and who shall have made his final proof thereunder for a quantity
of land less than one hundred and sixty acres and received the re-
ceiver's final receipt therefor, shall be entitled under said laws to
enter as a personal right, and not assignable, by legal subdivisions
of the public lands of the United States subject to homestead entry,
so much additional land as added to the quantity previously so en-
tered by him shall not exceed one hundred and sixty acres: Provided,
That in no case shall patent issue for the land covered by such ad-
ditional entry until the person making such additional entry shall
have actually and in conformity with the homestead laws resided
upon and cultivated the lands so additionally entered and otherwise
fully complied with such laws: Provided, also, That this section
shall not be construed as affecting any rights as to location of sol-
diers certificates heretofore issued under section two thousand three
hundred and six of the Revised Statutes.

SEC. 7. That the "act to provide additional regulations for home-
stead and pre-emption entries of public lands," approved March
third, eighteen hundred and seventy-nine, shall not be construed to
forbid the taking of testimony for final proof within ten days fol-
lowing the day advertised as upon which such final proof shall be
made, in cases where accident or unavoidable delays have prevented
the applicant or witnesses from making such proof on the date
specified.

SEC. 8. That nothing in this act shall be construed as suspending,
repealing or in any way rendering inoperative the provisions of the act entitled, "An act to provide for the disposal of abandoned and
useless military reservations," approved July fifth, eighteen hundred
and eighty-four.

Approved, March 2, 1889.

CHAP. 382.—An act to amend an act entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section six of
an act entitled "An act to regulate commerce," approved February
fourth, eighteen hundred and eighty-seven, be, and it is hereby,
amended so as to read as follows:

Sec. 6. That every common carrier subject to the provisions of
this act shall print and keep open to public inspection schedules show-
ing the rates and fares and charges for the transportation of passen-
gers 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 receiv-
ing 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

May complete entry
to one-quarter section.

Provided.

Patent.

Soldiers' certificates.

Completing proof.


Time extended.

Abandoned military
reservations.

Vol. 39, p. 103.

March 2, 1889.

Interstate com-
merce.

Amendments to act.


Common carriers to
print and post sched-
ules.

Contents.

Schedules of freight
through foreign coun-
tries.
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.

Notice of advances.

"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.

Unlawful to deviate from schedules.

"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.

Copies to be filed with Commission.

"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 carrier to publish, and the places in which they shall be published.

Joint tariffs of rates.

"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. 2. That section ten of said act is hereby amended so as to read:

"SEC. 10. 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 five thousand dollars 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 of 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 five thousand dollars, 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 five thousand dollars 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 five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

SEC. 3. That section twelve of said act is hereby amended so as to read as follows:

“Sec. 12. 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 subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and in case of disobedience to a subpoena, 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 subpoena 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."

SEC. 4. That section fourteen of said act is hereby amended so as to read as follows:

"SEC. 14. 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. 5. That section sixteen of said act is hereby amended so as to read as follows:

"SEC. 16. 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 such 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, 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 five hundred dollars 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 two thousand dollars 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 or 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 Com-
mission as provided in the fifteenth section of this act, it shall be
lawful for any company or person interested in such order or require-
ment 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 hap-
pen, 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 defend-
ants to file their answers to said petition within ten days after
the service of the same upon them as aforesaid. At the trial of
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 two thousand dollars 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 ap-
peal must be taken within twenty days from the day of the rendition
of the judgment of said circuit court. If the judgment of the cir-
cuit 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. 6. That section seventeen of said act is hereby amended so as
to read as follows:

"Sec. 17. 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 con-
stitute a quorum for the transaction of business, but no Commissi-

...
Commission to appoint employees.

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 to 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.”


List of employees.

Office and employes.

Proviso. Pending litigation.

Circuit and district courts may issue mandamus to compel equal facilities to shippers.


Exceptions to provisions of the act. Extension.

Provisos.
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.

Approved, March 2, 1889.

CHAP. 383.—An act to authorize the Secretary of War to lease a certain tract of land to the Leavenworth City and Fort Leavenworth Water Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to lease to the Leavenworth City and Fort Leavenworth Water Company the following described tract of land in the military reservation at Fort Leavenworth, in the State of Kansas:

Beginning at the north-west corner of the twenty acre tract of land formerly in said military reservation granted to the Leavenworth Coal Company by the act of Congress approved July twentieth, eighteen hundred and sixty-eight; thence north in extension of the west line of said twenty acre tract five hundred feet; thence east parallel to the north line of said twenty acre tract eight hundred and twenty feet, more or less, to the railroad right of way; thence southerly on the west line of said right of way five hundred and three feet, more or less, to the north line of the said twenty acre tract; thence west on the said north line to the place of beginning, containing nine and three-fourths acres, more or less, reserving to the United States or assigns the coal, or royalty for the coal, underlying said lands, for the purpose of constructing and maintaining thereon a reservoir and such other works as may be necessary to enable said company to supply the troops at Fort Leavenworth, and its other patrons, with pure water: Provided, That the company shall have the free and uninterrupted use of said tract of land for the purposes above named, under the direction and control of the Secretary of War, so long as it is so used, and that when they cease to occupy and use it for such purposes the lease shall be null and void.

Sec. 2. That the act of Congress entitled "An act to authorize the sale of a tract of land in the military reservation at Fort Leavenworth, in the State of Kansas, approved the sixth day of June, anno Domini eighteen hundred and eighty-eight, be, and the same is hereby, repealed.

Sec. 3. That this act shall take effect and be in force from and after its passage.

Approved, March 2, 1889.

CHAP. 384.—An act to authorize the Omaha, Dodge City and Southern Railway Company to build its road across the Fort Hays Military Reservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Omaha, Dodge City and Southern Railway Company, a corporation in the State of Kansas, be, and is hereby, granted a right of way, not to exceed one hundred feet in width, across the Fort Hays Military Reservation, upon such line as may be approved by the Secretary of War.

Approved, March 2, 1889.