of continents freed at last from clownish invasion, and from the blighting influences of a hopelessly barbaric race; the illustrious mother of Aryan men, the chief light and strength and glory of the world, the parent of the highest culture and art and law, delivered altogether to her own incomparable children, — how can the most eloquent tongue or pen do justice to this magnificent hope and possibility? A few disjointed words, just enough merely to hint our longings and emotions, — a burst of thanks and praise, hardly stammered in any comprehensible fashion, — and perhaps the greatest soul could utter no more.

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## THE LOBBY: ITS CAUSE AND CURE.

THE lobby is an institution peculiar to America. Of course, in all countries where there are parliamentary bodies there must be attempts to influence their action in the interest of private objects. But in no other country have these attempts taken a permanent and organized form. In forty state capitals during three months in the year, and in Washington during every session of Congress, the lobby is in full force. In other words, during about a quarter of the entire year an active and powerful, though indeterminate, body devotes itself to watching, furthering, or opposing the work the legislature is called into existence to do, and which it is supposed to do without supervision of any kind. Such a phenomenon as this is witnessed nowhere else in the civilized world, and must be due to social or political causes well worth examination. If we may argue, however, from the remedy usually proposed for the evil (for the lobby is always spoken of as an evil), it has been as yet very superficially examined. It is generally insisted that the true way to make the lobby disappear is for the lobbyists to stop lobbying, to leave Congress and the legislatures and their committees alone, and to go home and mind their own business. The suggestion that such a thing is practicable is very much akin to the suggestion that the evils of municipal government may be cured by the "good citizens" going to the "primaries," and so controlling them. It is no doubt the duty of good citizens to attend to their political duties; and legislative bodies ought to be of such a high character as to be able to dispose of all business that comes before them without submitting to any influence from the outside, of such a kind as is usually supposed to be brought to bear by the lobby. But the truth is that good citizens will not go to primaries in large cities habitually, while the "bad citizen" will devote his whole time and all his energies to the work; and so the lobbyist will not go home and attend to his own business, and the legislative body will go on being influenced by him. The existence of the lobby is a political fact; and before we can get rid of it, or even understand how far it is desirable to get rid of it, we must acquaint ourselves with its causes.

The first thing to be ascertained with regard to the lobby is the cause of its existence. Fortunately, this is not remote or difficult to get at. The lobby is produced by private claims on the government. Without claims there would, no doubt, still be matters in which private interests would cause active pressure upon legislation: so long as we have a protective tariff, each protected furnace or factory will clamor for its proper share of government patronage; so long as we have subsidized railroads and steamships, railroads and steam-

ships will demand subsidies. But were civic protection and subsidies at an end, there would still be a powerful lobby, for there would still be multitudinous "claims" of all sorts, meritorious and sham, upon the government, representing thousands of millions of dollars, and pressed by claimants and the attorneys and the agents of claimants. It is the lobby so far as it is brought into existence by demands of this nature — and so far as it is related to legislation at Washington — that it is proposed to consider here. A great deal that is true of Washington is true of the state capitals; but it is more convenient to confine our attention to a single branch of the subject.

There are now before Congress, and there are always before Congress, private claims to the amount of many thousands of millions of dollars; it would be idle to attempt to estimate the exact amount. These have grown out of every imaginable transaction in which a government can take part: some arise from the receipt of money by the treasury; some under foreign treaties; some out of wrongful acts by government officials; others out of the mere fact that the government has money to distribute. Now, all these claims have to go through a process of the most cumbrous kind before they can be admitted or rejected by the government. They must, on the one hand, all be introduced into the house or senate (or both) by some member; they must all be referred to the proper committee; they must all be examined by the committee; a favorable report must be followed by favorable legislation in both houses, and the approval of the president. On the other hand, there is no certainty of their going through this process at all; the committee may not consider the matter at all, they may not report, the two houses may not agree, the president may not sign; years may go on, and they may still be before Congress without any conclusion having been reached.

So far as claims are concerned, Congress is a court whose jurisdiction is the most extensive and whose methods of procedure are the most cumbrous in the world.

