, and a rate of $3 a ton on print paper, for good measure.

The President is laboring with certain recalcitrant Senators to bring them to a reasonable view of his demands. He entertained Senator Warren, of Wyoming, at luncheon to-day for this purpose. Later in the day he had a conference with Speaker Cannon, who remained only a few minutes, and with Senator Aldrich, who remained about an hour. But thus far he has given no indication of yielding his demands, his conferences with Senators taking rather the form of warnings of what will happen to schedules in which they are especially interested if they kill the pending measure and compel another attempt to revise the tariff two years hence. And when the President discusses this possibility he lays especial emphasis on what will be done to the cotton and woollen schedules. Senator Warren is, of course, particularly interested in the maintenance of the present rates on wool and woollen goods, as is his colleague. The duties in the wool schedule have, in fact, made Wyoming what it is, and Senator Warren is himself reputed to be the greatest shepherd the world has ever known.

PAYNE FIGHTING FOR REDUCTIONS.

Representative Sereno E. Payne is making a valiant fight for the reductions demanded by the President. He has won not only the respect but the confidence and generous admiration of the President by the forceful fight he has put up. The President is standing squarely behind him, and the House is with the President, so that the combination is a hard one to beat. In the opinion of the President, Mr. Payne is the one conferree who is a genuine and sincere revisionist, the one man on the committee who is thoroughly in sympathy with the progressive spirit which the President believes permeates the entire Republican party, with the exception of certain protected interests and their representatives in Congress.

Every day brings the President renewed assurance that he is correctly representing the views of his party as a whole in his demand for downward revision and for the transfer to the free list of those raw materials on which there is no occasion for protection. From every state in the Union letters are pouring into the White House commending the President's stand, and the editorials received would indicate that the Republican press is a unit in its approval. So, too, with members of the House. They are receiving all manner of communications telling them that the course of safety lies in standing by the President in his demand for reductions of the tariff, that the Senate bill is extremely unpopular, etc.

REPUBLICAN DEFEAT NOT FEARED.

Some of the President's opponents are trying to scare him with the prediction that if the tariff bill fails at this session the next House will be Democratic, and that thus another revision of the tariff in his term will be rendered impossible. The President regards the argument as unworthy of serious attention. He is convinced that were the Senate to kill the pending measure and were he to explain the facts to the public practically every Republican candidate for the House who solemnly pledged himself to stand by the President in an effort to wrest genuine tariff revision from the Senate would be elected.

He does not believe the people would be any slower to perceive that to elect a Democratic House would render revision of the tariff impossible than are the politicians. He has no doubt as to the widespread demand for genuine revision and as to its continuance, so that he believes with an interval of two years and the added impetus which that demand would gain he would be able with another Republican House to enter on a revision beside which this one would pale into insignificance—a revision which would not cut tenths of a cent from the steel schedule, but cents and even dollars; which would open up the wool schedule to the knowledge of the public and make its re-enactment an impossibility; which would reduce practically every paragraph in the cotton schedule, and would, as a whole, constitute a far reaching and effective revision of the tariff.

RELUCTANT TO HAVE BILL FAIL.

There are two features of the present bill which the President regards as so important, however, that he is reluctant to have it fail. One is the provision for a tariff commission, without which he fears no complete revision will ever be possible. The other is the corporation tax, which he believes will also give information of a most important character for the further revision of the schedules. He fears that without the machinery which these afford the actual results of the tariff must remain forever shrouded in mystery, and that conviction makes him a little more conciliatory, a little more patient, a little more anxious to save the pending measure than he otherwise would be.

In answer to the argument that all legislation is the result of compromise, and that he, too, must expect to make concessions, the President submits that he is making great concessions in refraining from demanding serious cuts all through the wool and cotton schedules and in various other portions of the bill. He has refrained from demanding these reductions not because he does not believe that they are demanded by justice and equity, but because he has been trying to be conciliatory and to bear in mind that progress is always made slowly, because he feels that if he gets some reductions now and the machinery which will make others inevitable later on he will have gained as much as he can expect.

