The VICE PRESIDENT also laid before the Senate a communication from the Secretary of the Interior, reporting the existence of a draft bill in the House of Representatives, from the Commissioner of Indian Affairs, and a copy of a letter to him from C. C. Hutchinson, of the 1st instant, recommending that Congress authorize the purchase of a large amount of the Ojibway Indians of Blackbird's Fork and Roche de Beuf, for the fiscal years 1863 and 1864, which was referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

Mr. NESMITH presented the petition of Captain John Mullen, of the United States Army, praying to be relieved from all responsibility concerning a draft drawn by him on the Assistant Treasurer at New York, in favor of Lieutenant Robert Macieley, United States Army, for $2066.66, which was referred to the Committee on the District of Columbia, which was referred to the Committee on Military Affairs and the Militia.

Mr. HARRISON also presented the memorial of Mary A. B. Hodges, widow of Hon. E. D. Hoke, late Senator from the State of Oregon, praying for an appropriation to her of $1,000 for expenses incurred by her husband in raising his continental army, and the maintenance of his men, and entertainment at his headquarters becoming to his rank and status; which was referred to the Committee on Post Office and Post Roads.

Mr. COWAN, in the name of William Cornelius, petitioning for a reconsideration of the opinion of the Court of Claims, which was referred to the Committee on Foreign Relations. It was directed by the Committee after consideration of it to report it back to the Senate with a precedent favoring the defendant. The Senate acted promptly; the memorial was immediately rejected.

Mr. SUMNER. Mr. President, I think it is impossible to petition this body for mediation, &c. I ask that it be referred to the appropriate committee, the Committee on the District of Columbia.

Mr. SUMNER. Mr. President, I suppose it is an impossible petition. It is the only other day that a memorial similar in purpose was referred to the Senate. I think it is a proper one, and I think it is a proper one that it be referred to the Committee on Foreign Relations. It was directed by the Senate after consideration of it to report it back to the Senate with a precedent favoring the defendant, which is a precedent of the Court of Claims.

Mr. POPE, from the Committee on Public Buildings and Grounds, reported a bill (H. R. 3928) providing for the construction of the new court house at Philadelphia, Pennsylvania, for the use of the court house, and the maintenance of the court house. The Senate acted promptly; the memorial was immediately rejected.

Mr. WILLSON, of Massachusetts, from the Committee on Military Affairs and the Militia, to whom was referred the petition of James Johnson, of Philadelphia, for the allowance of his claim under the treaty of Guadalupe Hidalgo, for property taken possession of and destroyed by the Mexicans, had that matter under consideration, and directed me to report that it be indefinitely postponed.

Mr. HOWARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 437) to amend the act entitled "An act to amend the act of March 3, 1833, as amended, entitled "An act to regulate the judicial system of the United States," reported it without amendment.

Mr. COGIS, from the Committee on Streets and Alleys, and the Senate Expenditure, to whom was referred the bill of George Page, praying for a renewal of his patent for a portable circular saw, reported it without amendment, and asked that it be indefinitely postponed; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill of John Macfarland, praying for an extension of his patent of a machine for bedding wrought iron, reported it without amendment, and asked that it be indefinitely postponed; which was agreed to.

Mr. CLARK, from the Committee on the Judiciary, to whom was referred the petition of George Page, praying for a renewal of his patent for a portable circular saw, reported it without amendment, and asked that it be indefinitely postponed; which was agreed to.

Mr. TROWBRIDGE, from the Committee on the Judiciary, to whom was referred the bill of John Macfarland, praying for an extension of his patent of a machine for bedding wrought iron, reported it without amendment, and asked that it be indefinitely postponed; which was agreed to.

Mr. JOHNSTON, from the Committee on the Judiciary, to whom was referred the bill of John Macfarland, praying for an extension of his patent of a machine for bedding wrought iron, reported it without amendment, and asked that it be indefinitely postponed; which was agreed to.

Mr. CLARK. The Committee on Claims, to whom was referred the petition of John Macfarland, praying for an extension of his patent of a machine for bedding wrought iron, reported it without amendment, and asked that it be indefinitely postponed; which was agreed to.

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Mr. HOWARD. Mr. President, the Senator from Pennsylvania takes the ground that it is incompetent for Congress under the Constitution to include the provisions of this bill. He holds that a contractor cannot be regarded as being in the military or naval service of the United States. I differ from him in that regard. I think a contractor is fairly to be included in the category, and as I said before, the necessity of doing so arises in the case of a contractor as in the case of a private soldier or an officer.

The gentleman suggests the idea, and repeats it, that in order to bring a person within the power of a court-martial, in other words, to bring him within the scope of the constitutional clause laid down by Mr. Attorney-General Story: "The United States," he must have been convicted of an offense against the laws of the United States. That is not the question; it is a mere point, which has nothing to do with the main objections before the Senate.

