

SUPPORT FOR REFORM AMONG
CONGRESSIONAL DEMOCRATS, 1897-1913

By
EDWARD M. SILBERT

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INTRODUCTION

Who were the "progressives"? That question continues to challenge the interest of historians in spite of the seemingly definitive studies produced in response to it. Obviously neither Hofstadter's broad sweeping sociological explanation of the progressive movement nor Mowry's tight analytical approach to the progressives of California has closed the doors to continued historical pursuit and inquiry.¹ The recent works of Huthmacher, Wiebe, Kolko, and Warner, in particular, are illustrations of the continuing challenge presented in this field of historical research and scholarship.² Whereas Hofstadter

¹Richard Hofstadter, The Age of Reform: From Bryan to FDR (New York, 1955), Pb., pp. 131-73. George E. Mowry, The California Progressives (Berkeley, 1951), passim.

²J. Joseph Huthmacher, "Urban Liberalism and the Age of Reform," Mississippi Valley Review (September, 1962), pp. 231-41. Robert H. Wiebe, Businessmen and Reform: A Study of the Progressive Movement (Cambridge, Mass., 1962). Gabriel Kolko, The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916 (New York, 1963). Hoyt Landon Warner, Progressivism in Ohio, 1897-1917 (Columbus, Ohio, 1964).

and Mowry stress the role of middleclass Americans in this reform movement, Huthmacher calls attention to the voting power and reform motivation of the eastern urban proletariat in the first two decades of the twentieth century. Both Wiebe and Kolko acknowledge the importance of businessmen's activities in the drive for governmental controls in the economy. Warner asserts the strong role that Democrats played in bringing about progressive reform in Ohio and, thus, is the first to suggest that the image of the "progressive" as an insurgent Republican has been overstated. Other reputable historians such as Hicks, Hechler, and Nye have clearly evidenced their understanding of the progressive movement in terms of reform-motivation within the Republican party.³ Even Link, the leading student of reform during the Democratic administration of Wilson, demeans the importance of the Democrats in the movement before 1910.⁴ Link's criticism of the Democratic party in the

³Theodore Saloutos and John Hicks, Agricultural Discontent in the Middle West, 1900-1939 (Madison, 1951), p. 54. Kenneth W. Hechler, Insurgency: Personalities and Politics of the Taft Era (New York, 1940). Russel B. Nye, Midwestern Progressive Politics: A Historical Study of Its Origins and Development, 1870-1950 (East Lansing, Mich., 1951), pp. 197, 203-4.

⁴Arthur S. Link, Woodrow Wilson and the Progressive Era, 1910-1917 (New York, 1963) Pb., p. 2.

decade or so before Wilson is unnecessarily harsh and, moreover, is based more on previous speculative studies than historical inquiry. Nobody seems to know what the Democrats were doing during 1897-1913; as Wiebe recently pointed out, this period of Democratic party history is one big "historical blur."⁵ A common shortcoming of books written about the American nation during the presidencies of William McKinley, Theodore Roosevelt, and William Howard Taft, even those most recently published, is the almost total lack of interest in the Democratic party.⁶ True, this period was one of Republican political domination and these men were Republicans. It cannot be expected that the accent in these works would be placed other than on the dominant party. However, it seems equally valid that the Democratic party has been a major political institution in this country since 1800, and that any work on American

⁵Wiebe, op. cit., p. 211. J. Rogers Hollingsworth, The Whirligig of Politics: The Democracy of Cleveland and Bryan (Chicago, 1963), has made a substantial contribution to the understanding of the inner struggles for power within the Democratic party, 1896-1904.

⁶Margaret Leech, In the Days of McKinley (New York, 1959). Howard W. Morgan, William McKinley and His America (Syracuse, N. Y., 1963). George E. Mowry, The Era of Theodore Roosevelt (New York, 1958). Henry F. Pringle, Theodore Roosevelt: A Biography (New York, 1931). James Ford Rhodes, The McKinley and Roosevelt Administrations: 1897-1909 (New York, 1923). Henry F. Pringle, The Life and Times of William Howard Taft (2 vols., New York, 1939).

politics since that date must accord the Democrats a share of coverage and study commensurate with its position in American politics. To be sure, historians have been gracious enough to trace the party's progress through national conventions and presidential campaigns in these years, while others have dutifully, if somewhat reluctantly, acknowledged the importance of Democratic votes in Congress for some few specific issues of interest. No historian has until now taken the time to investigate systematically the record of the Democratic party in Congress over these sixteen years. What is most unfortunate, however, is that most historians have implied by their silence that the work of the Congressional Democrats was unimportant and insignificant.

This study is an attempt to examine the workings of the Democratic party in the Congress of the United States during the years 1897-1913 -- to perceive if the party had any direction, any significant consistencies, any record of importance on the so-called issues of the day. The major focus of the thesis is Congressional Democratic support for progressive political and economic reforms as reflected in roll-call voting on five key subjects. Analysis of these roll calls is used to provide conclusive

evidence of progressive strength within the party. The results show quite clearly that the Congressional Democratic party was predominantly a political organ for reform. Democrats repeatedly forced reform issues to the floor of Congress for debate, and demanded votes. A minority party, they seemed to be calling out in the wilderness.

CHAPTER I

THE PLIGHT OF THE DEMOCRATIC PARTY

"Wandering in the wilderness" was the way Champ Clark, Speaker of the United States House of Representatives (1911-1917), described his party's plight in the sixteen years between the administrations of Grover Cleveland and Woodrow Wilson.¹ In each of four presidential elections, the Democratic nominee had been decisively defeated. For a decade and a half, the party remained a minority in both chambers of the American Congress. Year after year, Democrats in Congress and in national convention appeared hopelessly faction-ridden. The party's effectiveness, even as opposition, seemed to be negligible; its public image was a national joke and its ability to govern if it should gain power was seriously questioned.²

¹Champ Clark, My Quarter-Century in American Politics (2 vols., New York, 1920), I, 320.

²"Populism in the Saddle," Nation, 70 (1900), 372. "Best Foot Forward," Nation, 91 (1910), 462. "Bryan and the Would-be Wreckers of the Democratic Party," Arena, 39 (1908), 346-47. "Rehabilitation of the Democratic Party," Forum, 30 (1901), 644. Ray S. Baker, "What about the Democratic Party?" The American Magazine, 70, No. 2

The Democrats were in serious trouble and were even pictured by some political observers as heading for permanent decline.³ Between the elections of 1896 and 1912, no Democratic presidential ticket was able to increase the percentage of total votes cast over that of 1896.⁴ Even in 1912, the year of Woodrow Wilson's triumph, the party continued downward in this respect. Percentage of electoral votes for the party paralleled the downward trend of the vote count with but one exception. Wilson, although a "minority" president in the vote count, was a victor of landslide proportions in the electoral college. As a congressional party, the Democrats went into a state of eclipse. Eight times between 1875 and 1895, Democrats had held a majority in the House of Representatives; but

(June, 1910), 147, 159. Edward Stanwood, "Democratic Predicament," Atlantic Monthly, 95 (1905), 150-53. Herbert Croly, "Democratic Factions and Insurgent Republicans," North American Review, 191 (1910), 626-27, 629-30. R. M. Harvey, "Will the Democratic Party Commit Suicide?" North American Review, 193 (1911), 3, 8. "Next Presidential Election," North American Review, 194 (1911), 185, 187. Burton J. Hendrick, "Oscar Underwood," McClure's, 38 (1911-12), 414. William E. Mickell, "Future of the Democratic Party," Sewanee Review, 10 (1902), 473, 476. M. Ostrogorski, Democracy and the Party System in the United States (New York, 1910), pp. 100-1.

³Edgar Eugene Robinson, "The Decline of the Democratic Party," American Journal of Sociology, 20 (1914/1915), 334. Ostrogorski, op. cit., 385-86.

⁴Robinson, op. cit., pp. 316, 322.

not until the elections of 1910 was this circumstance repeated. In the Senate, the party was consistently in a minority position from 1897 to 1913.

The primary cause of this decline was deep-rooted division within the organizational hierarchy of the party and its public supporters. The national Democratic convention of 1896 was the scene of a battle royal between two intransigent forces, each determined to gain control of the party. The leadership of one faction, the "conservative," was in the hands of the president of the United States, Grover Cleveland.⁵ The other faction, representing Democrats of a more "radical" disposition, had several leaders, none of whom for the moment was clearly the spokesman of the group.

Conservative Democracy had been in the driver's seat since 1876. Then, and again in 1884, 1888, and 1892, aware of the necessity of carrying New York State in order to place a Democrat in the White House, party stalwarts sanctioned the nominations of two moderate reformers from the Empire State, Samuel Tilden and Grover Cleveland

⁵Horace S. Merrill, Bourbon Leader: Grover Cleveland and the Democratic Party (Boston, 1957, passim).

(Cleveland, the latter three times), knowing them to be safely conservative. In this age of booming industrialization, conservatism was interpreted by its critics to mean an increasing concern for the welfare of big business at the expense of the public. Many felt that Democrats of this ilk were little better than eastern Republicans; that is, that they favored hard money, tight credit, low taxation on corporate interests, protection of private property (to the extent of breaking strikes with government troops) and minimum governmental tampering with the national economy.⁶ Although the party still maintained its position of "tariff for revenue only" in direct contrast with the high protective tariff advocated by the Republicans, several important Democratic senators -- Gorman of Maryland, Payne and Price of Ohio, to name a few -- were believed to have sought the affections of the business community by promising to work for higher tariffs for manufactured products and subsidies for industries native to their states.⁷

The formation of radicalism in the party is harder

⁶Ibid., pp. 44-46 for a discussion of Bourbon doctrine.

⁷Warner, op. cit., p. 6. Clark, op. cit., I, 336. Hollingsworth, op. cit., 19-20.

to pinpoint. It would appear to be the result of agrarian discontent rising out of the manifold problems farmers seemed to be facing in a rapidly industrializing economy.⁸ The farmer felt he was receiving less for his crops while prices for manufactured goods he needed were continually increasing. If in the West he found it difficult to pay off the mortgage on his farm, in the South he found it almost impossible to get sufficient credit at reasonable rates. The debtor farmer readily sympathized with the Greenback and Silverite movements, both of which propagandized for the expansion of the national currency, the counterveiling of the deflationary trend, and the loosening of credit. Since he suspected that railroads were charging too much for freight service and that they were bribing politicians to avoid fair taxation, the farmer also supported efforts to regulate interstate carriers. The Granger movement of the 1870's represented an attempt by midwestern farmers to bring railroads under governmental control and regulation.

⁸ John D. Hicks, The Populist Revolt: A History of the Farmers' Alliance and the People's Party (Lincoln, Neb., 1961), pb., pp. 36-95. C. Vann Woodward, Origins of the New South, 1877-1913 (Baton Rouge, 1951), pp. 175-204.

Discontented and determined to improve their economic lot, southern and western farmers formed statewide farmer-oriented organizations to discuss their problems and formulate solutions.⁹ These organizations rapidly proliferated and soon combined into regional alliances, the two major ones being the Southern Alliance and the (Old) Northwest Alliance. By 1890, the leaders of the alliances were calling for political action in order to force government, both state and federal, to be more receptive to the demands of the farming communities of the nation. In the western states of Kansas, Nebraska, South Dakota, North Dakota, and Minnesota, this political activity led to the formation of "people's" parties; while in the South, it led to an attack on the establishment within the Democratic party. In the South, where the preponderance of people still were engaged in the occupation of agriculture, politicians now began to support "populist" demands or suffer the wrath of the electorate. Bourbon Redeemers (political leaders within the Democratic party of the post-Reconstruction period who had urged

⁹Hicks, op. cit., pp. 96-185. Woodward, op. cit., pp. 235-90.

business expansion, industrialization, and widespread rail-roading upon the South) who now resisted the farmer-oriented programs were in many cases turned out of office. In some southern states, the struggle for power was over quickly: Ben Tillman, later known as "Pitchfork Ben," successfully led an agrarian revolt within the Democratic party in South Carolina in 1890.¹⁰ In others, success came later: Varde-man carried out a similar movement in Mississippi just after the turn of the century.¹¹ If the supporters of the farmers' cause did not prevail within the Democratic party, the party soon found itself challenged by southern Populists. In North Carolina, a Populist-Republican coalition overwhelmed the Democratic "Bourbon" regime and retained power during the mid-1890's.¹²

In the farm belt west of the Mississippi (the "Middle Border"), the Democratic party, weakened by the loss of vote-getting power among Civil War veterans who

¹⁰Francis B. Simkins, Pitchfork Ben Tillman, South Carolinian (Baton Rouge, 1944), pp. 138-68. Francis B. Simkins, A History of the South (New York, 1953), pp. 351-53, has the successes of the "farmer-oriented" in southern state politics, 1890.

¹¹A. D. Kirwan, Revolt of the Rednecks: Mississippi Politics, 1876-1925 (Lexington, Ky., 1951), p. 148 ff.

¹²Woodward, op. cit., p. 277. Simkins, A History of the South, p. 353.

remained devoted to the party of Lincoln and Union, and eager to rebuild its strength, willingly allied itself with groups of dissident farmer organizations.¹³ Western Populists had devised a program of "radical" reform which they believed, if adopted by the states and Congress, would alleviate the economic disasters of industrialization. Western Democrats tended to adopt most of the Populist program as they found it expedient to be Populist fellow-travelers.

In the elections of 1892, the Democratic party, for the first time since 1856, succeeded in winning control of both the legislative and executive branches of government. To the misfortune of the party, as it assumed control of the government, the country fell into the grip of the Depression of 1893. Disregarding the opinions of the radically oriented elements in his party, President Cleveland resolutely attempted to bind the party to his will in mapping out a program to get the country out of the depression. Although he had strong support among all elements of the Democrats for tariff revision downward

¹³Waldo Lincoln Cook, "Present Political Tendencies," Annals of the American Academy, 18 (1901), 192.

as a means of helping the masses and increasing federal revenue, the president chose to have Congress act first on the monetary question.¹⁴ To help restore a rapidly depleting federal gold reserve, Cleveland urged Congress to repeal the Sherman Silver Purchase Act of 1890. His adamant advocacy of the gold standard, in light of well-intrenched sentiment for bimetallism among the bulk of his party, did much to undermine his authority as titular head. His cautious and rather conservative efforts to get the country out of its economic doldrums lost him further support among the advocates of "radical" reform. Unable to modify the president's actions, the "radicals" began to plan the capture of the party machinery and the imposition of their own philosophy upon the Democracy. They hoped that a platform of federally directed economic and political reforms would attract all the discontented elements in the country to their banner and lead to a national victory in 1896.¹⁵

The stage was set for a clash of will power at the Democratic National Convention held in Chicago in the

¹⁴Clark, op. cit., I, 320. Hollingsworth, op. cit., pp. 10-12.

¹⁵Hollingsworth, op. cit., pp. 32-50.

summer of 1896. From the beginning, it was obvious that the "radicals" had the necessary forces to impose their will upon the convention. To insure their control of the proceedings, they elected John Warwick Daniel, senator from Virginia and a free silver advocate as temporary chairman of the convention over the nominee recommended by the Program Committee, David Hill, senator from New York and a known gold standard conservative. Moderation was soon thrown aside, when riding roughshod over the feelings of the conservative element in the party, the "radical"-dominated convention adopted as planks in the Democratic platform of 1896: sixteen-to-one free coinage of silver without waiting for an international agreement on bimetallism, and an outright repudiation of the second Cleveland administration. All attempts to modify these divisive party stands were voted down by the overconfident majority. Then, in the midst of bedlam, the convention nominated one of the "radicals'" own, the young former congressman from Nebraska, William Jennings Bryan.¹⁶

Humiliated, outvoted, and outshouted, one group of Conservative Democrats walked out of the convention and

¹⁶Ibid., pp. 52-68.

resumed their rump meetings in Indianapolis. These "Gold Democrats" assumed the burden of offering Cleveland Democracy to the American public. A second group of "conservatives," perhaps less courageous but more politically astute, remained with the majority in convention, but offered it little support in the campaign. This element was prepared to await patiently the day when their philosophy would regain its hold over the Democracy. To their chagrin, the withdrawal of support, whether official or undercover, loosened the hold of the Conservatives on all important posts of party machinery. Even though the "radical" candidate was defeated in 1896, they found it no easy task to win back their old positions of power in the Democratic hierarchy.

The internal division between "conservatives" and "radicals" plagued the party for the next sixteen years. They were to be years of division and defeat. While the struggle for control of the party continued, the Democracy found it almost impossible to win national elections. Congressional Democrats who attempted to develop a consistent and attractive platform of issues upon which they could rebuild the party's strength seemed unable for most of the period (1897-1913) to distract public attention from the

conservative-radical dispute. They could not cope effectively with the twin-barreled propaganda of the Republicans, who shrewdly claimed the prosperity of the country as something totally of their making, and who questioned the sanity of those who would put a faction-ridden Democratic party in control when everything was going so well.

Conservative Democrats, until 1904, were secure in their belief that return of Tilden-Cleveland Democracy would once again lead the party to national favor. Unable to win the party standard away from the Nebraskan reformer in 1900, they stood aside again and watched without dismay the second consecutive national defeat of the party. In 1904, however, they were not to be denied. Confident of victory with "safe" Judge Parker of New York as their candidate, and with "conservative" Democracy stamped all over their platform, they were shaken by the overwhelming victory of the Roosevelt-led Republicans. Conservative Democrats began to search openly for new leaders of high caliber to take over the party. If reform was to be a necessary part of the Democratic fabric, these men sincerely believed that the party must first dispose of the "radical" leadership of William Jennings Bryan, and crush the determined drive for power of a newer "radical,"

William Randolph Hearst, Jr. Reform, if conceptualized, engineered, and administered by men who were conservative at heart, who were not likely to tamper with the basic elements of American society, was not too fearful a prospect. Eastern conservatives wooed men of like philosophy from the South.¹⁷ Woodrow Wilson, then president of Princeton University, was proposed early in the decade as a likely candidate upon whom both eastern and southern conservatives could agree as presidential timber. It would seem that this element of the party was slowly drifting to a position of compromise; it would accept moderate reform if it had faith in the leadership of the party.

At the same time as the conservatives were casting about for men of high caliber to lead the party, the "radical" wing of the Democracy began to find its position in

¹⁷"Need of Reorganization," Nation, 87 (1908), 455. Henry L. West, "The Future of the Democratic Party," Forum, 40 (1908), 516-17. Ray S. Baker, op. cit., pp. 149-50. "Whom Will the Democrats Next Nominate for President?" North American Review, 182 (1906), 491; this article featured the "call" for Woodrow Wilson. "Threatening Hearst Force," North American Review, 183 (1906), 817-20. "Has the Conservative South a Presidential Candidate?" North American Review, 185 (1907), 476-84. "Claims of the Candidates; Symposium," North American Review, 187 (1908), 801-50. John Callan O'Laughlin, "The Next President: Democratic Possibilities," Outlook, 85 (1907), 794-99.

the Midwest (and later in the Northeast) rapidly improving. Democratic candidates of a reform-bent were emerging within the ranks in these bastions of conservatism and finding public support. To be sure, these new Democratic reformers made a determined effort to moderate the sweep of radicalism and to concentrate on several specific reforms. Moreover, it appears that they made their greatest impact in urban areas, and amongst the urban working class. Tom Johnson and Brand Whitlock, Democratic mayors of Cleveland and Toledo, respectively, made great progress in breaking the groundwork for reform sentiment in Ohio.¹⁸ Other northern Democrats were preparing to make the most of the work done by certain Republicans to create a favorable image and public demand for reform. Robert LaFollette of Wisconsin and Albert Cummins of Iowa, elected in their respective states as governors on platforms calling for economic and political reform, did much in their gubernatorial administrations to convince the American people that government, operating in the public interest, could

¹⁹Warner, op. cit., pp. 78, 188-89. On the pages cited, Warner noted the achievements of the men insofar as the municipal reform movement was concerned. The book has complete coverage of the background and political lives of these men.

effectively cope with the railroads and the trusts.¹⁹ One single factor, perhaps more than any other, helped to change opinion among "middleclass" America on the subject of reform. Theodore Roosevelt, who while president of the United States (1901-1909) chose to put himself in spirit if not always in action at the head of the drive for progressive change, made the movement interesting, desirable, and perfectly acceptable.²⁰ He helped to rip the tag of "radical" from it, and to rend it respectable while whetting the appetite of the American middle class for more.

Although not translated into additional votes for the standard bearer of the party either in 1908 or in 1912, this reform spirit in America definitely worked to the benefit of Democratic candidates for Congress and for state offices. With a sudden turn of the wheel of fortune, Democrats once again found themselves in control of the lower House as a result of the elections of 1910, and masters of the legislative branch as a result of those in 1912. In

¹⁹Nye, op. cit., pp. 22-26.

²⁰George E. Mowry, Theodore Roosevelt and the Progressive Movement (New York, 1960), p. 34.

these years, Democratic candidates were elected governors upon reform platforms in many states of the Union.

It would appear then, that by 1912, the "radical" element had managed not only to hold onto the reins of power within the party, but to impose its philosophy, albeit somewhat modulated in pitch, upon the Democracy. It had not eliminated its more conservative brother, but it had forced him to accept significant revision of his viewpoint.

CHAPTER II

A METHOD OF STUDYING CONGRESSIONAL DEMOCRATIC SUPPORT FOR REFORM

If public demand for reform did indeed increase during the period 1897-1913, what was the impact of "radical" Democracy upon legislation passed by Congress? One method which could prove very useful in studying congressional Democratic support for reform would be some sort of roll call analysis based upon the voting records of Congress. If devised properly, such an analysis could expose not only the "progressive" strength within the minority but also the comparative development of "progressivism" within the Republican congressional party. In this way, a means would be provided to test the relative importance of reform-Democracy in the years before Wilson.

Most historians have designated the years 1900-1917 as the Progressive Era, and have divided the era into two distinct phases: the Republican, 1900-1912, and the Democratic, 1913-1917. This arbitrary dichotomy has led to a

concentration of scholarly effort concerned with developments within the majority party, in each instance, to the almost complete neglect of the minority. Thus, it is not surprising that the development of the Democratic party as a primary force for progressivism in the first decade of the twentieth century has either been overlooked or underestimated.

To study the congressional Democrats and their impact upon reform, five key issues of the period were selected. Each of these questions was of momentous and continuous concern to the people and the politicians of the United States in the years under consideration. Moreover, for each of these, a significant number of roll calls were found to be recorded for each house in the Congressional Record.

The first issue, direct election of United States senators by the people of the several states, was directly tied to a growing fear that the upper chamber was controlled by the corporate interests (the "trusts") of industrial America. Senators were elected by the legislatures of the individual states, and often in the years following the industrial development of the nation, they appeared, to those critical of them and sympathetic with agrarian dis-

content, to be more responsive to industrial interests than the needs of farmers or laborers. Direct popular election of senators, moreover, was seen by its advocates as a method of democratizing the electoral system, and of bringing government closer to the people.

The second issue, federal power to lay and collect income taxes, was called for to alleviate the tax burden upon the farmers of America and to shift a significant proportion of it upon those who had recently or were in the process of reaping huge profits from the industrialization of the economy. Under the existing system of taxation (national as apart from local taxation), which was based primarily on the tariff, it was argued by income tax advocates that the middle and working classes of America provided the bulk of government, while the well-to-do escaped for the most part paying a share proportionate to their wealth.