In an ordinary court, in which suits are tried between private individuals, the objects chiefly kept in view in establishing the method of procedure are simplicity and rapidity. The plaintiff or claimant states his case; the defendant replies, denying or admitting his statements; an issue of law or fact is reached, and this issue is tried on oral or written testimony. The case once begun goes on as fast as the pressure of business permits, until a decision one way or the other is reached.

Nothing of this sort takes place in Congress. If the congressional system of adjudicating matters in dispute between the government and private persons had been designed to insure slowness and complexity, it could not have been better contrived. Here the claimant must prove his case, not simply to a judge or jury, but to a huge court composed of numerous members, chosen not for their judicial characteristics, but for political reasons; not to determine claims as such, but to legislate upon matters of general interest. His immediate relations are with a committee of this body, selected, possibly, with a more direct view to the adjudication of private demands, but which may try his case in any way they see fit. They are governed by no rules. They sit both as a court and as a jury. They may follow the law in adjudicating matters which come before them, or amend it, or pervert it. They may send for as many witnesses, or as few, as they please. They may listen, or they may not listen to argument. They may insist on written arguments, or may leave it to the choice of claimants. A committee of Congress has a jurisdiction more comprehensive than that of any judicial tribunal, possessing powers as arbitrary as those of an Eastern cadi, using them at its pleasure, subject to no restraint but its own sense of decency and justice.

At Washington, every claim must go through two bodies of this sort, and through two houses of which these bodies are the selected representatives, be-

fore any legislation, or, in other words, before any judicial decision, can be obtained; and even after this, the president still sits as a higher court, to sign or to veto.

This is no fancy picture. In fact, the case is understated, because, in many cases, the same claim may be referred to more than one committee of each house; but taking the matter in its simplest form, it will be seen that Congress, regarded as a court, presents an unparalleled spectacle of judicial confusion and uncertainty. To take a simple instance, let us imagine a claimant attempting to recover money from the government under a treaty with some foreign nation. The United States has received from Mexico a sum of money which this claimant is entitled to have, and which he cannot obtain without legislation. Were the government a private individual, he would immediately bring a suit in some court, have the matter tried and determined, and judgment would issue for the amount he should recover. But his dealings are not with a private person, but with his own government. He finds, therefore, that he has first to proceed to Washington and make the acquaintance of some member of Congress, through whom he may introduce a bill recognizing the justice of the demand. This bill must be drawn either by the claimant himself or by some one skilled in such matters. As a rule, he finds that the member of Congress representing his district will gladly introduce his bill; but here his difficulties have only just begun. His bill is referred to the judiciary committee of the house, — a body composed of some dozen lawyers, selected by the speaker, from different parts of the Union, who hold their sittings at their own pleasure; none of whom the claimant knows, but about some of whom he may have heard scandalous reports, which incline him to be somewhat skeptical as to their entire impartiality. He applies for a hearing before the committee, and is assigned a day for it. When the day arrives, he finds that only a few members of the committee are present; perhaps those of the least consequence and weight. In the mean time he understands that the bill of a rival claimant has been introduced in the senate and referred to the judiciary committee of that body. Knowing that the passage of this bill would be fatal to his own, he immediately goes through the same process in the senate which he has just been through in the house. He, too, has a bill introduced there, and there referred to the judiciary committee; and there, too, he applies for a hearing. This committee, however, he finds never grants an oral hearing, but he is permitted to file a brief if he pleases. Here we have already two committees of this high court at work on the same subject, each belonging to a different body, each governed by different rules, neither having the slightest communication with the other, and neither chosen for their fitness to decide the question or familiarity with it. If the claimant has not by this time come to the conclusion that he must acquire the politico-legal art of which he has heard so much, — the art of lobbying, — he does shortly afterwards, when one of his bills is reported favorably in the house, and the other adversely in the senate. He now begins to understand that the business of procuring legislation in Congress, even in the case of a just demand, is one of considerable difficulty, and if he is a wise man he sees that he must meet the difficulty in the usual way. In other words, he begins at once to lobby.