The Constitution nowhere requires that either soldiers or officers or other persons in the service of the United States shall be subject to the Article of War. It says nothing about consent. The Constitution declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." That is a proposition entirely different. It says nothing about the consent of the person to be governed. Indeed, the very object of the Constitution is to deprive the States of that idea that any such consent on the part of the governed is necessary. It is as manifestly impossible for the States to govern themselves within the Constitution as it is for Congress to do other than make the laws which are necessary and proper for carrying into execution the powers of the United States.

Mr. CLARK. I beg to suggest to the Senator from Pennsylvania that it must be remembered that a mistake is the word used in the Constitution, which may be to correct, to the extent of "the service," to the extent of "the force," the limit of authority of the States.

Mr. POMEROY. I know very well that the language of the bill is "considered to be in the land or naval service," and I think the language is the language of the Constitution.

Mr. CLARK. That is the language of the Constitution.

Mr. POMEROY. It is the language of the bill, except in the second section, and there the word "service" is used.

Mr. CLARK. The Senator does not quite understand me. I am not enlarging upon the argument that the Senate is not considering the language of the Constitution, but the language of the bill. We are to be guided by the Constitution. The only question is, whether the Senate is considering the language of the Constitution with regard to the large class of persons who are considered as being in the military or naval service of the United States, and who are to be punished for the offenses denominated by the Senate and those who are punished by the Senate, and who are to be punished by the force of the States, and who are to be punished by the force of the United States, and who are to be punished by the force of the Constitution and the force of the Constitution and the States. It is true that the Constitution says that Congress shall have power to make rules and regulations for the education and discipline of the land and naval forces of the United States; it says nothing about contracts for the making of war. It is only the States that can do that. The Constitution does not require that the States shall do it, but only that they shall do it within the Constitution. It is only the States that can do that, and it is only the States that can do it by the Constitution. If the exigencies of the country shall demand it, it is within the power of Congress, under the Constitution, not only to make rules and regulations for the making of war, but to do it by the Constitution in the same way, so as to make a levy of the whole people on the States for the purpose of defending the country or prosecuting a war. The Constitution is not so limited, and I do not see that the Constitution requires it. The Constitution requires that the States shall do it by the Constitution and the States. If the exigencies of the country shall demand it, it is within the power of Congress, under the Constitution, not only to make rules and regulations for the making of war, but to do it by the Constitution in the same way, so as to make a levy of the whole people on the States for the purpose of defending the country or prosecuting a war. The Constitution is not so limited, and I do not see that the Constitution requires it. The Constitution requires that the States shall do it by the Constitution and the States. If the exigencies of the country shall demand it, it is within the power of Congress, under the Constitution, not only to make rules and regulations for the making of war, but to do it by the Constitution in the same way, so as to make a levy of the whole people on the States for the purpose of defending the country or prosecuting a war. The Constitution is not so limited, and I do not see that the Constitution requires it. The Constitution requires that the States shall do it by the Constitution and the States.
Mr. MORRILL. I sympathize with the motive of the honorable Senator from Michigan in his remarks. The frauds committed by the people in that country are quite too numerous in the country, who are disposed to make some pecuniary advantage out of this war. But I do not quite see the necessity for this bill, and I am not at all convinced that the distinction is so important that I hope the honorable Senator from Michigan will consent that the bill shall be changed. It now undertakes to try persons who were not yet, I believe, in any country considered as in any way amenable to the rules and articles of war, as if they were actually in the service of the military or naval forces of the United States.

Mr. WILSON, of Massachusetts. The object of my amendment is to combine the provision to try persons who have to do with the persons who have to do with bills and contracts. I propose that in the contracts there shall be this provision inserted, which they will understand, which they will understand, which they will understand, which they will understand, which they will understand.

Mr. DAVIS. I do not think that there is any danger of any kind that we are not already provided for in this bill and that the House is not in the service of the military and subject to the rules and articles of war. It is not in the service of the Army.

Mr. HOWARD. The Senate speaks of contracts being in civil life. I should like to know from the Senator what he understands by the "military or naval forces of the United States." Whether that clause of the Constitution may not and does not include those persons who are connected with military and naval operations.

Mr. WILSON. The question is, shall the second section be amended? the motion to perfect the section being in order before the question on striking out shall be taken.

Mr. HOWARD. The Constitution requires no enrollment.

Mr. DAVIS. I do not think that he could properly be tried, and if he should be tried, I would not charge him. If the gentleman will examine the history of such trials in England, he will find that there are no such cases of military offenses, as a general rule, as those which are committed by men who are under a citizen, he would be subject to indictment, trial, and punishment, even though he had been acquitted at a court-martial.

Mr. HOWARD. Could he not be tried by a court-martial? That is the question.