

- of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.
- Contributory negligence of employee no bar to recovery. SEC. 3. That in all actions hereafter brought against any such common carrier by railroad under or by virtue of any of the provisions of this Act to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee: *Provided*, That no such employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.
- Diminished damages. *Proviso*. Exception. SEC. 4. That in any action brought against any common carrier under or by virtue of any of the provisions of this Act to recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.
- Employment risks not assumed if law has been violated. SEC. 5. That any contract, rule, regulation, or device whatsoever, the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by this Act, shall to that extent be void: *Provided*, That in any action brought against any such common carrier under or by virtue of any of the provisions of this Act, such common carrier may set off therein any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been paid to the injured employee or the person entitled thereto on account of the injury or death for which said action was brought.
- Attempts to evade liability by contract, etc., void. SEC. 6. That no action shall be maintained under this Act unless commenced within two years from the day the cause of action accrued.
- Proviso*. Certain contributions by employers to be deducted. SEC. 7. That the term "common carrier" as used in this Act shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier.
- Time limit for actions. SEC. 8. That nothing in this Act shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other Act or Acts of Congress, or to affect the prosecution of any pending proceeding or right of action under the Act of Congress entitled "An Act relating to liability of common carriers in the District of Columbia and Territories, and to common carriers engaged in commerce between the States and between the States and foreign nations to their employees," approved June eleventh, nineteen hundred and six.
- Receivers, etc., included in term "common carriers." SEC. 9. That nothing in this Act shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other Act or Acts of Congress, or to affect the prosecution of any pending proceeding or right of action under the Act of Congress entitled "An Act relating to liability of common carriers in the District of Columbia and Territories, and to common carriers engaged in commerce between the States and between the States and foreign nations to their employees," approved June eleventh, nineteen hundred and six.
- Prior laws not affected. SEC. 10. That nothing in this Act shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other Act or Acts of Congress, or to affect the prosecution of any pending proceeding or right of action under the Act of Congress entitled "An Act relating to liability of common carriers in the District of Columbia and Territories, and to common carriers engaged in commerce between the States and between the States and foreign nations to their employees," approved June eleventh, nineteen hundred and six.
- Vol. 34, p. 232.

Approved, April 22, 1908.

April 23, 1908.  
[S. 1424.]  
[Public, No. 101.]

Army.  
Medical Department.  
Medical Corps, etc.,  
authorized.  
R. S. sec. 1168, p. 210.

Composition of.

**CHAP. 150.**—An Act To increase the efficiency of the Medical Department of the United States Army.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the approval of this Act the Medical Department of the United States Army shall consist of a Medical Corps and a Medical Reserve Corps, as hereinafter provided; and the Hospital Corps, the nurse corps, and dental surgeons, as now authorized by law.

SEC. 2. That the Medical Corps shall consist of one Surgeon-General, with rank of brigadier-general, who shall be chief of the Medical

Department; fourteen colonels, twenty-four lieutenant-colonels, one hundred and five majors, and three hundred captains or first lieutenants, who shall have rank, pay, and allowances of officers of corresponding grades in the cavalry arm of the service. Immediately following the approval of this Act all officers of the Medical Department then in active service, other than the Surgeon-General, shall be recommissioned in the corresponding grades in the Medical Corps established by this Act in the order of their seniority and without loss of relative rank in the Army, as follows: Assistant surgeons-general, with the rank of colonel, as colonels; deputy surgeons-general, with rank of lieutenant-colonel, as lieutenant-colonels; surgeons, with the rank of major, as majors; assistant surgeons, who at the time of the approval of this Act shall have served three years or more, as captains; and assistant surgeons, with the rank of first lieutenant, who at the time of the approval of this Act shall have served less than three years as such, as first lieutenants; and hereafter first lieutenants shall be promoted to the grade of captain after three years' service in the Medical Corps.

SEC. 3. That promotions in the Medical Corps to fill vacancies in the several grades created or caused by this Act, or hereafter occurring, shall be made according to seniority, but all such promotions and all appointments to the grade of first lieutenant in said corps shall be subject to examination as hereinafter provided: *Provided*, That the increase in grades of colonel, lieutenant-colonel, and major provided for in this Act shall be filled by promotion each calendar year of not exceeding two lieutenant-colonels to be colonels, three majors to be lieutenant-colonels, fourteen captains to be majors, and of the increase in the grade of first lieutenant not more than twenty-five per centum of the total of such increase shall be appointed in any one calendar year: *Provided further*, That those assistant surgeons who at the time of the approval of this Act shall have attained their captaincy by reason of service in the volunteer forces under the provisions of the Act of February second, nineteen hundred and one, section eighteen, or who will receive their captaincy upon the approval of this Act by virtue of such service, shall take rank among the officers in or subsequently promoted to that grade, according to date of entrance into the Medical Department of the Army as commissioned officers.