The third issue, antitrust legislation, was a call to arms articulated by those in the country who saw the development of huge unregulated concentrations of wealth and industrial power in America as a direct threat to competition within the national economy, to democracy within local, state and national politics, and to all other groups

within American society. The Sherman Anti-Trust Act, passed by Congress in 1890, had not operated as an effective means of preventing the further consolidation of industries in the first years of its operation. Recurrent demands were made for Congress to curb the trend toward "trustification."

The fourth issue, effective federal regulation of railroads, was brought before the public by those farmers and merchants who used the interstate carriers to transport their goods to the market places of the nation, and who found railroad services and practices to be highly discriminatory in favor of certain industrial trusts.¹ These men believed that railroads, instead of operating for the impartial good of all shippers, granted special rates to some and charged all that the traffic could bear to others whenever carrier competition was lacking. Since state power to regulate railroad companies had been denied by the Supreme Court (because of the interstate character of railroads) in the mid-1880's, the best alternative for

¹Lee Benson, Merchants, Farmers and Railroads: Railroad Regulation and New York Politics, 1850-1877 (Cambridge, Mass., 1955), pp. 59-61. Solon J. Buck, Granger Movement: A Study of Agricultural Organization and Its Political, Economic and Social Manifestations, 1870-1880 (Cambridge, Mass., 1913), passim.

transforming the railroads into public servants appeared to be the development of the Interstate Commerce Commission, a federal regulatory agency created by Congress in 1887, as an effective force with rate-fixing powers. They hoped that the ICC would, if given rate-making powers, establish them at levels beneficial to their needs.

Whereas farmers, merchants, and many industrialists sought to strengthen the ICC's ability to bring freight rates down and remove unfair practices, many railroad owners and executives hoped to mold the federal agency into one which would encourage pooling among carriers, thereby eliminating cutthroat competition, and would not restrict "fair" profit-taking by arbitrary rate-fixing.² Moreover, railroad owners also wanted an end to the rebate system, as it cut into their profits. Thus, it would appear that effective railroad legislation meant one thing to farmers and merchants, and for the most part (with the exception of rebates) quite another to the railroads.

The fifth issue, labor legislation, involved many questions relating to the work forces of the nation. The

²Gabriel Kolko, Railroads and Regulation, 1877-1916 (Princeton, 1965), pp. 3-6.

government, being an employer of hundreds of thousands, could by its example set a national standard for maximum number of hours and safe conditions for work. Congress, by its powers over interstate commerce, could establish similar standards for men operating the railroads of the nation. It could also indirectly aid America's laborers by recognizing labor unions as legitimate organizations operating to improve working standards and wages and, thus, distinctly outside the jurisdiction of the Sherman Anti-Trust Act. In an industrialized country in which "laissez-faire" had come to mean subsidies and aid to industrialists, and very little help for any other group (with perhaps the exception of war veterans), adjustment in favor of labor was a point of great agitation. Demand for congressional action upon labor's problems grew as the American Federation of Labor and various railroad unions developed extensive backing among the nation's working class.

The method of analysis that best seemed to suit the purposes of this study was that suggested and used by George Grassmuck in his work, Sectional Biases in Congress on Foreign Policy.³ Grassmuck developed an index of party

³George Grassmuck, Sectional Biases in Congress on Foreign Policy (Baltimore, 1951).

support within the Congresses of 1921-1941 for issues relating to foreign policy. This index was found to be quite adaptable to the study of reform in the congresses of 1897-1913. Working with those roll calls pertaining to the five issues noted above, a Grassmuck index was derived for each of the parties in the House and/or Senate for every Congress in which one of the five issues was voted upon (and recorded in full roll call vote) as a precise indication of sentiment for that reform in a particular Congress.⁴ If the matter was voted upon several times in the House (or in the Senate) in a Congress, the index represented the total performance of the party in the House for that Congress on the issue. In this way, indices covering the period of eight Congresses were produced; once this was done, it was possible to perceive "change over time." The index in series, then, was a key to the development of support within a party for a measure, and also a device by which comparisons could be made between the parties (both for any specific Congress or over a longer period of time). What was constructed, therefore, was an index of party unity and affinity toward

⁴See Appendix I.

reform. Its utilization revealed to a large degree the roles of the parties in the furtherance of "progressivism." It provided a method of proving that Democrats in these years were a vital force in the passage of reform legislation.

CHAPTER III

DIRECT ELECTION OF SENATORS BY THE PEOPLE

The writers of the Constitution, in 1787, had devised an electoral system for choosing federal office-holders which limited direct popular election to the selection of the members of the House of Representatives. Senators, from the adoption of the Constitution to 1913, were chosen not by the people but by the legislatures of their respective states. Over the last quarter-century of this period, however, a consistent attack was launched among those who found the system anachronistic to change it by letting the people choose, in direct election, their representatives to the Senate of the United States Congress.¹

Those who advocated direct election were able to cite many faults in the existing system. To critics of the post-Civil War Senate, it appeared that election of senators

¹George H. Haynes, The Senate of the United States: Its History and Practice (2 vols., New York, 1960), I, 81-117.

by the legislatures had opened the way for widescale bribery and corruption.² In an age of great new wealth created by rapid industrialization, there were many, they thought, who sought political power by buying their way into office. There were other office seekers, they believed, who sold their services to the large interests in the country in exchange for the "purchase" of a seat in the Senate. According to these critics, the Senate had developed into a millionaires' club responsive to the wishes of the corporate interests (the "trusts") of the United States.³ Elections in which graft was so obvious dishonored both the reputation of the senator involved and the character of the Senate.

Critics of the prevailing system noted, moreover, that because of the funds involved, the election of a senator frequently provoked long struggles in the state legislature. Delay of all other business until the matter had been settled was not an unusual procedure; but when a legislature was restricted by law to a three- or four-month biannual or annual operating period, time for the

²Ibid., pp. 91, 93.

³Sidney Ratner, American Taxation: Its History as a Social Force in Democracy (New York, 1942), p. 275.

people's business was cut short or even eliminated under the circumstances.⁴ Deadlocks sometimes occurred which carried over to the next session of the legislature. In the meantime, they sadly observed, the state was without the services of one of its two representatives to the Senate.⁵ Ridiculous as it seemed, they reminded other Americans, states had sometimes had no representation in the Senate because of the inability of the state legislature to designate its choice for either of two posts. The state legislatures would benefit mightily, they argued, if the burden of selecting senators was taken off their collective shoulders. A source of corruption could be eliminated and the legislature could conduct its proper business.

Direct election of senators by the people would, hoped its advocates, restore the upper chamber to a position of being properly responsive to the wishes of the electorate. Moreover, the suggested method of election was, they felt, more in line with the true meaning of democracy; were there true patriots in America, they asked,

⁴Haynes, op. cit., pp. 86-88, 93.

⁵Ibid., p. 92.

who seriously and openly distrusted the ability of the American people to select men worthy of serving their country and their states in the Senate?

Opponents of the reform rested the bulk of their case upon the ideas supposedly underlying the Great Compromise of the Constitutional Convention. Each state, they claimed, was to have two senators irrespective of its size, as a symbol of its "sovereignty" within the federal structure.⁶ These senators were representatives of the state, not of the people of the state; they were, in essence, ambassadors to the federal government rather than mere representatives, as was evidenced by their role in foreign affairs and executive matters. The state, through its legislative branch, was the true agent of election.

Another technique used by some senators to defend the "status quo" was to cast the reform minded into the position of being maligners of all senators formerly and

⁶Speech by George Vest (Democrat-Missouri) in United States, 57th Congress, Congressional Record, Volume 35, 6595. (Hereafter, citations from the Congressional Record will be noted in the following form: 57 C.R., 35, 6595.) Speech by George Hoar (Republican-Massachusetts) in 57 C.R., 35, 6589.

then in attendance in the Senate. Point to those senators, the opponents of direct election said, whom the old system had brought to office who have dishonored the Senate by their presence.⁷ How can those who seek to change the system, they asked, be so sure that direct election will continue to produce the high caliber of men serving presently in the upper chamber, and not lead to a multitude of crowd-pleasing demagogues.

Thirdly, the defenders argued, if deadlock of a legislature is the major problem, then change that part of the procedure that will insure fairly rapid selection of a legislature. Several senators proposed plans which encompassed the adoption of a rule of election by plurality in the individual legislatures, in the case of deadlock.⁸

Armed with these verbal weapons, elements of the two groups fought each other for years on the floors of Congress.⁹ As the adoption of direct election by the

⁷Speech by Weldon Heyburn (Republican-Idaho) in 61 C.R., 46, 2678; speech by Elihu Root (Republican-New York) in 62 C.R., 47, 1485.

⁸Plan of George Hoar (Republican-Massachusetts) in 57 C.R., 35, 6593; plan of Julius Burrows (Republican-Michigan) in 57 C.R., 35, 6594; plan of Elihu Root (Republican-New York) in 62 C.R., 47, 1485.

⁹For the reform, speeches made by John Corliss

people was a proposal to amend the Constitution, this meant passage required two-thirds of each house of Congress and the approval of the legislatures of three-quarters of the states. None of its advocates seriously presupposed an easy path for the measure.

For the third time in the history of the House of Representatives, the lower chamber started the mechanism for adoption of a resolution on direct election. On May 11, 1898, John Corliss (Republican-Michigan) brought up for consideration House Resolution 5 "proposing an amendment to the Constitution providing for the election of senators of the United States." The resolution, sponsored by the House Committee on Elections and Privileges, suggested two changes in Article I, Section 3 of the Constitution. The major alteration was the elimination of the words "chosen by the legislature thereof" and the substitution of the sentences:

These Senators shall be chosen by the legislatures of the several States, unless the people of any State, either through their

(Republican-Michigan) in 56 C.R., 33, 4412; Robert Owen (Democrat-Oklahoma) in 60 C.R., 42, 6803; and John A. M. Adair (Democrat-Indiana) in 62 C.R., 47, 208 were particularly expressive about the many reasons compelling action. Those against the measures developed their ideas most succinctly in a (Republican) Minority Resolution, 62 C.R., 47, 1428-29.

legislature or by the Constitution of the State, shall provide for the election of the United States Senators by direct vote of the people. A plurality shall elect, and the electors shall have the qualifications requisite for electors for the most numerous branch of the State legislature. [Italics mine.]

The second change was in the fourth paragraph of Section 3; it was amended "so as to permit the State to provide for filling vacancies, either by election by the people or temporary appointment by the executive."¹⁰

House Resolution 5, as it stood, was a proposal embodying an option for the state legislatures. They could, if they so desired, give over the election of senators to the people of their states. They could, at their discretion, completely disregard the spirit of the amendment and retain the old procedure. The question arises as to the purpose of the committee in writing an amendment resolution with an option clause. Corliss claimed, and probably honestly, that the previous attempts to get the Senate to approve direct election of senators (without option on the part of the legislatures) had both failed;¹¹ with option as a pacifier, perhaps, the Senate would acquiesce to the reform.

¹⁰ 55 C.R., 31, 4809.

¹¹ Ibid., p. 4810.

Oscar W. Underwood (Democrat-Alabama), then at the beginning of his career in Congress, would not accept the strategy proposed by the congressman from Michigan. He felt that the House should propose a measure that called for uniform change throughout the nation, and accept modification of this view only if "it is the best we can get."¹² Underwood proposed an amendment to the resolution carrying his ideas into action. With his amendment, the resolution would read simply: "These United States Senators shall be elected at large by direct vote of the people."¹³ The aspect of option would thereby be stricken out and that of mandatory uniformity written in.

John F. Shafroth (Silver Party-Colorado, later Democrat) proposed an additional amendment to House Resolution 5. His amendment would have changed the method of ratification from approval by the legislatures of three-quarters of the states to adoption by the conventions of three-quarters of the states. He believed that the change would greatly enhance the chances of the measure, when it was sent to the states for ratification.¹⁴ The House,

¹²Ibid., p. 4811.

¹³Ibid.

¹⁴Ibid., pp. 4818-19.

unfortunately, was not given a chance to vote upon this proposal.

When Underwood, later that day, suggested to Corliss that he call for the previous question (stoppage of debate) and a vote on his amendment to the resolution, the Republican immediately moved the previous question not only on the Underwood amendment but "on the joint resolution to its passage." This maneuver, if approved by the House, would provide a parliamentary path bypassing all other amendments, including the one proposed by the congressman from Colorado. Shafroth called for a division on the motion of previous question in an attempt to get his amendment before the House. Corliss, however, had the votes to force his motion through.¹⁵

The House adopted Underwood's amendment by a voice vote and, moments later, in a recorded roll call vote, overwhelmingly approved House Resolution 5 as amended and

¹⁵Ibid., p. 4825.

Party in House	No. in Party	Vote on Direct Election		
		For	Against	Nonvoting
Democratic	126	73	1	52
Republican	204	94	10	100

Note: Third parties are not included in vote charts.

sent it on its way to the Senate, where it died in committee. In the House, of those who voted for the Resolution, 73 were Democrats while 94 were Republicans. One Democrat and 10 Republicans opposed.¹⁶

Led by members who felt that if necessary the House should pass a resolution proposing direct election of senators each and every Congress until the Senate acted favorably on the measure, the House of Representatives in the 56th Congress prepared to state its advocacy of the reform. On April 12, 1900, during a call of the committees, Corliss (Republican-Michigan) "called up" House Joint Resolution 28, which was word for word the resolution on election of senators that he had sponsored in the preceding Congress. This resolution, therefore, provided for an optional method of selecting senators; that is, the state legislature if it so chose, could by legislation or by amending the state constitution provide for direct election of senators by the people.¹⁷

William Rucker (Democrat-Missouri) presented the substitute resolution of the minority party. As did the

¹⁶Ibid.

¹⁷56 C.R., 33, 4109.

Underwood amended resolution of 1898, the substitute proposed direct election by the people uniformly throughout the country, and deleted the optional aspect. Moreover, the Democratic version of 1900 sought to eliminate the power of the federal government (Article I, Section 4, Paragraph 1) to "make or alter regulations as to the times or manner of holding elections for senators" by granting to the individual state legislatures sole power to prescribe "the time, the place and the manner of holding elections for Senators."¹⁸ The Democrats quickly scuttled this latter revision when it brought forth an angry reaction from a key supporter of the measure on the Republican side of the chamber.¹⁹

After several hours of debate, the House accepted the minority substitute to House Joint Resolution 28 by an ayes-and-nays count of 135-30.²⁰ The pertinent part of the now amended resolution read: "The Senate of the United States shall be composed of two Senators from each State,

¹⁸Ibid., p. 4110.

¹⁹Ibid., pp. 4112-13. The Republican was Powers of Vermont.

²⁰Ibid., p. 4127.

who shall be elected by a direct vote of the people thereof for a term of six years, and each Senator shall have one vote." It passed the House by a roll call vote of 242-15.²¹ A total of 122 Democrats joined 115 Republicans in support of the Resolution, while 1 Democrat and 14 Republicans formed the opposition. Once again direct election of senators had received the overwhelming support of both parties in the lower chamber of Congress. In the Senate, the picture had not changed. On May 29, 1900, the Committee on Privileges and Elections killed House Joint Resolution 28 by reporting it "adversely" to the parent body.²²

The House of the 57th Congress followed the path of the two previous Congresses. It passed, on February 13, 1902, and sent along to the Senate, House Joint Resolution 41 proposing direct election.²³ Senators favoring the measure, after waiting for months for some report from the Committee on Privileges and Elections, decided to

²¹Ibid., p. 4128.

Party in House	No. in Party	Vote on Direct Election		
		For	Against	Nonvoting
Democratic	159	122	1	36
Republican	185	115	14	56

²²Ibid., p. 6189.

²³57 C.R., 35, 1721.

attempt to discharge the resolution from committee. On June 11, 1902, the Senate debated the motion of discharge.

Joseph Blackburn (Democrat-Kentucky) challenged the chairman of the committee, Julius Burrows (Republican-Michigan), to refute the contention that only a motion of discharge would bring the resolution before the Senate. He claimed that the majority of the committee just did not want the Senate to have a chance to vote on any form of the resolution.²⁴

There were, in fact, several plans before the Senate on the matter. George Hoar (Republican-Massachusetts), one of the greatest statesmen produced by his commonwealth, had proposed a bill which called for a plurality vote in a state legislature if after seven votes a majority had not selected a senator.²⁵ Burrows (Republican-Michigan) offered another bill which proposed direct election of senators in the event that the legislature failed to make a choice.²⁶ Chauncey Depew (Republican-New York) offered an amendment to House Joint Resolution 41 which called for uniform qualification of voters throughout

²⁴Ibid., pp. 6593-94.

²⁵Ibid., p. 6593.

²⁶Ibid., p. 6594.

the country and which proposed giving Congress powers in the fields of registration of voters, conduct of elections, and certification of the results.²⁷ This latter proposal was a direct threat to southern white supremacy; if it was attached to the joint resolution, the chances were excellent that southern Democrats would help to defeat the measure regardless of their opinions on direct election of senators.

The whole problem, with all of its complications, was deferred to a future congress when the Senate rejected the motion of discharge, 21-35.²⁸ Sixteen Democrats (nine others expressed their approval) and 5 Republicans voted for the motion, whereas 34 Republicans and a Democrat defeated it. In contrast to the House, where direct election had drawn bipartisan support, in the Senate support came primarily from the Democrats. Few Republican Senators appeared to favor the direct election of senators at this

²⁷Ibid., p. 3925.

²⁸Ibid., pp. 6597-98.

Party in Senate	No. in Party	Vote on Direct Election			
		For	Against	Nonvoting	
Democratic	32	(16+9)	25	(1+1) 2	5
Republican	55	5		(34+1) 35	15

time. The Committee on Privileges and Elections sat on the resolution for the rest of the Congress.

It was obvious to all now, if it had not been long before, that the major roadblock to the adoption of direct election was the United States Senate. Leaders in the House changed their tactics, and instead of bombarding the upper chamber with resolutions Congress after Congress, they awaited signs of change of sentiment. It turned out to be a wait of eight years.

Robert Owen (Democrat-Oklahoma), a newcomer to the Senate, tried the direct approach of calling for consideration of the reform, on May 23, 1908.²⁹ He did not stand a chance against the likes of the experienced and wily Eugene Hale (Republican-Maine), who asked his young colleague to name those senators delinquent in their duty of responding to public demand for direct election.³⁰ The Oklahoman knew better than to answer and in so doing to malign his new compatriots. However, he drew blood when he attacked the Depew amendment, which had been trotted out again (as a device to break southern ranks in support of direct election) as a means "to prevent action" and not

²⁹60 C.R., 42, 6804.

³⁰Ibid.

to secure passage.³¹ Owen's day in the limelight was brought to an abrupt halt when he specifically called for a motion to consider Senate Resolution 91 proposing a constitutional change in the method of electing senators. Hale of Maine quickly moved to refer the matter to the Committee on Privileges and Elections. The Senate followed its Republican leadership and disregarded the plea for immediate consideration; the vote was 33-20 in favor of referral.³² Nine Democrats and 11 Republicans tried to stop the motion, while 30 Republicans and 3 Democrats put it across. The vote would seem to indicate that the motion to consider Senate Resolution 91, although called for by a Democrat, took the party by surprise. A majority of Democrats were absent from the Senate on that day. Of greater importance, the vote displayed an increase in support of direct election among Republican senators. It was indicative of the situation that the 60th Congress was

³¹Ibid., p. 6805.

³²Ibid., p. 6806.

Party in Senate	No. in Party	Vote on Direct Election		
		For	Against	Nonvoting
Democratic	31	9	(3+1) 4	18
Republican	61	(11+1) 12	30	19

to be the last in which the conservative Republican leadership could turn aside the demand for this measure without a vote on a resolution proposing it.

On January 13, 1911, William Borah (Republican-Idaho) asked the Senate to consider Senate Joint Resolution 134 proposing an amendment to the Constitution providing that senators shall be elected by the people of the several states. It soon became obvious that this time matters were to be different in the Senate; the issue was going to be discussed and brought to a vote. Delay was not to be sanctioned. The question arises why, after so many years of delay of consideration of this measure, was the Senate to put time and effort into drafting a resolution on it in this, the last session of the 61st Congress. Perhaps the most significant factor was the election of 1910, in which the political domination of Republicanism had been shattered.³³ Democrats were to control the House of Representatives in the 62nd Congress, and were to form

³³Haynes emphasizes the introduction of men, who had won popular primaries and were selected by their respective legislatures, into the Senate as key to the change of heart. He notes that Senator Borah, as one such elected, felt obligated to bring about the popular vote system. Haynes, op. cit., pp. 107-8.

a large minority in the Senate. The Democratic minority in the Senate, moreover, appeared to have a natural ally for certain reforms in the "progressive" Republicans. With the incentive of massive popular support as evidenced in the recent election, the reform-minded in the Senate chose to waste little time in carrying out their mandate.

The resolution which Borah presented was the product of the Judiciary Committee. It was in substance the same as the House Democratic minority substitute resolution, as originally proposed in 1900. Besides direct election of senators by the people, it included the substitution of state control for federal in the prescription of "the times, places and manner of holding elections for Senators."³⁴ This latter provision was immediately attacked by George Sutherland (Republican-Utah) who offered an amendment which knocked out the state control clause of the resolution, and left ultimate control of federal elections in federal hands.³⁵

Some diehard senators were evidently still hopeful that they had the votes to keep the Senate from further consideration of the joint resolution. A motion to adjourn

³⁴61 C.R., 46, 487.

³⁵Ibid., p. 848.

was called for, but was brushed aside by a crushing vote of 17-43.³⁶ Nineteen Democrats and 24 Republicans voted to keep the Senate in session; 16 Republicans and 2 Democrats favored the delaying tactic.

Senator Borah then asked unanimous consent of the Senate to name January 24, 1911, as the day for voting on all amendments to the resolution and a final vote on the resolution itself. The fortnight delay was primarily to allow senators to familiarize themselves with the amendments; in particular, the Sutherland amendment. When Weldon Heyburn (Republican-Idaho) objected, Borah resolutely told his comrades that he would again ask the Senate, within a week, to name a day for consideration of the resolution to its passage; he threatened a filibuster delaying all other Senate business if a definite time was not then agreed upon.³⁷

It was not until February 3rd that Borah was

³⁶Ibid.

Party in Senate	No. in Party	Vote on Adjournment		
		Against	For	Nonvoting
Democratic	32	(19+1) 20	2	10
Republican	59	(24+1) 25	(15+1) 16	18

³⁷Ibid., p. 852.

successful in getting the resolution placed before the Senate on its way to passage. The method chosen for doing this was to have the joint resolution established as the unfinished business of the Senate. As such, it would become the first order of business at two o'clock in the afternoon of each and every Senate business day. In order to get the measure up for consideration before the Senate, and to establish as unfinished business, the alliance for direct election had to withstand a motion to send the Senate into executive session. They did so; the vote was 36-40.³⁸ Twenty-four Democrats and 16 Republicans kept the Senate on the issue of direct election; all 36 votes for delay (through the motion to go into executive session) came from the Republican side of the chamber.