When we say that he begins to lobby, we do not mean that he begins to bribe or to corrupt members of Congress, but that instead of simply presenting facts and arguments to the court which is to try his case, he begins to use every means that ingenuity can suggest, that his position in the world will command, and that his conscience will admit, to secure favorable action. If he is a scrupulous man he will confine him to scrupulous means; if he is unscrupulous, he will not. To lobby is to do this; a lobbyist is one who does this; the lobby is the body, the members of which are continually engaged in this sort of work.

To make this clearer, let us suppose that the claim is an unjust one; that the claimant knows very well that it is so. Thoroughly familiar with the facts with regard to the constitution of the court before which he is to present it, he begins his operations at the earliest possible moment. Before the appointment of the judiciary committee, he brings influence to bear upon the speaker for the purpose of inducing him to appoint on it some person or persons whom he knows to be favorable to it; that is to say, he tries to pack his court. This may be done, without actual corruption, through political influence or personal favor. If he can in this way secure in advance a favorable decision, he has obviously an enormous advantage over the holder of a just claim who uses no such means. Knowing that his claim is unjust, but knowing also that his friends on the committee will be able by a specious argument to advocate its passage, he gives himself no further anxiety about the result, but allows the committee to do its own work. Now the longer a person who has a just claim is before Congress, the more he is tempted and forced to adopt the method of procedure naturally adapted to the case of unjust claims. If he does not, he is at a great disadvantage. If he neglects to use all the influence at his command, political or personal, he lags behind those claimants who use this influence. He soon finds that instead of evidence and argument, as in ordinary cases, being most important, one very useful means of advancing his case is that sort of influence which reputable lawyers avoid even the appearance of bringing to bear upon judges.

But in what position is the government placed in all this? At first it may seem as if it were amply protected from unjust claims, because the petition is addressed to itself, and it is itself the judge. If this were true, it would be an argument against the continuance of the present system rather than in its favor. If a committee of Congress really combines the functions of judge and attorney for the government, it is a body organized in violation of two fundamental maxims of justice: that judge and counsel shall not be united in the same person, and that no one shall be judge in his own case. No doubt, in many instances, committees do protect the government in a certain sense. It may be stated as a general proposition that legislative bodies and their committees are governed by one of two opposite passions, — a passion for economy, and a passion for lavish expenditure. In this they reflect usually the general temper of the people, as it from time to time changes. From the end of the war to the panic of 1873, for instance, Congress was under the influence of the latter passion. Everything that was asked for was given. Railroads were presented with vast tracts of land; steamships were subsidized; claims paid with a free hand. But since 1873 a tide of economy has swept over the country and Congress, and has produced in the minds of committees a general disinclination to pay any claim, however just. For the last two or three years, hundreds of deserving persons have suffered as serious damage through the spirit of economy which has seized upon Congress as hundreds of other deserving persons did by its passion for waste before. It should be observed, too, that the moment this spirit of economy takes possession of the people, congressmen have a direct personal interest in yielding to it, even at the expense of great injustice. They know that their constituents are opposed to the expenditure of public money, and that much cheap political capital can be made by a simple refusal to pay all claims. It is easy to "point with pride" to a congressional record which does not contain a single vote requiring taxes to carry it into effect; and such a record, when the public is in an economical mood, needs no explanation. But to vote to pay even just claims under such circumstances, to vote to take money out of the treasury to give it to private persons merely because they have a right to demand it, — this requires no ordinary amount of political courage. The situation has been witnessed over and over again in the