Incidentally, it may be remarked, the President's views of the usefulness to which the tariff commission may be put is striking terror to such stanch "stand-patters" as Speaker Cannon, Representative Dalzell and others, and if they dared they would, despite their promise to accept the Senate provision, repudiate it now. They are saying privately that they regard it as more than dangerous to put into the hands of "such a rank free trader" as the President the machinery by which he may be able to produce an endless amount of evidence in support of extreme and radical reduction.

AN "INSURRECTION" ABANDONED.

Despite the President's firm attitude and the determination of Representative Payne to obtain compliance with the President's wishes, certain of the extreme tariff members of the House held a meeting to-day at the Capitol at which they seriously considered the advisability of trying to organize an insurrection against the conference report. After discussing the possible outcome of such a step for some time, they decided that it would be impracticable, and finally resolved to confine their efforts to waiting on Mr. Payne and begging him to obtain a duty of not less than 40 cents on coal, 7½ cents on hides, and anything he can get on crude petroleum and iron ore. It is hardly necessary to add that their petitions to Mr. Payne will prove about as effective as was their meeting.

CLASH IN CONFERENCE

Continued from first page.

their willingness to favor free hides, provided leather and shoes were placed on the free list.

The conference lasted nearly two hours, and in the main was harmonious, although it is understood that Mr. Borah was not enthusiastic about any reductions on wool, hides, lumber or lead.

ATTITUDE OF "INSURGENT" SENATORS.

It was decided not to take formal action until the conference report is presented. Those present at the conference were Senators Cummins and Dolliver, of Iowa; Nelson and Clapp, of Minnesota; Brown and Burkett, of Nebraska; Bristow, of Kansas; Beveridge, of Indiana; Crawford, of South Dakota, and Borah, of Idaho. It is generally believed that if the conference committee reports a bill which meets the genuine approval of President Taft, not to exceed five of the Senators named will vote against its adoption.

One of those present at the conference, who would not allow his name to be used, said:

"We felt better at the end of our session than we did at the beginning. Some of us were of the opinion that reducing duties or placing raw materials on the free list would not help consumers, and that in confining his efforts to raw materials the President had drawn the country's attention from the more important matter of getting genuine downward revision of the tariff. After going over the whole situation, some of us thought the President was doing the best he could, all circumstances considered. The insurgents do not desire to shoulder the responsibility of two or more years of the Dingley rates. We reached no conclusions to-day, but after the conference report is ready and we see just what the new bill is to be, we will meet again."

After the conference, Senator Dolliver said:

"The Republicans who were unable to vote for the pending tariff bill when it passed the Senate have been greatly pleased and encouraged by the efforts of the President to change the character of the measure by the exercise of his influence with the conference committee. It is our earnest hope that he will be successful in securing real revision.

"It is evident from what he has said through the press that the President seeks not only to reduce the duties on certain so-called raw materials, but to moderate the high rates upon manufactured articles.

"If he should succeed in placing only a few materials upon the free list, leaving the textile schedules and other schedules equally objectionable substantially unchanged, the result would be a one-sided revision, out of which little good would come to the general public. I earnestly hope that such a situation may be avoided."

WANT TAX LIMITED.

Two-Year Term for Corporation Measure Seems Improbable.

[From The Tribune Bureau.]

Washington, July 20.—Certain members of the New York delegation and others who are opposed to the corporation tax are making a last effort to obtain some concessions from the President and the conference committee. They have revived the proposition that a provision be inserted making the tax expire at the end of two years.

This proposed amendment has been brought to the attention of Mr. Taft. There is little doubt that if the President would consent to a limitation on the life of the tax the conference committee would be glad to make the necessary change. Some of the New York men are authority for the statement that the President is considering their suggestion. On the other hand, members of the Senate who enjoy the confidence of the President assert that there will be no limitation on the life of the tax with Mr. Taft's consent, and that without his hearty approval no changes will be made in the modified draft of the corporation tax measure prepared by Attorney General Wickersham.

SHOE MEN TO MR. TAFT.

Their Convention Indorses His Position in Regard to Free Raw Hides.

Boston, July 20.—More than two hundred members, representing branches of the shoe and leather trade in the country, were gathered in this city today for the opening of the National Leather and Shoe Finders' Association's fifth annual convention. The convention will be in session four days.

