

preme Court of the State, besides sustaining that and other findings of the commission, aptly points out that but for the hasty and improper removal of the track the company "would not be at the expense of replacing it." When the track is restored the company will own it and be entitled to make a reasonable charge for its use, just as is the case with other property employed in the company's transportation service.

Applying the decision just announced in *Chicago & Northwestern Ry. Co. v. Ochs*, ante, 416, we think the order does not take property of the company for private use, or for public use without compensation, in contravention of the Fourteenth Amendment.

Judgment affirmed.

BOARD OF PUBLIC UTILITY COMMISSIONERS v.
COMPAÑIA GENERAL DE TABACOS DE FIL-
IPINAS.

APPEAL FROM AND ERROR TO THE SUPREME COURT OF THE
PHILIPPINE ISLANDS.

No. 253. Submitted March 18, 1919.—Decided April 14, 1919.

Whether § 16 (e) of Philippine Act 2307 violated the Organic Act, c. 1369, 32 Stat. 691, by delegating to the Board of Public Utility Commissioners power to prescribe the contents of reports required of corporate common carriers, has become a moot question since this case was brought to this court, due to an amendment of § 16 (e), which itself prescribes in detail what the reports shall contain and thereby supersedes the order here in question. The judgment is therefore reversed, with directions to dismiss the cause without costs to either party.

34 Phil. Rep. 136, reversed.

THE case is stated in the opinion.

Mr. Edward S. Bailey for appellant and plaintiff in error.

Mr. F. C. Fisher for appellee and defendant in error.

MR. JUSTICE VAN DEVANTER delivered the opinion of the court.

By a judgment rendered March 8, 1916, the court below annulled an order of the Board of Public Utility Commissioners of the Philippine Islands requiring a corporate common carrier to report annually various matters pertaining to its finances and operations, the ground of the judgment being that § 16 (e) of Act 2307 of the local legislature, under which the board acted, violated the organic law of the Philippines, c. 1369, 32 Stat. 691, in that it confided to the board the determination of what the reports should contain and therefore amounted to a delegation of legislative power. 34 Phil. Rep. 136. The board brought the judgment here for review, and the carrier now suggests that through a change in the local statute the question on which the judgment turned has become merely a moot one.

After the case was brought here the legislature, by Act 2694, so amended § 16 (e) as to cause the section itself to prescribe in detail what such reports should contain and thereby abrogated the provision on which the order was based and which the court held invalid. That provision therefore is no longer in force, and it is to the new provision that the board and carrier must give effect. Even if the original provision was valid, the order made under it became inoperative when the new provision was substituted in its place. Whether the order was based on a valid or an invalid statute consequently has become merely a moot question.

In this situation we are not called upon to consider the propriety of the judgment below, the proper course being,

as is shown by many precedents, to reverse the judgment and remand the cause with a direction that it be dismissed without costs to either party. *United States v. Schooner Peggy*, 1 Cranch, 103; *New Orleans Flour Inspectors v. Glover*, 160 U. S. 170, and 161 U. S. 101; *Dinsmore v. Southern Express Co.*, 183 U. S. 115; *United States v. Hamburg-Amerikanische Packetfahrt-Actien Gesellschaft*, 239 U. S. 466; *Berry v. Davis*, 242 U. S. 468.

Judgment reversed. Cause to be dismissed without costs to either party.

CORN PRODUCTS REFINING COMPANY v. EDDY ET AL.

ERROR TO THE SUPREME COURT OF THE STATE OF KANSAS.

No. 119. Argued January 14, 1919.—Decided April 14, 1919.

A state regulation respecting the labeling of syrup compounds, which does not discriminate against the manufacturer or his product or against syrups as a class, *held*, not objectionable under the equal protection clause. P. 431.

The right of a manufacturer to maintain secrecy as to his compounds and processes is subject to the right of the State, in the exercise of its police power, to require that the nature of the product be fairly set forth. P. 432. *Held*: That a state regulation, requiring manufacturers of proprietary compound syrups to state definitely in conspicuous letters on the principal label the percentage of each ingredient, is consistent with the due process clause of the Fourteenth Amendment. *Id.*

It is the effect of a regulation as put in force by the State that determines whether it directly burdens interstate commerce, and not its characterization, or its construction by the state court. *Id.*

The proviso in § 8 of the Federal Pure Food Act, that nothing in the act shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient