POSTMASTERS.

CALIFORNIA.

Frank B. Elwood to be postmaster at Alhambra, in the county of Los Angeles and State of California.

Herve Friend to be postmaster at Hollywood, in the county of Los Angeles and State of California.

John P. Swift to be postmaster at Marysville, in the county of Yuba and State of California.

GEORGIA.

Thomas A. Jones to be postmaster at Elberton, in the county of Elbert and State of Georgia.

IOWA.

Eugene M. Crosswait to be postmaster at Earlham, in the county of Madison and State of Iowa.

James F. Jordan to be postmaster at Valley Junction, in the county of Polk and State of Iowa.

Matthew Richmond to be postmaster at Armstrong, in the county of Emmet and State of Iowa.

LOUISIANA.

Nannie O. Hamilton to be postmaster at Pollock, in the parish of Grant and State of Louisiana.

Charles W. Lyman to be postmaster at Rayne, in the parish of Acadia and State of Louisiana.

Thomas J. Woodward to be postmaster at New Orleans, in the parish of Orleans and State of Louisiana.

MISSOURI.

Warren T. Meyers to be postmaster at Warsaw, in the county of Benton and State of Missouri.

NEW YORK.

George A. Cotton to be postmaster at Depew, in the county of Erie and State of New York.

Judson S. Wright to be postmaster at Tully, in the county of Onondaga and State of New York.

OKLAHOMA.

Joseph A. Randolph to be postmaster at Waukomis, in the county of Garfield and Territory of Oklahoma.

TEXAS.

Joseph Folm to be postmaster at Hondo, in the county of Medina and State of Texas.

J. M. Musser to be postmaster at Seymour, in the county of Baylor and State of Texas.

William L. Rogers to be postmaster at Conroe, in the county of Montgomery and State of Texas.

Henry L. Sands to be postmaster at Alvord, in the county of Wise and State of Texas.

WASHINGTON.

Velosco J. Knapp to be postmaster at Anacortes, in the county of Skagit and State of Washington.

George M. Stewart to be postmaster at Seattle, in the county of King and State of Washington.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February 9, 1905.*

The House met at 11 a. m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

RAILROAD-RATE BILL.

The SPEAKER. Under the order of the House the Chair declares the House to be in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18588; and the gentleman from New Hampshire [Mr. CURRIER] will take the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18588, the railroad-rate bill, and the gentleman from Louisiana is recognized.

Mr. DAVEY of Louisiana. Mr. Chairman, I yield to the gentleman from Missouri [Mr. DOUGHERTY].

Mr. DOUGHERTY. Mr. Chairman, the subject under consideration, popularly designated the "railroad-rate bill," is regarded by many as the most important measure with which this Congress has sought to deal.

This bill involves private and public rights; it affects at once the business of the individual and the nation's commerce. It is being carefully scanned and closely scrutinized by the people in every section of the land. It affects the commerce of the whole country, and the care of our nation's commerce redounds more to the riches and prosperity of the public than any other act of government.

In proceeding, then, to its consideration, with the aid of the best lights before us, we should in all things be actuated by an honest and sincere purpose to treat all interests fairly and arrive, as far as possible, at wise, just, and proper conclusions. The shipper, on the one hand, and the railroads on the other, should alike be given justice and be required to do justice. There should be no desire or attempt to injure, nor should there be any improper advantage given to either, but all should be treated justly and fairly and given a common equality of opportunity.

In the full sense we should—

> Poise the cause in Justice's equal scales,
> Whose beam stands sure, whose rightful cause prevails.

Those of us who occupy this side of the Chamber and are Democratic in politics, if we had no other cause, could find a party reason for activity in the matter of enlarging the power of the Interstate Commerce Commission by reason of the fact that the national Democratic platform of 1896 declared that—

> The absorption of wealth by the few, the consolidation of our leading railroad systems, and the formation of trusts and pools require a stricter control by the Federal Government of those arteries of commerce. We demand the enlargement of the powers of the Interstate Commerce Commission, and such restriction and guaranties in the control of railroads as will protect the people from robbery and oppression.

And again, in 1900, at Kansas City, the national Democratic convention gave utterance to these declarations:

> Corporations should be protected in all their rights and their legitimate interests should be respected, but any attempt by corporations to interfere with the public affairs of the people, or to control the sovereignty which creates them, should be forbidden under such penalties as will make such attempts impossible.
>
> We favor such an enlargement of the scope of the interstate-commerce law as will enable the Commission to protect individuals and communities from discriminations and the public from unjust and unfair transportation rates.

And yet a third time, and with increased emphasis, the national Democracy, in convention assembled at St. Louis, in 1904, embodied the following in its platform of principles:

> Individual equality of opportunity and free competition are essential to a healthy and permanent commercial prosperity, and any trust, combination, or monopoly tending to destroy these by controlling production, restricting competition, or fixing prices should be prohibited and punished by law. We especially denounce rebates and discrimination by transportation companies as the most potent agency in promoting and strengthening these unlawful conspiracies against trade.
>
> We demand an enlargement of the powers of the Interstate Commerce Commission, to the end that the traveling public and shippers of this country may have prompt and adequate relief for the abuses to which they are subjected in the matter of transportation. We demand a strict enforcement of existing civil and criminal statutes against all such trusts, combinations, and monopolies, and we demand the enactment of such further legislation as may be necessary to effectually suppress them.
>
> Any trust or unlawful combination engaged in interstate commerce which is monopolizing any branch of business or production should not be permitted to transact business outside of the State of its origin. Whenever it shall be established in any court of competent jurisdiction that such monopolization exists, such prohibition should be enforced through comprehensive laws to be enacted on the subject.

Those on the opposite side of the Chamber, of Republican politics, need only to look to President Roosevelt's message to this Congress under date December 6, 1902, for inspiration to activity in the matter of railroad-rate legislation. In that message the President said:

> Above all else, we must strive to keep the highways of commerce open to all on equal terms; and to do this it is necessary to put a complete stop to all rebates. Whether the shipper or the railroad is to blame makes no difference; the rebate must be stopped, the abuses of the private car and private terminal-track and side-track systems must be stopped, and the legislation of the Fifty-seventh Congress which declares it to be unlawful for any person or corporation to offer, grant, give, solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce whereby such property shall by any device whatever be transported at a less rate than that named in the tariffs published by the carrier must be enforced. For some time after the enactment of the act to regulate commerce it remained a mooted question whether that act conferred upon the Interstate Commerce Commission the power, after it had found a challenged rate to be unreasonable, to declare what thereafter should, prima facie, be the reasonable maximum rate for the transportation in dispute. The Supreme Court finally resolved that question in the negative, so that as the law now stands the Commission simply possess the bare power to denounce a particular rate as unreasonable.
>
> While I am of the opinion that at present it would be undesirable, if it were not impracticable, finally to clothe the Commission with general authority to fix railroad rates, I do believe that, as a fair security to shippers, the Commission should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place; the ruling of the Commission to take effect immediately, and to obtain unless and until it is reversed by the court of review. The Government must in increasing degree supervise and regulate the workings of the railways engaged in interstate commerce; and such increased supervision is the only alternative to an increase of the present evils on the one hand or a still more radical policy on the other. In my judgment the most important legislative act now needed as regards the regulation of corporations is this act to confer on the Interstate Commerce Commission the power to revise rates and regulations, the revised rate to at once go into effect and to stay in effect unless and until the court of review revises it.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Believing that equality of opportunity and free competition are essential to a healthy and permanent prosperity, and knowing that trusts, combinations, and monopolies are destroying these by controlling production, restricting competition, and fixing prices, we who have the honor to represent in part the great Democracy of the nation will use our best endeavors to redeem our party's platform pledge to give relief as far as possible to the traveling public and the shippers of the country from the abuses from which they suffer, and will seek by all honorable means to enlarge the powers of the Interstate Commerce Commission, so that it may have power and authority not merely to denounce a given rate as unreasonable and unjust, but to decide what shall be a reasonable and just rate to take its place, and to force its observance until reversed by a court of review, and also to eradicate as near as may be the growing evils of railroad rebates, private car and private terminal-track and side-track systems, and keep the great highways of commerce open to all on terms of equality.

If the majority party will consent to follow the President's recommendations on this important subject, then will the Congress be practically of one mind and legislation will be sure of enactment that will relieve the people of the unjust and oppressive burdens of unreasonable railroad rates that they have suffered from so long.

Mr. Chairman, I repeat that this legislation has long been demanded by the people of the country. It has emanated from shippers everywhere, from national and local grange organizations, boards of trade and commercial clubs, live stock and grain shippers, millers' associations and State legislatures—in fact, throughout the length and breadth of the land wherever commerce exists and railroads penetrate, the people have been oppressed by exorbitant charges and unjust discriminations and have appealed to their Representatives in Congress for relief. But their demands would have remained unheeded yet by the Republican party had not the President heard the murmurings of discontent and commanded the dominant party here to put the legislative machinery in operation at once.

It is therefore practically agreed by all that authority should be given some administrative body such as the Interstate Commerce Commission to stop and correct abuses. Without attempting a recitation of those abuses, I merely quote the following to show that the powers of common carriers are abused and that the people are the sufferers:

ANNUAL "NET PROFITS" OF ROADS "$1,000,000,000."

At a hearing by the committee on January 25, Representative HAUGEN, of Iowa, declared that the common carriers had abused their power and carried it to a point so as to absorb about $1,000,000,000 in net profits every year. He said that while the real value of all railroad property was less than ten billions, the railroads absorbed as net profits one-third of the total increase in wealth of the United States. "Only about one out of thirty-two employees in gainful occupations in the United States," he said, "is employed in the transportation service. The net profits from one day's labor in transportation is equal to one-half the earnings of twenty-two in other occupations. Not that the employees in transportation get larger pay than those engaged in other occupations, but I am speaking of profits to the owners and operators of the various enterprises. The profit of $1 invested in railways is equal to one-half of every $9 invested otherwise. The value of all farm property, according to the census, is more than twenty and one-half billions; 5,700,000 farmers, or more than half of all the people, live on the farms. Some ten millions are engaged in agricultural pursuits. The railroads employ one for every eight employed on the farms, yet the railroads' gross receipts are equal to two-thirds of those from the farms."

ENORMOUS PROFIT OF PRIVATE CAR LINES.

At a hearing before the Senate Committee on Interstate Commerce on January 30, as to the profits of private car lines, E. M. Ferguson, of Duluth, Minn., who is urging the abolition of the monopoly, appeared before the committee, and said the Interstate Commerce Commission had reported that the rental of the cars paid as mileage by the railroads would be sufficient alone to replace the cars in three years, or a return of 33⅓ per cent per annum gross on the cost of construction.

In reply to a question by Senator ELKINS, Mr. Ferguson gave as his opinion that the net return from each car for each day in use was about $6. Mr. ELKINS said he estimated it at about $1 a day a car for 12,000 to 14,000 cars, which the Armour Company alone operated, and the cars earned therefore $12,000 to $14,000 every day in the year.

"They could sell their products at net cost, could they not," he inquired, "and yet make a profit on their business from the receipts of their cars?"

"Certainly," replied Mr. Ferguson. "I have carried out your calculation, and find that if they only run these cars on an average of one hundred days in the year the Armour Company would clear $7,200,000 by the operation."

At a hearing before the Interstate Commerce Committee of the House of Representatives on January 9 George F. Mead, vice-president of the National League of Commission Merchants, and also a member of the Boston Fruit Growers' Exchange, complained of the inroads made into his business by the private car lines. He said these lines had grown to such an extent that Armour & Co., who controlled them, practically dictated prices of all perishable food products in this country. He declared that Armour & Co. were operating without license, and he could not see why "they had the right to prey upon our business and hold us up by the throat and demand whatever they see fit. These private car companies," he continued, "can break men, firms, and even States by their traffic rates."

And so also it has been shown by evidence given before the committee that unjust and extortionate charges have been made against shippers through the private terminal-track and side-track systems.

Several bills have been introduced on this subject; but two however, have been reported designed to enlarge the powers of the Interstate Commerce Commission, and, under the rule brought in by the Committee on Rules and which governs the proceedings in this case, we are denied, totally deprived of the mean privilege of even offering amendments to the bill reported by the majority of the members of the committee, and are also denied the right to perfect by amendment the measure reported by the minority.

Thus bound and under existing conditions we are forced finally to support the bill reported by the majority, however deficient or incomplete it may appear to be, or else be put in the false attitude before the country of being unfriendly to railroad-rate legislation at all.

Under these conditions it is therefore useless for me to contrast or discuss at length the merits or demerits of the pending measures, but suffice it to say that I accord with the minority members of the committee in the opinion that any bill will prove to be inadequate and inefficient in providing the desired relief if it fails to provide power to find a given rate unreasonable or unjust and to prescribe a reasonable or just rate to be substituted, to prescribe a joint rate, to eliminate unjust discrimination, to stop rebates and secret cut rates, to regulate private cars and private car lines, to regulate terminals and terminal facilities, to regulate freight classifications, and to compel the furnishing of equal facilities to all, and unless it preserves competition between carriers and markets and limits the power of the Commission to raise rates or prescribe minimum rates, and facilitates a speedy conclusion of proceedings in courts and limits litigation as far as the same may be done.

In my judgment special importance attaches to the matter of limiting the power of the Commission in regard to raising rates and fixing minimum rates where rates have been fixed by transportation companies, and this marks one of the deficiencies of the majority bill. The power to raise rates and fix minimum rates could and might be used to avoid competition between markets and between carriers; and if so, then the war that is now on between certain great interests which are contending for grain and other export business would be resolved in favor of particular localities and middlemen and against the interests of other localities and the producers. It might deflect the shipment of grain, live stock, and other products of the West and Middle West from their course through the Mississippi Valley to New Orleans and the Gulf, which is its natural and most economical route to seaboard, to the great loss and disadvantage of producers. It is well known that certain eastern centers are making strenuous efforts to regain control of the grain-export business by routing it from the West to the Atlantic seaboard. The power, then, to raise rates and fix minimum rates is a dangerous one, and could be used with disastrous results to competition and competing markets. While special privileges should be granted to none, yet the producers of the country wherever located should be protected in the full enjoyment of the natural advantages which come to them by reason of location and environment.

But I shall not attempt further discussion of these matters, for "talk can avail nothing." I shall see to it, however, and with jealous care, that I vote right, or as nearly so as existing conditions will admit of. And yet, Mr. Chairman, this bill is designed to have, and may have, a great effect upon the commerce of the country, and therefore may be of great consequence to the people; for I submit that there is no theme which challenges the attention of our citizens which is of greater interest or more general importance than the subject of our national trade and commerce.

We aspire to be a commercial nation, and such a nation is a nation of peace, progress, and prosperity; at peace with all the peoples of earth and progressive in all the avenues of higher civilization.

As bearing incidentally upon the subject of the general progress and prosperity of our country, it may not be entirely amiss for me to say that I should like very much to see at least a part of the vast sums of money which are annually taken from the pockets of the people through the forms of taxation and applied in unnecessary and ineffectual attempts at river and harbor improvements, in providing grounds and incidents thereto for military maneuvers, in constructing unnecessarily expensive public buildings throughout the States, and the building of an unneeded number of "fighting machines to plow unprofitably the waters of the deep," diverted from these profitless sources and used to aid and encourage the development and building up

of the vast resources of the interior of our land. Applied, if you please, in part to aid and encourage the construction of good public roads in the great wealth-producing sections of the land and in the further perfecting and extension of rural free delivery of mail and kindred enterprises.

Mr. DAVEY of Louisiana. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. PIERCE].

[Mr PIERCE addressed the committee. See Appendix.]

Mr. DAVEY of Louisiana. I now yield to the gentleman from North Carolina [Mr. THOMAS].

Mr. THOMAS of North Carolina. Mr. Chairman, I feel that I would be recreant to the district I represent, which is so much interested in the enlargement of the powers of the Interstate Commerce Commission, if I failed to express my views upon this important bill.

The abuse of railroad transportation and the evils which I am especially interested in having corrected, by means of legislation enlarging the powers of the Interstate Commerce Commission, arise mainly out of the use of private cars in the transportation of vegetables and fruits. Representing a constituency largely interested in trucking and fruit growing, my attention has been frequently called through the press and by my constituents to the exactions of private-car companies in transporting the produce of my section to northern markets.

I would like to see some amendment made to the Townsend-Esch bill or the Davey bill which would correct the evils of the private-car system. I am not disposed, however, to oppose the Davey bill, which is the bill of the Democratic minority, because of any particular defect. I shall vote with my party for this bill, and, failing to secure its passage, I shall then support the Townsend-Esch bill as the best bill which can be obtained from the Republican majority under the iron-clad rule adopted by the House.

Gentlemen have insisted in the debate that the words "any regulation or practice whatsoever affecting the transportation of persons or property," contained in section 1 of the Townsend-Esch bill, and similar language in the Davey bill, gives the Interstate Commerce Commission the power to regulate and control the private-car system. However, this would be a matter of judicial construction.

I hope such power is contained in section 1 of the bill of the Republican majority, and if such power is not contained in the bill of the majority or the Democratic substitute I hope that some separate bill—and I understand that one is pending before the Committee on Interstate and Foreign Commerce—will be brought into the House striking at the abuses of the private-car system.

The section of North Carolina which I have the honor to represent is extensively engaged in the shipping of strawberries, fruits, and early vegetables. In speaking of the inroads made upon that business by the private-car lines, Mr. George F. Mead, president of the National League of Commission Merchants, and also the Boston Fruit and Produce Exchange, in the hearings before the House Committee on Interstate and Foreign Commerce, said:

Armour & Co. and those interested have gone into the lines of business in which the fruit and produce men are engaged to such an extent that at the present time the car-line company known as "Armour & Co." controls the price of the perishable fruits produced in this country, and perhaps no other men have suffered more and no other business has suffered as ours has from the exactions and abuses of these private-car lines.

Continuing, he says:

I feel that at the present time Armour & Co. are under no regulations whatever. I can not imagine how the railroads of the country have the right to license Armour & Co. to prey upon us and to transfer the functions of a common carrier to a private individual, practically allowing them to hold us up by the throat and demand what they see fit.

Not only are the charges made by Armour & Co. exorbitant, but—

Says Mr. Mead—

they have the power to go into our line of business and to raise or lower the rates absolutely.

In one instance of some shipments to the city of Worcester Armour & Co. had all of the information about these shipments; they knew the time they were shipped and when they were due and they knew the cost of the car when it was bought in the open market, and if that carload of fruit was due on Wednesday they would put a carload of fruit in there on Tuesday and fill the market, and when the carload of fruit got in there on Wednesday they found the market cut from underneath them.

Mr. Francis B. Thurber, president United States Export Association, in the same hearings before the committee, uses this language:

Every private-car line which gives its owners an advantage over the average shipper should be absorbed by the railroads, just as the privately owned fast freight lines were absorbed. Every terminal railroad which gives its owners a like advantage should be thus absorbed.

I do not know that I am prepared to indorse this consolidation of business, but I do think there should be some legislation to correct the evils of the private-car and the terminal-track systems. If the provisions of the majority bill or of the minority bill are not sufficient to correct these evils, I would like to see a separate bill adopted or amendments made to the pending bill and substitute. If, under the rules, this can not be done, then I feel it my duty to support, first, the Democratic substitute, and take thereafter, in preference to no legislation, the Townsend-Esch bill.

I want a bill fair to the people and to the railroads, but which will, at the same time, correct the evil of the private-car system.

As to the abuse of the private-car system as practiced by Armour & Co., I read from a recent address of Mr. E. M. Ferguson, president of the Western Fruit Jobbers' Association and the National Retail Grocers' Association:

One of the most vicious conditions of the Armour contract is with respect to the railroad companies' officials engaging to procure for Armour & Co. any and all information concerning shipments made in Armour cars, permitting Armour & Co.'s interest to secretly spy upon all competitive business, to know shipping dates, contents of cars, consignor, consignee, arrival of shipments to market, etc. In many instances cost of goods at primary market is obtained from the railroad company's agent at shipping point for the benefit of Armour & Co. In their struggle for commercial supremacy through the agency of these contracts Armour & Co. engage railroad officials to deliver up to Armour & Co. their competitors, defenseless, bound hand and foot, to be commercially murdered by Armour & Co., with no opportunity to strike in their own defense. Under this system independent shippers become mere puppets in the hands of Armour & Co. Independent industries will be subject to their espionage, and such espionage is contrary to public interest and demoralizing.

The evils of the private car system are also shown in a recent editorial from the Washington Times:

PRIVATE CAR SERVICE.

In essaying regulation of railroad rates Congress is met by the difficulty that the evil of the rebate system is distinct from the problem of tariff schedules. Nevertheless, the supplemental problem does not appear beyond control. To the mind of the lay observer, looking at the subject without bias due to deference to technicality, the matter seems simple.

Private cars form the basis of the rebate business. The private car is a useful and, under present conditions, an indispensable adjunct of traffic. In its construction, equipment, and operation millions of dollars are invested. There is no purpose on the part even of a protesting public to destroy the capital that has taken this avenue of productiveness. The trouble lies in the fact that some lines of private cars are permitted to secure a monopoly. The managers are able to crowd competition out of existence. They demand that their cars and none other shall be used, and thus are able to charge prices ruinous to the shipper. The managers even enter into the business of buying fruit, meat, and other perishable commodities, and carrying these to the markets reached by their patrons, whom they are able to undersell, and yet this cut in prices is of no benefit to the public, for it does not bring the goods down to the reasonable figure that it would be possible if carriage rates were at a reasonable level.

The remedy, or at least a partial remedy, might be found in a law forbidding exclusive contracts. The road that hauls, for instance, the cars of the Armour Company ought to haul the cars of any other company at exactly the same price per ton and mile. Such a rule as this would eliminate the favoritism that is death to the small line and to the shipper.

Moreover, the private car lines ought to be prevented from entering the field as merchandisers. Their business should be that of transportation, and the limit clearly set and rigidly enforced.

Also, in the following extract from the report of the Interstate Commerce Commission:

One commodity very generally moved in private cars at the present time is fresh fruit. Some years ago there were a number of these private-car companies, which provided refrigerator cars for the transportation of fruit under refrigeration. Some of these were the Fruit Growers' Express, the Kansas City Fruit Express, the Continental Fruit Express, and the Armour Refrigerator Lines. These companies were all independent of one another originally, and their cars were used in competition with each other. Each refrigerator-car company was free to send its cars onto any line, as the shippers might require. The railroad company paid the customary mileage for the use of the cars and the car-line company furnished the refrigeration.

At the present day all the above car companies have been absorbed by the Armour Car Lines Company, which has to-day, in our opinion, a practical monopoly of the movement of fruit in large quantities in most sections of this country. There is the American Transit Refrigerator Company, which operates over the Gould lines, and the Santa Fe Fruit Express, which operates over the Santa Fe System, and there are numerous refrigerator lines having a small number of cars and engaged in a particular service, but we know of no company other than the Armour car lines which could move the peach crop of Georgia or the fruits of Michigan. This company, having acquired sufficient strength to do so, has adopted the rule that it will not allow its cars to go on the line of any railroad for the purpose of moving fruits from points of origin on that railroad unless it be under what is known as an "exclusive contract." By the terms of this contract the Armour Company agrees to provide whatever cars may be needed for the movement of the fruit crops. The railroad company pays for the use of these cars a fixed mileage and agrees that no other cars except those of the Armour Company shall be allowed to engage in this service upon its lines. The Armour Company furnishes the refrigeration, for which it makes a certain specified charge, which differs between different points. Under these contracts the shipper must use the Armour car. He can not furnish his own ice, but must pay the Armour Company whatever its refrigeration charges are. The result of these contracts has been, as a rule, to afford the public good service and to generally provide a more adequate supply of cars than was formerly obtained, but the prices for refrigeration have been enormously and unreasonably increased.

For example, in 1898 the Armour Car Lines Company was furnishing cars for the movement of Michigan fruit from points on the Pere Marquette Railroad to Boston in competition with other private-car companies, and its charge for refrigeration to Boston was $20 per car. Its present charge to Boston is $55 per car. Before the present exclusive contract was entered into between the Armour Car Lines and the Pere Marquette Railroad Company the actual quantity of ice required was charged for at $2.50 per ton. Under this system the cost of refrigerating cars from Pawpaw, Mich., to Dubuque, Iowa, averaged about $10 per car, while the present schedule of the Armour Car Lines is $37.50. The cost of icing from Mattawan, Mich., to Duluth was $7.50, as shown by an actual transaction in the year 1902, while the present refrigeration charge between those points is $45. The cost of icing pineapples from Mobile to Cincinnati under an exclusive contract with the Armour Car Lines is $45, while the cost of performing the same service from New Orleans to Cincinnati over the Illinois Central is $12.50 per car.

Illustrations without number like the above might be given. Some of these are extreme, but our impression is that under the operation of these exclusive contracts the cost of icing to the shipper has been advanced from 50 to 150 per cent, and that the charges in most cases are utterly unreasonable.

The stockholders of Armour & Co. own the stock of the Armour Car Lines Company. Certain commission merchants claimed, in the course of our investigation, that Armour & Co. was dealing in the fruits and vegetables which were transported under refrigeration in the cars of the Armour Car Lines Company, and that its control of these cars gave it an important advantage over them in the handling of these commodities.

It is apparent that this would be the case if Armour & Co. does, in fact, deal in these articles. The right to use a car itself while denying one to its competitors; the right to name whatever charge it sees fit for the use of that car when used by its competitor; a knowledge of the exact location of every carload owned by its competitor, must give to Armour & Co. a most decided advantage, which, in these times of small margins, might amount to a practical monopoly in some sections.

I do not insist, Mr. Chairman, that the private-car system, in many respects, has not been beneficial to the truckers and fruit growers of my own district and State and of the South. I well understand that there are arguments pro and con upon the subject of the value and benefit of the private-car service as practiced by Armour & Co. and others upon the railroads of the country. It is insisted with much force that the private-car system should be let alone and that present conditions are much more satisfactory than those formerly prevailing; that rates are much lower than formerly and the service has been much improved, and that the fruit industry of the South has been so benefited and has so grown under the prevailing system of refrigerator cars that many growers do not want the business interfered with. I know it is also insisted that the railroad companies are not able or willing to invest the amount of money necessary in refrigerator cars and in icing plants to properly conduct the business, and consequently, if Congress should throw this duty upon the railroads, that it might injuriously affect the fruit business of the South. I do not insist at all that the private cars should be driven out of business or any injustice should be done them, but I do insist that the Interstate Commerce Commission should have the power by legislation to regulate the rates charged for this service and to so control it as to prevent abuses and exactions from the people. The same principle which prompts the control of railroad freight rates should be invoked to control transportation of freight by means of the private-car system. I give due credit to Armour & Co. for all the good they have accomplished, and in many instances for satisfactory service, but certainly there should be some control over freight shipments by means of the private-car system. The attitude of the President upon this subject is just as emphatic as it is upon the general subject of railroad-rate legislation. In his message to Congress in December, 1904, the language used by him is as follows:

> Above all else we must strive to keep the highways of commerce open to all on equal terms, and to do this it is necessary to put a complete stop to all rebates. Whether the shipper or the railroad is to blame makes no difference; the rebate must be stopped; the abuses of the private car and private terminal-track and side-track systems must be stopped; and the legislation of the Fifty-eighth Congress which declares it to be unlawful for any person or corporation to offer, grant, give, solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce whereby such property shall by any device whatever be transported at a less rate than that named in the tariffs published by the carrier must be enforced.

The Democratic party declared its position upon this important subject of the regulation of railroad rates of any kind or character some time before this emphatic declaration of the President in his message to Congress. The national Democratic party platform of 1900 contains the following declaration:

NATIONAL DEMOCRATIC PARTY PLATFORM OF 1900.

> We favor such enlargement of the scope of the interstate-commerce law as will enable the Commission to protect individuals and communities from discrimination and the public from unjust and unfair transportation rates.

The national Democratic party platform of 1904 also contains a similar declaration.

NATIONAL DEMOCRATIC PARTY PLATFORM OF 1904.

> We demand an enlargement of the powers of the Interstate Commerce Commission to the end that the traveling public and the shippers of this Government may have prompt and adequate relief from the abuses to which they are subjected in the matter of transportation.

Mr. Chairman, the constitutional power to enact legislation similar to that contained in the Townsend-Esch bill or the Davey bill is unquestioned. The decisions of the Supreme Court of the United States leave no doubt as to the right of Congress to exercise the power of controlling railroad freight rates under the commerce clause of the Constitution. The power to regulate includes the power to fix a rate, and this power can be delegated. In the Maximum Rate case, volume 167 of the United States Supreme Court Reports, it is said:

> Congress might itself prescribe the rates or it might commit to some subordinate tribunal this duty.

In the Maximum Rate case the court held that under the existing law the Commission, having the power to declare a rate unreasonable, did not have the power to fix a rate and declare it to be reasonable. This decision was based solely on the fact that the express words "giving power" were not contained in the interstate-commerce act, and that it would not imply such broad powers. No suggestion was made that Congress might not by law give the power to the Interstate Commerce Commission, having declared a given rate to be unreasonable, thereupon to declare what rates should be reasonable; and no suggestion was made that this power could not be delegated by Congress to the Interstate Commerce Commission. It is the purpose of this legislation to give such broader powers to the Interstate Commerce Commission.

The commercial organizations of the country have petitioned for the enactment of some law enlarging the powers of the Interstate Commerce Commission. These organizations include in the State of North Carolina the North Carolina Pine Association, Charlotte Shippers' Association, East Carolina Truck and Fruit Growers' Association, Wilmington Chamber of Commerce, and Wilmington Merchants' Association. The masses of the people throughout the country demand the enactment of such legislation.

It should be fair and just to the railroads, but it should be so framed as to correct fully all the abuses which exist, and it should be free from provisions which will enable the railway companies to litigate indefinitely and retard the enforcement of the rate fixed by the Interstate Commerce Commission. Section 14 of the bill of the Republican majority is so framed as to give opportunity to the railway companies to prolong litigation upon the question of freight rates. This section is known as the "railroad joker." In this respect, as outlined by the report of the minority of the committee, the majority bill is not a perfect bill, but the rules forbid us to amend it, and if we can not secure an amendment, or the passage of the Democratic Davey bill as a substitute, I see nothing else for me to do in the line of duty except to give my support to the best bill we can get from the majority. I shall, therefore, vote for the Democratic substitute known as the "Davey bill," and, failing to secure the passage of that bill, cast my vote for the so-called "Townsend-Esch bill;" and support any further legislation necessary to correct the abuse of private-car systems.

To summarize, Mr. Chairman, the Democratic party in its platform has demanded legislation in principle similar to both the bills under consideration; the President of the United States has recommended it; it is constitutional; the commercial organizations and the people demand it, and it should be enacted into law. If the legislation contains defects, such as I have pointed out, which can not be corrected now they should be corrected by legislation hereafter. But the pending bill is certainly a step in the right direction. [Applause.]

Mr. DAVEY of Louisiana. I now yield to the gentleman from Pennsylvania [Mr. SHULL].

Mr. SHULL. Mr. Chairman, addressing myself to the subject that is before us finds its parallel in addressing a jury with a sealed verdict in its pocket, and lending myself to the delusion that something is under consideration shall state why I shall vote to substitute the Davey bill for the Esch-Townsend bill; that it would stiffen and buttress the present statutes and make the law what it was intended before the decision of the Supreme Court of the United States; that I am under moral obligations to so do by reason of the caucus of the Democratic Members of this body, notwithstanding that the bill is deficient and defective in that it does not strike at the root of the evils from which the masses suffer irrespective of place, section, or locality.

I shall vote against the Townsend-Esch bill for the reason that if it becomes law its effect would be to weaken and emas-

culate the present law as construed by the Supreme Court of the United States; that it establishes a special court with extraordinary powers, which is pretended to be simply an appellate court with equity jurisdictions, a hybrid whose genesis is confounded in the English jurisprudence of the eighteenth century tinctured with the technical traps and pitfalls of modern judicial practices—a court of perplexing possibilities, constructed for the purpose of making litigation difficult, uncertain, and indeterminal; that the bill shorn of this objection does not provide an adequate remedy for the evils whereof the small shipper suffers and whereby he is crucified.

Notwithstanding the provisions of existing law, rebates are made secretly, if now made. Why would they not be made under the rates fixed by a commission with equal ease and security?

The bill bears the earmarks of the cunning hand of those modern creations of Republican legislation that feed on the substance of the people, that hold up and destroy any railroad that has the temerity to question their terms, and blast all who do not bow down to them.

This character of legislation is but a sop thrown to the people to divert their attention from the modern methods devised by the so-called "trusts" to continue their power over common carrier, over the shipper, and the consumer; all of whom alike they with an iron hand rule.

The enactment of a law that will give equal rights to all, one that will determine the power of vast aggregations of capital to rob the people, is one that will place private cars, private-car lines, and terminals within the scope of the present interstate-commerce law or else interdict the use thereof by common carriers. Either would be such a solar-plexus blow to trusts and monopolies as would wither the hand at the throat of every man, would be the dawn of the day when the policy of railroads would not and could not be dominated by gigantic industries that were called into existence and are nursed, fostered, and perpetuated by an iniquitous tariff law. [Loud applause.]

Mr. DAVEY of Louisiana. I yield to the gentleman from Arkansas [Mr. WALLACE].

Mr. WALLACE. Mr. Chairman, in the brief time at my disposal I can not go into details, but merely submit a few observations upon rate legislation now under consideration. In 1877 the law creating the Interstate Commerce Commission was passed. The policy of railway management at the time had resolved itself into an elaborate system of secret rates, rebates, drawbacks, and concessions enriching favored shippers and destroying competition in many lines of trade. The Commission, for want of power to deal effectively with these evils, has not accomplished what was expected of it. A number of cases before the Supreme Court have been decided favorably to the railroads. But the Supreme Court noted the fact that it had no power to legislate and that the Congress would have to confer additional power on the Commission before it could vouchsafe the remedy. The railways and not the Commission have enjoyed the uninterrupted prerogative of regulating and fixing their own rates.

The Townsend-Esch bill, presented by the majority, is objectionable in numerous provisions; but I shall direct attention to one only. That provision creates a special court to review the action of the Commission; adds two members to the Commission itself, and increases the salaries of the entire membership of seven to $10,000 each. The court itself is composed of five circuit judges of the United States. Additional sums of money must, therefore, under the provisions of this bill, be expended in operating the machinery of this new but unnecessary court. Besides, this "court of transportation" is hedged about with provisions for restraining orders, injunctions, interlocutory motions, orders, rules, and "other proceedings" that will afford the luxury of delay not hitherto vouchsafed to those who may elect to litigate for time and not justice. The judiciary as now constructed is ample for the purpose without a new court. The minority leader upon this floor said the other day:

> We ought to support the three vital points of the President's message, to wit: First, the power of the Commission to substitute a rate for one declared off; secondly, to make that rate operative until set aside by final judgment of a court; third, to make the appeal, or review, or whatever it is, to be heard in the appellate court only upon the evidence adduced before the Interstate Commerce Commission, making of it purely an appellate court—of course, providing as in other cases of appellate hearing for newly discovered evidence, which could not with reasonable diligence have been ascertained earlier.

This is practically the Davey bill and the almost ancient Democratic position on these points. This is also practically the substitute which the majority, graciously and with the certainty of being able to vote it down, invite the minority to offer. By cast-iron rule, forced upon the House by the majority, no amendment to any section of the Townsend-Esch bill will be permitted from any quarter. Legislation along the lines of the position of the minority and the President's message—lodging the power of rate adjustment in the Commission and providing for judicial review without vexatious delay—would be just to the public and the railroads. I have no disposition to discriminate against corporations engaged in interstate traffic and transportation. On the contrary, I favor correction of abuses—equal facilities of transportation and reasonable schedule of rates between carriers and the large and small shippers. It occurs to me that the Interstate Commerce Commission, with the power to effect such results, would strengthen and encourage State commissions to greater usefulness and efficiency. Mr. Chairman, I do not feel assured that this Congress will pass any bill upon this subject, but if it does, we may look for it to fall far short of providing remedies for all the evils and abuses long borne by the public. For example, the Interstate Cotton Convention recently met in New Orleans and, in substance, published the following declarations touching the shipment of cotton:

First, adopt for the transportation of cotton a uniform bill of lading. Second, furnish cars promptly for cotton when ready for shipment and load the same so as to protect it from weather and other damage, so far as it may be practicable. Third, prevent delays, improper routing, and confusion in the handling of cotton while in possession of the railroads, and provide for prompt delivery at destination. Fourth, simplify the shipment, so that the producer, when desirable, can handle his own product direct to the consumer.

Now, this was formulated as a request to the management of railways in the South, to be observed and enforced; but this request was preceded by the statement that the railroads of the country "are in the hands of a few" and the shipping interests are "deprived of even the small benefits of protection that competition formerly afforded;" that the present movement to endow the Interstate Commerce Commission with necessary powers to control and regulate discriminations and excessive charges offers the best means of accomplishing needed reforms, and memorializes Congress to effect such legislation. Congress has been likewise petitioned by many other interests and organizations throughout the country. Mr. Chairman, whatever may be given or denied them, the people have the right to expect of Congress the enactment of a law which will be no respecter of persons, either artificial or real, and that shall lay its correcting hand on corporations and individuals—prince and peasant—alike. [Loud applause.]

Mr. PORTER. Mr. Chairman, I think I appreciate the efforts of the Interstate Commerce Commission in the framing of this bill. The demand for relief from crying evils that do exist in railway practices, which nobody can defend, has been so great and so long continued that now the insistent cry is heard that "something must be done." The cry is for redress of evils that are recognized practically everywhere. But in the pressure of party struggle we are now face to face with a decision that may accomplish the reasonable desire of the people of these United States or that may work for their almost irreparable harm.

There has been no such agency in the wonderful development of this country as the railroad industry. There is none to-day whose weal or woe works so quickly for weal or woe of the whole public. Neither is there any industry to-day more directly or more truly an industry of the people. I have no sympathy with wholesale denunciation of railroads nor with that hostility that often manifests itself to railroads as a class. Let us think of what this country owes to their agency and that it is only in their reasonable prosperity that all other industries can hope to prosper. No one member can suffer, and especially can be made to unjustly suffer, that every other member shall not suffer with it.

As to the demand for legislation, I recognize this, as I have said. I have myself in the past memorialized Congress to take action, but never have I intentionally asked any Representative to go contrary to his own conscience or judgment. And, in returning to the people, as I do in less than another month, I shall be still more chary as to recommending legislation. When I realize the mass of bills proposed, when I see the difficulty in agreeing upon anything, when I see the compromises that have to be made to pass a new law soon to become obsolete or utterly submerged in the awful ocean of legislative acts, I see that the true reliance of a free people is on their own splendid efforts and the working out of natural law. That will work with an irresistible force. Nor am I one who fears that the rights of the people will go down under the tread of any despot. As truly as that day follows the night, so shall the right triumph, and it is far better to suffer oneself than to

do injustice to another. It is an old maxim, well approved, "Let justice be done, though the heavens fall."

I have tried to decide on my present action purely and solely as a matter of my public duty. I have been more anxious to do right in this vote than in any other act of my short representative life. I could bring myself to vote for this bill only as a matter of political expediency. By voting against it I can hand back the trust I have received from my constituents with a conscience clear of offense, in that I have tried to do my duty to them and to all the people of these United States. [Applause.]

Mr. BRICK. Mr. Chairman, I have been requested by various persons of Indiana and elsewhere to support several different bills that were introduced, each one having for its purpose the prevention of unjust and discriminating practices by the railway companies of the United States.

Now, in the brief time allotted me, I desire to tell my position and the reasons why I shall support the bill that has been reported to the House by the majority members of the Committee on Interstate and Foreign Commerce.

Perhaps there were twenty bills altogether upon this all-important subject presented to that committee for consideration, all of them identical in their broad desire to relieve the people of the country from the burdens and injustice of unfair and unequal rates and rebates; each varying more or less in the details, modes, and methods by which this much-desired event might be accomplished.

Most, if not every one, of the bills had devoted adherents. I am not so much concerned about any particular measure as I am in the ultimate object to be attained.

What plan will best serve to practicably, expeditiously, and effectually put a complete stop to all discriminations, whether such discriminations are done directly by a rebate or indirectly through the abuses of the private car, private terminal track, switch track, or other indefensible devices, favoring one citizen to the injury of another?

In this country every man, whether he be rich or poor, should have an equal chance with every other man to work out for himself his own salvation, and it is within the province of good government to protect the individual so far as it can in that prerogative.

This is not a new subject. It has been before the people at least for a score of years, and the people generally have been suffering from the baneful effects of rate inequalities for many years.

I doubt not but that many a man has been schemed out of business and forced to failure through the unfair advantage of rebates given to others in the same line of trade. And certainly statistics will never show the full number of cases where men have been crippled in their business irretrievably by a combination between the transporter and a competitor, where the rebate given to the one and withheld from the other became the tyrannical arbiter of success or failure.

Therefore we should act and act with no great delay. I know of no reason why we can not enact a rational and justly effective law at this session. I would not make a law that will infringe upon or take away a single legitimate right belonging to the railway company.

In a Republic, whenever the representatives of the whole people shall so far forget their sense of common fairness as to inflict a wrong upon any particular class through the instrumentality of a one-sided law, it will surely come back to plague its perpetrators. Yes, more than that, it will mark the beginning of decay in the mighty tree of the nation.

I believe that the railways should have the unmolested privilege to legitimately make what they can in the exercise of their brain and enterprise.

But while doing that they owe a duty to the public. They are a quasi-public corporation, exercising certain functions of a public character, and as such, not only morally, but as a matter of public policy, should be required by law, if they do not do it otherwise, to treat every citizen fairly.

This they fall far short of doing when they give to one man the advantage of a rebate over another.

The railroad is the greatest, the almost exclusive, highway of trade to a large proportion of shippers. It serves in many ways a public capacity.

And it is not socialism to exercise a supervision over them as proposed in this legislation. It is not an act of the Government stepping in to attempt the control of a private enterprise, as some would have you believe. They are public in a sense, and their supervision by law falls within the rule of public policy. This is sufficient to justify the right kind of a law when it appears to be necessary in order to give equal rights to everyone.

I am for this act because I am not for Government ownership of railroads.

I want everything in this country left, as far as possible, to individual endeavor.

I have no faith in socialism removing the inequalities, injustice, and hardships of mankind by abolishing private ownership.

I believe it would destroy the manhood of individual initiative and labor and American self-reliance.

Now, I believe we can regulate railroad traffic by law for the public good and still not interfere with the successful management of the road by its owners.

We can do this in the same manner that we have done it with banks.

Who is there to say that Government supervision of banks has been a step toward socialism, or that it has usurped the inalienable rights of the bankers of the country? Why, Government regulation in that respect has proved a blessing both to the bank and to the public beyond the power of accurate estimation.

And so will a proper law as to railroad rebates.

There is a vast deal of talk nowadays about Government ownership of railroads. This talk has been in a degree incited by abuse of commercial power and the unfairness of certain rate inequities.

The unrest is liable to increase rather than diminish. I want it to diminish, and I believe this act will do away with the cause of restlessness in a large measure.

We ought to relieve the people so far as legislation can do it by preventing discrimination and securing just and steady rates to all shippers.

I believe this bill will do that.

It gives the Commission not only power to thoroughly investigate a charge, but also the power to declare and fix what they shall deem to be a just and reasonable rate. And this rate upon taking effect will continue of its own force; but an appeal may be taken and then the rate will continue in force until set aside or suspended, if that should happen, by the appellate court.

Now, one of the most important considerations to the public is expediency.

We have given the Interstate Commerce Commission by this act the power to adjust rates. Now, we want them fixed and settled within a reasonable time, otherwise the virtue of the remedy might, in many instances, become ineffective.

For the purpose of expediting the business and increasing the efficiency of the Commission it has been enlarged to seven, and then in order that the very best men of the country may be induced to give their time and ability, the salary has been increased to $10,000 a year. Men who are best fitted for the great duties of that trust could command a salary of $10,000, and this position is of such a high character that none but men of the very highest ability and honesty and experience should be selected.

To further expedite business, a special court is provided. This court will be open the year round and will always be ready to transact the affairs appealed to it from the acts of the Commission without delay happening from any other class of cases. And in order to make the decrees of the Commission more effective there is a penalty provided of $5,000 per day for every day an order is violated after it becomes operative.

Believing the bill proposed to be a safe, reasonable, and effective one, it shall receive my support. [Applause.]

Mr. DAVEY of Louisiana. I now yield to the gentleman from Texas [Mr. GILLESPIE].

Mr. GILLESPIE. Mr. Chairman, this legislation is of a most important character. But a moment's thought brings before the mind the incalculable magnitude of the interests affected.

Transportation is one of the necessary departments of the great work of our people. Agriculture, manufacturing, and commerce are the Three Graces that have showered abundant blessings upon our people, and will continue to do so if we are wise enough and brave enough to establish and maintain harmonious relations among them.

Transportation is the chief servant, but should never be the master of commerce. The cheaper, safer, and quicker transportation, the more easily commerce can do her perfect work.

We must approach the solution of this question with that degree of courage and determination to do the right that should characterize the representatives of a great people who want to do justice by everybody and every interest, and who recognize that even and exact justice to all men is the corner stone of the Republic.

But, gentlemen, because this is a serious question of the utmost importance to our people—affecting the welfare, for better or worse, of every person and interest in the Republic—this is no reason for our failure to act, provided justice and fair play require it.

Our right to act along the lines proposed in these bills under the Constitution and laws is not disputed by anyone. This

has been too often declared by our State and Federal courts to be gainsaid. Then, we must devote ourselves courageously to the investigation of the facts to determine whether action is necessary.

What are the facts? There is no doubt that if there could be such a thing as free competition among railroads, and every part of the country could get the benefit of this competition, the safest and best plan would be to leave the question of rates, practices, and regulations to be adjusted by this competition; for unquestionably governmental interference with the private affairs of the people is always unsatisfactory at best, and the least possible we can have of it is the safest course.

But, unfortunately, a railroad is a natural monopoly as to the intermediate points of its territory. As to these there can be no such thing as competition, and railroads are always tempted to make the traffic from these points make up for the low rates competition would force at common points, and, therefore, justice and fair play demand the supervision of the rates of railroads to protect shippers and the public at these intermediate points.

But is there free competition among railroads of the country, even at common points? We are bound to answer this question in the negative. The railroads are combined and consolidated until there is no such thing as free competition.

Mr. Cowan, of Fort Worth, Tex., made this statement before the Committee on Interstate and Foreign Commerce:

"In December, 1898, the railroad lines serving southwestern territory met in St. Louis, at the office of the southwestern traffic committee, a committee to which all the southwestern lines belong, and they agreed among themselves—and I use the term advisedly—to raise the rates on live stock, and they did it, and they all published it on the same day. Now they say that it was only a conference. What else does it amount to than an agreement? They conferred together for the purpose of bringing the thing about. Each one, they said, was acting independently. Be that true, they all acted to the same end, with the same means for each, and achieved it, and the exact results happened that each expected would happen.

"So, therefore, I say it is folly to talk about that not being an agreement. A little over a year from that time, the early part of 1900, another advance was made in the rate. And in 1903 another advance was made in the rate. And every one of them was made in precisely the same manner, and they have been maintained in the same manner, and there is to-day absolutely no competition with respect to the matter of rates in the transportation of live stock from the Southwest." (Mr. Cowan's statement before the Committee on Interstate and Foreign Commerce, January, 1905.)

If they had such a profound respect for competition which they now claim, they would not have, in violation of law, destroyed the conditions upon which competition rests. They have sown to the wind; now, if they reap a whirlwind, who is to blame?

But, Mr. Chairman, if the railroads have done wrong, that does not justify this House in doing wrong also. But the wrong of the railroads has brought about a noncompetitive condition, which we are bound to take notice of.

Traffic managers of the different roads get together and fix rates for every city and hamlet in the land. What is the controlling motive? They frankly admit it is to make money—to make all the traffic of the country will bear. Their rule is this: What is the highest rate we can charge and permit the traffic to move?

Now, when the traffic managers get together, whose interests are they dealing with? They are those of the railroads, the shippers, and the public—three parties at interest. Who is there to protect the interests of the shippers and the public? You answer, "Competition?" I say that is a fraud and a farce. The shipper has a right to be heard; the public have a right to be heard; justice to both individuals and communities demands this.

This legislation says they shall be heard, and most effectively, consistent with the rights of all concerned. There is no intention or effort to destroy whatever of rightful competition among railroads or communities may exist to-day.

First, the Commission is required to inquire into the rate complained of. What standard are they directed to use? That of reason and justice. Who could ask more or demand less? If the Commission should make a mistake, a court specially equipped is opened to the railroads to again have the reasonableness and justness of the Commissioners' finding inquired into. Yet again is the Supreme Court open to them if they shall not be satisfied with the decision of the court of transportation. Certainly the railroads have no right to complain at this slow-footed justice so far as the shipper and the public are concerned; yet I believe the remedy offered in the Townsend bill is about as expeditious as can be had under the decision of our courts, only I would provide that no steps should be taken by either party without immediate notice to the opposite party. I believe the special court of transportation is a most salient feature of this bill. It is a matter of special congratulation to the whole country that the President has so fearlessly championed this great Democratic measure in the interest of justice and fair play.

It is the dawning of a new era in American politics. It means that the people of this country are going to demand substantial justice for themselves, regardless of partisan politics. May it ever be so! [Loud applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. WARNOCK having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed with amendments bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 14749. An act to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 7081. An act to mark the grave of Maj. Pierre Charles L'Enfant; and

S. 6970. An act providing for the award of medals of honor to certain officers and men of the Navy and Marine Corps.

The message also announced that the Senate had agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16560) to authorize the registration of trademarks used in commerce with foreign nations or among the several States or with Indian tribes and to protect the same.