Southern States since the close of the war. Large debts had been created by governments hated by the majority of the people of wealth and intelligence; and as soon as the carpet-bag governments were overturned, and the whites regained possession of affairs, great haste was made to get rid of the incubus. In many cases the claims against the States represented by these debts were no doubt fraudulent and void. The bonds had been issued without clear authority, or in violation of the constitution, and the holders had notice of the defect. In other cases the bonds were issued regularly, and came into the hands of innocent holders, as any other government security does. Which bonds were valid and which invalid were questions of fact and law requiring for their determination a full examination by some judicial tribunal. In one State millions of bonds were involved in a dispute of this kind. But the method adopted of dealing with this delicate question was so unsatisfactory that the matter is, in many instances, still unsettled. The method was exactly that resorted to at Washington in the case of claims, — that of investigation by a legislative committee. In one of these cases the legislature had just been elected, and it was a legislature pledged to do all in its power to lessen the burdens pressing upon its constituents, to lighten taxes, and to reduce the debt. All the members of the body who had any political ambition and looked forward to a reëlection felt that their chance of continuance in office depended greatly on the success with which they could deal with the question of the public debt. The committees to which the matter was referred were of course swayed by these feelings, and entered upon their examination filled with prejudice and passion. The repudiation of a great part of the bonds was a foregone conclusion. The result was that no bondholder regarded the settlement of the question by the legislature as of the slightest weight. The State, knowing that the examination of the question in dispute had been conducted in a spirit which made the proceedings a burlesque, immediately capped the climax by incorporating into its constitution a provision forbidding any recognition of the debt repudiated by the legislature. The bondholders, on the other hand, at once went to work to upset the decision. Instead of the act, incorporated into the constitution as it is, being regarded as a finality, a new constitutional convention, held last summer, witnessed a new attempt to reopen the whole subject; and some of the ablest men in the State insisted that the matter ought to be sent to the courts. The State in question is now, from month to month, the butt of public attacks on its credit. Here we see the system in full operation, — carpet-bag waste offset by anti-carpet-bag injustice, and the unfortunate creditor of the State ground between the two. Precisely the same sort of thing is frequently occurring at Washington. Only winter before last, a committee on appropriations earned some very convenient political capital by neglecting to include in its bill a judgment in favor of a claimant, actually rendered against the United States by a court of competent jurisdiction. Such cases as these show that whenever the tide of public feeling runs very strong in the direction of economy, it may, in a certain sense protect the government; but it does so at the expense of even-handed justice.

But in most cases, especially when the government most needs protection, — that is, when the tide of public feeling sets in the direction of liberality or lavish expenditure, — it is not protected at all. The direct interest which a committee of Congress, or even a house of Congress, have in the exact ascertainment and protection of the rights of the government is extremely small. Knowing that they share the responsibility of any legislation with a large body, and that no part of it can ever be traced definitely to them, their feeling that they will ever be held accountable for legislation contrary to the pecuniary interests of the government is reduced to a minimum; and hence the common spectacle of claims passing Congress and paid out of the treasury on the recom-

mendations of committees, when were the matter between private individuals no single member of the committee would recommend a settlement.

In ordinary suits in which public interests are involved, the government is protected, not by the judge, who under a sound system is unbiased, but by the presence of its own attorneys. In congressional claims, the court is supposed to perform both functions in itself, — an irregular and improper fusion of duties, and one, too, which practically either produces a partisan judge who will not listen to just claims, or leaves the government without any protection whatever.

A court of this character may naturally be expected to produce a bar of a peculiar sort. The lobby is this bar, composed of attorneys and claimants in person who are engaged in prosecuting demands of all sorts to a final hearing. All the mental and moral attributes of the lobby are closely connected with these facts. It is not a bar of a very high order. It has not the self-respect which characterizes a bar practicing before an ordinary judicial tribunal. It makes its way by persistence rather than by dignified argument, and gains its cases by means which will not always bear examination.

It will be seen, however, from what has gone before, that the lobby ought not to be regarded by any means as an unmixed evil. It is rather a rough remedy provided against the injustice of government. It is produced by that injustice, and with the end of it would itself come to an end. It is, no doubt, full of evil. Its common reputation, the denunciation of it in the press, the fact that its importunities frequently lead to its exclusion from the presence of Congress, — all these things go to show that it cannot be regarded as anything but an unfortunate and bad result of our system of government. But it is that system itself, and not the lobby, which is the cause of the evils. The government has chosen to provide, not a simple, but a most inconvenient way of adjudicating all claims against it. If the government, instead of desiring to do justice, had for its object wrong and oppression, it could not have contrived a better means of effecting it than by the congressional method of adjudicating claims. In revenge for this defiance of the best settled principles of justice, it is besieged by a third house, which, in a rude manner, meets this injustice by importunate pressure, by chicane, intrigue, and even corruption.