A telegram to President Taft indorsing his position in relation to free raw materials was adopted by unanimous vote at the first business session. The telegram, which is signed by President Klein, as president, read:

To the President of the United States:

The National Leather and Shoe Finders' Association, representing twenty-eight states, assembled in Boston in fifth annual convention, desires to record its belief that your statement in regard to certain free raw materials, together with the tariff commission provision, will be one of the greatest benefits to the industries affected, and to the eighty-eight million consumers of the United States. We assure you of our enthusiastic support.

PERKINS SUPPORTS TAFT.

Will Follow President's Wishes in Vote on Tariff.

Washington, July 20.—Representative James Breck Perkins, of New York, who a few days ago made a bitter attack on the Senate tariff bill and declared that under no circumstances would he vote for it, has announced that he is satisfied with the President's programme and will give it his hearty support. Mr. Perkins's opinions are highly respected on both sides of the House. He is not prone to take extreme views and an expression from him always carries weight with his colleagues.

"The assertion in this morning's Tribune that the President has the House with him in this fight is absolutely correct," said Mr. Perkins. "If the conference report is not acceptable to him he will have only to make it known to his friends in the House and the report will be rejected. There are a number of members who feel, as I do, that the Payne bill, while not all that it might be in the way of a revision, was a reduction from the Dingley law. For that reason we voted for it, and if the President can persuade the conferrees to make their report along the lines of the Payne bill, I am sure the House will be satisfied. It is necessary for us to consider the wishes of the people in this bill, so that when we take the stump in the next Congress campaign we will be able to say that the pledge of the Republican party has been carried out. It was not carried out in the Senate bill, but from the sentiment I found on my recent trip home I judge that the President's programme will be eminently pleasing to the country. If his views are not respected by the conferrees there will be no tariff bill."

"THE TIMES'S" SUPPLEMENT ON TARIFF.

London, July 20.—"The Times" this morning published a four-page supplement devoted to articles on the various aspects of the American tariff and its effect on different countries and trades.

FOR PRESIDENT, $25,000

House Votes Travelling Expenses—Blow at Bonding Companies.

[From The Tribune Bureau.]

Washington, July 20.—The urgent deficiency bill was passed by the House to-day after four days of tempestuous debate. The amount carried by it is $454,808, or $20,408 more than the original sum, and includes $25,000 for travelling expenses of the President.

The adoption of a special rule was necessary before Representative Tawney could obtain the passage of his amendment providing that no government employe shall pay a higher premium for his bonds than he paid in 1908. This amendment was presented by Mr. Tawney because of the increases in rates which have been made by the bonding companies under an agreement. This had the effect of reducing the salaries of a number of government employes who were forced to pay for their bonds out of their own pockets. The bonding companies found several friends on the floor, however, and fifty-four members, chiefly Democrats, voted against the rule. Representative A. Mitchell Palmer, of Pennsylvania, opposed the amendment as unwise and unjust, but did not make the injustice apparent. Representative Gill, of Maryland, in whose district many of the large bonding companies have their headquarters, also opposed the amendment on the ground that it was presented by five or six men who once constituted the Appropriations Committee, but have no authority until they are reappointed by the Speaker. The rule was adopted by a vote of 145 to 54, and the amendment was agreed to without a division.

Mr. Tawney gave notice that before the present session closed he would endeavor to have a resolution adopted authorizing a committee to investigate the bonding of government officers.

Representative Bowers, of Mississippi, moved to recommit the bill with instructions to eliminate the appropriation for the President's travelling expenses. His object was to obtain a rollcall, in the hope that the Republicans would be afraid to go on record. His hopes proved groundless, however, for his motion was lost by a vote of 113 to 141. Representatives Hinshaw and Norris, of Nebraska; Kendall, of Iowa; Lindberg and Nye, of Minnesota; Murdock, of Kansas, and Nelson, of Wisconsin, voted with the minority against the motion, and Representatives Pou, of North Carolina; Pujo, of Louisiana, and Rucker, Martin and Taylor, of Colorado, voted for it.

Representative Parsons obtained the adoption of an amendment by which the Treasury Department is authorized to pay the executors of the estate of Mary S. Hoe $33,000, a protested inheritance tax which was awarded her by the courts. Representative Olcott offered an amendment to pay J. M. Ceballos & Co., of New York, $205,000 for work done for the government in the Spanish-American War, but it was ruled out on a point of order made by Representative Shackleford, of Missouri.