The message also announced that the Senate passed without amendment bills and joint resolutions of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 18428. An act to authorize the Leckrone and Little Whiteley Railroad Company to construct and maintain a bridge across the Monongahela River;

H. R. 18207. An act to amend sections 1, 5, and 6 of an act entitled "An act authorizing the construction of a wagon, toll, and electric-railway bridge over the Missouri River at Lexington, Mo.." approved April 28, 1904, extending the provisions thereof to steam-railway cars, locomotives, and other motive power, and extending the time for commencing actual construction of said bridge;

H. R. 17350. An act declaring Grand River to be not a navigable stream;

H. J. Res. 213. Joint resolution for appointment of a member of Board of Managers of the National Home for Disabled Volunteer Soldiers; and

H. J. Res. 184. Joint resolution authorizing the Secretary of War to furnish a condemned cannon to the armory at St. Paul, Minn., to construct a memorial tablet.

RAILROAD RATE BILL.

The committee resumed its session.

Mr. DAVEY of Louisiana. I now yield to the gentleman from Alabama [Mr. BURNETT].

Mr. BURNETT. Mr. Chairman, in the brief period allotted me for the discussion of this measure, I can not enter into such an elaborate argument as I should like to do. I desire to state at the outset that I think the Davey bill better than the Esch-Townsend bill in many particulars. Yet, if we can not get the product of the Democratic caucus, I shall most cheerfully favor the Esch-Townsend bill as a step in the right direction.

Gentlemen on the other side of the Chamber have struggled laboriously to prove the paternity of the Republican party to the pending legislation. They have strained "with optics keen" to see that which the people have not seen—that is, that the Republican party, of its own volition, has originated a measure enlarging the power of the Interstate Commerce Commission.

The minority members of the Interstate and Foreign Commerce Committee have for years sought to secure favorable action on legislation of this character, and have been unable to do so. Not till the muttering storm of popular indignation rose high and higher did the conscience of the Republican party be-

come quickened to the necessity for action. In at least two Presidential campaigns has the Democratic platform demanded it in no uncertain tones. For eight years has the voice of Nebraska's peerless son been crying from the hilltops and the valleys for at least a modicum of relief for his people, and back of him was the great Democratic party. Not till the people themselves, from the Atlantic to the Pacific, rose in their might and demanded action did the stand-pat banner of the Republican party capitulate to their attacks.

Mr. Chairman, I believe that Congress should pass this legislation, because from no other source can it come. The States may regulate freight rates by common carriers within the boundaries of State lines. Their legislatures may protect the people against exorbitant rates and unjust discrimination, so far as the hauls are within the borders of their own States. But the Constitution of the United States, in terms, prohibits their control of traffic which passes beyond State lines. Section 8 of the Federal Constitution says, among other things:

The Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes.

Thus with Congress alone rests the power of so regulating the millions of interstate commerce as that justice may be done both to the people and to the railroad. The power of Congress, and of Congress alone, to regulate interstate traffic being admitted, the next query is, Is it right that such traffic should be regulated? This question all fair-minded people are bound to answer in the affirmative. There are many reasons why this is true. All people and all corporations should be amenable to the law. Individuals throughout the land are restrained by the old common-law maxim, "So use your own as not to injure another's." Then is it unreasonable that this same great principle of law and safeguard of good society should apply with equal force to corporations as to individuals? Railroads, of all other entities, ought to be willing to abide by this wholesome doctrine. They enjoy many concessions that are not made to ordinary individuals. Their very existence is ushered in by concessions that no private individual can exercise. In their very construction they have the right of eminent domain, by which they can raze to the ground the most valuable structures and appropriate the most fertile lands. These important concessions and valuable privileges are granted to them for the very reason that they are public utilities and operated for the public good. Congress itself has conferred upon them the right to appropriate a part of the public domain for rights of way and depot facilities, on compliance with certain easy formalities. To many of them have been granted vast areas to aid in their construction, and many homes that would have been settled by the poor of the land have passed into the hands of these great corporations. Then is it not right that as a partial compensation for such vast concessions they should be willing to exercise their functions in the interest of all the people as well as in the promotion of their own selfish aims?

The progress and development of the age necessitates their use. There is a kind of duress upon every one living in civilized and progressive communities to use them. The very nature of these vast aggregations of wealth and power is essentially that of a monopoly, and such a monopoly as must be made to bow to law.

I have no desire to oppress them. I regard them as one of the greatest harbingers of progress of any human agency, and I have no feelings of unkindness for them. In my district we need more of them. In some portions of the district they have made the country blossom as the rose. They have climbed the mountain tops, and along their wake splendid towns have sprung up like magic, and prosperous people greet the shriek of the locomotive. Some of the most fertile lands in these same counties need but the iron horse to make them fivefold more valuable than they are. In some of these counties a single railroad pays more than one-fourth of the entire taxes of the county.

Mr. Chairman, I have the honor of representing a rural people. Many of them and their children have not the advantages of profound literary training. But they are an honest people; a people who fear God, revere justice, and uphold the law. They would not regard me as their faithful Representative were I on this floor to rave like a howling demagogue against railroads or other corporate interests or demand the destruction of these great adjuncts of development and progress. The effort has been made each time that I have been before the people for election to this House to array them against me because of my relation to railroads, but each time it failed, and the last time by a more emphatic majority than ever. Each time I have told them that whenever the interests of my people clashed with that of corporate power they would find me on the side of the people whose commission I bore. My people believed me, they trusted me, and now, as their Representative, I shall raise my voice and cast my vote for what I believe to be their interest. They are not unjust or unreasonable in their demands. They do not ask a pound of flesh from next to heart. They do not seek to confiscate or destroy the holdings of these great corporations, but they do ask, Mr. Chairman, that these corporations, to whom so much has been granted by the people, should be required to do that justice to these people which they demand for themselves.

For several years after the creation by Congress of the present Interstate Commerce Commission it was thought that it had the power to regulate freight rates. Railroads prospered then and under the legislation proposed by both these bills they will continue to prosper. The Commission assumed to regulate rates until the Supreme Court of the United States held that they had no such power, and yet the restraining hand of the courts was always ready to see that no such rates should be fixed as were unreasonable or destructive of their property.

The Esch-Townsend bill is a long stride toward correcting the evils resulting from these decisions, but we believe it does not go far enough. The President, in his message, said: "The railway is a public servant. Its rates should be just and open to all shippers alike. The Government should see to it that within its jurisdiction this is so, and should provide a speedy and effective remedy to that end." This is all that the Davey bill seeks to do. In order to make this clear I ask to read this bill. It is as follows:

A bill (H. R. 17786) to empower the Interstate Commerce Commission to fix transportation rates in certain contingencies.

Be it enacted, etc., That when, hereafter, upon complaint made, and after investigation and hearing had, the Interstate Commerce Commission shall declare a given rate, whether joint or single, or regulation or practice, for transportation of freight or passengers, unreasonable, or unjustly discriminative, it shall be the duty of the Commission, and it is hereby authorized to perform that duty, to declare, at the same time, what would be a fair, just, and reasonable rate, or regulation, or practice in lieu of the rate, regulation, or practice declared unreasonable, and the new rate, regulation, or practice so declared shall become operative twenty days after notice: *Provided*, That the Commission shall in no case have power to raise a rate filed and published by a carrier.

The Davey bill meets the vital suggestions of the President in that quotation. It gives the Commission the power to make rates just and open, and it provides a speedy and effective remedy to that end.

It is more speedy in its results, in that under the Davey bill the rate becomes operative in twenty days, while under the other it is thirty.

Again, the Esch-Townsend bill provides for a new court called "the court of transportation," composed of five circuit judges of the United States, who are to be in addition to the present number of circuit judges. This is an additional expense and makes the proceedings more cumbersome and the possibilities of delay greater, for evidently under the fourteenth section of the Esch-Townsend bill this is to be a court of original and not appellate jurisdiction, and the case may be opened anew before it. The Davey bill cuts off all this by requiring that any appeals from the decision of the Commission shall only be reviewed on the testimony contained in the record to be taken up from the Commission. Under the Davey bill, while any such appeal is pending the rate fixed by the Commission goes on, while under the other bill it may be restrained by injunction. There are, in my opinion, other serious objections to the Esch-Townsend bill, but my time is too limited to try to discuss them further, especially as under the rule brought in by the majority amendments other than the Davey bill can not be offered.

Mr. Chairman, the people have the right to expect, and do expect, this Congress to give them relief from the conditions brought about by the impotence of the present Commission. The President has heard the call and he has gone far in advance of his party in trying to answer that call. Will Congress stand by him and by the people? As to the Democratic membership of this House, almost to a man, we are with him.

Will the other side of this Chamber respond as earnestly? The vote, Mr. Chairman, will tell.

Mr. DAVEY of Louisiana. I now yield to the gentleman from Missouri [Mr. DE ARMOND].

Mr. DE ARMOND. Mr. Chairman, I have no idea in addressing the House at this time that what I say will have any effect upon the vote upon this most important question. I take it that the large number of Members here now have already made up their minds as to how they will vote, and that nothing I could say would change the mind of any gentleman upon the subject. It is rather on account of the importance of the subject itself than out of any hope that anything said may be productive of good that I address myself to the question.

We seem to be proceeding on the theory that some kind of legislation upon this subject is necessary, or, if not absolutely necessary, is at least desirable. That seems to go in this House as a matter of course. I will not argue or endeavor to establish a proposition which seems to be so well established in the minds of all.

What ought the legislation to be, if there is to be legislation at all? What are the abuses against which you are to legislate? What are the remedies to be carried into the law? What is the good which you seek to accomplish?

I am one of those who believe (and this belief is merely individual speculation, because no direct good comes of it, I think) that one of the greatest of errors, committed long years ago and continued for long years, is that of treating corporations, under the law and otherwise, as individuals. There ought to be in law, as there is in fact, a proper differentiation between the individual—a man of flesh and blood, who strives, endures, accomplishes, and then dies—and a corporation, which is merely a figment of his brain, an emanation of his creative power necessarily small and necessarily limited, as all finite power must be.

It has been the philosophy and practice, however, for many years to treat "person" and "corporation" as synonymous in law and in the courts. I think this is erroneous and dangerous and baleful in theory and in practice. But having become accustomed to express ourselves in this way, and to think in this manner, often, when we come to deal with abuses perpetrated by corporations, we drop without thinking into the rut, and act without really entertaining it in the belief that corporations must be dealt with precisely as individuals, and that there is danger of invading individual rights and violating fundamental principles of the Constitution if there be meted out to corporations simple justice—not hardship or wrong or outrage, but mere justice.

The Constitution gives to the Congress of the United States control over interstate commerce. Gentlemen may dispute and may argue as they see fit about how far that control constitutionally may extend, or how far, as a matter of practical wisdom and expediency, we ought to go. That the control may, under the sanction and grant of the Constitution, extend to the regulation of the rates to be charged for the conveyance of passengers and the carrying of freight upon interstate lines, it seems to me, may be very safely assumed; in fact, it is assumed in all the legislation, perfect or imperfect, upon this subject.

One of the essentials of this control, one of its necessary elements, if control is to amount to anything, is that it be effective and real rather than merely theoretic control over the rates to be charged. We have already assumed control in some degree, and ought to exercise it in a larger degree, over the appliances and equipment of railroads engaged in interstate commerce. We have legislated and ought to legislate further to secure safety to as great an extent as possible to travelers upon these roads and to the employees who conduct the operations in this vast system of interstate commerce.

Now, then, it seems to be conceded on both sides of the aisle, by all persons who take part in this discussion, and I presume by all Members here who will vote upon it, that there does exist rightfully some control over interstate commerce operations. There was created some years ago a Commission, called the "Interstate Commerce Commission," for the better protection of the public; to exercise some restraint, bring some direction and some control, upon these huge corporations. It was supposed at the time the measure was passed that the Commission was clothed with powers which by decisions of the Supreme Court it was held not to possess; powers which rightfully ought to be exercised by it, or some other agency of the Government, for the control of these great corporations and the protection of their patrons, the people of the country, and all affected by their operation—the producers and the consumers of the land.

A very instructive opinion—a minority opinion, unfortunately—was delivered in one of these cases by Justice Harlan of the Supreme Court. It is the case of the Texas and Pacific Railroad against the Interstate Commerce Commission, reported in volume 162, United States Supreme Court Reports, and the real question at issue was whether there might be such an arrangement made in a foreign country, anywhere beyond the confines of the United States, with reference to ocean conveyance of freight to our shores and the conveyance by railroads from the point of landing to the point of destination in the United States, by means of which a lesser charge might lawfully be made by the railroad in this country for the carrying of the foreign goods from a particular point to a particular point than that company would make, according to its published tariff, for carrying the same quality and quantity of domestic goods in the same time from the same point to the same point. One would naturally suppose, from the scope and intention of of the interstate-commerce act, that it provides that the same kind of freight, in the same quantity, with the same sort of conveyance from the same point in this country to the same other point in this country, ought to be, and if the law is observed, must be carried at the same rate and handled in the same way in all respects, without reference to whether the freight comes from abroad or is American.

Mr. Justice Harlan, in his dissenting opinion in this case, enforces the doctrine which I think is the true doctrine under the law—certainly the true doctrine and policy of this Government if it means to do anything effective—that a railroad company can not discriminate between those who own freight to be carried from the same point to the same point on the ground that part of that freight is received from abroad and part starts from a point in the United States, but the court held otherwise. Now, that condition should be met, it seems to me, by legislation, because the Supreme Court decided that an ocean steamship company transporting freight from Liverpool or any other port in Europe, or any other foreign port in the world, might make an arrangement or enter into a contract providing for the delivery of that freight at an inland point in the United States, and that the railroad company taking the freight where it leaves the ship might, without violation of this law, carry that freight from the point of disembarkation to a distant or near by point of the Union at a cheaper rate than it would carry the same kind of freight delivered at the same point and carried to the same point, but not brought from across the water or from without the United States. As Justice Harlan aptly says, the same doctrine applies to freight and to passengers.

Mr. Justice Harlan, in dissenting from the judgment of the court in this case, expressed, and in my judgment expressed exceedingly well, what should be the law in the United States, and what, with all due deference to the Supreme Court which rendered the decision to the contrary, I believe if this act were properly construed and properly applied is, and would be to-day, the law. But, of course, the decision of the United States Supreme Court is decisive upon that point.

Now, ought there not to be legislation, while we are legislating upon the subject, which would prevent this discrimination not only against the individual shipper who happens to be shipping American goods, but against the producer, the manufacturer, the owner of the American goods, in favor of the foreigner?

I know that a good many gentlemen in this House, and a good many gentlemen in this country, in season and out of season, express a tender solicitude for the American producer and the American manufacturer, and are easily alarmed lest something be done which will give an advantage to the foreign producer and the foreign manufacturer. Here, for years and years, since 1895, there has existed in this country, by virtue of that decision of the Supreme Court, from which Mr. Justice Harlan, Mr. Justice Brown, and the Chief Justice dissent, a law, or, as I think, a perversion and misunderstanding of the law, by which that discrimination is made and is perpetuated.

Does the bill offered for the consideration of the House deal with that question, and will it, if enacted into law, make an end of that abuse? I presume nobody will answer in the affirmative. Everybody, I suppose, will concede that it does not, and that it is not intended to do it.

Now, a considerable controversy has arisen, with a great deal of discussion, between representatives of competing points in the United States. For instance, not very long ago a gentleman representing the merchants or the traders or the shippers, or some of them, of a particular point in one of the United States was greatly agitated because advantages were given by railroad rates to a competing point in a neighboring State, and he succeeded, as perhaps he thought, in remedying the abuse by consulting the attorney of one of the leading railroads in this country and having that astute and skillful gentleman frame a bill which was introduced and passed through Congress, and is now the law and embalmed in tender memory under the name of the "Elkins bill."

I do not mean to imply, much less do I mean to charge, that the bill reported by the majority may have had some such origin. If I were told in a reliable way that it did have that origin, and if I were to read and search the bill, I should be liable to be converted to the view that it had, instead of having the report that it did have that origin overthrown by what is in the bill itself.

Everybody knows how this bill comes to be before the House. The President constrained the unwilling to do something. But it is an inadequate treatment of the question, if it

merits any treatment at all. I do not know anything about the genesis of this bill. Perhaps it is the best upon which the O. K. of a majority of the Members upon the other side could be placed. I do not know. Perhaps the gentleman who introduced it and the gentlemen whose names will probably be connected with it would like to have a better bill, but their fellows will not permit it to be so. I do not know how that is. But it is a bill singularly lacking in a great many of the things which ought to be in this legislation if there be occasion for legislation. It by no means comes up to the recommendation of the President. The mere fact that it does not is not of itself a ground of criticism, but we are proceeding in this legislation upon the theory that the recommendations of the President are well founded in fact and in experience, and that this Congress in its legislation upon the subject ought to heed them. I believe that is true, and this Congress is not heeding them. This Congress is doing that which it may be possible gentlemen can delude the country into believing is a compliance with the recommendations of the President, but what in fact falls far short of it. Where do you find in this bill, reported by the majority, a provision for correcting what is popularly denominated the "private-car abuse?" Nowhere.

How about the terminal abuses, the side-track abuses, the little spur road abuses? The bill has not the remedy for any of these and other abuses—not even the germ of it. It does not exist; it is not there. Does anybody suppose that in the construction of the law the courts will be swift and eager and searching to find in the law corrective measures which the authors of the law themselves can not now point out or find in it, did not lodge in it, purposely refrained from lodging in it? That is to expect what the history of this country and the history of legislation upon this subject by no means warrant.

What about the rate to be made by the Commission? Shall it continue in force until or unless set aside by a court to which the question may go? The reputed author of this measure, the gentleman whose name is attached to it as the person who introduced it after it had been agreed upon in committee, said when interrogated upon that point, in the course of his remarks at the opening of this discussion, that he thought that would be found in the bill. He thought its provisions broad enough to cover that; he thought that when the rate is made by the Commission that rate will be the rate in force until or unless a court of proper jurisdiction sets it aside. Now, let us pause a moment at that suggestion before going into the question of whether it has any foundation whatever in fact.

You are forming and phrasing your bill just as you please. You are making it to accomplish the things, if you are honest about it, which you say ought to be accomplished; yet when it comes to one of the most important things to which the bill can relate, a question of whether or not a rate fixed by the Commission shall be the rate during the pendency of litigation, the reputed author of the bill says he thinks that the bill provides that! He is right well satisfied that it does. Asked where, he finds it in the first section. Turn to the first section, and you will not find it, and the courts will not find it; it is not there, and it was not intended to put it there. Now, then, if the purpose be to provide that after this Commission shall have fixed a rate, that rate shall be the rate, the legal, lawful, enforcible, enforced rate, until or unless there be a change by judicial decision, how easy would be the task of embodying that pregnant thought and intention in the bill in such a way that no construction could weaken it, that no misunderstanding could be blunt enough to eliminate it. Not doing that is conclusive evidence that the gentlemen design not to do it.

They make no provision either upon the question of whether this Commission is to be clothed with power to raise rates as well as to lower rates. I, for one, am opposed to granting to the Commission the power to raise rates, and I am in favor of granting to them the power to lower rates. Somebody may suggest that that is unfair and partial. I do not think so. What is the object of empowering this Commission to do anything with rates? What is the object or purpose of having this Commission at all? To protect the public—not to protect the railroads, not to protect the stockholders or the bondholders of the railroads. Is not that true? If it is true, what reason is there for providing in your bill or for leaving it to be provided by construction, if you please, that the Commission shall have power to raise rates? If a railroad company makes a rate too low—what an anomaly it is to think about such a thing, what a contradiction in terms—it can make the increase. Too low for what? Too low for the people who patronize the railroad company? Too low for the general public? Do you talk about raising rates because the people who patronize the railroad company are charged too little? Or is it because the railroad company itself chooses not to charge enough for its own interest and the interest of its bondholders and stockholders? That is not a thing to be provided for by Congressional legislation, and that is a thing that does not happen; it is a thing that will not happen. Away beyond this time, when the millennium is well launched and everything adjusted to it, then perhaps—I say perhaps, for I will not make the statement without qualification—then perhaps it may be necessary to provide by law that railroad companies shall not charge too little for carrying passengers and freight, that charge being uniform, with the same service and same accommodations for everybody.

Mr. RICHARDSON of Alabama. Mr. Chairman, I would suggest to the gentleman this: Does he not think it would tend to destroy competition?

Mr. DE ARMOND. Yes. Why, of course it tends to destroy competition.

Now, Mr. Chairman, that legislation, so far as there is anything that can be said for it, must rest upon the theory that the Commission ought in some way to regulate and to order rates so as to destroy the natural advantages of one locality over another. All the Commission ought to do is to prevent discrimination between points upon the same lines and among shippers over the same lines and combinations between or among different line operators. If it is easier, cheaper, and better as it is to reach tide water by going down the great Mississippi from the granary of the West—the Mississippi Valley—than it is to cross over the mountains and a great stretch of territory to reach tide water at the Atlantic coast, then there ought to be no power in the Commission (and nobody ought to be in favor of any legislation or authorization or order or proceeding) to destroy the natural advantages of the one section or route over another section. The man who prefers to farm in the great West ought not to be put upon an equality, by arbitrary legislation or arbitrary and useless and vicious orders, with a man who chooses to farm in the less favored fields of the East.

There is no reason in the world for raising the rates except to destroy the advantage of one locality in order to promote the interests of another. Abuses with reference to railroads and railroad operations consist in favoritism, in partiality, in injustice, often in having the rates for all too high, very frequently in having the rates too high for some in order that they may be made too low for others, with the result of destroying those against whom there is discrimination and building up and adding to the millionaire class those in whose favor the descrimination is exercised. Now, these are some of the defects, as I see it, in the bill which has been offered for the consideration of the House—defects that can not be corrected here, thanks to the rule adopted to shackle us, even if a great majority desire to do it; defects embodied in the bill on purpose, not inherent, because these things were pointed out and bills were before the committee which reported this one which would cure these defects, bridge over these chasms, and eliminate the inequalities and injustice.

I am not going far into the discussion of the merits of this bill or that bill, but I say frankly, simply because I believe it, that of all the bills introduced upon this subject the bill most comprehensive in its treatment of it; the bill which, if enacted into law, would be productive of the most good; the bill susceptible of the least misconstruction and least misapplication; the bill which guards most effectively against tendencies to minimize, weaken, and destroy corrective measures, is the bill introduced last spring and long pending in that committee—the bill of the gentleman from New York [Mr. HEARST]. It is the fruit of study and experience, developed while its author as a private citizen, at his own expense, contended in the courts for the rights of the people against the coal barons and other oppressive monopolists.

As to the two measures which are before us and upon which we are to vote, I am going to vote for the substitute introduced by the gentleman from Louisiana [Mr. DAVEY]. I am going to do it because it clearly provides that the power to raise rates shall not exist. The other does not. I am going to vote for it because it provides that during litigation the rate fixed by the Commission shall be the established rate. The other does not do it directly, indirectly, or by implication—does not do it at all. I believe in providing a special court to deal with these interstate-commerce matters, but I do not believe in the way of providing it which in the bill reported by the committee is chosen. I think it would be far better to provide a court distinct and devoted to that kind of business than to provide one, as is here provided, by picking certain justices from the circuit courts of the United States for the service, and adding to the number of those officials.

Nor do I see any reason why the Interstate Commerce Commission should be increased in size. Increasing the number from five to seven, to my mind, is one of the many confessions in the bill

that the object is to mislead the public rather than to relieve the public; to make the public believe that something has been done rather than to do something. And why increase the pay of those gentlemen from $7,500 to $10,000 a year? What is the reason for it? The same reason that is born in the disposition to deceive; it is one of the parts of the scheme to deceive. It is not to get better work out of the Commission.

A Commission of five, in my judgment, is more effective and worth more than a Commission of seven members. If you were to divide that Commission of seven into two parts, you would have for most purposes two Commissions, thus practically doubling the capacity and power of the Commission to work and accomplish things. Then, there might be something in the increase, but simply to require four men instead of three men to agree upon a conclusion in order to have anything done is to require consultation among seven instead of consultation among five. This Commission ought to be a body of quick action. It ought to be a body to investigate things, but to investigate things expeditiously. It should be a body which could quickly make up its mind and quickly promulgate its decisions. Adding to its number, instead of adding to its efficiency, is lessening its efficiency, and by making the public pay $10,000 instead of $7,500 salary you may deceive the public as to the lack of purpose of this bill to accomplish any real, substantial reforms; and, again, you may not.

Mr. Chairman, without having any desire whatever to indulge in flattery, much less fulsome praise, I say here, because I think a tribute is due him, that if any good comes from this legislation the credit ought to go to the President of the United States. Hoping something of good may come from the passage of this bill, though believing it will be small, indeed, in the absence of considerable amendment, I will vote for the bill. The President did not initiate the general movement for legislation on this subject, yet but for his persuasive initiative, operating upon the Members of this House, there would not be any legislation at all. It is the power of the President; it is the influence of the President—I believe it is the earnestness and the purpose of the President—that has moved these gentlemen to action, such as it is.

But the President will not be through with his reform when this bill shall have passed into law, if it does so, because one of two things will happen—either the managers of great railways, wishing to stay the time when full justice will be done to the people, wishing to make that which is ineffective appear to have some degree of effectiveness, will modify their course and treat the people with greater fairness, or this law will break down as worthless and accomplish nothing. But whatever happens, it will only be a question of time when a renewed demand for redress of grievances will be made, for in a little while it will be apparent to the public, they will be convinced by experience, that the legislation here projected does not go far enough and does not accomplish enough. And all of the President's tenacity of purpose, all of his patriotism, all of his firmness, all his courage, will be required to stand by the people and carry through for the people, against the reluctance of politicians, that which of right the people demand, that which their interests must have, that for which the people will honor him, and place him high in the history of the great men of this country, if he accomplish it. Failing, he would leave all these efforts purely abortive and academic, to use no harsher term—and I apply academic to the purposes of those who theorize and not to the purposes of those who sincerely act. [Applause.]

Mr. HEPBURN. Mr. Chairman, I yield to the gentleman from Indiana [Mr. CRUMPACKER].

Mr. CRUMPACKER. Mr. Chairman, I will give the bill under consideration my ungrudging support, not because I agree with it in all of its details, but because it contains a number of very wise provisions, and there is nothing in the measure that I would omit if I had the preparation of it myself. It very wisely preserves the original interstate-commerce law and the Commission. That law has been on the statute books for eighteen years, has been construed and applied by the courts, and the country is thoroughly familiar with its provisions. It would be a serious mistake for Congress at this time to create an entirely new tribunal under a new law, because it would take years for the country to learn its practical operation.

The most important provision of the bill is that which gives the Interstate Commerce Commission the power to fix a rate in cases where the existing rate is found to be unreasoanble and unjust. Under the law as it now stands the Commission has no power to act at all in relation to rates until a complaint has been filed before it, and then it can only determine whether the current rate is reasonable and just. If it decides that the rate is unreasonable and unjust, it may enter an order requiring the transportation company to desist from its further continuation, but the Commission has no authority to say what a just and reasonable rate would be.

A railroad company may defeat the purpose and object of the present law by shading the existing rate a fraction of a cent after it has been adjudged unreasonable. It requires months and sometimes years to have an adjudication; and the delays consequent upon a controversy over a rate before a just and reasonable one can be established often defeats the purpose and object of the investigation.

Under the pending bill the rate fixed by the Commission will go into operation after thirty days' notice has been given the railroad company of the decision of the Commission, and it will remain in operation pending appeals and proceedings to review. The purpose of this provision is to secure to the people the benefits of the law and not permit them to be frittered away and lost in vexatious delays arising from appeals and proceedings to review before the court of transportation. It will operate to limit appeals and proceedings to review to cases where there is reason to believe a reversal may be had, and to prompt the party carrying the proceeding to the court of transportation to use every effort to expedite the proceedings on review. This provision is based purely upon the policy of expediency, and while slight injury may result under some circumstances to railroad companies, taking the question as a whole, more good will come to the country as a result of that provision than would come if an appeal or proceeding to review suspended the operation of the rate until a final decision could be had. The policy contains a preponderance of virtue and wisdom.

The bill fails to confer upon the Interstate Commerce Commission the power to revise or modify its own rates after they have been approved by the court of transportation. It is manifest that changed conditions may make a change or modification of a fixed rate not only much desired, but highly necessary. Improvements in methods of transportation may make a rate that is reasonable now unreasonable and unjust two or three years hence. Therefore, the bill, before it finally becomes a law, ought to contain a provision authorizing the Interstate Commerce Commission at any time after the expiration of a year from the time a rate is fixed to review or modify the rate upon the application of any person interested, and I trust that provision will be put into the bill before it is finally enacted.

The delegation of power to fix transportation rates to a tribunal created by law is a very important one and one that may be occasionally abused. It is a power that ought to be delegated only where conditions are such as to imperatively demand it. This bill does not confer a general rate-making power upon the Interstate Commerce Commission. It provides that the Commission shall have authority to fix rates in specific cases only upon complaint and after notice has been given the transportation company and after a careful investigation of the question has been had. And then the Commission will be authorized to fix rates only as a substitute for those found to be unreasonable and unjust.

In the course of this discussion gentlemen have expressed grave apprehension over the operation of this measure if it should become a law. It is insisted that the rate-making provision is a flagrant invasion of individual right; that it is dangerously subject to abuse; that it confers an enormous power upon a tribunal that of necessity can know comparatively little about the complexities and intricacies of the great traffic problem.

Railroad companies, being common carriers, perform that which has always been regarded as a quasi-public service, and the power to require them to serve all people who make proper application upon substantially the same terms has been recognized for generations. Railroad companies are of such vital importance to our progress and prosperity that they are clothed with one of the highest powers of government—that of taking private property without the consent of the owner—and as a consequence of the nature of the services performed by these great agencies of civilization, and of the governmental power they are intrusted with, the right upon the part of the States and the Federal Government to regulate rates of transportation is generally recognized. There is now absolutely no question about that power residing in the Government. The question now is purely one of policy.

The marked tendency of the present age is toward industrial and economic consolidation—toward the organization of industries into gigantic combinations—and this is peculiarly true of transportation companies. The railroads throughout the United States are mostly organized into vast systems, and it is only a question of time when the few independent lines will be absorbed and take their places in general systems of railways traversing all parts of the country.

The result of this tendency is to eliminate the element of competition and give transportation companies practical monopolies of the carrying trade all over the land. Ever since the days of

Adam Smith economic thought and action have been based upon the principle of competition. That principle runs through all economic discussion and legislation like the red cord through the English navy. Over a hundred years ago French philosophers taught the same doctrine in the laissez faire policy, and it has been generally accepted throughout the civilized world ever since. We owe the splendid industrial condition we have today to the operation of the principle of competition. It is based upon individual initiative and maintenance, and carries rewards to enterprise and excellence. It has resulted in perfecting industrial methods and cheapening the comforts and necessaries of life. It has brought the necessaries of life within the reach of the great masses of the people and greatly elevated the standard of living. It has developed a strong, self-reliant, forceful manhood, and it is of vital importance to the further progress of the country and the further perfection of industrial methods.

In late years a new school of political economy has come into prominence teaching that the principle of competition, as applied to large industrial institutions, is wasteful and disastrous. These modern philosophers contend that by organization and combination the best results can be obtained; that more complete specialization of labor can be had and that large combinations can avail themselves of economies in the production of wealth that are without the reach of small and independent concerns. The trend of modern thought and action is unmistakably toward consolidation and against competition.

This argument applies with peculiar force and plausibility to railroad companies, and it must be admitted that it carries great weight and merit. Complete systems of railroads spanning the country throughout its length and breadth can have facilities for transporting persons and property that can not otherwise be secured. They confer great benefits upon the public in the way of increasing advantages and reducing the rates of transportation, but they necessarily result in the destruction of competition. Under any practical arrangement for the construction and operation of railroads, in many instances they must be virtual monopolies, and, under the combination system, competition is practically a fiction. The people are willing to have these great thoroughfares of commerce organized into complete systems on condition that they submit to a reasonable control of regulation and rate charge by governmental authority. There must either be competition among transportation companies or there must be safeguards to the public in the way of governmental rate control. If the pending measure is enacted into law, it will be the first step by the Federal Government in recognition of the advantages of combination of transportation companies and of the necessity of governmental regulation so as to prevent extortion and oppression upon the people. The principle is logical and in perfect harmony with the prevailing school of economic thought and life. Competition is to be secured wherever it is practicable, but wherever it is impracticable, and the welfare of the public can best be promoted by combination, the policy of governmental control must be adopted. That policy will be applied in this measure to the railroad question.

As respects combinations of purely private trading and manufacturing corporations, the antitrust laws of the country are supposed to afford adequate relief. There is no reason in public policy why those corporations should be permitted to combine and stifle competition and put the entire country at their mercy. Antitrust laws in all the States and upon the Federal statute books are an unmistakable evidence of the condition of public sentiment upon that question. But if private trading and manufacturing corporations, in spite of law, by subterfuge and device, shall ultimately succeed in combining into trusts and other organizations such as will absolutely stifle competition, it is but an additional step to include them in the class of enterprises that must be made subject to governmental control. That is a step that wisdom and prudence would hesitate to take. It will be taken only as the last resort of the Government to protect the people against extortion and oppression. Whatever may be said in favor of trusts and combinations as economic benefactors, the people of this country never will submit to be placed entirely at the mercy of those institutions for the necessaries and comforts of life.

If such combinations as the beef trust, the steel trust, and the sugar trust continue to expand and to absorb rivals until they have a practical control of trade and manufacture in their respective lines in spite of the antitrust and combination laws, the people of the country will insist that the policy of governmental control be extended to them. This, indeed, would be a remarkable and dangerous departure from the settled policy of the Government ever since its organization, but it is at least plausibly insisted in its support that private corporations have no natural existence; that the right to create a corporation is not one of the inalienable rights of the individual; that corporations are created purely to promote the welfare of the people, and whenever the public welfare demands that their powers be regulated and controlled by public law, that policy must and will be adopted.

The question as to the future of such institutions is largely with the owners of great wealth and the promoters of trusts and combinations. If they fail to respect the plain letter of the law and heed not the unmistakable sentiment of the public, they and they alone will be responsible for such a revolution in public sentiment as will put the entire subject of corporations under governmental regulation and control.

The objection that the rate-fixing power contained in the pending measure is liable to abuse is not one of much practical force. Railroad companies are generally conceded to be vital factors in the prosperity and growth of the country, and no intelligent citizen of the Republic would willingly consent to have their essential functions in any degree impaired. The bill provides for a court of transportation that shall have the power to review the decisions of the Interstate Commerce Commission in fixing rates. Reviews are to be had in that court, not in the way of direct appeals from the decision of the Interstate Commerce Commission, but by original proceedings for review brought before that court within a fixed time.

The rate-fixing power as a general proposition is held by all the courts to be a legislative function, and, under our system of politics, the three coordinate departments of the Government must be kept independent of each other. Congress has no authority to confer upon any court the power to fix railroad rates, because that is a legislative power. A court may, however, decide whether a rate fixed by a legislative body or tribunal is valid and constitutional, and this is as far as any court has a right to go.

The provision in the pending bill authorizing the court of transportation to pass upon the reasonableness of a rate fixed by the Interstate Commerce Commission is manifestly invalid. Whether a rate fixed by legislative authority be reasonable or not is purely a legislative question and not a judicial one, and no court can be vested with the power to pass upon a question of that character. All the court of transportation can do under this bill will be to determine whether a given rate violates or invades the constitutional rights of the railroad company or of any individual. The court can only determine whether the rate fixed by the Interstate Commerce Commission amounts to the taking of property without due compensation, and is, therefore, confiscatory. But when is a rate confiscatory? It has been contended that it is confiscatory only when the actual property is taken without due compensation. All there is of value in property is the right to use it, and in relation to railroad property this is peculiarly true.

It is the usufruct that constitutes the value of railroad property, and if rates be fixed that will take away the entire profit of transportation it will take from railroad property all there is in it of value, and such rates therefore are confiscatory in the sense of the Federal Constitution. They are confiscatory because they take from property its only quality of desirability and usefulness. They destroy the value of the property, even though they do not actually destroy the property itself. Therefore under that power the court of transportation has an abundance of authority to see that no rate is fixed that is so low as not to leave a margin of profit to the transportation company.

The chief benefit, I apprehend, that will come from this legislation will be to prompt railroad companies to a greater degree of care, justice, and uniformity in the establishment of rates. It will tend to repress discrimination and extortion, and the probabilities are that but few occasions will arise to apply to the Interstate Commerce Commission to have a rate declared unreasonable and to establish a new one in its stead. [Applause.]

Mr. HEPBURN. I yield to the gentleman from Ohio [Mr. KENNEDY].

The CHAIRMAN. The gentleman from Ohio [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. Chairman, I am in favor of this legislation. I believe that it will be of great good to the interests of all the people. The power to fix railroad rates and to control and regulate the common carriers engaged in interstate commerce is vested in the sovereign people of the United States. With that power goes great responsibility. I can not forbear at this moment from giving utterance to a few thoughts, because of some that I have heard expressed in this House. A railroad is not private property, and all analogy between the service of a railroad and its right to use the property under its control and the right of control vested in the owner of strictly private prop-

erty fails. A railroad is a public institution, built by the public, owned in a sense by the public, and those who under our law control railroads in this country are public trustees owing a duty to the public. Upon the other hand, there are many billions of private capital invested in the railroads of the country by corporations. These corporations also in a sense own the railroads. Their right and interest, however, is a qualified one.

It is their right merely to use, collecting reasonable toll to compensate such corporations and pay dividends on their stock, and in such use they are governed and subjected to every restraint and legal regulation for the control of common carriers upon the highways of the public. In all the history of railroading in this country up to the present time the officers of the several railroad companies have acted, then, in the dual capacity of trustees for the public and trustees for the stockholders owning the private capital invested in the railroads. This double duty is one of infinite difficulty, and perhaps in the main our railroad management is to be congratulated. There was much of truth in the splendid panegyric upon that management in the speech yesterday of the gentleman from Massachusetts. It is because of the good record of such management that the power which we who support this bill wish now to invoke has not long since been exercised. Yet, who can stand here and deny that these trustees, with their double duty and allegiance, in many glaring instances in recent years have, like the servant who attempts to serve two masters, been led to love the one and despise the other. It has become glaringly apparent in the last few years that the trustees controlling the public railroads have not been able to so control them with an eye single to the interests of the public. Ofttimes their primary consideration has seemed to be the furthering of private enterprises and of private interests. Up until the present moment the General Government in this country has, in my judgment, neglected and almost wholly abdicated its duty of supervision and control of these great instruments of interstate commerce, and this neglect upon the part of the Legislature has made exceedingly difficult, if not absolutely impossible, the performance upon the part of railroad trustees of their double duty to the stockholders and to the public.

There has been a big stick wielded in American finance and trade in the last quarter of a century, and that big stick has been in the wrong hands. It has been shaken threateningly over the heads of the management of the railroads. If they refuse to discriminate in favor of the strong and against the weak, their companies will be bankrupted, their properties depreciated in value, and their dividends to their stockholders will cease. The directors of railroads have been compelled to make an election as to which of their masters they will serve, and they have done as you or I would have been compelled to do in the absence of Government control and regulation. They have done the will of those who placed them in power and performed their duties as common carriers to the public only so far as the same were not inconsistent with the will of that dominant influence which has wielded the big stick. The purpose of this legislation is to place the big stick where it belongs, in the hands of the sovereign people and their representatives. That this legislation, if enacted, will be clearly within our power no one doubts. This bill, if enacted into law, will give the right in the Interstate Commerce Commission to fix rates where a rate has been challenged and found unreasonable or discriminatory, and it is said that it will destroy competition among the common carriers of the country. I believe this, in a measure, to be true. Upon the other hand, very much of the competition between common carriers has not been beneficial to our commerce. Our existing law preventing railroads from entering into contracts in restraint of trade or combining among themselves to fix rates has segregated the railroads and occasioned a competition among themselves which has been injurious both to the stockholders and to the interests of the public. The great trusts, treating separately with competing railroads, have been given a tremendous advantage, by which they have compelled common carriers to favor them. It is needless to elaborate this idea. It is well understood by all.

Under the law a railroad may not pay directly a rebate to the shipper, but the resources of modern business, by which the rebate law may be evaded, are so great that that salutary law has continually been defeated by subterfuge and indirection.

The beef combine has its private cars and its terminal yards, and, under the present régime, the competing railroads must bid against each other for the business of the great trusts, and that railroad which agrees to the giving of the largest share of the joint freight rate to the terminal railroad gets the business, that line which will pay the highest rental for the refrigerator car carries the traffic.

The independent producer of small means, having none of these advantages, is practically excluded from the American market, his investment rendered nonproductive, and his property destroyed. All who favor an open door to opportunity and equal chance to individual endeavor, all who approve the declaration of the President that every man should have a square deal, should favor this enactment. Such legislation as that proposed is a necessary and logical corollary of the Republican doctrine of American protection.

We, as a party, believe in and will ever advocate the monopoly, so far as may be, of the American market by American producers, and we will never invite foreign competition to regulate prices at home. The competition which we would invoke is that of the home producer. To do this, all must have fair and equal treatment over the public highways of the nation. It has been said here that this law might lead some time in the future through a tyrannical exercise of this power to the confiscation of railroad securities. Those who fear this lack faith in American institutions. They lack confidence in the equity and honesty of the people. Upon the other hand, what a volume of history could be written of the confiscations in recent years that have been worked out and effectuated through the discriminations of railroads!

How often has the owner of some lucrative enterprise been given the option to sell out his plant or be ruined because of the fact that he could not obtain equal advantages with his competitor over the railroads of the country? Since the beginning of the operation of railroads in this country confiscations of this kind have occurred. They have occurred by reason of the actions of the trustees controlling these public institutions, and to the extent that the Congresses of the United States have failed in the exercise of their just power to control it has been responsible for these confiscations. It has been suggested here that to exercise this control over these great instruments of interstate commerce will be dangerous, inasmuch as some time in the future our descendants may degenerate. This argument for delay in no manner appeals to me. I trust that our Government will always be a government by the people. Our laws must conform to and must be supported by the enlightened conscience of all the people, and when that conscience degenerates "then comes the deluge." What matters it then what laws or what precedents? This legislation is demanded. The questions which we have been discussing were the dominant issues in the last campaign, placed there by the utterances of Theodore Roosevelt and embodied in that terse sentence which was the pledge to all the people, and embodies all Republican platforms from the beginning: "Every man shall have a square deal."

Is the liability of the abuse of power greater in the hands of a commission appointed by the President, all members of which can have no other motive than to do justice, who never can in the exercise of their duty forget that they are trustees of a great public inerest, than where it is now lodged? It has been said here that we are anarchists who advocate the exercise of the rights of the public in this matter. Why, Mr. Chairman, "in days of old, when knights were bold and barons held their sway"—in that old feudal time when "might made right," when robber chieftains levied their toll upon the great highways between cities, and when their exactions became so intolerable that the people rose in their might and formed civil government, and the change from the feudal time was made to the great system of order and justice under law, if that evolution was anarchy, then is this change that the American people are demanding anarchy. [Applause.]

Mr. HEPBURN. Mr. Chairman, I yield to the gentleman from Kansas [Mr. CALDERHEAD].

The CHAIRMAN. The gentleman from Kansas is recognized.

Mr. CALDERHEAD. Mr. Chairman, what I say will probably not affect the consideration of this measure very much one way or the other. The chief purpose of it will be to announce the fact that I intend to vote for the measure. The probability is that if this was an original proposition to establish an Interstate Commerce Commission I would vote against it. My own idea of the nature of this Government, and the powers of the different Departments of it, is so different from the idea on which this legislation is founded that I very tardily give my consent to this method of procedure for the regulation of commerce between the States. I know, as we all know, that when the interstate-commerce clause was put into the Constitution steam as a motive power had not been dreamed of. Commerce between the States in the sense that this act and the interstate-commerce act considered it had not entered the minds of statesmen at the time.

The clause itself was inserted in the Constitution for the purpose of regulating commerce on the coast. It was a kind of compromise between the States who did not want to pay tariff

for selling goods in other States and those who did not want to be compelled to pay export duty. It was nearly one hundred years after that time before anybody discovered that there was a commerce in the country that could be regulated by an Interstate Commerce Commission, or that ought to be regulated in that way.

We have had the Commission since 1887 clothed with such powers as it has. During the eighteen years it has decided 353 cases, of which 316 related to freight business and 37 cases related to passenger business, and its action was favorable to the complainants in only 194 cases. Frequently during the course of this debate it has been said that the Supreme Court of the United States by decision took away from it the power to fix a rate. It never had that power.

Not a man in either House would have voted for the bill creating the Commission if he had believed at the time they were conferring that power. The men who fathered the measure, who spoke for it and for other similar measures that were pending at that time—men of all parties—expressly disclaimed any such purpose in the establishment of the Interstate Commerce Commission.

The distinguished chairman of the Commission, Judge Cooley, whose name needs no eulogy from me, said that the power to fix rates was not apparent in the act. Here is the original act, and there is not a line in it that ever conferred upon the Interstate Commerce Commission the power to fix rates. All that ever was intended was that it should have the power to declare when a rate was unreasonable or unjust, and then the railroads were prohibited from violating the act by some other practices.

The power to enforce the judgments of this Commission was left where it ought to be, in the courts, and the records and findings were to be prima facie evidence of the facts so found and to be used in judicial proceedings in the courts. But the Commission in some manner or other took power to fix the rates in a case that was tried before it and gradually accrued power to itself by the consent of those who were drawn into its courts and who might suffer if they did not consent.

For ten years most of the cases decided in the Interstate Commerce Commission were compromises between the complainants and defendants, between the men who complained and the roads who were answering. An amicable adjustment in most cases was reached in some way or other, largely because of the interests affected outside of the case that was pending.

I do not remember now, but I think I have heard it stated in the course of this debate that on an average about four cases a year were actually decided by the Commission which settled rates for anybody in a commerce over a thousand different railroads—more than a thousand different railroads—over a mileage that grew from 130,000 to now more than 200,000 miles, over a commerce that was greater than the combined commerce of Europe, Asia, and Africa.

That was all that was actually controlled or regulated by the Interstate Commerce Commission, and at this hour it is doubtful whether that Commission is a help to commerce or an injury to it. Its dilatory reports make it of little value for practical purposes in the current business of the country. The bulk of its labor for the last four years seems to have been to prove to us that it was inefficient because it has not judicial power with a sanction.

The statistics of the railways of the country ending the 30th of June, 1903, were published during the month of December of this winter. There is nothing in the eighteenth annual report published last December that come within a year's time of the practical condition of the commerce with which it deals, and a "commission" that is so far behind the daily practice of such a mighty commerce as this can be of very little practical use to the country.

There is no question about the power of Congress to regulate commerce between the States. There is no question about what is commerce between the States.

There is no question about the power of Congress to regulate the conduct of common carriers between the States. All that power resides in Congress, and I think, under the practice of our courts and the business customs of the country, we have come to admit that Congress may delegate to a commission the power to regulate and direct these common carriers to some extent, but nobody dreamed until recently that there could exist in Congress the power to delegate to a commission the authority to render a judgment and issue an execution and enforce it while the appeal was pending.

In the last two hundred years, at least of Anglo-Saxon jurisprudence, no such proposition has been made to an Anglo-Saxon and consented to, and it is not proposed now. Yet the men who are discontented with the shipping conditions of this country will be discontented with this very measure, for the reason that it does not enforce the rate pending the time when the appeal is going on. I am voting for it and supporting it for the reason that such vast interests are at stake; such a vast power can be used by such a great aggregation of wealth and of business affecting the general welfare to such an extent that I think it is legitimately the subject of our legislation and of our control, and this seems to be the speediest practical way now.

I do not feel any assurance after the court has been established which is proposed here that it will be any better court or have any more power than the courts that have been heretofore authorized; and my own conviction is that general legislation could have been passed which would have enabled every complainant to have brought any railroad before the courts that are already provided by the Constitution and the laws, and try his case there and reach a decision, which would have affected his interests and the welfare of the country as well as by the delays that must necessarily follow this proceeding. I do not believe in class courts. Legislation which does not follow the business practices of the country will not avail much against them.

More than twenty centuries ago an orator speaking in a democracy said to them that "that man is very foolish who thinks that when human nature is eagerly set upon doing a thing he has any means of preventing it either by rigor of laws or by terror of punishment." The business practices of 80,000,000 of people will not be limited or controlled by legislation except in cases where they are fairly criminal. It is only upon the theory that the common welfare of the nation is intrusted to us that we may safely undertake the kind of legislation that we are now proposing. I do not feel any assurance that in ten years from now the same kind of men, the same class of men, who are now clamoring about existing conditions and demanding relief at the hands of the Government will not then complain of what we to-day give them, and they will then demand some other relief.

The tendency in a republic always is on the part of every man who is unfortunate in business, or of every community that does not grow as fast as the neighboring community grows, to demand relief at the hands of the government. But that is not the foundation upon which we have built a government. We have framed a government in which the foundation stones are lodged in the individual character of the citizen and the individual exercise of his own capacities and the improvement of his own opportunities, and all that the Government can do is to see that equal opportunities are preserved for men in their chosen avocations.

I intend, under the rule, to add to my remarks a brief table of the great business which we are now attempting to deal with. There are more than a thousand different railways, more than 200,000 miles of track; nineteen hundred millions of income from operating alone, and, I think, 13,000,000 tons of freight were moved during last year. Six hundred and ninety-four millions of passengers traveled upon the roads; a thousand millions of tons of the richest freight that civilization uses was carried by these railroads. A million three hundred thousand men are employed; seven hundred and fifty millions of wages are paid to them, and when it is all paid to them, and the interest upon six thousand millions of dollars of debt which the roads owe is paid, and the taxes which they pay in every city and State through which they run are paid, the balance left to be appropriated for dividends amongst the stockholders of these roads is about one hundred and seventy millions of dollars out of the mightiest commerce that the earth has ever known.