The cause of the lobby, then, is to be found in claims against the government. But why are claims against the government prosecuted before Congress? It is because the maxim of the law which prevents the government being sued by private persons in its own courts makes Congress the only body which can dispose of them. Obviously, if all claims which are now presented to the house or senate were enforceable in the courts, all this business would cease.

When we come to consider what means may be taken to remedy this state of things, we are first struck with the fact that in other countries the evils do not exist, at any rate to the extent that they prevail here. What steps have been taken to prevent them? There are two reforms which have been introduced elsewhere, and we may rely upon it that they must be introduced here if we are to see any improvement. The first of these relates to the method of procedure. There may be said to be at present no method of procedure at all. A committee of Congress, as has been just pointed out, does what it pleases. It is entirely outside of and above the law. Of course the committees of both houses are to a great degree governed by the practice of former committees, but they are not bound by it in any way. They are not even bound by their own decisions. There are no fixed rules as to who may or may not be a witness, who may or may not make an argument, how testimony shall be taken, or how many hearings shall be given on one subject. In every new case all these points are decided *de novo*. They are, every lawyer knows, vital points. The absence of all laws and fixed regulations as to them leads to

the greatest confusion, and sometimes to worse. In a very important case, for instance, during the past winter, a gentleman was introduced at a hearing of a committee, and at the request of the member who introduced him proceeded to make a statement about the origin and legal aspect of certain claims before it. It was not stated by anybody, nor was he asked, whether he appeared as an unbiased witness or as a paid attorney, and yet of course it made the greatest possible difference whether he was retained or appeared voluntarily as a sort of *amicus curiæ*. The judiciary committee of the senate has what is supposed to be a rigid rule forbidding oral argument, but this is relaxed if the committee deem it advisable.

As many of the committees are frequently hearing claims, they sit as a legislative court during a great part of the time, and a bar springs up about them, composed of attorneys who make it a business to press claims. This bar is without rules of admission, or regulations of any kind. It comprises some very excellent lawyers, and some of the lowest of legal types. In fact, it is rather an abuse of language to call it a bar, for claimants may appear in person, and no proof of fitness of any kind is required for admission to it. But owing to the peculiar traits of the body before which it practices, it ought to be of a very high character, and admission to it ought to be carefully guarded. In ordinary courts of justice, a great many abuses are prevented by the professional training and sense of dignity of the judges; and the practices of attorneys are watched with care by them in order that the dignity and reputation of their court may not suffer. But a committee of Congress, with its brief term of office and slight sense of responsibility, pays little attention to such matters; hence unscrupulous attorneys have all sorts of license and opportunities which they would not have in any ordinary court.

Much of this may be remedied by legislation. In England what is known as parliamentary practice is regulated by law, like any other. Lawyers who desire to practice before committees, or to promote legislation, must be regularly admitted, as they would have to be at Westminster Hall. Proceedings before committees are regulated by law, like those before court. Something of this sort will have to be introduced at Washington.

Of all classes who would be benefited by a change of the present system, none are more deeply interested than members of the bar; for no class suffers more than they from the want of system. There is a common impression that lawyers who practice before legislative committees are a poor set at the best, and that it makes little difference to the profession at large how they are treated. Nothing could be further from the truth. The amounts of money at stake are so great, and the interests involved so important, that lawyers of high standing and acknowledged ability are continually retained to make arguments before committees of the two houses. But it is also true that the absence of all tests of admission to practice enables lawyers of a very different sort to gain an equal footing, — lawyers who are neither educated nor scrupulous, and, worse than this, who are retained because their want of education and their unscrupulousness makes them useful.