After denying the usual extra month's pay to officers and employes of the Capitol, the House threw out of the bill the allowance for extra work to committee stenographers.

NAVY YARD SOIL SINKS.

Buildings Damaged and Endangered by Motion of Underlying Sand.

Shifting sands under what is hoped will be the foundation of drydock No. 4 in the navy yard in Brooklyn have carried their work of undermining the surface soil so far that workmen are now engaged in taking down the cornice and part of the brickwork and shoring up the eastern end of building No. 20, in which a serious crack developed some time ago. The subsidence of earth is marked for some distance outside the dock reservation, and if the quicksand continues its motion it may endanger the big construction woodworking shop, building No. 131, on the top floor of which is the electrical school for enlisted men.

A rumor yesterday that the sinking of the earth had caused a crack in the façade of building No. 41, the largest of the power plants in the yard, and made necessary the stopping of the big dynamos, was shown upon investigation to be an error. The plant is shut down, but not from the cause given.

While the plant is not running, however, the yard is in grave danger from fire, as the high pressure pumps, it is said, will be removed to a place alongside building No. 10, and a new connection with the 16-inch salt water main made for them. This will require at least ten days, and during that time the chief fire fighting force of the yard will be out of commission.

PELLAGRA KILLS SIX IN ILLINOIS.

Three Women Now Suffering from Mysterious Disease at Insane Asylum.

Chicago, July 20.—Pellagra, a mysterious and fatal disease, usually found only in the Southern States and in tropical countries, has been discovered among inmates of the insane wards at the Dunning asylum.

Three middle-aged women are now suffering with the malady and six other women have succumbed to the disease in the last year. At the time of their deaths Dunning physicians were mystified as to the nature of their ailments. A suspicion that pellagra was the affliction was confirmed yesterday by Dr. C. H. Lavinder, a surgeon of the United States Public Health and Marine Hospital Service, who for the last two years has been making an exhaustive study of the disease at Columbia, S. C.

"Pellagra is one of the most mysterious diseases known to science," said Dr. Lavinder. "Its cause is not entirely understood, and no certain cure has been found for it. Most authorities attribute the disease to the use as food of spoiled or damaged corn or its products."

LYNCH MAN WHO FRIGHTENED GIRLS.

Negro Attempted to Take Horse and Buggy from Two Georgia Young Women.

Eastman, Ga., July 20.—Because he attempted to take their horse and buggy from two young white women of Eastman, King Green, a negro, was lynched by a mob of a hundred and seventy-five men at Gum Branch to-day.

The Misses Nicholson, daughters of Samuel Nicholson, one of Eastman's prominent citizens, while four miles out from Eastman this morning were met in the road by the negro, who caught their horse by the rein and told them to get out, as it was his horse and he intended to have it. The young women whipped up their horse and tried to get away, but the negro held to the horse until frightened away by their screams.

Dogs from the county convict camp were placed on the negro's trail, and after a run of several hours he was captured. The mob later took him from the sheriff's posse.

CLOTHIERS TO PROTEST TO MR. TAFT.

Committee of National Association Goes to Washington to Oppose Wool Schedule.

The special committee of the National Association of Clothiers, which was recently appointed to file the protest of that association with the President and Congress against the provisions in the wool schedule of the Dingley bill which are retained in the bill now under consideration in Congress, started for Washington yesterday afternoon.

The purpose of the trip is to enable the committee to call on President Taft and attempt to convince him that the Dingley bill, in its operations since it became a law, in 1897, has produced two results which react upon the wearer of ready made clothing.

One result, they say, is that, through the discriminations against low grade wool, woollen cloths have depreciated in texture and decreased in weight. The other result, they will try to show, is that this discrimination, operating against low grade and in favor of high grade wool, has enabled the manufacturers of worsteds and yarns to control the prices of woollen cloths, and, to a large extent, of raw wool, practically dominating both markets.

RUSH TO IMPORT CHAMPAGNE.

Boston Payments for Four Months on Sparkling Wine Show Increase of About $40,000.

Boston, July 20.—A rush in the importation of champagne and other wines into Boston, in anticipation of an increase in duty under the new tariff bill, is reported from the custom house.