When dividends at the rate of 5 per cent have been apportioned to the stockholders, but $33,000,000 is left. [Applause.]

The tables added are from the Commission railroad statistics for 1903, published December, 1904:

The total amount of stock outstanding June 30, 1903, was $6,155,559,082.
The total bonded debt was $6,444,431,226.
The total aggregate of capital was $12,599,990,258.
The evidence of watered stock does not appear in the report of the Commission anywhere.
The gross earnings were $1,900,846,907.
The operating expenses were $1,257,538,852.
Interest on bonds and other debts and taxes paid were $335,740,778.
Dividends paid owners of stock, $166,176,586.
Wages paid employees, $757,321,415.
Leaving for improvements and adjustment of losses, etc., $190,856,993.

[Here the hammer fell.]

Mr. DAVEY of Louisiana. Mr. Chairman, I now yield to the gentleman from Alabama [Mr. BOWIE].

Mr. BOWIE. Mr. Chairman, it is manifestly impossible in the period allotted to me to adequately discuss a measure of this importance. I will say at the outset that I occupy a position which apparently ought to be satisfactory to everybody, inasmuch as I expect to vote for both bills that are now presented

for our consideration. I do this, however, Mr. Chairman, not because I favor the bill reported by the majority of the committee in all of its details, but because under a rule which seems to me undermines the power and dignity of the House of Representatives the right of amendment is virtually withdrawn from this House, and it is impossible for us to consider and perfect any measure that is presented to us unless that consideration meets with the favor of the majority of the Committee on Rules. Mr. Chairman, the question of the regulation of freight rates is at this time one of the most important occupying public attention. I believe firmly in the doctrine that it is the right and power of the Government to take control of these matters and to exercise that control efficiently. [Applause.]

That there is a widespread evil with reference to railroad rates is admitted by all parties and by all interests in this country. The majority of the presidents of the great railroad companies controlling the larger quantity of the railroad mileage in this country have themselves declared that there was a situation which called for and imperatively demanded relief.

It is substantially admitted by all of them that under conditions which have existed for many years past unjust and unlawful discriminations between places and shippers alike have been persistently practiced to the building up of one and the downfall of the other. It is claimed that in these acts of discrimination lies the whole crux of the situation, and that if a law could be passed denouncing the discrimination in strong enough terms and imposing adequate penalties therefor the whole situation would be relieved. It is contended, however, most strongly by these same people who admit the practice and existence of discrimination between persons and localities that there is a wide difference between enacting legislation which will prevent rebates and discrimination and one which will give the Interstate Commerce Commission the power to fix rates, and it is against the rate-making power conferred by this legislation upon the Commission that the whole contest hinges. But it seems to me that these people who are denouncing the rate-making power conferred by both of the bills now under consideration upon the Commission are raising an issue that is more imaginary than real.

That the Interstate Commerce Commission, composed of five or seven men, none of whom are particularly trained or required to be trained as specialists in railroad matters, should not have the power to make all rates upon all railroads without hearing and without notice, is one that is conceded by the framers of all legislation upon the subject. No one, so far as I am aware, expects the Interstate Commerce Commission, nor is there in any of these bills a grant of power to that Commission, to act upon its own initiative and revise the tariff of rates of every railroad in the United States. Indeed, this point is made especially clear in the recommendation of the Commission, from which I quote as follows:

> In the fixing of rates upon all commodities for carriage in all directions and between all points reached by railroads it is inevitable that much injustice, unfairness, unreasonableness, preference, and discrimination will be practiced, notwithstanding the greatest care and ripest judgment may be exercised by the railway officials charged with the duty of rate making. These errors of judgment on the part of railway officials, many of them occurring in the hasty exercise of the rate-making function or in the effort to press on to the discharge of other urgent duties, constitute the reason for Federal regulation and the basis of the present widespread demand for an amendment to the existing statute which will enable their speedy correction when the results of such errors are felt by the commercial public.
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> It seems appropriate to allude to what seems to us persistent misrepresentation on the part of many who are interested in opposing this legislation that the amendments desired would confer upon this Commission the power to arbitrarily initiate or make rates for the railways, and that it would be most dangerous to place this vast authority in the hands of five men, especially five men who have had no experience as railway traffic managers. No such power has been asked by or is seriously sought to be conferred upon the Commission. Though the popular demand may eventually take that form under the stress of continued delay in remedying ascertained defects in the present plan of regulation, the amendment heretofore and now recommended by the Commission, as to authority to prescribe the reasonable rate upon complaint and after hearing, would confer in substance the same power that was actually exercised by the Commission from the date of its organization up to May, 1897, when the United States Supreme Court held that such power was not expressed in the statute.
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> What the Commission could do if the authority so denied should be definitely conferred by the Congress is this: After service of complaint upon the carrier or carriers, after full hearing of each carrier and shipper interested, and after careful investigation, a report and opinion would be rendered, and if the decision should be against the carrier an order would be entered directing it to cease and desist from charging the rate complained of and to substitute therefor a rate found, upon the evidence before the Commission, to be reasonable and just. This procedure is essentially judicial in character and form and bears no resemblance in any degree to the arbitrary administrative action which would result under the authority to make tariffs of rates absolutely for the railways, either in the first instance or after some form of hearing or investigation.

The power intended to be conferred and actually conferred upon the Commission so far as the making of rates is concerned leaves the initiative with the railroads of the country and invests in the Commission only a supervisory power to be called into exercise only upon the complaint of some person or community aggrieved, and then after due notice and full opportunity to be heard by the railroad companies affected, to determine whether or not a certain rate is reasonable, and if not reasonable, then to declare what is a reasonable rate in its place. This declaration is made, however, as stated after a quasi judicial hearing including the delivery of testimony and the presentation of arguments, and it is a power entirely distinct and distinguishable from that of permitting the Commission without notice or hearing and without evidence, from exercising its own sweet will or pleasure in the imposition of whatever rates it might arbitrarily seek to enforce. For my part I can see no objection to, and indeed I can see the strongest of arguments for, this grant to a Commission having no interest either in the railroads or the business of the complaining parties to try in a judicial manner the reasonableness of a certain rate and then upon the evidence there offered to fix another in its place, if the one established by the railroad company is proven to the satisfaction of the Commission to be unreasonable.

All corporations of this country are creatures of law, and in many particulars they are endowed with privileges and immunities not conferred upon private citizens. For instance, life of man is measured by the will of the Creator and at most is only temporary. The life of a corporation is measured by the law and in most instances is perpetual. The private individual can not take the property of a private citizen for his own use against the will of the other citizen even upon the payment of just compensation, but a corporation, vested with the power of eminent domain, may build its railroad if it wishes through your front yard, may tear down the house in which you are doing business, whether you consent or not, upon the payment to you of what some court may declare to be a reasonable and just compensation. The private individual who engages in business on his own account is responsible for all of his debts to the extent of all of his property, but if he buys stock in a corporation and the corporation fails, the stockholders are not liable beyond the amount they have invested in the stock. Because of its perpetual life, because of the power of eminent domain, because of the freedom of its stockholders from the liabilities which it creates, the corporate form of investment has not only become the most general one, but as a necessary incident of these extraordinary conditions, a vast power has been absorbed into the hands of those who control and manage these mighty instruments of business and commerce.

I am not decrying these conditions. I recognize the usefulness and even the necessity for corporate enterprise and activity. I am aware that the reasons which conferred upon these artificial creatures of the law the vast powers mentioned had their origin in the soundest considerations of public policy, and that the country without them could never have been developed as it is, but notwithstanding this fact, the power is there. It is agreed that in the hands of those with evil dispositions it is subject to abuse. It is a creature of law, and the public will which created it has reserved the right of regulation, and only by the exercise of the right of regulation can the power so conferred be turned from a menace to a blessing.

The railroads of this country have for all practical purposes a monopoly of the transportation business. Their competition with the waterways of the country is so limited and restricted as to amount to an almost negligible quantity. In the great majority of instances there is no such competition at all. So far as the great bulk of commerce to be transported is concerned, there is absolutely no competition with the railroads except the railroads themselves, and to-day more than three-fourths of all the railroad mileage of the United States, under the "community of interest" principle, is controlled by a half dozen men in one State.

That the railroads themselves should fix their own rates in the first instance, as I have already stated, is conceded by the proposed legislation and is not disputed anywhere, but the question arises, however, can these immense powers be safely and wisely left in the hands of the railroads themselves without limitation or review? If the railroad company can fix any rate it pleases it can fix an unreasonable rate if it chooses to do so. It can act upon the principle of some great railroad magnate who said that the true measure of rates should be all the traffic would bear. Some railroad men may, of course, act more wisely and more justly. They may conceive, and, in fact, do conceive, in many instances, perhaps a majority, that their best and truest interests lie in a fair and just rate to be imposed upon traffic, and ultimately they will prosper more by that policy than by the other one of stand and deliver, but inasmuch as all men, and therefore inasmuch as all railroad magnates, are not just and fair, and inasmuch as the judgment of those who are inclined

to be fair is finite and liable to error, what is to become of the individual or community which is treated unjustly and unfairly by those railroad magnates having the will and the power to so treat them? It has been gravely suggested that if one is not satisfied with conditions in the community in which he lives he can move to one where the conditions suit him better.

It seems to me most deficient would be our laws and our institutions if the sole remedy which an aggrieved citizen had against injustice was the right of expatriation and removal to another place, where, under the will and pleasure of those that control affairs, a different system obtains. Weak, indeed, would be our institutions; false, indeed, our conception of human rights and human dignity, if our only escape from injustice was to move.

Mr. Chairman, it seems to me the glory of our institutions will have departed, and our pride in the accomplishments and capacity of our race will wither and fade away when we recognize a doctrine so degrading as that.

It has been claimed, and I doubt not with truth, that the United States of America can boast of the finest railroad systems in the world; that we can boast of cheaper rates than any country in the world and of better service.

Mr. Chairman, I have no doubt of either of these propositions nor have I the slightest doubt that in many other particulars besides the one of railroads can this country indulge the proud boast that it is unequaled and unapproached by any other land or any other people. Here, Mr. Chairman, is the home of liberty regulated by law, and here are her people who from ancestry and from the nature of the institutions under which they live and from the record of their own splendid achievements have erected a government and institutions which are not only the pride and wonder of the world, but under the inspiration of whose beneficent example other nations and other people have obtained a greater degree of human development and progress. In all that upbuilds mankind, that uplifts the people of the world, the Government of the United States and the several States thereof has set an example not only to be copied, but it has been copied to the betterment and happiness of all mankind.

This condition is not peculiar to railroads nor dependent upon them, but is peculiar to our institutions and the character of our people and is dependent upon those institutions and the character of those people. Therefore we can dismiss the statement that our railroad service is better and our freight rates cheaper than those of foreign countries by the statement that no matter how true that fact is it does not justify nor warrant the people of this country in surrendering the power of regulating corporations of its own creation from the power which made it to the corporations themselves.

The Interstate Commerce Commission will of course be composed, as it is now, of finite men, and these men will of course continue to make mistakes in the future, as they have in the past. This is so of the present Commission and is so of any other commission which can or will be created, and it is so because any commission is to be composed of men, and no man is gifted with omniscience, and therefore it can not be said that any man will at all times be free from error. But if this generalization be true of the Commission, is it not in equal degree true also of the employees of the railroad corporations who make the rates in the first instance?

If a disinterested body of earnest, patriotic men, having no stake whatever in the result submitted to their arbitrament, will on some questions commit an error, how much more likely is error to creep in where the same thing is done without a hearing by a board interested directly and pecuniarily in the result of their decision? And if those having a pecuniary interest in the result can fix a rate without notice to a person or community affected by it and dependent upon it, and if that rate is final and not revisable by any disinterested tribunal, what becomes of the contention that this is a free country and that all our rights are regulated by law?

Ah, but it is suggested that the railroad companies own the property, and therefore its own employees and agents have the same right to fix the charge for the service which they render that an individual would have in the sale of his land or a merchant have in the sale of his goods.

This argument is plausible, and undoubtedly is entitled to some consideration, but there is a wide distinction between the cases mentioned. If I go into a store to buy a suit of clothes, and if either the price or the material is unsatisfactory I can step into another and another until I get what I want; competition regulates both price and quality. It is related of Mr. A. T. Stewart, the great merchant prince, that he began his marvelous business career as a boy by purchasing a box of matches for a nickle and selling it on the street for 7 cents. We all know of illustrations where men began business with a few hundred dollars and have obtained wealth and influence by the simple fact that they understood how to succeed and applied the most approved business methods to their affairs. They have thrived and prospered in a land of competition, but it has already been seen that practically the railroads have a monopoly of the transportation business in this country.

It is true that one railroad may compete with another between certain given points, but even the area of this limited competition is being gradually reduced every year. If the rate charged the shipper from one point to another is such as to make it impossible or unprofitable for him to do business, the shipper in nine instances out of ten is not able to get any actual effective competition from any other railroad, nor can he build a railroad to carry his own traffic. He must perforce pay the rate asked or go out of business.

Under the rule adopted by the majority of this House we are not permitted to offer or propose amendments to either bill now pending. We may vote, in the first instance, for the Democratic substitute introduced by Mr. DAVEY of Louisiana, and then, if that fails, for the Republican measure introduced by Mr. TOWNSEND, but a Member of this House has no right to propose amendments that will perfect either measure, nor has the House the right to consider them.

The bill reported by the majority and which will doubtless be passed by this House is subject to many and serious objections. If the right of amendment were permitted, it is possible at least that it would be perfected. Inasmuch, however, as we are not permitted either to propose or vote for amendments all that is left is to point out some objections and defects patent upon its face.

In the first place, it creates a special court, with powers at least subject to doubt and uncertainty, and which will require much litigation and many years' delay before they can be specially defined and understood. I submit that there is no necessity for a court of this character, confined to the single business of railroad rate litigation. The courts of this country already possess a jurisdiction over this question which is well defined and thoroughly settled and perfectly understood by those interested therein. The present judiciary system is amply able to take care of all questions which arise in reference thereto. There is no confusion nor uncertainty as to the extent of the jurisdiction of the Federal courts at the present time. In this particular, at least, I thoroughly agree with the statement of Mr. Cassatt, president of the Pennsylvania Railroad Company, in which he protested against this creation of a special court for the trial of cases of this character as a piece of folly and injustice.

The jurisdiction of the Federal courts under existing law is, as I have already stated, plain and well understood. It is founded upon that section of the Constitution which prohibits the taking of property without due process of law and which guarantees the equal protection of the law to all men. Under this provision of the Constitution it has been settled that no rate can be lawfully imposed by the Commission upon the railroads which is less than the cost of the service or which fails to yield a reasonable return upon the money invested. Briefly stated, it has been repeatedly settled by the highest courts in the land that the railroad company has the right first to charge enough to cover the cost of maintenance; second, the amounts necessarily expended for employees in the way of wages and salaries; third, interest upon its bonded debt, and fourth, a reasonable dividend upon its capital stock. But who knows what interpretation will be placed or how long it will take to place it upon the provisions of the Townsend bill, which in creating a court of transportation abandons the well-defined and well-understood words of the Constitution and in lieu thereof substitutes terms of a general nature, requiring perhaps years to interpret and define? I quote from section 12 of the bill:

> At any time within sixty days from the date of such notice any person or persons directly affected by the order of the Commission and deeming it to be contrary to law may institute proceedings in the court of transportation, sitting as a court of equity, to have it reviewed and its lawfulness, justness, or reasonableness inquired into and determined.

The words "justness, reasonabless, and lawfulness" sound well, but what do they mean? Are they identical, as some have contended, with the words "due process of law," as found in the Federal Constitution? If they are identical or intended so to be, why depart from the oft-interpreted provision of the Constitution and substitute others which at least are doubful and uncertain in their meaning and effect?

The excuse offered for the creation of this court will, it seems to me, not bear analysis. It is claimed that the purpose thereof is to expedite appeals from the orders of the Interstate Commerce Commission. That such will be its effect is at least prob-

lematical; but, granting the contention of its sponsors in that respect, it does not alter the fundamental proposition that the court itself is unnecessary, and that under our system of government no special interest in this country can rightfully have a special court to look after its particular business. If the true intent and purpose of the authors of this provision is to expedite the hearing, that condition would have been much better enforced by incorporating in the bill section 6 of the Davey bill, which reads as follows:

That all cases arising under the provisions of this act and all cases in which any carrier or carriers shall by any suit or proceedings seek to enjoin or annul, suspend, or modify any order or ruling of the Interstate Commerce Commission shall have precedence over all other cases except criminal in any court to which any such case may be carried.

Mr. Chairman, I will not take time to further point out objections to the bill reported by the majority, except to attach as an appendix to my remarks the report of the Democratic minority and the provisions of the Davey bill

I only wish in conclusion to place upon record my protest against a rule which prohibits the power of amendment to the House of a measure affecting most intimately the welfare and happiness of the people of this country. There have been those who decried the fact that the Senate of the United States was gradually drawing to itself virtually the whole power of legislation in this Government. This is largely true, and it is equally true that it is a total departure from the plan and purpose of the fathers who erected this system of government and of the uses and customs in other representative parliamentary bodies of the world.

The House of Representatives, chosen every two years and fresh from the ranks of the people, was intended by the framers of this Government to be invested at least with equal rights and dignity with the Senate of the United States. Indeed, in some respects the greater power was placed in the hands of the House of Representatives, for the Constitution expressly provides that all bills raising revenue shall originate therein, and custom has prescribed that all appropriations shall originate therein. These two provisions, one given by the Constitution and the other by custom, the one giving the right to the origination of measures for raising revenue and the other giving the right to the origination of measures for its proper expenditure, would ordinarily invest in the hands of the House of Representatives the greater weight and influence in the Government; but, Mr. Chairman, in recent years we have come to see this rightful power and influence gradually depart from this to the other end of the Capitol. Men who proclaim their determination to uphold the dignity of the House and of its rights seem to me to present a singularly inconsistent spectacle when they deliberately propose and adopt in this House rules which virtually destroy its power and its influence.

Mr. Chairman, if any of the glory and power of the House of Representatives has passed away from us, we have no one but ourselves to blame. Other things may have contributed to this unfortunate condition, but to my mind nothing so strikingly tends to produce such a result as the constant bringing in of rules which divorce the House from its control over legislation, prohibit the amendment and perfection of measures of the highest interest and of the greatest importance to the people, cut off debate upon vital questions, and leave us with much time to speak in the air on matters not pending, but rigidly limiting and confining our remarks upon questions of great concern when they are actually before us.

If the House of Representatives is to regain its prestige and to reassume its rightful place in the making of legislation it will have to take the question in its own hands and refuse to adopt rules which limit or destroy the right of amendment and thereby the perfection of pending measures. When the Senate of the United States insists that it shall have ample time to consider this or any other question, it will not lie in our mouths to offer criticism, for we have not exercised that proper consideration of this measure and of other kindred measures which as a coordinate branch of the legislative department it is our duty to do.

The gentleman from Mississippi [Mr. WILLIAMS], floor leader of the Democratic minority, offered upon the floor of this House, when the present rule was being discussed, to surrender even all right of debate and to have an immediate vote for one granting the pitiful privilege of offering three amendments with a view to perfecting the pending measure, and yet this small privilege has been denied to the membership of this House, and there are those who still wonder why the Senate is absorbing power and influence which rightfully belongs to us!

Mr. Chairman, the opponents of the pending measure seem to think that if it becomes a law it will do much harm to vested interests in this country and we hear again the old cry, that the widows and orphans own all the stock of the railroads and they are the ones to be despoiled if this legislation be enacted into law. As I have already shown, the Federal Constitution guarantees to those who have investments in railway securities, as to all others, "due process of law," and this has been held to mean as to railroad corporations in the fixing of rates, that enough shall be charged to pay for maintenance, to pay for expenses, to pay the interest upon bonded debt, and a reasonable dividend to the stockholders. I am unable to see how any widow or orphan owning any stock in these great corporations can receive substantial injury by this or any other legislation, when these rights and privileges are firmly fixed beyond repeal in the Constitution of the land. But, Mr. Chairman, there are widows and orphans who unfortunately own no stock or bonds in any railroad company and the measure of their rights is this, that after the reasonable return to the stockholders above alluded to and all the other expenses connected therewith and incident thereto, the people of this country shall have a right to be heard and be considered in determining what is to be done with what is left.

The Interstate Commerce Commission can not have power granted to it, nor is it intended that it shall, which will deny the constitutional rights of those who have investments in railroad securities, but if after a reasonable return upon these investments has been provided, and these railroad corporations seek to impose rates which produce more than a reasonable return upon the investments, the Commission is merely invested with the power to say, "Thus far shalt thou go, and no further." And in placing this limitation upon the power of railroad corporations into the hands of disinterested persons selected in a manner fixed by law we have done only that against which it seems to me there is and can be no just cause of complaint.

APPENDIX.

VIEWS OF THE MINORITY.

The undersigned members of the Committee on Interstate and Foreign Commerce can not give their approval to all of H. R. 18588 as the best and most effective legislation to be had in order to cure the evils complained of by us, the President of the United States, and the country, although we admit that it contains some wholesome points and the state of legislation which would be brought about by its enactment would be superior to present legislation. No difference of opinion exists between us that additional legislation is required to make effective the primary requirement of the "act to regulate commerce," namely, "that all charges made for any service rendered or to be rendered in the transportation of passengers or property, or in connection therewith, shall be made reasonable and just."

We are not informed as to any dissent on the part of any member of the committee to the necessity and advisability of the Congress conferring upon the Interstate Commerce Commission the power, where a given rate has been challenged and, after a full hearing, found to be unreasonable and unjust, to decide, subject to judicial review, what shall be a reasonable and just rate to take its place, the decision or ruling of the Commission to take effect and to remain in operation until or unless the ruling so made by the Commission is held to be error or reversed by the proper Federal court having jurisdiction thereof.

We contend, and believe, that if the "Act to regulate commerce" is so amended it will afford ample remedy for existing evils and abuses in the matter of unjust and unreasonable rates alleged to be charged by railroads, and give equal protection and security to the rights and interests of the public and the railroads, especially if provision is made, as we propose, to expedite all hearings of injunction to restrain and annul rates, which was omitted in the present law to expedite proceedings. We contend that if the Interstate Commerce Commission is worthy to have this important power conferred on it by the Congress, subject to review of the proper Federal courts, that it ought not, in the exercise of such power, to be hampered and trammeled by a multiplicity of rules, regulations, temporary restraining orders, provisions, and requirements incident to the creation of new and special courts, all tending to vexatious and needless delays and the defeat of the ends of justice. It is not, in our judgment, in harmony with the true intent and spirit of our theory of republican government or our judicial system, to signalize any special and distinct interest, vocation, or employment in our own country and among our own people by creating a special court to look after a special interest.

Congress can certainly be relied on not to enact hostile legislation against our railroads. The President of the United States said:

"The act should be amended. The railway is a public servant. Its rates should be just and open to all shippers alike. The Government should see to it that, within its jurisdiction, this is so, and should provide a speedy and effective remedy to that end. Nothing could be more foolish than the enactment of legislation which would unnecessarily interfere with the development and operation of these commercial agencies."

For quite ten years after the approval of the "Act to regulate commerce" the Commission acted upon the assumption that the law conferred the authority on the Commission to declare a given rate in lieu of a rate fully investigated and found to be unreasonable and unjust. The railroads adapted themselves to that construction.

No complaints were made that the Commission used its power improvidently. Rates, regulations, and practices were adjusted by the Commission and the railroads. No fear of irreparable damage being done by the Commission to the railroads was expressed. No special court of commerce or transportation was in existence, but the railroads took their chances, like all other interests, before the Federal courts as now organized. Quite twenty States of the Union have by legislative acts clothed their State commissions with the power to make rates. In many of these States there were railroads subject only to State supervision. Yet railroads have flourished, prospered, and multiplied in those States.

It was only after the decision of the Supreme Court of the United

States holding that the Interstate Commerce Commission, under "the act to regulate commerce," was not given the legislative authority to prescribe rates that the trouble commenced. Then railroads disregarded the authority of the Commission and exercised the arbitrary and undisputed power of fixing their own rates, subject to the harmless power of the Commission to admonish them "to cease and desist" from the violation of the law.

The real issue is, Shall Congress leave the rate-making power in the hands of the railroads, which has been arbitrarily used, and practically without governmental supervision or judicial revision, for years past; or shall we give in effective shape the simple and modified rate-making power to the Interstate Commerce Commission which the President has called for in his message, and for which the Democracy contended for all last session of Congress, and many of us much longer than that, which the Industrial Commission advised, and which the Interstate Commerce Commission requested for the more effective doing of its work, safeguarded by the protection and safety that existing Federal courts can give if all cases are expedited where proper?

The bill reported by the majority contains provisions wholly unnecessary and superfluous for a certain, speedy, and efficient enforcement of the rate declared by the Commission in lieu of a rate found to be unreasonable and unjust. Where there is a plain, open, and lawful mode by which evils complained of can be remedied, the country ought and will condemn us if we persist in following another plan of legislation, however plausible, which invites litigation and guarantees in the construction of its legal intricacies, pleadings, and complications discouraging and harmful delays and consequent postponement of the case for many years. We can not differ about the principle and we ought to be able to agree on such details as to make the statute real and effective, and not a failure. The bill of the majority, we respectfully submit, is of that character. Why should a special court of transportation be created for the special and exclusive jurisdiction of railroad cases? The bill, in a qualified way, seeks to counteract the universal dislike that the people have to the creation of a special privileged court, called into existence on the one idea only that the conflicting interests of the people with the great railroad corporations of the country shall be adjudicated in that special court by assigning the members of the court to other duties when business will permit. Can it be denied that such a condition would invite and stimulate the concentration of the powerful railroad influences in a manner well calculated to do injury?

Does a special court provide against the delays that have been so much complained of in the enforcement of the orders of the Commission under existing law? Can it be denied that this special court of transportation has exactly, under the bill of the majority, the same authority in passing upon the "reasonableness" of a rate, fixed by the Commission, that the Interstate Commerce Commission has now under the present law—the act to regulate commerce? The Commission now can say whether a rate is unreasonable and unjust, but it can not declare what rate can take the place of the one declared unreasonable. The court of transportation, provided for in the bill, will exercise the same authority. It can not be clothed with authority to declare what a reasonable rate is, because that is purely a legislative act.

We have an abundance of courts to meet the demands of the country. No complaints have been made that the Federal courts, as now organized, are unable to dispatch the business with fairness, impartiality, and ability. In this connection we call attention to the provisions of section 12 of the bill, which are worthy of support and cordial indorsement, because it adopts the usual and established rules for the ascertainment of truth and the administration of justice in an appellate court. The findings of fact reported by the Commission must be received as "prima facie evidence," and the usual provision for newly discovered evidence is set forth in plain language, but the Commission, and not the court, should rehear the case and pass upon the newly discovered evidence. The court should deal with law, not facts. We could but conclude that the court of transportation was in the broadest sense strictly "an appellate court," but that delusion was promptly dispelled when we read the provisions of section 14 of the bill.

That section contains the "railroad joker" of all the provisions of the bill. It declares that "the court of transportation, etc., is always open for the purpose of filing any pleading, including any certification from the Interstate Commerce Commission, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, rules, and other proceedings, including temporary restraining orders, preparatory to the hearing upon their merits of all causes pending therein, and any justice of the court of transportation may, upon reasonable notice to the parties, make and direct and award at chambers, and in vacation as well as in term, all such process, Commission orders, rules, and other proceedings, including temporary restraining orders, whenever the same are not grantable," of course, "according to the rules and practice of the court."

A hearing of a case "upon its merits" takes up the case anew. A case taken from the Interstate Commerce Commission by appeal to the court of transportation would be tried de novo if tried upon its merits. What will be the effect of such a provision? The railroads decline to open up their case in full before the Commission and await the hearing before the court of transportation. This section authorizes "all restraining orders" to be issued superseding the orders of the Commission, "on reasonable notice to the parties," including temporary restraining orders wherever the same are not grantable as of course. Temporary restraining orders of the "of course character" are granted on ex parte affidavits without and notice whatever. Here you have the rate fixed by the Commission enjoined and restrained by ex parte affidavits, with quite a certainty that the temporary order will be made final.

It can not be concluded by the majority that it would be obnoxious to the Constitution to have required that any temporary restraining order or other proceedings should not supersede the order of the Commission until and unless notice had been given to all parties and hearing had on the same. This would have been an open and fair dealing with this great question. Why, we are reliably informed that no less distinguished persons than the President of the United States, the able and distinguished Attorney-General of the United States, and Secretary of the Navy recommended, if they did not inspire, a bill now pending before the Judiciary Committee of the House requiring that notice should be given and a hearing had before the issuance of a temporary injunction against strikers. With such provisions as we find in section 14 of the bill, what possible confidence can the public have in the prompt and efficient enforcement of the power given by the bill to the Commission to declare what a reasonable rate is.

The power is granted, but its execution is regulated by injunctions, restraining orders, and other proceedings to the degree of destroying its usefulness, while it ought to be a law with a remedy so easy of enforcement that anyone could understand it.

The majority, in the provisions of section 3 of the bill, allow the Commission to reopen the case and modify, suspend, or annul its order, notwithstanding the fact that the court of transportation was then judicially reviewing the order, and even engaged in trying the case on its merits. It appears to us that confusion could readily arise when the Commission and the transportation court, each having a like authority to hear a case, should be engaged in that business at the same time. As an independent provision, section 3 would not be objectionable.

In the very limited time given us to prepare this minority report, we have undertaken only to point out the salient defects of the bill of the majority, and show how and where, in our opinion, it will fail to give the relief so earnestly demanded by the people of all sections and interests of our people.

The people have the right to expect this Congress to enact legislation that will relieve them of the unjust and oppressive burdens of unreasonable railroad rates that they have suffered from so long. The minority members, in view of the vast importance of this question to all the people, express the earnest hope that we will be allowed the opportunity of offering as a substitute for the bill of the majority the bill, a copy of which is hereto attached, which substantially expresses the views of the undersigned members of the committee.

The bill we recommend is restricted to such provisions as, in our judgment, are necessary to give effectiveness to the "Act to regulate commerce." It is not to be expected that all reforms needed can be secured at once, but we should never lose sight of the controlling and all-important requirement—the speedy enforcement of a rate declared by the Commission. This is the prime consideration in the plan of relief proposed by our bill.

We see no occasion or necessity to increase the members, terms, nor the compensation of the Commissioners. We have heard no complaint made of either. We have been led to believe that retrenchment is demanded in the affairs of the Government, inasmuch as the disbursements have for months past exceeded its receipts. The bill under consideration increases the expenses without a corresponding benefit to the public. The court of transportation is an additional and unnecessary expense. It makes no improvement in the present procedure nor in expedition of cases. A careful scrutiny of the same discloses the fact that it increases obstacles in the execution of the law. It seems to us that conferring the rate-making power on the Interstate Commerce Commission will tend not to increase litigation or to require more courts, but, with the assurance of celerity and certainty of disposition of cases, litigation would rapidly disappear and efficiency be secured.

We believe that the Interstate Commerce Commission should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place, the ruling of the Commission to take effect immediately, and to obtain unless and until it is reversed by the court of review; and we also believe that all proceedings brought in the courts to arrest, enjoin, or annul a rate declared by the Commission shall be expedited in all the courts to which such cases may be carried, as well as the cases arising under the act to regulate commerce.

W. C. ADAMSON.
W. H. RYAN.
R. C. DAVEY.
WILLIAM RICHARDSON.

I indorse, subject to my views set out in a report signed by me with Hon. D. W. SHACKLEFORD, the provisions of the Davey bill to regulate railway abuses.

W. B. LAMAR.

A bill to empower the Interstate Commerce Commission to fix transportation rates in certain contingencies, for the enforcement of its orders, and for other purposes.

Be it enacted, etc., That when, hereafter, upon complaint made, and after investigation and hearing had, the Interstate Commerce Commission shall declare a given rate, whether joint or single, or regulation or practice, for transportation of freight or passengers, unreasonable, or unjustly discriminative, it shall be the duty of the Commission, and it is hereby authorized to perform that duty, to declare, at the same time, what would be a fair, just, and reasonable rate, or regulation, or practice in lieu of the rate, regulation, or practice declared unreasonable, and the new rate, regulation, or practice so declared shall become operative twenty days after notice: *Provided,* That the Commission shall in no case have power to raise a rate filed and published by a carrier.

SEC. 2. That whenever, in consequence of the decision of the Interstate Commerce Commission, a rate, regulation, or practice has been established and declared as fair, just, and reasonable, and litigation shall ensue because of such decision, the rate, regulation, or practice fixed by the Interstate Commerce Commission shall continue as the rate, regulation, or practice to be charged by the carrier during the pendency of the litigation and until the decision of the Interstate Commerce Commission shall be held to be error on a final judgment of the questions involved by the United States court having proper jurisdiction, but no proceeding by any court taking jurisdiction shall consider any testimony except such as is contained in the record.

SEC. 3. That when the rate substituted by the Commission as hereinbefore provided shall be a joint rate, and the carriers, parties thereto, fail to agree upon the apportionment thereof among themselves within twenty days after notice of such order, the Commission may issue a supplemental order declaring the portion of such joint rate to be received by each carrier party thereto, which shall take effect of its own force as part of the original order; and when the order of the Commission prescribes the just relation of rates to or from common or competitive points on the lines and between common or competitive points and the respective terminals of said lines of the several carriers parties to the proceeding, and such carriers fail to notify the Commission within twenty days after notice of such order that they have agreed among themselves as to the changes to be made to effect compliance therewith, the Commission may issue a supplemental order prescribing the rates to be charged to or from such common or competitive points by either or all of the parties to the proceeding, which order shall take effect of its own force as part of the original order, and shall continue as the rate regulation or practice to be charged by the carrier or carriers during the pendency of litigation resulting from the order of the Commission, until, or unless, the decision of the Commission shall be held to be error on final judgment of the questions involved by the United States court having proper jurisdiction.

SEC. 4. That in case such common carrier or carriers shall neglect or refuse to adopt, or keep in force, such tariffs of rates, fares, charges, and classifications, or regulations, or practice, so declared and fixed by the Commission, it shall be the duty of the Commission to publish such tariffs of rates, fares, charges, and classifications, or regulations, or practice, as the Commission has declared to be reasonable and lawful, in such manner as the Commission may deem expedient. Thereafter, if any such carrier or carriers shall charge, impose, or maintain a higher or lower fare, charge, or classification, or shall enforce any different regulation or practice than that so declared or fixed by the Commission, such common carrier or carriers shall forfeit to the United States the sum of $5,000 for each and every day it has continued to refuse or neglected to enforce and apply the said tariff regulation so published by the Commission. Each forfeiture herein provided for shall be payable into the Treasury of the United States, and shall be recovered in a civil suit in the name of the United States, brought in the district where the carrier has its principal office, or in any district through which the road of the carrier runs. It shall be the duty of the various district attorneys, under the direction of the Attorney-General of the United States, to prosecute for the recovery of such forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. The Commission may, with the consent of the Attorney-General, employ special counsel under this act, paying the expenses of such employment out of its own appropriation.

SEC. 5. That all existing laws relating to the procurement of witnesses, books, papers, contracts, or documents, and the enforcement of hearings in cases or proceedings under or connected with the act to regulate commerce shall also apply to any case or proceeding affected by this act.

SEC. 6. That all cases arising under the provisions of this act and all cases in which any carrier or carriers shall, by any suit or proceeding, seek to enjoin or annul, suspend, or modify any order or ruling of the Interstate Commerce Commission shall have precedence over all other cases, except criminal, in any court to which any such case may be carried.

SEC. 7. That this act shall take effect from its passage.

Mr. DAVEY of Louisiana. Mr. Chairman, I now yield fifty-seven minutes to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS of Mississippi. Mr. Chairman, before going into the discussion of the particular matter before the House I want to congratulate the country upon the fact that not only in this particular, but in several other particulars, the President of the United States, nominated by the Republican party and elected by the people, is beginning to assume a distinctly Democratic attitude. In the first place we read from the newspapers that sooner or later he is going to have at your hands a revision of the tariff downward; that he is going to stop certain exploitations of the American consumer for the benefit of the foreigner; that he is going to prune off some of the excrescences and abnormalities of the present tariff law. Glad tidings these are to a long-suffering people. Then we hear in the next place that the President is not so bitter in his denunciation of Democratic opposition to government by injunction; in fact, that he has gone so far as to say that an injunction ought not to issue, when labor troubles arise, unless it be "after notice and after hearing or opportunity to be heard." I particularly welcome this step toward the Democratic position, because, although the position taken by the President and his Attorney-General with regard to injunctions in labor troubles is a questionable position and one that will require very serious thought in order to settle it right to the satisfaction of the people, yet the position itself proves a fortiori the justice of the demand we make in connection with this bill, that temporary restraining orders shall not issue to supersede a rate prescribed by the Commission except after notice to all parties litigant and ample opportunity to be heard. I can imagine an occasion when a mob, maddened by injustice, dealing out destruction to life and to property, might have to be dealt with quicker than the delay that a legal notice would necessitate, but if it be right to require notice and hearing in connection with what is called the "inherent judicial, equitable right" of injunction in labor troubles, then a fortiori it is right to demand them in a case like this, where there is in the interim power given to enable merely a decreased percentage of a certain freight rate, which the railroad would like to collect, to be collected.

I begin to hope that the time will come when your President will see that it is altogether absurd to keep on a peace footing 20,000 more soldiers than are needed for any practical purpose, and to see that it will be well enough to save the money required for that purpose, about twenty millions a year, and devote that money to the development of internal improvements rather than to a wasteful war expenditure. But that is not all; I read lately in the President's message that he is assuming a position that I am afraid some of you Republicans will regard as dangerously close to one of mine. I remember not so many long months ago making a speech upon the floor of this House and attempting, in my ineffectual way, to draw a picture of the manner in which we treated Cuba and the manner in which we treated the Philippines, and I dubbed it "two pictures," and I asked the American people to "look upon this and then upon that" and see which they liked most. At that time I was met with sneers; we all were. We were "Little Englanders" in America, and you boasted of going a world-powering, attaining stepping-stones in the shape of islands, around the earth, with our flag shaking in every breeze, in every latitude and longitude, to the stirring beat of the drum. Now, here lately I see in the President's message that he "hopes" to welcome the day "when the Philippines can be treated like Cuba." Moreover, the other day in the Committee on Ways and Means the most sagacious man connected with his Administration, Governor Taft, expressed the same hope. There was one difference between us—between him and us—him and the Democracy, as well. He wanted the Filipinos treated like the Cubans, but he is not willing yet, or, as he says, he is not able yet, to give exact dates at which we shall begin so to treat them. We can and will give the date, and—with its giving—a temporary bridge government between our rule and their independence. Now, I know you well enough to know, or well enough to hope, rather, that you will not need much more than a marked-out pathway by your President to follow him. [Laughter.]

You are so absolutely nonpartisan, you are so fond of what is American, whether it be Democratic or not, that when the President of the United States wants you to do Democratic things, if they be right things, you are going to fall into line behind him, not because he is President, not because he is a Republican, but because he is outlining the proper policy for the American people. I have that thought of confidence in you, because sitting here for long years I know how absolutely nonpartisan you are. [Applause and laughter on the Democratic side.]

There is not a man on that side of the Chamber who would not welcome from the Democratic Nazareth even a good measure if it were good for American people. Therefore I take no stock in the talk that has been going on on the floor lately about your not standing up to the President of the United States because he has gone over to a certain extent to the Democracy. [Laughter.]

My friend the gentleman from Ohio [Mr. GROSVENOR] tells us that it is the habit of the Democratic party to find out where the Republicans camped last year and then for it to camp there the next year. That old thing I have heard often, and there has been some truth in it, because the Democracy has known frequently when a fight was lost. And now I find and the country finds that it is you who are camping this year where the Democracy camped last year. [Applause on the Democratic side.] I find that you are going to camp more and more by the silent but not expired fires of the Democracy, but there will be this difference, my friends—the Democracy will camp with you. Democrats are not going to give up things Democratic because you or the President advocates them; they are not to turn their backs upon things Democratic because a Republican, either in or out of the White House, has seen the light of truth and of proper legislative progress.

Now, I hear some little pessimism, however, as to how you are going to behave. I hope there is nothing in it. I am told that you will not follow the President unless he remains partisanly Republican. I hope that it is not true, and if it is true, then the sort of railroad legislation you want, and you want it just as soon as possible, is a bill that shall devise some sort of automatic coupler between the White House and Capitol Hill. [Laughter.]

Now, my friends, I am not going to make assertions about the past position of the Democracy upon this question without proving them. I am not going to read now, but I am going to insert in my remarks almost a page from the report of the Industrial Commission, page 426 of that report for 1902. Here it is:

Within two months after the establishment of the Interstate Commerce Commission it began to interpret the law as giving it not only power to investigate matters of freight rates, but also to prescribe and enforce the remedy for existing evils. The exercise of rate-making power, however, was directed entirely to the correction of such abuses as came before it on complaint. The Commission distinctly refrained from claiming the right to prescribe the rate in first instance, as is shown by its decision in the Delaware and Hudson Canal Company case. This limitation upon its right to prescribe rates, fully recognized by itself, is clearly shown in its statement in the Cincinnati and Chicago freight bureaus decision as follows:

"This Commission is not primarily a rate-making body. The carrier is left free to arrange its own tariffs in the first instance. We sit for the correction of what is unreasonable and unjust in those tariffs."

No question, either on the part of the carriers, of the Commission, or the courts was raised as to the validity of this action within the limits named.

It was not until almost ten years after the institution of the Commission, in fact, that its right in this respect was contested. The first shadow of doubt seems to have been expressed in the decision of the Supreme Court in the so-called "Social Circle" case adjudged in 1896. This case involved the reasonableness of rates from Cincinnati to the town of Social Circle, Ga., as related to the rates to Atlanta and Augusta on either side. Disregarding other phases of the case which concerned the interpretation of the long and short haul clause, the Commission had, when the case was first decided in 1889, ordered a reduction of the rate from Cincinnati to Atlanta from $1.09 to $1 per

100 pounds. This case was carried to the Supreme Court, where decision was finally rendered in 1896. Purely as an obiter dictum the court discussed briefly the interpretation of the original act in respect to this rate-making power. It expressed a reasonable doubt in the premises, even going further and confessing inability to find any provision of the act "that expressly or by necessary implication confers such power." It does not seem clear whether by this statement the court had reference to the arbitrary prescription of rates in first instance to the carriers or merely to action of the Commission in prescribing rates after complaint in order to redress grievances.

Then I am going to insert, as a part of my remarks, a bill introduced by me, after consultation with Democrats upon this side as expressing the Democratic policy upon this identical question, on December 10, 1903, stopping now in connection with the bill only to say this, that that bill contained these three vital principles, which are the principles of the President's message and the vital principles of the Davey bill presented by us now as a substitute, to wit, that where the Commission declares an existing rate off it shall have the power to declare another rate on. Secondly, that that rate shall become operative, the original bill said, immediately; the Davey bill says, after twenty days' notice by the Commission, and that it is to remain operative continuously until set aside by the final judgment of some court of competent review or appeal. Read your President's message, and you will see that that is just exactly what was in it.

That is not all. I am going to insert in the RECORD, and I will read a little bit of it now, not only that bill, but some remarks of my own which I made upon the floor in advocacy of that bill on January 21, 1904. And I will read the following now, among other things, said by me on January 21, 1904, but will quote later the balance of my remarks on that occasion.

We propose upon this side to say this: That whenever the Interstate Commerce Commission pronounces a given rate unreasonable they shall have then and there the power to fix in its stead a reasonable rate, and this rate shall be operative until on final judgments by proper proceedings in the proper Federal court the finding of the Commission shall be overruled. It is not arming them with the power to make an omnibus schedule all over the country, but wherever, on question raised by complaint or otherwise, they declare a given rate to be unreasonable, they shall *then* have the power to state what is a reasonable rate; and furthermore, that that rate shall be operative until it is set aside by due process of law. That is all. I do not think myself that any small body of men could arrange, or ought to be empowered to arrange, an omnibus schedule for so vast a country with such divergent sectional interests as ours. Are you going to stand pat against this plainly just demand of the Interstate Commerce Commission, too?

After listening to that, tell me whether the President has or has not "toe-marked the foot track" of the Democracy by the almost identical utterance in his message.

Listen further.

This is the bill to which I referred with the further remarks made by me at the time on this subject:

"A bill to empower the Interstate Commerce Commission to fix transportation rates in certain contingencies.

"*Be it enacted, etc.*, That when, hereafter, the Interstate Commerce Commission shall declare a given rate for transportation of freight or passengers unreasonable, it shall be the duty of the Commission, and it is hereby authorized to perform that duty, to declare at the same time what would be a reasonable rate in lieu of the rate declared unreasonable.

"SEC. 2. That whenever, in consequence of the decision of the Interstate Commerce Commission, a rate has been established and declared as reasonable and litigation shall ensue because of such decision, the rate fixed by the Interstate Commerce Commission shall continue as the rate to be charged by the transportation company during the pendency of the litigation and until the decision of the Interstate Commerce Commission shall be held to be error on a final judgment of the questions involved by the United States court having proper jurisdiction."

That is H. R. 6768, introduced December 10, 1903. In commenting on it and urging its consideration then, I added:

It merely asks that the present absurd condition of things in connection with the Interstate Commerce Commission be done away with. I refer to this condition: The Interstate Commerce Commission has power to declare a given rate, when the question concerning what it ought to be is before the Commission, to be unreasonable, and to forbid the railroads from collecting that rate. Say it is 50 cents; the railroad changes it to 49 cents. The Commission declares 49 cents unreasonable, and the railroad changes it to 48 cents. Each time the shipper, or a new shipper, must lodge a new complaint, and so on, if the railroad chooses, ad infinitum.

There stands that Interstate Commerce Commission, acting under a law so puerile and childish that the Commission has the power to declare a given rate or charge unreasonable, but is without any legal power to declare what rate would, in its stead, be reasonable. That is not all; as a consequence of the puerility of the law when the Commission declares 50 cents unreasonable, let us say, then the railroad can immediately have it reviewed in another court; or otherwise, they instigate litigation and motions, demurrers, bills, crossbills, etc., go on and on and on, and in the interim the railroad is benefited by being permitted to continue charging the rate declared unreasonable; the railroad receives the benefit of the doubt of what the final judgment may be, and not this tribunal erected by this great Government. The shipper must pay in pendente lite to the railroad, paying what the Interstate Commerce Commission has denounced as unreasonable.

My friend Mr. ADAMSON, of Georgia, the senior Democratic member of the Committee on Interstate and Foreign Commerce, has introduced a bill simply embodying all the recommendations of the Interstate Commerce Commission. That and nothing else. You need not adopt all of them, but some of them are surely worthy of adoption; some of them ought to be indorsed. Will you "stand pat" against all of them?

Now, I see before me a man—the sledge hammer of the Republican party, a man of weight in every way, a man in my opinion of justice, Mr. HEPBURN of Iowa, chairman of the Committee on Interstate and Foreign Commerce, and I do not believe that he is going to allow his committee to be held back by purely partisan considerations, with the idea of "standing pat," without doing some of the things that the Interstate Commerce Commission recommend.

Mr. SCOTT. I would like to interrupt the gentleman to ask for the purpose of getting his view, in entirely good faith, and it is this: Does the gentleman know of any other case in which a judgment having been rendered in the lower court, the judgment is not suspended when the appeal is perfected? I will ask the gentleman one or two questions in this connection, and the gentleman can discuss them together.

Mr. WILLIAMS of Mississippi. Ask them later, when I come to a discussion of the bill.

Mr. SCOTT. I thought you were directly upon that point.

Mr. WILLIAMS of Mississippi. I was only reading what was said about it on a former occasion. I want first to put in this line of history, and then I will come to the actual bills under consideration. Now, then, I am going to read the words of the President's message, so that you can judge for yourself how near they are to that part of my remarks first quoted. This is the language of the President:

While I am of the opinion that at present it would be undesirable, if it were not impracticable, finally to clothe the Commission with general authority to fix railroad rates, I do believe that, as a fair security to shippers, the Commission should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place; the ruling of the Commission to take effect immediately, and to obtain unless and until it is reversed by the court of review.

"Until it is reversed." Mark the legal language. Not until it is held up by a temporary restraining order, not until it is enjoined in an ex parte hearing by a pro forma injunction; but "until it is reversed by the court of review." The words "to reverse" have a clear technical and legal meaning. It is to set aside on a final hearing. To continue the message:

The Government must in increasing degree supervise and regulate the workings of the railways engaged in interstate commerce; and such increased supervision is the only alternative to an increase of the present evils on the one hand or a still more radical policy on the other. In my judgment the most important legislative act now needed as regards the regulation of corporations is this act to confer on the Interstate Commerce Commission the power to revise rates and regulations, the revised rate to at once go into effect, and to stay in effect unless and until the court of review reverses it.

That is not all of the historic tale I wish to unfold. There was an ever memorable convention held at St. Louis, the exact date of which I have now forgotten, a convention which has excited the animosity of my friend from New York, Mr. BAKER, and the electoral results of which in last November were a disappointment to a great many of us. Upon that occasion the temporary chairman of that convention who happened to be I, uttered the following words:

The Interstate Commerce Commission has been knocking at the doors of Congress for years asking increased power; asking this power at least—that when a given rate, after investigation and full hearing from both sides, has been decided by the Commission to be unreasonable, to declare what rate would be reasonable in its stead, and to make this rate operative until set aside by due process of law on appeal, review, or otherwise.