That men of this sort should be given an equal standing with lawyers of conscience, learning, and a high sense of professional honor is an outrage. It tends, of course, to lower the whole grade of practice, for professional morality will as surely as water seek a general level. Such a state of affairs exists nowhere except in legislative practice. In the courts there is always some protection of the pure and enlightened administration of justice by rules of admission, — rules prescribed by the legislature and enforced by some regular tribunal. The code of professional training and capacity may not always be very high, but there is always some code. Besides this, the behavior of lawyers when engaged in practice is watched by the courts, and misdemeanor of any kind punished. Everywhere the necessity of a code is rec-

ognized except at Washington. There, in these important legislative courts, known as committees, no system exists.

But no mere reform of procedure would wholly remedy the evil. The fundamental requisite is to get the great body of the claims away from Congress altogether, and throw them into the courts where they can be decided precisely as disputes between private individuals are decided. For some reason, this proposition strikes the political mind in this country with horror; a bill for the purpose has, however, been introduced in the present Congress, and there is said to be some hope of its passage. Sooner or later we must come to this, if we desire to see the evils remedied which we deplore in the existence of the "lobby." The only objection to it arises from an idea that a government which lets itself be sued like a private person in the courts loses something of its dignity, and in some way endangers its power or prestige. That this should be urged in any country which has inherited English laws is a singular proof of the survival of prejudice; for there is no more ancient maxim of our system than that of the responsibility of all officers connected with the government for their wrongful acts, — a responsibility theoretically far more dangerous to prestige and dignity than a corporate responsibility in money demands. Any citizen may bring his suit against any one connected with the government for an injury, and recover damages; and yet when it is proposed to extend this responsibility to the government itself in its corporate capacity, and make the United States suable like a private corporation, the suggestion strikes most people as almost revolutionary.

So far from being revolutionary, it has, in principle, been already adopted in the constitution of the court of claims, — a court which even now adjudicates all matters of direct contract between the government and private persons. And no bad results have flowed from its establishment. Indeed, in a court, as has already been suggested, the interests of the government are far better protected than they are in Congress: in the former they have the services of a trained attorney; in the latter they have nothing but that extremely vague sense of duty which governs the acts of members of Congress, and which now inclines them to think they will serve the ends of justice most by keeping money in, and now by getting it out of the treasury, and whose real sense of obligation is far more close with their constituents (themselves generally claimants) than to the government as a whole.

Stump orators and demagogues have delighted, now for many years, in picturing the elevated sense of justice displayed by the United States in the establishment of this court. But the court of claims deals only with contracts, express or implied, and the statute establishing its jurisdiction has wholly failed to provide any remedy for the majority of cases which do not come under this head. Most of the relations into which the government enters with private individuals, out of which claims grow, are not those of direct contract. As a matter of fact this court is a mere step in the direction in which a long advance should be made; and, so far from placing the United States on a level with other civilized governments, its limited jurisdiction over claims is the best possible proof that we could have of the laggard sense of justice which still characterizes this government in its dealings with private persons. Instead of the remedies provided in this country being superior to those provided by other countries, in cases of government claims, the claimant has far less rights here than anywhere else in the civilized world.

In most of the European countries, a generation ago, the old principle that the government could not be sued was finally abandoned. Not only in nations which have inherited from Rome the principles of the civil law, but in England, and in the empire which is dependent upon her, the exemption of the state from suit is a matter of obsolete learning. Even in those states which we are accustomed to look upon as the home of arbitrary government, the humblest citizen has a surer and more com-

prehensive means of redress against the government than with us. These statements are not made at random; they rest upon a judicial decision of a court of the United States, — a curious case, and one well deserving study by anybody who desires to acquaint himself with the difference between the position of our government, under our system, and the position of governments which we are in the habit of looking upon as despotic.