With the joint resolution established as the unfinished business of the Senate, debate on the measure and the Sutherland amendment was carried on day after day. To bring the matter to a climax, Borah proposed on February

³⁸Ibid., p. 1898.

Party in Senate	No. in Party	Vote on Executive Session		
		Against	For	Nonvoting
Democratic	32	24	0	8
Republican	59	16	36	7

17th that the following Wednesday be set as the day the Senate would vote on all amendments and the resolution. Borah's suggestion, being in the form of unanimous consent, was denied when his compatriot from Idaho offered objection. Jacob Gallinger (Republican-New Hampshire) now threatened to bring the debate for the day to a close by offering a motion of adjournment. The alliance succeeded in turning back this anti-resolution strategy by a vote of 37-44.³⁹ Twenty-six Democrats and 18 Republicans joined to block the motion, while 35 Republicans and 2 Democrats supported the delay. The situation flip-flopped when Borah refused to allow Knute Nelson (Republican-Minnesota) to hold his speech over until the next day, and Henry Cabot Lodge (Republican-Massachusetts), who stated his opposition to forcing a senator to speak at so late an hour, made a motion to send the Senate into executive session. Lodge's motion carried

³⁹Ibid., p. 2776.

Party in Senate	No. in Party	Vote on Adjournment		
		Against	For	Nonvoting
Democratic	32	26	2	4
Republican	59	18	35	6

by a vote of 46-34.⁴⁰ Seven Democrats deserted their comrades and joined 39 Republicans in support of the motion ending debate on direct election for the day; 20 Democrats and 14 Republicans sought in vain to keep the Senate on the issue.

On February 24, 1911, the Senate finally prepared to vote on the Sutherland amendment. If it was adopted, the resolution would leave the power of supervision regarding the election of senators to Congress. At the same time, the then amended resolution would also be in dire jeopardy, for southern senators felt very strongly about removing federal jurisdiction regarding local elections in their states. Whereas sympathy with the Negro cause was a factor in senatorial support of the Sutherland amendment, it is not to be denied that some senators saw it as the means by which direct election of senators could be defeated. The Senate by a vote of 50-37 adopted the Sutherland amend-

⁴⁰Ibid., p. 2777.

Party in Senate	No. in Party	Vote on Executive Session		
		Against	For	Nonvoting
Democratic	32	20	7	5
Republican	39	14	(39+1) 40	5

ment.⁴¹ Forty-nine Republicans and James P. Clarke (Democrat-Arkansas) voted for it, while 26 Democrats and 8 Republicans (Borah of Idaho, Bourne of Oregon, Bristow of Kansas, Brown of Nebraska, Clapp of Minnesota, Cummins of Iowa, Gronna of North Dakota, and LaFollette of Wisconsin) voted against it. All of the Republicans who took the Democratic position were representatives of western states.

With the Sutherland amendment tagged onto Senate Joint Resolution 134, the big question was whether southern senators would join the opposition and bring down the resolution. On February 28, 1911, the question was resolved in the affirmative as the joint resolution went down to defeat by four votes, 54-33.⁴² Being an amendment to the Consti-

⁴¹Ibid., p. 3307. This roll call was not included in the development of the index for this Congress, because it was felt that the Sutherland amendment involved a dimension other than that of direct election of senators. For the southern Democratic viewpoint on Sutherland's revision, see the speech given by Augustus Bacon of Georgia, 61 C.R., 46, 3527-36.

⁴²Ibid., p. 3639.

Party in Senate	No. in Party	Vote on Adoption		
		For	Against	Nonvoting
Democratic	32	(21+1) 22	(9+1) 10	0
Republican	59	(33+1) 34	24	1

tution, it needed two-thirds majority approval; in this case, a minimum vote for passage would have been 58-29. Twenty-one Democrats and 33 Republicans supported the resolution, but 9 Democrats and 24 Republicans produced the necessary votes to defeat it. An analysis of this vote indicates that Deep South Democrats and New England-Middle Atlantic Republicans were responsible for most of the votes bringing down the proposal. Both senators from Alabama, Mississippi, Georgia, and Florida as well as a senator each from Louisiana and South Carolina favored rejection. One of the Democrats was paired against. Among the Republicans were both senators from Vermont, New Hampshire, Connecticut, Massachusetts, New York, and Pennsylvania, and a senator each from New Jersey, Rhode Island, Maine, Delaware, and West Virginia. The other votes against the resolution came from Republicans, one senator each from Michigan, Ohio, Illinois, Utah, Wyoming, Idaho, and California.

Defeated in the 61st Congress, advocates for a direct election were ready to try again in the new Congress. The make-up of the 62nd was a promising one. The House had never been a stumbling block and, with a majority of Democrats, prospects for passage of an amendment resolution

seemed assured. In the Senate, the Democratic minority had been increased by nine, and those from non-South states. In fact, five lameduck Republicans who had voted against Senate Joint Resolution 134 in February, 1911, were replaced by Democrats (one each from Maine, New Jersey, New York, West Virginia, and Ohio). If the new Democrats voted in line with past party policy, prospects for passage in the upper chamber seemed very good.

During the special session of the 62nd Congress called by President William Howard Taft, the revived Democratic party quickly brought the direct election issue before the House. The session had begun on April 4, 1911, and by the 13th the party leadership was prepared to bring House Joint Resolution 39 up for consideration, debate, and a vote to passage.⁴³ Joint Resolution 39, drawn up by the Committee on Elections of the President, Vice President, and Representatives in Congress, which was dominated by Democrats, proposed state control of senatorial elections along with direct election of senators by the people of the several states.⁴⁴ It was the same measure which had been before the Senate in the third

⁴³62 C.R., 47, 203-43.

⁴⁴Ibid., p. 203.

session of the 61st Congress, a few months before. As did Senator Sutherland upon that occasion, H. Olin Young (Republican-Michigan) offered an amendment to the resolution, proposing to knock out the state control clause.⁴⁵ Following a few hours of debate, the House rejected the Young amendment by a vote of 123-89.⁴⁶ It was a straight party division with only James T. McDermott (Democrat-Illinois) crossing over to vote with the 122 Republicans favoring the revision. Immediately thereafter, the lower chamber approved the resolution in an almost unanimous manner, 296-16.⁴⁷ One hundred and ninety-two Democrats and 103 Republicans sponsored direct election, while 15 Republicans and 1 Democrat registered opposition.

⁴⁵Ibid., p. 207.

⁴⁶Ibid., p. 241.

Party in House	No. in Party	Voting on Young Amendment		
		Against	For	Nonvoting
Democratic	227	189	1	37
Republican	161	0	121	40

⁴⁷Ibid., p. 242.

Party in House	No. in Party	Vote on Direct Election Constitutional Amendment		
		For	Against	Nonvoting
Democratic	227	192	1	34
Republican	161	103	15	43

In the Senate, a minor tussle developed over whether the Committee on the Judiciary or the Committee on Privileges should receive the House-approved measure. Both Texas Democrats, Charles Culberson and Josephus Bailey, on April 20th urged the Senate to refer it to the Judiciary Committee, the committee that had favorably reported a similar resolution in the last Congress. The upper chamber then approved their views by adopting a motion changing the disposition of the resolution from the Committee on Privileges and Elections to the Judiciary Committee.⁴⁸

On May 8th, the forces for the reform attempted to place House Resolution 39 on the Senate calendar as unfinished business. To do this, a motion of consideration was offered during afternoon business; it passed 66-5, drawing bipartisan support from 31 Democrats and 35 Republicans and opposition from only 5 Republicans.⁴⁹ This action meant that every day at the opening of afternoon

⁴⁸Ibid., p. 440.

⁴⁹Ibid., p. 1075.

Party in Senate	No. in Party	Vote on Consideration		
		For	Against	Nonvoting
Democratic	41	(31+2) 33	0	8
Republican	50	(35+1) 36	5	0

business, the resolution would be brought up for debate at the discretion of its backers. It assured the resolution of continuous consideration, and for all probability, a vote.

A week later, on the 15th, Senator Bristow of Kansas (Republican) offered an important amendment in the nature of a substitute to the joint resolution. Bristow, it will be remembered, was one of the eight Republican senators who broke with their party and voted against the Sutherland amendment the past February. Now, however, the Kansan proposed an amendment which duplicated the Sutherland proposition; in essence, it eliminated the clause establishing state control of senatorial elections.⁵⁰ Bristow claimed that in each instance he had acted in accord with what he judged to be best for passing the measure. Now, he felt that direct election of senators should not be complicated by any side issues.⁵¹

On May 25th, the Senate gave unanimous consent to the motion to dispose of the resolution and all amendments June 25, 1911.⁵² As had occurred in the 61st Congress, the bulk of the debate centered on the issue of state control

⁵⁰Ibid., p. 1205.

⁵¹Ibid., pp. 1483-84.

⁵²Ibid., pp. 1592-94.

of elections as adverse to federal control, and not on the issue of direct election. On June 12th, Augustus Bacon (Democrat-Georgia) representing the viewpoint of the Deep-South senators, offered an alternative amendment to the resolution. State control was to be retained in the resolution, but a new clause gave to Congress the power "to alter such regulations in any State whenever the legislature thereof shall neglect or refuse to make such regulations, or from any circumstances be incapable of making the same."⁵³ Just before the vote on his amendment, however, Bacon withdrew it, stating that it had failed to bridge the gap between the two positions on control of elections.⁵⁴

The vote on Bristow's amendment striking the state control clause came amidst supreme drama as the Senate tied, 44-44.⁵⁵ Thirty-nine Democrats and 5 Republicans sought to block its adoption; 43 Republicans and 1 Democrat voted for it. The matter at this moment rested upon

⁵³Ibid., p. 1883.

⁵⁴Ibid., p. 1922.

⁵⁵Ibid., p. 1923.

Party in Senate	No. in Party	Vote on Bristow Amendment		
		Against	For	Nonvoting
Democratic	41	(39+1) 40	1	0
Republican	50	5	(43+1) 44	1

Note: This roll call was not included in the index; see footnote 41.

the will of the vice-president, John Sherman. If Sherman abstained from voting, the tie vote meant defeat for the Bristow amendment. If he cast a negative vote, the same would result. However, if as was more likely, he voted affirmatively, the amendment was carried. The vice-president chose the third alternative, voted "aye," and thus brought about the elimination of state control from the resolution.

On the vote for the adoption of the Bristow, five of the eight Republicans who had previously voted against the Sutherland amendment shifted. Only Borah of Idaho, Gronna of North Dakota, and LaFollette of Wisconsin remained constant. They were joined in the effort to block the Bristow amendment by two new members of their party, Poindexter of Washington and Works of California. As he had in February, Clarke of Arkansas (Democrat) voted with the Republican majority on this matter. Was the shift of the five western "progressive" Republicans significant? Yes, for it endangered the passage of the resolution. If the resolution was left as the House had sent it to the Senate, and if the Senate had approved it in that fashion, which was quite possible, then the resolution would have been sent on its way immediately to ratification by the

states. Because of the adoption of the Bristow amendment, even if the Senate adopted the amended resolution, further delay was necessary before final congressional action. The House and the Senate would have to work through conference committees in order to arrive at a solution. This certainly provided an uncertain future for direct election.

The Senate, after adopting the Bristow amendment, passed the amended resolution by more than the required two-thirds vote, 64-24.⁵⁶ Thirty-one Democrats and 33 Republicans joined in this victory, while 8 Democrats and 16 Republicans resisted in vain. Once again, senators from the Deep South (with heavy Negro population) and the New England-Middle Atlantic areas voted against the resolution. It could be said that the Democratic senators from the Deep South (with few exceptions) would have voted for the measure if it had but included the state control clause; whereas those Republicans who voted against the resolution represented the hard core opposition to the

⁵⁶Ibid., p. 1924.

Party in Senate	No. in Party	<u>Vote on Direct Election Amendment</u>		
		For	Against	Nonvoting
Democratic	41	(31+1) 32	(8+1) 9	0
Republican	50	(33+1) 34	16	0

reform itself. Other Republicans were quite open as to their lukewarm support for the measure; Warren of Wyoming and McCumber of North Dakota gave their approval more to satisfy the public cry for direct election than because of any deep-seated opinion that the measure was necessary and desirable.⁵⁷

Since the vote passing the resolution had been taken while the Senate was in Committee of the Whole, the Democrats had another chance, narrow though it might be, to re-amend the resolution when it appeared before the Senate. At this point, Senator Bacon of Georgia (Democrat) offered his amendment establishing state control of senatorial elections, but reserving to the federal government the right to make regulations in a state "whenever the legislature thereof shall neglect or refuse to make such regulations, or from any circumstances be incapable of making the same." This time the reserve vote of the vice-president was not necessary to turn back the Democratic tide. The vote read 43 for Bacon's amendment to 46

⁵⁷Ibid., pp. 1950, 1956.

against.⁵⁸ Thirty-nine Democrats and 4 Republicans failed to overcome the will of 45 Republicans and 1 Democrat. The difference in the votes between the roll call on the Bristow amendment and that on the Bacon amendment is accounted for by the shift of Gronna of North Dakota back to the Republican position, and by the vote cast by Dillingham of Vermont (Republican), who shifted pairs in order to vote. The Senate, having turned aside state control again, proceeded to pass the joint resolution by precisely the same vote as it had passed the measure while it was in the Committee of the Whole, 62-24.⁵⁹

The next day, June 13, 1911, Senator Bacon (Democrat-Georgia) disputed the right of the vice-president to cast the tie-breaking vote on the Bristow amendment. He reasoned that the matter was "extraordinary" and was one concerning the Senate alone.⁶⁰ He felt that only senators

⁵⁸Ibid., p. 1927.

Party in Senate	No. in Party	Vote on Bacon Amendment		
		For	Against	Nonvoting
Democratic	41	39	1	1
Republican	50	4	45	1

Note: This roll call not included in index; see footnote 41 above.

⁵⁹Ibid., see footnote 56.

⁶⁰Ibid., pp. 1950, 1956.

should have been permitted to vote. James A. Reed (Democrat-Missouri) who had voiced his doubt about the right of the vice-president to vote almost as soon as Sherman had taken the privilege to break the tie⁶¹ now on the 13th offered a motion to reconsider the vote on the final passage of the resolution. As quite a few members of the Senate had departed the capital following the strategic voting of the night before, the vote to reconsider involved far fewer senators. A tie of 33-33 defeated the motion.⁶² Twenty-eight Democrats and 5 Republicans declared for reconsideration, while 32 Republicans and 1 Democrat were adverse to that point of view. Interestingly, there was a shift of alliances on this vote; five die-hard opponents to direct election joined the state-control-minded Democrats; four of the five "progressive" Republicans, who had voted with the Democrats against the Bristow amendment, shifted and voted against reconsideration.

⁶¹Ibid., p. 1924.

⁶²Ibid., p. 1966.

Party in Senate	No. in Party	Vote on Reconsideration		
		For	Against	Nonvoting
Democratic	41	28	1	12
Republican	50	5	32	13

Note: This roll call not included in index.

The joint resolution as amended by the Senate was sent to the House for concurrence in the changes made. On June 21, 1911, the House took up the motion to concur in the Senate amendment. After a short debate, the matter was brought to a vote. Party lines held and the motion was defeated, 111-171.⁶³ One Democrat and one Republican voted with their opposites. The Democratic leadership was obviously willing to take the chance that a conference between the two houses would result in victory for their version of the resolution.

The House sent the resolution back to the Senate with its vote of nonconcurrence in the Senate amendment, and asked the upper chamber to recede from its amendment.⁶⁴ To nobody's surprise, the Senate, on June 27th, insisted upon the Bristow amendment and asked for a conference between the two houses. Clark (Republican-Wyoming), Nelson

⁶³Ibid., p. 2433.

Party in House	No. in Party	Vote on Concurrence		
		Against	For	Nonvoting
Democratic	226	170	1	55
Republican	161	1	109	51

Note: This roll call not included in index.

⁶⁴Ibid., p. 2434.

(Republican-Minnesota) and Bacon (Democrat-Georgia) were appointed as conferees representing the Senate.⁶⁵ On July 5th, the House approved a motion to insist on its disagreement to the Senate amendment and agreed to a conference. William Rucker (Democrat-Missouri), Michael Conry (Democrat-New York) and Marlin Olmsted (Republican-Pennsylvania) were appointed as conferees of the House.⁶⁶

Ten months later, on April 17, 1912, Senator Clark reported to the Senate that the conference committees had failed to come to any agreement; they had met a total of sixteen times.⁶⁷ The Senator from Wyoming asked the Senate to approve his motion to insist upon the Senate amendment; it was a test of strength for the Republican position on the issue. The motion carried by a vote of 42-36 as only one Republican, Borah of Idaho, remained with the Democrats in opposition to the Bristow amendment.⁶⁸

⁶⁵Ibid., p. 2549.

⁶⁶Ibid., p. 2650.

⁶⁷62 C.R., 48, 5169.

⁶⁸Ibid., p. 5172.

Party in Senate	No. in Party	Vote on Motion to Insist		
		Against	For	Nonvoting
Democratic	43	(35+4) 39	1	3
Republican	52	1	(41+6) 47	4

The logjam was about to be broken, however, as the above vote in the Senate had immediate impact on the House. William Rucker (Democrat-Missouri) informed the House on April 26th that the combination of the failure to crack Republican resistance in yearlong confrontation in conference, and the vote of the Senate, by which that body "by a larger vote than before insisted on the Bristow amendment, forced a change of strategy upon the Democrats. He announced that the next day he would call for the House to recede from its disagreement to the Senate amendment and to concur in the amended joint resolution.⁶⁹ Rucker was not able to carry out his plan with such speed. It was not until the 13th of May, 1912, that the House acted. First, it turned aside a new attempt to force the Senate to adopt some form of state control by defeating an amendment offered by Charles Bartlett (Democrat-Georgia); the vote was 87-189.⁷⁰ Ninety Democrats broke with their

⁶⁹Ibid., p. 5433.

⁷⁰Ibid., p. 6366.

Party in House	No. in Party	Vote on Bartlett Amendment		
		Against	For	Nonvoting
Democratic	230	90	86	3
Republican	161	99	3	59

Note: This roll call not included in index.

cohorts to join 99 Republicans to bring down Bartlett's suggestion; 86 Democrats and 3 Republicans remained steadfast in support of state control. Then, finishing the matter, the House approved a motion of concurrence in the Senate amendment by a vote of 238-39.⁷¹ One hundred and thirty-five Democrats and 103 Republicans voted for concurrence, while 39 Democrats refused to sanction what they considered a sell-out.

A breakdown of state delegation voting in the House on the Bartlett motion and on the motion of concurrence indicates that southern Democratic representatives preferred state control. Only Democrats from Arizona, Missouri, New Mexico, and West Virginia (and the "southernness" of these is debatable) represented southern areas and voted against state control and for the motion of concurrence. The majority of Democrats from Alabama, Kentucky, Louisiana, Maryland, North Carolina, Oklahoma, South

⁷¹Ibid., p. 6367.

Party in House	No. in Party	Vote on Concurrence		
		For	Against	Nonvoting
Democratic	230	135	39	56
Republican	161	103	0	58

Carolina, Tennessee and Texas favored the Bartlett motion, but then agreed upon concurrence. Die-hard support for state control on both votes came primarily from Democrats representing Arkansas, Georgia, Mississippi, and Virginia. Democrats from the North and West (California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Nebraska, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin) supported the leadership of Rucker on both occasions.

The ratification of the resolution proposing an amendment to the Constitution regarding direct election of senators was complete in just over a year. On May 31, 1913, Secretary of State Bryan proclaimed the measure the law of the land. It is interesting to note that among the twelve states that did not act to ratify were ten from the border area and the South. The issue of state control of elections was a real one for these states: Alabama, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, South Carolina, and Virginia.⁷²

⁷²U.S. Congress, Senate, Senate Manual (Washington, D.C., 1915), pp. 254-55.

CHAPTER IV

THE STRUGGLE FOR FEDERAL INCOME TAX

The fight to establish the federal power to lay and collect income taxes was one of the most significant political battles in the first decade of the twentieth century. During the rapid industrialization of the United States in the nineteenth century, huge financial empires and massive personal fortunes had been created. This wealth remained untapped as a source of revenue for the federal government because of the pressure these financial giants could exert on Congress. As a result, the basic source of revenue for the United States government continued to be tariff duties. Although under Republican guidance, tariff schedules had been continually raised since the Civil War, it appeared to contemporary critics that the GOP would sacrifice possible revenue for the government in their efforts to increase protection for certain industries. The McKinley Tariff of 1890 had just this effect after its enactment. Moreover, a high

tariff schedule not only forced the American public to bear the brunt of the tax burden, but allowed the industrial empires of the country to keep prices high at home while still competing here with goods from abroad.

By the 1890's, with the country in the midst of depression, pressure built up in the South and West for the adoption of a federal income tax. Income tax was seen as a device to make the wealthy carry more of the tax load, and thus to alleviate the burden of the laborer and the farmer. It was also an excellent means of shifting the revenue base from the agrarian areas of the United States to the industrial Northeast.

In 1894, a Democratic Congress passed an income tax provision as part of the Wilson-Gorman Tariff Act; it provided for a tax of 2 percent on "all 'gains, profits, and income' over \$4,000 'derived from any kind of property, rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation.'"¹ It was not the first time that the federal government was directed to lay and collect income taxes; during the Civil War, in order to reduce a skyrocketing deficit, Congress had

¹Ratner, op. cit., p. 191.

enacted such a tax. Collected from 1863 to 1872, it was terminated because of intensive pressure put on the Congress by the business community of the Northeast.² With the passage of the 1894 law, the anti-income tax campaign was whipped again. To the astonishment of its advocates and the delight of its opponents, the income tax provision of 1894 was found unconstitutional by the Supreme Court in the following year.³ Perhaps reacting to a fear that socialistic revolution was almost upon the country, and that the income tax was only the first of many devices to destroy the rights of private property, the High Court (by a five to four decision) chose to break with precedent by defining income tax as a "direct tax," and thus, to doom it for all practical purposes.⁴

Two courses remained open for the proponents of income tax. Congress could pass another bill encompassing it, and await another hearing before the Supreme Court. By the time the new tax bill was before the tribunal, perhaps public sentiment for the measure and the fact that

²Ibid.

³Pollack vs. Farmers Loan and Trust Company, 157 U.S. 429, as cited in Carl B. Swisher, American Constitutional Development (2nd ed.; Cambridge, Mass., 1954), p. 445.

⁴Ratner, op. cit., p. 197. Swisher, op. cit., pp. 449-52.