A more ridiculous piece of official impotency than the Interstate Commerce Commission at present does not exist.

A bill to give the Interstate Commerce Commission power, not to prescribe rates generally, not to fix the schedule of rates for all the roads in the country engaged in interstate commerce, but power merely to prescribe a reasonable rate in a particular case where, after full investigation and hearing from both sides, the rate established has been declared unreasonable, this rate to be maintained until set aside by law, has been pending before the Committee on Interstate and Foreign Commerce in the House of Representatives since this Congress met, and although the Democrats on that committee have demanded consideration of the bill, and although delegation after delegation of merchants and members of merchants and shippers' associations have been to Washington begging enactment of it or like legislation, nothing has been done.

On this, too, the Republican party before the election "stood pat." Aye, during the election, too, because its platform contained not a sound on the subject.

Ah, yes, they stood pat until "a Daniel came to judgment," a Republican Daniel at that; and he is at the other end of this avenue now, and he has called upon you to do identically the very thing that you refused a year ago to do because it came out of a Democratic Nazareth. Is there any difference? I, for one, will stand for any measure for the benefit of the American people from whencesoever it comes. [Applause on the Democratic side.] But there is nothing that can originate from this side of the House that one of you gentlemen would support if it were an announcement of our opinion that the Sermon on the Mount is a sound morality, or that the Lord's Prayer is morally and theologically orthodox. [Applause.]

I will not add to the tale unfolded by quoting the Democratic platforms of 1896, 1900, and 1904—all asking this reform. Others have quoted them.

Now, I want to get down to a discussion of this bill. I think we may very beneficially consider the evils to be cured, and then we may consider our constitutional power, and then we may consider in detail the best way to exercise that power. I am not going to dwell in detail upon the evils. These evils have been spread upon record; they are in the hearings before the Industrial Commission. They are in all of the reports of the Interstate Commerce Commission. They are in the hearings before the Interstate and Foreign Commerce Committee. They are "plain, palpable, obvious"—grievous, oppressive.

While I am not going to do that—because you are all acquainted with the fact that there are evils of a startling and unjust character, that the railroads are taxing the people every year unjustly and discriminatingly—I am only going to stop thus far on that point; to ask if anybody believes that these evils are self-remediable? I am a Democrat, and wherever an evil is self-remediable wherever it can work itself out, wherever it seems possible for it to be worked out to a just conclusion along lines of private enterprise and private control, I say let the Government keep its hands off.

So, if this be the kind of an evil that will automatically disappear in the course of the evolution of business, or by the reasonably to-be-expected concession of those who have this great power to levy railroad transportation taxes, then I, for one, would not have this Government interfere. As a general principle, "the country least governed is best governed." But, my friends, aristocracies of birth, guided by the legend noblesse oblige, have here and there made concessions, from a sense of justice or from a fear of impending wrath to come. Entrenched industrialism, on the contrary, never made a concession in the history of the world. Blind money-greed, organized on a grand scale, has always gone upon the principle that that is honest which is law-honest; that that is right which the law permits, and that everything that can be wrung as a profit under the law is not only legal, but justifiable. We have waited and waited for the railroads themselves to do justice. Gentlemen say (and I listened with much attention to the words of the gentleman from Massachusetts [Mr. MCCALL] the other day—always sincere, always a man of intellectual integrity; and in much of what he says I agree); gentlemen say in effect, as he said, that what we propose is a dangerous power to arm seven men with, and it is a dangerous power to arm seven with.

It is a choice between evils when we do it, but it is a choice of the lesser of the two evils, because about seven men now are exercising that very power—seven great heads of great railway systems—not responsible to any law, responsible only to themselves. [Applause.] There are not much more than seven great railroad magnates who, acting in conjunction with one another to-day, are directing the stream of American commerce in the channels in which they wish it to flow, who are discriminating in favor of one locality against another—of one great concern against other concerns—in favor of friend against foe, who are dicriminating by 33⅓ per cent rebates in favor of the foreign consumer as against the American consumer, taking the same goods at the same place and carrying them to the same ports, and charging one-third less freight when they are to be shipped abroad than they charge when they are to be sold there to the American consumer. And as a choice between two evils, if you have got to have this immense power lodged in some hands—and it must be—I would rather have it lodged in the hands of a governmental tribunal, weak and ineffective as governmental tribunals frequently are. [Applause.]

Now, my friends, I speak as a conservative. I am no radical, either by heredity or by environment. There is nothing of radical blood or radical surroundings about me. I am simply progressive. It would be a good thing if industrialism intrenched had the sense that the old English nobility always has had, and that the French nobility was too stupid to display, namely, the sense to concede full justice, or even partial justice, at any rate, in order finally to avoid overwhelming ruin; and unless you do enact sensible and conservative legislation like this, unless you do something to give the people justice (and that is all they are asking), to give them equality of treatment (and that is all they are asking), the day may come when all over this country, except in the South, there will be an advocacy of the governmental ownership of railroads. There will never be a successful advocacy of it there. The southern Democracy will never indorse it, because they have the old-fashioned idea yet that this Government should not become too strongly centralized. [Applause.] They have the idea yet that a State should be something more than a mere county, and in addition to that they have another reason against it which is of a local character. They know that if the Federal Government owned and operated railroads, it would not and could not, in expectancy, operate separate coaches for the two races.

But there will be a radical demand in the West and the Northeast, from the cities, from the farmers, and elsewhither, and I will tell you that the very worst enemies of the railroad systems to-day are the railroad magnates who stand in the pathway of this very reform we are proposing. [Applause.] I am no "oxocrat." I am a Democrat. I do not want to go back to ox wagons for transportation. I know, as every man does, what great feeders of commerce and industrial life railroads are. I have no respect for the demagogue who is always denouncing them per se, or denouncing anything else just because denunciation may be temporarily popular, or because he may throw himself in ahead of a column a little bit farther than somebody else and thereby earn cheap praise in some quarter that may increase his political longevity.

But the railroads are public servants, they are quasi-public affairs. They occupy a public highway; and while I utter no opinion as to some scheme some day of owning the public highways and allowing them to be operated by private enterprise, as the street-railway highways are in New York City, under the general laws of New York for cities of 1,250,000 population (vol. 3, p. 3308), I do believe that anything like governmental ownership of railroads in the long run would lead to centralization, and would lead to the intrenchment of the party in power to such a great extent that it could never be gotten out; and, more than that, would add still further to the contempt in which the States rest as States to-day and to hopeless consolidation of the Federal power.

But there may be a pathway, a stopping point on the way. The great city of New York, for example, under the statute to which I refer, leases the use of its highways for street-railway purposes for a certain length of time to the highest bidder at public auction, the bids based on a percentage of the gross proceeds, and the company being pledged to operate them in accordance with certain specifications of the charter. He who bids the highest percentage of the gross proceeds gets the charter and the franchise to operate over a line indicated.

Mr. BAKER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. WILLIAMS of Mississippi. Yes.

Mr. BAKER. I trust that the gentleman's opposition to Government ownership is based upon more foundation of fact than is his statement as to the operation of the street railways of New York, which is untrue. It only applies, and in a very limited way, to a few small roads.

Mr. WILLIAMS of Mississippi. The State of New York passed a municipal act respecting it. I know whereof I speak. I do not say it affected every railway in the city of New York, but it affects every railway that has had a franchise granted since that act was passed. Now, by that act a route or line is indicated and then the city leases it to whomsoever will bid the highest percentage of the gross proceeds and operate the railway in accordance with certain rules laid down. I happen accidentally to know something about this, because it became my duty once to look into it, with a view to having similar provisions to the New York statute apply to the city of Washington.

Mr. BAKER. But that does not alter the fact, and it is not true as a general statement.

Mr. WILLIAMS of Mississippi. If the gentleman from New York means that it does not apply to a majority of the roads now operating in the city, he is right.

The gentleman will find the New York municipal railway franchise law, to which I refer, in the General Laws of New York, volume 3, paragraph 93, page 3308; and the law applies to all cities having a population of 1,250,000.

Now, then, I shall go on. I come to the second point: What is our power in the premises? I find in the Constitution of the United States that the same clause of the Constitution which gives power to Congress to "regulate foreign commerce" gives power to "regulate interstate commerce." Congress draws its power from identically the same language and the same source, and the power with regard to one is exactly upon an equal footing with the power which we have with regard to the other. There is, therefore, no doubt about the constitutional power, and the power to regulate, as the Supreme Court has decided, is a power to destroy, just as the power to tax may become practically a power to destroy, without even making it unconstitutional in its exercise, though it may be—and would be—silly and foolish thus to exercise it.

Congress could to-morrow, if it wanted to, pass a law saying that whenever a train of cars crossed a State line and there became engaged in State commerce, it should stop so many hours or so many minutes, or that it should thereafter run at a certain rate. The power of Congress in regulating interstate commerce is a broad and dangerous power, and should therefore be carefully exercised. I admit that. Thomas Jefferson said that it

was a "blanket clause" of the Constitution under which many abuses were destined to take place, and which might, if Congress took possession of it to the full extent, reverse the entire character of our Government; and that is true. That happens to be the character of the power. There is, therefore, no doubt about the fact that Congress could to-morrow, if it wished, itself regulate rates. It could itself, if it wanted to, get up a schedule of rates for all of the United States, publish that schedule and order it to be obeyed under penalty of fine by interstate common carriers, or under penalty of exclusion from the field of interstate commerce, if it were foolish enough to go that far. There would be but one restraint upon it, and that would be the restraint of the courts, if what it did came in conflict with any other clause of the Constitution of the United States—for example, if it resulted in taking private property without paying due compensation or without due process of law. Now, then, what is the power of a commission organized by Congress? What is the relationship of the commission toward the courts? We have seen the relationship of the courts toward Congress, if Congress had not delegated, but had itself exercised the power, and that is to determine whether the Congress has exceeded the power granted to it by the Constitution in all its clauses, and that is all. That is the one "inherent judicial function" that relates a court to the act of this legislative body. There is that relationship, also, when you come to a commission, which has a delegated legislative power, and there is one more relationship which I will mention in a moment, and these are all the relationships that a court ought to bear to this subject, and leaving this relationship between court and legislative tribunal is the peculiar excellence of the Davey bill, because it does not undertake to organize a whole new lot of machinery.

It does not undertake to say when, or where, or how the court shall act; it leaves the courts as they are now, with their inherent judicial functions growing out of their constitutional relationship to the question, which we can not abridge and ought not to enlarge. The court can ask of the Commission, Is it, first, exceeding the scope of authority which Congress itself could exercise under the Constitution; secondly, has the Commission, even though its action is constitutional, exceeded the scope of power delegated to it by Congress, is it acting ultra vires? That is all the courts ought to have the right to ask and determine, and that this is all it can ask, is the best things about the Davey bill.

Now, I want to take up these bills and dwell upon them a little. There are two bills before the House, and I shall confine myself to the two bills and not waste powder on other bills nor on imaginary situations. And, by the way, Mr. Chairman, if anybody has been so foolish as to imagine that I was going to discuss any bill not before the House or to wash any Democratic linen in the Hall of the House of Representatives he has very much mistaken me, and very much mistaken, I think, the duty of the position I occupy toward my party and the country. [Applause.]

I shall discuss the two bills that are before the House. There is another bill that has been talked about somewhat, but it was not talked about until very recently. In no conference of minority members of the committee was it ever brought up at all, and in no committee meeting for discussion was it ever seriously brought up, as far as I know, but these that I am to discuss are the two bills that are here. Now, I will insert in the RECORD at this point the Davey bill, to be offered by us as a substitute:

A bill to empower the Interstate Commerce Commission to fix transportation rates in certain contingencies, for the enforcement of its orders, and for other purposes.

Be it enacted, etc., That when, hereafter, upon complaint made, and after investigation and hearing had, the Interstate Commerce Commission shall declare a given rate, whether joint or single, or regulation or practice, for transportation of freight or passengers, unreasonable or unjustly discriminative, it shall be the duty of the Commission, and it is hereby authorized to perform that duty, to declare, at the same time, what would be a fair, just, and reasonable rate, or regulation, or practice in lieu of the rate, regulation, or practice declared unreasonable, and the new rate, regulation, or practice so declared shall become operative twenty days after notice: *Provided*, That the Commission shall in no case have power to raise a rate filed and published by a carrier.

SEC. 2. That whenever, in consequence of the decision of the Interstate Commerce Commission, a rate, regulation, or practice has been established and declared as fair, just, and reasonable, and litigation shall ensue because of such decision, the rate, regulation, or practice fixed by the Interstate Commerce Commission shall continue as the rate, regulation, or practice to be charged by the carrier during the pendency of the litigation and until the decision of the Interstate Commerce Commission shall be held to be error on a final judgment of the questions involved by the United States court having proper jurisdiction, but no proceeding by any court taking jurisdiction shall consider any testimony except such as is contained in the record.

SEC. 3. That when the rate substituted by the Commission as hereinbefore provided shall be a joint rate, and the carriers, parties thereto, fail to agree upon the apportionment thereof among themselves within twenty days after notice of such order, the Commission may issue a supplemental order declaring the portion of such joint rate to be received by each carrier party thereto, which shall take effect of its own force as part of the original order; and when the order of the Commission prescribes the just relation of rates to or from common or competitive points on the lines and between common or competitive points and the respective terminals of said lines of the several carriers parties to the proceeding, and such carriers fail to notify the Commission within twenty days after notice of such order that they have agreed among themselves as to the changes to be made to effect compliance therewith, the Commission may issue a supplemental order prescribing the rates to be charged to or from such common or competitive points by either or all of the parties to the proceeding, which order shall take effect of its own force as part of the original order, and shall continue as the rate, regulation, or practice to be charged by the carrier or carriers during the pendency of litigation resulting from the order of the Commission, until, or unless, the decision of the Commission shall be held to be error on final judgment of the questions involved by the United States court having proper jurisdiction.

SEC. 4. That in case such common carrier or carriers shall neglect or refuse to adopt or keep in force such tariffs of rates, fares, charges, and classifications or regulations or practice so declared and fixed by the Commission, it shall be the duty of the Commission to publish such tariffs of rates, fares, charges, and classifications or regulations or practice as the Commission has declared to be reasonable and lawful in such manner as the Commission may deem expedient. Thereafter, if any such carrier or carriers shall charge, impose, or maintain a higher or lower fare, charge, or classification, or shall enforce any different regulation or practice than that so declared or fixed by the Commission, such common carrier or carriers shall forfeit to the United States the sum of $5,000 for each and every day it has continued to refuse or neglected to enforce and apply the said tariff regulation so published by the Commission. Each forfeiture herein provided for shall be payable into the Treasury of the United States, and shall be recovered in a civil suit in the name of the United States, brought in the district where the carrier has its principal office, or in any district through which the road of the carrier runs. It shall be the duty of the various district attorneys, under the direction of the Attorney-General of the United States, to prosecute for the recovery of such forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. The Commission may, with the consent of the Attorney-General, employ special counsel under this act, paying the expenses of such employment out of its own appropriation.

SEC. 5. That all existing laws relating to the procurement of witnesses, books, papers, contracts, or documents, and the enforcement of hearings in cases or proceedings under or connected with the act to regulate commerce shall also apply to any case or proceeding affected by this act.

SEC. 6. That all cases arising under the provisions of this act and all cases in which any carrier or carriers shall, by any suit or proceeding, seek to enjoin or annul, suspend, or modify any order or ruling of the Interstate Commerce Commission shall have precedence over all other cases, except criminal, in any court to which any such case may be carried.

SEC. 7. That this act shall take effect from its passage.

Now, the first clause in the Davey bill simply says that when the Commission shall declare a "given rate, whether joint or single, or regulation or practice for transportation of freight and passengers unreasonable or unjustly discriminative," it shall have the power to declare another rate, and that the new rate, regulation, or practice so declared shall become operative twenty days after notice.

I notice in a speech in the RECORD somebody says that this bill is uncertain as to when the rate becomes operative, when the very language is that it shall become operative twenty days after notice. Then comes the proviso that the Commission shall in no case have power to raise a rate filed and published by a carrier.

Mr. MANN. Will the gentleman from Mississippi yield for an interruption?

Mr. WILLIAMS of Mississippi. Certainly.

Mr. MANN. I wish to ask the opinion of the gentleman as to that provision of the Davey bill which states that on complaint made, if the Interstate Commerce Commission shall declare a given rate, whether joint or single, or regulation or practice—I wish to ask him whether in his opinion that gives to the Interstate Commerce Commission or to the person who files the complaint power to consider more than one given rate in one complaint?

Mr. WILLIAMS of Mississippi. My opinion is that the complaint could contain several rates if several were complained of, and that the Commission would pass upon each one of them; that the complaint might contain more than one rate, might challenge more than one rate, and the Commission, of course, would pass on each rate challenged; so that it might pass upon several rates at the same time and virtually in the same action.

Now, section 2 says that "whenever in consequence of the decision of the Interstate Commerce Commission a rate, regulation, or practice has been established and declared as fair, just, and reasonable, and litigation shall ensue because of such decision, the rate, regulation, or practice" fixed by the Interstate Commerce Commission "shall *continue* as the rate, regulation, or practice to be charged by the carrier during the pendency of the litigation, and until the decision of the Interstate Commerce Commission shall be held to be error on a *final* judgment of the questions involved by the United States court having proper jurisdiction." Some gentleman has objected that we do not designate the court. We are not making a new law; we are amending an old law. The old courts remain. Some gentlemen object that we did not designate what ought to be in the record. Again, we are not making a new law; we are amending an old law. The

method of making up the record, the things contained in the record of the Commission to-day, will remain as now, and the method of transmitting it to the court above will remain as it is now. We are not changing the interstate-commerce law, except so far as we do it expressly by new provisions. Now, this language here I want to call your attention to, "shall continue as the rate, regulation, or practice to be charged by the carrier during the pendency of the litigation."

The Davey bill is the only one of the two bills accomplishing that purpose. The Townsend-Esch bill does not. Under the Davey bill no "restraining orders," issued "as of course," can solve the doubt pending litigation in favor of an interested litigant and against a presumedly impartial judgment of a duly constituted governmental tribunal as it can under section 14 of the Townsend-Esch bill offered by the Republican majority.

Now, the next section of the Davey bill merely calls upon the carriers to apportion the rates, and if they do not apportion them then it gives the Commission power to do so. Then the fourth section merely is the penalty clause brought forward from the old law. Now, there has been some stringent criticism about that, because it was, in the caucus draft of the Davey bill, left out. That penalty clause was considered in the first instance by us to be unnecessary to put in the act at all, because it was in the existing law; but some people thought it ought to be brought forward and expressed, and we therefore brought it forward from the existing law, and all the criticisms made to section 4, the penalty clause, are criticisms of the existing law now brought forward and redeclared. The next section says that—

All existing laws—

In order to have no doubt about that, that—

All existing laws relating to the procurement of witnesses, books, papers, contracts, or documents, and the enforcement of hearings in cases or proceedings under or connected with the act to regulate commerce shall also apply to any case or proceedings affected by this act.

Now, that settles the question as to the character of the record which goes up from the Commission to the court, because it says that all existing laws upon that subject shall apply to this act. Section 6 is the expediting clause of the act, that "all cases arising under the provisions of this act and all cases in which," etc., "shall have preference over all other civil cases."

Now, I want to take up for criticism some parts of the Townsend-Esch bill. Mr. Chairman, I want to say this at the very beginning of my criticism of that bill. I suppose that no matter what the merit of the proposition which we present might be, and no matter what the demerit of the proposition which you present might be, you would as a party almost—nearly all of you, at any rate—vote for your measure. I therefore expect that the Democratic substitute bill will be voted down and we will be brought up after a while to vote upon the Townsend-Esch measure. If so, we are to have no further choice than between the legislation given to the country by the enactment of that bill and the present condition of affairs.

Now, I have no hesitancy in saying that the Townsend-Esch bill will bring about a condition of affairs very much preferable to that with which we are confronted now. At any rate, the laughable and ridiculous impotency of the Interstate Commerce Commission in not being able to substitute a new rate for one declared off will be done away with by that bill—an impotency which amounts to this: That it can really do nothing except to suggest lawsuits. It has been treated with a degree of arrogant contempt by the railroad companies of this country that a tribunal stripped of power, as it is, richly deserves to be treated with and always will be treated with. My objection to the Townsend bill is not that it is not a step in the right direction and a very good step at that, but that it does not go as far with regard to this particular matter of rate making as it might go. I especially object to that feature of it which leaves in full force and effect all interlocutory decrees, temporary restraining orders, and injunctions issued on ex-parte testimony, frequently granted "as a matter of course," mere pro forma temporary injunctions; because every lawyer understands that whereever a court gets in the habit of issuing injunctions upon ex-parte testimony without a hearing on both sides, that sooner or later all the court does is to look at the face of the papers and see if on the face of the papers there is a legal case for injunction, then after that grant it "as a matter of course." After that, then, the next game of the railroad is to hold that temporary injunction, acting as a supersedure of a reasonable and just rate, as long as it can before there is a final hearing or a final injunction, if final injunction should be granted, or before on final hearing and decision there is a refusal to make the injunction permanent. My main objection to the Townsend-Esch bill is that I can not see how you can finish any litigation under the Townsend-Esch bill in less than six or eight years unless the railroad and the other side both want to finish it in a shorter time. Of course, if that is so, it might come to a hearing sooner. Now, then, the gentleman from Kansas was about to ask a question which I will answer in this connection. He asked me whether it is true that there is any precedent where the right to supersede is denied. I answer him that our original injunction law in the original judicial act of 1879 laid down for all injunctions the very principle that I want to lay down in connection with section 14 of the Esch-Townsend bill, to wit, that injunction should be granted only after notice and after opportunity to be heard. In that case, of course, the injunction, if granted, would be permanent and final, thus constituting a final hearing. If not granted the case would go on. The fact that it was not granted would be good reason and proof why the rate fixed by the Commission ought never to have been superseded.

Mr. SCOTT. If the gentleman from Mississippi [Mr. WILLIAMS] will permit me, I will say that I think he misapprehended the purport of my question. It was not on the question of notice being given preliminary to the granting of injunction; my question went to the point of whether it was not common, when an appeal was taken, for the perfecting of the appeal to operate as a stay of the judgment. The point I was attempting to reach being this, that if the Interstate Commerce Commission——

Mr. WILLIAMS of Mississippi. The gentleman from Kansas [Mr. SCOTT] asks if that is not common. Yes; that is common. That is the ordinary course.

Mr. SCOTT. I was going to ask the gentleman then if this legislation proposed in both of these bills does not set aside that common procedure?

Mr. WILLIAMS of Mississippi. Yes, sir; it makes this an uncommon and summary procedure to that extent. There is no doubt about that; and I think it ought to be made so; the benefit of the doubt pendente lite ought to be given to the action of the Commission. It must be given somewhither.

Mr. SCOTT. If the gentleman will permit one more suggestion, I will ask if it is not true that the most complete answer to the question I have suggested is not that it is an extraordinary proceeding, and that the situation is such as to warrant an extraordinary proceeding, but that the Interstate Commerce Commission is a legislative body, and not a court, that it simply fixes a rate, as this Congress might fix a rate, and therefore——

Mr. WILLIAMS of Mississippi. In the common ordinary courts the procedure is that when an appeal is taken from one judicial tribunal to another a supersedeas follows under the condition fixed by law, fixed for the procedure, generally on condition—giving bond, or something else—but when a legislative body acts upon the commerce of the United States it is different. For example, you can not go into court and attack the constitutionality of a law passed by the Congress of the United States and, by giving bond or anything else, supersede that law. The law may not be superseded until the court has declared that it was never law at all, that from the beginning it was null and void, because the legislative body had no power to pass it.

Now, then, in this case, here is a body to which has been delegated legislative and administrative power, and the court ought not to supersede its legislative action except on final judgment that its action was ab initio void because of one or two reasons—first, because it violated the provisions of the organic law, the Constitution of the United States, or, secondly, because it violated or transcended the provisions of its peculiar charter of creation—the act of Congress; that is, the act delegating to it its authority. I made the point stronger a moment ago by showing that if we want to make an injunction, for example, not a mere temporary restraining order, but a final restraining order, whereupon it would become, of course, the final judgment of a court taking jurisdiction by injunction—and it does not make any difference as to how the court takes jurisdiction so it gets it, and what we are aiming at is that it shall be a final judgment—then we want to say that even when a court takes jurisdiction by injunction it shall not operate to supersede by mere temporary restraining order, but only when it has been found that this administrative and legislative body has violated the law of its being, either by clashing with the Constitution or clashing with the powers granted by the act creating it.

Mr. MANN. Will the gentleman from Mississippi [Mr. WILLIAMS] permit a question?

Mr. WILLIAMS of Mississippi. Just a moment. I started to say, with regard to injunctions, that even when issuing from courts to operate on other courts that are inferior, our original judiciary act required what I want to require here. A fortiori is the argument when the tribunal sought to be enjoined is one of legislative power.

Mr. MANN. Does the gentleman from Mississippi [Mr. WILLIAMS] think that the Congress can provide by law that nisi prius courts can not enjoin action under a law which the court believed to be unconstitutional? Or if a nisi prius court believed that the Interstate Commerce Commission had fixed a

rate which is unconstitutional, that we could prevent that court from enjoining that rate from going into operation?

Mr. WILLIAMS of Mississippi. I confess, in all frankness, that I do not know how a court would hold upon that question, but I think now that we could. But it is a very grave question, and most lawyers with whom I have talked about it differ with me upon the question, I will say to the gentleman. But I think we can do it, for the reason I have just stated. You can not enjoin a law passed by this body, can you?

Mr. MANN. No; but you can enjoin its enforcement.

Mr. WILLIAMS of Mississippi. By giving bond.

Mr. MANN. It is purely within the discretion of the court whether you can give bond or not.

Mr. WILLIAMS of Mississippi. Well, the gentleman from Kentucky has just made a suggestion that it very apt, and it is also very true.

Mr. MANN. If the gentleman has made any at all it is apt, because they are always apt.

Mr. WILLIAMS of Mississippi. And that is that in the case stated by you, where the court has enjoined the enforcement of a law, a portion of it that does damage to you, it is always done upon notice and hearing, and never upon an ex parte proceeding. That is all I seek. That possesses finality.

Mr. MANN. But whether done upon notice or not done upon notice, of course, is not the question. The question is whether Congress can provide that a rate should have any effect, as the gentleman suggests, until final judgment of the court.

Mr. WILLIAMS of Mississippi. I reply, an injunction after notice and hearing will be a final judgment, and that is all I ask.

Where there is issued in a mere temporary restraining order, or an injunction which is an interlocutory order, without hearing both sides, which acts as a supersedeas, I object. But suppose a case were tried on injunction, and suppose there is notice to both sides and a hearing, and after both sides are heard the court declares that the act of the Commission is unconstitutional? That is just as final as ever a judgment or decree can be. It is totally unlike a pro forma injunction.

Mr. MANN. I would ask the gentleman whether he believes a nisi prius court is required to have a full hearing of a case where upon a preliminary showing it is convinced that the action is unconstitutional before the nisi prius court can enter an injunction?

Mr. WILLIAMS of Mississippi. I believe Congress has the right to require that it shall have a full hearing. It used to require it. It is a matter of opinion, and I believe the courts will so hold in this case, because this Commission is a legislative and administrative body. I will say further that even if it were a court, Congress would have, in my opinion, this power over its procedure.

My next objection is to this section 14. I stated the other day I would give up all the debate, that I would give up the right to vote on the minority substitute, if you would allow us to offer three amendments to section 14 of this bill. I believe these three amendments would be adopted, and if they were adopted this bill would be just as good as any other bill before this House, and perhaps better.

Now, one amendment was to put in what I was dwelling upon a moment ago—that these restraining orders should be granted only after notice and hearing. I would furthermore strike out these words, "upon their merits." The section reads as follows now:

> That the court of transportation, as a court of equity, shall be deemed always open for the purpose of filing any pleading, including any certification from the Interstate Commerce Commission, or issuing and returning mesne and final process and of making and directing all interlocutory motions, orders, rules, and other proceedings, including temporary restraining orders, preparatory to the hearing upon their merits.

Now, these words "upon their merits" ought not to be in here, because although there is another clause in the bill with which it somewhat conflicts, the court might possibly rule that this clause prevailed, and that it was not to be heard on appeal simply on the testimony developed before the Commission, but with these words in it it might appear that it would squint the other way, and the court might probably consider that it had the right to take up the case de novo and hear it "upon its merits" regardless of what the Commission had done, and then you will make the Commission again laughable for its impotency, just like it is now. The third amendment was this; I will read the language as it is:

> And in vacation as well as in term all such process, commissions, orders, rules, and other proceedings, including temporary restraining orders, wherever the same are grantable, as of course, according to the rules and practice of the court.

I would leave out the words "as of course." The third amendment I would have offered is that no injunction in a matter of this sort should be granted "as of course."

Mr. TOWNSEND. If the gentleman will allow me, I would state to him that that is a mistake; it should have been "where the same are not granted as of course." There is no sense in the provision as it is. That was what it was intended to be.

Mr. WILLIAMS of Mississippi. I am glad to hear that. But if the "not" was in there still that would squint e converso so as to authorize the court to hold that some injunction—an injunction—might be granted "as of course." I would strike that out and leave it to read: "wherever the same are granted according to the rules and practice of the court, but to be granted only after full notice and hearing."

Now, there are some other minor points about the bill that it strikes me could be amended with benefit, but if these three amendments were made the bill would be a good one—tentative, of course, but good as far as the one question with which it deals goes.

Now, I want to say this—as the confession of a partisan this time: That this, with all its faults—three or four of them very serious—is a very much better bill than I ever thought could come—could be forced even, as it has been—from that side of the Chamber.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. WILLIAMS of Mississippi. Well, it expired just at the right time. [Laughter and applause.]

Mr. HEPBURN. Mr. Chairman, taking the last sentence of the gentleman from Mississippi [Mr. WILLIAMS] in conjunction with other sentences that he has indulged in, and with the very moderate criticism and the microscopic objections that he has been able to discover in this bill, I think we may well assume that notwithstanding his hour's speech he regards it as a good measure; and in view of the fact that I am confident he will vote for it I am satisfied that in its general provisions it meets with his very hearty approval.

Mr. Chairman, there are difficulties in preparing a bill of this character. That fact has been illustrated by the discussions that have taken place upon this floor. No two gentlemen, apparently, entertain the same opinion either as to what is in the bill or what ought to be in the bill. There is great variety of opinion. That variety is perhaps emphasized by the action of one of my colleagues in the committee, who signs two reports approving of two bills, and yet has announced on the floor of this House that it is his purpose to vote for a third one.

The difficulty of preparing a bill is further emphasized by the conduct of the gentleman from Mississippi [Mr. WILLIAMS]. He has introduced four bills in this House upon this subject, differing from one another, I assume, at least in his judgment, or else he would not have indulged in the repetition. But from them I can discover that his opinions upon the subject of giving the Interstate Commerce Commission the power to fix transportation rates have undergone great change since he first began its study. The first bill that he introduced provided that the Commission should have the power to initiate rates. Their action was not to be dependent upon a complaint—not to be limited to the narrow precincts of a complaint—but was to be as broad as the inclinations or the fancies of the Commission should determine to be right, and the whole body of rates, if the Commission should conclude that they were erroneous, were to be subject, under the power that he gave to the Commission, to be revised by them, whether the shipper was the complainant or whether he was content.

But the gentleman has modified his views at last, and has introduced a bill in which he eliminates that broad power, and another bill in which he asserts another proposition, namely, to prohibit the Commission under any circumstances from raising a rate. The object of all his bills apparently is to secure reasonable rates, to secure justice between the people who may be parties to a controversy, to secure justice to the interests of the shipper and of the carrier, justice to the man who creates the product and has his wealth invested in it, and to the man who has his wealth or his pittance invested in railway shares. Justice and reasonable rates! And yet he inserts a provision that a rate, although unreasonable, shall not be raised. No power of that kind in the direction of effecting justice shall be given to the Commission. Ah, the gentleman declaims about his Democracy, declaims about the value of Democracy and its influences upon our institutions in procuring the happiness of the people. How often we have heard him boast in this House that it was the mission of Democracy to secure equality for all the people, exact justice to all the people. But, yielding to what he regards as a clamor, trying to ride a wave that he thinks leads to popular promotion of his party, he is willing to deny

equality to the man who invests his property in some other way than that which meets the preference of the gentleman from Mississippi. Is that your boasted spirit of Democracy that has brooded over the land and lifted the people and its institutions so far upward in the march of civilization? I believe in democracy, the true democracy, the democracy of the Constitution, the democracy of the fathers, when they ordained that instrument in order to secure equality of right and to open the door of opportunity to all men upon an equal plane; but I repudiate that kind of bastard democracy that the gentleman has embalmed in his legislative measure.

Mr. Chairman, I have said that there were difficulties in this legislation, difficulties that the committee charged with the duty of perfecting a bill were not able to overcome with that rapidity of action that perhaps in some degree and in some quarters, had they been able to, would have saved them much of criticism. I violate no confidence when I say that in the last session of Congress we were told by the proponents of legislation represented in bills such as I have spoken of and that were before the committee that they wanted no hearings; that they were content with the knowledge that they had of the subject. These bills were more than twenty in number. And yet there were seven members of that committee, new to this House and new to their duties, who had never had opportunity or occasion to study the questions involved. So that it was determined by the action of that committee that early in this session the question of transportation should be taken up and given as thorough and as complete examination as the time would permit. Mind you, there were citizens of the United States who said they wanted to be heard, citizens of the United States who claimed that in this subject, pro and con, their interests were involved—some claiming they were imperiled—citizens of the United States who complained that legislation of this character would be destructive to their interests or they feared it would be. There were others who regarded this kind of legislation as an entering wedge in the direction of the support of socialistic ideas, the complete progression of which might be subversive of all we revered in government. Great interests were demanding to be heard. There were gentlemen, not upon that committee, however, who wanted to shut the door in the face of these petitions—citizens of the United States who demanded their day in this court of inquiry, and who insisted that their views should be known as citizens, as interested parties, before their interests might be put in jeopardy.

We continued this investigation; we have been industrious. That committee has held its daily sessions, often two sessions a day, in order to acquire the information that they felt they must have and that they could only acquire in this way. No member of that committee believed that information came to him, as it does apparently to some men, by inspiration and without the aid of those facilities for study that the most of men seem to think are necessary before they dare trust the *notions* that they have as *conclusions of merit.* During all of this time we have all tried to be industrious and zealous. And here you will pardon me if I say something of a personal nature. Eighteen years I have been a Member of this House, and never before have I obtruded a matter of personal interest into these proceedings. If I have been criticised I have borne it; if I have been slandered and lied about I have submitted to it, content that my deeds and my acts might be placed in opposition and in answer to the libels of those who traduced me. [Applause.]

I want to say, Mr. Chairman, that early in this session, recognizing as I did that the President of the United States simply voiced the demand of the American people for justice, for equality, for the open door of opportunity to all to engage in business alike, I knew that legislation of that kind must be, and ought to be, and so through many interviews with him and members of his Cabinet I, with their aid and the aid of some of my colleagues on the committee, gleaning from any source I could that which I thought would aid in preparing a proper bill to carry out his views, have labored to prepare a bill that would give the required relief, that would not be revolutionary, that would not be destructive to any real interest, and that would thus effect the reform recommended in the annual message of the President. To this I gave my time and my best endeavors.

Some one has said that this bill is an Administration bill. No bill that I know of has been or is an Administration bill. The President of the United States, recognizing the limits of his prerogative to recommend to the Houses, recognizing the equality and the independence and the supremacy of the three great coordinate branches of the Government in their respective spheres, is not the man to strive to force Executive action, Executive thought, into legislative action.

I have had in the preparation of the bill that I have the honor to present the aid of his suggestions and his counsel in regard to essential provisions. I have had that of his Attorney-General, that of other members of his official family. I made many alterations and many changes from time to time, as it seemed to me wise and best, to carry out the wise suggestions of his message. I prepared a rough sketch of the bill, the general principles of which met with his approval. With these aids I improved it, perfected it, and got it into that shape that was thought to be best. It again met with his approval in all its general scope and features, although some of the minor matters were not discussed with him. It was my pleasure and it was my great advantage to have the assistance of the Attorney-General. That bill met with his approval.

Let me further say that, being somewhat timid about my own knowledge with regard to the language conferring jurisdiction upon courts, fearful of faulty phraseology, having had but little service in courts for twenty-four years, after it was completed and its general features were approved as being in harmony with the recommendations of the Executive I asked the Attorney-General to have that bill put in legal phraseology with especial reference to those features relating to court procedure.

In the bill that I introduced, every word of it, save two, was prepared in the office of the Attorney-General; there were two words changed, one—by the mistake of the printer or copyist—the word "district" was used instead of "circuit." I changed the word "thirty" for "sixty." I had a motive just and justifiable; I believed that with the machinery I had prepared for the review of the findings of the Interstate Commerce Commission, with the speed that might be possible and would be probable in the administration of that law, that in the great majority of the cases where the findings of the Commission were not accepted by the carrier they would be disposed of by the courts within the sixty days.

In the committee we found ourselves not harmonious. There were differences of opinion there, as there are differences here, about minor matters.

Eight Republican members of the committee seemed to prefer the bill that I had the honor to offer. Three Republicans were understood to favor another bill. The six Democrats we supposed were lined up by caucus action in opposition to any of our bills. We did not progress with the rapidity that I was anxious to, and so I said to these Republicans who did not favor the measure that I had introduced and which was then being considered, "Let us take your measure." There were two, one relating to one point, the power of the Commission, and another to court and modes of procedure. "Let us take your measure, put the two bills into one, make some amendments that I suggest, and I shall ask to displace the bill under consideration—the one I had introduced—and to replace it with the two bills united and amended. And I will then move to report that bill to the House as the bill of the committee." I pursued this course—not that I had lost confidence in the bill I had introduced or that anyone else had lost confidence in it, but because I wanted legislation. I wanted action.

I did not want that committee to be the target of every scribbler who wanted sensational headlines placed at the head of his article. There was no difficulty about this agreement, because the gentlemen that I have referred to were willing to waive something not of great importance and I something not of great importance. So we agreed upon this bill. It is in substance—in all important details—identical with the bill I introduced. Being so, it met the views of the President and of the Republican members of the committee.

Mr. Chairman, no one in this House doubts the power of the Congress of the United States to legislate in the direction of this bill. Those who cavil raise questions simply of policy—of the wisdom, not of the power. They are fearful that it may jeopardize the value of certain classes of our property. They are fearful that it may be a stepping-stone in the direction of socialism. No one doubts the power. No one scarcely doubts the necessity. We have had legislation, a most valuable chapter of legislation, upon the subject of railroad control, and, Mr. Chairman, I have the right to boast, in view of criticisms that have been made of me, that every sentence in that chapter, every shred of legislation that we have had upon this great subject, except those minor amendments adopted in 1889, when I was not a Member of the House, I have labored for and I have voted for, and hope I have had some voice in framing. [Applause.] I remember, Mr. Chairman, that this bill known as the "Interstate Commerce bill," which became a law in 1887, had perilous passage through this House. It is extolled now by the gentleman from Mississippi [Mr. WILLIAMS] and by other gentlemen. They now regard it with one or two additional powers granted as sufficient for our purposes of proper control over the carriers of the country; but I remember eighteen years ago how and

to what extent it was the object of bitter denunciation by that side of the House. I remember how it was forced upon them. I remember that while they had the majority here, yet they could not pass this legislation in this House, and that it was Republican votes that made it effective, as it was a Republican brain—the act of a Republican Senator—that gave it its birth.

Mr. Chairman, I think that the only question there is for us now is to determine the best possible form in which we shall put this legislation, and right here I want to call attention, as reference has so often been made to it, to what the President did say. The gentleman from Mississippi [Mr. WILLIAMS] and other gentlemen of this House have been very solicitous because the Republican party would not "toe the toe marks"—I think that is their phrase—made by the Presidential shoes, in this, that they would not meet his recommendation for legislation with regard to the private switch and the private car; and they read or quote, or have the House assume they read or quote, from the language of the President. I say that the President of the United States has never said a word recommending legislation either upon the private car or the private switch—not a word. He has been misread, he has been misquoted. If they had quoted him correctly they would have found in that declaration of his that in his opinion there is no necessity for further legislation upon those two instrumentalities of commerce. They are already prohibited, so the President says, by the law now existing. When he makes reference to them it is to make the pledge that existing law, Republican law, shall be enforced against them. Ah, Mr. Chairman, I was sorry to hear the gentleman from Florida [Mr. LAMAR] so misquote the President on the day before yesterday. That kind of garbling of the authority, or misquoting the President, is tolerable and excusable in the boys of the profession, when they are getting their stage legs, when they are learning how to address a court, when they are before that great tribunal, as it seemed to us all many years ago—the country justice. They may be excused if they sometimes then, perhaps, misquote, or in their agitation and mental perturbation sometimes misread.

Mr. LAMAR of Florida rose.

The CHAIRMAN. Does the gentleman yield to the gentleman from Florida?

Mr. HEPBURN. I prefer not to at this time.

The CHAIRMAN. The gentleman declines to yield.

Mr. HEPBURN. But in later days, when we are old, when the hose are a world too wide for the shrunken calves, when the eyes weep amber, when the head is white as the driven snow by the flight of time, when we are old men, as I and the gentleman from Florida [Mr. LAMAR], we ought not to indulge in that kind of reprehensible practice. [Prolonged laughter and applause.]

Mr. LAMAR of Florida. Will the gentleman now allow an interruption?

Mr. HEPBURN. I will, with pleasure.

Mr. LAMAR of Florida. I would have thought it very irregular if the gentleman had not permitted it, because it is a courtesy I would have extended to him. Would the gentleman from Iowa very kindly quote the remarks of the President on one of those two points?

Mr. HEPBURN. Yes; with great pleasure. I do like to confound an enemy—no, an opponent—when I can. He says:

> Above all else, we must strive to keep the highways of commerce open to all on equal terms—

Will the gentleman from Mississippi hear these words?—

> and to do this it is necessary to put a complete stop to all rebates. Whether the shipper or the railroad is to blame makes no difference; the rebate must be stopped, the abuses of the private car and private terminal tracks and side-track systems must be stopped, and the legislation of the Fifty-eighth Congress which declared it to be unlawful for any person or corporation to offer, grant, give, solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce whereby such property shall by any device whatever be transported at a less rate than that named in the tariffs published by the carrier must be enforced.

That is what he said. [Applause on the Republican side.]

Mr. LAMAR of Florida. Does the gentleman yield?

Mr. HEPBURN. I yield for a question; I do not yield for a colloquy.

Mr. LAMAR of Florida. I certainly would not at this late hour and in the limited time which the gentleman has——

Mr. HEPBURN. Now put your question and do not be so polite.

Mr. LAMAR of Florida. I merely say this. You quoted from the message of the President saying that these evils must be stopped. I agree with the President. Do you understand the President to say there, in terms, that the present statute covers——

Mr. HEPBURN. I do understand the President to say, and I believe that every lawyer will say, that in terms of law already enacted there is the power to stop every kind of discrimination.

Mr. BAKER. Why does he not enforce it? [Applause on the Democratic side.]

Mr. HEPBURN. Mr. Chairman——

Mr. LAMAR of Florida. I just want to say to the gentleman——

Mr. HEPBURN. Do not take up my time, if you please. If you have a question to ask, ask it.

Mr. LAMAR of Florida. I will not take a minute. I want to say that I quoted the President with entire sincerity. I certainly do not agree with the President if he thinks the present Elkins law shuts off discrimination. That is all.

Mr. HEPBURN. Now, Mr. Chairman, I must decline to allow the gentleman to inject that part of his speech which he did not think of yesterday into my speech of to-day. Mr. Chairman, one of the difficulties connected with this situation grows out of the fact, as I think, certain gentlemen do not properly conceive the position the Commission will be in when we invest them with the power conferred by this bill. They seem to confuse the ultimate power that Congress might exercise with the restricted power that we give to the Commission. I am willing to believe that the power of Congress over the matter of the establishment of rates is unlimited except when it reaches a point of confiscation, but there is a broad line between that limit—just above confiscation, and "a reasonable rate."

A reasonable rate has been defined by authority to be that rate that pays all the costs of transporting merchandise and still leaves a fair margin of profit to the carrier. That is a reasonable rate. Now, we do not propose to give the Commission all the power of the Congress, but we give them the power to establish a reasonable rate. When? When they have ascertained that the present rate is unreasonable. That imposes two classes of duties upon them, the judicial duty or function of determining whether or no a given rate is unreasonable. The legislative function of, when they have so found, saying what shall be a reasonable rate so that there may be presented to the court, not only a question of whether they have wisely performed this latter duty, but there is the other jurisdictional question, that may be raised in any of the courts, whether they have the right to act at all in the mater of fixing a rate. For if they do not first find that the existing rate is unreasonable, they have no right to act in the latter matter.

They would have no power without it was first ascertained that an existing rate was unreasonable. They are our legislative agents within certain limitations, limitations of the law which constitute a power of attorney to exercise within those limits the will of the Congress. Whether or not they have transcended their authority is a question that may well and must arise when any man disputes their action. So that it is impossible, in my humble judgment, to take away from the carrier, under the law that we propose to pass, the power of review in the courts, if we wanted to do so. Every bill that has been introduced here apparently contemplates that situation. The gentleman from Mississippi [Mr. WILLIAMS] suggests in his bill that litigation will occur. That is, that the carrier challenges the power of the Commissison to act, and then again challenges the rightfulness of the Commission's act. All the bills contemplate that, and when that is the case how are you going to take away from the citizen his constitutional rights to be heard in the Federal courts? How are you going to take away the old, well-established, common-law power of the courts that they were reinvested with by the Constitution and by the judiciary act? Can you deny to a court of equity, when a complainant says that he is suffering spoliation, his right to the injunction of the court to stop the spoliation? What lawyer will say that you can do that? That is a right that adheres in the courts under the Constitution to issue its writ or restraining order. Remember that the functions and the powers of the Supreme Court and those of inferior courts are fixed by the Constitution, certainly so far as the trial by jury and the exercise of equity powers are concerned. I deny the power of Congress to take away the right of injunction from the citizen who is suffering a wrong prohibited by the Constitution by law or by any device. It is there fixed inherent in the courts as a constitutional body, as the equal, the coordinate of the Congress or of the Executive.

Now, if that is true, if you can not do this, if you propose to refuse to the citizen the equal protection of the law, where is your warrant for it? The Constitution provides that all persons shall be entitled to the equal protection of the law. That which you give to one you must give to another, or else violate that fundamental document. Every man is entitled to the protection of the law to prevent the confiscation of his property. Property shall not be taken for public uses except upon just

compensation. There is no room, it seems to me, to doubt these fundamental principles. Now, if this is true, it ought to be the purpose of this Congress to facilitate this litigation and move it forward as rapidly as possible. Under the present system of courts it has been found that rapidity of decision is an impossibility. Testimony is taken before the Interstate Commerce Commission this year, and two years ago was full of complaints of the law's delay. One gentleman who has investigated the matter tells us that it requires an average, and has required an average, of four years and three months for a case to force its passage from the Interstate Commerce Commission through the intermediate stages to the Supreme Court. One of the Commissioners told us, after making bitter complaint, that one case had occupied nine years. What is the process? A complains of the action of the Commission. He says that the Commission had no authority to fix a rate, because the existing rate was not unreasonable; or he says that the Commission, only authorized to fix a reasonable rate, has established an unreasonable rate, that is destructive to his interests, destructive to his property rights, and for which he has no other remedy than that of the injunction of the courts. On that kind of a showing the circuit court would issue its writ, and restrain, not the law, but the enforcement of the law. The circuit courts meet twice a year. After it had passed that stage, then appeal lies to the court of appeals. There are two terms each year of that court. Then it would go to the Supreme Court of the United States. It takes time in that tribunal to secure final action. This would be the tedious and tortuous way that the appeal, the review of the action of the Commission, would have to take. Do gentlemen want that?

This bill proposes the much speedier hearing. The case goes direct from the Commission to the court of transportation, that must hold four terms in Washington and such other terms in any part of the country that justice and economy require. The court is always in session. The case must be heard on the record and evidence before the Commission, except when a showing is made that one of the parties has discovered new evidence that he could not produce before the Commission. The bill that I introduced provided that when the court suspended the rate fixed by the Commission, and the carrier appealed, the carrier should give a bond, approved by the court, that it would pay to every shipper the difference between the rate charged him and the rate fixed by the Commission when such rate was approved by the court.

When I saw these various bills introduced by the gentleman from Mississippi, that provided only for fixing the rate, that provided no means for expediting litigation through the courts. I wondered if those measures of his were not inspired by the obligation of his political leadership. What was in the minds of these gentlemen? Did they reason, "We will get this legislation; we will get this legislation that seems to be so restrictive, that seems to be so drastic, that yields the uttermost to the most ardent appeal of the extremest Populist in the land? It is our measure; we have forced the Republican party to adopt it. It will be inoperative, there will be no result; all the cases will be tied up in the courts, and the people will bring their vials of wrath and pour them upon the heads of the Republican party that did not provide the means for making effective the provisions of our bills." [Applause on the Republican side.]

This bill provides for a speedy review, for a review by a competent tribunal.

There was one other reason that I might have suggested why the present system ought not to obtain if this legislation is enacted, namely, that the circuit courts are now presided over in almost all instances by one district judge. Here would be this incongruous condition: An appeal from seven men—the Commission—who are supposed to be the best that we can have, because we are paying them the largest salaries that are paid to all save about a score of Federal officers in the United States. This appeal from these seven men, this class of men, is made to one obscure district judge. Will the people have that confidence in judicial determination that the people ought to have? There ought to be a proper relation between things, and as we appeal we ought to get up as near as we can to higher levels of intelligence in the court of review. This court that is provided for does not have the objection of being a fixed and permanent tribunal in its membership, inviting men by long continuance in given lines of thought to become one-sided in their views in such manner that prejudice may be born. On the other hand it is sufficiently permanent to always have enough of experienced men who will be helped by the annual infusion of new blood.