Payments on champagne alone in the last four months show an increase of about $40,000 over the same period last year.

EMPLOYERS' LAW FAILS

FEDERAL ACT CAN'T BE ENFORCED IN STATE COURTS.

Connecticut Supreme Court of Errors Decides Jurisdictional Point Against Statute.

New Haven, July 20.—The Connecticut Supreme Court of Errors this afternoon handed down a decision in favor of the New York, New Haven & Hartford Railroad in the actions of William H. Hoxie and Edgar G. Mondou, for damages, finding no error. In effect this means that the court, by unanimous opinion, declares the employers' liability act, passed by Congress on April 22, 1908, cannot be enforced in the state courts.

In the Hoxie case, after the railroad as defendant in the Superior Court had set up the plea that the act in question was unconstitutional in the parallel case of Mondou, who also was a railroad brakeman injured while coupling cars, the federal government intervened, the Department of Justice being represented by special attorney. The arguments were made at Hartford last month.

The opinion was written by Chief Justice Baldwin. The case was an action for damages brought by William H. Hoxie, a train hand, for injuries received on the railroad of the defendant corporation at Auburn, Mass. The complaint alleged that while coupling cars the plaintiff was hurt, due to the negligence of a fellow servant in control of another train running between Hartford and Worcester. He based his claim on the federal act relating to the liability of common carriers engaged in commerce between states. A demurrer to the complaint was sustained and judgment rendered for the defendant. The decision upholds Judge Ralph Wheeler, of the Superior Court, who had declared unconstitutional the act in question in the Mondou case. In his opinion Chief Justice Baldwin says:

The act of Congress now in question creates a statutory right of action. It is one not existing in common law nor in chancery. It is one which, if warranted by the Constitution of the United States, may, under their general laws relative to the jurisdiction of the circuit courts of the United States, whenever damages exceeding $2,000 are claimed, be made the subject of judicial proceedings in the courts of the United States as a suit of a civil nature arising under the laws of the United States, without reference to the citizenship of the parties.

Two questions present themselves at the threshold of the present case. The first is whether Congress intended by this act to authorize the institution of an action under it in the courts of the state. The second is whether, if such were its intentions, it had power to make it incumbent on the state courts to assume jurisdiction.

At common law a servant cannot recover from his master for injuries received from the negligence of a fellow servant acting in the same line of employment. Congress has now seen fit to give an action where the common law denied it.

Chief Justice Baldwin then goes into the law on the question of damages, as laid down by various courts of jurisdiction, including the Supreme Court of the United States, and says:

First—Congress did not intend by the act of April 22, 1908, to authorize the institution of an action under it in the courts of the states.

Second—It had no power to make it incumbent on the state courts to assume jurisdiction of such an action.

Third—The issues for the Superior Court involved the consideration of these points, which justified of themselves the dismissal of the plaintiff's action, but further

Fourth—The act, so far as it concerns this cause, is wholly void by reason of certain of its provisions, which cannot be separated from the rest.

COLLEGE FRIENDS TO GO HIS BAIL.

Man Is Held in Washington on a Charge of Swindling Congressmen.

Ithaca, N. Y., July 20.—Fordyce A. Cobb, an attorney, left to-night for Washington with a bail bond of $5,000, hoping to obtain the release of Julius H. Ford, alias Waterbury, who is held there on charges of defrauding several Congressmen.

Ford, who was arrested in New York last month, is a resident of the town of Enfield, in this county. His parents and a sister-in-law induced six of his friends who knew him as a Cornell student to go on his bond.

WOMAN FOUND BEATEN TO DEATH.

Husband Held Pending an Investigation—Thirteen-Year-Old Son a Witness.

Pittsburg, July 20.—The mutilated body of Mrs. Mary Saloman, aged forty, was found beside a lonely road near Clairton, Penn., last evening, with the head beaten as though by a rock. Gerry Saloman, her husband, is being held, pending the coroner's investigation and a thirteen-year-old son is in custody as a witness.

Mrs. Saloman told the Clairton police last Saturday that she had been threatened and requested protection, it is said. She started to do some collecting for her husband, who is a pedler, last Saturday, but how much money she had at the time of her death is unknown. According to Chief of Police Albert Cabaugh, a handsome Italian miner had become greatly infatuated with the woman. It is also said by the police that recently the woman paid a visit to the Italian.