Congress had re-enacted it would foment more favorable response among the justices. There was always the chance that the Court's feeling on the matter would change with the seating of new judges. A second method of attack was to pass an amendment resolution through the Congress, and send it to the states for ratification. An amendment to the Constitution would effectively bypass the Court's judgment. At the same time, the route of any amendment to the Constitution, and particularly this one, was strewn with pitfalls. To pass the Congress, the resolution needed a two-thirds vote in each house, and the Senate -- country club of millionaires in this period -- was almost certain to be an insurmountable obstacle. If, by chance, the resolution did leave Congress, it faced the prospect of having to be approved by majority vote in each of the legislatures of three-quarters of the states of the Union. If twelve state legislatures -- in fact if one house of the legislature in each of twelve states -- refused to ratify the resolution, the amendment could not be adopted. (After Arizona and New Mexico were admitted as states to the Union in 1912, the number of states that could block adoption became thirteen.) The fact of the

matter was that the center of sentiment antagonistic to the income tax, the Northeast, by itself had almost the number of states needed to kill the resolution. At the time, chances of success along the amendment route did not appear to be good. However, there was always one hope upon which the proponents for this reform could pin their dreams, and that was that the voters in the Northeast would tire of conservative rule. If reform elements could win popular support nationwide, and gain control of the national and state legislatures, the die would be cast in favor of the income tax.

Democrats in Congress were ready to use whichever method appeared to have the best chance of success at any given moment. The major question that remained was timing. Under what circumstances would the passage of an income tax, either as a rider to a bill or a resolution proposing an amendment to the Constitution, draw its greatest support?

The first two attempts in the years 1897-1913 to secure passage of the measure came while the United States was engaged in war with Spain. Wartime usually meant huge federal expenditures and a subsequent strain on the treasury.

To reduce deficits in a similar wartime situation, the American government had utilized the income tax before. Why should it now now, in 1898 -- the decision of the Supreme Court notwithstanding -- do the same?

Roger Quarles Mills (Democrat-Texas) on May 4, 1898, in the Senate of the United States, called for an amendment to a joint resolution (proposing an amendment to the Constitution regarding presidential succession) which gave the government the right to lay and collect income taxes without apportionment among the states. A motion to table Mills' amendment carried 32-29.⁵ Tabling meant defeat for the income tax provision. Thirty-one Republicans and 1 Democrat supported tabling, while 23 Democrats joined independents who took the position favorable to the reform.

One month later, while the Senate was considering H.R. 10100, the War Revenue Bill, John Tyler Morgan (Democrat-Alabama) proposed an amendment to the bill which

⁵55 C.R., 31, 4572.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	36	(23+5) 28	1	7
Republican	43	0	(31+5) 36	7

required the secretary of the treasury to collect all taxes as specified by the "Act to reduce taxation -- August 1894," otherwise known as the Wilson-Gorman Tariff Act. It was clear that Morgan aimed at the reestablishment of the income tax. This time the Republican leadership allowed a direct vote on the issue; Morgan's proposition was defeated, nonetheless, by the close vote of 35-38.⁶ Twenty-nine Democrats and 6 independents favored its adoption, while 2 Democrats joined 36 Republicans in bringing about its defeat. Once again, the Republican party had voted solidly against the utilization of income tax collection by the federal government; Democrats, on the other hand, with only a slight break in ranks, had maintained strong support for it.⁷

By December, 1900, the McKinley administration felt that the emergency revenue legislation passed during

⁶Ibid., p. 5516.

Party in Senate	No. in Party	Vote on Income Tax		
		For	Against	Nonvoting
Democratic	36	(29+2) 31	2	4
Republican	43	0	36	7

⁷The indices of party support in the Senate of the 55th Congress for the income tax were 88 for the Democrats and 8 for the Republicans.

the Spanish-American War could be somewhat reduced. H.R. 12394, a War Revenue Reduction Bill providing for a cutback of \$40,000,000 in taxation, was introduced into the House by Sereno Payne (Republican-New York). On December 15th, the Democratic leaders in the House proposed a resolution to recommit the majority's bill with the following instructions: (1) taxation as provided by the Revenue Act of 1898 was to be reduced by \$70,000,000 (not \$40,000,000); (2) priority of tax reduction was to be given to those items "most nearly the necessities of life"; (3) an income tax provision was to be included so worded as to escape the decision of the Supreme Court. The Democratic resolution along with its income tax proviso was voted down 131-157.⁸ One hundred and twenty-six Democrats and 5 independents voted for it, while 156 Republicans and a lone Democrat rejected it.

When the War Revenue Reduction Bill reached the Senate, Morgan of Alabama (Democrat) was ready once again to test the sentiment of the upper chamber on the matter

⁸ 56 C.R., 34, 346-47.

Party in House	No. in Party	Vote on Income Tax		
		For	Against	Nonvoting
Democratic	161	126	1	32
Republican	169	0	156	33

of income tax. On February 6, 1900, he proposed an amendment to the bill establishing an income tax of 2 percent on individuals earning over \$4,000 per year. The tax was to have an initial life of twenty years. Because of depletion of the Democratic ranks resulting from the elections of 1898, the vote was not even close. Proponents of the reform were turned back 21-38.⁹ Seventeen Democrats and 4 independents stood against 37 Republicans and an independent ally.

Eight years passed before Congress again registered a clear sampling of its sentiment toward the income tax. In those years, the spark of reformism leaped the gap between the parties and found haven among certain Republicans, particularly those in the "middle border" west.¹⁰ An alliance between "progressive" Republicans and Democrats was in the making. At last, there were Republicans in the

⁹Ibid., p. 2004.

Party in Senate	No. in Party	Vote on Income Tax		
		For	Against	Nonvoting
Democratic	28	(17+6) 23	0	5
Republican	53	0	(37+ 3) 40	13

¹⁰Hechler, op. cit., p. 146.

Congress willing to incur the wrath of the conservative leadership of their party in the espousal of their reform-minded feelings!

In the special session called by President Taft for revision of the tariff laws, in 1909, the Democrats and their allies among the Republicans set out to get a proviso establishing the income tax adopted by the Congress. In a private meeting on May 18, 1909, leaders of these two Senate groups ironed out most of their differences and produced a proposal satisfactory to both.¹¹ On May 27, 1909, Josephus Bailey (Democrat-Texas) led the charge against the bastions of Senate conservatism; he proposed an amendment to the tariff bill, which called for an income tax of 3 percent on individuals earning \$5,000 or more a year.¹²

Sensing the rising tide in the Senate for such a proposal and not quite sure as to whether he had the votes to defeat it, Nelson A. Aldrich (Republican-Rhode Island), kingpin of the Republican forces in the Senate, asked for a postponement of a vote on Bailey's amendment until June

¹¹Ratner, op. cit., p. 284. Hechler, op. cit., p. 148.

¹²61 C.R., 44, 2443-45.

10th. His motion calling for delay was approved by the Senate, 50-33.¹³ Twenty-seven Democrats and 6 Republicans fought the postponement; 49 Republicans and 1 Democrat easily pushed it through. The 33 senators who voted against the motion represented that element in the upper chamber that desired an immediate vote on the income tax question. There is no reason to believe that an opponent of the reform would have voted with this group.

Two weeks later, Aldrich evidently was still not sure that he was in command of the situation. On June 11, 1909, he asked the Senate to delay the vote on the Bailey amendment (as now amended by Albert Cummins, Republican from Iowa, to include a 2 percent tax on corporation and individual incomes over \$5,000 yearly)¹⁴ once again to June 18th. The bulk of his party pushed through a motion of postponement for the second time by a vote of 45-34.¹⁵

¹³Ibid., p. 2457.

Party in Senate	No. in Party	Vote on Postponement		
		Against	For	Nonvoting
Democratic	32	(27+1) 28	1	3
Republican	59	6	(49+1) 50	3

¹⁴Ibid., p. 3137.

¹⁵Ibid., p. 3138.

Party in Senate	No. in Party	Vote on Postponement		
		Against	For	Nonvoting
Democratic	32	(27+3) 30	0	2
Republican	59	(7+1) 8	(45+2) 47	4

All 45 votes for delay came from the Republican side of the aisle; 7 others joined with 27 Democrats opposing the motion.

On July 2, a somewhat disheartened Aldrich was ready to do battle. He was prepared to substitute a tax on corporation income for the income tax if that was necessary to block the more "radical" measure.¹⁶ The alliance for the income tax held its own, but it could not win further support from among the Republicans to defeat the Rhode Islander's strategy. The vote to substitute Aldrich's corporation tax amendment for the Bailey-Cummins income tax amendment was quite similar to those on the motions of postponement, 45-31.¹⁷ All votes for the substitution were produced by Republicans: 7 Republicans and 24 Democrats registered their disapproval.

Aldrich's concessions were not over. A bloc of Republicans, who had followed his every lead to this point, but who felt it politically expedient to record themselves in some manner as favoring the income tax, now forced his hand. The income tax, in the form of a joint resolution

¹⁶Hechler, op. cit., p. 148.

¹⁷61 C.R., 44, 4061.

Party in Senate	No. in Party	Vote on Substitution		
		Against	For	Nonvoting
Democratic	32	(24+3) 27	0	5
Republican	60	7	(45+1) 46	7

proposing an amendment to the Constitution, was to be considered by the Senate and voted upon directly. How was this maneuver to act as a saving grace for the lukewarm advocates of income tax, some might ask. None but the most optimistic would actually hold that such a resolution had a fighting chance to be ratified by the requisite number of state legislatures. Thus, the concession did not seem overly obnoxious to Aldrich, and the resolution did not pose an immediate danger to those who were its weakest supporters. When the joint resolution was brought before the Senate on July 5, 1909, Bailey of Texas (Democrat) sought to improve its chances for ratification. He offered an amendment to the resolution which would replace ratification by state legislatures with ratification by state convention. Since delegates to a state convention would be elected by the people of the state, and their points of view would be known to the populace, there was a much better chance that the convention, rather than the legislature, would properly reflect the opinions of the people. The underlying assumption to this was the belief that income tax was a popular program in the public mind. Bailey's

amendment was turned down by the Senate, 30-46.¹⁸ Twenty-four Democrats and 6 Republicans supported the Texan's proposal, but 44 Republicans and 2 Democrats joined to turn it aside. Obviously, lukewarm supporters did not desire to improve the odds and possibly bring about the resolution's adoption by the states.

Passage of the resolution proposing the federal income tax as an amendment to the Constitution was by unanimous vote of the Senate, 77-0.¹⁹

With the joint resolution secured, the fight for affixing an income tax provision onto the tariff bill started anew in the Senate. It was the question of method once again: as long as the adoption of the resolution by the states was in doubt, it appeared that the other route

¹⁸Ibid., p. 4120.

Party in Senate	No. in Party	Vote on State Convention		
		For	Against	Nonvoting
Democratic	32	(24+5) 29	2	1
Republican	60	6	(44+1) 45	6

¹⁹Ibid., p. 4121.

Party in Senate	No. in Party	Vote on Adoption		
		For	Against	Nonvoting
Democratic	32	(27+4) 31	0	1
Republican	60	(50+4) 54	0	6

should not be abandoned prematurely. The alternative avenue was to place the dispute once more before the Supreme Court. The personnel of the Court had changed; the circumstances of the country had improved since 1895. It was possible that the Court was ready to overturn its decision and uphold the constitutionality of a federal income tax. Bailey of Texas introduced a modified version of his original proposal, a 2 percent tax on individual income over \$5,000 annually, as an amendment in the nature of a substitute for the sixth section of the tariff bill.²⁰ The Senate refused the amendment, 28-47.²¹ Twenty-three Democrats and 5 Republicans voted for it; 47 Republicans rejected it.

A few days later, on July 12, 1909, the joint resolution as approved by the Senate was considered by the House of Representatives. The Democrats in the lower chamber tried to get what their comrades in the upper chamber had failed to get adopted into the resolution. Robert L. Henry

²⁰Ibid., pp. 4426-48.

²¹Ibid., p. 4428.

Party in Senate	No. in Party	Vote on Bailey Amendment		
		For	Against	Nonvoting
Democratic	32	(23+5) 28	0	4
Republican	60	5	(47+5) 52	3

(Democrat-Texas) offered an amendment to the joint resolution which would have changed the ratifying bodies from state legislatures to state conventions. The House was denied a direct vote on the issue when Speaker Cannon upheld a point of order which called for an immediate vote on the resolution itself. An appeal from the decision of the Chair was called for by the Democrats, and countered by a motion to lay the appeal on the table. A vote for tabling was an indirect vote against the convention method of ratification; a vote against tabling, on the other hand, was indirectly a preference for the substitute. Party discipline operated as the vote came out 186-144 for tabling the appeal; Republicans supported tabling, Democrats hoped to block it.²²

The vote on the joint resolution, which followed immediately, was overwhelmingly in favor, 318-14; it did, however, reveal a small pocket of die-hard Republican

²²Ibid., p. 4439.

Party in House	No. in Party	Vote on Tabling Appeal		
		Against	For	Nonvoting
Democratic	171	144	0	27
Republican	216	0	186	30

opposition to the reform.²³ The income tax resolution was supported by 146 Democrats and 172 Republicans, and denied support by 14 Republicans.

The indices of party support for the income tax during the 61st Congress substantiate the high level of agreement in favor of the proposal among Democrats in both houses of Congress. Democrats in the Senate rated 94, while those in the House produced a similarly high score of 92. The indices also confirm the mild interest of the Republican party in the reform as of 1909. House Republicans reached 47, whereas those in the Senate only got up to 28.

To the delight and surprise of its proponents, the joint resolution embodying the income tax moved methodically toward adoption. Alabama's legislature ratified quickly after congressional action, in August, 1909. The legislatures of eight other states followed suit during 1910. Seven of these were border or southern states. But the big

²³Ibid., p. 4440.

Party in House	No. in Party	<u>Vote on Income Tax Resolution</u>		
		For	Against	Nonvoting
Democratic	171	146	0	25
Republican	217	172	14	31

concerted effort came in 1911: twenty-one state legislatures voted their approval in that year. Most of these were trans-Mississippi states. Four state legislatures were added to the list of ratifiers in 1912. As of August, 1912, only two additional state legislatures needed to note their approval in order for the resolution to be approved.²⁴

Meanwhile in March, 1912, the Democratic-dominated House of Representatives passed H.R. 21214, a bill designed to create additional revenue for the government. Party leaders felt that \$50,000,000 in tax money would be needed if another bill placing sugar on the free list was to be adopted.²⁵ The measure was officially labeled as an excise tax bill to "extend the special excise tax (of 1909) with respect to doing business by corporations to copartnerships and persons."²⁶ It provided for a tax of 1 percent on incomes derived from business activities by individuals earning over \$5,000 annually. It was in essence "an income tax disguised as an excise bill."²⁷ H.R. 21214 passed the

²⁴Senate Manual, op. cit., pp. 252-54.

²⁵62 C.R., 48, 3636 (Heyburn); 9707 (Newlands).

²⁶Ibid., p. 3627.

²⁷Ratner, op. cit., p. 321.

House on March 11th by the large vote of 253-40.²⁸ It received support from 173 Democrats and 80 Republicans, but was rejected by 40 Republicans.

The special excise bill was considered in the Senate in August, 1912. William Borah (Republican-Idaho) put the Democrats in an awkward position by proposing an amendment in the nature of a substitute embodying a graduated income tax to replace the first nine sections of H.R. 21214. Heretofore, the Democrats had consistently supported efforts to legislate an income tax proviso into law. At that time, August, 1912, with ratification of an amendment to the Constitution giving the federal government the necessary powers so very near, the Democratic leadership wondered whether it was wise to force the issue before the Courts. Francis Newlands (Democrat-Nevada) made it clear to the Senate that his fellow Democrats, having met in caucus, did not think so.²⁹ This explains why Borah's

²⁸62 C.R., 48, 3637.

Party in House	No. in Party	Vote on Excise Bill		
		For	Against	Nonvoting
Democratic	230	173	0	57
Republican	165	80	40	45

²⁹Ibid., p. 9708.

amendment was rejected 23-33 with only 4 Democrats joining 19 Republicans in favor of the income tax proposal.³⁰ Twenty-one Democrats and 12 Republicans voted to reject it.

The alliance between Democrats and "progressive" Republicans in favor of income tax was coordinated once again as the Senate passed its version of the "income tax disguised as an excise tax." The vote was 37-18; 24 Democrats and 13 Republicans pushed it through over the opposition of 18 Republicans.³¹

The excise bill, H.R. 21214, ran into difficulties in the conference committee representing the two houses, and was never enacted. Victory for income tax advocates was but around the corner. The joint resolution was ratified by Delaware and Wyoming on February 3, 1913, bringing

³⁰Ibid., p. 9709.

Party in Senate	No. in Party	Vote on Borah Amendment		
		For	Against	Nonvoting
Democratic	43	4	(21+4) 25	14
Republican	51	(19+1) 20	(12+2) 14	17

³¹Ibid.

Party in Senate	No. in Party	Vote on Excise Bill		
		For	Against	Nonvoting
Democratic	43	(24+6) 30	0	13
Republican	51	13	(18+5) 23	15

the number of state legislatures which had approved to the required number of thirty-six. For good measure, two additional states recorded their favorable vote on the fifth of February. Twenty days later, Secretary of State Philander Knox officially proclaimed the amendment duly ratified and the law of the land.³²

³²Senate Manual, op. cit., 252-54.

CHAPTER V

THE DRIVE FOR EFFECTIVE ANTITRUST LEGISLATION

In 1890, Congress passed the Sherman Anti-Trust Act in response to nationwide pressure to cope with the development of massive industrial complexes which appeared to be heading toward monopolies.¹ Designed as a measure to appease the American voter and yet not hurt the "captains of industry," the law of 1890 in application put little brake upon the consolidating tendencies in the national economy.² In this respect, federal legislation seemed to have made little improvement over the

¹Pressure for antitrust legislative action was particularly intense in the South and in the West. Samuel Hays, The Response to Industrialism: 1885-1914 (Chicago, 1957), pb., p. 137.

²Harry J. Carman, Harold C. Syrett, and Bernard W. Wishy, A History of the American People (2nd ed.; New York, 1961), II, 127-29. Thomas C. Cochran and William Miller, Age of Enterprise: A Social History of Industrial America (Rev.; New York, 1961), pp. 171-72.

antitrust acts passed by many of the states in the 1880's.³ As the ineffectiveness of the federal act became obvious to both public and legislature, demand for new legislation which would effectively curb the propensity toward monopoly arose. Democrats and Populists were in the forefront of those in Congress who desired further antitrust action. Even the defeat of their joint candidate in the presidential election of 1896, William Jennings Bryan, who vigorously attacked the "plutocracy" being created by the trust builders, did not divert their attention from the question.

Several motions were proposed as means for striking at trusts during the consideration of tariff revision in the special session of 1897 called by the newly elected William McKinley. All of these were in the Senate, as debate in the lower house was severely curtailed by Speaker Thomas Reed (Republican-Maine). Senator Richard Pettigrew (Republican and Independent-South Dakota) asked the upper chamber to adopt his amendment to the tariff bill, which called for the removal of goods from the duty table which

³Carman, et al., op. cit., p. 127. Gilbert C. Fite and Jim E. Reese, An Economic History of the United States (2nd ed.; Boston, 1965), p. 381.

were produced domestically by "a trust or combination to increase their cost." A motion was made to table Pettigrew's amendment, thereby killing it. In the roll call that followed, it was clear that a vote against tabling was favorable to antitrust legislation. The motion, however, carried by a vote of 35-32.⁴ Thirty-two Republicans, 2 Democrats, and an independent supported the motion, whereas 28 Democrats and 4 independents tried to block its adoption. Two major industries in which consolidation had taken rapid strides by the last decade of the nineteenth century were metal manufacturing and sugar refining. On July 5, 1897, Senator Roger Mills (Democrat-Texas) proposed an amendment to the tariff bill which would have put a tax of 5 percent upon domestic metal manufactures. This suggestion was turned aside 19-38.⁵ Sixteen Democrats

⁴55 C.R., 30, 1745.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	37	(28+2) 30	2	5
Republican	43	0	(32+1) 33	10

⁵Ibid., 2301.

Party in Senate	No. in Party	Vote on Mills Amendment		
		For	Against	Nonvoting
Democratic	37	(16+1) 17	4	16
Republican	43	0	(30+2) 32	11

and 3 independents could not overcome the combined will of 32 Republicans, 4 Democrats, and 2 independents. John Tyler Morgan (Democrat-Alabama) then called up an amendment which would have placed all sugar imported by the Sugar Trust "in restraint of trade" in danger of being confiscated by the federal government. Morgan's measure was defeated also, the vote being 26-33.⁶ Twenty-four Democrats and 2 independents supported it, but 30 Republicans, 2 Democrats, and an independent brought it down. Senator Horace Chilton (Democrat-Texas) who sought to strengthen the Sherman Act of 1890, got into the act by offering an amendment to the tariff bill calling for a punishment of three years in jail for anyone convicted of "restraint of trade." His amendment failed to carry, although the vote was close, 28-31.⁷ Twenty-four Democrats

⁶ Ibid., p. 2386.

Party in Senate	No. in Party	Vote on Morgan Amendment		
		For	Against	Nonvoting
Democratic	37	(24+4) 28	2	7
Republican	43	0	(30+1) 31	12

⁷ Ibid., p. 2387.

Party in Senate	No. in Party	Vote on Chilton Amendment		
		For	Against	Nonvoting
Democratic	37	(24+2) 26	0	11
Republican	43	0	(30+3) 33	10

and 5 independents voted for it; 30 Republicans and an independent voted against. Sentiment for antitrust action, insofar as it was to be included in the tariff bill, was tested for the last time on July 7th. Morgan of Alabama (Democrat) struck at the practices of the meat packing industry in an amendment which proposed a fine of \$500 to \$10,000 and a term of thirty days to a year in jail for anyone convicted of "restraint of trade" in the industry. This idea was defeated, 26-31.⁸ Twenty-two Democrats and 4 independents registered their votes for it, while 29 Republicans, 1 Democrat, and 1 independent joined to deny it. William Allen (Populist-Nebraska) then suggested an amendment declaring all manufactured goods produced in "restraint of trade" subject to a tax of 15 percent of value. Moreover, it called for a fine of from \$1,000 to \$5,000 and a term of one to five years in prison for nonpayment of the tax. The Allen measure was defeated by a vote of

⁸Ibid., p. 2428.

Party in Senate	No. in Party	Vote on Morgan Amendment		
		For	Against	Nonvoting
Democratic	37	(22+3) 25	1	11
Republican	43	0	(29+3) 32	11

25-36.⁹ Twenty-one Democrats and 4 independents were for it; 33 Republicans, 2 Democrats, and an independent were not. The senator from Nebraska offered another proposal pertinent to this matter. His second amendment ordered the secretary of the treasury to submit an annual report on manufactures produced by trusts and monopolies in the country; an appropriation of \$20,000 was included. This measure lost by a vote of 25-37.¹⁰ Twenty-one Democrats and 4 independents fell before 34 Republicans, 2 Democrats, and an independent. Turned back at every attempt, Democrats nevertheless kept the pressure on the GOP to enact antitrust legislation.

In the second session of the 55th Congress, Senator

⁹Ibid., p. 2428.

Party in Senate	No. in Party	Vote on Allen Amendment		
		For	Against	Nonvoting
Democratic	37	21	2	14
Republican	43	0	(33+2) 35	8

¹⁰Ibid.