That court has the power to hear a case, if so agreed upon, upon the record. If not, it has the power to have introduced other evidence and examine the case, as my friend here says, de nova. I believe that is right. I think that when the President recommended that there should be a review he meant review as we undertsand it in our judicial system; not partial, not incomplete, but a review by a court having all the powers of the courts; powers that experience has shown are necessary in order to effectuate justice. There is nothing that wise men regard as superfluous in the manner of procedure of our courts. That procedure and that bestowal of power is the result of the wisdom of ages. The best thought of the wisest men in all times past has been devoted to the question of how can the disputes between citizens and communities be adjudicated in harmony with order and with law. The courts, the courts with power to hold the scales of justice evenly, to inquire as far as they want to into all those facts that will enable them thus to hold the scales—that power is essential to the perpetuation of our courts and essential to the perpetuation of our society and our Government. We want the people to know that when a decree is made it has been made after every opportunity has been given to inquire into the facts, to study the case, the whole case, not as one side would wish to present it, denying equal rights to the other. Oh, no. If it should become the habit of thought with the people that the decisions of the court are not the result of inquiry, of knowledge, how long would their decrees challenge the respect of communities?

Mr. BARTLETT. Will the gentleman permit me to interrupt him?

Mr. HEPBURN. I would prefer not to be interrupted.

Mr. Chairman, there may be provisions in this bill that none of us would wish to have there; but they are inconsequential. There may be provisions that some of us would insert there; but it was not practical in this late day of the session to have them there. You will remember that statutes of great moment indictating a departure from past policies have seldom met all the purposes of their projectors, and amendment was necessary. With all the study, with all the labor put into the preparation of the interstate-commerce law, six amendments were added at the next session of Congress. It had scarcely been in operation when it was found necessary, when its machinery was put in motion, to amend it. I do not doubt but such will be the fate of this; but I believe that some legislation along this line is not only right, but essential.

It is to be regretted, Mr. Chairman, that the bill we have presented is not perfect, and it is to be regretted that the efforts that we have made have not met with larger approval. I was somewhat pained the other day to hear that distinguished gentleman from Alabama, who is my colleague on the committee [Mr. RICHARDSON], say there were three little jokers in the fourteenth section of this bill. It seems to me that that was an unnecessary and scarce kindly criticism. Connected with that phrase there is always the idea of concealment, of deceit, of advantage to be taken. I feared he used it in that way, as though the majority were pretending to do something that they did not wish to do, that they were offering a stone instead of bread.

This legislation is necessary not because of the acts of the people, but because of the acts of the carriers. The law says that the rates of the carrier must be reasonable. The law says that they must not indulge in any kind of discrimination. The law says that they shall not give preference to any shipper. The law says that they shall not charge more for a short haul than for a long one, if it is included in the same distance and under the same circumstances. The law says that they shall not engage in any device, in any practice, in any means of that kind whereby equal opportunity is not given to all. That is the law. Obedience to that law would have satisfied the whole people. There would have been no clamor, as it is called here, if that law had been obeyed.

I think that the power we are now giving to the Commission was studiously and purposely denied to them in the legislation of eighteen years ago, because the lawmakers believed that with obedience to the requirements of the enactment then discussed and afterwards agreed upon there would be no necessity for the exercise of the rate-making power by the Commission. But experience has shown otherwise. Experience has shown that obedience has not been given, and that reasonable rates are in many instances denied, and that other wrongs in the shipment of property are of daily perpetration. Therefore, the necessity for this law.

And right here, Mr. Chairman, if I had the right to advise, I would advise men to yield obedience to this law; and not only to this, but to all the requirements of the interstate-commerce law. Obedience! They must learn that there is a power in this land that is greater than they. They must learn that the interests of the multitude are greater than any interests of theirs that can be subserved by wrong and disobedience. They

must remember that the people are alert now, lest the menace of the concentration of immense wealth does not become a terror in the future. [Applause.]

Mr. Chairman, I have no sympathy with socialistic teachings as applied to government. I believe that that society is best which, following its own interests along the pathway of morals, is least trammeled by statutory enactment. I do not believe that the great business of the country ought to be conducted by governmental methods. I believe that where the unmolested energies of men, working on honest plans, are allowed their course, prosperity to all and happiness to all is most certainly to be secured. And therefore I deprecate all these movements that look to the ownership of the great instrumentalities of commerce or of production.

But if these combinations are to go on, the people in self-protection will take some method to thwart them. There was a time in feudal days when the barons owned all that was valuable, and dominated the wills and actions of men; when mediæval kings could wield power for dreadful woe, that could not be resisted or averted, upon such as they chose. But the spirit of liberty, even in those days, overthrew the power of the feudal lords, overwhelmed the power of the mediæval kings, leveled the castellated fortress, and gave liberty to the people.

We have in this land to-day many men who, through the accumulations of capital, sometimes ill-gotten, sometimes the fruits of the spoliation of society, have more power than any feudal lord ever had, more power than any king has ever had. Napoleon marching through Prussia could dominate a district and strip it of its prosperity and peace. We have men who by a word can add $10 a ton to the price of steel in the United States and reap an ill-gotten, stolen harvest of a hundred millions from the people. [Applause.] We have men who can destroy any industrial business of any rival at their pleasure.

We have men, many of them, each of whom can corner the market of the food stuffs of the community and put such taxation upon the people as their rapacity may demand. The pleas of hungry children, the clamoring of the starving populace, the prayers of those that are desolate and perishing may not move them, and therefore the people begin to think that condition that is now a menace is to become a terror in the future if not restrained, and restrained it will be. These men ought to remember how much of their values are the gift of society, how many of the elements of the value of property come from the will of the people, come from the law of the land.

A savage in savage state seizes upon some object that meets his fancy. It is his as long as he holds it within the grasp of his hand; as long as possession is connected with his person it is his. But he lays it down and another savage takes it up, and then it is his. It is the gift of society that lengthens this right of possession. [Applause.] The equality of taxation, how much of values of property are dependent upon that. The stability of taxation! Why is property worth more here than in South American States? Because there taxation is dependent upon the will of a despot. Here taxation is made equitable by law. The right of bequest! How precious that is. Men toil, pass sleepless nights, worry days, piling up their millions; not for their own use, not for the happiness they derive from it except in the contemplation of its control through their final testament after death, the bestowal of it upon those they love. That power is the gift of the State. We have shown it here in this body. Gentlemen here have voted for an inheritance tax in some instances equal to 15 per cent of the value of the bequest. There is no question about the power.

Some one may say that all of these interests are protected by the Constitution, and now, thank God, that is true; but the people make constitutions as well as laws. These men forget that political power in the United States is distributed with actual exactness and equality to all voting men. Each man that has the power to vote has the same modicum of political power as every other man. Some are richer than others, some more learned, some have more influence, but no man under the Constitution and laws has more political power of his own than another man. That we ought to remember—that the units of political power, represented by ballots, are equal.

We ought to remember how completely the elements of value of property are controlled by this political power. God forbid that our social order be ever disturbed. I believe it to be the best that heaven has vouchsafed to man for his happiness. I believe that under the spirit of our institutions there is more room for individual happiness, and a greater sum of human happiness, than in any other land that the sun has ever shone upon. [Applause.]

I hope it may continue; but if it is to continue it will be because the people, the repositories of the political power under the Constitution, believe that under these institutions their happiness is secure. Wrongs will not be inflicted upon them that are to go unavenged, and when they believe otherwise then comes that day of revolution, revolution so terrible in all other lands, revolution that works out the assertion of this power and its purposes through the conflagration of cities and through seas of blood.

I do not believe that such scenes will ever desolate this land, but when revolution comes to us it will be the revolution that is produced by the ballot, and the object of its hatred will not be kings, will not be feudal lords, but it will be those who through this vast accumulation of wealth propose to dictate and dominate over all other men in a way that is subversive of their interests and only subserves the purposes of the few.

It will be through a change of law affecting these elements of value, making that that is now such a source of power less powerful by taking away some of its elements of value. I say again I hope that day will never come. I hope that wisdom will guide the counsels of those who are now so intent on these vast combinations—combinations that will not be permitted to exist as a menace and a peril to the happiness of the American people. [Applause.]

Mr. Chairman, I do not expect that all of the beneficient results that some people anticipate will follow this enactment. I do not believe that any enactment could meet in full measure the expectation of some, but I do believe that good will come. I do believe that no peril will be encountered. I do believe that through its influence better relations will exist between those who have transportation to carry and those who carry it, and through these better relations there will be better feeling between those two elements in our society that are so often brought in opposition—the people and their labor and the rich man and his dominating capital. [Prolonged applause.]

APPENDIX A.

[The committee bill, H. R. 18588.]

A bill to supplement and amend the act entitled "An act to regulate commerce," approved February 4, 1887.

Be it enacted, etc., That whenever upon complaint duly made under section 13 of the act to regulate commerce the Interstate Commerce Commission shall, after full hearing, make any finding or ruling, declaring any existing rate for the transportation of persons or property, or any regulation or practice whatsoever affecting the transportation of persons or property to be unreasonable or unjustly discriminatory, the Commission shall have power, and it shall be its duty to declare and order what shall be a just and reasonable rate, practice, or regulation to be charged, imposed, or followed in the future in place of that found to be unreasonable or unjustly discriminatory, and the order of the Commission shall, of its own force, take effect and become operative thirty days after notice thereof has been given to the person or persons directly affected thereby; but at any time within sixty days from date of such notice any person or persons directly affected by the order of the Commission, and deeming it to be contrary to law, may institute proceedings in the court of transportation sitting as a court of equity, to have it reviewed and its lawfulness, justness, or reasonableness inquired into and determined.

SEC. 2. That when the rate substituted by the Commission as hereinbefore provided shall be a joint rate, and the carriers, parties thereto, fail to agree upon the apportionment thereof among themselves within twenty days after notice of such order, the Commission may, after a full hearing, issue a supplemental order declaring the portion of such joint rate to be received by each carrier party thereto, which shall take effect of its own force as part of the original order. Such supplemental order shall be subject to review by the court of transportation within the time and in the manner hereinbefore provided for the review of original orders of the Commission: *Provided*, That any rate, whether single or joint, which may be fixed by the Commission under the provisions of this act shall for all purposes be deemed the published rate of such carrier, and subject to the provisions of an act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903.

SEC. 3. That in every such proceeding for review the petitions and answers filed with the Commission and the Commission's findings, opinions, and order, together with the evidence introduced in the hearing before the Commission shall be deemed a part of the record of the cause in the court of transportation, and said record shall by the Commission be filed with the court of transportation within ten days after notice for such review is given.

That in all such proceedings for review the defense shall be conducted under the direction of the Attorney-General, but the Commission, with the approval of the Attorney-General, may employ special counsel to be paid from its own appropriation.

That the Commission may at any time, whether before, or on notice to the court, during the progress of a judicial review of its action by the court of transportation, reopen its proceedings in any case and modify, suspend, or annul its former order, ruling, or requirement.

SEC. 4. That if any party bound thereby shall at any time while it is in effect refuse or neglect to obey or perform any order of the Commission mentioned in sections 1 and 2 of this act the Commission may apply by petition to the court of transportation to enforce obedience to its order by writ of injunction or other appropriate process, and in addition thereto the offending party shall, for each day of the continuance of such refusal or neglect from the time such order shall have become operative, be subject to a penalty of $5,000, which together with costs of suit, shall be recoverable by the Commission for the use of the United States in an action of debt in the court of transportation.

SEC. 5. That the word "person" or "persons" wherever used in this act shall be deemed to include corporations.

SEC. 6. That the Interstate Commerce Commission is hereby increased to seven members, and the salary of each shall be $10,000 per annum. The President shall appoint, by and with the advice and con-

sent of the Senate, two additional Interstate Commerce Commissioners. Not more than four Commissioners shall be appointed from the same political party.

SEC. 7. That there is hereby established a court of record with full jurisdiction in law and equity, to be called the court of transportation, which shall be composed of five circuit judges of the United States, no two of whom shall be from the same circuit, and three of whom shall constitute a quorum, who shall be designated by the President for terms of one, two, three, four, and five years, respectively, from April 1, 1905, and as their terms expire the President shall from the circuit judges appoint their successors for terms of five years each.

SEC. 8. That the court of transportation shall hold four regular sessions each year at the city of Washington, beginning on the first Tuesday in March, June, September, and December, and a quorum of said judges may appoint special sessions of the court to be held at other places when justice would thereby be promoted: *Provided*, That if the business of said court of transportation will permit, the judges, or any number of them, may be assigned to duty in the various circuits as now provided by law, but under no circumstances shall such assignment interfere with the necessary and expeditious performance of the duties of said court of transportation.

SEC. 9. That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, five additional circuit judges, no two of whom shall be from the same judicial circuit, who shall receive the pay and emoluments, and exercise the authority and powers, and perform the duties now or hereafter required by law to be performed by judges of the circuit court of the United States.

SEC. 10. That the court of transportation shall have exclusive original jurisdiction of all suits and proceedings of a civil nature in law or equity brought in the name of the United States or the Interstate Commerce Commission to enforce the provisions of this act, the act entitled "An act to regulate commerce," approved February 4, 1887, and the amendments thereto, the act entitled "An act to further regulate commerce with foreign nations and among States," approved February 19, 1903, and any law that may hereafter be enacted amendatory of or supplementary to those acts, and it shall also have exclusive original jurisdiction of all suits and proceedings of a civil nature in law or equity brought to enforce obedience to, or to restrain, enjoin, or otherwise prevent the enforcement and operation of, any order, ruling, or requirement made and promulgated by the Interstate Commerce Commission under the authority of any power conferred upon it by either of the aforesaid acts or by any law that may hereafter be enacted amendatory thereof or supplementary thereto: *Provided, however*, That proceedings to enforce contumacious witnesses to attend and testify or produce documentary evidence before the Interstate Commerce Commission may be brought in any court of the United States of original jurisdiction, sitting in the place or district where the inquiry or hearing of the Commission is being held, and in all other respects such proceedings shall follow the course prescribed in section 12 of the aforesaid act entitled "An act to regulate commerce."

SEC. 11. That in the exercise of the jurisdiction defined and conferred upon it by this act the court of transportation shall possess all the powers of a circuit court of the United States, so far as the same may be applicable.

SEC. 12. That in every suit or proceeding brought in the court of transportation to enforce orders, rulings, or requirements of the Interstate Commerce Commission, or to restrain, enjoin, or otherwise prevent their enforcement and operation, the findings of fact made and reported by the Commission shall be received as prima facie evidence of each and every fact found, and no evidence on behalf of either party shall be admissible in any such suit or proceeding which was not offered, but which with the exercise of proper diligence could have been offered, upon the hearing before the Commission that resulted in the particular order or orders in controversy; but nothing herein contained shall be construed to forbid the admission, in any such suit or proceeding, of evidence not existing, or which could not, with due diligence, have been known to the parties at the time of the hearing before the Commission.

SEC. 13. That the court of transportation shall have power to summon and bring before it all parties named as defendants or respondents in proceedings before it in whatever judicial district, Territory, or possession of the United States they may reside, and subpœnas for witnesses to appear before the court of transportation may run into any judicial district or any Territory or possession of the United States.

SEC. 14. That the court of transportation, as a court of equity, shall be deemed always open for the purpose of filing any pleading, including any certification from the Interstate Commerce Commission, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, rules, and other proceedings, including temporary restraining orders, preparatory to the hearing upon their merits of all causes pending therein; and any justice of the court of transportation may, upon reasonable notice to the parties, make and direct and award at chambers, and in vacation as well as in term, all such process, commissions, orders, rules, and other proceedings, including temporary restraining orders, wherever the same are grantable, as of course, according to the rules and practice of the court.

SEC. 15. That in all cases affected by this act where, under the laws heretofore in force, an appeal or writ of error lay from the final order, judgment, or decree of any circuit court of the United States to the Supreme Court, an appeal or writ of error shall lie from the final order, judgment, or decree of the court of transportation to the Supreme Court and that court only, and must be taken within thirty days from the date of entry thereof; and said Supreme Court shall give precedence to the hearing and decision of such appeal over all other causes except criminal cases, and the rules and regulations which, under existing law, govern appeals and writs of error from the several circuit courts to the Supreme Court shall govern appeals and writs of error from the court of transportation except as herein otherwise provided.

SEC. 16. That the court of transportation shall have power to prescribe the form and style of its seal, and to prescribe from time to time and in any manner not inconsistent with any law of the United States the forms of writs and other process and rules for the return thereof, the modes of framing and filing proceedings and pleadings, of taking evidence, and of drawing up, entering, and enrolling orders, judgments, and decrees, and otherwise to regulate its practice and procedure as may be necessary or convenient for the advancement of justice.

SEC. 17. That the costs and fees in the court of transportation shall be prescribed by a quorum of the justices thereof and shall be expended, accounted for, and paid over to the Treasury of the United States in the same manner as is now provided in respect of the cost and fees in the several circuit courts.

SEC. 18. That the court of transportation shall have power to appoint a clerk, a deputy clerk if necessary, a bailiff who shall act as crier, and a messenger, who shall receive annual salaries as follows, payable from the Treasury of the United States: The clerk, $5,000; the deputy clerk, if one should be appointed, $2,500; the bailiff, $2,000, and the messenger $1,800. The clerk and the deputy clerk shall subscribe to the oaths or affirmations prescribed for clerks of the several circuit and district courts of the United States, and shall each give bond in sums to be fixed and with sureties to be approved by the court, conditioned faithfully to discharge the duties of their office and seasonably to record the decrees, judgments, and determinations of the court of which they are, respectively, clerk and deputy clerk.

SEC. 19. That the justices, the clerk, and the deputy clerk of the court of transportation shall have power to administer oaths and affirmations.

SEC. 20. That the marshal of the Unied States for the District of Columbia, or for any judicial circuit of the United States in which the court shall be sitting, shall attend the sessions and shall execute the orders and the processes of the court of transportation.

SEC. 21. That all acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 22. That this act shall take effect on the 1st day of April, 1905.

APPENDIX B.

[House bill 18127, introduced by Mr. HEPBURN January 21, 1905.]

A bill to supplement and amend the act entitled "An act to regulate commerce," approved February 4, 1887.

Be it enacted, etc., That the tolls to be demanded and collected by common carriers subject to the act to regulate commerce for the transportation described in section 1 thereof shall be just, fair, and reasonable; and whenever, upon complaint duly made under section 13 of the act to regulate commerce, the Interstate Commerce Commission shall, after full hearing, make any finding declaring any existing rate for the transportation of persons or property, or any regulation whatsoever affecting said rate, to be unreasonable or unjustly discriminatory, the Commission shall have power, and it shall be its duty, to declare and order what shall be a just and reasonable rate, practice, or regulation to be charged, imposed, or followed in the future in place of that found to be unreasonable or unjustly discriminatory, and the order of the Commission shall of its own force take effect and become operative sixty days after notice thereof has been given to the common carrier or carriers affected thereby; but any common carrier affected by the order of the Commission, and deeming it to be contrary to law, may institute proceedings in the court of commerce of the United States, sitting as a court of equity, to have such order reviewed and its reasonableness and lawfulness inquired into and determined.

Pending such review, if the court shall be of opinion that the order or requirement of the Commission is unreasonable or unlawful, it may suspend the same until the further order of the court, in which event the court shall require a bond of good and sufficient security, conditioned that the carrier or carriers petitioning for review shall answer all damages caused by the delay in the enforcement of the order of the Commission, which shall include compensation for whatever sums for transportation service any person or corporation shall be compelled to pay pending the review proceedings in excess of the sums such person or corporation would have been compelled to pay if the order of the Commission had not been suspended.

SEC. 2. That when the rate substituted by the Commission as hereinbefore provided shall be a joint rate, and the carriers parties thereto fail to agree upon the apportionment thereof among themselves within twenty days after notice of such order, the Commission may issue a supplemental order declaring the portion of such joint rate to be received by each carrier party thereto, which shall take effect of its own force as part of the original order; and when the order of the Commission prescribes the just relation of rates to or from common points on the lines of the several carriers parties to the proceeding, and such carriers fail to notify the Commission within twenty days after notice of such order that they have agreed among themselves as to the changes to be made to effect compliance therewith, the Commission may issue a supplemental order prescribing the rate to be charged to or from such common points by either or all of the parties to the proceeding, which order shall take effect of its own force as part of the original order. Such supplemental orders shall be subject to review by the court of commerce within the time and in the manner hereinbefore provided for the review of original orders of the Commission.

SEC. 3. That in every such proceeding for review the petition and answers filed with the Commission and the Commission's findings, opinion, and order shall, upon the application of either party, be deemed a part of the record of the cause in the court of commerce; and upon like application the evidence introduced in the hearing before the Commission shall be deemed a part of the record of the cause in the said court, with the exception of such parts thereof as the court may reject as incompetent.

SEC. 4. That in all such proceedings for review the defense shall be conducted under the direction of the Attorney-General; but with his consent the Commission may employ special counsel to be paid from its own appropriation.

The President is authorized to appoint, by and with the advice and consent of the Senate, an Assistant Attorney-General, who shall receive a yearly salary of $5,000, and shall perform such duties in connection with the enforcement of this act and such other duties as the Attorney-General shall assign to him.

SEC. 5. That the Commission may at any time, whether before, after, or during the progress of a judicial review, of its motion, reopen its proceedings in any case and modify, suspend, or annul its former order, ruling, or requirement.

SEC. 6. That if any carrier or officer or agent thereof bound thereby shall, at any time while it is in effect, refuse or neglect to obey or perform any order of the Commission mentioned in sections 1 and 2 of this act, the Commission may apply by petition to the court of commerce to enforce obedience to its order by writ of injunction or other appropriate process, and in addition thereto the offending party shall, for each day of the continuance of such refusal or neglect, be subject to a penalty of $5,000, which, together with costs of suit, shall be recoverable by the Commission, for the use of the United States, in an action of debt in the proper circuit court of the United States.

SEC. 7. That in every suit or proceeding in the court of commerce, brought in the name of the United States or the Interstate Commerce Commission, to enforce the provisions of the act entitled "An act to regulate commerce," approved February 4, 1887, and the amendments thereto, the act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, the present act, and any law that may hereafter be enacted amendatory of or supplementary to those acts, and in every suit or proceeding in the court of commerce to enforce obedience to, or to restrain, enjoin, or otherwise prevent the enforcement and operation of any

order, ruling, or requirement made and promulgated by the Interstate Commerce Commission under the authority of any power conferred upon it by either of the aforesaid acts, or by any law that may hereafter be enacted amendatory thereof or supplemental thereto, an appeal from the final decree of the court of commerce shall lie only to the Supreme Court and must be taken within thirty days from the entry thereof, and the rules and regulations which, under existing law, govern appeals from the several circuit courts to the Supreme Court shall govern appeals from the court of commerce to the Supreme Court, except as herein otherwise provided; but in none of the suits or proceedings described in this section shall an appeal operate as a supersedeas or shall any order be passed suspending or staying the decree of the court of commerce pending an appeal, except upon the giving of a bond of good and sufficient security, conditioned that the appellant shall prosecute his appeal to effect, and, if he fail to make his plea good, shall answer, in addition to all costs, all damages, which shall include compensation for whatever sums for transportation service any person or corporation shall be compelled by the appellant to pay, during the pendancy of the appeal, in excess of the sums such person or corporation could have been compelled to pay if the order, judgment, or decree of the court of commerce had not been suspended or stayed; which compensation may be recovered in an action of debt upon such bond brought in the name of the United States in any court of proper jurisdiction for the use of the person or corporation from whom or from which the excessive toll shall have been collected.

SEC. 8. That the heretofore existing Interstate Commerce Commission is hereby abolished and there is hereby established a new Commission, also to be known as the Interstate Commerce Commission, which shall be composed of seven Commissioners, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall each receive a yearly salary of $10,000, payable in the same manner as the judges of the courts of the United States. The Commissioners first appointed under this act shall continue in office for the terms of four, five, six, seven, eight, nine, and ten years, respectively, from the first day of April, 1905, the term of each to be designated by the President; but their successors shall be appointed for terms of ten years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. All laws and parts of laws conferring powers and imposing duties upon or otherwise relating to the heretofore existing Interstate Commerce Commission shall continue in full force and effect and be applicable to the Interstate Commerce Commission established by this act, except as herein otherwise provided.

All the proceedings depending before the heretofore existing Interstate Commerce Commission at the time this act shall take effect shall, without break or interruption, be deemed to be depending before the Commission established by this section, and shall continue on to conclusion before the new Commission.

SEC. 9. That there is hereby established a court of record, with full jurisdiction in law and equity, to be called the court of commerce, which shall be composed of five circuit judges of the United States, no two of whom shall be from the same circuit, and three of whom shall constitute a quorum.

SEC. 10. That the court of commerce shall hold four regular sessions each year at the city of Washington, beginning upon the first Tuesday in March, June, September, and December, and a quorum of judges may appoint special sessions of the court to be held at other places in the United States when justice would thereby be promoted.

SEC. 11. That the court of commerce shall have exclusive original jurisdiction of all suits and proceedings of a civil nature in law or equity brought in the name of the United States or the Interstate Commerce Commission to enforce the provisions of the act entitled "An act to regulate commerce," approved February 4, 1887, and the amendments thereto, the act entitled "An act to further regulate commerce with foreign nations and among the States," approved February 19, 1903, and any law that may hereafter be enacted amendatory of or supplemental to those acts, and it shall also have exclusive original jurisdiction of all suits and proceedings of a civil nature in law or equity brought to enforce obedience to, or to restrain, enjoin, or otherwise prevent the enforcement and operation of any order, ruling, or requirement made and promulgated by the Interstate Commerce Commission under the authority of any power conferred upon it by either of the aforesaid acts or by any law that may hereafter be enacted amendatory thereof or supplemental thereto: *Provided, however,* That proceedings to require witnesses to attend and testify or produce documentary evidence before the Interstate Commerce Commission may be brought in any court of the United States of original jurisdiction, sitting in the place or district where the inquiry or hearing of the Commission is being held, and in all other respects such proceedings shall follow the course prescribed in section 12 of the aforesaid act entitled "An act to regulate commerce."

SEC. 12. That in the exercise of the jurisdiction defined and conferred upon it by this act, the court of commerce shall possess all the powers of a circuit court of the United States, so far as the same may be applicable.

SEC. 13. That the court of commerce shall have power to summon and bring before it all parties named as defendants or respondents in proceedings before it, in whatever judicial district, territory, or possession of the United States they may reside; and subpœnas for witnesses to appear before the court of commerce may run into any judicial district or any territory or possession of the United States.

SEC. 14. That the court of commerce, as a court of equity, shall be deemed always open for the purpose of filing any pleading, including any certification from the Interstate Commerce Commission, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, rules, and other proceedings, including temporary restraining orders, preparatory to the hearing upon their merits, of all causes pending therein; and any justice of the court of commerce may, upon reasonable notice to the parties, make, direct, and award, at chambers, and in vacation as well as in term, all such process, commissions, orders, rules, and other proceedings, including temporary restraining orders, whenever the same are not grantable, as, of course, according to the rules and practice of the court.

SEC. 15. That the court of commerce shall have power to prescribe the form and style of its seal, and to prescribe, from time to time, and in any manner not inconsistent with any law of the United States, the forms of writs and other process and rules for the return thereof, the modes of framing and filing proceedings and pleadings, of taking evidence, and of drawing up, entering, and enrolling orders, judgments, and decrees, and otherwise to regulate its practice and procedure as may be necessary or convenient for the advancement of justice.

SEC. 16. That the costs and fees in the court of commerce shall be prescribed by a quorum of the judges thereof and shall be expended, accounted for, and paid over to the Treasury of the United States in the same manner as is now provided in respect of the costs and fees in the several circuit courts. Costs in cases in the court of commerce shall be taxed against the unsuccessful party after the manner followed in the circuit courts of the United States in cases between private litigants.

SEC. 17. That the court of commerce shall have power to appoint a clerk, a deputy clerk, a bailiff, who shall act as crier, a messenger, and five stenographers, who shall receive annual salaries, as follows, payable from the Treasury of the United States: The clerk, $5,000; the deputy clerk, $3,500; the bailiff, $2,000; the messenger, $1,500, and each stenographer $1,600. The clerk and deputy clerk shall subscribe to the oaths or affirmations prescribed for clerks of the several circuit and district courts of the United States, and shall each give bond in sums to be fixed and with sureties to be approved by the court, conditioned faithfully to discharge the duties of their offices and seasonably to record the decrees, judgments, and determinations of the court of which they are, respectively, clerk and deputy clerk. That the clerk and deputy clerk of the court of commerce shall have power to administer oaths and affirmations.

SEC. 18. That the marshal of the United States for the District of Columbia, or for any judicial district of the United States in which the court shall be sitting, shall attend the sessions, and shall execute the orders and processes of the court of commerce.

SEC. 19. That the Chief Justice of the Supreme Court of the United States is hereby authorized, on the 1st day of January of each year, or as soon thereafter as practicable, to designate five circuit judges of the United States who shall constitute the court of commerce during the ensuing year and until their successors shall be designated.

SEC. 20. That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, one additional circuit judge in each of the judicial districts of the United States, who shall receive the pay and the emoluments, exercise the authority and powers, and perform the duties now or hereafter required by law to be performed by judges of the circuit court of the United States.

SEC. 21. That all acts or parts of acts in conflict with the provisions of this act are hereby repealed, but such repeal shall not affect causes now pending in court nor rights which have already accrued. All existing laws relative to testimony in cases or proceedings under or connected with the act to regulate commerce shall also apply to any case or proceeding authorized by this act.

SEC. 22. That this act shall take effect on the 1st day of April, 1905.

APPENDIX C.

[Laws now in force regulating interstate commerce.]

Be it enacted, etc., That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

SEC. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

SEC. 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the

Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

SEC. 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

SEC. 6 (as amended March 2, 1889). That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect, or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

No advance shall be made in the rates, fares, and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given.

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

No advance shall be made in joint rates, fares, and charges, shown upon joint tariffs, except after ten days' notice to the Commission, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect. No reduction shall be made in joint rates, fares, and charges except after three days' notice, to be given to the Commission as is above provided in the case of an advance of joint rates. The Commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon than is specified in the schedule filed with the Commission in force at the time.

The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

SEC. 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

SEC. 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter, or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

SEC. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

SEC. 10 (as amended March 2, 1889). That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed $5,000 for each offense: *Provided*, That if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

Any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who, by means of false billing, false classification, false weighing, or false report of weight, or by any other device or means, shall knowingly and willfully assist, or shall willingly suffer or permit, any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding $5,000, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding $5,000 or imprisonment in the penitentiary for a term of not exceeding two years or both, in the discretion of the court.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise, induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such

officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding $5,000, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common carrier, be liable, jointly or severally, in an action on the case to be brought by any consignor or consignee discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom.

SEC. 11. That a Commission is hereby created and established, to be known as the Interstate Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively, from the 1st day of January, A. D. 1887, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

"SEC. 12 (as amended March 2, 1889, and February 10, 1891). That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and the Commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the Commission, it shall be the duty of any district attorney of the United States to whom the Commission may apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof, and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the Commission shall have power to require, by subpœna, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.

"Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpœna the Commission, or any party to a proceeding before the Commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

"And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

"The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation depending before the Commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The Commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any commissioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission as hereinbefore provided.

"Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

"If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission. All depositions must be promptly filed with the Commission."

Witnesses whose depositions are taken pursuant to this act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

SEC. 13. That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said Commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

SEC. 14 (as amended March 2, 1889). That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained, in all courts of the United States, and of the several States, without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports.

SEC. 15. That if any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

SEC. 16 (as amended March 2, 1889). That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate or refuse or neglect to obey or perform any lawful order or requirement of the Commission created by this act, not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, it shall be lawful for the Commission or for any company or person interested in such order or requirement, to apply in a summary way, by petition, to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said Commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; and in case of any disobedience of any writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of $500 for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining or into court, to abide the ultimate decision of the court, or into the Treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of $2,000 or more, either party to such proceeding

before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ of process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable. Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the district attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

If the matters involved in any such order or requirement of said Commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said Commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the circuit court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition and of said order upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said Commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of $2,000 or more either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said circuit court. If the judgment of the circuit court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee, to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session.

SEC. 17 (as amended March 2, 1889). That the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the Commission shall constitute a quorum for the transaction of business, but no Commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said Commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said Commission and be heard, in person or by attorney. Every vote and official act of the Commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said Commission shall have an official seal, which shall be judicially noticed. Either of the members of the Commission may administer oaths and affirmations and sign subpœnas.

SEC. 18 (as amended). That each Commissioner shall receive an annual salary of $7,500, payable in the same manner as the judges of the courts of the United States. The Commission shall appoint a secretary, who shall receive an annual salary of $3,500, payable in like manner. The Commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the Commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the Commissioners, or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the Commission.

SEC. 19. That the principal office of the Commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

SEC. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the Commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

SEC. 21 (as amended March 2, 1889). That the Commission shall, on or before the 1st day of December in each year, make a report, which shall be transmitted to Congress, and copies of which shall be distributed as are the other reports transmitted to Congress. This report shall contain such information and data collected by the Commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the Commission may deem necessary; and the names and compensation of the persons employed by said Commission.

SEC. 22 (as amended March 2, 1889, and February 8, 1895). That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, State, or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable socities, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of soldiers' and sailors' orphan homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employees, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act: *Provided further*, That nothing in this act shall prevent the issuance of joint interchange of 5,000-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of 1,000 or more miles. But before any common carrier subject to the provisions of this act shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section 6 of this act; and all the provisions of said section 6 relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section 6. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section 10 of this act shall apply to any violation of the requirements of this proviso.

New section (added March 2, 1889). That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, That if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, That the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement.

Public No. 41, approved February 4, 1887, as amended by Public No. 125, approved March 2, 1889, and Public No. 72, approved February 10, 1891. Public No. 38, approved February 8, 1895.

An act in relation to testimony before the Interstate Commerce Commission, and in cases or proceedings under or connected with an act entitled "An act to regulate commerce," approved February 4, 1887, and amendments thereto.

Be it enacted, etc., That no person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements, and documents before the Interstate Commerce Commission, or in obedience to the subpœna of the Commission, whether such subpœna be signed or issued by one or more Commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of the act of Congress entitled "An act to regulate commerce," approved February 4, 1887, or of any amendment thereof on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, before said Commission, or in obedience to its subpœna, or the subpœna of either of them, or in any such case or proceeding: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements, and documents, if in his power to do so, in obedience to the subpœna or lawful requirement of the Commission, shall be

guilty of an offense, and upon conviction thereof by a court of competent jurisdiction shall be punished by fine not less than $100 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Public No. 54, approved February 11, 1893.

An act to further regulate commerce with foreign nations and among the States.

Be it enacted, etc., That anything done or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons except as such penalties are herein changed. The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts or strictly to observe such tariffs until changed according to law shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine of not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give or to solicit, accept, or receive and rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced. Every person or corporation who shall offer, grant, or give or solicit, accept or receive any such rebates, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than $1,000 nor more than $20,000. In all convictions occurring after the passage of this act for offenses under said acts to regulate commerce, whether committed before or after the passage of this act, or for offenses under this section, no penalty shall be imposed on the convicted party other than the fine prescribed by law, imprisonment wherever now prescribed as part of the penalty being hereby abolished. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier acting within the scope of his employment shall in every case be also deemed to be the act, omission, or failure of such carrier as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers, or agents in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act.

SEC. 2. That in any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceedings be instituted before the Interstate Commerce Commission or be begun originally in any circuit court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or shall be authorized by law with respect to carriers.

SEC. 3. That whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, a petition may be presented alleging such facts to the circuit court of the United States sitting in equity having jurisdiction; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several district attorneys of the United States, whenever the Attorney-General shall direct, either of his own motion or upon the request of the Interstate Commerce Commission, to institute and prosecute such proceedings, and the proceedings provided for by this act shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said act approved February 4, 1887, entitled "An act to regulate commerce," and the acts amendatory thereof. And in proceedings under this act and the acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in such proceeding: *Provided,* That the provisions of an act entitled "An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' 'An act to regulate commerce,' approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted, approved February 11, 1903," shall apply to any case prosecuted under the direction of the Attorney-General in the name of the Interstate Commerce Commission.

SEC. 4. That all acts and parts of acts in conflict with the provisions of this act are hereby repealed, but such repeal shall not affect causes now pending nor rights which have already accrued, but such causes shall be prosecuted to a conclusion and such rights enforced in a manner heretofore provided by law and as modified by the provisions of this act.

SEC. 5. That this act shall take effect from its passage.

Public, No. 103, approved, February 19, 1903.

An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," "An act to regulate commerce," approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted.

Be it enacted, etc., That in any suit in equity pending or hereafter brought in any circuit court of the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, "An act to regulate commerce," approved February 4, 1887, or any other acts having a like purpose that hereafter may be enacted, wherein the United States is complainant, the Attorney-General may file with the clerk of such court a certificate that, in his opinion, the case is of general public importance, a copy of which shall be immediately furnished by such clerk to each of the circuit judges of the circuit in which the case is pending. Thereupon such case shall be given precedence over others and in every way expedited, and be assigned for hearing at the earliest practicable day, before not less than three of the circuit judges of said circuit, if there be three or more; and if there be not more than two circuit judges, then before them and such district judge as they may select. In the event the judges sitting in such case shall be divided in opinion, the case shall be certified to the Supreme Court for review in like manner as if taken there by appeal as hereinafter provided.

SEC. 2. That in every suit in equity pending or hereafter brought in any circuit court of the United States under any of said acts, wherein the United States is complainant, including cases submitted but not yet decided, an appeal from the final decree of the circuit court will lie only to the Supreme Court and must be taken within sixty days from the entry thereof: *Provided,* That in any case where an appeal may have been taken from the final decree of a circuit court to the circuit court of appeals before this act takes effect, the case shall proceed to a final decree therein, and an appeal may be taken from such decree to the Supreme Court in the manner now provided by law.

Public, No. 82, approved February 11, 1903.

An act supplementary to the act of July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and also of the act of July 2, 1864, and other acts amendatory of said first-named act.

Be it enacted, etc., That all railroad and telegraph companies to which the United States has granted any subsidy in lands or bonds or loan of credit for the construction of either railroad or telegraph lines, which, by the acts incorporating them, or by any act amendatory or supplementary thereto, are required to construct, maintain, or operate telegraph lines, and all companies engaged in operating said railroad or telegraph lines shall forthwith and henceforward, by and through their own respective corporate officers and employees, maintain, and operate, for railroad, governmental, commercial, and all other purposes, telegraph lines, and exercise by themselves alone all the telegraph franchises conferred upon them and obligations assumed by them under the acts making the grants as aforesaid.

SEC. 2. That whenever any telegraph company which shall have accepted the provisions of title 65 of the Revised Statutes shall extend its line to any station or office of a telegraph line belonging to any one of said railroad or telegraph companies, referred to in the first section of this act, said telegraph company so extending its line shall have the right and said railroad or telegraph company shall allow the line of said telegraph company so extending its line to connect with the telegraph line of said railroad or telegraph company to which it is extended at the place where their lines may meet, for the prompt and convenient interchange of telegraph business between said companies; and such railroad and telegraph companies, referred to in the first section of this and shall so operate their respective telegraph lines as to afford equal facilities to all, without discrimination in favor of or against any person, company, or corporation whatever, and shall receive, deliver, and exchange business with connecting telegraph lines on equal terms, and affording equal facilities, and without discrimination for or against any one of such connecting lines; and such exchange of business shall be on terms just and equitable.

SEC. 3. That if any such railroad or telegraph company referred to in the first section of this act, or company operating such railroad or telegraph line shall refuse or fail in whole or in part, to maintain, and operate a telegraph line as provided in this act and acts to which this is supplementary, for the use of the Government or the public, for commercial and other purposes, without discrimination, or shall refuse or fail to make or continue such arrangements for the interchange of business with any connecting telegraph company, then any person, company, corporation, or connecting telegraph company may apply for relief to the Interstate Commerce Commission, whose duty it shall thereupon be, under such rules and regulations as said Commission may prescribe, to ascertain the facts, and determine and order what arrangement is proper to be made in the particular case, and the railroad or telegraph company concerned shall abide by and perform such order; and it shall be the duty of the Interstate Commerce Commission, when such determination and order are made, to notify the parties concerned, and, if necessary, enforce the same by writ of mandamus in the courts of the United States, in the name of the United States, at the relation of either of said Interstate Commerce Commissioners: *Provided,* That the said Commissioners may institute any inquiry, upon their own motion, in the same manner and to the same effect as though complaint had been made.

SEC. 4. That in order to secure and preserve to the United States the full value and benefit of its liens upon all the telegraph lines re-

quired to be constructed by and lawfully belonging to said railroad and telegraph companies referred to in the first section of this act, and to have the same possessed, used, and operated in conformity with the provisions of this act and of the several acts to which this act is supplementary, it is hereby made the duty of the Attorney-General of the United States, by proper proceedings, to prevent any unlawful interference with the rights and equities of the United States under this act, and under the acts hereinbefore mentioned, and under all acts of Congress relating to such railroads and telegraph lines, and to have legally ascertained and finally adjudicated all alleged rights of all persons and corporations whatever claiming in any manner any control or interest of any kind in any telegraph lines or property, or exclusive rights of way upon the lands of said railroad companies, or any of them, and to have all contracts and provisions of contracts set aside and annulled which have been unlawfully and beyond their powers entered into by said railroad or telegraph companies, or any of them, with any other person, company, or corporation.

SEC. 5. That any officer or agent of said railroad or telegraph companies, or of any company operating the railroads and telegraph lines of said companies, who shall refuse or fail to operate the telegraph lines of said railroad or telegraph companies under his control, or which he is engaged in operating, in the manner directed in this act and by the acts to which it is supplementary, or who shall refuse or fail, in such operation and use, to afford and secure to the Government and the public equal facilities, or to secure to each of said connecting telegraph lines equal advantages and facilities in the interchange of business, as herein provided for, without any discrimination whatever for or adverse to the telegraph line of any or either of said connecting companies, or shall refuse to abide by, or perform and carry out within a reasonable time the order or orders of the Interstate Commerce Commission, shall in every such case of refusal or failure be guilty of a misdemeanor, and, on conviction thereof, shall in every such case be fined in a sum not exceeding $1,000, and may be imprisoned not less than six months; and in every such case of refusal or failure the party aggrieved may not only cause the officer or agent guilty thereof to be prosecuted under the provisions of this section, but may also bring an action for the damages sustained thereby against the company whose officer or agent may be guilty thereof, in the circuit or district court of the United States in any State or Territory in which any portion of the road or telegraph line of said company may be situated; and in case of suit process may be served upon any agent of the company found in such State or Territory, and such service shall be held by the court good and sufficient.

SEC. 6. That it shall be the duty of each and every one of the aforesaid railroad and telegraph companies, within sixty days from and after the passage of this act, to file with the Interstate Commerce Commission copies of all contracts and agreements of every description existing between it and every other person or corporation whatsoever in reference to the ownership, possession, maintenance, control, use, or operation of any telegraph lines, or property over or upon its rights of way, and also a report describing with sufficient certainty the telegraph lines and property belonging to it, and the manner in which the same are being then used and operated by it, and the telegraph lines and property upon its right of way in which any other person or corporation claims to have a title or interest, and setting forth the grounds of such claim, and the manner in which the same are being then used and operated; and it shall be the duty of each and every one of said railroad and telegraph companies annually hereafter to report to the Interstate Commerce Commission, with reasonable fullness and certainty, the nature, extent, value, and condition of the telegraph lines and property then belonging to it, the gross earnings, and all expenses of maintenance, use, and operation thereof, and its relation and business with all connecting telegraph companies during the preceding year, at such time and in such manner as may be required by a system of reports which said Commission shall prescribe; and if any of said railroad or telegraph companies shall refuse or fail to make such reports or any report as may be called for by said Commission, or refuse to submit its books and records for inspection, such neglect or refusal shall operate as a forfeiture, in each case of such neglect or refusal, of a sum not less than $1,000 nor more than $5,000, to be recovered by the Attorney-General of the United States, in the name and for the use and benefit of the United States; and it shall be the duty of the Interstate Commerce Commission to inform the Attorney-General of all such cases of neglect or refusal, whose duty it shall be to proceed at once to judicially enforce the forfeitures hereinbefore provided.

SEC. 7. That nothing in this act shall be construed to affect or impair the right of Congress, at any time hereafter, to alter, amend, or repeal the said acts hereinbefore mentioned; and this act shall be subject to alteration, amendment, or repeal as, in the opinion of Congress, justice or the public welfare may require; and nothing herein contained shall be held to deny, exclude, or impair any right or remedy in the premises now existing in the United States, or any authority that the Postmaster-General now has under title 65 of the Revised Statutes to fix rates, or, of the Government, to purchase lines as provided under said title, or to have its messages given precedence in transmission.

Public No. 237, approved, August 7, 1888.

THE SAFETY APPLIANCE ACTS.

An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes.

Be it enacted, etc., That from and after the 1st day of January, 1898, it shall be unlawful for any common carrier engaged in interstate commerce by railroad to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system, or to run any train in such traffic after said date that has not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

SEC. 2. That on and after the 1st day of January, 1898, it shall be unlawful for any such common carrier to haul or permit to be hauled or used on its line any car used in moving interstate traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars.

SEC. 3. That when any person, firm, company, or corporation engaged in interstate commerce by railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section 1 of this act, it may lawfully refuse to receive from connecting lines of road or shippers any cars not equipped sufficiently, in accordance with the first section of this act, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by this act.

SEC. 4. That from and after the 1st day of July, 1895, until otherwise ordered by the Interstate Commerce Commission, it shall be unlawful for any railroad company to use any car in interstate commerce that is not provided with secure grab irons or handholds in the ends and sides of each car for greater security to men in coupling and uncoupling cars.

SEC. 5. That within ninety days from the passage of this act the American Railway Association is authorized hereby to designate to the Interstate Commerce Commission the standard height of drawbars for freight cars, measured perpendicular from the level of the tops of the rails to the centers of the drawbars, for each of the several gauges of railroads in use in the United States, and shall fix a maximum variation from such standard height to be allowed between the drawbars of empty and loaded cars. Upon their determination being certified to the Interstate Commerce Commission, said Commission shall at once give notice of the standard fixed upon to all common carriers, owners, or lessees engaged in interstate commerce in the United States by such means as the Commission may deem proper. But should said association fail to determine a standard as above provided, it shall be the duty of the Interstate Commerce Commission to do so, before July 1st, 1894, and immediately to give notice thereof as aforesaid. And after July 1st, 1895, no cars, either loaded or unloaded, shall be used in interstate traffic which do not comply with the standard above provided for.

SEC. 6 (as amended April 1, 1896). That any such common carrier using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this act, shall be liable to a penalty of $100 for each and every such violation, to be recovered in a suit or suits to be brought by the United Staes district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed; and it shall be the duty of such district attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred; and it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorneys information of any such violations as may come to its knowledge: *Provided*, That nothing in this act contained shall apply to trains composed of four-wheel cars or to trains composed of eight-wheel standard logging cars where the height of such car from top of rail to center of coupling does not exceed 25 inches, or to locomotives used in hauling such trains when such cars or locomotives are exclusively used for the transportation of logs.

SEC. 7. That the Interstate Commerce Commission may from time to time upon full hearing and for good cause extend the period within which any common carrier shall comply with the provisions of this act.

SEC. 8. That any employee of any such common carrier who may be injured by any locomotive, car, or train in use contrary to the provision of this act shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, car, or train had been brought to his knowledge.

Public, No. 113, approved March 2, 1893, amended April 1, 1896.

NOTE.—Prescribed standard height of drawbars: Standard-gauge roads, 34½ inches; narrow-gauge roads, 26 inches; maximum variation between loaded and empty cars, 3 inches.

An act to amend an act entitled "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes," approved March 2, 1893, and amended April 1, 1896.

Be it enacted, etc., That the provisions and requirements of the act entitled "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes, and their locomotives with driving-wheel brakes, and for other purposes," approved March 2, 1893, and amended April 1, 1896, shall be held to apply to common carriers by railroads in the Territories and the District of Columbia and shall apply in all cases, whether or not the couplers brought together are of the same kind, make, or type; and the provisions and requirements hereof and of said acts relating to train brakes, automatic couplers, grab irons, and the height of drawbars shall be held to apply to all trains, locomotives, tenders, cars, and similar vehicles used on any railroad engaged in interstate commerce, and in the Territories and the District of Columbia, and to all other locomotives, tenders, cars, and similar vehicles used in connection therewith, excepting those trains, cars, and locomotives exempted by the provisions of section 6 of said act of March 2, 1893, as amended by the act of April 1, 1896, or which are used upon street railways.

SEC. 2. That whenever, as provided in said act, any train is operated with power or train brakes, not less than 50 per cent of the cars in such train shall have their brakes used and operated by the engineer of the locomotive drawing such train; and all power-braked cars in such train which are associated together with said 50 per cent shall have their brakes so used and operated; and, to more fully carry into effect the objects of said act, the Interstate Commerce Commission may, from time to time, after full hearing, increase the minimum percentage of cars in any train required to be operated with power or train brakes which must have their brakes used and operated as aforesaid; and failure to comply with any such requirement of the said Interstate Commerce Commission shall be subject to the like penalty as failure to comply with any requirement of this section.