DOES NOT WANT NEGRO SOLDIERS.

Burlington, Vt., Getting Excited Over Its New Garrison at Fort Ethan Allen.

[By Telegraph to The Tribune.]

Burlington, Vt., July 20.—Confronted with a question similar to that which disturbed the peace of Brownsville, Tex., and resulted in a national scandal, the people of Northwestern Vermont are acting not unlike their Southern brethren.

Burlington, one of the northernmost cities of New England and a hotbed of abolition in antebellum days, is up in arms over the decision of the government to quarter twelve hundred negro cavalrymen at Fort Ethan Allen, three miles from this city.

White people have refused to eat in restaurants with the negroes, and citizens of Burlington and Winooski are seriously demanding separate cars for whites and negroes on the trolley road—"Jim Crow" cars, as they are called in the South.

Burlington, with its eighteen thousand six hundred inhabitants, is almost as badly worked up as Winooski. Burlington is a license city, while Winooski, except for "blind tigers," is "dry." It is already having trouble with negro soldiers, and anticipates much more when the entire command has arrived.

BURGESS WILL PENALIZES MARRIAGE.

Mineola, Long Island, July 20.—Disposing of an estate supposed to be worth $1,000,000, the will of W. H. Burgess, of Oyster Bay, was filed in the Surrogate's office here this morning. A trust fund of $50,000 is set aside for the three daughters—Rita Burgess Gurnell, of No. 337 Lexington avenue, Manhattan; Helen Burgess Bryan, of Paris, and Elsie Burgess, who lives with her mother. The remainder of the estate is left to the widow, Cora L. Burgess, in trust, but if she remarries she is to have only the interest on $10,000 and the remainder will go equally to the three daughters.

ROSER FIRED IN SELF-DEFENCE.

Northport, Long Island, July 20.—Captain Albert J. Roser and his brother, Charles, were acquitted to-day of the charge of assault, growing out of trouble at Valley Grove last week. On Tuesday last the brothers went to Valley Grove. They were invited to the pavilion, and when they reached it Charles Roser was pounced upon by several men employed about the place. One of them used a chair, and then young Roser shot a man named O'Brien, who was the manager of the place, in the lung.

WRIGHT'S NEW RECORD

MAKES BEST FLIGHT IN AMERICA.

Circles Field at Fort Myer Eighty-three Times in Eighty Minutes and Forty-four Seconds.

[From The Tribune Bureau.]

Washington, July 20.—For 1 hour 20 minutes and 44 seconds Orville Wright flew his aeroplane above the drill field at Fort Myer late this afternoon. He excelled his own record of last fall by six minutes, more than doubled that made by Curtiss a few days ago, and established a new one for the American continent. Wilbur Wright estimated the distance covered at more than fifty miles and the greatest height at nearly three hundred feet. The machine circled the field at Fort Myer eighty-three times and was under perfect control throughout the flight. After the aeroplane left the guide rail not a single untoward incident marred the unofficial trial, which was witnessed by about three thousand spectators. Those who have seen nearly all the flights declared that the entire exhibition, including the landing, was the best they ever saw.

The weather conditions were ideal. Hardly a breath of wind moved across the field, the sky was clear, and the flight ended just at twilight. Late in the afternoon, under the most auspicious conditions, the aeroplane was wheeled up the field to the starting rail by half a dozen members of the signal corps. The flight was scheduled for 5:30 o'clock. Just as everything was ready for an ascent the guide rope of the starting apparatus broke, and the 1,555 pound weight fell to the ground with a thud.

Rear Admiral Cone, chief of the bureau of steam engineering of the navy, and Lieutenant Commander Proctor offered their services, and after a little delay the rope was spliced and everything made ready once more. At 6:20 o'clock Orville Wright, after testing the machine, took his seat, the engine was started by his brother and at a signal from Orville the weight was dropped. For just four seconds the machine glided along the guide rail and then mounted slowly in the air as the crowd cheered. Darting off toward the artillery gun sheds at the lower end of the field it rose steadily to a height of about one hundred feet, when the first turn was made.

AIRSHIP CUTS "FIGURE EIGHT."