Some years ago the court of claims, which, under the statute creating it, is from time to time authorized by Congress to assume jurisdiction of specially assigned cases, was directed to take jurisdiction of all cases coming under what is known as the Captured and Abandoned Property Act. During the war, the United States had acquired large amounts of captured and abandoned property found in the South; and this had been sold and the proceeds held by the United States for claimants who could prove their title. The proof of the right and title was remitted to the court of claims, and under the act establishing this jurisdiction one Brown brought a suit against the United States. The decision was in his favor. The secretary of the treasury, however, apparently impressed with the conviction that no claims against the government should be adjudicated by courts of justice, but that all such questions should be decided by government officials, re-examined the case; and after this peculiar rehearing, instead of paying the full amount of the judgment, decided that a sum must be deducted from it and withheld by the government. Brown, not satisfied with this settlement of his claim, brought a new suit in the court of claims, which may be found reported in the sixth volume of the reports of that court. The only questions presented to the court were, whether the secretary of the treasury should be compelled by *mandamus* to pay the original judgment, or whether the claimant could recover upon the original judgment as upon a new contract. The difference between the judges upon this point led to an examination, by the majority of the court, of the whole system of remedies against governments in this and in foreign countries. And in the course of this the fact was referred to that in a previous case, under a statute authorizing aliens to sue the government in the court of claims when a similar right was given to citizens of the United States by foreign governments, the court had taken the testimony of experts. From which it appeared that the remedies provided in foreign states, both for their own and for foreign citizens, were far wider than those existing in the United States. In Prussia, for instance, the testimony showed that for suits of this nature the treasury or *fiscus* was regarded as a private corporation; that any one, whether residing in Prussia or anywhere else in the world, might bring a suit against it growing out of any state of facts; that it made no difference whether the foundation of his action was a breach of contract, or what it was; that his suit was heard as an ordinary suit, and judgment rendered for or against the government, as it might be for or against a private person. Further than this, in Prussia the matter does not end with the judgment, but an execution issues against the treasury or fiscus, and the government property can be levied upon to satisfy it. In England, under what is known as Bovill's Act, suits may be brought against the sovereign with almost an equal freedom from restriction. In the Netherlands, and in several of the German states, the same condition of affairs was found to exist. Even in France, during the empire, the remedy for citizens or aliens was much more full than in the United States. And this deserves to be especially noticed, because France is the country of all others to which we have been in the habit of pointing, to illustrate the superiority of our system. How can it be expected, we have often cried, that a country can develop republican or free institutions, when the officers of its government are exempt from suits for their trespasses? In Anglo-Saxon countries, where freedom prevails, no invasion of a man's private rights

can be justified on the ground that it is done under authority of the government. Sheriffs, mayors, governors, even presidents, may be proceeded against for any wrong they may do, and they cannot plead their office in defense of the injury. In France, how different it all is! There such suits are impossible. But it seems to have escaped our demagogues that the great principle of responsibility of government officers for their wrongs, however beautiful in theory, may amount, and in many cases does amount, to comparatively little in practice. It amounts really to less with us than it would in countries where officials hold office for a long time and are generally few in number and possessed of considerable means. The possibility of proceeding against our officials, with their short tenure of office and their frequent pecuniary irresponsibility, is, in most cases, of little value; so that we are confronted by the fact that while in the United States, with our boasted remedies against all government officers, the actual redress of the citizen has been reduced to a minimum; France, possessing no such palladium of liberty, has actually, so far as pecuniary remedy goes, made her citizens more secure in their rights than we have.

Looking over the whole field of modern law, the court was able to find only one country in which remedies against the government were less than those accorded in the United States. It cannot be said that the discovery of this country can afford us much cause for patriotic pride, inasmuch as it was Spain, the country which we are accustomed to look upon as the least enlightened and progressive of those contained in the European family of nations. The whole opinion of the court, to any one who has been brought up to believe the United States the freest of modern communities, is little less than startling.