SEC. 3. That the provisions of this act shall not take effect until September 1, 1903. Nothing in this act shall be held or construed to relieve any common carrier, the Interstate Commerce Commission, or any United States district attorney from any of the provisions, powers, duties, liabilities, or requirements of said act of March 2, 1893, as amended by the act of April 1, 1896; and all of the provisions, powers, duties, requirements, and liabilities of said act of March 2, 1893, as amended by the act of April 1, 1896, shall, except as specifically amended by this act, apply to this act.

Public, No. 133, approved, March 2, 1903.

An act requiring common carriers engaged in interstate commerce to make full reports of all accidents to the Interstate Commerce Commission.

Be it enacted, etc., It shall be the duty of the general manager, superintendent, or other proper officer of every common carrier engaged in interstate commerce by railroad to make to the Interstate Commerce Commission, at its office in Washington, D. C., a monthly report, under

oath, of all collisions of trains or where any train or part of a train accidentally leaves the track, and of all accidents which may occur to its passengers or employees while in the service of such common carrier and actually on duty, which report shall state the nature and causes thereof, and the circumstances connected therewith.

SEC. 2. That any common carrier failing to make such report within thirty days after the end of any month shall be deemed guilty of a misdemeanor and, upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine of not more than $100 for each and every offense and for every day during which it shall fail to make such report after the time herein specified for making the same.

SEC. 3. That neither said report nor any part thereof shall be admitted as evidence or used for any purpose against such railroad so making such report in any suit or action for damages growing out of any matter mentioned in said report.

SEC. 4. That the Interstate Commerce Commission is authorized to prescribe for such common carriers a method and form for making the reports in the foregoing section provided.

Public, No. 171, approved, March 3, 1901.

Mr. DAVEY of Louisiana. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. CURRIER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18588, the railroad-rate bill, under a special rule of the House, and in accordance with that rule reported the same, and the pending substitute, back to the House.

The SPEAKER. The question is on the pending amendment in the nature of a substitute.

Mr. WILLIAMS of Mississippi. Mr. Chairman, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS of Mississippi. The pending amendment is the minority substitute bill, is it not?

The SPEAKER. Yes.

Mr. DAVEY of Louisiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 151, nays 187, answered "present" 6, not voting 40, as follows:

YEAS—151.

Adamson	Finley	Lamb	Rucker
Aiken	Fitzgerald	Legare	Ruppert
Badger	Flood	Lester	Russell
Baker	Gillespie	Lever	Ryan
Bankhead	Glass	Lewis	Scarborough
Bartlett	Goldfogle	Lind	Shackleford
Bassett	Gooch	Lindsay	Sheppard
Beall, Tex.	Goulden	Little	Sherley
Bell, Cal.	Granger	Livingston	Shober
Benny	Gregg	Lloyd	Shull
Benton	Griffith	Lucking	Sims
Bowers	Griggs	McAndrews	Slayden
Bowie	Gudger	McDermott	Small
Brantley	Hamlin	McLain	Smith, Ky.
Breazeale	Hardwick	McNary	Smith, Tex.
Broussard	Harrison	Macon	Snook
Brundidge	Hay	Maddox	Southall
Burgess	Heflin	Maynard	Sparkman
Burleson	Henry, Tex.	Meyer, La.	Spight
Burnett	Hill, Miss.	Miers, Ind.	Stanley
Byrd	Hitchcock	Moon, Tenn.	Stephens, Tex.
Caldwell	Hopkins	Padgett	Sullivan, Mass.
Candler	Houston	Page	Sulzer
Clark	Howard	Patterson, N. C.	Swanson
Clayton	Hughes, N. J.	Pierce	Talbott
Cochran, Mo.	Humphreys, Miss.	Pinckney	Thayer
Cooper, Tex.	Hunt	Pou	Thomas, N. C.
Cowherd	James	Pujo	Trimble
Croft	Johnson	Randell, Tex.	Underwood
Crowley	Jones, Va.	Ransdell, La.	Van Duzer
Davey, La.	Kehoe	Reid	Wade
Davis, Fla.	Kellher	Rhea	Wallace
De Armond	Kitchin, Claude	Richardson, Ala.	Webb
Denny	Kitchin, Wm. W.	Rixey	Wiley, Ala.
Dickerman	Kline	Robb	Williams, Ill.
Dinsmore	Kluttz	Robertson, La.	Williams, Miss.
Dougherty	Lamar, Fla.	Robinson, Ark.	Zenor
Field	Lamar, Mo.	Robinson, Ind.	

NAYS—187.

Acheson	Burkett	Deemer	Gillett, Mass.
Adams, Pa.	Burleigh	Dixon	Goebel
Adams, Wis.	Burton	Douglas	Graff
Allen	Butler, Pa	Dovener	Greene
Ames	Calderhead	Draper	Grosvenor
Babcock	Campbell	Dresser	Hamilton
Bartholdt	Capron	Driscoll	Haskins
Bates	Cassel	Dunwell	Hedge
Bede	Castor	Dwight	Hemenway
Beidler	Conner	Esch	Henry, Conn.
Bingham	Cooper, Pa.	Evans	Hepburn
Birdsall	Cousins	Fordney	Hermann
Bishop	Cromer	Foss	Hildebrant
Bonynge	Crumpacker	Foster, Vt.	Hill, Conn.
Bowersock	Currier	Fowler	Hinshaw
Bradley	Curtis	French	Hitt
Brick	Cushman	Gaines, Tenn.	Hogg
Brown, Pa.	Dalzell	Gardner, Mass.	Holliday
Brown, Wis.	Daniels	Gardner, N. J.	Howell, N. J.
Brownlow	Darragh	Gibson	Howell, Utah
Buckman	Davis, Minn.	Gillet, N. Y.	Huff
Burke	Dayton	Gillett, Cal.	Hughes, W. Va.
Hull	McCarthy	Perkins	Stevens, Minn.
Humphrey, Wash.	McCleary, Minn.	Porter	Sulloway
Hunter	McCreary, Pa.	Powers, Me.	Tawney
Jackson, Ohio	McLachlan	Powers, Mass.	Thomas, Iowa
Jenkins	McMorran	Prince	Thomas, Ohio
Jones, Wash.	Mann	Reeder	Tirrell
Kennedy	Marshall	Rider	Townsend
Kinkaid	Martin	Roberts	Volstead
Knapp	Miller	Rodenberg	Vreeland
Knopf	Minor	Scott	Wachter
Kyle	Mondell	Scudder	Wadsworth
Lacey	Moon, Pa.	Sherman	Wanger
Lafean	Morgan	Shiras	Warner
Landis, Chas. B.	Morrell	Sibley	Warnock
Landis, Frederick	Mudd	Slemp	Watson
Lawrence	Murdock	Smith, Ill.	Webber
Lilley	Needham	Smith, Iowa	Weems
Littlefield	Nevin	Smith, Wm. Alden	Wiley, N. J.
Livernash	Norris	Smith, Pa.	Williamson
Longworth	Otjen	Snapp	Wood
Lorimer	Overstreet	Southard	Woodyard
Loud	Palmer	Southwick	Wright
Loudenslager	Parker	Spalding	Wynn
Lovering	Patterson, Pa.	Stafford	Young
McCall	Payne	Steenerson	

ANSWERED "PRESENT"—6.

Boutell	Cooper, Wis.	Taylor	Van Voorhis
Cockran, N. Y.	Rainey		

NOT VOTING—40.

Alexander	Foster, Ill.	Ketcham	Smith, Samuel W.
Brandegee	Fuller	Knowland	Smith, N. Y.
Brooks	Gaines, W. Va.	Littauer	Sperry
Butler, Mo.	Garber	Mahon	Sterling
Cassingham	Gardner, Mich.	Marsh	Sullivan, N. Y.
Connell	Garner	Olmsted	Tate
Davidson	Gilbert	Otis	Vandiver
Emerich	Haugen	Patterson, Tenn.	Weisse
Fitzpatrick	Hearst	Pearre	Wilson, Ill.
Flack	Jackson, Md.	Richardson, Tenn.	Wilson, N. Y.

So the substitute was rejected.

The Clerk announced the following pairs:

For this vote:

Mr. OLMSTED with Mr. RICHARDSON of Tennessee.

For the day:

Mr. DAVIDSON with Mr. TATE.

Mr. GARDNER of Michigan with Mr. WILSON of New York.

Mr. KNOWLAND with Mr. BUTLER of Missouri.

Mr. MAHON with Mr. GARBER.

Mr. SAMUEL W. SMITH with Mr. VANDIVER.

Mr. SPERRY with Mr. FITZPATRICK.

Mr. STERLING with Mr. EMERICH.

Until the 11th instant:

Mr. KETCHAM with Mr. GILBERT.

Until further notice:

Mr. ALEXANDER with Mr. SULLIVAN of New York.

Mr. FULLER with Mr. GARNER.

Mr. MARSH with Mr. PATTERSON of Tennessee.

Mr. PEARRE with Mr. FOSTER of Illinois.

Mr. SMITH of New York with Mr. TAYLOR of Alabama.

Mr. VAN VOORHIS with Mr. CASSINGHAM.

Mr. VAN VOORHIS. Mr. Speaker, I would like to know how I am recorded.

The SPEAKER pro tempore. The gentleman is recorded in the negative.

Mr. VAN VOORHIS. I am paired with my colleague, Mr. CASSINGHAM, and I desire to withdraw my vote.

The SPEAKER pro tempore. Call the gentleman's name.

The Clerk called Mr. VAN VOORHIS's name and he answered "present."

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is now on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. HEPBURN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 326, nays 17, answered "present" 4, not voting 37, as follows:

YEAS—326.

Acheson	Beall, Tex.	Bradley	Burleson
Adams, Wis.	Bede	Brantley	Burnett
Adamson	Beidler	Breazeale	Burton
Aiken	Bell, Cal.	Brick	Butler, Pa.
Allen	Benny	Broussard	Byrd
Ames	Benton	Brown, Pa.	Calderhead
Babcock	Bingham	Brown, Wis.	Caldwell
Badger	Birdsall	Brownlow	Campbell
Baker	Bishop	Brundidge	Candler
Bankhead	Bonynge	Buckman	Capron
Bartholdt	Boutell	Burgess	Cassel
Bartlett	Bowers	Burke	Clark
Bassett	Bowersock	Burkett	Clayton
Bates	Bowie	Burleigh	Conner

Cooper, Pa.	Hay	Loudenslager	Sheppard
Cooper, Tex.	Hearst	Lovering	Sherley
Cooper, Wis.	Hedge	Lucking	Sherman
Cousins	Heflin	McAndrews	Shiras
Cowherd	Hemenway	McCarthy	Shober
Croft	Henry, Conn.	McCleary, Minn.	Sims
Cromer	Henry, Tex.	McCreary, Pa.	Slayden
Crowley	Hepburn	McLachlan	Slemp
Crumpacker	Hermann	McLain	Small
Currier	Hill, Miss.	McMorran	Smith, Ill.
Curtis	Hinshaw	McNary	Smith, Iowa
Cushman	Hitchcock	Macon	Smith, Ky.
Dalzell	Hitt	Maddox	Smith, Pa.
Daniels	Hogg	Mann	Smith, Tex.
Darragh	Holliday	Marshall	Smith, Wm. Alden
Davey, La.	Hopkins	Martin	Snapp
Davis, Fla.	Houston	Maynard	Snook
Davis, Minn.	Howard	Meyer, La.	Southall
Dayton	Howell, N. J.	Miers, Ind.	Southard
De Armond	Howell, Utah	Miller	Spalding
Deemer	Hughes, N. J.	Minor	Sparkman
Denny	Hughes, W. Va.	Mondell	Spight
Dickerman	Hull	Moon, Pa.	Stafford
Dinsmore	Humphrey, Wash.	Moon, Tenn.	Stanley
Dixon	Humphreys, Miss.	Morgan	Steenerson
Dougherty	Hunt	Morrell	Stephens, Tex.
Douglas	Hunter	Mudd	Stevens, Minn.
Dovener	Jackson, Ohio	Murdock	Sullivan, Mass.
Draper	James	Needham	Sulloway
Dresser	Jenkins	Nevin	Sulzer
Dunwell	Johnson	Norris	Swanson
Esch	Jones, Va.	Otjen	Talbott
Evans	Jones, Wash.	Overstreet	Tawney
Field	Kehoe	Padgett	Thayer
Finley	Keliher	Page	Thomas, Iowa
Fitzgerald	Kennedy	Parker	Thomas, N. C.
Flood	Kinkaid	Patterson, N. C.	Thomas, Ohio
Fordney	Kitchin, Claude	Patterson, Pa.	Tirrell
Foss	Kitchin, Wm. W.	Payne	Townsend
Foster, Vt.	Kline	Pierce	Trimble
Fowler	Kluttz	Pinckney	Underwood
French	Knapp	Pou	Van Duzer
Gaines, Tenn.	Knopf	Powers, Me.	Volstead
Gaines, W. Va.	Kyle	Powers, Mass.	Wachter
Gardner, Mass.	Lacey	Prince	Wade
Garner	Lafean	Pujo	Wadsworth
Gibson	Lamar, Fla.	Rainey	Wallace
Gillespie	Lamar, Mo.	Randell, Tex.	Wanger
Gillet, N. Y.	Lamb	Ransdell, La.	Warner
Gillett, Cal.	Landis, Chas. B.	Reeder	Warnock
Gillett, Mass.	Landis, Frederick	Reid	Watson
Glass	Lawrence	Rhea	Webb
Goebel	Legare	Richardson, Ala.	Webber
Goldfogle	Lester	Richardson, Tenn.	Weems
Gooch	Lever	Rixey	Wiley, Ala.
Graff	Lewis	Robb	Wiley, N. J.
Granger	Lilley	Roberts	Williams, Ill.
Greene	Lind	Robertson, La.	Williams, Miss.
Gregg	Lindsay	Robinson, Ark.	Williamson
Griffith	Littauer	Robinson, Ind.	Wilson, Ill.
Griggs	Little	Rodenberg	Wood
Grosvenor	Littlefield	Rucker	Woodyard
Gudger	Livernash	Ruppert	Wright
Hamilton	Livingston	Russell	Wynn
Hamlin	Lloyd	Ryan	Young
Hardwick	Longworth	Scarborough	Zenor
Haskins	Lorimer	Scott	
Haugen	Loud	Shackleford	

NAYS—17.

Adams, Pa.	Harrison	Porter	Southwick
Castor	Hill, Conn.	Rider	Vreeland
Dwight	Huff	Scudder	
Gardner, N. J.	McCall	Shull	
Goulden	McDermott	Sibley	

ANSWERED "PRESENT"—4.

Cochran, Mo.	Cockran, N. Y.	Taylor	Van Voorhis

NOT VOTING—37.

Alexander	Flack	Mahon	Sperry
Brandegee	Foster, Ill.	Marsh	Sterling
Brooks	Fuller	Olmsted	Sullivan, N. Y.
Butler, Mo.	Garber	Otis	Tate
Cassingham	Gardner, Mich.	Palmer	Vandiver
Connell	Gilbert	Patterson, Tenn.	Weisse
Davidson	Hildebrant	Pearre	Wilson, N. Y.
Driscoll	Jackson, Md.	Perkins	
Emerich	Ketcham	Smith, N. Y.	
Fitzpatrick	Knowland	Smith, Samuel W.	

So the bill was passed.

The result of the vote was announced as above recorded.

On motion of Mr. TOWNSEND, a motion to reconsider the last vote was laid on the table.

SENATE BILLS AND HOUSE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6970. An act providing for the award of medals of honor to certain officers and men of the Navy and Marine Corps—to the Committee on Naval Affairs.

S. 7081. An act to mark the grave of Maj. Pierre Charles L'Enfant—to the Committee on the District of Columbia.

Also the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, with Senate amendments—to the Committee on the Territories.

OKLAHOMA AND ARIZONA.

Mr. MOON of Tennessee. Mr. Speaker, I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOON of Tennessee. I will have to state a fact preceding the inquiry. There was reported to the House to-day from the Senate a House bill to create the States of Oklahoma and Arizona, with certain amendments passed by the Senate. That bill with amendments, as I understand it, is now on the Speaker's table. The inquiry I desire to make is this, Can a motion be now made under the rules of the House to concur in the Senate amendments?

The SPEAKER. The Chair will answer the parliamentary inquiry, first, upon the question of fact. Under the rules of the House the Chair found upon examination of the bill that one of the Senate amendments provides for an appropriation of money. That is original, and under the rule of the House the bill went to the Committee on Territories, in contemplation of the rule, at once, and the Chair directed that it go manually.

Mr. MOON of Tennessee. Mr. Speaker, a further inquiry. Does the amendment made by the Senate bring in new matter on the question of appropriation by the House?

The SPEAKER. Yes; entirely new.

Mr. MOON of Tennessee. Then I am satisfied with the ruling of the Chair.

NEW DISTRICT JUDGE FOR SOUTH CAROLINA.

Mr. JOHNSON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill which I send to the Clerk's desk.

The SPEAKER. The gentleman from South Carolina [Mr. JOHNSON] asks unanimous consent for the present consideration of the bill of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 4100) to provide for the appointment of a district judge for the western judicial district of South Carolina, and for other purposes.

Mr. MANN. Mr. Speaker, I reserve the right to object. I would like an explanation of what the bill is first.

Mr. JOHNSON. Mr. Speaker, in 1823 the Congress divided the State of South Carolina into two judicial districts. But at that time, on account of the sparseness of the population and the small amount of business of the Federal court, it was provided that the judge of the eastern district should hold court in the western district also. Within the last few years what is known as the western district of South Carolina, the Piedmont section, has grown wonderfully in population and in business. We now furnish the great bulk of all the business, both criminal and civil, in the United States court. It requires lawyers from many parts of the western district who have motions to make in chambers or otherwise to go to Charleston on one day, argue their motions next day, and return home on the third day; while a lawyer practicing law in the city of Washington would leave Washington to-night, be in Charleston tomorrow morning, make his motion, and be back home for breakfast the following morning. So that you see it is so far, the expense in time and money is so great, as to amount to a denial of justice.

This bill is unanimously reported by the Judiciary Committee, recommended and asked for by the bar association of South Carolina, and heartily indorsed by the United States district judge of that State.

Mr. MANN. May I ask the gentleman from South Carolina [Mr. JOHNSON] if the only reason for the passage of this bill is to permit lawyers to make motion in Charleston or some other place with less delay than now?

Mr. JOHNSON. The object of the bill, and the object of the court, as is the object of all courts, is for the convenience of the people and the speedy administration of justice.

Mr. MANN. If the gentleman will pardon me, I was trying to see what reason there was for this court, and not what object there was for all courts. May I ask the gentleman how many cases there have been in that court in the last year?

Mr. JOHNSON. I can not tell the gentleman from Illinois [Mr. MANN] that, but I can tell him that Judge Brawley, who holds the court, writes that the business is onerous and that the judge is needed, and the entire bar of South Carolina unite in asking for it.

Mr. MANN. Now, Mr. Speaker, I do not know of any place in the country where the judge does not say that the work is

onerous and where the lawyers do not say that they need more judges; and the question is whether we shall enter upon a policy of creating additional judges throughout the United States. We have just passed a bill creating five new judges, which I personally think are not necessary at this time.

Mr. FINLEY. I will say to the gentleman from Illinois that the facts are that the creation of this judgeship is a necessity in order that the business of the Federal courts of South Carolina may be properly attended to and expeditiously dispatched. That is a fact that is vouched for by the lawyers of the State and by the district judge of the State. In that connection I will say to the gentleman that to-day it is far more necessary than ever before, for up to last year we had the circuit judge of the fourth circuit, a resident of the State of South Carolina. Judge Simonton died last year, and his successor, Judge Pritchard, resides in the State of North Carolina. This fact has increased the demand and the necessity for an additional judge in the State of South Carolina. It is demanded by the business of the court.

Mr. MANN. Does the gentleman think at the same time we ought to provide an additional judge for Indiana or the various other States covering a larger territory and doing much more business?

Mr. FINLEY. I will say to the gentleman from Illinois that in my six years' experience in this House in every case, whether Indiana or Illinois—I remember a case in Illinois——

Mr. MANN. Well, I do not.

Mr. FINLEY. Has there not been an additional judgeship created in the State of Illinois in six years?

Mr. MANN. No, sir.

Mr. FINLEY. Then I beg the gentleman's pardon. I believe it was the State of Minnesota. In every case where the necessity has been shown and the Judiciary Committee reported unanimously the judgeship has been created. This case is no exception as to the necessity for it.

Mr. JOHNSON. I would like to say to the gentleman from Illinois that this district has been created for more than eighty years. This bill has passed the Senate unanimously and was reported by the House in the last Congress.

Mr. MANN. Mr. Speaker, I will not say that I will not change my mind upon further investigation; but I am not in favor of an indiscriminate creation of additional judges throughout the country, which sems to be a popular process, and at this time I shall object.

The SPEAKER. The gentleman objects.

EXCHANGE OF CERTAIN LANDS WITH NEBRASKA.

Mr. NORRIS. Mr. Speaker, I ask unanimous consent for consideration in the House, as in Committee of the Whole, of the bill H. R. 18279.

The SPEAKER. The gentleman from Nebraska asks unanimous consent for the consideration of a bill which involves the discharge of the Committee of the Whole House on the state of the Union and considering it in the House as in Committee of the Whole. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 18279) to authorize the Secretary of the Interior to accept the conveyance from the State of Nebraska of certain described lands and granting to said State other lands in lieu thereof, and for other purposes.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to accept from the State of Nebraska a conveyance of all of said State's right, title, and interest in and to the northeast quarter section 36, in township 4 north, of range 29 west of the sixth principal meridian, in the State of Nebraska.

SEC. 2. That upon filing with the Secretary of the Interior a good and sufficient deed of conveyance of said tract, which deed shall be subject to the approval of the Secretary of the Interior, the State of Nebraska shall be entitled to select other surveyed unappropriated and unreserved lands of equal acreage within said State in lieu thereof, and the lands so selected shall be approved and certified to said State in the same manner as other indemnity school land selections.

SEC. 3. That when the title to said tract shall become vested in the United States, the Secretary of the Interior shall cause to be reinstated the final homestead entry, No. 399, of Russell F. Loomis therefor, and thereafter to direct the issuance of patent to the said Russell F. Loomis for said described lands.

The SPEAKER. Is there objection?

Mr. WILLIAMS of Mississippi. Mr. Speaker, I will ask the gentleman to explain the bill.

Mr. NORRIS. Mr. Speaker, in response to the gentleman's request for an explanation of the bill, I will say that Mr. Loomis, the person to whom this patent is to issue if the bill is passed, settled upon the land in question on the 28th day of May, 1872. That was prior to the survey by the Government of the land. It was discovered afterwards—the next year—when the survey was made, that this was school land. Loomis made his application for a homestead entry after the survey was made. It was accepted by the local land officer. He lived on the land nearly eight years, and made final proof. That was accepted; but when it came to the General Land Office it was rejected on the ground that it was school land and had been ceded to the State of Nebraska. This bill provides that the State of Nebraska can cede this land to the Government, and that thereupon the entry of Loomis shall be reinstated and patent shall issue to him for the land in question.

The legislature of Nebraska, recognizing the injustice that was done to this man, on two different occasions, in two different legislatures, unanimously passed bills authorizing the ceding of this land to Mr. Loomis, the homestead entryman, but it was in each instance vetoed by the governor, on the sole and only ground that the constitution of Nebraska provided that school lands could not be given to individuals in this way. Now, then, in order to avoid the constitutional provision, the bill provides, as you notice from the reading, that the State of Nebraska can select within the borders of the State 160 acres of land in lieu of this land, which as a matter of fact means nothing of value, because, as you understand, in Nebraska there is no 160 acres of public domain that is of sufficient value for any man to settle upon. So that the United States really gives nothing; but at the same time it gives the State an opportunity to avoid this constitutional objection and to give a worthy man title to his home, which, through no fault of his, he has been deprived of. He still lives on the land, having leased it from the State. He has practically no other property. It has been his home for nearly thirty-three years, and in his declining years Nebraska desires that he be given legal title to the only home he has known since early manhood.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

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

On motion of Mr. NORRIS, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS ST. JOSEPH RIVER, BERRIEN COUNTY, MICH.

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 18728) to authorize the board of supervisors of Berrien County, Mich., to construct a bridge across the St. Joseph River, near its mouth, in said county.

The SPEAKER. The gentleman from Michigan asks unanimous consent for the present consideration of a bill which will be reported by the Clerk.

The bill was read. It provides that the board of supervisors of Berrien County, in the State of Michigan, be, and are hereby, authorized to construct, maintain, and operate a bridge across the St. Joseph River, near its mouth, in said Berrien County, at or near the site of the bridge now known as "Napier Bridge," under and subject to such regulations for the security of navigation as the Secretary of War may prescribe.

The amendments recommended by the Committee on Interstate and Foreign Commerce were read.

The SPEAKER. Is there objection?

There was no objection.

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

On motion of Mr. HAMILTON, a motion to reconsider the last vote was laid on the table.

ARMY TRANSPORTS.

Mr. PRINCE. Mr. Speaker, I rise to make a privileged report from the Committee on Military Affairs on House resolution 467.

The SPEAKER. The gentleman from Illinois presents a privileged resolution, which the Clerk will report.

The Clerk read as follows:

Resolved, That the Secretary of War be, and he is hereby, directed to give to the House of Representatives the following information relative to the transport service, to wit:

First. Give the names of each of the vessels that has been used in the transport service from the beginning of said service to the end of the fiscal year 1904, and state which of them were owned by the Government and which were chartered.

Second. Give the complete cost of the transport system from the beginning of said system to the end of the fiscal year 1904, including purchase price, cost of charter, cost of transforming into transports, cost of operation, repair, and maintenance of each and all of said vessels that have been used in said service.

Third. Give separately the following items, namely: The purchase price, cost of converting into transport, cost of repair, maintenance, and operation of each of said vessels that has been used in such service from the beginning of said service to the end of the fiscal year 1904.

Fourth. Give the total number of civilian passengers that has been carried by the transport service from the beginning of said service until the end of the fiscal year 1904.

Fifth. State how many of these passengers were women and how many were children.

Sixth. State what amount has been credited to the transport service for the carrying of civilian passengers from the beginning of said service to the close of the fiscal year 1904.

Seventh. State how many of these civilian passengers under the existing law would have had their transportation paid or been reimbursed therefor by the Government had they traveled on commercial lines.

Eighth. What is the total amount from the beginning of the transport service until the end of said fiscal year that the Government, under existing law, would have paid or reimbursed the passenger for paying, for the transportation of civilian passengers who have been carried on the Government transports, had such passengers been carried on commercial lines instead of these transports?

Ninth. What showing is required by a civilian in order for him to be given permission to take passage upon a Government transport?

Tenth. Who has the authority to give him such permission?

Eleventh. Give the names of the vessels which were used in the service during the fiscal year 1904.

Twelfth. Give the age of each of said vessels.

Thirteenth. Give separately the purchase price and the cost of converting each of said vessels into transports.

Fourteenth. How many of said vessels were used to carry soldiers?

Fifteenth. How many civilian passengers were carried upon Government transports during said fiscal year?

Sixteenth. What amount was credited to the transport service for carrying these civilian passengers during said fiscal year?

Seventeenth. How many of these civilian passengers carried during said fiscal year under existing law would have had their transportation paid or been reimbursed therefor by the Government had they traveled on commercial lines instead of Government transports?

Eighteenth. What is the total amount during said fiscal year that the Government under existing law would have paid or reimbursed the passenger for paying for the transportation of civilian passengers that have been carried on Government transports had such passengers been carried on commercial lines instead of upon transports?

Nineteenth. How many of these civilian passengers carried during such fiscal year were females?

Twentieth. How many of these civilian passengers carried during said fiscal year were children?

Twenty-first. How many of said civilian passengers carried during said fiscal year were the wives, children, parents, or servants of Government officials?

Twenty-second. How many Government officials not traveling under orders or on business connected with the Government were carried during said fiscal year by said transports?

Twenty-third. How many passengers during said fiscal year were carried by said Government transports from San Francisco to Manila, from Manila to San Francisco, from Manila to Nagasaki, and from Nagasaki to Manila?

Twenty-fourth. What amount is credited to the service during said fiscal year for carrying each passenger between San Francisco and Manila?

Twenty-fifth. What amount is credited the service during said fiscal year for each passenger carried between Nagasaki and Manila?

Twenty-sixth. What amount was credited to the transport service during said fiscal year for each dead soldier's body carried from Manila to San Francisco?

Twenty-seventh. What is credited to the service per pound for carrying the United States mail?

Twenty-eighth. In estimating the cost of the transport system to the Government, is anything charged against the system for either of the following items, and if so, what amount was charged during said fiscal year for each of said items, namely: Interest on amount invested; insurance of property; depreciation of property; tonnage taxes for goods lost or damaged.

The following amendments recommended by the Committee on Military Affairs were read:

Strike out all after the words "to wit," in line 3, page 1, down to and including the word "transports," in line 24, page 2.

Strike out the word "ninth," in line 25, page 2, and insert in lieu thereof the word "first."

Strike out the word "tenth," in line 3, page 3, and insert in lieu thereof the word "second."

Strike out the word "eleventh," in line 5, on page 3, and insert in lieu thereof the word "third."

Strike out the word "twelfth," in line 7, on page 3, and insert in lieu thereof the word "fourth."

Strike out the word "thirteenth," in line 8, on page 3, and insert in lieu thereof the word "fifth."

Strike out the word "fourteenth," in line 10, page 3, and insert in lieu thereof the word "sixth."

Strike out the word "fifteenth," in line 12, page 3, and insert in lieu thereof the word "seventh."

Strike out the word "sixteenth," in line 14, on page 3, and insert in lieu thereof the word "eighth."

Strike out the word "seventeenth," in line 17, on page 3, and insert in lieu thereof the word "ninth."

Strike out the word "eighteenth," in line 22, on page 3, and insert in lieu thereof the word "tenth."

Strike out the word "nineteenth," in line 3, page 4, and insert in lieu thereof the word "eleventh."

Strike out the word "females" in line 4, page 4, and insert in lieu thereof the word "women."

Strike out the word "twentieth" in line 5, page 4, and insert in lieu thereof the word "twelfth."

Strike out the word "twenty-first" in line 7, on page 4, and insert in lieu thereof the word "thirteenth."

Strike out the word "twenty-second" in line 10, on page 4, and insert in lieu thereof the word "fourteenth."

Strike out the word "twenty-third" in line 13, on page 4, and insert in lieu thereof the word "fifteenth."

Strike out the word "twenty-fourth" in line 17, on page 4, and insert in lieu thereof the word "sixteenth."

Strike out the word "twenty-fifth" in line 20, on page 4, and insert in lieu thereof the word "seventeenth."

Strike out the word "twenty-sixth" in line 23, on page 4, and insert in lieu thereof the word "eighteenth."

Strike out the word "twenty-seventh" in line 1, on page 5, and insert in lieu thereof the word "nineteenth."

Strike out the word "twenty-eighth" in line 3, on page 5, and insert in lieu thereof the word "twentieth."

On page 5, after the word "damaged," in line 9, insert the following:

"*Resolved,* That the Secretary of War be, and he is hereby, authorized to employ sufficient clerical force to comply with the requirements of this resolution, and the sum of $10,000 is hereby appropriated for that purpose, or as much thereof as may be necessary."

Mr. PAYNE. Why, Mr. Speaker, I understand this resolution contains an appropriation of $10,000. I make the point of order that it is not privileged.

The SPEAKER. The gentleman makes the point of order upon the resolution?

Mr. PAYNE. I make the point of order that it is not privileged because it contains that appropriation.

The SPEAKER. The item of appropriation is carried in the amendment proposed in the report of the committee. The Chair understands the gentleman to make the point of order upon the amendment.

Mr. PAYNE. I make it to the amendment. There was so much in the resolution that I could not separate the amendment from the resolution.

The SPEAKER. Does the gentleman from Illinois [Mr. PRINCE] desire to be heard upon the point of order to the amendment?

Mr. PRINCE. I am not very insistent on that amendment if it is subject to the point of order. Let that part of it go out.

The SPEAKER. The Chair sustains the point of order to the amendment. It seems to the Chair that it is not privileged.

Mr. PRINCE. Then I withdraw the amendment that is subject to the point of order.

The SPEAKER. It goes out upon the point of order. The part which goes out is contained in lines 15 to 19, inclusive, on page 5, and is as follows:

Resolved, That the Secretary of War be, and he is hereby, authorized to employ sufficient clerical force to comply with the requirements of this resolution, and the sum of $10,000 is hereby appropriated for that purpose, or as much thereof as may be necessary.

Mr. PRINCE. I withdraw that portion of it.

Mr. PAYNE. How can the gentleman from Illinois withdraw it after it is ruled out?

Mr. PRINCE. Well, anyway, it goes out.

The SPEAKER. That part has already gone out on the point of order.

Mr. PAYNE. I suppose, Mr. Speaker, that debate is in order?

The SPEAKER. Undoubtedly. Does the gentleman from Illinois yield, or does the gentleman from New York desire to be recognized in his own time?

Mr. PRINCE. I will yield to the gentleman five minutes.

Mr. PAYNE. I notice that the committee reporting this resolution deemed it necessary to appropriate $10,000 for obtaining this information.

Mr. CAPRON. Would the gentleman like to know why?

Mr. PAYNE. I suppose because they thought it was necessary in order to obtain the information. Now, the question for the House is whether this whole business is worth the amount of $10,000; because without the appropriation I suppose the Department will go on and give this information to Congress and there will be a deficiency of $10,000, or about that amount, for the obtaining of the information. I question very much whether the information called for, or any of it, is of sufficient value to the House to warrant the expenditure of ten or five thousand dollars. Therefore I am opposed to the resolution.

Mr. PRINCE. Mr. Speaker, the resolution was presented by the gentleman from Washington [Mr. HUMPHREY], asking for information with reference to the transport service. It was claimed in the report made by the Quartermaster-General that certain credits should be given to the Government service by reason of carrying of passengers. That is an open question. There are reports to this House coming from the special Merchant Marine Commission stating that certain persons are carried that ought not to be carried on the transport service. The Committee on Military Affairs, when the Quartermaster-General was before them, made inquiries and stated facts which were in contravention of the facts stated in another part of the country upon this question.

In order to get the facts before the country, we thought it was proper to amend this resolution as presented to the House. The transport service is here, in my judgment, to stay. The vessels belong to the people, and we are the representatives of the people. There is no way, in my judgment, that we can better furnish to the people knowledge with reference to what is being done with their own vessels than to have this investigation made. We have stricken out such questions as we thought were not pertinent, and have limited it to the lowest number that will give to the House and to the country the desired information that, in the judgment of the Committee on Military Affairs, ought to be given to the people with reference to these vessels that belong to them and which are supposed, and, in my judgment, are, largely run in the interest of the people.

We added the amount for the reason that the Quartermaster-General said that if he were called upon to give this information he would require additional clerical work in order to furnish it.

Now, it seems to me, representing the committee as I do, that this is a proper resolution. It is not here seeking to get information that ought not to be given to the House and to the country, but is a resolution in good faith that is presented here by the committee to this House, and it should receive the attention of the House and its favorable consideration.

I now yield five minutes to the introducer of the resolution, Mr. HUMPHREY of Washington.

Mr. HUMPHREY of Washington. Mr. Speaker, as to the necessity of having this information, I think that a little instance that occurred yesterday ought to satisfy Members of this House that it would be worth something to know a little about the conditions existing in the Quartermaster's Department. Yesterday I received a letter from the Quartermaster-General in which he stated that the charge that was made here on the floor of the House by me a few days ago that the transport service was being credited with "deadheads" at first-class commercial rates was true, and he further added that he was never more surprised in his life than to find out that such was the fact.

It is true that here is a charge that amounts to between three hundred and five hundred thousand dollars annually, and which the Quartermaster never discovered until his attention was called to it. He at first denied it. It seems to me time that some one should know something about this service.

It developed that the Quartermaster's Department within the last year has given itself credit and charged to the Government the sum of between three and five hundred thousand dollars for passengers that were carried for nothing. The Quartermaster-General now admits that he had no right to credit the transport service with this sum.

Mr. MANN. To whom and how did he credit it?

Mr. HUMPHREY of Washington. The Quartermaster's Department carries what we usually term "deadheads," and these credits have been made to the transport service for the carrying of these passengers at first-class commercial rates, and thereby makes a showing of a saving as compared with commercial rates, and upon this showing they come here and ask that the transport service be continued.

Mr. MANN. If he credits it he must charge it to somebody. To whom does he charge it?

Mr. HUMPHREY of Washington. To the Government, I suppose.

Mr. MANN. To what account?

Mr. HUMPHREY of Washington. I don't know. The Quartermaster does not know; that is what I want to find out.

Mr. MANN. You can not credit an item on one page of a ledger unless you charge it to some account on another.

Mr. HUMPHREY of Washington. That is the information we want. He says that he credited it to the transport service.

Mr. MANN. But where did he charge it and to whom did he charge it—to what account?

Mr. HUMPHREY of Washington. I don't know. We want to find out. The Quartermaster-General did not know until a few days ago—that it was credited to the transport service.

Mr. SLAYDEN. Will the gentleman permit me an interruption?

Mr. HUMPHREY of Washington. Certainly.

Mr. SLAYDEN. Mr. Speaker, I want to say that I think the gentleman is mistaken in stating that the Quartermaster-General credits any particular account with so much money made by the Government in the carriage of civilian passengers. As the gentleman will well remember, when we had it up for consideration before the committee, he and I mutually agreed that the entire matter was a question of the method of bookkeeping, and I suggested to the gentleman, as he will remember, almost in the exact language—certainly the exact idea—just used by the gentleman from Illinois [Mr. MANN], that no account could be credited with a specific sum of money without some other account being debited with it. That is not possible in bookkeeping. I want to say to the gentleman that the system of bookkeeping, the system of showing the value or the cost of the transportation of such civilian passengers as are carried on the transport service, as made a matter of record in the office of the Quartermaster-General, is not with the idea of saying that so much money has been made by the Government, but to show what it would have cost had they been carried at the expense of the public on commercial lines. If he desires to go into the question of who these civilian passengers are and upon what authority they were carried, that is a matter that the Quartermaster-General is not only ready but anxious to have examined.

Mr. HUMPHREY of Washington. Mr. Speaker, since I was before the committee, I will say for the information of the gentleman from Texas [Mr. SLAYDEN]—some of the gentlemen here have seen the letter—that I received a letter yesterday from the Quartermaster-General's Department, in which he used substantially this language. He said:

> I admit that it is true that the charge you have made that the transport service has been credited with passengers that would not have had their transportation paid by the Government if they had gone upon commercial lines is correct, and I desire to add that I was never more astonished in my life than I was when I discovered that fact.

Mr. CAPRON. Mr. Speaker, I think it is fair, while I voted for the resolution, that we might have this information before us, to state, or for the gentleman from Washington [Mr. HUMPHREY] to state, that a very large number of these civilian passengers who have been carried, and who could not have been carried by commercial lines without pay from the Government, were school-teachers who had been sent out to Manila, employees of the Departments—of the Navy, civil employees of the Medical Department, contract surgeons, and many others—and that they would not have been carried on commercial lines; but really very few of those indeed are what would ordinarily be called "deadhead" passengers—that is, passengers who have no right to travel at all, and have not been so carried by the Quartermaster's Department in defiance of any law. It is fair, it seems to me, for the House to know those facts in connection with the others stated.

Mr. HUMPHREY of Washington. I admit that is true; but what I am asking is that the Quartermaster's Department make a statement so that the country may know how many of those deadhead passengers there are. I am not speaking in favor of a $10,000 appropriation. I do not think it is necessary. I think the Quartermaster's Department can give that information in a week. I believe they can give it substantially in a day if they want to.

I believe the Quartermaster's Department knows now, if they desired to give it out. They do not want to give this information, because yesterday, in a letter covering three or four pages, they went on to show how there would still be a balance left if this amount was subtracted, but they entirely failed to give the amount or to make any statement from which you could ascertain. What I am asking, and all I am asking, is that the Quartermaster's Department lay the facts before the public, so that it can be known just how the business is conducted. The one fact alone that an item amounting to hundreds of thousands of dollars a year was credited up to the transport service and the Quartermaster-General did not know that until his attention was called to it, is, in itself, sufficient to show that business methods are not followed in that department.

Mr. SMITH of Kentucky. Does the gentleman mean to intimate that the Quartermaster's Department has expended money for carrying people to other countries that they ought not to have expended? Is that the insinuation?

Mr. HUMPHREY of Washington. No, I do not mean they have expended any money that they ought not to spend. My insinuation and my statement, which I tried to make clear, is this, that the Quartermaster's Department has charged up between three and five hundred thousand dollars to the Government annually and credited it to the transport service for carrying deadheads, and that is what the evidence will show if I can get it; if they will answer these questions the answers will prove that fact.

Mr. BURKETT. Let me ask the gentleman a question.

Mr. HUMPHREY of Washington. Just a moment. Let me reply a little further to the gentleman from Kentucky [Mr. SMITH]. The point I am trying to make is this. There are many passengers, for instance, the wives and children of officers, some school-teachers, and other civilians. They are carried on the transports. If they were carried on the commercial lines they would have to pay fares, but when they are carried on the transports they do not, but the transport service gives itself credit for carrying them as if they had paid the money, and thereby makes a showing of a saving to the Government. I have asked repeatedly to know how much this amounts to, and they have refused to answer me, and I think that I have a right to know.

Mr. LACEY. It would be a saving to the Government, as far as teachers are concerned, to have them transported by the transports?

Mr. HUMPHREY of Washington. Certainly, if the Government is going to transport them.

Mr. BURKETT. Is it the claim of the gentleman that anyone outside of the Government service has been carried?

Mr. HUMPHREY of Washington. Hundreds of them. The Quartermaster's statement shows it amounts to about twenty-

five hundred between Manila and San Francisco alone last year, and that the transport service was credited, for carrying them for nothing, with over $300,000.

Mr. GAINES of Tennessee. Will the Senator from Nebraska talk a little louder?

Mr. BURKETT. I remember some employees over there made an application to be carried and there was a written ruling of the Department saying that they could carry nobody on the transports until the soldiers had been provided for, and after they had been provided for in that event they would carry civilian employees, but in no event would they carry anyone else. Now, my question is, Has that general rule of the Department been violated? Is that what the gentleman is raising the question on?

Mr. HUMPHREY of Washington. I do not know; but I say for the gentleman's information the other day the *Sheridan* sailed from San Francisco and carried somewhere in the neighborhood of eighty-five civilian passengers, for which the transport service will take due credit, and for which they are not entitled to credit, and not one soldier——

Mr. BURKETT. If it was going on a regular trip, perhaps it would bring soldiers back.

Mr. MANN. What do you mean by civilian passengers?

Mr. HUMPHREY of Washington. By civilian passengers I mean American citizens.

Mr. MANN. A soldier is an ordinary American citizen.

Mr. HUMPHREY of Washington. I mean outside of soldiers.

Mr. BURKETT. Why is it necessary to have all this vast list of thirty questions? Why not ask the direct question?

Mr. HUMPHREY of Washington. There are not thirty questions; no more questions are asked than are necessary to elicit the information desired. I put the questions so that, if possible, they could not be evaded. I believe and I think, with good reason, that if it is possible to avoid it the information sought will not be given, or, if given, it will be put in such shape as to conceal the whole truth.

The amount of misinformation given out by the Quartermaster's Department about this service, and the idea of that Department as to what you want when you ask for information is astounding, if not enlightening. This fact may account to some extent for the definiteness of the resolution in asking for information. Let me give you a few illustrations of their idea of giving information and how much you can learn therefrom as to the real facts.

General Humphrey, when he was before the Committee on Military Affairs (see hearing before Committee on Military Affairs of the House for the fiscal year ending June 30, 1906), was asked this question by Mr. PRINCE:

Mr. PRINCE. How much have we invested in the transports proper—what is the value of them?

General HUMPHREY. I will tell you from the records.

Statement showing the names of the army transports owned by the Quartermaster's Department, their names when purchased, and the price paid for them respectively.

Name.	Former name.	Cost.
Buford	Mississippi	$350,000
Burnside	Rita	125,000
Crook	Roumanian	240,000
Dix	Samoa	417,550
Ingalls	Clearwater	150,000
Kilpatrick	Michigan	350,000
Liscum	Kong See	60,000
Logan	Manitoba	660,000
McClellan	Port Victor	175,000
Meade	Berlin	400,000
Seward	George W. Dickinson	145,000
Sheridan	Massachusetts	660,000
Sherman	Mobile	660,000
Sumner	Casius	160,594
Thomas	Minnewaska	660,000
Warren	Scandia	200,000
Wright	Bay State	100,000

NOTE.—The cost of our transports was reported to Congress and published in H. Doc. 369, first session Fifty-seventh Congress. Since this time no new ones have been purchased or considerable amounts expended for installation or improvements, the expenditures having been in the nature of repairs and running expenses.

The idea of the Quartermaster-General, as shown by his answer above, as to how much we had invested in the transportation service, was simply the purchase price paid for a portion of them. It included nothing for converting them so that they could be used for transports. To show just how much General Humphrey missed the whole truth when he stated that this was the amount we had invested in the transport service, I give a partial list of the amount so invested as I have been able to glean from various documents, as follows:

Cost of army transports.

Name of ship.	Purchase price.	Cost of converting to transport.	Total.
Grant	$660,000.00	$328,458.69	$988,458.69
Hancock	600,000.00	543,516.28	1,143,516.28
Hooker	41,000.00	176,423.00	217,423.00
McPherson	250,000.00	116,299.70	366,299.70
Sedgwick	200,000.00	265,329.48	465,329.48
Rosecrans	147,200.00	.....	147,200.00
Missouri	200,000.00	230,612.95	430,612.95
Relief	450,000.00	265,591.53	715,591.53
Buford	350,000.00	67,821.50	417,821.50
Burnside	125,000.00	130,460.30	255,460.30
Crook	240,000.00	105,728.75	345,728.75
Dix	417,250.00	.....	417,250.00
Ingalls	150,000.00	99,852.31	249,852.31
Kilpatrick	350,000.00	115,764.88	465,764.88
Logan	660,000.00	483,839.33	1,143,839.33
McClellan	175,000.00	98,046.09	273,046.09
Meade	400,000.00	374,009.52	774,009.52
Sheridan	660,000.00	339,169.38	999,169.38
Sherman	660,000.00	526,964.68	1,186,964.68
Sumner	160,594.00	250,000.00	410,594.00
Thomas	660,000.00	335,365.14	995,365.14
Warran	200,000.00	133,281.04	333,281.04
Total	7,756,044.00	4,986,534.55	12,742,578.55

The above list is not complete, for it will be noticed that it omits two vessels named by General Humphrey, namely, the *Liscum* and *Wright*, including these two vessels, instead of having, as General Humphrey stated, $5,613,144 invested in the transport service we have at least $12,902,578 that I have been able to discover by picking up different items of information at various places from reports made from time to time by the Quartermaster's Department. When the Qartermaster's Department says that we have $5,613,144 invested in the transport service, while we have almost $13,000,000, I submit that such statement is as nearly accurate as the majority of the statements from that source. If a lady were to buy the cloth for $10 and then give $15 to have it made into a dress the Quartermaster's Department would tell her that she only had $10 invested in the garment.

But then what may we not expect from a department that solemnly and stupidly asserts that the transport service is greatly enriching the nation by carrying passengers for nothing. The above is only one of many instances we might give showing the stupidity and ignorance or the evasion and concealment of the system of "bookkeeping (?)" long followed in the Quartermaster's Department.

The Quartermaster's Department knows nothing about the facts connected with the transport service, or if they do they will not impart it. The public knows nothing, and I have tried to shape this resolution so that some information might be obtained relative to the matter.

The case of the transport *Sheridan*, that sailed from San Francisco for Manila on the 25th of January last, has been several times mentioned, and for the benefit of the gentlemen, and for the benefit of the entire country, I shall embalm in the records for all time a part of the illustrious "deadhead" list of the *Sheridan*. I think that a study of this list, as given by the San Francisco Chronicle, will be an exceedingly interesting study for the constituents of those who have regarded this transport system as a thing sacred. The list in part only is as follows:

FOR MANILA.

Mrs. Maj. Frank Green and daughter.
Mrs. H. E. Wilson.
Mrs. H. E. Collenn.
Miss Grace G. Hoskins.
Mrs. Georgia Leonard.
Mrs. Martin Rose and two children.
Miss Bessie C. Beck.
Mrs. William P. Banta.
Mrs. H. J. Castles and niece.
Miss Bertha Purcell.
Miss Mary J. Humphreys.
Mrs. J. H. Baker.
Mrs. G. R. Phillips.
Mrs. William Wetherell and two children.
Mrs. N. G. Willis and two children.
Mrs. Emilie Holstein.
Mrs. J. R. Wood and three children.
Mrs. S. R. Beard and child.
Miss Alice Finley.
Mrs. R. B. Davis.
Mrs. Eugene Garnett.
Miss Mattie Huff.
Mrs. S. E. Green.
Mrs. R. Campbell.
Mrs. R. L. Barrow.
Mrs. Albert Miller, lady relative, and baby.
Mrs. Charles J. Simpson.
Mrs. George M. Swindell and infant.
Mrs. Clinton D. Wimple.
Mrs. Colonel Clem.
Mrs. Van Pelt and two children.
Mrs. Katherine L. Dodge and daughter.
Mrs. A. P. Berry.

Total, 37 women and 16 children for Manila.

FOR HONOLULU.

Mrs. Christine Morgan.
Mrs. E. E. Mead and infant.
Mrs. O. C. Hamlet and daughter.
Mrs. Henry Heighton.
Mrs. Mark Weil and three children.
Mrs. Dr. Charles Hough.
Mrs. P. D. Lawrence and son.
Mrs. Thomas Dunn.
Mrs. H. D. Couzens.