Party in Senate	No. in Party	Vote on Second Allen Amendment		
		For	Against	Nonvoting
Democratic	37	(21+1) 22	2	13
Republican	43	0	(34+2) 36	7

Pettigrew of South Dakota (Republican-Independent) offered an amendment regarding trusts during consideration of the War Revenue Bill (June, 1898). It proposed a 5 percent tax on all goods produced by trusts. The measure was defeated overwhelmingly, 24-25.¹¹ Nineteen Democrats, 1 Republican, and 4 independents sought its adoption while 34 Republicans, 8 Democrats, and 3 independents voted to block it. On this vote, eight Democrats voted with the Republicans -- a significantly larger number than those who had taken that position in the previous session. Senator Bacon (Democrat-Georgia) tried to explain this when he stated that he felt that taxation of trusts served to legalize them.¹²

The indices expressing support for antitrust legislation in the 55th Congress are 78 for Senate Democrats and 11 for Senate Republicans. Without question, the Democrats were supplying the impetus toward further reform legislation in this field.

¹¹55 C.R., 31, 5533.

Party in Senate	No. in Party	Vote on Pettigrew Amendment		
		For	Against	Nonvoting
Democratic	37	(19+1) 20	8	9
Republican	43	1	34	8

¹²Ibid., p. 5532.

In the next Congress, there were attempts in both houses to adopt antitrust legislation. Democratic senators tried to establish the policy that government contracts involving purchases of materials would henceforth be made with those firms, American or other, offering the best prices for the goods meeting required standards. No longer was the government to pay more for American manufactures than did European countries; discontinue this subsidy program, Democrats demanded, and let American industry compete with its European counterpart for national contracts. Edward Pettus (Democrat-Alabama) proposed an amendment to Senate Bill 2, Construction of the Pacific Cable by the Navy Department, which called for the elimination of the section of the bill that restricted purchase to American goods provided that they were priced not higher than 12 percent above foreign materials. Pettus made it clear that he felt it was ridiculous for the United States government to be taxed for special interests. His amendment failed to carry as the vote was not even close, 11-38.¹³ Ten Democrats and

¹³56 C.R., 33, 4013-14.

Party in Senate	No. in Party	Vote on Pettus Amendment		
		For	Against	Nonvoting
Democratic	29	(10+1) 11	5	13
Republican	51	0	(30+3) 33	18

an independent vainly attempted to overcome the opinion of 30 Republicans and 5 Democrats. James Berry (Democrat-Arkansas), in an amendment to H.R. 8592, the Army Appropriation Bill, retained preference for American manufactures while striking at the trusts. Berry's amendments ordered the Commissary Department to favor producers, manufacturers, and merchants not connected in any way with a "trust or combine." His suggestion was rejected by the Senate, 18-29.¹⁴ Thirteen Democrats, 2 Republicans, and 3 independents supported it, but 27 Republicans and 2 independents did not.

So far, Republicans had not produced any significant support for antitrust legislation. The possibility of the Democratic party riding the antitrust question into power in 1900 seemingly spurred the GOP into action in the 56th Congress. The party strategy was out to remove the issue as a point of contention. First, the James Jenkins (Republican-Wisconsin) resolution proposing an amendment

¹⁴Ibid., p. 4908.

Party in Senate	No. in Party	Vote on Berry Amendment		
		For	Against	Nonvoting
Democratic	29	(13+2) 15	0	14
Republican	51	2	27	22

to the Constitution which would grant Congress general powers over corporations was reported to the floor. The Judiciary Committee had skillfully whittled it down to a grant of national power "to define, regulate, prohibit, or dissolve trusts, monopolies, or combinations, whether existing in the form of a corporation or otherwise."¹⁵ This measure if approved by the House had coloring of an antitrust proposal and still was "safe"; passage by the Senate would be unexpected, and even if the resolution was adopted as law of the land, it required no definite action. The second part of the Republican strategy to blur the differences on attitude toward antitrust between the two major parties concerned the Charles Littlefield (Republican-Maine) Anti-Trust Bill, a proposal the leadership was ready to bring forth if the Jenkins resolution did not win approval of the House. The Littlefield proposal was an amendment to the Sherman Anti-Trust Act of 1890; it sought to impose "heavier and minimum penalties and damages and [to] mak[e] imprisonment as well as fines mandatory in criminal cases."¹⁶ Additional federal

¹⁵Hans Birger Thorelli, The Federal Anti-Trust Policy: Origination of an American Tradition (Baltimore, 1954), p. 517.

¹⁶Ibid.

powers were added to the measure in the Judiciary Committee.¹⁷ The Littlefield bill encompassed those proposals which most of the Republican House members would accept if they were forced to make some positive record on the antitrust question.

The Democratic leadership recognized the amended Jenkins resolution as a somewhat worthless antitrust proposal and as an excellent means for the opposition to create a good public image as a champion of reform.¹⁸ They tried to block its consideration by defeating the rule on the measure; they failed, 141-118.¹⁹ One hundred and thirteen Democrats, 1 Republican, and 4 independents voted against the rule, whereas 140 Republicans and a Democrat supplied the votes to adopt it. The Democrats were in a better position when the resolution came up for passage; since the resolution proposed an amendment to the Constitution, it needed a two-thirds majority for

¹⁷Ibid., p. 518.

¹⁸56 C.R., 33, 6301. Statement by J. D. Richardson (Democrat-Tennessee), Minority leader in the House.

¹⁹Ibid., pp. 6603-4.

Party in House	No. in Party	Vote on Rule, Jenkins Resolution		
		Against	For	Nonvoting
Democratic	161	113	1	47
Republican	185	1	140	44

passage. With few exceptions, Democrats voted against the Jenkins resolution and brought about its defeat, 154-132.²⁰ By refusing to go along with this measure, they prevented the adoption of what they considered to be sham legislation.²¹ One hundred and twenty-five Democrats, 2 Republicans, and 5 independents combined to produce enough negative votes to bring the resolution down; it was supported by 148 Republicans and 6 Democrats.

When the House turned to consider the Littlefield bill, the Democrats changed their position. Whereas the Jenkins measure was unacceptable, this proposal was obviously a step in the right direction. The party promised support for it, but hoped that several amendments would be adopted to make it even stronger. The first minority amendment sought to change the ninth section of the bill so as to make the provisions of the measure more easily applicable in practice; instead of calling for enforcement

²⁰ Ibid., p. 6426.

Party in House	No. in Party	Vote on Jenkins Resolution		
		Against	For	nonvoting
Democratic	161	125	6	30
Republican	186	2	148	16

²¹ Ibid., p. 6423. (Minority statement.)

against those companies whose purpose was to monopolize, the minority provision asked for punishment in those cases in which companies, for whatever motives, "tend[ed] to control or monopolize." In a very close vote, this first Democratic amendment was defeated, 122-130.²² One hundred and seventeen Democrats and 5 independents supported the revision, while 129 Republicans and 1 Democrat took the opposite side. The second Democratic amendment, proposed by William Terry (Democrat-Arkansas), sought to empower the President to reduce the tariff duty on any goods in competition with products manufactured in the United States by a monopoly or trust. This measure was turned aside by a similar vote of 122-134.²³ One hundred and sixteen

²²Ibid., p. 6495.

Party in House	No. in Party	Vote on First Amendment		
		For	Against	Nonvoting
Democratic	161	117	1	43
Republican	185	0	129	56

²³Ibid., p. 6499.

Party in House	No. in Party	Vote on Second Amendment		
		For	Against	Nonvoting
Democratic	161	116	2	43
Republican	185	0	132	53

Democrats and 6 independents wanted the proposal put into the bill, but 132 Republicans and 2 Democrats had the votes to block it. A third Democratic amendment called for the filing of corporation reports in the office of the secretary state by any corporation doing business in the United States; this proposal failed, 127-138.²⁴ This time, 122 Democrats and 5 independents fell before 137 Republicans and a Democrat. A last amendment excluding labor unions from the provisions of the Sherman Act was accepted by the House. The Littlefield bill as amended passed the lower chamber by the lopsided vote of 274-1.²⁵ The lone dissenter was a Republican.

The bill received a sorry reception in the upper chamber. Jacob Gallinger (Republican-New Hampshire) made a motion to commit it, H.R. 10539, to the Judiciary

²⁴Ibid., p. 6500.

Party in House	No. in Party	Vote on Third Amendment		
		For	Against	Nonvoting
Democratic	161	122	1	38
Republican	185	0	137	48

²⁵Ibid., p. 6502.

Party in House	No. in Party	Vote on Littlefield Bill		
		For	Against	Nonvoting
Democratic	161	126	0	35
Republican	185	143	1	41

Committee and, as it was late in the session, this was the equivalent of indefinite postponement. Gallinger's motion carried by a vote of 43-23.²⁶ A vote against committal was favorable to antitrust legislation. Sixteen Democrats, 2 Republicans, and 5 independents tried to block the motion but it won the support of 39 Republicans, 2 Democrats, and 2 independents. Proponents of the Littlefield measure in the Senate tried to get the bill out of committee in the next session of the 56th Congress. James K. Jones (Democrat-Arkansas) offered a resolution, on February 21, 1901, to discharge H.R. 10539 from the committee and to consider it before the Senate. A motion for the Senate to go into executive session was proposed to sidestep the proposal of the senator from Arkansas, and it was adopted, 40-29.²⁷ A vote against the motion to go into executive session was the position

²⁶Ibid., p. 6670

Party in House	No. in Party	Vote on Motion - Committal		
		Against	For	Nonvoting
Democratic	28	(16+1) 17	2	9
Republican	51	2	(39+1) 40	9

²⁷56 C.R., 34, 3420.

Party in Senate	No. in Party	Vote on Motion - Executive Session		
		Against	For	Nonvoting
Democratic	28	(21+2) 23	0	5
Republican	53	0	(38+1) 39	10

favoring antitrust action. Twenty-one Democrats, 4 Republicans, and 4 independents attempted to stop the motion, but they could not compete with 39 Republicans and an independent ally. On March 2, 1901, the Senate doomed the Littlefield bill by refusing a motion to take up the Jones' discharge resolution. The vote was 24-36.²⁸ Eighteen Democrats, 3 Republicans, and 3 independents supported the motion to bring the antitrust bill before the Senate, but 33 Republicans, 1 Democrat, and 2 independents blocked their desire.

The indices of party support for antitrust legislation in the 56th Congress indicate the relatively high interest of Democrats, in both houses of Congress, in the issue and the relatively low interest among Republicans. Democrats in the House scored 87, those in the Senate 77. Republicans, on the other hand, in the House produced an index of 26, while those in the Senate, 19.

²⁸Ibid., p. 3439.

Party in Senate	No. in Party	Vote on Jones Resolution		
		For	Against	Nonvoting
Democratic	28	(18+1) 19	1	8
Republican	53	3	33	17

The political struggle went on for antitrust action in spite of the many failures suffered by Democrats in the previous congresses. In the first session of the 57th Congress, during the debate on S. 1348, an "Act to Promote Commerce. . . .," Senator Louis McComas (Republican-Maryland) proposed an amendment to the bill making antitrust acts applicable to both owner and builder of any vessel contracted under the law. The contract, moreover, was to be voided if the owner was found by a court to have entered into such practices as "restraint of trade, rebates. . . ." The amendment was refused by the Senate, 31-39.²⁹ Suggested by a Republican, the antitrust proposal won the support of 24 Democrats, but only 7 Republicans. It was turned aside by 38 Republicans and 1 Democrat. In another action regarding a specific industry and antitrust, Senator Henry Teller (Silver, later Democrat-Colorado) offered an amendment to the amendment that the House attached to H.R. 9206, the

²⁹57 C.R., 35, 2906.

Party in Senate	No. in Party	Vote on McComas Amendment		
		For	Against	Nonvoting
Democratic	32	24	1	7
Republican	35	7	38	10

Oleomargarine bill, in which he defined the term "trust" as it related to the manufacturing of butter and set up a tax of 10 percent on its products. By the close vote of 25-28, Teller's amendment was defeated.³⁰ It received support from 21 Democrats, 3 Republicans, and an independent; it was rejected by 27 Republicans and a Democrat.

In the other chamber of Congress, John Thayer (Democrat-Massachusetts) presented a resolution calling for a committee of seven to investigate charges made against the Sugar Trust that it had purchased Cuban sugar at low prices and awaited congressional reduction of the sugar tariff. Thayer had offered his resolution as a question of privilege. It was now challenged as such by a point of order. When the point of order was upheld by the Chair, and the decision of the Chair was appealed from by Thayer, a motion was offered to lay the appeal on the table. A vote against this latter motion was a vote for consideration of the Thayer resolution, and favoring an investigation of

³⁰Ibid., p. 4740.

Party in Senate	No. in Party	Vote on Teller Amendment		
		For	Against	Nonvoting
Democratic	32	(21+6) 27	1	4
Republican	35	3	(27+3) 30	22

the practices of an important industry. The motion tabling the appeal was adopted, 125-87.³¹ Eighty-four Democrats and 3 independents sought to have the house consider such an investigation, but 123 Republicans and 2 Democrats did not agree with them.

In the second session of the 57th Congress, between February 5 and 7, 1903, the House considered H.R. 17, the Littlefield Omnibus Anti-Trust bill. It was not the same measure that the House had passed in the previous congress. This new bill was designed primarily to cope with data-collecting on corporations ("publicity") and the curbing of discriminatory business practices. In general, the Interstate Commerce Commission was empowered by this bill to request every corporation thereafter organized and engaging in commerce, to file a return stating information as to its holdings (stocks, bonds, cash, property), personnel (officers, agents, directors), and standard operating procedure (rules, regulations, and bylaws). Falsification

³¹Ibid., p. 2640.

Party in House	No. in Party	Vote on Tabling Motion		
		Against	For	Nonvoting
Democratic	153	84	2	67
Republican	198	0	123	75

of returns might lead to a conviction on the grounds of perjury. Corporations not complying with the provisions of the bill could be "restrained, on the suit of the United States, from engaging in interstate commerce."³² The reports were to be abstracted and published annually. As regards discriminations, sections five to seven of the bill outlawed rebates, set up a fine of not less than \$1,000 for an agent of a common carrier who was convicted of illegal practices involving rebates, denied to corporations using monopolistic or unfair price-cutting tactics the use of interstate facilities of commerce, subjected such corporations upon conviction of violation of this section to a fine of between \$500 and \$5,000, and made carriers convicted of "knowingly transporting" goods produced in violation of this law or the Sherman Act of 1890 liable to a fine of not less than \$1,000.

The minority report filed by the Democrats of the House made it plain that, although not opposed to the Littlefield bill of 1903 as it stood, they were eager to have the bill strengthened. A host of amendments were suggested. Most particularly, the Democrats suggested

³²Thorelli, op. cit., p. 540.

that the bill cover all corporations then existent and having a capital worth of more than \$1,000,000, rather than corporations formed only after the passage of the bill.

When the rule for H.R. 17 was brought before the House, Democratic leader J. D. Richardson of Tennessee expressed his displeasure with it.³³ It did not provide enough opportunity for voting for the record, nor did it permit before the House the consideration of pertinent amendments or of motions of recommittal with instructions. On the vote to accept the resolution embodying the rule for H.R. 17, the parties took opposite sides.³⁴ The rule was adopted 141-106, as 141 Republicans followed their leadership's command, to the chagrin of 105 Democrats and an independent. On February 7, 1903, the House passed the bill unanimously.³⁵

³³57 C.R., 36, 1744. Statement by J. D. Richardson (Democrat-Tennessee).

³⁴Ibid., pp. 1746-47.

Party in House	No. in Party	Vote on Rule for H.R. 17		
		Against	For	Nonvoting
Democratic	151	105	0	46
Republican	197	0	141	56

³⁵Ibid., p. 1915.

This bipartisan measure met the same fate as its predecessor, the Littlefield bill of 1900, in the previous Congress. The Senate, on both the 27th and the 28th of February, 1903, refused to consider it. The vote on the first motion to consider H.R. 17 was 28-38.³⁶ It attracted the support of 24 Democrats, 3 Republicans, and an independent, but was denied by 38 Republicans. The second motion of consideration was defeated 30-41.³⁷ This time, 25 Democrats, 4 Republicans, and an independent voted for it, while 41 Republicans rejected it. Although created and developed by Republicans in the House, H.R. 17 was championed primarily by Democrats in the Senate.

President Roosevelt had given the Littlefield bill his blessings when it was before the House but, displaying mercurial temperament, he had abandoned it when it ran

³⁶Ibid., p. 2746.

Party in Senate	No. in Party	Vote on Motion to Consider		
		For	Against	Nonvoting
Democratic	32	(24+3) 27	0	5
Republican	55	3	(38+2) 40	12

³⁷Ibid., p. 2792.

Party in Senate	No. in Party	Vote on Motion to Consider		
		For	Against	Nonvoting
Democratic	32	(25+1) 26	0	6
Republican	35	4	(41+2) 43	8

into trouble in the Senate. Actually, the administration had decided that there was a much better chance to get some legislation on the subjects of "publicity" and "discrimination" if the two were presented separately.³⁸ To cope with the aspect of "publicity," Nelson (Republican-Minnesota) suggested an amendment to the conference report for S. 569, a bill creating the Department of Commerce and Labor, calling for the creation of a Bureau of Corporations within the new department. The bureau was to be a fact-finding body investigating the practices of corporations in the United States. It was to make its reports to the president, and release such information to the public as he directed. On February 10, 1905, just three days after unanimous passage of the Littlefield Anti-Trust bill, the House approved the Conference Report for S. 569, embodying the Bureau of Corporations, 252-10.³⁹

³⁸Thorelli, op. cit., pp. 547-49. Roosevelt's fight to get any legislation on the subject was covered in both Pringle, Theodore Roosevelt, 240-41, and Mowry, Era of Theodore Roosevelt, p. 124. Kolko, Triumph of Conservatism, p. 71, maintains that Roosevelt felt the Littlefield Resolution too strong; he "preferred publicity to destruction."

³⁹57 C.R., 36, 2008

Party in House	No. in Party	Vote on Conference Report		
		For	Against	Nonvoting
Democratic	151	109	9	43
Republican	196	142	1	43

The overwhelming vote in support of such a measure by Democrats was perhaps explained best by the statement of William Adamson (Democrat-Georgia) when he said that he did not "propose to go before this country in the attitude of opposing the only anti-trust legislation that we are served with notice can be enacted" even though the Nelson amendment was "the most contemptible fraud and false pretense."⁴⁰ Nine Democrats refused to stomach the weakened proposal, as did the Republican Littlefield; they cast their votes against the conference report. The next day, February 11th, the Senate accepted the conference report without a recorded vote. The other aspect of H.R. 17, "discrimination," was handled in another bill, S. 7053. (As this bill, commonly known after its passage as the Elkins Act, was involved with railroad regulation, it will be covered in the next chapter.)

The indices of party support for the 57th Congress indicate the continued interest of Democrats in antitrust proposals; Democrats in the House scored 82, those in the Senate, 90. Republicans in the House produced an index of 52, while those in the Senate, 20.

⁴⁰Ibid.

On March 3, 1905, the next to the last day of the 58th Congress, William Vandiver (Democrat-Missouri) offered the House a resolution which called upon the Attorney General to state if proceedings had been started against United States Steel and Bethlehem companies for conspiring to fix prices for armor plate, and what steps had been taken to determine if these armor plate "trusts" had violated the Sherman Act of 1890 and should be prosecuted. The price of armor plate was significant, for the United States was engaged in building a battleship navy. A motion was quickly made to place Vandiver's resolution on the table. A vote for the motion was the same as killing it; a vote against the motion was the position favoring consideration of the resolution. The tabling motion carried, 108-95.⁴¹ All votes for tabling came from Republicans; votes against the motion came from 88 Democrats, 5 Republicans, and 2 independents.

Another resolution, this one regarding railroad

⁴¹58 C.R., 39, 4021.

Party in House	No. in Party	Vote on Motion to Table		
		Against	For	Nonvoting
Democratic	173	88	0	89
Republican	208	5	108	95

combinations in violation of the antitrust laws, was more successful in the next Congress. Oscar Gillespie (Democrat-Texas) offered, in the first session of the 59th Congress, a resolution requesting the president to report to the House all facts turned over to him by the Interstate Commerce Commission which tended to show that there existed a combination of railroads (Pennsylvania; Baltimore and Ohio; Baltimore and Washington; Chesapeake and Ohio) in violation of the Sherman Act of 1890. The House agreed to the resolution, only to find itself moments later faced with a motion to reconsider its judgment. The motion was met by a motion to table the motion to reconsider. A vote for the latter motion was the position favoring the Gillespie resolution. The tabling motion carried, 123-92, to save the resolution.⁴² Eighty-five Democrats and 38 Republicans supported it; whereas 92 Republicans came out against it. An alliance of Democrats and Republicans saved the proposition.

⁴²59 C.R., 40, 1702.

Party in House	No. in Party	Vote on Tabling Motion		
		For	Against	Nonvoting
Democratic	137	85	0	52
Republican	248	38	92	118

In the same Congress, Democratic Senators tried to write into Senate Resolution 60, which provided equipment to be used in constructing the Panama Canal, a method by which the government could eliminate purchases of over-priced American materials. The bill as written guaranteed domestic producers contracts without fear of overseas competition. Democrats felt that this served American trusts only too well. Stephen Mallory, Jr. (Democrat-Florida) suggested an amendment to the clause in the bill which permitted the president to disapprove bids as long as he deemed them as either "extortionate or unreasonable." His amendment struck out the words "extortionate or," and left the president with the authority to reject bids he found "unreasonable." The Senate rejected the amendment, 19-39.⁴³ Eighteen Democrats and a Republican backed Mallory's proposal, but 38 Republicans and a Democrat refused it. Edward Carmack (Democrat-Tennessee) offered an amendment in the nature of a substitute, the main provision of

⁴³ibid., p. 1717.

Party in Senate	No. in Party	Vote on Mallory Amendment		
		For	Against	Nonvoting
Democratic	33	(18+3) 21	1	11
Republican	56	1	38	17

which was that all materials used on the Panama Canal should be of domestic manufacture "conditions of price and quality being equal." Carmack's amendment met the same fate as Mallory's 17-39.⁴⁴ Seventeen Democrats voted for it, but 38 Republicans and a Democrat voted against. Hernando Money (Democrat-Mississippi) suggested an amendment which provided that no price was to be paid for American goods greater than the price for such in foreign markets. Money's wording was turned aside, 18-35.⁴⁵ Seventeen Democrats and a Republican approved the proposal. Thirty-five Republicans did not. Augustus Bacon (Democrat-Georgia) included Money's amendment in his own, and added a provision which ordered the secretary of commerce and labor to make a report to the president on prices of

⁴⁴Ibid., p. 1719.

Party in Senate	No. in Party	Vote on Carmack Amendment		
		For	Against	Nonvoting
Democratic	33	(17+4) 21	1	11
Republican	56	0	38	18

⁴⁵Ibid., p. 7721.

Party in Senate	No. in Party	Vote on Money Amendment		
		For	Against	Nonvoting
Democratic	33	(17+6) 23	0	10
Republican	56	1	35	20

pertinent American goods overseas. Consistent, the Senate rejected this, too, 15-37.⁴⁶ Fourteen Democrats and a Republican backed the Georgian's amendment, but 35 Republicans and a Democrat brought it down. Money produced another amendment which allowed the government to purchase domestic goods in foreign markets; the vote was 15-36.⁴⁷ Mallory tried again with an amendment in the nature of a substitute, which called for the buying of materials at the lowest price available provided, however, that if American goods were of comparative quality and price, they were to be given preference over all others. Not too surprisingly, this amendment met the same fate as the others, 16-38.⁴⁸

⁴⁶Ibid., p. 7730.