The lobby, then, will continue to exist until the causes which have produced it are removed. Its clamor, its persistence, its intrigue, its chicane, its corruption, are the only means that now exist of tempering the injustice of our system. The first thing to be done is the passage of an act remitting all claims against the government, growing out of whatever transactions, to the courts. It makes little difference whether they are referred in the first instance to the existing court of claims or to some other jurisdiction specially created for the purpose, provided an appeal be allowed to the supreme court. The interests at stake are frequently so vast, and the principles involved of so great interest, that such an appeal is a matter of necessity.

It is a foregone conclusion that the supreme court must be increased in numbers, or in some way enabled to deal with the enormous mass of business now thrown upon it; and therefore it is unnecessary to consider the difficulties in the way of the suggestion here made, growing out of its crowded calendar. It is at present unable to cope with its business; and in any case this disability must be removed. When its number is increased, or other means have been found to enable it to clear its crowded docket, the addition of the special class of cases arising from the claims against the government will make little difference one way or another. Besides this reform, it is eminently necessary that the present method of practice before committees of the two houses of Congress be reduced to some system by law. It is not proposed here to elaborate the details of such a system, but the general principles on which it should be effected have been already indicated. Some rules ought to be adopted as to persons appearing before committees, — some rules for the admission of attorneys and counselors before this congressional court. There should be some qualifications, some tests, some principle of exclusion and inclusion. The times of holding meetings and methods of procedure before the committees should be systematized to a greater extent than they have yet been. Rules similar to the rules of court are necessary. Otherwise claimants or their representatives are entirely, as now, at sea. They do not know what they may, and what they may not do. And under these circumstances claimants

are apt to take a very liberal view of their privileges.

The reforms here suggested would be not only greatly in the interest of claimants, but also a protection to members of Congress. There is probably no position in the world so disagreeable to a man of delicacy and sense of justice as that on a committee of Congress before which claims against the government are being actively pressed. He is a member of a court which is at once a legislative and a judicial body. It must adjudicate the claim in favor of the claimant, or against him, and it must report a bill providing the means for its settlement. It is a body of judges who are interested in the decision of the case. If he has an acquaintance with the claimant, he is naturally afraid that a disposition to do him a kindness may interfere with a fair judgment. If he has a strong desire to reduce the outlay of the government, he is anxious lest this inclination, proper in itself, may lead him to do injustice to the claimant. His interests, prejudices, passions, all tend to interfere with a calm and dispassionate judgment; and he, if he is the man we have assumed him to be, is fully aware of this fact. Hence he is placed in a position in which settled rules of procedure are a godsend. Behind them he may take refuge against the importunity of claimants. To them he may point when his advice or vote is asked.

*Arthur G. Sedgwick.*

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## THE ADIRONDACKS VERIFIED.

### IV.

#### A-HUNTING OF THE DEER.

If civilization owes a debt of gratitude to the self-sacrificing sportsmen who have cleared the Adirondack regions of catamounts and savage trout, what shall be said of the army which has so nobly relieved them of the terror of the deer? The deer-slayers have somewhat celebrated their exploits in print, but I think that justice has never been done them.

The American deer in the wilderness, left to himself, leads a comparatively harmless, but rather stupid life, with only such excitement as his own timid fancy raises. It was very seldom that one of his tribe was eaten by the North American tiger. For a wild animal, he is very domestic: simple in his tastes, regular in his habits, affectionate in his family. Unfortunately for his repose, his haunch is as tender as his heart. Of all wild creatures he is one of the most graceful in action, and he poses with the skill of an experienced model. I have seen the goats on Mt. Pentelicus scatter at the approach of a stranger, climb to the sharp points of projecting rocks, and attitudinize in the most self-conscious manner, striking at once those picturesque postures against the sky with which Oriental pictures have made us and them familiar. But the whole proceeding was theatrical. Greece is the home of art, and it is rare to find anything there natural and unstudied. I presume that these goats have no nonsense about them when they are alone with the goat-herds, any more than the goat-herds have, except when they come to pose in the studio; but the long ages of culture, the presence always to the eye of the best models and the forms of immortal beauty, the heroic friezes of the Temple of Theseus, the marble processions of sacrificial animals, have had a steady molding, educating influence equal to a society of decorative art upon the people and the animals who have