Total for Honolulu, nine, excluding all men. Total "deadhead" list, sixty-two. From the number of married women and babies, I hardly think the "school-teacher" plea can be successfully worked in this instance.

Not one of these passengers had any right to be carried at Government expense; not one of them would have had their passage paid by the Government had they gone on commercial lines; not one of them had their transportation paid by the Government to San Francisco. Yet notwithstanding this fact the transport service will unlawfully credit itself with $6,075 for carrying these "deadheads" and claim that thereby it has made a great saving and greatly benefited the country.

How many soldiers were carried on the Sheridan? Not one. The ever-ready sympathy for the soldier can not do service in this case. This "deadhead" credit will be used to cover up the extravagance of the trip that otherwise would be hard to conceal. If the facts can be obtained, it will show that the transport service is such an extravagant and useless luxury that no man will dare stand upon this floor and advocate its use for any purpose except possibly for carrying troops.

If we can cut out the civilian "deadhead" list, it will soon die, and while now so powerful, then no one will be so poor as to do it honor.

Mr. CAPRON. I rose to ask the gentleman from Washington to state, or rather to permit me to state in further explanation of the fact regarding the carrying of civilian passengers, that the policy of the War Department and the Quartermaster-General's Office is this: That since the active operations in the Philippines it has been a wise policy for the Government to permit the wives and families of officers to go out, thinking it would be a civilizing influence. It would certainly make their lives and homes happier while they were there.

Mr. MANN. Who would it civilize, the officers?

Mr. WILLIAMS of Mississippi. It would have a civilizing effect upon them, perhaps.

Mr. CAPRON. Anyway it would have a civilizing effect. Perhaps if the gentleman from Mississippi would go over there he would understand——

Mr. WILLIAMS of Mississippi. I know it would. If I had to go there and had my wife with me it would make me happier.

Mr. CAPRON. But while these wives of officers and school-teachers and employees of other departments altogether have made a considerable number of civilians, as I understand, the passengers on the *Sheridan* included that class and none others whatever. I think there was one other.

Mr. PAYNE. I would like to ask the gentleman whether the committee could not pare down this resolution so as not to call for such an extravagant expenditure of money to answer it. There are some forty or fifty specifications.

Mr. HUMPHREY of Washington. There are not forty or fifty specifications; there are eighteen.

Mr. PAYNE. I heard twenty-five announced, and there were still others. It seemed to me it was unusual and unnecessarily prolix and that they might boil it down.

Mr. CAPRON. I will state to the gentleman from New York [Mr. PAYNE] that it was the desire of the committee to satisfy the gentleman from Washington [Mr. HUMPHREY], and still keep it within the bounds of propriety of expenditure. I believe the committee will be satisfied if the resolution should pass without the appropriation named, and I think in due course the Quartermaster-General will furnish the information desired. And, even with the counselor there, the committee did boil it down. We took out things that we did not think were material and brought it up to the last twelve fiscal months.

Mr. PAYNE. There seems to be simply one point on which the gentleman from Washington [Mr. HUMPHREY] thinks there is a mare's nest.

Mr. HUMPHREY of Washington. I do not think anything about it.

Mr. PAYNE. It yields a good deal to the inquiries that have been made here. It seems to be a very simple question when you come to get at it, because there are a good many of these people that ought to be carried by the Government. It seems to me that the resolution ought not to call for so much unnecessary information. Take the largest number on that point that he has named in here, without any cross-examination, or before his cross-examination, and let it apply to that, and it need not cost $10,000 or $1,000.

Mr. SMITH of Kentucky. The $10,000 is out now.

Mr. PAYNE. But still the work is required to be done that they estimate will cost $10,000.

Mr. PRINCE. Mr. Speaker, in order to get the thing in some shape, I think I will take charge of it for a few moments, and will yield five minutes to the gentleman from Texas [Mr. SLAYDEN].

Mr. SLAYDEN. Mr. Speaker, there are two questions involved in this, and the first is the question of policy. Some time ago the Government adopted the policy of permitting the transportation on these vessels of the families of officers and soldiers. By authority of the Secretary of War that courtesy was extended to the employees of the insular government and to the employees of other branches of this Government sent to the Philippines on public business. Now, whether that policy should be abandoned is not for me to say. Gentlemen familiar with the service seem to think that it is a wise policy. The House passed on that question two or three years ago and thought it wise. The other question of importance involved is as to the cost of the transport service to the Government. I believe, after careful investigation, that we not only save money, but save a great deal of money by transporting our own troops in vessels of the Government. I believe it would be unwise, and not economy, to abandon the transport service, to force which is, of course, the purpose of this resolution and of every other attack upon it.

Now, as to the "civilian" passengers recently carried out of San Francisco on the *Sheridan*, I have this to say. First, there is confusion in the minds of some gentlemen as to who are "civilian" passengers. Any person not a commissioned officer or an enlisted man is called, in the language of the transport service, a "civilian" passenger. I looked over the list of passengers who went out on the *Sheridan*. My recollection is there were fifty-nine of them.

Mr. HUMPHREY of Washington. I think there were more than that. I will put them in the RECORD to-morrow, so the gentleman can see who they are.

Mr. SLAYDEN. Every person there, with the exception of one, was an employee of the insular government, or some other branch of the Federal Government, or a member of the family of some officer or soldier. There were school-teachers, there were employees of the Treasury Department, and there were employees of the insular government, and there were employees of the Post-Office Department. Now, if these employees of the Government traveling on business had not been given this transportation the Government would have been compelled to pay for it upon commercial lines.

Mr. CHARLES B. LANDIS. I would like to ask the gentleman from Texas [Mr. SLAYDEN] if he knows that the school-teachers in Porto Rico were not permitted to travel on these transports?

Mr. SLAYDEN. Certainly. Such people are permitted to travel on the transports, but only after getting authority, and only after soldiers shall have been accommodated and when there is room remaining.

Mr. WILLIAMS of Mississippi. Do they pay their fare on the boat?

Mr. SLAYDEN. They pay their board. They do not pay actual transportation.

Mr. CHARLES B. LANDIS. I desire to say to the gentleman from Texas [Mr. SLAYDEN] that I did secure from the Quartermaster-General transportation for one of the teachers in Porto Rico from Porto Rico to the United States. The commissioner of education in Porto Rico refused to permit a young woman to come to the United States without paying into the treasury, as he called it, a certain sum of money. Money was appropriated, as I understand it, to pay the expenses of these Porto Rican school-teachers who come to this country. In other words, American school-teachers who are sent to Porto Rico are not given the privilege accorded the native teachers in Porto Rico who are brought to this country for the purpose of being educated in the best methods of instructing the youth down there.

Mr. SLAYDEN. Mr. Speaker, again I want to call the attention of the House——

Mr. CHARLES B. LANDIS. I will say that if an investigation of this service is made I should like to have it include the action of the commissioner of education of Porto Rico.

Mr. HAY. There is no transport service between this country and Porto Rico.

Mr. CHARLES B. LANDIS. I will say we authorized the Secretary of War to place at the disposal of the commissioner of education of Porto Rico one or two transports——

Mr. SLAYDEN. One, I think.

Mr. CHARLES B. LANDIS. To be used in transporting Porto Rican teachers to the United States and back.

Mr. WILLIAMS of Mississippi. They were to be brought here for the purpose of civilizing them, and your teachers were already civilized.

Mr. CHARLES B. LANDIS. I secured transportation for one of the teachers to the United States and the commissioner of education arbitrarily prevented her from using that transportation.

Mr. MANN. There was not really any room where any more teachers could be brought here. The transport *Sumner* was crowded from one end of the vessel to the other.

Mr. CHARLES B. LANDIS. In reply to the gentleman from Illinois, I will state that the commissioner of education of Porto Rico brought his entire family and his entire clerical force with him.

The young lady who was affected by this ruling would not have returned to the United States during the vacation but for the death of her mother, which had just occurred. I had secured transportation for her, and her trip could have been made entirely independent of the Porto Rican teachers' expedition, but the commissioner of education of Porto Rico insisted that she pay into a fund that was being raised to defray the expenses of the expedition the sum of $25. I have since learned, on inquiry, that her actual subsistence account on board the transport was in the neighborhood of $5. After having used this free transportation she was dismissed from the service, but was afterwards reinstated, after being compelled to sign an abject apology that no man with a proper sense of official propriety would have placed before a woman for her signature.

If this service is to be investigated, I want the investigation to include the conduct of this commissioner of education in Porto Rico in connection with the transport service.

Mr. MANN. I do not know what he did.

Mr. SLAYDEN. Mr. Speaker——

The SPEAKER. The gentleman from Illinois [Mr. PRINCE] has charge of the resolution and has control of the time. To whom does the gentleman yield?

Mr. PRINCE. I yielded to the gentleman from Texas for five minutes, but I do not know where it is.

The SPEAKER. The gentleman's time has expired.

Mr. SLAYDEN. Long ago, I apprehend, but I did not get to use it.

Mr. PRINCE. If the gentleman wishes a couple of minutes more I will yield to him. I yield him three minutes.

Mr. SLAYDEN. Mr. Speaker, I wanted to call the attention of the House to the fact that these "civilian" passengers are not "civilian passengers" in the sense of being citizens of the United States who want passage to the Philippine Islands for the pleasures of travel or on private business, only the civil employees of the Government who are permitted to go, and only those when there is no need for the room in transporting the purely military passengers.

Mr. SMITH of Kentucky. With the wives and children of these employees.

Mr. HAY. The gentleman from Washington said that the Quartermaster-General did not want to give this information. The Quartermaster-General is willing to give any information that is necessary.

Mr. SLAYDEN. Mr. Speaker, there are many points to be considered in connection with the transport service. I would like to see the transport service discontinued under certain circumstances. In my judgment the occupation of the Philippine Islands is a colossal blunder. Politically, I regard it as almost, if not quite, a crime. Economcially, it is a great mistake. What the people have paid, are paying, and will continue to pay for the privilege of doing this un-American thing, can never be balanced by profits on commerce, actual or potential. I am of the opinion that the wisest thing we can do is to give over to the islanders the control of their own territory. But it will not be done until a majority of the American people can be induced to consider the matter. When they do consider it, when they fully understand what it is costing them morally, politically, and economically, they will give the order to retire to the American continent. But until then we will dominate the Philippine Islands by a military force. It is not probable that we will ever, while the occupation continues, be able to do with fewer soldiers there than we have now. The climate in the Philippines is not suited to white men. Unless our soldiers are to perish miserably there must be frequent changes of station. Experience has shown that they can not be safely left there more than two years. To transport them comfortably to and from the Philippines we are almost compelled to continue the use of Government ships.

This assault on the transport service is undoubtedly inspired by the commercial lines, and being such the House may, with propriety, question the sincerity of these charges. This whole controversy turns on the carriage of so-called "civilian passengers." The following memorandum shows what civilians are carried and by what authority:

[Memorandum: Subject, "Transportation of families of officers, enlisted men, and civilian employees on army transports."]

After the establishment of the transport service between the United States and the West Indies and the Philippine Islands the transportation of families of officers and of others stationed in the islands was considered separately as applications were received for such transportation.

On October 17, 1898, the Quartermaster-General submitted to the Secretary of War, by indorsement, communication of Lieut. Col. D. W. Burke, Eleventh Infantry, in relation to transportation of extra freight and the families of officers of that regiment on the transports to Porto Rico, in which the Quartermaster-General remarks:

"It would appear proper that such privileges be given, as it would be of very material aid and advantage that these families of army officers go on the army transports, and there would be no cost to the United States involved, as meals en route would be paid for at prices charged by the boat."

On November 8, 1898, the paper was returned by order of the Secretary of War indorsed as follows:

"Approved in accordance with the suggestion of the Quartermaster-General." (See 112574, October 8, 1898.)

On December 3, 1898, copy of this decision of the Secretary of War was transmitted to the officers in charge of ocean transportation at New York, Savannah, and San Francisco with the following instructions:

"You will therefore, upon application for transportation of officers' families upon army transports grant permission for their transportation, with their baggage and furniture, upon the first transport ship on which accommodations can be afforded them."

In March, 1899 (see 127958, Apr. 18, 1899), the Secretary of War decided that families of officers and noncommissioned staff officers would be permitted to accompany the troops on the transports, and also stated that the Department also desired to be liberal in the matter of transportation of worthy families of other enlisted men who were married at the time order for movement issued, and would offer no objection to the transportation of such families as regimental and company commanders may believe worthy.

On October 27, 1899, the Secretary of War issued orders (copy inclosed) limiting except as otherwise specially ordered transportation on army transports to the persons named therein:

First. Persons in the military service of the United States.

Second. Members of immediate families of persons in the military service of the United States.

Third. Persons in the civil service of the United States traveling under orders.

Fourth. Persons in the civil service in any of the islands yielded or ceded by Spain under the treaty of Paris, traveling under orders, and when the expense of traveling would be a charge against the insular treasury or against the United States.

In July, 1899, General Otis cabled to the War Department:

"Wives and families of officers should not come until later. Can not be cared for, and officers will be scattered through islands. Many families which came have departed on account of sickness."

In October, 1899, the commanding general Division of the Philippines cabled the War Department that the population of Manila was much congested; provision for officers' families can not be made. Those already arrived, together with families of enlisted men, have caused much perplexity. Nearly all officers and men absent from Manila on duty, and that families should await more peaceful conditions.

On April 10, 1900, the Secretary of War furnished the Quartermaster-General the following memorandum:

"Many requests are being received from the families of officers to go on Government transports to the Philippine Islands.

"The following is being sent them in reply:

"'General Otis has requested that the ladies of officers' families should not be permitted to come to Manila. The officers themselves are liable at any time to be ordered to distant parts of the islands, so that they are unable to furnish protection to their families, and Manila is not yet a place where it is proper that an American woman should live without protection. In such cases it would be necessary for the commanding general to furnish guards, and I can not impose upon him that necessity. If a lady has male relatives living in Manila in whose family she will live, and who will furnish her protection in the absence of the officer on whose account she asks for transportation, the Quartermaster-General is authorized to give her passage on a transport.'"

Subsequently this restriction was removed, and the families of those above referred to were encouraged to go to the Philippines.

JANUARY 30, 1905.

ORDERS.] WAR DEPARTMENT,
Washington, October 27, 1899.

The passenger service of the army transports will hereafter, except as otherwise specially ordered, be limited to the following persons:

1. Persons in the military service of the United States.

2. Members of the immediate families of persons in the military service of the United States traveling to or from stations with the special permission of the Secretary of War or the general commanding the department which includes the station.

3. Persons in the civil service of the United States traveling under orders, when expenses of traveling would be a charge against the United States.

4. Persons in the civil service of any of the islands yielded or ceded by Spain under the treaty of Paris, traveling under orders, and when the expenses of travel would be a charge against the insular treasury or against the United States.

The transportation furnished to classes 3 and 4 will be to the islands upon orders of the Quartermaster-General in response to application from the heads of Departments of the United States Government certifying to the existence of the requisite facts, and from the islands on orders of the generals commanding the departments certifying to the existence of such facts.

Transport quartermasters will on arrival at the home port immediately after each voyage return to the general superintendent in charge of transportation a schedule showing the name of each passenger carried on the voyage, or any part thereof, and file therewith as vouchers the authority for such transportation in each case. The schedules and vouchers will be transmitted to the Quartermaster-General, and an account will be kept in the office of the Quartermaster-General showing the money value of the transportation furnished for each department and each insular government.

ELIHU ROOT, *Secretary of War.*

The gentleman from Washington [Mr. HUMPHREY] has been much disturbed because the Quartermaster's Department has claimed a "credit" for "civilian passengers" carried at the commercial rates. Mr. Speaker, I agree with the gentleman

that the word "credit" ought not to have been used. As the word "credit" is ordinarily understood it implies a "debit." But in this particular case there was no "debit" of any particular person or account for the service rendered, and it would have been better and clearer if the military department had explained the carriage of these members of the soldiers' families and the civil employees of other departments in a different way. But the present Quartermaster-General is not responsible for the faulty phrase. It had been adopted and was in use by his Bureau when General Humphrey came to its head. In a letter to the gentleman from Washington he very frankly says that, in his judgment, it should never have been so employed. As it is the gravamen of the indictment, I will take the liberty of quoting from a letter by General Humphrey to the gentleman from Washington:

In connection with this matter of taking credit for passengers whose travel was not a charge against the Government, I am perfectly free to admit that any such credit is improper and should not be included in the earnings of transport service. While it has been the custom of this office to take credit for such passengers, I was not aware of it until the matter was discovered and brought to my attention by Mr. E. E. Davis, one of my personal clerks, and could not credit it then until he showed me conclusively that this had been done. I was never more surprised in my life than when I found that this was so, and had it been brought to my attention at the time my annual report was made these credits would not have been taken. I endeavored to give all the personal attention my many duties would possibly permit to the statement in my report concerning the army transport service, but this point escaped me, because it had become so much an established policy of the office that it was not distinctively brought to my notice. When you inquired as to this matter the real point of your question did not occur to me, for the reason that I did not for a moment consider any such credit had been taken. I at once gave directions that the credit taken for carrying this class of passengers should be determined, and in the inclosed memorandum are figures showing the balance in favor of the service, with this credit eliminated. In future statements of the operation of the service, its cost, and the value of the work will be based upon business which would have caused the payment of money from appropriations, no matter how the work was done.

The reason for permitting the transportation of these "civilian passengers" is given by the Quartermaster-General, with the approval of Secretary of War Taft, in these words:

It may be remarked in this connection that very few civilians not entitled to do so on public business were ever allowed to travel on our transports. In Cuba and Porto Rico there were very few; in China, none; in the Philippines none until the early failure of the insurrection and cessation of hostilities within a short time became apparent. Then the War Department began to encourage officers detailed on a tour of duty in the Philippines to take their families with them, also civilian clerks employed for that service and noncommissioned officers ordered there. This was done in the belief that it was not only better for the officers, civilian employees, and noncommissioned officers themselves, but that the presence of American families would have a general influence for good upon all, and the knowledge of American home life gained by the Filipinos through this medium be to our credit and their advantage. There is every reason to believe to-day that this policy was a wise one, providing a moralizing influence to the Army and a civilizing influence to the natives of the islands. In this connection attention is invited to the inclosed memorandum.

Right here, Mr. Speaker, I will submit a memorandum prepared by the Quartermaster-General for the gentleman from Washington [Mr. HUMPHREY]:

[Memorandum for Mr. HUMPHREY of Washington, as to comparative cost of operating the army transport service, transporting army supplies and passengers at lowest bid offered and at regular commercial rates of steamship companies.]

In my annual report for 1904, as stated on page 20, there was figured into the cost of operating the army transport service—

"The salaries of officers on shore duty connected with the army transport service, with their commutation of quarters, the wages of employees in offices and on shore employed in connection with the transport service, cost of embarkation and disembarkation of passengers, loading and unloading of freight, wharf hire," etc.

This included lighterage, the pay of officers serving as transport quartermaster on each transport, the cost of the transport offices at New York and San Francisco, what was estimated to be a proper portion of the cost of the Manila transport office, the cost of the quartermaster's office at Nagasaki, Japan, and what was considered to be a proper proportion of the quartermaster's office at Honolulu, Hawaii, all of which, while a part of the cost of doing the work of the army transport service, are at the same time charges that would have to be met if the work of the transports were done by commercial vessels. The object of this was to show every charge which it was imagined any opponent of the service could demand should be made against it.

Eliminating the cost of these items from the cost of operating the service and taking its cost from receipt of supplies and passengers at ship's side and delivery in the same manner (as would be required in shipments by commercial boats), and we have for the cost of operating the transports $2,056,426.56, which includes wages of officers, clerks, and crews, coal, harbor fees, wharfage, pilotage, stevedoring, canal dues, towage, repairs, dry dockage, cleaning ship, painting, removing ashes, subsistence of officers and crew, laundry, water, quartermaster's supplies, etc. This would then leave a balance in favor of the transport service, over and above the lowest bid received for the work done, of (a) $1,415,834.02. If from the cost of operating the transport service be deducted the cost of operating the *Burnside, Ingalls, Kanawha*, and transports carrying the Porto Rican teachers, which this office believes should be done for the reasons given on pages 20 and 21 of the Quartermaster-General's Annual Report for 1904, and his hearings before the House Committee on Military Affairs (58th Cong., 3d sess., pp. 146 and 147), the total balance in favor of the transport service, as compared with the cost at lowest offered rates, would be (b) $1,780,486.85. That is, the work done cost us that sum less than it would have cost if it had been done by commercial vessels at the lowest price offered us by bids.

At regular commercial rates the cost of handling the same business is estimated upon published tariffs of steamship companies at $3,839,707.24.

Deducting from this the cost of operating the transport service (less the additional charges allowed in my 1904 report) and the balance in favor of the transport service would be (c) $1,790,743.49. Deduct further from operation of the transport service the cost of the *Burnside, Ingalls, Kanawha*, and transports carrying the Porto Rican teachers and we have a balance in favor of the army transport service of (d) $2,154,396.32 over and above the commercial freight and passenger rates.

Going back to the figures compiled for the 1904 report and allowing the charges there made, not to be avoided in handling the work commercially, there would still be a balance in favor of the army transport service of (e) $765,683.16, which, by deducting the cost of the *Burnside, Ingalls, Kanawha*, and transports carrying the Porto Rican teachers, as explained, would make a balance of (f) $1,130,335.99.

If from the balance in favor of the transport service stated on page 20 of the Quartermaster-General's Annual Report for 1904, $398,236.50, be deducted the cost of carrying at the bid rate persons who would not have had their transportation paid or been reimbursed by the Government, the balance would be reduced to $213,031.50.

If this same cost of passengers be deducted from the balance in favor of the transport service, after eliminating those items referred to on page 1 hereof, which would have to be met when work is done by commercial vessels, (a) $1,415,834.02, the balance would be reduced to $1,230,629.

If this same cost for passengers be deducted from the balance in favor of the transports at commercial rates, (c) $1,790,743.49, estimating the cost of passage also at commercial rates, this balance would be reduced to $1,426,968.49.

A specification of the indictment against the transport service is that the commercial rate for the transportation of the bodies of deceased soldiers is overstated and too great credit taken by the Quartermaster-General. On that point the following memorandum is submitted:

No special bid for carrying remains entitled to be transported has ever been asked for or received by the Quartermaster's Department. The usual commercial rule is to charge for the transportation of remains one single first-class fare, as it is with railroads to charge one double first-class fare for remains unaccompanied by an attendant. Following that rule, the Quartermaster-General's Office estimated the value of carrying the 252 remains brought from Manila to San Francisco during the fiscal year ended June 30, 1904, at $125 each (the bid rate for one first-class passage from Manila to San Francisco), which would amount to $31,500. There is no reason to believe that it would have been less or ground upon which to base the claim that a lower rate would have been made, and the army transport service was clearly justified, in view of commercial custom in the matter, in using this rate as a basis for its estimate. Commercial lines are not anxious to secure this class of business.

As to the statement that commercial lines, or any commercial line, ever made the statement or offer that if they or any one of them were given the work of the army transport service they would do it at a figure to make it pay the Government, regardless of bids, it may be said that there is nothing of record or known in any way to this Office to substantiate this statement. It certainly never was made in such an authoritative manner as to bring it to the attention of the Quartermaster-General.

On the contrary, the bid rates for the current fiscal year for transportation of freight from Pacific coast points to Manila are considerably increased over those offered for the past fiscal year. This is doubtless one result of the law requiring shipments in American bottoms. The present freight rates approximate very closely the commercial rates. In view of this condition it is not difficult to predict what could be expected should the restraining influence of the operation by the Government of its own transports be removed.

It is the experience of the Quartermaster's Department that commercial lines operating between Pacific ports and the Philippine Islands have in the past frequently not been prepared to handle all the freight tendered them for transportation by the Department. Last month (January) a shipment of 1,000 tons from Seattle could not all be accepted by the contracting line from that point for the reason that its cargo space was required for commercial freight, which doubtless paid better. Part of that shipment had to be held until this month. Shipments have also been offered from San Francisco which the contracting line was not able to accept without a long wait and which consequently had to be taken on transports when it would have been to the interest of the Government to take advantage of commercial vessels for the work.

In its bid of June 11, 1904, upon which is based the present year's contract for shipments from San Francisco, the Pacific Mail Steamship Company specified that "It is also understood that the company will not shut out any commercial freight engaged previous to Government requirements." And from the regular form of the contract the following clause had to be stricken before being signed by the company: "V. The party of the first part shall be given preference in the transportation of passengers and freight, where, in the opinion of the officer or agent of the Quartermaster's Department, a military exigency exists therefor requiring such preference."

This clause is to cover a point which the Quartermaster's Department is bound by the very nature of its duties to keep always in view and which may at any time become of the most vital interest to the Army and through it to the nation. The very duties of the department make it obvious that in cases of military exigency it must be prepared to act in the matters of transportation and of furnishing supplies of any and all kinds with the utmost dispatch and must always be prepared to meet an emergency. To not be so prepared might entail discomfort, even suffering, or possibly invite disaster. Under present conditions the necessity for this preparedness is more marked perhaps than ever before in our history, and our sole sure reliance in this respect so far as ocean transportation is concerned is upon the vessels of the army transport service.

As to the carriage of certain civilians whose transportation would not have been paid or reimbursed by the Government under existing laws, this has been done as a matter of policy, under authority of the Secretary of War, without any attempt at concealment. On the contrary, the greatest publicity has been given to the matter. The first published regulation of the matter was an order of the Secretary of War,

dated October 27, 1899, in which are specified the classes of persons who may be carried as passengers on army transports. See in this connection Report No. 4401, House of Representatives, Fifty-eighth Congress, third session, in which this order is reprinted, together with other information concerning the matter. In the published Regulations for the Army Transport Service, approved by the Secretary of War, May 5, 1900, will be found reference to the messing of passengers, and paragraph 132 fixes the charge for children. Reference to carrying members of officers', enlisted men's, and civilian employees' families is also made in the Annual Report of the Quartermaster-General, 1903, pages 16 and 17. Provision is made for the travel of certain discharged enlisted men not entitled to traveling allowance by army regulation 159, of 1901. In the hearings of the Quartermaster-General before the House Committee on Military Affairs (58th Cong., 3d sess., pp. 148, 149, and 150) that officer very freely and frankly discussed this matter of the transportation of civilians, and stated that the number carried who were not entitled to it was inconsiderable.

At most the number of civilians whose transportation would not have been paid by the Government on commercial vessels was 1,323 first class and 661 second class during the fiscal year ended June 30, 1904. Practically all of these were members of the families of officers, noncommissioned officers, or soldiers, or of civilian employees of the Army, Navy, or other Executive Departments of the United States Government or of the insular government of the Philippine Islands. At the bid rate for transportation of passengers between the Pacific coast ports and Manila their passage was valued at $185,205.

It is known that the contract line from Seattle is not at all anxious to secure the passenger service now carried on by our transports, but would prefer not to have it, not desiring to equip its vessels with the necessary sleeping, hospital, and other accommodations necessary to the carrying of troops. The same is also true with the company holding the contract from San Francisco. The Seattle company, however, would be pleased to see the *Dix* withdrawn in order that it might secure the freight cargo that vessel is capable of carrying.

As to the practicability of operating the transports at less cost than a like service by commercial lines, there is every reason why this can be done. The officers in charge of the work belong to the regular establishment, perform these in connection with other duties, so that there are no presidents, vice-presidents, or boards of directors to be paid large salaries, no elegant offices or agencies to be maintained, or commissions to be paid. The officers now employed in connection with the army transport service (with the possible exception of the transport quartermasters, usually captains) would be required for similar duty if the service were performed by commercial vessels, as would also most of the clerks and laborers, because all freight for shipment must be delivered at ship's side and at the end of the voyage received in the same manner.

The attention of the House is invited to the fact that even with all the boats employed in the service it is not possible to avoid the use of the commercial lines. The following statement covers the fiscal year of 1903–4 and a part of the fiscal year of 1904–5:

Statement showing freight shipped in deep-sea commercial vessels from July 1, 1903, to December 31, 1904, with cost of shipments.

SHIPMENTS IN AMERICAN VESSELS.

Destination.	General merchandise, forage, etc.	Lumber.	Cost.
	Tons.	*Feet.*	
Manila	34,340	5,514,785	$197,177.67
Cuba	212½		1,664.95
Porto Rico	2,587		19,599.67
Alaska	6,727	529,844	130,724.20
Other ports	398½		3,136.72
Total American	44,265½	6,044,629	352,303.21

SHIPMENTS IN FOREIGN VESSELS.

Manila	11,587	9,796,412	$216,986.90
Cuba	37		264.96
Porto Rico			
Other ports	27½		889.70
Total foreign	11,651½	9,796,412	218,141.56

TOTAL SHIPMENTS IN AMERICAN AND FOREIGN VESSELS.

Manila	45,927	15,311,197	$414,164.57
Cuba	249½		1,929.91
Porto Rico	2,587		19,599.67
Alaska	6,727	529,844	130,724.20
Other ports	426		4,026.42
Grand total	55,916½	15,841,041	570,444.77

In order that the House may have the benefit of the evidence submitted to the Committee on Military Affairs and know upon what reason it based its action, I will quote from the statement made by General Humphrey. The whole of this testimony can be seen in the hearings before the committee:

The CHAIRMAN. How much does the transport service cost?

General HUMPHREY. The army transport service cost $3,074,024.08 for the last fiscal year. That includes everything. It includes the pay of officers—we count that in against the transport service.

The CHAIRMAN. That includes the work they did in distributing around the islands?

General HUMPHREY. No; this is the transport service between the United States and the islands.

The CHAIRMAN. When a transport gets over to the islands they unload at Manila altogether, do they?

General HUMPHREY. Generally; not always.

The CHAIRMAN. Then another transport takes it to other places?

General HUMPHREY. Yes; other transports.

The CHAIRMAN. Does that transport service cover the transportation there?

General HUMPHREY. That is the interisland transport service.

Mr. STEVENS. What fund pays for it?

General HUMPHREY. Transportation of the Army.

The CHAIRMAN. This same fund?

General HUMPHREY. Yes; but that is a separate account.

The CHAIRMAN. And not in the $3,000,000?

General HUMPHREY. No, sir.

The CHAIRMAN. How much would it have cost the Government on the same amount of business at regular commercial rates?

General HUMPHREY. Charging everything carried by the transports at the lowest bids that we received from commercial marine companies, we may say that we have saved $398,236.50. To that we might add $126,402.11 that we have expended in keeping the transports that are out of commission in shape for use. We ought also to add what the *Kanawha*, a harbor boat in New York, has cost—$7,462.81—then, for it was no part of the transport service; what it cost to bring the teachers from Porto Rico and send them back—$33,027.46; and, further, what the *Burnside* cost—$126,923.47. She has not been worth a thousand dollars to the Quartermaster's Department for transport service, but has been used for laying the Alaskan cable, fire control cables in the United States, and cable work in the Philippines.

Mr. STEVENS. Is that the cost of the vessel?

General HUMPHREY. That is what the vessel cost the Quartermaster's Department last year to operate.

The CHAIRMAN. For operation and laying the last cable; that should be charged to the Signal Corps?

General HUMPHREY. It is proper enough to charge it to transportation of the Army, but it ought not to be charged to the transport service.

Then the transport *Ingalls* has cost $70,836.98, and was used by the commanding general of the Philippines division for a dispatch boat, in no wise serving the purposes of the Quartermaster's Department. If we add all the amounts I have here given to the $398,236.50 it would show a saving of $762,889.33.

The CHAIRMAN. These other things you have added would be an expense to the Government if we did not have the transport service; in other words the *Burnside* would be kept——

General HUMPHREY. I should say so.

The CHAIRMAN. Because we are laying these cables to Alaska and other places?

General HUMPHREY. Yes.

Mr. PRINCE. In that figuring you take into consideration the expense of our transport and the insurance?

General HUMPHREY. The United States carries its own insurance. We keep a separate account for each and every transport, whether in commission or not, and immaterial of the work engaged in.

Mr. PRINCE. And you allow a reasonable rate of interest on them?

General HUMPHREY. No.

Mr. PRINCE. How much have we invested in the transports proper; what is the value of them?

General HUMPHREY. I will tell you from the records.

Statement showing the names of the army transports owned by the Quartermaster's Department, their names when purchased, and the price paid for them, respectively.

Name.	Former name.	Cost.
Buford	Mississippi	$350,000
Burnside	Rita	125,000
Crook	Roumanian	240,000
Dix	Samoa	417,550
Ingalls	Clearwater	150,000
Kilpatrick	Michigan	350,000
Liscum	Kong See	60,000
Logan	Manitoba	660,000
McClellan	Port Victor	175,000
Meade	Berlin	400,000
Seward	George W. Dickinson	145,000
Sheridan	Massachusetts	660,000
Sherman	Mobile	660,000
Sumner	Casius	160,594
Thomas	Minnewaska	660,000
Warren	Scandia	200,000
Wright	Bay State	100,000

NOTE.—The cost of our transports was reported to Congress and published in H. Doc. 369, first session, Fifty-seventh Congress. Since this time no new ones have been purchased or considerable amounts expended for installation or improvements, the expenditures having been in the nature of repairs and running expenses.

We could not get a fair price if we were to sell the transports, and once they were disposed of the low bids which we now have for passenger and freight service would very naturally be increased to the regular commercial rates. There is a vast difference between the lowest bids we have for passenger and freight service between points in the United States and the Philippine Islands and regular commercial rates.

Mr. PRINCE. I am not differing with you, but I want to get at this. As I understand from your calculation thus far, the net saving to the Government, if this work had been done by commercial lines, is the amount you have stated?

General HUMPHREY. Yes, sir.

Mr. PRINCE. In the neighborhood of a million dollars?

Mr. STEVENS. I would like to ask one or two questions. That means if the commercial lines had done exactly the same business that you did, and at the rates they quoted to you, the saving would have been what you indicated?

General HUMPHREY. No, sir. This is what we saved by doing it ourselves. Had it been done by commercial lines, under their lowest bids we would have paid them that amount more. In other words, $762,889.33 would have been paid them more than the service has cost.

Mr. STEVENS. If the work had been done, however, on commercial

lines would there not have been much less of it; that is to say, did not a good many private people travel on your transports?

General HUMPHREY. The quantity of freight transported at Government expense would have been about the same, while all of it would not have been for the Army, because we have freely carried cargo for the Navy and other Departments desiring to make shipments to the Philippines, as well as considerable quantities for the insular government and mails for the Post-Office Department, carrying this business both ways at all times when it would not interfere with handling army supplies.

The passengers carried have been officers of the Army and Navy and their families, civilian employees of these and other Departments, officials and employees of the insular government, and where accommodations were available, their families as desired. Without the facilities for traveling afforded by the transports, it would have been difficult, if not impossible, for officers, officials, and employees to take their families with them there, and almost every officer who could have found means for doing so would have avoided being sent on that service. It would, too, have been difficult, if not impossible, to secure as competent a class of men for any kind of duty or employment there if it had not been possible for them to return home on leave at the low charge we have found it possible to make them. Even the insular government's cumulative leave system would have been little inducement if it were known that it would take all an employee could save to get him to enjoy it and then back to his station.

I believe that, if called upon, every Department of the Government which has had business with the Philippine Islands would testify that the transport service has been of value to it in facilitating its business and keeping down the cost of its operations in that direction.

Mr. PRINCE. Do you not send over people that would not travel on the transports if the transport business were done by commercial lines?

General HUMPHREY. There are exceedingly few such persons. Some have been furnished transportation who were not entitled to it from the Army, but were entitled to it from some other Department of the Government, and if not carried on our transports would have had to be transported on commercial vessels at an increased cost to the Government through the Departments in which they served. In other words, we claim to have not only benefited our own service in cost and efficiency, but to have also rendered the same service, so far as possible, to other Departments whose employees had public business along the routes of our transports.

Mr. STEVENS. I am not questioning it, but I am asking you about how many?

General HUMPHREY. The number is inconsiderable. My statement as to cost is based on what commercial lines under bids would have carried our passengers and freights for; but undoubtedly if they had not been figuring against our transports they would have required us to pay about what private parties under the same conditions would have been obliged to pay.

We carried from Manila in the last fiscal year 684 officers, 12,805 enlisted men, and 1,342 civilians. The latter number includes clerks and employees of the Army, the Navy, the insular government in the Philippines, a few of the Post-Office Department—nearly all Departments of the Government.

Mr. PATTERSON. It includes school-teachers also, does it not?

General HUMPHREY. Yes. From the Philippines we carried, in all, 14,831 persons. We carried to the Philippines during the year 516 officers, 8,340 enlisted men, 1,180 civilians, making a total of 10,036.

Mr. SLAYDEN. Of that number of civilians a very small percentage were persons who were traveling for pleasure?

General HUMPHREY. They are not allowed to go on the transports at all. In fact, officers' families are not allowed to go who are not to remain there during the officers' tour of duty. Of course there must be some exceptions in case of sickness, etc., when we are obliged to bring some of them back at an earlier date. However, it is expected that an officer serving in the Philippines will have his family with him if he so desires. The ordinary officer, without considerable rank, can not run two messes, one here and one in the Philippines. It would also be a difficult matter to keep the regiments in that service recruited up if enlisted men had no opportunity to take advantage of a furlough without coming home on commercial vessels with its attendant expense.

Mr. STEVENS. That is, they are not allowed to travel back and forth as they see fit?

General HUMPHREY. No, sir; they are not. I will tell you how this number of civilians was made up. There were carried for the Navy Department 1,489 persons, of whom 70 were officers, 1,300 enlisted men of the Navy and Marine Corps, and 119 were civilians; for the insular government, 334 persons; for the Treasury Department, 7; for the Post-Office Department, 3; for the State Department, 1, and for the Department of Justice 2. I do not suppose there were as many as 3 or 4 private persons, on an average, taking the transport monthly. I refer, of course, to parties in no wise belonging to the Government service.

Mr. STEVENS. There is one fact I would like to have information on. The transports are fitted as well as you can fit them for the transportation of enlisted men, as I noticed.

General HUMPHREY. They are fitted up perfectly for the accommodation of the enlisted men. They are fitted entirely with that end in view.

Mr. STEVENS. So that when you land the men in the Philippines it does not take you long to get them ready for active service?

General HUMPHREY. They are ready at once, with the exception of a small percentage who might not be on account of sickness.

Mr. STEVENS. What would be the conditions supposing the men were sent by commercial lines?

General HUMPHREY. As a commercial line would carry our men I do not think the men would have it; at least we could expect much trouble aboard the ships.

Mr. STEVENS. In what way?

General HUMPHREY. There would be insubordination or worse.

Mr. PRINCE. They would have to go as steerage passengers?

General HUMPHREY. Yes; to all intents and purposes, and not first-class steerage either, more than likely.

Mr. ESCH. Would the private lines change their boats to accommodate the troops?

General HUMPHREY. I should judge not. Vessels would not be carrying any considerable number of troops with any great degree of regularity.

Regarding this matter, the general agent of a Pacific line said to me they would make no further effort to secure the army traffic until such time as our transports were no longer fit for work; in other words, until it became necessary for us to buy new vessels for this service. This was because he was aware that they could not fit up their vessells, except at great exepense, to carry enlisted men with the same comfort they now have on our own vessels.

Mr. ESCH. They could not afford to?

General HUMPHREY. Nor could they. We have a sick bay and complete arrangements to take care of the sick, the insane, and, in fact, have all modern convenience and appliances for rendering the enlisted men's voyage as comfortable as is possible by us.

The CHAIRMAN. Do you have arrangements for baths?

General HUMPHREY. Yes.

The CHAIRMAN. And water-closets?

General HUMPHREY. Yes; everything of that kind.

The CHAIRMAN. Do you have fresh meats, and everything of that kind, the same as the soldiers have on land?

General HUMPHREY. Yes, sir. We have complete refrigerating plants; also complete arrangements for cooking and serving meals, comfortable bunks, clean, well-ventilated sanitary quarters—in fact, everything we can command or devise for the convenience and welfare of the troops being transported.

Mr. ESCH. Would the commercial lines put in the forced-draft system that we have on our transports, so as to get fresh air to the lower decks?

General HUMPHREY. I do not know. I do not think they would make any great changes, except entirely at our expense.

Mr. SLAYDEN. Then, as a business proposition, the maintenance of the transport system commands your approval?

General HUMPHREY. Entirely.

Mr. SLAYDEN. As a means of saving money for the Government?

General HUMPHREY. Entirely.

Mr. Speaker, after a very careful investigation your Committee on Military Affairs is unanimously of the opinion that the army transport service ought to be continued because it saves money to the taxpayers and because it mitigates the hardships of life in the incongenial Tropics. In our own country, in comfortable barracks and under salubrious conditions, the soldier's lot is not a happy one. Sent to serve in the Tropics, it becomes specially hard. If we were to abolish the transport service and deny to the enlisted men and the officers the privilege of having their families with them it would be an intolerable cruelty. If we do abolish the service and compel them to pay full commercial rates for the transportation of their families to the Philippines it would be tantamount to an order that the majority of the men and officers while so serving should not have the privilege of the society of those families. No reasonable cost should be weighed against that privilege. Even if the transport service cost the Government more than it saved I would favor its continuance. But it works an absolute saving, and for that, if not for the higher reason, it should not be discontinued.

The attached letter and list will give the House full information about the list of civilian passengers carried out of San Francisco by the transport *Sheridan*, concerning which the gentleman from Washington was so disturbed:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER-GENERAL,
Washington, February 10, 1905.

Hon. JAMES L. SLAYDEN,
House of Representatives, Washington, D. C.

MY DEAR SIR: I have the honor to hand you herewith a correct list of all passengers who sailed on the army transport *Sheridan* from San Francisco January 25, by which you will see that there were no passengers who had not proper authority for traveling on said vessel, and who were not entitled to transportation by said vessel, provided there was room after supplying all officers and employees of the Army and Navy and other Executive Departments of the Government, including the insular government of the Philippines and the Territory of Hawaii.

Would say in this connection that the *Sheridan* was sent out as an extra transport owing to the large amount of freight on hand for Honolulu, Guam, and the Philippines, and which could not be carried at that time by the commercial lines, and because of her being an extra transport accommodations could be furnished members of families of officers and employees of the various Departments of the Government who otherwise could not have been provided for.

Also inclose you list of passengers who sailed on the transport *Sherman* sailing from San Francisco February 1.

Yours, very respectfully,
C. F. HUMPHREY,
Quartermaster-General, U. S. Army.

P. S.—When you examined the blotter list of passengers booked for the *Sheridan* you noticed the name of Henry W. Warner, representative of the Fidelity and Deposit Company, of Baltimore, whom you thought should not have been given transportation. I informed you that he represented the company who bonds the officials of the insular government in the Philippines, and was going to Manila in the prosecution of his business, and that his transportation had been ordered furnished by the Secretary of War because of the fact that his company bonded the Government officials at less than the usual rates.

He did not, however, sail on the *Sheridan*, but applied for transportation on the *Sherman*, which sailed February 1, and was refused. He has since applied for transportation on the transport sailing March 1, and has been informed that it can not be furnished.

C. F. H.

[Voyage No. 16.]

Passenger list of United States Army transport Sherman outward—From San Francisco to Manila, P. I., February 1, 1905.

No.	Name and status.	By whom requested.	Date authorized.
3	Williams, Col. Chas. A., wife and child.	Commanding officer Twenty-first Infantry.	Dec. 27, 1904
3	Gardener, Lieut. Col. Cornelius, wife and child.	----do----	Do.
4	Palmer, Maj. Geo., wife and 2 children.	----do----	Do.

Passenger list of United States Army transport Sherman outward, etc.—Continued.

No.	Name and status.	By whom requested.	Date authorized.
3	Leonheauser, Maj. Harry, wife and child.	do	Jan. 14,1905
2	Ossewarde, Capt. James, and wife	do	Dec. 27,1904
1	Moore, Capt. Tredwell W	do	Do.
2	Parmerter, Capt. Almon L., and wife	do	Do.
1	Hackney, Capt. Stephen M	do	Do.
1	Hall, Capt. Herman	do	Do.
1	Rose, Capt. Robert	do	Do.
1	Wahl, Capt. Lutz	do	Do.
1	Morrow, Capt. Wm. M	do	Do.
1	Kobbe, Capt. Ferdinand W	do	Do.
1	Howland, Capt. Chas. R	do	Do.
1	Armistead, Capt. Carroll F., from Honolulu.	do	Do.
2	Stacey, Capt. Cromwell, and wife	do	Do.
1	Weeks, Lieut. Marion M	do	Do.
1	Ball, Lieut. Geo. E	do	Do.
1	Doster, Lieut. Chas	do	Do.
2	McCaskey, Lieut. W. B., and wife	do	Do.
2	Freeman, Lieut. Geo. D., jr., and wife.	do	Do.
1	Tiffany, Lieut. Geo. S	do	Do.
1	Bennett, Lieut. Lucius C	do	Do.
1	Powers, Lieut. Philip	do	Do.
1	McLaughlin, Lieut. Clenard	do	Do.
3	Kitts, Lieut. Wm. P., wife and child	do	Do.
1	Mullen, Lieut. Geo. C	do	Do.
1	Lindsay, Lieut. Andrew	do	Do.
1	Hartz, Lieut. Rutherford S	do	Do.
1	Ware, Lieut. Joseph F	do	Do.
1	Jordan, Lieut	do	Do.
1	Ristine, Lieut. Benj. F	do	Do.
1	Preston, Lieut. Homer N	do	Do.
1	Wood, Lieut. David P	do	Do.
1	Lanza, Lieut. Manfred	do	Do.
2	Morse, Lieut. Harry, and wife	do	Do.
1	Woolnough, Lieut. James B	do	Do.
1	Gimperling, Lieut. Thomas N	do	Do.
1	Nicholson, Lieut. Wm. C. P	do	Do.
4	Harrison, Lieut. A. I., wife, child, and niece.	do	Do.
2	Scott, Col. W. S. and wife, Asst. Chief P. I. Constab. Ins.	Colonel Scott	Do.
2	Bethel, Maj. W. A. and wife, Judge Advocate, U. S. A.	Major Bethel	Jan. 20,1905
1	Ahern, Capt. Geo. A., U. S. A	Captain Ahern	Jan. 10,1905
2	Carr, Capt. J. D., and wife, Signal Corps.	Captain Carr	Dec. 15,1904
1	Chapman, Capt. Wm. H. H., Twentieth Infantry.	Self	Jan. 25,1905
4	Peterson, Lieut. Peter, wife and 2 children, Philippine Scouts.	do	Dec. 21,1904
1	Yost, Lieut. J. D., assistant surgeon, U. S. A. (Honolulu).	Surgeon-general	Jan. 26,1905
2	Kinney, Lieut. C. C., and wife, Ninth Infantry.	Self	Jan. 26,1905
1	Feamster, Lieut. Claud N., Fourth Infantry.	do	Jan. 28,1905
2	Lamkin, Edward F., and wife, contract surgeon.	do	Jan. 20,1905
2	Case, Lieut. Frank L., and wife, Twelfth Cavalry.	do	Jan. 18,1905
1	Briggs, Lieut. A. L., Signal Corps	Chief signal officer	Jan. 13,1905
1	Berry, Lieut. John A., Second Cavalry.	Self	Jan. 18,1905
1	Guittard, Alvin M., contract surgeon.	do	Do.
1	Wardrobe, Mrs., mother-in-law Major Palmer.	Major Palmer	Jan. 14,1905
1	Adams, Miss Elizabeth C., sister Auditor Barre.	Auditor Barre	Oct. 21,1904
2	Nettles, Mrs. Clarence S., and Miss Edith Nettles, family of Captain Nettles, U. S. A.	Captain Nettles	Nov. 17,1904
1	Halford, Miss Ruth, sister Lieut. D. Halford, Twenty-second Infantry.	Lieutenant Halford	Nov. 28,1904
2	Croxton, Mrs. R. C., and daughter, family Captain Croxton, Twenty-third Infantry.	Captain Croxton	Dec 6,1904
1	Eckels, Mrs. Geo. C., wife paymaster's clerk.	Paymaster-General	Dec. 21,1904
2	Rose, Mrs. Wm. F., and son, family clerk to depot commissary.	Wm. F. Rose	Dec. 27,1904
1	Struthers, Miss Marie, cousin of General Williams.	General Williams	Do.
6	Hess, Dr. John H., wife, 4 children, dental surgeon, U. S. A.	Surgeon-General's Office.	(Dec. 8,1904 (Jan. 3,1905
1	Couzens, Mrs. H. D., wife deputy collector of customs.	Collector of customs.	Jan. 31,1905
1	Weeks, Mrs. M. M, wife Lieutenant Weeks.	Lieutenant Weeks	Do.
1	Davis, Maj. Wm. B., Medical Department, Honolulu to Manila.	Surgeon-General's Office.	Jan. 23,1905
	SECOND CLASS.		
1	McCaskey, Dr. Donald G., brother of Lieutenant McCaskey.	Lieutenant McCaskey.	Dec. 22,1904
1	Nurse with family Colonel Gardener, Twenty-first Infantry.	Colonel Gardener	Dec. 27,1904
1	Custrom, Mrs. Samuel, wife sergeant, band, Twenty-first Infantry.	Commanding officer Twenty-first Infantry.	Do.
1	Stern, Mrs. Max. C., wife corporal, band, Twenty-first Infantry.	do	Do.
1	Stanchfield, Mrs. Clark T., wife corporal, band, Twenty-first Infantry.	do	Do.

Passenger list of United States Army transport Sherman outward, etc.—Continued.