Party in Senate	No. in Party	Vote on Bacon Amendment		
		For	Against	Nonvoting
Democratic	33	(14+2) 16	1	16
Republican	56	1	(36+1) 37	18

⁴⁷Ibid.

Party in Senate	No. in Party	Vote on Money Amendment		
		For	Against	Nonvoting
Democratic	33	(14+3) 17	1	15
Republican	56	1	35	20

⁴⁸Ibid., p. 7731.

Party in Senate	No. in Party	Vote on Mallory Amendment		
		For	Against	Nonvoting
Democratic	33	(15+1) 16	1	16
Republican	56	1	37	18

Fifteen Democrats and 1 Republican voted for the Floridian's suggestion, but 37 Republicans and a Democrat voted against. The bill, S.R. 60, passed without any of the price-control apparatus desired by the Democrats; the vote was 39-16.⁴⁹ Only 1 Democrat joined 38 Republicans to push the bill through; all 16 negative votes were produced by Democrats.

In the 60th Congress, Senate Democrats tried with little success to undercut the steel trust by inserting similar restrictive language in the Navy Appropriations bill. Thomas Gore (Democrat-Oklahoma) offered an amendment to a committee amendment of H.R. 20471 which qualified the phrase, "the best possible bidder," by adding thereafter "without reference to the residence, citizenship, or nationality of the bidder or the location of his shipyard." Gore explained that he hoped that this qualification would help rid the country of the steel trust. His amendment was even too radical for Democrats, as he failed to attract anyone to his position. The vote was 62-1 against his amendment.⁵⁰

⁴⁹Ibid., p. 7736

Party in Senate	No. in Party	Vote on Passage		
		Against	For	Nonvoting
Democratic	33	(16+3) 19	1	13
Republican	56	0	38	18

⁵⁰60 C.R., 42, 5104.

The senator from the recently admitted state of Oklahoma then proposed a second amendment; this one eliminated the provision in the bill that domestic manufactures and domestic steel products had to be used exclusively in the construction of American ships. A motion to table Gore's amendment was adopted, 48-9.⁵¹ Forty-two Republicans and 6 Democrats voted for the tabling motion; only 9 Democrats tried to save Gore's proposal. Bacon of Georgia (Democrat) presented an amendment which of this group came the closest to being adopted. Bacon suggested that the secretary of the navy be authorized to purchase any part of the materials abroad if such could not be purchased at a "reasonable" price domestically. The matter was to rest on the judgment of the secretary. Bacon's amendment failed to carry, 24-36.⁵² Eighteen Democrats and 6 Republicans backed it, but 35

⁵¹Ibid., p. 5105.

Party in Senate	No. in Party	Vote on Tabling Gore Amendment		
		Against	For	Nonvoting
Democratic	31	(9+1) 10	6	15
Republican	61	0	(42+5) 47	14

⁵²Ibid., p. 5108.

Party in Senate	No. in Party	Vote on Bacon Amendment		
		For	Against	Nonvoting
Democratic	31	(18+1) 19	1	11
Republican	61	6	35	20

Republicans and a Democrat successfully put it down. Money of Mississippi (Democrat) finished this particular antitrust effort by putting forth an amendment in which it was stated that, although all materials used in the construction of these vessels were to be of American manufacture, these products might be "purchased abroad and admitted duty free." Money's suggestion was defeated, 18-41.⁵³ All favorable votes came from Democrats; 40 Republicans and a Democrat blocked it.

In the House, Democrats carried the fight against the trusts to the floor on several occasions during the 60th Congress. Gilbert Hitchcock (Democrat-Nebraska) proposed an amendment to the Legislative, Executive and Judicial Appropriations bill, H.R. 16882, which would have added to that section of the bill appropriating \$35,000 for special agents to investigate overseas commerce, a directive that such research include "information showing the prices at which American-made goods are sold abroad

⁵³Ibid., p. 5292.

Party in Senate	No. in Party	Vote on Money Amendment		
		For	Against	Nonvoting
Democratic	31	(18+2) 20	1	10
Republican	61	0	(40+1) 41	20

to merchants and at retail." The information was then to be made available to the Congress. A point of order was made by a Republican that the amendment was new legislation and therefore not germane in an appropriation bill. The Chair sustained the point of order. When Hitchcock appealed the matter to the House, a motion to lay the appeal from the decision of the Chair on the table was made. A vote against the latter motion was the position favorable to the Hitchcock proposal. The motion to table carried along party lines, 120-111.⁵⁴

Turned aside in their efforts to gain information about prices of American goods overseas, the Democrats tried to get information presented to the House pertaining to the operation of domestic corporations at home. Resolution 302, requesting that the president communicate to the House all information and data in reference to the organization, management, and conduct of all corporations, joint stock companies, or corporate combinations (engaged in inter-

⁵⁴ Ibid., pp. 2103-4.

Party in House	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	167	111	0	56
Republican	222	0	120	102

state and foreign commerce) as may have been reported to the president by the Bureau of Corporations, was brought up for consideration on March 20, 1908. That the Republican leadership was not favorable to it was shown when a motion to let the resolution lie on the table was carried along party lines, 151-115.⁵⁵ A vote against the motion to table was favorable to Resolution 302.

During the debate on the Fortifications Appropriations bill of 1908, a Republican-sponsored amendment was introduced in which it was proposed that the secretary of war be permitted to purchase American goods "in limited quantities abroad" if in his judgment it was in the national interest. Democratic leaders, D. A. DeArmond (Missouri) and John Gaines (Tennessee), led the fight to alter the amendment so as to strengthen the position of the secretary of war and allow that official to act effectively against "would-be extortioners."⁵⁶ DeArmond felt that the

⁵⁵Ibid., pp. 3651-52.

Party in House	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	166	115	1	50
Republican	222	0	150	72

⁵⁶Ibid.p. 3729.

amendment in its present form was "an absurd proposition. . . . Either take it out and get away from the pretense or just put in something that amounts to something. Either enable the secretary of war to protect the United States, if there is need for it, or boldly and openly deny to him and deny to every other agent of the government the ability to protect."⁵⁷ He proposed an amendment to the amendment which substituted "in any quantity" for the phrase "in limited quantity." In this way, he hoped to put real power into the secretary's hands to wield against the trusts when he was drawing up contracts. DeArmond's amendment was adopted, 85-82,⁵⁸ and then it was disregarded when the House approved an amendment in the nature of a substitute, which for all practical purposes was identical with the original wording, by a vote of 114-95.⁵⁹ Before the final vote on the amended version, Gaines of Tennessee questioned the motives of the opposition. Why, he asked, did the Republican party go back to the language of 1890 and use phrases that were coined when combinations (trusts) were barely on the horizon of the American economy, when it had

⁵⁷Ibid., p. 3730.

⁵⁸Ibid., p. 3732.

⁵⁹Ibid., p. 3734.

the sharper, more hard-hitting terminology of the 1906 Panama Canal Construction Act from which to draw. Obviously, he inferred, because the Grand Old Party did not really want to curb the practices of the trusts.⁶⁰ His statement did not deter the Republicans from adopting the substitute amendment, with the phrase "in limited quantities," as part of the Fortifications Appropriations bill. The vote was 121-106.⁶¹ Only Gustav Kustermann (Republican-Wisconsin) shared the opinion of the Democrats that the amendment was too weak to be effective.

Later in the session, the Democrats found themselves in a dilemma. House Resolution 444 was proposed which called for the Speaker to appoint a committee of six to investigate and inquire into the production and supply of wood pulp. There was a serious question as to what degree the production of wood pulp had been affected by a combination or conspiracy to control, regulate, monopolize, or restrain interstate and foreign commerce. Whereas, the Democrats favored the investigation, they were aghast at the thought

⁶⁰Ibid., p. 3731.

⁶¹Ibid., pp. 3741-42.

Party in House	No. in Party	Vote on Amendment		
		Against	For	Nonvoting
Democratic	166	105	1	60
Republican	222	1	120	101

that the Speaker would have sole control over the makeup of the inquiring body; they suspected a whitewash in the making. On a motion to suspend the rules and pass the resolution, the party voted in a block against, but failed to stop its passage. The vote was 156-112.⁶² One Republican voted with the Democrats. Normally, a motion to suspend the rules and pass a resolution required a two-thirds majority; but rule 28, regarding this procedure, had been suspended.

In the next session of the 60th Congress, Senator Charles Culberson (Democrat-Texas) offered a resolution in which the Committee on Judiciary was directed to report to the Senate whether the president (Theodore Roosevelt) was acting within his powers when he permitted United States Steel to absorb Tennessee Coal and Iron Company. (The president had been convinced by John Pierpont Morgan, the financier, that such a merger was proper and necessary and not "in restraint of trade.") The resolution if adopted

⁶²Ibid., p. 5033.

Party in House	No. in Party	Vote on Resolution		
		Against	For	Nonvoting
Democratic	166	111	0	55
Republican	221	1	156	64

would be both a direct criticism of Roosevelt's actions and a veiled threat that antitrust action against the steel company might be forthcoming yet. A motion to table Culberson's resolution was offered, and decisively defeated, 14-47.⁶³ Twenty-six Republicans joined 21 Democrats to block the motion and keep the resolution before the Senate; 14 Republicans tried to bury Culberson's directive.

Democrats continued their efforts to make matters uncomfortable for the trusts in the 61st Congress. Thomas Gore (Democrat-Oklahoma) offered a resolution in the first session, calling for a Senate investigation of import, retail, and wholesale prices of both foreign and domestic goods in the United States. The results of the project

⁶³60 C.R., 43, p. 624.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	31	(21+2) 23	0	8
Republican	61	26	14	21

Almost immediately after the president announced the merger, an uproar arose, particularly in the West. Mowry, Era of Theodore Roosevelt, p. 219. Moreover many Congressional Republicans were very unhappy with Mr. Roosevelt during his last few months in the White House. Ibid., pp. 223-25. This would account for the unusual Republican response to a Democratic resolution of this nature.

should, its sponsor felt, show whether manufacturers or retailers were responsible for the "exorbitant" prices in the country. To delay consideration of Gore's resolution, a motion to refer it to the Committee on Finance was offered by Senate Republicans. The Democrats did not have the votes to block the strategic move, and the motion referring it to committee was adopted, 50-29.⁶⁴ All votes for referral came from Republicans; 26 Democrats and 3 Republicans favored immediate consideration of the resolution.

Later in the session (a special one called by the president to have the tariff revised), during the debate over Nelson Aldrich's (Republican-Rhode Island) amendment proposing a special excise tax on corporations, Francis Newlands (Democrat-Nevada) suggested a revision in it so that only those firms engaged in producing goods covered by duties were to be liable to the tax. It was clear that Democrats tied the development of trusts to the imposition

⁶⁴61 C.R., 44, 2140.

Party in Senate	No. in Party	Vote on Referral		
		Against	For	Nonvoting
Democratic	32	(26+1) 27	0	5
Republican	59	3	(50+1) 51	5

of high protective tariffs, and that they hoped to hurt the giants by making them pay for their privileged tariff position. A motion was made to lay Newlands' amendment on the table in order that it not be considered; the motion was adopted, 46-24.⁶⁵ Forty-five Republicans and a Democrat blocked consideration of Newlands' proposal; while 20 Democrats and 4 Republicans sought to get it voted upon in the Senate.

In the 62nd Congress, Democrats controlled the House. The leadership of the party pushed for an immediate investigation of the Sugar Trust. House Resolution 157 proposed such an effort and called for the nomination of a nine-man committee to be selected by the House. H.R. 172 named the nine men, and was put forth for the approval of the lower chamber. On a motion of previous question to cut off further debate on H.R. 172 and to bring the matter to a vote,

⁶⁵ Ibid., p. 4235.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	32	(20+2) 22	1	9
Republican	59	4	(45+2) 47	9

the Democratic majority had its way, 139-80.⁶⁶ One Republican voted with the Democrats, while a Democrat voted with the Republicans. Moments later, the minority leader, James R. Mann (Republican-Illinois), submitted a motion to commit the resolution to a special committee of fifteen for further consideration. By a similar vote, the Republican tactic to reroute the measure was defeated, 74-139.⁶⁷

During consideration of H.R. 25069, the Sundry Civil Appropriations bill, an amendment was offered increasing the amount for antitrust enforcement \$100,000, from \$200,000 to \$300,000. The Democrats, who were trying to create a dual image of reformers and economizers, tried to explain their position in opposing the increase by claiming that it would be used more to aid the Republican presidential campaign than to carry out antitrust actions. In one of the few instances in this period in which the Democrats assumed the more conservative side of an anti-trust proposal, the amendment was turned aside by a vote

⁶⁶ 62 C.R., 47, 1294.

Party in House	No. in Party	Vote on Motion of Previous Question		
		For	Against	Nonvoting
Democratic	226	138	1	87
Republican	158	1	79	78

⁶⁷ Ibid., pp. 1295-96.

of 99-149.⁶⁸ A vote for was favorable to the larger appropriation for enforcement of antitrust suits; all favorable votes came from the Republican side of the House.

In the final roll call relating to antitrust during 1897-1913, both parties provided large majorities for the measure. It was a procedural matter. H.R. 669 stated that on August 8th and 9th (1911), the House was to have evening sessions during which there would be debate on the report of the special committee appointed under H.R. 148 to investigate violations of the Anti-Trust Act. On the motion of the previous question cutting off debate, the vote was a lopsided 222-13.⁶⁹ One hundred and forty-eight Democrats and 73 Republicans voted for the motion; 12 Republicans and a Democrat were against it.

⁶⁸Ibid., p. 10039.

Party in House	No. in Party	Vote on Amendment		
		For	Against	Nonvoting
Democratic	229	0	148	81
Republican	159	99	0	60

⁶⁹Ibid., p. 10306.

Party in House	No. in Party	Vote on Motion of Previous Question		
		For	Against	Nonvoting
Democratic	229	148	1	3
Republican	159	73	12	74

CHAPTER VI

THE FIGHT FOR FEDERAL REGULATION OF RAILROADS

By the 1880's, public demand for the establishment of federal authority in the control of interstate carriers was loudly proclaimed.¹ "Numerous railroad

¹Most historians in the twentieth century who have concerned themselves with the development of sentiment for railroad regulation by government have put great stress upon demands made by the farmers of the Midwest; Solon J. Buck, The Granger Movement: A Study of Agricultural Organization and Its Political, Economic and Social Manifestations, 1870-1880 (Cambridge, Mass., 1913) was the pioneer effort for this thesis. Isiah Sharfman, the author of the basic study on the workings of the federal railroad commission, The Interstate Commerce Commission (4 vols.; New York, 1931-37) accepted the Buck viewpoint; thus, he interpreted the effectiveness of the federal agency in terms of how far it went to bring about a railroad system with rates that were "fair" to the public. Lee Benson, in a more recent study, Merchants, Farmers and Railroads: Railroad Regulation and New York Politics, 1850-1887 (Cambridge, Mass., 1955), suggested that New York merchants, who were vigorous supporters of carrier regulation by the state, were the key men in the movement to regulate railroads. Most recently, Gabriel Kolko has offered a completely new outlook upon the subject of railroad regulation. His book, Railroads and Regulation: 1877-1916 (Princeton, 1965), presented the thesis that railroad executives were themselves eager for federal

abuses . . . the evils of highly speculative railroad building, of irresponsible financial manipulation, of destructive competitive warfare, of fluctuating and discriminating rate adjustments, of the over-reaching exercise of monopoly" helped to create a "bitterly censorious public attitude."² Moreover, state attempts to regulate the railroads (usually by the formation of regulatory commissions), a trend which began in the East and spread to the West and the South, had either been overthrown by the Supreme Court as an infringement of federal power or had been proven ineffective.³ In 1887, Congress passed an act

legislation, in order both to stabilize a chaotic and cutthroat field of endeavor and to arrest more dangerous proposals possibly forthcoming from the state legislatures. Furthermore, Kolko suggested that most federal legislation on railroad regulation, in the years 1887-1916, was drafted by men trusted by the railroad companies, and designed to bring about the reforms or changes railroad executives most desired. With this historiographical background it became imperative for the purposes of this work to distinguish one type of "reform-minded" individual from another. Those men in Congress, whose actions appeared to be motivated by a concern for the "public" interest, rather than railroad interests, were defined as the "progressive" or "reform" type.

²Sharfman, op. cit., I, 14.

³"State commissions, which existed in one form or another in New England from 1839 . . . for the most part, protected the railroads from the farmers. . . . The

creating the federal agency known as the Interstate Commerce Commission, and thereby took the first steps in acknowledging federal responsibility over the national networks of transportation.⁴ Within the decade, however, various powers outlined or suggested by the Act of 1887 were stripped from the Commission by a laissez-faire-minded Supreme Court.⁵ As a result, the activities of the Commission were rendered "largely futile"; it did not appear to critics of the railroads that the Commission was bringing about any modification of unfair practices.⁶ When

first commission with mandatory rate powers was established in Illinois in 1873, and by 1887, although all but twenty states had commissions, only eight states assigned rate-making powers to their regulatory bodies." Kolko, Railroads and Regulation: 1887-1916, p. 16. The Supreme Court decision referred to was Wabash Railroad v. Illinois (118 U.S. 557) as cited in Kolko, ibid., p. 33.

⁴Railroad men supported federal railroad regulation legislation if it could be made to eliminate cut-throat competition and the rebate system. Ibid., pp. 34-35. The 1887 Act was legislation that railroads generally approved. Ibid., pp. 44-45.

⁵Sharfman, op. cit., I, 25-26, 32. Kolko claimed that the Commission recognized only limited rate-making powers to begin with. Kolko, Railroads and Regulation: 1877-1916, p. 82.

⁶Sharfman, op. cit., I, 33. Kolko disputed that the law was designed to aid directly the farmer, worker, or average businessman: "It did not occur to the authors

in the late nineties and first decade of the twentieth century, rapid railroad consolidation under the direction of the financiers occurred and was followed by the steady advancement of freight rates, the Commission could do little but petition Congress to grant it the power necessary to act for the public interest.⁷ In 1906 and 1910, Congress passed Railroad Regulation acts giving the Commission many of the powers that it sought. The question which we will seek to answer in this chapter is to what degree did the Democratic party, in the years 1897-1913, support the enlargement of federal power in the field of railroad regulation.

Eleven roll calls taken in the Senate of the 55th Congress provide some insights into the feelings Democrats

of the [Act] to create some formal mechanism for representing the 'public interest' in railroad legislation, since it appeared almost axiomatic that [wealthy] shippers would eliminate any injustices through their appeals." Railroad executives understood the act to be for their benefit, and called for vigorous enforcement. Kolko, Railroads and Regulation: 1877-1916, pp. 56-57.

⁷Sharfman, op. cit., I, 33. Kolko again disagreed with the Sharfman point of view. To his mind, government and railroads were not at loggerheads; "cooperation and sympathy, rather than hostility and conflict are dominant themes in the relationship between the Commission and the railroads." Kolko, Railroads and Regulation: 1887-1916, p. 84.

shared toward railroads at the beginning of the period. On February 15, 1898, the upper chamber was considering a resolution that would have required bidders upon purchase of the stock of the Kansas Pacific Division of the Pacific Railroad to be liable for the payment of the original claim terms and interest due the government. A motion was made to refer the resolution to the Committee on Pacific Railroads, thereby delaying further immediate consideration. The motion was defeated, 19-34.⁸ While supported by 18 Republicans and an independent, the motion was blocked by 22 Democrats, 7 Republicans, and 5 independents. Two days later, a motion to consider the resolution carried, 34-23;⁹ a motion to refer it to committee was

⁸55 C.R., 31, 1723.

Party in Senate	No. in Party	Vote on Referral		
		Against	For	Nonvoting
Democratic	37	(22+5) 27	0	10
Republican	43	7	(18+3) 21	15
Others	12	5	1	6

Note: Independents will not be included in the charts, hereafter.

⁹Ibid., p. 1827.

Party in Senate	No. in Party	Vote on Resolution		
		For	Against	Nonvoting
Democratic	37	(23+4) 27	0	10
Republican	43	5	(22+4) 26	12

turned back again, 31-35;¹⁰ and the resolution itself was adopted by the vote of 34-29.¹¹ An alliance of Democrats, Populists, and a few western Republicans provided the voting power for seeing this measure through.

Payment of debts due the United States by railroad companies was one thing; government ownership of railroads was quite another matter. Support for the latter at this time split the Democratic party and was almost nonexistent among Republicans. On March 4, 1898, during debate on the Alaskan bill, a committee amendment was offered to the Senate in which the United States reserved the right to buy railroad installations provided for in the bill twenty years after their construction. The Senate crushed the

¹⁰Ibid., p. 1828.

Party in Senate	No. in Party	Vote on Referral		
		Against	For	Nonvoting
Democratic	37	(25+3) 28	2	7
Republican	43	4	(28+3) 31	12

¹¹Ibid., p. 1828.

Party in Senate	No. in Party	Vote on Resolution		
		For	Against	Nonvoting
Democratic	37	(3+1) 4	20	7
Republican	43	1	(26+1)	12

amendment, 7-48.¹² Three Democrats, 1 Republican, and 3 independents supplied the meager support for the proposal. On May 16th, Richard Pettigrew (Independent-South Dakota) suggested an amendment to H.R. 6148, the Eckington and Soldiers' Home Railroad bill, in which the government was given the right to buy up the property in five years at its value then and run it in the public interest. Pettigrew's amendment was defeated, 11-36.¹³ Democrats split almost evenly, as 9 cast for and 10 voted nay. All 24 Republicans voting, were against the proposition. On June 8th, Pettigrew offered another amendment to the same bill in which the rights and privileges extended to the company building the railroad were not to exceed twenty-five years. This received no better response than the previous,

¹²Ibid., p. 2463.

Party in Senate	No. in Party	Vote on Amendment		
		For	Against	Nonvoting
Democratic	37	(3+1) 4	20	13
Republican	43	1	(27+1) 28	14

¹³Ibid., p. 4927.

Party in Senate	No. in Party	Vote on Pettigrew Amendment		
		For	Against	Nonvoting
Democratic	37	9	10	17
Republican	43	0	24	19

the vote being 13-35.¹⁴ Seven Democrats and 3 Republicans were among those in support of this proposal, while 12 Democrats and 22 Republicans supplied most of the votes against.

There was some support among Democrats in the Senate of the 55th Congress for reducing the payment to railroads for carrying mail. Those who favored the reduction termed the rates then in effect "excessive." On May 5, 1898, during consideration of the Post Office Appropriation bill, Senator Pettigrew sponsored an amendment which reduced the allowance for railroads carrying mail by 20 percent. A motion to lay Pettigrew's amendment on the table was suggested, and it carried, 40-8, killing the proposal.¹⁵ Fourteen Democrats supported the tabling motion, whereas 5 tried to block it. The 24 Republicans who voted, came down on the side favoring tabling. Marion

¹⁴Ibid., p. 5627.

Party in Senate	No. in Party	Vote on Pettigrew Amendment		
		For	Against	Nonvoting
Democratic	37	(7+1) 8	(12+1) 13	16
Republican	43	3	22	18

¹⁵Ibid., p. 4720.