SEC. 4. That no person shall receive an appointment as first lieutenant in the Medical Corps unless he shall have been examined and approved by an army medical board consisting of not less than three officers of the Medical Corps designated by the Secretary of War.

SEC. 5. That no officer of the Medical Corps below the rank of lieutenant-colonel shall be promoted therein until he shall have successfully passed an examination before an army medical board consisting of not less than three officers of the Medical Corps, to be designated by the Secretary of War, such examination to be prescribed by the Secretary of War and to be held at such time anterior to the accruing of the right to promotion as may be for the best interests of the service: *Provided*, That should any officer of the Medical Corps fail in his physical examination and be found incapacitated for service by reason of physical disability contracted in the line of duty, he shall be retired with the rank to which his seniority entitled him to be promoted; but if he should be found disqualified for promotion for any other reason, a second examination shall not be allowed, but the Secretary of War shall appoint a board of review to consist of three officers of the Medical Corps superior in rank to the officer examined, none of whom shall have served as a member of the board which examined him. If the unfavorable finding of the examining board is concurred in by the board of review, the officer reported disqualified for promotion shall, if a first lieutenant or captain, be honorably dis-

Officers in active service to be recommissioned, etc.

Grades and rank.

Promotio.

Vacancies.

*Provisos.*  
Maximum yearly increase in grades.

Rank of assistant surgeons, etc.

Vol. 31, p. 752.

Examination for appointment as first lieutenant.

Promotions of officers below rank of lieutenant-colonel. Examinations required.

*Proviso.*  
Retirement if physically disabled.

No second examination if otherwise disqualified.  
Appointment of board of review.

Action if disqualified for promotion.

Promotion if finding be favorable.	charged from the service with one year's pay; and, if a major, shall be debarred from promotion and the officer next in rank found qualified shall be promoted to the vacancy. If the action of the examining board is disapproved by the board of review, the officer shall be considered qualified and shall be promoted.
Rank and service of present officers not affected.	SEC. 6. That nothing in this Act shall be construed to legislate out of the service any officer now in the Medical Department of the Army, nor to affect the relative rank or promotion of any medical officer now in the service, or who may hereafter be appointed therein, as determined by the date of his appointment or commission, except as herein otherwise provided in section three.
Medical Reserve Corps authorized. Graduates of medical schools to be commissioned as first lieutenants.	SEC. 7. That for the purpose of securing a reserve corps of medical officers available for military service, the President of the United States is authorized to issue commissions as first lieutenants therein to such graduates of reputable schools of medicine, citizens of the United States, as shall from time to time, upon examination to be prescribed by the Secretary of War, be found physically, mentally, and morally qualified to hold such commissions, the persons so commissioned to constitute and be known as the Medical Reserve Corps. The commissions so given shall confer upon the holders all the authority, rights, and privileges of commissioned officers of the like grade in the Medical Corps of the United States Army, except promotions, but only when called into active duty, as hereinafter provided, and during the period of such active duty. Officers of the Medical Reserve Corps shall have rank in said corps according to date of their commissions therein, and when employed on active duty, as hereinafter provided, shall rank next below all other officers of like grade in the United States Army: <i>Provided</i> , That contract surgeons now in the military service who receive the favorable recommendation of the Surgeon-General of the Army shall be eligible for appointment in said reserve corps without further examination: <i>Provided further</i> , That any contract surgeon not over twenty-seven years of age at date of his appointment as contract surgeon shall be eligible to appointment in the regular corps.
Rights, etc., of, when on active duty.	SEC. 8. That in emergencies the Secretary of War may order officers of the Medical Reserve Corps to active duty in the service of the United States in such numbers as the public interests may require, and may relieve them from such duty when their services are no longer necessary: <i>Provided</i> , That nothing in this Act shall be construed as authorizing an officer of the Medical Reserve Corps to be ordered upon active duty as herein provided who is unwilling to accept such service, nor to prohibit an officer of the Medical Reserve Corps not designated for active duty from service with the militia, or with the volunteer troops of the United States, or in the service of the United States in any other capacity, but when so serving with the militia or with volunteer troops, or when employed in the service of the United States in any other capacity, an officer of the Medical Reserve Corps shall not be subject to call for duty under the terms of this section: <i>And provided further</i> , That the President is authorized to honorably discharge from the Medical Reserve Corps any officer thereof whose services are no longer required: <i>And provided further</i> , That officers of the Medical Reserve Corps who apply for appointment in the Medical Corps of the Army may, upon the recommendation of the Surgeon-General, be placed on active duty by the Secretary of War and ordered to the Army Medical School for instruction and further examination to determine their fitness for commission in the Medical Corps: <i>And provided further</i> , That any officer of the Medical Reserve Corps who is subject to call and who shall be ordered upon active duty as herein provided and who shall be unwilling and refuse to accept such service shall forfeit his commission.
Rank.	
<i>Provisos.</i> Contract surgeons.	
Eligible to appointment in regular corps.	
Emergency service.	
<i>Provisos.</i> Declination of service allowed.	
May serve with militia, etc.	
Honorable discharge when no longer required.	
Applications for admission to Medical Corps.	
Forfeiture of commission.	
Pay and allowance.	SEC. 9. That officers of the Medical Reserve Corps when called upon active duty in the service of the United States, as provided in section

