

LESTER P. BARLOW

APRIL 27, 1926.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. SWEET, from the Committee on War Claims, submitted the
following

REPORT

[To accompany H. R. 10178]

The Committee on War Claims, to whom was referred the bill (H. R. 10178) entitled "A bill to confer jurisdiction on the Court of Claims to hear and adjudicate the claim of Lester P. Barlow against the United States," having considered the same, report thereon with a recommendation that it do pass with the following amendments:

In the title of the bill strike out the words "jurisdiction" and "adjudicate" and insert in lieu thereof the words "authority" and "determine."

In line 4 strike out the word "adjudicate" and insert in lieu thereof the word "determine."

In line 7, page 2, after the colon, insert the following:

And provided further, That in any such suit the United States may avail itself of any and all defenses, general or special, except as otherwise herein waived: *And provided further*, That any claim by way of offset that the United States may have against the Marlin-Rockwell Corporation may be pleaded, set off, and deducted from any judgment which the Court of Claims may render in favor of the said Lester P. Barlow as provided in this act.

This is a claim arising out of the alleged use by the United States of certain inventions of said Lester P. Barlow described by United States Letters Patent Nos. 1317609, 1317610, 1317611, 1317612, 1318955, and 1318956, pertaining to aerial bombs.

A bill was introduced in the Sixty-eighth Congress and reintroduced in the Sixty-ninth Congress providing relief for Mr. Barlow in the sum of \$300,000. Hearings were commenced in the Sixty-eighth Congress by your Committee on War Claims and again in the Sixty-ninth Congress, but never completed owing to the fact that Mr. Barlow asked that the bill be withdrawn and the present bill be introduced in lieu thereof referring the matter to the Court of Claims for adjudication.

The evidence discloses that Barlow made some kind of an assignment of his patent rights to the Marlin-Rockwell Corporation in order to facilitate production of the bombs during the early period of the war. By virtue of this assignment Mr. Barlow is unable to bring action against the Government owing to section 3477 of the Revised Statutes of the United States, which makes void an assigned claim against the Government.

Your committee feels after investigating the matter quite thoroughly that the case should be referred to the Court of Claims to be adjudicated on its merits and, therefore, recommends that the bill pass with the above amendments.

This bill has been discussed with the War Department and is in accordance with the suggestions of Lieut. Col. Joseph I. McMullen, J. A. G. D.

WAR DEPARTMENT,
Washington, March 17, 1926.

HON. JAMES G. STRONG,
House of Representatives, Washington, D. C.

DEAR MR. STRONG: Confirming our conversation on the telephone this date I return herewith H. R. 10178, which you were good enough to send me.

This bill, with the proviso typed on the back with respect to the offset which the United States may have against the Marlin-Rockwell Corporation, has received careful consideration, and it is my opinion that it is in form to properly protect the interests of the United States.

I suggest the following additional proviso in the bill:

"*Provided further*, That in any such suit the United States may avail itself of any and all defenses, general or special, except as otherwise herein waived"; and that the proviso typewritten on the back of the bill be changed to read as follows:

"*Provided*, That any claim by way of offset that the United States may have against the Marlin-Rockwell Corporation may be pleaded, set off, and deducted from any judgment which the Court of Claims may render in favor of the said Lester P. Barlow as provided in this act."

If these suggested amendments are incorporated in the bill, I think it will properly protect the interests of the United States.

Sincerely yours,

JOS. I. McMULLEN,
Lieutenant Colonel, J. A. G. D.