Party in Senate	No. in Party	Vote on Pettigrew Amendment		
		For	Against	Nonvoting
Democratic	36	(5+3) 8	(14+4) 18	10
Republican	43	0	24	19

Butler (Populist-North Carolina) offered an amendment that proposed the setting up of a joint congressional conference committee to investigate "excessive" rates paid railroads for the carrying of mail. Butler's amendment failed to be adopted also, 24-40.¹⁶ Seventeen Democrats, 1 Republican, and 6 independents supported it, but 33 Republicans, 6 Democrats, and an independent successfully blocked it. On February 21, 1899, during the third session of the same Congress, Senator Butler suggested still another amendment to the same bill. He proposed reduction in the appropriation for mail carrying on railroads to the tune of 10 percent, or slightly over \$2,500,000. This proposal was rejected by the Senate, 15-45.¹⁷ Democrats split again, 12 for and 13 against.

¹⁶Ibid., p. 4760.

Party in Senate	No. in Party	Vote on Butler Amendment		
		For	Against	Nonvoting
Democratic	36	(17+1)18	6	12
Republican	43	1	(33+1) 34	8

¹⁷55 C.R., 32, 2133.

Party in Senate	No. in Party	Vote on Butler Amendment		
		For	Against	Nonvoting
Democratic	37	12	13	12
Republican	44	0	(30+4) 34	10

A total of 30 Republicans cast their votes against.

Taxation was yet another method that some senators saw as a means of bringing railroads into line. During consideration of the War Revenue bill in June, 1898, Thomas Turley (Democrat-Tennessee) proposed a special annual excise of 1/4 of 1 percent (.25 percent) of gross receipts on interstate carriers. His amendment came close to being adopted, falling short by only four votes, 34-38.¹⁸ Twenty-seven Democrats supported the proposal; 2 did not. All 36 Republicans voting were against the measure.

It seems clear from their voting that the desire to strike at the railroad interests, in one way or the other, was much more apparent among the Democratic senators of the 55th Congress than the Republican senators. But did this tendency carry over into advocacy of more positive measures? Were Democrats ready to build a strong federal agency capable of administering control over railroads

¹⁸55 C.R., 31, 5517.

Party in Senate	No. in Party	Vote on Turley Amendment		
		For	Against	Nonvoting
Democratic	37	(27+1) 28	(2+1) 3	6
Republican	43	0	36	7

even though they were traditionally the party of local, as opposed to national, power?

On March 4, 1898, Senator Rawlins (Democrat-Utah) offered an amendment to the Alaskan bill in which he proposed that subsidies for the building of railroad installations be tied to acceptance, on the part of the management, of federal regulations. On a motion to lay Rawlins' amendment on the table, the Senate voted 31-17, killing the proposal.¹⁹ All 17 votes against the tabling procedure came from Democrats; 5, however, did side with 23 Republicans and 3 independents to put the motion across.

The House, on December 7, 1898 (during the third session of the 55th Congress) considered H.R. 1730, known as the Anti-Scalping bill. The basic provision of the bill made it a federal offense to sell railroad tickets if not specifically authorized to by the railroad company in question. The Republican floor leader for the bill, William Hepburn of Iowa, proclaimed that the measure was

¹⁹Ibid., p. 2457.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	37	(17+3) 20	5	12
Republican	43	0	23	20

aimed at eliminating fraud in ticket-selling, and at strengthening the long haul-short haul provisions of the Act of 1887.²⁰ Richard Bland (Democrat-Missouri) thought he saw Machiavellian tactics at work, as he explained to the House that "if we legitimize this by taking from the citizen the right to purchase his ticket wherever he can get it cheapest, it is simply in the interest of consolidation of power in the railroads, and will affirm and legalize all their methods of pooling the passenger traffic."²¹ His comrade, John Little (Democrat-Arkansas) agreed as he stated that "this bill is nothing less than a pooling bill in disguise, and should it become law the large and controlling roads can squeeze and oppress the less fortunate roads to their satisfaction, and while doing so can dictate with impunity the passenger rates throughout the country."²² Stephen Brundidge, Jr. (Democrat-Arkansas) tried to eliminate what he considered the worst feature of the measure by offering an amendment which declared that the act would not apply to the practice of transferring

²⁰55 C.R., 32, 34-35 (Hepburn statement).

²¹Ibid., p. 35 (Bland statement).

²²Ibid. (Little statement).

tickets (reduced rates for slower service). He believed that with the amendment weaker railroads would have retained a vital weapon in competing with larger lines.²³ The House refused to adopt Brundidge's proposal, 101-123.²⁴ Seventy-five Democrats and 12 Republicans were among those in support of it; 114 Republicans and 9 Democrats were against it. Those who favored it were espousing the continuance of competition between carriers. The bill passed a few minutes later, 119-101, with the bulk of the Democrats opposed.²⁵

When H.R. 1730 reached the Senate, Democrats tried to get it quickly committed to the Committee on Interstate Commerce, probably in order to bury it. However, they were for the moment outmaneuvered when William Sewell (Republican-New Jersey) brought up a different version

²³Ibid., p. 34 (Brundidge statement).

²⁴Ibid., p. 40.

Party in House	No. in Party	Vote on Brundidge Amendment		
		For	Against	Nonvoting
Democratic	125	75	9	41
Republican	204	12	114	78

²⁵Ibid., p. 50.

Party in House	No. in Party	Vote on Passage		
		Against	For	Nonvoting
Democratic	125	66	16	43
Republican	204	23	103	78

of the measure for immediate consideration, thereby passing the committee. A motion to go into executive session was offered as a countermeasure; the motion, which would have defeated Sewell's strategy, was defeated, 25-30.²⁶ It drew support from 19 Democrats, 3 Republicans, and 2 independents, but was blocked by the votes of 23 Republicans, 5 Democrats, and 2 independents. A motion to consider the Sewell-sponsored S. 1575, An Act to Regulate Commerce, was then adopted 33-21.²⁷ A vote against was the position favorable to blocking a bill re-enforcing railroad consolidation. Seventeen Democrats, 1 Republican, and 3 independents voted against, while 27 Republicans, 5 Democrats, and an independent voted for it. The bill died, however, as it was not debated for the rest of the session.

²⁶Ibid., p. 914.

Party in Senate	No. in Party	Vote on Executive Session		
		For	Against	Nonvoting
Democratic	37	19	5	13
Republican	44	3	(23+2) 25	16

²⁷Ibid., p. 915.

Party in Senate	No. in Party	Vote on Motion on Consideration		
		Against	For	Nonvoting
Democratic	28	(6+3) 9	(7+2) 9	10
Republican	51	3	(32+1) 33	15

In the 56th Congress, Senators Butler (Populist-North Carolina) and Pettigrew (Independent-South Dakota) attempted again to have mail carrying rates for railroads reduced. On May 17, 1900, Butler offered an amendment to H.R. 10301, the Post Office Appropriation bill, which called for a readjustment of such rates by reducing them by at least 10 percent. It failed to carry, 11-41.²⁸ There was little change in the character of support for such a proposal. Six Democrats and 3 Republicans were among those favoring it; 32 Republicans and 7 Democrats were opposed to it. Four days later, Pettigrew's amendment in which a reduction in compensation of \$3,400,000 to railroads for carrying the mail was proposed was similarly rejected, 16-33.²⁹ This amendment drew support

²⁸56 C.R., 33, 5642.

Party in Senate	No. in Party	Vote on Butler Amendment		
		For	Against	Nonvoting
Democratic	28	(6+3) 9	(7+2) 9	10
Republican	51	3	(32+1) 33	15

²⁹Ibid., p. 5799.

Party in Senate	No. in Party	Vote on Pettigrew Amendment		
		For	Against	Nonvoting
Democratic	28	(10+3) 13	3	12
Republican	51	3	(27+2) 29	19

from 10 Democrats and 3 Republicans, but was turned back primarily by the negative votes of 27 Republicans and 3 Democrats. During the second session of the 56th, Butler suggested an amendment to H.R. 13729, another Post Office Appropriation bill, which would have slashed the appropriation for mail carrying by \$2,700,000. It, too, was not adopted, 18-51.³⁰ Democrats, once again, split their votes as 12 advocated the amendment and 10 rejected it. Thirty-seven Republicans voted no, 3 voted yes.

The index of party support for the three amendments regarding railroad compensation for carrying the mails (voted upon in the 56th Congress) was 57 for the Democrats and 21 for Republicans. The index for the Republicans was higher than might otherwise be expected, but nonvoting, which becomes a factor in the tabulation, was relatively high (approximately one-third of the total votes that might have been cast by the GOP). The index of 57 for the Democrats indicated a division of sentiment within the

³⁰56 C.R., 34, 2684.

Party in Senate	No. in Party	Vote on Butler Amendment		
		For	Against	Nonvoting
Democratic	28	12	10	6
Republican	53	3	37	13

party. In the chart below, with the utilization of techniques developed by Guttman, the factions within the Democrats upon this issue were isolated. The factions are designated by types; that is, a type 1 Senator was one who favored, time after time, maintenance of the proposed appropriation, whereas a type 4 Senator was one whose voting record displayed consistency and advocacy of reduction of rates. From the chart, it can be seen that, with but one exception, southwestern and western Democratic senators fell into the type 4 category (Arkansas, Texas, Utah). On the other hand, both senators representing the southern states of Virginia, Georgia, and Mississippi were type 1's.

In the lower chamber of the 56th Congress, during the debate on H.R. 12394, the War Revenue Reduction Bill, an amendment providing for a tax of 1 percent per value of a shipment of goods on interstate carriers was turned down by a vote of 124-140.³¹ One hundred and seven Democrats

³¹Ibid., pp. 346-47.

Party in House	No. in Party	Vote on Amendment		
		For	Against	Nonvoting
Democratic	161	107	15	39
Republican	189	12	125	52

GUTTMANN SCALING OF SUPPORT FOR
REDUCED MAIL CARRYING RATES

A plus sign (+) designates a favorable vote toward reduction. P+ means paired for. A minus sign (-) designates a negative vote toward reduction. P- means paired against. NV stands for nonvote.

Perfect Types: (1) - - - (3) - + +
(2) - - + (4) + + +

Roll calls are arranged from lowest to highest numerical support for reduction.

<u>Senator, State</u>	<u>RC1</u>	<u>RC2</u>	<u>RC3</u>	<u>Type</u>
Bacon, Georgia	P-	-	NV	1
Clay, Georgia	-	-	-	1
Kenney, Delaware	-	NV	NV	1
McLaurin, South Carolina	P-	-	NV	1
Martin, Virginia	-	-	NV	1
Money, Mississippi	-	NV	-	1
Sullivan, Mississippi	-	NV	-	1
Cockrell, Missouri	NV	-	NV	1a
Daniel, Virginia	NV	-	NV	1a
McEnery, Louisiana	NV	-	NV	1a
Taliaferro, Florida	NV	-	NV	1a
Lindsay, Kentucky	NV	-	+	2
Pettus, Alabama	-	NV	+	2
Caffery, Louisiana	-	+	NV	3
Culberson, Texas	NV	+	+	3
Mallory, Florida	NV	+	P+	3
Morgan, Alabama	NV	+	+	3
Tillman, South Carolina	NV	NV	+	3 (?)
Bate, Tennessee	P+	+	+	4
Berry, Arkansas	+	+	P+	4
*Harris, Kansas	P+	+	+	4
*Heitfeld, Idaho	+	+	+	4
Jones, Arkansas	+	+	NV	4
Rawlins, Utah	+	+	NV	4
*Teller, Colorado	+	+	+	4
Turley, Tennessee	+	+	P+	4
Vest, Missouri	P+	-	+	4 (with error)

*Senators of third parties who later became Democrats.

and 12 Republicans supported the measure, but 125 Republicans and 15 Democrats joined to turn it back.

In the 57th Congress, House Democrats joined with House Republicans in passing unanimously H.R. 17, the Littlefield Anti-Trust bill, one part of which outlawed certain discriminatory practices concerning railroads.³² H.R. 17 subsequently lost the support of the administration and was not passed; but a modified version of its railroad regulating provisions was encompassed in S. 7053, commonly known as the Elkins bill. In general, the Elkins bill

. . . in its most important part made it a penal offense to make any departure from the published rates of common carriers in interstate commerce whether that departure would involve discrimination or not. Thus, all rebates not listed in published rate schedules were made unlawful. . . . It also made all rate-cutting unlawful, unless reflected in corresponding changes in the published tariffs.³³

The rule providing the procedure of consideration for S. 7053 in the House upset the Democrats. Richardson (Democrat-Tennessee) expressed the view of the minority as he told the House he was ready to vote for the bill,

³²Refer to Chapter V, pp. 113-14.

³³Thorelli, op. cit., p. 550.

. . . but while that is true, I do not think that there ought to be denied to us the right to propose amendments in order to make the bill more effectual for the suppression of the great evil in this country we are all crying out against.³⁴

Democrats voted against the rule, but it carried anyway, 140-110.³⁵ A vote against was the position favoring a stronger bill through amendment of the bill under consideration. On the final roll call, the bill passed 250-6.³⁶ Five Democrats and an independent voted against. C. F. Cochran (Democrat-Missouri) just could not vote for such a weak bill, especially one that eliminated imprisonment as a penalty for breaking the interstate commerce laws.³⁷ The bulk of the Democrats (108) who voted for the bill did so in the belief that "the little of good that it does contain the people should have."³⁸

³⁴57 C.R., 36, 2154.

³⁵Ibid.

Party in House	No. in Party	Vote on Rule		
		Against	For	Nonvoting
Democratic	151	109	0	42
Republican	196	0	140	56

³⁶Ibid., p. 2159.

³⁷Ibid., p. 2155.

³⁸Thorelli, op. cit., p. 551. Railroad officials were delighted with the bill. Kolko, Railroads and Regulation: 1877-1916, pp. 100-1.

In the 58th Congress, while the Senate was debating H.R. 14623, Civil Government for the Philippine Islands bill, Josephus Bailey (Democrat-Texas) offered an amendment which required railroads that sought the advantages of the bonding features of the bill to sign an agreement with the government of the Islands, recognizing the right of the latter to regulate freight and passenger service. It also provided that none of these companies should sell or issue stocks or bonds except at par value, and that the Philippine Commission should closely supervise issuance of such stocks and bonds. Bailey's amendment was rejected, 33-39.³⁹ It won the support of 24 Democrats and 9 Republicans, but was blocked by 39 Republicans.

In the House of the 58th Congress, Resolution 408 was brought up for consideration. The resolution first noted the testimony of the vice president of the Atcheson-Topeka Railroad before the Interstate Commerce Commission in which he had admitted that a rebate of one dollar per ton

³⁹58 C.R., 39, 361.

Party in Senate	No. in Party	Vote on Bailey Amendment		
		For	Against	Nonvoting
Democratic	33	24	0	9
Republican	57	9	39	9

was given to Colorado Fuel and Iron Company. Then, it directed the attorney-general of the United States to inform the House whether the vice president of the railroad should be prosecuted for flagrant violation of the Elkins law. Adoption was blocked, as a motion to table the resolution was approved, 119-98.⁴⁰ A vote against the motion was the position favorable to adopting Resolution 408; 97 Democrats and an independent took this position. One hundred and eighteen Republicans supported the motion to table.

Of greater import in the history of railroad regulation, the House in this, the 58th Congress, began to construct legislation endowing the Interstate Commerce Commission with significant power. In early February of 1905, the Republican leadership submitted a rule resolution for consideration of H.R. 18588, a Bill to Amend the Regulation of Commerce Act of 1887. H.R. 18588 was commonly referred to as the Esch-Townshend bill. The rule provided for

⁴⁰Ibid., p. 601.

Party in House	No. in Party	Vote on Tabling Motion		
		Against	For	Nonvoting
Democratic	173	97	0	76
Republican	209	0	118	91

debate, a vote on a minority version of the bill, and a vote on the bill. There was no provision for amendment of either bill; at best, although it was not likely to happen, the minority bill could replace in toto the majority bill.

John Sharp Williams (Democrat-Mississippi), minority leader in the House, expressed succinctly what he felt was wrong with both the rule resolution and H.R. 15588 as it stood:⁴¹

The real object of this rule is not to cut us off from the power to extend and enlarge the provisions of the bill which we propose to offer as a substitute -- by long odds the best bill, the best considered, and most in line with the recommendations of the President that has been offered in this House; by long odds ahead of the one that you are going to offer in that respect. . . . Because what we offer is not going to become law. . . . What you are really trying to do by this rule is prevent this side . . . anxious to carry out the vital principles of the President's recommendation, and enough men on that side added to them, from doing that thing . . . from enacting into legislation in full those principles, our principles before he [Theodore Roosevelt] espoused them. . . .

By voting for the rule, Williams warned Republicans:

You are voting to conserve in your majority bill and keep from being amended three "railroad jokers" in section 14.

⁴¹Ibid., pp. 1950-51.

Vote down the rule, he urged, and give the House a chance to put in three amendments embodying 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 appellate court only upon the evidence as adduced before the Interstate Commerce Commission, making of it purely an appellate court. . . .

On the vote of previous question, cutting debate on the rule resolution, Democrats were unsuccessful in winning over a significant number of Republicans. The motion of previous question was adopted 171-140,⁴² and soon, the rule resolution was passed by a similar vote, 166-136.⁴³ In the first vote, 2 Republicans sided with the Democrats against the motion of previous question. A vote in each case against the motion was the position favoring opportunity for strengthening the bill along the lines suggested by President Roosevelt.

⁴²Ibid., pp. 1947-48.

Party in House	No. in Party	Vote on Motion of Previous Question		
		Against	For	Nonvoting
Democratic	173	136	0	37
Republican	209	2	171	36

⁴³Ibid., p. 1952.

After debate, the House considered the minority amendment in the nature of a substitute, the Davey (Democrat-Louisiana) bill.⁴⁴ The substitute established the power of the Interstate Commerce Commission to declare "fair, just and reasonable rates." It prohibited the Commission from increasing a rate published by a carrier. It safeguarded the rulings of the Commission by declaring that its rate pronouncements were not to be taken off until "held in error on final judgment" of a federal court having jurisdiction. It restricted the testimony before such a court to that "contained in the record" of the Commission's hearings. The provisions of the bill were to become effective immediately after passage. The vote on the Democratic party's amendment went along party lines, 151-187.⁴⁵ Three Democrats crossed over to vote with the Republicans against the substitute.

The remaining vote was on the Republican version of the bill. It sought to give the Interstate Commerce

⁴⁴Ibid., 1954. Democratic version of bill.

⁴⁵Ibid., p. 2205.

Party in House	No. in Party	Vote on Minority Version		
		For	Against	Nonvoting
Democratic	173	151	3	19
Republican	209	0	182	27

Commission some rate-making powers inasmuch as the Supreme Court, in its interpretation of the Act of 1887, denied such to the federal regulating agency.⁴⁶ The Republican bill provided that "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. . . ."⁴⁷ It increased the number of commissioners from five to seven, and gave them salaries of \$10,000 annually. A court of transportation, with five circuit judges, was created as the appellate court for the Commission's rulings. Left in the bill was the right of this court "to try the case over de novo upon its merits," a provision which the Democrats believed would create confusion and prevent full evidence from being presented before the Commission. The Esch-Townshend measure also provided a fine of \$5000 against the individual or corporation for each day of noncompliance with the Commission's decisions, and named April 1, 1905, as the

⁴⁶Maximum Rate Case (167 U.S. 479) in 1896; Social Circle Case (162 U.S. 184) in 1896, as cited in Kolko, Railroads and Regulation: 1877-1916, p. 82.

⁴⁷58 C.R., 39, 1953. Republican version of bill.

date the bill would go into effect. The vote on the majority's bill was bipartisan and overwhelming, 326-17.⁴⁸ Only 6 Democrats and 11 Republicans refused to support it.

With less than a month to go in the life of the present Congress, the leadership in the Senate decided to defer consideration of a railroad regulation bill until the new Congress. In the 59th Congress, the Senate allowed the House to pass its version of such a measure first. The lower chamber complied by approving H.R. 12987, an Act to Amend the 1887 Act to Regulate Commerce and to Increase the Powers of the Interstate Commerce Commission, on February 8, 1906, by the vote of 346-7.⁴⁹ This time all negative votes came from the majority's side of the aisle.

The Senate began serious discussion of H.R. 12987 on May 4, 1906, and continued work on the measure until its version was passed on May 18, 1906. Some thirty-one roll calls taken in this short period were of significance. They are presented in the order that the Senate voted upon them.

1. Thomas Carter (Republican-Montana) offered an amendment to the Henry C. Lodge (Republican-Massachusetts) amendment which extended the provisions of the Law of 1887

⁴⁸ Ibid., p. 2205.

⁴⁹ 59 C.R., 40, 2303.

to any corporation engaged in transportation of oil or other commodity by means of pipe lines; pipe lines and rails; pipe lines and water (except gas and water for municipal purposes). [Italics mine.] Carter's amendment was to strike out the words, "or other commodity." This was rejected by the Senate, 22-53.⁵⁰ A negative vote was favorable to wide federal powers of regulation. Twenty-eight Democrats and 25 Republicans joined to block the Carter revision; 22 Republicans favored it.

2. Culberson (Democrat-Texas) proposed an amendment in the nature of a substitute to Joseph Foraker's (Republican-Ohio) amendment about special rates for certain passengers on interstate carriers. Culberson's version limited "free passes, tickets, and transportation" to officers of the railroad, attorneys of the carrier, ministers, inmates of hospitals, and some few others. It provided for a penalty of between \$100 and \$2,000 for each violation. In a close vote, the Senate accepted the Texan's

⁵⁰Ibid., p. 6361 (amendment); ibid., p. 6370 (vote).

Party in Senate	No. in Party	Vote on Carter Amendment			
		Against	For	Nonvoting	
Democratic	33	(28+1)	29	0	4
Republican	56	25		22	9

amendment, 38-35.⁵¹ A positive vote was favorable to a strong proposal severely limiting "free passes." Twenty-six Democrats and 13 Republicans supported Culberson's revision; 36 Republicans opposed.

3. John Dryden (Republican-New Jersey) suggested an amendment to Stephen Elkins' (Republican-West Virginia) amendment which made it illegal for interstate carriers to produce, manufacture, buy, furnish, or sell directly coal, coke, or any other commodity (except for their own use). Dryden proposed that the effective date for the Elkins' provision should be July 1, 1909, instead of six months earlier. His revision was accepted by the Senate, 44-29.⁵² A vote against was favorable to earlier imposition of these restrictions on carrier business practices. Twenty-four Democrats and 5 Republicans sought to block the proposal;

⁵¹Ibid., p. 6440 (Foraker Amendment); ibid., p. 6455 (Culberson Amendment and vote on it).

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	33	(26+1) 27	0	6
Republican	56	(12+1) 13	(35+1) 36	7

⁵²Ibid., p. 6552 (Dryden Amendment and vote).