eight of this Act, shall be subject to the laws, regulations, and orders for the government of the Regular Army, and during the period of such service shall be entitled to the pay and allowances of first lieutenants of the Medical Corps with increase for length of service now allowed by law, said increase to be computed only for time of active duty: *Provided*, That no officer of the Medical Reserve Corps shall be entitled to retirement or retirement pay, nor shall he be entitled to pension except for physical disability incurred in the line of duty while in active duty: *And provided further*, That nothing in this Act shall be construed to prevent the appointment in time of war of medical officers of volunteers in such numbers and with such rank and pay as may be provided by law.

*Provisos.*  
Not entitled to retirement, etc.

Appointments in time of war.

SEC. 10. That all Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed.

Repeal.

Approved, April 23, 1908.

CHAP. 151.—An Act To provide for safety of life on navigable waters during regattas or marine parades.

April 28, 1908.  
[S. 6028.]

[Public, No. 102.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of Commerce and Labor is hereby authorized and empowered in his discretion to issue from time to time regulations, not contrary to law, to promote the safety of life on navigable waters during regattas or marine parades.

Marine parades, etc. Protection to life on navigable waters during.

SEC. 2. That to enforce such regulations the Secretary of Commerce and Labor may detail any public vessel in the service of that Department and make use of any private vessel tendered gratuitously for the purpose, or upon the request of the Secretary of Commerce and Labor the head of any other Department may enforce the regulations issued under this Act by means of any public vessel of such Department and of any private vessel tendered gratuitously for the purpose.

Enforcement of regulations. Secretary of Commerce and Labor may detail public vessels, etc.

SEC. 3. That the authority and power bestowed upon the Secretary of Commerce and Labor by sections one and two may be transferred for any special occasion to the head of another Department by the President whenever in his judgment such transfer is desirable.

Transfer of authority allowed.

SEC. 4. That for any violation of regulations issued pursuant to this Act the following penalties shall be incurred:

Penalties for violation.

(a) A licensed officer shall be liable to suspension or revocation of license in the manner now prescribed by law for incompetency or misconduct.

By licensed officers.

(b) Any person in charge of the navigation of a vessel other than a licensed officer shall be liable to a penalty of five hundred dollars.

Nonlicensed persons.

(c) The owner of a vessel (including any corporate officer of a corporation owning the vessel) actually on board shall be liable to a penalty of five hundred dollars, unless the violation of regulations shall have occurred without his knowledge.

Owner, if actually on board.

(d) Any other person shall be liable to a penalty of two hundred and fifty dollars.

Other persons.

The Secretary of Commerce and Labor is hereby authorized and empowered to mitigate or remit any penalty herein provided for in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws.

Remission of penalties.

SEC. 5. That the Act approved May nineteenth, eighteen hundred and ninety-six, entitled "An Act to provide for the safety of passengers on excursion steamers," is hereby repealed.

Repeal. Vol. 29, p. 122.

SEC. 6. That this Act shall take effect on April tenth, nineteen hundred and eight.

Effect.

Approved, April 28, 1908.