Steadily and gracefully the machine soared about the field, and it was evident to all that it was obeying every wish of the aviator. The first enthusiastic applause came as the stop watches indicated that the flight had passed the thirty-minute record of the day before, and the next when the fifty-three-minute record of Curtiss had been passed. After fifty-five circles about the field Wright began to describe figure eights, while the crowd cheered. Five times he made this figure and then resumed his regular rounds of the field.

At 7:40 o'clock, after being applauded when he passed the hour limit, and also when he broke his record of last fall, Wright began to describe small circles preparatory to descending. Exactly four seconds after the engine stopped the machine struck the ground and skidded along a few yards before coming to a halt, resting on its left wing.

Wilbur Wright was the first to congratulate his brother. "Well, I did a little better," was Orville's comment to the correspondents who crowded around him. After looking over the machine the Wrights jumped into an automobile and hurried through the cheering crowd to their hotel in Washington. The trial flight this evening lasted twenty minutes longer than the time required by the official government test, which will be made in a few days.

Three members of the Cabinet—Secretary Meyer, Attorney General Wickersham and Postmaster General Hitchcock—were on hand early to witness the flight. Senators Kean and Elkins, the Costa Rican and Guatemalan ministers, the two Nicaraguan commissioners, General Allen, the chief signal officer, Surgeon General Torney, of the army, besides Rear Admiral Hutch I. Cone, Lieutenant Commander Proctor and Lieutenant Sweet, of the navy, also were present.

Both Wilbur and Orville Wright declare that the machine is working much better, but that they want to have several more trials before the official test. Wilbur Wright, replying to a comment that the flight to-day would have covered the width of the English Channel, which Hubert Latham unsuccessfully attempted to cross yesterday, said it would have been possible for his brother to have crossed from France to England and returned to France again without landing. He also said it would have been easy to have continued to-day's flight as far as Baltimore.

LATHAM TO MAKE ANOTHER TRIAL

French Aeronaut Hopes to Cross Channel in Monoplane Friday.

Paris, July 20.—Hubert Latham, who made an attempt yesterday to fly across the English Channel in his monoplane, but fell into the water, announced to-day that he expects to make another attempt on Friday. M. Latham is in Paris as the guest of the Parliamentary Aviation Commission.

SAYS HIS AEROPLANE IS A SUCCESS.

Pennsylvania Inventor Navigates the Air Without the Aid of a Motor.

[By Telegraph to The Tribune.]

West Brandywine, Penn., July 20.—Dr. George A. Spratt, physician, farmer and inventor, has made a successful flight in an aeroplane, of which he is the inventor and manufacturer. He now believes he has reached the object for which he has been working for a number of years. He said to-day:

"I made a trial flight last Saturday with my aeroplane. I am able to say that I have at last fulfilled the desire of my life. I have attained something which, I am safe to say, is more than any other air navigator has so far succeeded in doing—that is, navigating a plane in the air with absolute stability without the assistance of a motor."

C. J. LAKE TO BUILD AEROPLANE.

[By Telegraph to The Tribune.]

Bridgeport, Conn., July 20.—Christopher J. Lake, son of Captain Simon Lake, inventor of the Lake submarine torpedo boat, has begun the manufacture of aeroplanes in a temporary workshop under the grandstand at Hippodrome Park. Mr. Lake has secured an option on the entire park, which formerly contained a racecourse.

RIVAL AIRSHIPS FAIL TO MEET.

The Zeppelin Makes a Flight Without the Ville de Nancy.

Metz, July 20.—The meeting on the frontier of the German and French dirigible balloons, Zeppelin I and the Ville de Nancy, did not occur to-day, although the Zeppelin airship, with General Puttkamer, commandant at Metz, aboard, cruised for more than an hour above the border line in the vicinity of Noveant, awaiting the arrival of the French competitor.

Thousands of spectators gathered on each side of the border and cheered enthusiastically when Zeppelin I appeared. An automobile, with several French aeronauts, followed the course of the airship while it carried out a series of intricate manœuvres. There was profound disappointment when it was learned through a dispatch from Nancy that the Prefect of the city had advised against the departure of the Ville de Nancy, because he thought a meeting of the two airships might cause demonstrations. The Zeppelin ship then returned to Metz, and made a landing at the floating hall with great precision.