No.	Name and status.	By whom requested.	Date authorized.
	SECOND CLASS—continued.		
1	Futherer, Mrs. Joseph, wife sergeant, Company B, Twenty-first Infantry.	Commanding officer Twenty-first Infantry.	Dec. 27,1904
1	Sparrow, Mrs. Wilbur, wife cook, band, Twenty-first Infantry.	do	Do.
2	Flynn, Mrs. E., and child, family sergeant, Company G, Twenty-first Infantry.	do	Do.
3	Glynn, Mrs. W., and 2 children, family private, Company L, Twenty-first Infantry.	do	Do.
1	Cocke, E. H., clerk Subsistence Department at Large (Honolulu to Manila).	Commissary-General.	Dec. 30,1904
1	Maid with Mrs. John H. Hess, family dental surgeon, U. S. A.	Surgeon-General's Office.	Jan. 3,1905
3	Connellan, John J., wife, and infant, Hospital Corps.	do	Jan.7-28,1905
1	Laforet, Jean L., sergeant, U. S. M. C.	Quartermaster, U. S. M. C.	Jan. 31,1905
1	McCartney, W. J., engine tender at Guam Naval Station.	Navy Department	Jan. 18,1905
1	Telmos, Mrs. Joseph, wife private, Company L, Signal Corps.	Private Telmos	Do.
2	Williams, Mrs. M. N., and sister, family sergeant, Signal Corps.	Private Williams	Jan. 17,1905
	SOLDIERS.		
1	Bingham, W. O., ex-soldier	Self	Nov. 28,1904
1	Schwartzkopf, S. C., ex-soldier	do	Dec. 8,1904
1	Servant (male) with Lieutenant Lanza, Twenty-first Infantry.	Lieutenant Lanza	Jan. 6,1905
1	Dodson, Guthrie O., ex-private, Company D, Thirteenth Cavalry.	Self	Dec. 30,1904
1	Filipino servant with Captain Morrow, Twenty-first Infantry.	Captain Morrow	Feb. 1,1905
772	Enlisted men, Twenty-first Infantry	Commanding officers, Twenty-first Infantry.	
74	Enlisted men, Company L, Signal Corps.	Chief Signal Officer.	
49	Enlisted men, Hospital Corps	War Department orders.	
8	Enlisted men, United States Navy	Navy Department	
6	Enlisted men, U. S. M. C	Quartermaster, U. S. M. C.	
203	Recruits	War Department orders.	
7	Casuals	do	
4	Discharged soldiers	Philippine Scouts	

[Voyage No. 18.]

Passenger list of United States Army transport Sheridan sailing on January 25, 1905, San Francisco to Manila.

No.	Name and status.	By whom requested.	Date authorized.
1	Lebo, Col. Thos. C., Fourteenth Cavalry.	Himself	Jan. 14,1905
1	Rochester, Maj. Wm. B., paymaster, U. S. A.	do	Jan. 13,1905
3	Greene, Maj. Frank, wife, and daughter, Signal Corps.	do	Jan. 3,1905
1	Kimball, Lieut. Gordon, Twelfth Cavalry.	do	Jan. 21,1905
1	Wilson, Mrs. H. E., wife paymaster's clerk, Army.	Paymaster Rochester.	Dec. 31,1904
1	Wilson, H. E., paymaster's clerk	do	Jan. 4,1905
2	Colleen, H. E. and wife, ex-soldier	Himself	Dec. 31,1904
1	Hoskins, Miss Grace, insular	Insular Bureau	Do.
1	Leonard, Mrs. Georgia	do	Do.
4	Rose, Martin, wife, and 2 children, sergeant, Hospital Corps, Army.	Himself	Do.
1	Beck, Miss Bessie C., sister lieutenant, Twelfth Cavalry, Army.	Lieutenant Beck, Twelfth Cavalry.	Jan. 4,1905
1	Banta, Mrs. Wm. P., wife assistant surgeon, U. S. A.	Assistant Surgeon Banta.	Jan. 7,1905
2	Castles, Mrs. H. J., and niece, wife and family constabulary officer, insular.	Insular Bureau	Jan. 7-11,'05
1	Tucker, Logan, son Colonel Tucker, U. S. A.	Colonel Tucker	Jan. 9,1905
1	Purcell, Miss Bertha, army nurse corps, U. S. A.	Surgeon-General	Dec. 10,1904
1	Humphreys, Miss Mary, army nurse corps, U. S. A.	do	Jan. 10,1905
1	Bunnell, W. C., Engineer Department, U. S. A.	Chief of Engineers	Jan. 11,1905
1	Baker, Mrs. J. H., wife lieutenant, Twenty-second Infantry, Army.	Lieutenant Baker	Do.
1	Phillips, Mrs. G. R., member of family lieutenant, Second Cavalry, Army.	Lieutenant Smith, Second Cavalry.	Jan. 12,1905
3	Wetherell, Mrs. Wm., and 2 children, insular.	Insular Bureau	Do.
3	Willis, Mrs. V. G., and 2 children, insular.	do	Do.
1	Holstein, Mrs. Emilie, insular	do	Do.
4	Woods, Mrs. J. R., and 3 children, insular.	do	Do.

Passenger list of United States Army transport Sheridan, etc.—Continued.

No.	Name and statns.	By whom requested.	Date authorized.
2	Beard, Mrs. S. R., and child, insular	do	Do.
1	Armistead, Capt. Carroll, Twenty-first Infantry.	Himself	Jan. 25, 1905
1	Finley, Miss Alice, insular	Insular Bureau	Jan. 12, 1905
2	Drais, Mrs. R. B., and daughter, insular.	do	Do.
1	Granett, Mrs. Eugene, insular	do	Do.
1	Huff, Miss Mattie, insular	do	Do.
1	Greene, Mrs. S. E., insular	do	Do.
2	Barron, Mrs. R. L., and child, insular.	do	Do.
1	Campbell, Mrs. R., insular	do	Do.
3	Miller, Mrs. Albert L., lady relative, and baby, family contract surgeon, U. S. A.	Contract Surgeon Miller.	Do.
2	Simpson, Chas. J., and wife, contract nurse, Army.	Surgeon-General	Do.
3	Swindell, Geo. M., wife, and infant, executive mansion, Manila, chief clerk.	Insular Bureau	Do.
1	Gash, Wm. C., insular	do	Jan. 14, 1905
1	Monet, Joaquin, Captain Manila police force, insular.	do	Do.
1	Whipple, Mrs. Clinton D., insular	do	Jan. 16, 1905
1	Laddey, John V., veterinarian, insular.	do	Jan. 17, 1905
1	Clem, Mrs. Colonel, wife Colonel Clem, U. S. A.	Colonel Clem	Do.
3	Van Pelt, Mrs. V., and 2 children, sister Captain Castles, constabulary.	Captain Castles, constabulary.	Jan. 18, 1905
2	Dodge, Mrs. Katherine L., and daughter, widow and daughter army officer.	Major Dodge	Jan. 21, 1905
1	Conger, Omar Dwight, constabulary officer, insular.	Insular Bureau	Do.
1	Gear, Hon. Geo. D., judge United States court, Honolulu, insular.	do	Do.
1	Sperry, Miss M. Augusta, family, insular employee.	Mr. Adams, C. C.—Captain Pettus.	Dec. 31, 1904
	SECOND CLASS.		
1	Bauer, Emil, ex-soldier	Self	Jan. 7, 1905
1	Fortich, Silvero, Filipino boy	Insular Bureau	Jan. 16, 1905
1	Samiento, C. B., Philippine student	do	Jan. 14, 1905
1	Malone, J. B., employee Engineer Department.	Chief of Engineers	Do.
	SOLDIERS' QUARTERS.		
1	Shafer, W. D., packer, Quartermaster's Department, Army.	Self	Jan. 9, 1905
1	Britt, Joseph H., ex-soldier	do	Jan. 11, 1905
1	McCulloch, Robt. A., ex-soldier, Honolulu.	do	Jan. 14, 1905
	HONOLULU—FIRST CLASS.		
1	Trotter, lieutenant, coast artillery	Self	Jan. 18, 1905
1	Morgan, Mrs. Christian, family employee, R. C. S.	Secretary of the Treasury.	Jan. 4, 1905
2	Mead, Mrs. E. E., and infant, wife lieutenant, R. C. S.	Secretary of the Treasury.	Jan. 4-14, '05
2	Hamlet, Mrs. O. C., and daughter, family, R. C. S.	do	Jan. 7, 1905
1	Highton, Mrs. Henry, wife judge, Honolulu.	Judge Highton	Jan. 10, 1905
1	Shaw, Edward M., chief clerk, Light-House Service.	Commander Day, U. S. N., inspector.	Jan. 11, 1905
3	Durfee, C. H., wife and infant, customs service.	Collector of customs.	Jan. 10, 1905
4	Weil, Mrs. Mark, and 3 children, family, custom-house employee.	do	Do.
2	Slough, Dr. Chas., and wife, pharmacist, P. H. and M. H. S.	Surgeon-General Wyman.	Jan. 18, 1905
1	O'Connor, John, ex-employee, transport service.	Major Devol	Do.
3	Lawrence, D. P., wife and son, health department.	Himself	Jan. 19, 1905
1	Dunn, Mrs. Thos., wife chief yeoman, Navy.	Secretary of the Navy.	Do.
	HONOLULU TO MANILA.		
1	Davis, Maj. Wm. B., Medical Department, U. S. A.	Captain Humphrey, Honolulu.	Jan. 21, 1905
	MANILA AND RETURN.		
1	Berry, Mrs. A. P., wife Captain Berry, quartermaster, Sheridan.	Captain Berry	Jan. 19, 1905

Mr. PRINCE. I yield two minutes to the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I do not consider this resolution any reflection upon the general transport service. I think it is entirely right and proper that the country should know just what the transport service is doing. It is claimed that the transport service, in order to show a saving from what the same service would cost if carried on commercial lines, has made a statement in which there is credited to the service the cost of carrying certain civilians who would not have been carried had the Government been paying for this transportation on commercial lines. My opinion is that no one has been carried on the transports, or but few if any, that should not have been carried.

I think it is unquestionably true that the transports have carried some persons not directly in the employ of the Government, not in the immediate families of the Government employees and military. This resolution, if it passes, will give us full information as to what the transport service has been doing, and will give us information as to how the transport service really does compare with the same service if conducted under the lowest bids which have been made by carriers in private lines.

Mr. SMITH of Kentucky. I would like to ask the gentleman a question. When we get this information, how will it assist us in improving the public service in any way?

Mr. MONDELL. Well, I do not know that it will assist us in improving the public service, because, in my opinion, the transport service is well conducted to-day; but a great many citizens of this Republic want to know just how the transport service is conducted, and it is proper and right that they should know. There is no disposition to worry the Department with the information asked for by this resolution.

Mr. PRINCE. Mr. Speaker, I move the previous question upon this resolution.

The SPEAKER. The gentleman from Illinois demands the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is on agreeing to the resolution as amended.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. PRINCE. Division, Mr. Speaker.

The House divided; and there were—ayes 62, noes 14.

Accordingly the resolution was agreed to.

On motion of Mr. PRINCE, a motion to reconsider the last vote was laid on the table.

Mr. PRINCE. Mr. Speaker, I ask unanimous consent that the gentleman from Washington [Mr. HUMPHREY] have leave to extend his remarks in the RECORD, if he so desires.

The SPEAKER. If there is no objection, it will be so ordered.

There was no objection.

DAM ACROSS RAINY RIVER.

Mr. BEDE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 17331) relating to a dam across Rainy River.

The SPEAKER. The gentleman from Minnesota asks unanimous consent for the present consideration of a bill, which will be reported by the Clerk.

The Clerk read as follows:

Be it enacted, etc., That the Rainy River Improvement Company, a corporation organized under the laws of the State of Minnesota for the improvement of the navigation of Rainy River and Rainy Lake, and its successors and assigns, upon filing with the Secretary of War proof satisfactory to him of its succession to the rights and privileges granted to the Koochiching Company by the following acts of Congress, namely: Chapter 238 of volume 30 of the Statutes at Large, "An act permitting the building of a dam across Rainy Lake River," approved May 4, 1898; chapter 346 of volume 31 of the Statutes at Large, "An act to amend an act entitled 'An act permitting the building of a dam across Rainy Lake River,'" approved May 4, 1900; chapter 1305, volume 32, of the Statutes at Large, "An act relating to the construction of a dam across Rainy River," approved June 28, 1902, shall have the right, subject to the restrictions, conditions, and terms of said several acts, to construct and maintain the dam provided for therein for all the purposes of its incorporation, at such height as the Secretary of War may approve: *Provided*, That such dam shall be completed on or before July 1, 1909.

SEC. 2. That upon filing the proof of its succession to the rights of the Koochiching Company, and the approval thereof by the Secretary of War, that officer shall issue to the Rainy River Improvement Company a certificate of such approval.

SEC. 3. That this act shall take effect and be in force from and after its passage.

The following amendments recommended by the Committee on Interstate and Foreign Commerce were read:

On page 2 strike out all of line 8 after the word "therein" and all of line 9, and after the word "therein," in line 8, strike out the comma and insert in lieu thereof a semicolon.

On page 2, in line 11, strike out the word "nine" and insert in lieu thereof the word "eight."

Strike out all of section 3 after the word "that" and insert in lieu thereof the following: "The right to alter, amend, or repeal this act is hereby expressly reserved."

The SPEAKER. Is there objection?

Mr. WILLIAMS of Mississippi. A parliamentary inquiry, Mr. Speaker. Can the gentleman from Minnesota and this House effect a treaty with Canada without the consent of the Senate of the United States?

Mr. LITTLEFIELD. And by our unanimous consent?

The SPEAKER. The Chair thinks it ought to be reciprocal.

Mr. BEDE. The consent of the Canadian government is also necessary.

The SPEAKER. Is there objection?

There was no objection.

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

On motion of Mr. BEDE, a motion to reconsider the last vote was laid on the table.

STATUE OF THE LATE JOHN JAMES INGALLS.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of Senate concurrent resolution 95.

The SPEAKER. The gentleman from Indiana asks unanimous consent for the present consideration of the concurrent resolution which will be reported by the Clerk.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in one volume the proceedings in Congress upon the acceptance of the statue of the late John James Ingalls 16,500 copies, of which 5,000 shall be for the use of the Senate, 10,000 for the use of the House of Representatives, and the remaining 1,500 shall be for use and distribution by the governor of Kansas; and the Secretary of the Treasury is hereby directed to have printed an engraving of said statue to accompany said proceedings, said engraving to be paid for out of the appropriation for the Bureau of Engraving and Printing.

The SPEAKER. Is there objection?

There was no objection.

The concurrent resolution was agreed to.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 216, providing for the publication of the annual reports and bulletins of the Hygienic Laboratory and of the Yellow Fever Institute of the Public Health and Marine-Hospital Serivce.

The SPEAKER. The gentleman from Indiana asks unanimous consent for the present consideration of a joint resolution which will be reported by the Clerk.

The joint resolution was read, as follows:

Resolved, etc., That there shall be printed each year the bulletins of the Hygienic Laboratory, not exceeding ten in number in any one year, and of the Yellow Fever Institute of the Public Health and Marine-Hospital Service of the United States, not exceeding five in number in any one year, in such editions, not exceeding 5,000 copies in any one year, as the interests of the Government and the public may require, subject to the discretion of the Secretary of the Treasury.

Second. That there shall be printed each year 4,000 copies of the annual report of the Surgeon-General of the Public Health and Marine-Hospital Service, bound in cloth, to be distributed by the Surgeon-General.

The SPEAKER. Is there objection?

Mr. PAYNE. Mr. Speaker, reserving the right to object, I should like to ask the gentleman from Indiana, does this inaugurate something new?

Mr. CHARLES B. LANDIS. No; it increases the number of annual reports of the Surgeon-General of the Public Health and Marine-Hospital Service by fifteen hundred. Heretofore he has had twenty-five hundred copies of his report published, but he states that there are now numerous requests from physicians and surgeons of the United States for this publication, and he desires to meet that demand, which he can not now do. As far as the bulletins are concerned, I will say that this provides the same number of bulletins that were printed last year, except that the number to be published of each has been increased, the Surgeon-General of that service being unable to meet the demand for these bulletins in former years.

The SPEAKER. Is there objection?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

On motion of Mr. CHARLES B. LANDIS, a motion to reconsider the last vote was laid on the table.

INFORMATION CONCERNING THE ANGORA GOAT.

Mr. CHARLES B. LANDIS. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 193, providing for the publication of 3,000 copies of Bulletin No. 27 of the Bureau of Animal Industry, entitled "Information concerning the Angora goat."

The Clerk read as follows:

Resolved, etc., That there be printed 3,000 copies of Bulletin No. 27 of the Bureau of Animal Industry, entitled "Information concerning the Angora goat," the same to be first revised under the supervision of the Secretary of Agriculture, 1,500 copies for the use of the House of Representatives, 1,000 for the use of the Senate, and 500 for the use of the Department of Agriculture.

The following committee amendments were read:

In line 7, after the words "one thousand," strike out the words "five hundred."

In line 8 strike out the words "one thousand" and insert in lieu thereof the words "five hundred."

In line 9 strike out the words "five hundred" and insert in lieu thereof the words "one thousand five hundred."

The SPEAKER. Is there objection?

Mr. FITZGERALD. Reserving the right to object, I want to inquire if this is the same pamphlet that the Department of Agriculture has published as a farmers' bulletin?

Mr. BURLESON. No; it is not the same.

Mr. FITZGERALD. What is the difference?

Mr. BURLESON. There is a great deal of difference. This is a publication issued by one of the editors in the Bureau of Animal Industry. It is a very valuable publication, and I trust that no objection will be offered to this resolution.

Mr. FITZGERALD. Why could it not be published as a farmers' bulletin?

Mr. BURLESON. It could be, and I have no objection if the gentleman wishes to offer an amendment to that effect.

Mr. FITZGERALD. If it was published as a farmers' bulletin each Member of the House would be entitled to a thousand copies.

Mr. BURLESON. This is a special pamphlet on the Angora goat issued years ago. Copies are exhausted and there are numerous requests for it.

Mr. MANN. I will ask the gentleman if this great demand comes from the secret societies throughout the country? [Laughter.]

Mr. BURLESON. No; the demand does not come from the secret societies, but the goat industry is a growing industry, especially in the State of Texas.

Mr. CHARLES B. LANDIS. I will say, Mr. Speaker, that several Members of the House have urged the passage of this resolution, stating that they have received many and earnest requests from various localities for this publication.

Mr. FITZGERALD. Will these be bound in anything else than paper?

Mr. CHARLES B. LANDIS. No.

Mr. FITZGERALD. How many copies will each Member have?

Mr. CHARLES B. LANDIS. There will be 3,000 copies—1,000 for the House, 500 copies for the Senate, and 1,500 for the Department of Agriculture. The Public Printer estimates the cost of this publication at $615.

Mr. BAKER. Why this discrimination against the Harlem goat? [Laughter.]

Mr. CHARLES B. LANDIS. I am of the opinion that Harlem has enough goats and that it is not particularly desirable at this time that the species be increased.

Mr. BAKER. Doesn't the gentleman think we ought to have a bulletin on them?

Mr. CHARLES B. LANDIS. Oh, no.

The SPEAKER. Is there objection?

There was no objection.

The amendments were considered and agreed to.

The resolution was ordered to be engrossed and read a third time; was read the third time, and passed.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. MANN was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Marian A. Mulligan, Fifty-eighth Congress, no adverse report having been made thereon.

LEAVE OF ABSENCE.

Mr. SULLIVAN of New York, by unanimous consent, was granted leave of absence indefinitely, on account of sickness.

MEMORIAL EXERCISES.

Mr. MANN. Mr. Speaker, I ask unanimous consent that Sunday, February 26, beginning at 12 o'clock, be devoted to memorial exercises on the life and character of the late Representative WILLIAM F. MAHONEY, from the State of Illinois.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE LATE REPRESENTATIVE GEORGE W. CROFT.

Mr. FINLEY. Mr. Speaker, I ask unanimous consent that at the close of the exercises in memory of the late Representative MAHONEY memorial exercises be held on the life and character of the late T. G. CROFT, a Representative from the State of South Carolina.

The SPEAKER. Is there objection?

There was no objection.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 2 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting, at the request of the Secretary of State, an estimate of appropriation for the International Monetary Commission—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of the Navy submitting an estimate of deficiency appropriation for the Navy—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. LACEY, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 18516) providing for the allotment and distribution of Indian tribal funds, reported the same with amendment, accompanied by a report (No. 4547); which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Military Affairs, to which was referred the House joint resolution (H. J. Res. 6) relating to the badge of the Army and Navy Union, reported the same with amendment, accompanied by a report (No. 4548); which said joint resolution and report were referred to the House Calendar.

Mr. LITTLEFIELD, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 17932) to amend section 4136, Revised Statutes of the United States, reported the same with amendment, accompanied by a report (No. 4549); which said bill and report were referred to the House Calendar.

Mr. HERMANN, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 18586) to aid in quieting title to certain lands within the Klamath Indian Reservation, in the State of Oregon, reported the same without amendment, accompanied by a report (No. 4550); which said bill and report were referred to the House Calendar.

Mr. SHIRAS, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 13291) for the protection of game animals, birds, and fishes in the Olympic Forest Reserve of the United States, in the State of Washington, reported the same with amendment, accompanied by a report (No. 4551); which said bill and report were referred to the House Calendar.

Mr. LILLEY, from the Committee on the Territories, to which was referred the bill of the House (H. R. 16793) to amend section 1854 of the Revised Statutes of the United States, restricting appointments to office of members of the legislative assemblies in Territories, reported the same with amendment, accompanied by a report (No. 4552); which said bill and report were referred to the House Calendar.

Mr. BABCOCK, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 18589) to amend an act entitled "An act to establish a code of law for the District of Columbia," reported the same with amendment, accompanied by a report (No. 4558); which said bill and report were referred to the House Calendar.

Mr. GROSVENOR, from the Committee on Ways and Means, to which was referred the bill of the House (H. R. 18285) fixing the status of merchandise coming into the United States from the Canal Zone, Isthmus of Panama, reported the same with amendment, accompanied by a report (No. 4559); which said bill and report were referred to the House Calendar.

Mr. ALLEN, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 18000) authorizing the extension of W street NW., reported the same with amendment, accompanied by a report (No. 4560); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. COWHERD, from the Committee on the District of Columbia, to which was referred the bill of the House H. R. 1989, reported in lieu thereof a bill (H. R. 18864) for the establishment of public convenience stations in the District of Columbia, accompanied by a report (No. 4561); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the House H. R. 18044, reported in lieu thereof a bill (H. R. 18881) for the extension of Rittenhouse street, and for other purposes, accompanied by a report (No. 4562); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18778) granting a pension to Francis Gentzsch, reported the same with amendment, accompanied by a report (No. 4510); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 18615) granting an increase of pension to Jeremiah Carbaugh, reported the same with amendment, accompanied by a report (No. 4511); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18102) granting a pension to Frank Langdon, reported the same with amendment, accompanied by a report (No. 4512); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17146) granting an increase of pension to William Carter, reported the same with amendment, accompanied by a report (No. 4513); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 6381) granting a pension to Chester Heiner, reported the same with amendment, accompanied by a report (No. 4514); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8223) granting a pension to John J. MacEntee, reported the same with amendment, accompanied by a report (No. 4515); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 8478) granting a pension to John H. Pepper, reported the same with amendment, accompanied by a report (No. 4516); which said bill and report were referred to the Private Calendar.

Mr. BROWN of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15151) granting an increase of pension to Rebecca C. Goodson, reported the same with amendment, accompanied by a report (No. 4517); which said bill and report were referred to the Private Calendar.

Mr. LONGWORTH, from the Committee on Pensions, to which was referred the bill of the House (H. R. 15715) granting a pension to Horace G. Robison, alias Frank Cammel, reported the same with amendment, accompanied by a report (No. 4518); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15961) granting an increase of pension to Henry Frederick, reported the same with amendment, accompanied by a report (No. 4519); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16304) granting a pension to Mary Damm, reported the same with amendment, accompanied by a report (No. 4520); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 16648) granting a pension to John F. Tathem, reported the same with amendment, accompanied by a report (No. 4521); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17163) granting an increase of pension to Elizabeth Jackson, reported the same with amendment, accompanied by a report (No. 4522); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17238) granting an in-

crease of pension to Andrew J. Herod, reported the same with amendment, accompanied by a report (No. 4523); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17421) granting a pension to Jesse M. Noblitt, reported the same with amendment, accompanied by a report (No. 4524); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17425) granting a pension to Mrs. Christian Kloeppel, reported the same with amendment, accompanied by a report (No. 4525); which said bill and report were referred to the Private Calendar.

Mr. BROWN of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17616) granting a pension to Delia Dyer, reported the same with amendment, accompanied by a report (No. 4526); which said bill and report were referred to the Private Calendar.

Mr. AIKEN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 17632) granting a pension to James H. Thomas, reported the same with amendment, accompanied by a report (No. 4527); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18033) granting a pension to John L. Croom, reported the same with amendment, accompanied by a report (No. 4528); which said bill and report were referred to the Private Calendar.

Mr. WILEY of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18092) for the relief of W. A. Moore, reported the same with amendment, accompanied by a report (No. 4529); which said bill and report were referred to the Private Calendar.

Mr. BROWN of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18103) granting an increase of pension to Willis Booker, reported the same without amendment, accompanied by a report (No. 4530); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18339) granting an increase of pension to Lot Leguin Godfrey, reported the same with amendment, accompanied by a report (No. 4531); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18340) granting an increase of pension to Augustus Gralen, reported the same with amendment, accompanied by a report (No. 4532); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18433) granting an increase of pension to Bethel Coopwood, reported the same with amendment, accompanied by a report (No. 4533); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18475) granting an increase of pension to Linda S. Anderson, reported the same with amendment, accompanied by a report (No. 4534); which said bill and report were referred to the Private Calendar.

Mr. PATTERSON of Pennsylvania, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18481) granting a pension to Paul G. Morgan, reported the same with amendment, accompanied by a report (No. 4535); which said bill and report were referred to the Private Calendar.

Mr. DRAPER, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18621) granting a pension to Louise M. Atkins, reported the same with amendment, accompanied by a report (No. 4536); which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON of Alabama, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18760) granting an increase of pension to William M. Short, reported the same without amendment, accompanied by a report (No. 4537); which said bill and report were referred to the Private Calendar.

Mr. McLAIN, from the Committee on Pensions, to which was referred the bill of the House (H. R. 18777) granting an increase of pension to Eusebia N. Perkins, reported the same without amendment, accompanied by a report (No. 4538); which said bill and report were referred to the Private Calendar.

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 3044) granting an increase of pension to Lucy McE. Andrews, reported the same with amendment, accompanied by a report (No. 4539); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3934) granting a pension to Susan E. Bellows, reported the same without amendment, accompanied by a report (No. 4540); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5718) granting a pension to Alma L'Hommedieu Ruggles, reported the same with amendment, accompanied by a report (No. 4541); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 18687) granting an increase of pension to Sarah Hall Johnston, reported the same with amendment, accompanied by a report (No. 4542); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 7518) granting an increase of pension to Eliza Flynn, reported the same with amendment, accompanied by a report (No. 4543); which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 778) to remove the charge of desertion from the military record of Nicholas Swingle, reported the same without amendment, accompanied by a report (No. 4544); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6439) granting a pension to Malinda McBride, reported the same without amendment, accompanied by a report (No. 4545); which said bill and report were referred to the Private Calendar.

Mr. BEALL of Texas, from the Committee on Claims, to which was referred the bill of the House (H. R. 17548) for the relief of William H. Stiner & Sons, reported the same without amendment, accompanied by a report (No. 4553); which said bill and report were referred to the Private Calendar.

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 18317) correcting the military record of George H. Pidge, of North Loup, Nebr., reported the same without amendment, accompanied by a report (No. 4554); which said bill and report were referred to the Private Calendar.

Mr. ESCH, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 16266) to remove the charge of desertion from the record of Henry Beeger, reported the same with amendment, accompanied by a report (No. 4555); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 10102) to grant an honorable discharge to Otto M. Tennison, reported the same adversely, accompanied by a report (No. 4546); which said bill and report were ordered laid on the table.

Mr. DALZELL, from the Committee on Ways and Means, to which was referred the House resolution (H. Res. 481) requesting the Secretary of the Treasury to report to the House of Representatives, showing what effect a removal or reduction of the duty on Canadian wheat will have, reported the same adversely, accompanied by a report (No. 4556); which said bill and report were ordered laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. GREGG: A bill (H. R. 18853) to provide for the protection against storms and floods of the forts, arsenals, and other Government property situated on Fort Travis Reservation, in the county of Galveston, Tex.—to the Committee on Appropriations.

Also, a bill (H. R. 18854) to provide for the protection against storms and floods of the forts and other Government property situated on Fort Crockett Reservation, on Galveston Island, Texas—to the Committee on Appropriations.

By Mr. SHULL: A bill (H. R. 18855) to authorize the establishment of a permanent national exposition—to the Select Committee on Industrial Arts and Expositions.

By Mr. HERMANN: A bill (H. R. 18856) to provide for a final settlement with the Kathlamet band of Chinook Indians, of Oregon, for lands ceded to the United States in a certain agreement between said parties dated August 9, 1851—to the Committee on Indian Affairs.

Also, a bill (H. R. 18857) to provide for a final settlement

with the Lower band of Chinook Indians, of Oregon, for lands ceded by said Indians to the United States in an agreement between said parties dated August 9, 1851—to the Committee on Indian Affairs.

By Mr. SCUDDER: A bill (H. R. 18858) creating a commission to investigate the question of the redemption of swamps and marshes in New York and New Jersey with a view to improving sanitary conditions and exterminating mosquitoes—to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of Texas: A bill (H. R. 18859) to prohibit the use of Indian trust funds for the purpose of educating Indian children in sectarian schools—to the Committee on Indian Affairs.

By Mr. KYLE: A bill (H. R. 18860) to grant certain lands to the State of Ohio—to the Committee on the Public Lands.

By Mr. GIBSON: A bill (H. R. 18861) to codify the laws relating to pensions—to the Committee on the Revision of the Laws.

By Mr. DIXON: A bill (H. R. 18862) to provide for a land district in Yellowstone and Carbon counties, in the State of Montana, to be known as the Billings land district—to the Committee on the Public Lands.

By Mr. MORRELL: A bill (H. R. 18863) to amend an act entitled "An act to provide for the organization of the militia of the District of Columbia, and for other purposes," approved March 1, 1889—to the Committee on the District of Columbia.

By Mr. COWHERD, from the Committee on the District of Columbia: A bill (H. R. 18864) for the establishment of public convenience stations in the District of Columbia—to the Union Calendar.

Also, from the Committee on the District of Columbia, a bill (H. R. 18881) for the extension of Rittenhouse street, and for other purposes—to the Union Calendar.

By Mr. CUSHMAN: A joint resolution (H. J. Res. 215) to print the Report of the Eighth International Geographic Congress—to the Committee on Printing.

By Mr. RIXEY: A resolution (H. Res. 490) calling upon the Secretary of the Navy for information in regard to certain armor-plate contracts—to the Committee on Naval Affairs.

By Mr. BARTHOLDT: Memorial from the legislature of the State of Missouri, favoring the enlargement of the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON: Memorial from a joint caucus of the Republican members of the eighth legislative assembly of the Territory of Oklahoma, for joint statehood for Oklahoma and Indian Territory—to the Committee on the Territories.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BANKHEAD: A bill (H. R. 18865) granting an increase of pension to Sallie F. Sheffield—to the Committee on Pensions.

By Mr. BINGHAM: A bill (H. R. 18866) for the relief of Nathan Van Beil, of Philadelphia, and others—to the Committee on Claims.

By Mr. BRADLEY: A bill (H. R. 18867) granting an increase of pension to Elizabeth Dill—to the Committee on Invalid Pensions.

By Mr. CLARK: A bill (H. R. 18868) granting an increase of pension to Thomas D. Hughlett—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18869) granting an increase of pension to James H. Rector—to the Committee on Invalid Pensions.

By Mr. DAVIS of Florida: A bill (H. R. 18870) granting an increase of pension to Josephine E. Bard—to the Committee on Invalid Pensions.

By Mr. DRESSER: A bill (H. R. 18871) for the relief of Robert C. Daley—to the Committee on War Claims.

By Mr. HAMLIN: A bill (H. R. 18872) granting an increase of pension to Benjamin F. Sweckard—to the Committee on Invalid Pensions.

By Mr. HENRY of Connecticut: A bill (H. R. 18873) granting an increase of pension to Alpheus Alonso Rockwell—to the Committee on Invalid Pensions.

By Mr. HOPKINS: A bill (H. R. 18874) granting a pension to Benjamin F. Horn—to the Committee on Invalid Pensions.

By Mr. HOWELL of Utah: A bill (H. R. 18875) to reimburse Sarah Glenn for property destroyed and stolen in the Walker and Black Hawk Indian wars in southern Utah—to the Committee on War Claims.

By Mr. JONES of Virginia: A bill (H. R. 18876) for the relief of John Henry Edwards—to the Committee on War Claims.

By Mr. LOVERING: A bill (H. R. 18877) granting an increase of pension to Annie A. Townsend—to the Committee on Invalid Pensions.

By Mr. McNARY: A bill (H. R. 18878) granting a pension to Maurice O'Flanigan—to the Committee on Invalid Pensions.

By Mr. REEDER: A bill (H. R. 18879) granting an increase of pension to Reall A. Walker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18880) granting an increase of pension to Sylvester C. Limbocker—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Resolution of the Thirty-sixth legislative assembly of the Territory of New Mexico, favoring the Hamilton-Senate bill relative to statehood—to the Committee on the Territories.

By Mr. ACHESON: Petition of the Pennsylvania State Horticultural Association, Harrisburg, Pa., favoring bill H. R. 14098—to the Committee on Agriculture.

Also, petition of the Philadelphia Board of Trade, favoring bill S. 6291—to the Committee on the Merchant Marine and Fisheries.

By Mr. AMES: Petition of Mrs. S. A. Hanley and 21 others, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. BAKER: Petition of the Merchants' Association of New York, favoring bill S. 2262—to the Committee on the Merchant Marine and Fisheries.

Also, petition of citizens of Glens Falls, N. Y., against bill H. R. 4859—to the Committee on the District of Columbia.

By Mr. BARTHOLDT: Petition of the International Typographical Union, Indianapolis, Ind., favoring a higher rate of compensation for the Marine Band—to the Committee on Naval Affairs.

By Mr. BATES: Petition of Glenwood Division, No. 281, Order of Railway Conductors, favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of William D. First et al., of Conneaut Lake, Pa., against passage of a domestic parcels-post bill—to the Committee on the Post-Office and Post-Roads.

Also, petition of Erie City Iron Works, against the Jenkins anti-injunction bill—to the Committee on the Judiciary.

Also, petition of Clover Leaf Grange, No. 1265, Northeast, Pa., favoring the oleomargarine law—to the Committee on Agriculture.

Also, petition of Fellowship Lodge, No. 435, Brotherhood of Railway Trainmen, of Albion, Pa., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Nail City Lodge, No. 110, Brotherhood of Railway Trainmen, favoring bill H. R. 7041—to the Committee on the Judiciary.

By Mr. BOWERSOCK: Petition of the Western Retail Implement and Vehicle Dealers' Association, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of the same association, against trusts—to the Committee on Interstate and Foreign Commerce.

Also petition of the same association, favoring an amendment to the interstate-commerce law—to the Committee on Interstate and Foreign Commerce.

By Mr. BURLEIGH: Petition of citizens of the State of Maine, against any modification or repeal of the Grout law—to the Committee on Agriculture.

By Mr. BURNETT: Paper to accompany bill for relief of Thomas K. C. Gibson—to the Committee on Invalid Pensions.

By Mr. BURTON: Petition of the Merchant Tailors' National Protective Association of America, against the Jenkins anti-injunction bill—to the Committee on the Judiciary.

By Mr. CASTOR: Petition of the Trades League of Philadelphia, favoring extension of the pneumatic-tube service for the post-office in Philadelphia and the Senate amendment to bill H. R. 17865—to the Committee on the Post-Office and Post-Roads.

By Mr. DRAPER: Petition of citizens of New York, favoring antipolygamy constitutional amendment—to the Committee on the Judiciary.

Also, petition of the Merchants' Association of New York, favoring the passage of bill S. 2262—to the Committee on the Merchant Marine and Fisheries.

By Mr. DRESSER: Petition of Lodge No. 593, Brotherhood of Railway Trainmen, favoring bill H. R. 7041—to the Committee on the Judiciary.

By Mr. FITZGERALD: Petition of the Merchants' Association of New York, urging passage of bill S. 2262—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Ohio Millers' State Association, favoring enlarged powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of the State of New York, against passage of bill H. R. 4859—to the Committee on the District of Columbia.

By Mr. GOLDFOGLE: Petition of Gustav H. Schwal, of the New York Board of Trade and Transportation, favoring bill S. 2262—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Denver Chamber of Commerce and Board of Trade, relative to tariff on sugar from the Philippines—to the Committee on Ways and Means.

Also, petition of the Merchants' Association of New York, favoring bill S. 2262—to the Committee on the Merchant Marine and Fisheries.

By Mr. GRANGER: Petition of the National Wholesale Association, for legislation to increase the power of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. GUDGER: Paper to accompany bill for relief of Harriet Livingston—to the Committee on Claims.

By Mr. HEDGE: Petition of the Burlington Federation of Women's Clubs, favoring establishment of a national Appalachian park in the White Mountains—to the Committee on Agriculture.

By Mr. HEMENWAY: Petition of G. W. Grove et al., of Parkersburg, Ind., against enactment of bill H. R. 4859—to the Committee on the District of Columbia.

By Mr. HINSHAW: Petition of J. P. Lotta et al., against bill H. R. 4859—to the Committee on the District of Columbia.

By Mr. HOWELL: Paper to accompany bill for relief of Sarah Glenn—to the Committee on Claims.

By Mr. HUNT: Petition of the Western Retail Implement and Vehicle Dealers' Association, favoring railway rate adjustments by Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Western Retail Implement and Vehicle Dealers' Association, against parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Western Retail Implement and Vehicle Dealers' Association, indorsing the President's position relative to trusts—to the Committee on Interstate and Foreign Commerce.

By Mr. JONES of Virginia: Paper to accompany bill for the relief of John Henry Edwards—to the Committee on War Claims.

By Mr. JONES of Washington: Petition of citizens of Mason County, Wash., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of citizens of Shelton, Wash., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. KYLE: Petition of citizens of Canton, Ohio, against bill H. R. 4859—to the Committee on the District of Columbia.

By Mr. LUCKING: Petition of citizens of Michigan, favoring an amendment to the Constitution making polygamy a breach of national law—to the Committee on the Judiciary.

By Mr. MARSHALL: Petition of the American Forestry Congress, in convention, advocating appropriate sums to promote adequate forestry education—to the Committee on Agriculture.

Also, petition of citizens of North Dakota, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. McCLEARY of Minnesota: Petition of Rev. J. P. Ranson, of Delavan, Minn., favoring bill H. R. 4072—to the Committee on the Judiciary.

Also, petition of C. Didra, of Amboy, Minn., favoring bill H. R. 13679—to the Committee on Patents.

By Mr. McCREARY of Pennsylvania: Petition of the Burham-Williams Company, favoring a customs-drawback law—to the Committee on Ways and Means.

By Mr. PORTER: Petition of the Philadelphia Board of Trade, favoring bill S. 6291—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Trade League of Philadelphia, Pa., favoring extension of the pneumatic-tube post-office system in Philadelphia and Senate amendment to bill H. R. 17865—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Army and Navy Union of Sandy Hill, N. Y., favoring bill H. R. 3586—to the Committee on Naval Affairs.

Also, petition of the Pennsylvania State Horticultural Association, of Harrisburg, Pa., indorsing bill H. R. 14098—to the Committee on Agriculture.

Also, petition of the Chamber of Commerce of Pittsburg, Pa., favoring removal of tax on alcohol used in the arts—to the Committee on Ways and Means.

By Mr. REEDER: Petition of the Western Retail Implement and Vehicle Dealers' Association, at the convention held in Kansas City, Mo., against parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

Also, petition of the same association, in favor of vesting the determination of railway-rate charges in the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the same association, favoring national legislation that shall effectually control trusts—to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPERT: Resolution of the Ohio Millers' State Association, favoring action of the President in urging legislation increasing the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Merchants' Association of New York, favoring passage of bill S. 2262—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the same association, favoring increase of certain powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT: Resolution of the Western Retail Implement and Vehicle Dealers' Association, indorsing President Roosevelt's course relative to trusts—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the same association, favoring vestment of authority over railway rates in the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the same association, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. SHULL: Statement to accompany a bill to establish a permanent national exposition—to the Select Committee on Industrial Arts and Expositions.

By Mr. WM. ALDEN SMITH: Petition of the Lansing (Mich.) Manufacturers and Jobbers' Club, relative to railway freight rates and classifications—to the Committee on Interstate and Foreign Commerce.

By Mr. SNOOK: Petition of Harvey Cassell et al., against bill H. R. 4859—to the Committee on the District of Columbia.

Also, petition of David Hawley et al., against the passage of bill H. R. 4859—to the Committee of the District of Columbia.

By Mr. STEPHENS of Texas: Petition of citizens of Pasture Reserve No. 3, in Comanche County, Okla., asking Congress to give them a preference right to purchase land improved by them—to the Committee on Indian Affairs.

By Mr. SULLIVAN of New York: Petition of the Richmond Borough Firemen's Association, of New York City (2,500 men), protesting against the passage of the Morrell insurance bill—to the Committee on the Judiciary.

By Mr. SULLOWAY: Petition of citizens of Washington, D. C., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULZER: Petition of the Fifth Annual Convention for Road Improvement, at Utica, N. Y., favoring the Brownlow bill for good roads—to the Committee on Agriculture.

Also, petition of the Merchants' Association of New York, favoring bill S. 2262—to the Committee on the Merchant Marine and Fisheries.

Also, letter from the American Anti-Tuberculosis League of Atlanta, Ga., relative to the cure of tuberculosis—to the Committee on Agriculture.

Also, petition of the Ohio Millers' State Association, favoring enlarged powers for the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of Gustav H. Schwab, of New York, favoring bill S. 2262, relative to derelicts—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Cleveland (Ohio) Chamber of Commerce, favoring granite as material for a Federal building at present under construction in Cleveland—to the Committee on Public Buildings and Grounds.

Also, petition of the Chinese community of the Territory of Hawaii, against laws excluding the Chinese from the islands—to the Committee on Immigration and Naturalization.

Also, petition of the National Association of Agricultural Implement and Vehicle Dealers against commutation clause of the homestead act—to the Committee on the Public Lands.

Also, petition of citizens of the Isle of Pines, relative to annexation of said island to the United States—to the Committee on Foreign Affairs.

Also, petition of the National Business League of Chicago, favoring well-considered legislation relative to equitable adjust-

ment of railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Philadelphia Board of Trade, favoring amendment of the interstate-commerce law relative to freight rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of G. W. Perkins, of the Cigar Makers' International Union, Chicago, Ill., against tariff reduction on tobacco and cigars from the Philippines—to the Committee on Ways and Means.

Also, petition of the Manufacturers' Association of New York, relative to law for punishment for forgery of trade-marks—to the Committee on Patents.

Also, petition of the Southern Branch of the National Dental Association, favoring pending bill for reorganization of the army dental corps on a commissioned basis—to the Committee on Military Affairs.

Also, petition of Order of Railway Conductors, Division No. 54, of New York City, favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Brotherhood of Railway Trainmen, State legislative board, meeting at Albany, N. Y., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of the Merchants' Association of New York City, favoring material reduction of tariff on Philippine products—to the Committee on Ways and Means.

By Mr. WACHTER: Petition of the Baltimore Women's Christian Temperance Union, against sale of liquor on Government premises—to the Committee on Military Affairs.

Also, petition of the East Washington Citizens' Association, relative to improvement of Pennsylvania avenue—to the Committee on the District of Columbia.

SENATE.

FRIDAY, *February 10, 1905.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on the request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved.

READING OF WASHINGTON'S FAREWELL ADDRESS.

The PRESIDENT pro tempore appointed Mr. PERKINS to read Washington's Farewell Address February 22, under the resolution of the Senate of December 20, 1898, providing that the address shall be read on Washington's Birthday, immediately after the reading of the Journal.

VISITORS TO WEST POINT.

The PRESIDENT pro tempore appointed Mr. DEPEW and Mr. CULBERSON members of the Board of Visitors on the part of the Senate to attend the next annual examination of cadets at the Military Academy at West Point, N. Y., under the requirements of section 1327 of the Revised Statutes of the United States.

VISITORS TO ANNAPOLIS.

The PRESIDENT pro tempore appointed Mr. DICK and Mr. MCCREARY members of the Board of Visitors on the part of the Senate to attend the next annual examination of cadets at the Naval Academy at Annapolis, Md., under the requirements of the act of February 14, 1879.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. C. R. MCKENNEY, its enrolling clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

H. R. 17331. An act relating to a dam across Rainy River;

H. R. 18279. An act to authorize the Secretary of the Interior to accept the conveyance from the State of Nebraska of certain described lands and granting to said State other lands in lieu thereof, and for other purposes;

H. R. 18588. An act to supplement and amend the act entitled "An act to regulate commerce," approved February 4, 1887; and

H. R. 18728. An act to authorize the board of supervisors of Berrien County, Mich., to construct a bridge across the St. Joseph River, near its mouth, in said county.

PETITIONS AND MEMORIALS.

Mr. BERRY presented petitions of sundry citizens of Devero, Batesville, Mount Olive, Buffalo, Calico Rock, and Cushman, all in the State of Arkansas, praying that an appropriation be made to continue the improvement of upper White River in that State; which were referred to the Committee on Commerce.

Mr. FULTON presented a petition of sundry allotted Indians of the Siletz Indian Reservation, praying that an appropriation of $3,000 be made to rebuild a sawmill recently burned on that reservation; which was referred to the Committee on Indian Affairs.

Mr. PLATT of New York presented sundry telegrams, in the nature of petitions, from citizens of Albany, Randolph, Jamestown, Fredonia, Gowanda, Cattaraugus, and Little Valley, all in the State of New York, praying for the enactment of legislation providing that any allotments which may be made of the Osage Reservation in Oklahoma Territory shall be made subject to the terms and conditions of a certain lease dated March 16, 1896; which were referred to the Committee on Indian Affairs.

He also presented a statement of facts in relation to the so-called "Foster oil and gas lease" of the Osage Reservation, showing the development under the lease and subleases and the reasons why in equity, taking into consideration the rights of the Indians and the whites, the lease should be renewed; which was referred to the Committee on Indian Affairs.

Mr. FOSTER of Washington presented a petition of the legislative committee of the American Federation of Labor, of Washington, D. C., praying for the enactment of legislation providing for free lectures to the people of the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. WETMORE presented a resolution of the general assembly of Rhode Island, relative to the improvement of the postal service; which was read, and referred to the Committee on Post-Offices and Post-Roads, as follows:

State of Rhode Island, etc. In general assembly, January session, A. D. 1905. Resolution recommending to Congress the passage of "House of Representatives bill No. 15983," now pending before Congress.

Whereas the citizens of the State of Rhode Island are deeply interested in everything that relates to the improvement of the postal service; and

Whereas the proposition embodied in House of Representatives bill No. 15983, now pending before Congress, consolidating third and fourth class mail matter (the book and merchandise post) at the third-class rate, 1 cent per each 2 ounces, or 8 cents per pound, which is one-half the present merchandise rate, has been urgently recommended by the Post-Office Department in the interest both of the post-office and the public: Now, therefore, be it

Resolved, That the general assembly of Rhode Island, by its concurrent resolution, asks its Senators and Representatives in Congress to do all they justly can to secure the passage of "House of Representatives Bill No. 15983," and the secretary of state is hereby instructed to send a copy of this resolution to the Senators and Representatives in Congress from Rhode Island.

STATE OF RHODE ISLAND,
OFFICE OF THE SECRETARY OF STATE,
Providence, February 8, 1905.

I hereby certify the foregoing to be a true copy of a resolution passed by the general assembly of said State on the 3d day of February, A. D. 1905.

In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid, the date and year first above written.

[SEAL.] CHARLES P. BENNETT,
Secretary of State.

Mr. WETMORE presented a resolution of the general assembly of Rhode Island, relative to the enactment of legislation providing for a more efficient inspection of steamships and other vessels; which was referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

State of Rhode Island, etc. In general assembly, January session, A. D. 1905. Resolution recommending to Congress the passage of an act providing for a more efficient inspection of steamships and other vessels.

Whereas the unfortunate "Slocum disaster," and the investigation which followed, publicly revealed the fact of the manifest inefficiency of the Government inspection laws relating to steamships, steamers, and vessels of all kinds; and

Whereas Rhode Island is deeply interested in regular lines of steamship and steamboat travel, together with excursion steamers that yearly carry more than seven times the entire population of our State, the most rigid inspection of all floating craft and examination of applicants for positions, under adequate laws to be enacted, should be enforced, humanely so, for the protection of life, limb, and property: Therefore be it

Resolved, That the general assembly of Rhode Island, by its concurrent resolution, ask its Senators and Representatives in Congress to do all they justly can to secure the passage of "resolution recommending to Congress the passage of an act providing for a more efficient inspection of steamships and other vessels," and the secretary of state is hereby instructed to send a copy of this resolution to the Senators and Representatives in Congress from Rhode Island.

STATE OF RHODE ISLAND,
OFFICE OF THE SECRETARY OF STATE,
Providence, February 4, 1905.

I hereby certify the foregoing to be a true copy of a resolution passed by the general assembly of said State on the 1st day of February, A. D. 1905.

In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid the date and year first above written.

[SEAL.] CHARLES P. BENNETT,
Secretary of State.