Party in Senate	No. in Party	Vote on Dryden Amendment		
		Against	For	Nonvoting
Democratic	33	(24+1) 25	2	6
Republican	56	5	(42+1) 43	8

42 Republicans and 2 Democrats pushed it through.

4. Albert Hopkins (Republican-Illinois) presented a motion to commit both the Elkins amendment as amended and a substitute version to committee. The Senate, on the question whether Hopkins' motion was in order, decided in the negative, 25-48.⁵³ A vote against favored the passage of federal restrictions on manufacturing by carriers. Twenty-eight Democrats and 20 Republicans joined to squelch consideration of the motion; 25 Republicans favored it.

5. Culberson (Democrat-Texas) offered a substitute for the Elkins measure. His amendment provided for a \$500 fine a day for the manufacturing, producing, or buying of a commodity of commerce by an interstate carrier for anyone but itself. The substitute was turned down, 11-62.⁵⁴ A

⁵³Ibid., p. 6552 (Hopkins Amendment); ibid., p. 6559 (vote).

Party in Senate	No. in Party	Vote on Consideration		
		Against	For	Nonvoting
Democratic	53	28	0	5
Republican	56	0	25	11

⁵⁴Ibid., p. 6568 (Culberson Amendment and vote).

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	53	9	17	7
Republican	56	2	45	9

vote for was favorable to tougher penalties for railroads which were convicted of disobeying the Elkins proposition. Only 9 Democrats and 2 Republicans produced support for this proposal; it was crushed by the negative votes cast by 17 Democrats and 45 Republicans.

6. Elkins of West Virginia offered an amendment in the nature of a substitute to his own amendment. The proposal stated that an interstate carrier could not ship its own products, or any products it had an interest in, except for its own use. Elkins was permitted to substitute his new proposal for his old. The vote on the Elkins measure as newly amended was 67-6.⁵⁵ Twenty-five Democrats and 42 Republicans backed it; 1 Democrat and 5 Republicans opposed.

7. Robert LaFollette (Republican-Wisconsin) offered an amendment to Section 1 of the bill, in which he gave the Interstate Commerce Commission the power to prohibit discrimination on short haul (as against long haul) rates for

⁵⁵Ibid., p. 6569 (Elkins Amendment); ibid., p. 6570 (vote).

Party in Senate	No. in Party	Vote on Elkins Amendment		
		For	Against	Nonvoting
Democratic	33	25	1	7
Republican	56	42	5	9

passengers or like property. LaFollette's suggestion was defeated, 25-46.⁵⁶ A favorable vote was one for increasing the scope and power of the Commission in eliminating discriminatory railroad practices. Twenty-three Democrats and 2 Republicans supported the amendment; 44 Republicans and 2 Democrats blocked its adoption.

8. Henry Cabot Lodge (Republican-Massachusetts) proposed an amendment to another LaFollette amendment which made it a federal crime (misdemeanor) for interstate carriers to discriminate by falsely representing their rates. Lodge's amendment weakened the provision by rewording it in much more general terms. The revision was accepted by the Senate, 49-27.⁵⁷ Twenty-five Democrats and 2 Republicans tried to block the Lodge revision; 47 Republicans and 3

⁵⁶Ibid., p. 6571.

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	33	23	2	8
Republican	56	2	44	10

⁵⁷Ibid., p. 6620 (LaFollette Amendment); ibid., pp. 6626-27 (Lodge Amendment; ibid., pp. 6627-28 (vote).

Party in Senate	No. in Party	Vote on Lodge Amendment		
		Against	For	Nonvoting
Democratic	33	(25+1) 26	3	4
Republican	56	2	(46+1) 47	7

Democrats voted for it. The LaFollette amendment on discrimination as amended by Lodge was then approved by the large majority of 73-2. Only 1 Republican and 1 Democrat voted negatively.

9. Josephus Bailey (Democrat-Texas) offered an amendment to Section 4 of the bill, which included the proviso that "no order of the Commission shall be set aside or suspended by any preliminary or interlocutory decree or order of any court or judge." The Senate turned down this proposal, 23-54.⁵⁸ A vote for was favorable to strengthening the power of the Commission to fix rates. Twenty Democrats and 3 Republicans voted for Bailey's suggestion, but 46 Republicans and 8 Democrats voted against it.

10. Culberson (Democrat-Texas) proposed an amendment that would establish an appeal procedure from rate-fixing of the Commission. When an appeal was brought before the court of jurisdiction, there was to be a ten-day period in which no restraining order could be issued while the

⁵⁸ibid., p. 6671 (Bailey Amendment); ibid., pp. 6672-73 (vote).

Party in Senate	No. in Party	Vote on Bailey Amendment		
		For	Against	Nonvoting
Democratic	33	(20+2) 22	8	3
Republican	56	3	(46+1) 47	6

Commission presented its case before the court. This was to be followed by a thirty-day period in which the Supreme Court would review the case if the appeal was carried there. The High Court could stay any interlocutory order during this period. Culberson's amendment was defeated, 29-50.⁵⁹ A vote for was favorable to continuance of the Commission's rate-fixing until a court of jurisdiction could judge the reasonableness of such. Twenty-eight Democrats and a Republican voted for this Culberson amendment; the 50 negative votes came from Republicans.

11. Augustus Bacon (Democrat-Georgia) offered an amendment on the same subject. His proposal stated that no rate of change ordered by the Commission could be restrained or set aside unless upon the hearing (with due notification of the Commission), consideration and concurrence in by two judges, at least one of whom was to be a circuit justice of the Supreme Court or a judge of the circuit court of the United States. Bacon's amendment was

⁵⁹Ibid., p. 6673 (Culberson Amendment); ibid., p. 6674 (vote).

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	33	28	0	5
Republican	56	1	(50+1) 51	4

rejected, 24-52.⁶⁰ It won support from 23 Democrats and a Republican; 50 Republicans and 2 Democrats voted against it.

12. James P. Clarke (Democrat-Arkansas) suggested that the Commission, in the determination of rates, be directed to consider "revenue derived from intrastate traffic as part of the gross income of said carrier and make due allowances therefore." The vote was 27-48.⁶¹ A vote for was favorable to closing a loop hole in the process of determining railroad rates. Twenty-five Democrats and 2 Republicans supported Clarke's amendment; 48 Republicans vetoed it.

13. Isador Rayner (Democrat-Maryland) offered an amendment which stated that an order of rate change "shall not be set aside by any court unless it violates the Constitution of the United States or exceeds the jurisdiction

⁶⁰Ibid., p. 6674 (Bacon Amendment); ibid., p. 6678 (vote).

Party in Senate	No. in Party	Vote on Bacon Amendment		
		For	Against	Nonvoting
Democratic	33	23	2	8
Republican	56	1	(50+1) 51	4

⁶¹Ibid., p. 6685 (Clarke Amendment and vote).

Party in Senate	No. in Party	Vote on Clarke Amendment		
		For	Against	Nonvoting
Democratic	33	25	0	8
Republican	56	2	(48+1) 49	5

conferred upon the Commission." Rayner's measure was aimed at those judges who were likely to find most rate-fixing decisions of the Commission "unreasonable" if they were not restricted by more specific guidelines. It was turned down, 24-55.⁶² Twenty-three Democrats and 1 Republican voted for it; 50 Republicans and 5 Democrats voted against it.

14. Robert LaFollette (Republican-Wisconsin) produced an amendment which stipulated that if a plaintiff submits evidence to a court to set aside an order of the Commission, evidence that it had not submitted to the Commission, then such goes to the Commission for fifteen days. The Commission would have that time to change the rate, if it wanted to. If the plaintiff still wanted to appeal, it must be done on the second rate order. LaFollette's amendment was defeated, 26-49.⁶³ A vote for was favorable to

⁶²Ibid., p. 6685 (Rayner Amendment); ibid., pp. 6695-96 (vote).

Party in Senate	No. in Party	Vote on Rayner Amendment		
		For	Against	Nonvoting
Democratic	53	23	5	5
Republican	56	1	(50+1)	4

⁶³Ibid., p. 6696 (LaFollette Amendment); ibid., p. 6697 (vote).

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	33	25	4	4
Republican	56	1	45	10

preventing carriers from withholding evidence from the Commission. Twenty-five Democrats and 1 Republican supported this suggestion; 45 Republicans and 4 Democrats rejected it.

15. Augustus Bacon of Georgia (Democrat) offered an amendment to William Allison's (Republican-Iowa) amendment which vested a court of venue (defined as the district in which the principal office of the carrier was) with jurisdiction to hear and determine suits involving the Commission's decisions. Bacon's proposal would have restricted the jurisdiction of such courts so as not to extend into orders and requirements involving the discretion of the Commission. It was not accepted by the Senate, the vote being 22-46.⁶⁴ A vote for was the position favorable to preservation of the Commission's proposed powers. Twenty-one Democrats and a Republican voted for Bacon's amendment; 45 Republicans and a Democrat voted against.

16. LaFollette of Wisconsin (Republican) suggested

⁶⁴Ibid., p. 6772 (Bacon Amendment); ibid., p. 774 (vote).

Party in Senate	No. in Party	Vote on Bacon Amendment		
		For	Against	Nonvoting
Democratic	33	(21+2) 23	1	9
Republican	56	1	45	10=

another amendment to Allison's amendment. It stated that any federal judge, who has stocks or bonds in any common carrier, or who accepts, uses, or procures free passes or privileges, is disqualified from hearing or passing upon any trial arising from this act. His own party did not desire to be recorded on this measure, as they offered and carried a motion to lay LaFollette's amendment on the table. The vote was 40-27.⁶⁵ A vote against the tabling motion was favorable to the elimination of overt "pro-railroad" judges from the bench in cases involving interstate carriers. Twenty-four Democrats and 3 Republicans tried to stop the tabling motion, but 40 Republicans pushed it across.

17. Anselm McLaurin (Democrat-Mississippi) proposed a third amendment to Allison's amendment. Similar to LaFollette's, it declared that no judge who owned stock in any corporation engaging in interstate commerce was to issue injunctions, restraining orders, or interlocutory

⁶⁵Ibid., p. 6774.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	(24+1) 25	0	8
Republican	56	3	40	13

decrees, or to sit in trial on any case in which said corporation is directly, or indirectly, involved. A motion to lay McLaurin's amendment on the table was adopted, 49-23.⁶⁶ Again, 21 Democrats and 2 Republicans tried to block the tabling motion; again, 47 Republicans and 2 Democrats kept the Senate from consideration of such a proposal regarding the backgrounds of federal judges.

18. William Allison's (Republican-Iowa) amendment provided that no interlocutory decree or restraining order of an order of the Interstate Commerce Commission was to be given by a court without five days' notice to the federal agency. Appeal from the court order must lie only before the Supreme Court of the United States, and must be brought to the Court within thirty days of the lower court's order. An appeal under such circumstances would take precedence over all but similar cases and criminal cases. Allison's amendment was adopted with little

⁶⁶Ibid., p. 6781 (McLaurin Amendment); ibid., p. 6783 (vote).

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	21	2	10
Republican	56	2	47	17

opposition, 73-3.⁶⁷ All three negative votes were cast by Democrats.

19. LaFollette of Wisconsin decided to test the sentiment of the Senate once again on his proposal regarding the submission of new evidence turned up in appellate court, to the Commission. He offered it as a substitute for another amendment. A motion to table his proposal was carried this time by the vote of 41-30.⁶⁸ Twenty-five Democrats and 5 Republicans tried to block the tabling motion; 40 Republicans and a Democrat voted for it.

20. LaFollette (Republican-Wisconsin) had still other ideas on how to improve the bill. He suggested an amendment which gave the Commission the authority to conduct an investigation on the property value of an interstate

⁶⁷Ibid., p. 6787 (Allison Amendment and vote).

Party in Senate	No. in Party	Vote on Allison Amendment		
		For	Against	Nonvoting
Democratic	33	25	3	5
Republican	56	48	0	8

⁶⁸Ibid., p. 6795 (Daniel Amendment); ibid., p. 6797 (LaFollette Amendment and vote).

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	25	1	7
Republican	56	5	(40+1) 41	10

carrier. The Commission could hire any experts (for instance, engineers) it might need for the investigation. It could start as early as July, 1906, and when it finished, the Commission was to notify the corporation of its results by registered letter. The corporation had twenty days in which to file protest; otherwise the Commission's findings were to be accepted as fair valuation of the carrier's property. A motion to lay LaFollette's amendment on the table carried, 40-27.⁶⁹ A vote against was the position favorable to giving the Commission the means at arriving at property evaluations of interstate carriers. Twenty-one Democrats and 6 Republicans wanted to block the tabling motion, but 39 Republicans and a Democrat had their way.

21. Foraker (Republican-Ohio) proposed an amendment to the bill establishing an alternate route for rate-fixing if a carrier was charged with discriminatory practices. Under this provision, the case might go straight to

⁶⁹Ibid., p. 6806 (LaFollette Amendment); ibid., p. 6809 (vote).

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	21	1	11
Republican	56	6	(39+2) 41	9

the courts without being brought before the Commission. It was, in essence, the most blatant attempt to write into the bill a provision undercutting the Commission. The Senate smashed the proposal, 10-56.⁷⁰ A vote for was favorable to a strong ICC. Twenty-six Democrats and 30 Republicans formed a solid wall of opposition to the Foraker amendment; it was supported by 9 Republicans and a Democrat.

22. LaFollette of Wisconsin (Republican) came back with another amendment, this one empowering the Commission to order the "block system" for all railroads engaging in interstate commerce. This would allow the Commission to set the minimum distance between the last car of one train and the first of the next train. A motion to lay LaFollette's amendment on the table was carried, 28-45.⁷¹ Twenty-

⁷⁰Ibid., p. 6809 (Foraker Amendment); ibid., p. 6811 (vote).

Party in Senate	No. in Party	Vote on Foraker Amendment		
		Against	For	Nonvoting
Democratic	33	26	1	6
Republican	56	30	9	17

⁷¹Ibid., pp. 6811-12 (LaFollette Amendment); ibid., p. 6821 (vote).

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	23	3	7
Republican	56	5	42	9

three Democrats and 5 Republicans tried to block the tabling motion; 42 Republicans and 3 Democrats did not wish the Senate to consider the amendment.

23. John Tyler Morgan (Democrat-Alabama) produced an amendment which stated that nothing in the act precluded anyone, in his own name, from suing any interstate carrier in any court. The senator from Alabama wanted it understood that the act under consideration in no way protected the carrier from legal action brought up in normal channels. Morgan's amendment failed to carry, 23-41.⁷² Nineteen Democrats and 4 Republicans supported it, while 40 Republicans and a Democrat rejected it.

24. Bacon of Georgia (Democrat) offered an amendment to Culberson's (Democrat-Texas) anti-free pass amendment, in which the Georgian suggested a fine between \$100 and \$2,000 for each offense of giving free passes to any member of Congress, or any justice of a federal court, or any officer of the Executive departments. The Georgian's

⁷²Ibid., p. 6811.

Party in Senate	No. in Party	Vote on Morgan Amendment		
		For	Against	Nonvoting
Democratic	33	19	1	13
Republican	56	4	(40+1) 41	11

proposal would have narrowed the prohibition on "free passes" so as to strike primarily at their issuance to federal officials. Bacon's amendment was not accepted, the vote going 33-42.⁷³ In this case, a vote against the revision was favorable to a broader ban on free railroad passes. Both parties split on this vote. Eighteen Democrats and 24 Republicans kept the revision from being adopted, while 23 Republicans and 10 Democrats tried in vain to push it through.

25. Culberson's anti-pass amendment, which had been added to the bill by a vote in the Senate meeting as a Committee of the Whole, was singled out for another vote when the bill was before the Senate. In an effort to kill the provision, a motion was offered to lay Culberson's amendment on the table; the motion was defeated handily, 23-49.⁷⁴ A vote against was the position favorable to the amendment, and to the restriction of the "free pass."

⁷³Ibid., p. 6944.

Party in Senate	No. in Party	Vote on Bacon Amendment		
		Against	For	Nonvoting
Democratic	33	18	10	5
Republican	56	24	23	9

⁷⁴Ibid., p. 6945.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	26	0	7
Republican	56	53	23	10

Twenty-six Democrats and 23 Republicans stopped the tabling motion, while 23 Republicans supported it.

26. Charles Fulton (Republican-Oregon) offered an amendment to Culberson's anti-pass amendment which was very close to the one offered by Bacon of Georgia. It would have placed the ban exclusively on the issuance of free passes to federal officials. Fulton's amendment lost, 22-48.⁷⁵ A vote against was favorable to the Culberson amendment as it stood. Nineteen Democrats and 29 Republicans voted to protect the stronger Culberson version; 16 Republicans and 6 Democrats favored the Fulton revision.

27. Culberson's anti-pass amendment was adopted by the Senate, on May 16, 1906, by a vote of 60-16.⁷⁶ It drew the support of 27 Democrats and 33 Republicans, and the opposition of 15 Republicans and a Democrat.

⁷⁵Ibid., p. 6948 (Fulton Amendment); ibid., p. 6949 (vote).

Party in Senate	No. in Party	Vote on Fulton Amendment		
		Against	For	Nonvoting
Democratic	33	19	6	8
Republican	56	29	16	11

⁷⁶Ibid., p. 6945 (Culberson Amendment); ibid., p. 6949 (vote).

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	33	27	1	5
Republican	56	(33+1) 34	15	7

28. Albert Hopkins (Republican-Illinois) offered an amendment to the Lodge pipe line amendment⁷⁷ in which he proposed that the words "at any place within the authority or jurisdiction of the United States" be struck out. Hopkins' proposal was meant to help the company laying oil pipe lines in the Panamanian Isthmus; as the bill stood, with the Lodge and Elkins amendments in it, this company could not have used the pipe lines they were constructing to carry their own oil. Morgan of Alabama called the proposal a "special privilege." It was accepted by the Senate, 43-25.⁷⁸ A vote against was the position favoring wider latitude regarding restrictions placed on commodity pipe line carriers. Twenty-one Democrats and 4 Republicans tried to block the Hopkins revision, but 40 Republicans and 3 Democrats favored it.

29. Ben Tillman (Democrat-South Carolina) proposed

⁷⁷See paragraph 1 above, p. 160.

⁷⁸⁵⁹C.R., 40, 6953 (Hopkins Amendment); *ibid.*, p. 6956 (vote).

Party in Senate	No. in Party	Vote on Hopkins Amendment		
		Against	For	Nonvoting
Democratic	33	(21+1) 22	3	8
Republican	56	4	(40+1) 41	11

an amendment to the Elkins amendment banning the manufacturing of goods by interstate carriers. Tillman wanted to insert after the phrase "or if they have any interest direct or indirect" the words "by partnership, stock ownership, or any arrangement whatsoever." His proposal was turned down, 23-42.⁷⁹ A vote for was favorable to a tighter restriction upon railroad companies' other interests. Eighteen Democrats and 5 Republicans supported the Tillman revision; 38 Republicans and 4 Democrats successfully blocked its adoption.

30. Henry Teller (Democrat-Colorado) suggested that the phrase "in its judgment," referring to the Commission, be stricken from the bill. There seemed to be a fear among the legally minded in the Senate that the phrase implied that Congress was endowing the Commission with juridical powers, and that with it, the bill might be declared unconstitutional. The amendment won the support of

⁷⁹Ibid., p. 7012 (Tillman Amendment); ibid., p. 7014 (vote).

Party in Senate	No. in Party	Vote on Tillman Amendment		
		For	Against	Nonvoting
Democratic	33	18	4	11
Republican	56	5	(38+1) 39	12

the Senate, 50-24.⁸⁰ Many senators who had previously upheld strengthening the powers of the ICC came down on the side of those wishing to strike these words from the bill. It would appear that they were influenced by statements made by several respected senators upon the need to eliminate the controversial words. Simmons of North Carolina told the senate:⁸¹

I cannot believe that these three words are necessary to this legislation. I am utterly unable to see wherein they add to the powers of the Commission or in any way enlarge those powers. From the very first time that I read this bill I have regarded . . . these words as dangerous to the constitutionality of the bill.

Spooner of Wisconsin (Republican) expressed himself by noting:⁸²

I share the opinion expressed by the Senator from Pennsylvania (Mr. Knox), the Senator from Texas (Mr. Bailey) and many other lawyers on both sides of the Chamber, that if these words "in their judgment," which it is moved to

⁸⁰Ibid., p. 7070.

Party in Senate	No. Party	Vote on Teller Amendment		
		Against	For	Nonvoting
Democratic	33	6	23	4
Republican	56	(18+1) 19	(27+1) 28	9

⁸¹Ibid., p. 7069.

⁸²Ibid., p. 7065.

to strike out, mean anything they are dangerous words in the bill.

In spite of the reservations held by the majority of the Senate (23 Democrats and 27 Republicans), 18 Republicans and 6 Democrats favored the retention of the phrase. A vote against the amendment was the position favorable to the stronger statement of the ICC's role.

The bill, H.R. 12987, passed by the large margin of 71-3.⁸³ Two Democrats, Alabama's "Confederate Brigadier" senators, and a lone Republican formed the opposition.

With one version of H.R. 12987 passed in the House, and another in the Senate on the regulation of interstate carriers and new powers for the Interstate Commerce Commission, the only problem, and it turned out to be a somewhat difficult one, was to iron out the differences between the two measures in conference. Since both Senate and House delegations were to be named by the Republican congressional leadership, there was an excellent possibility that the bill would be drastically overhauled in conference. House Democrats hoped that House Republicans would support their efforts to instruct the delegation to approve those Senate amendments which had improved the bill. The resolution that

⁸³Ibid., p. 7070.

they were faced with on May 25, 1906, asked the House to disagree with all Senate amendments on H.R. 12987 and to call for a conference committee. In order to instruct the committee, this resolution had to be defeated. The 26 Republicans who joined the Democrats in opposition were not enough; the resolution passed, 144-105.⁸⁴

On June 5, 1906, the Senate was about to vote on the Conference Report when Eugene Hale (Republican-Maine) offered a motion to have the upper chamber proceed to consider the Naval Appropriation bill. This delaying maneuver was successful, 27-20.⁸⁵ A vote against was the position favorable to bringing the bill to completion at the earliest moment. Fourteen Democrats and 6 Republicans tried to block the motion; 26 Republicans and 1 Democrat gave it their support.

⁸⁴Ibid., pp. 7433-34.

Party in House	No. in Party	Vote on Resolution		
		Against	For	Nonvoting
Democratic	136	79	0	57
Republican	245	26	144	75

⁸⁵Ibid., p. 7836.

Party in Senate	No. in Party	Vote on Motion		
		Against	For	Nonvoting
Democratic	33	(14+1) 15	1	16
Republican	56	6	26	23

On June 12, 1906, the House voted upon a second resolution which stated that it still disagreed with all Senate amendments on the Railroad Rate bill and accepted the conference asked for. Once again, Democrats hoped for Republican support in putting down the resolution in order to offer specific instructions on amendments to the delegates of the House conference delegation. The vote, however, went along party lines; only 8 Republicans crossed over to vote with the Democrats.⁸⁶

On June 23, 1906, the House prepared to vote on the Conference Report of H.R. 12987. When a motion of previous question was offered, the Democrats were caught in a dilemma. If the motion was agreed to, they would be forced to agree to the conference report in toto, with the sole exception of a single vote on the amendment regarding "free passes." Whereas they were ready to vote for the Conference Report, they did want the House to express itself, by roll call vote, on several aspects of the new

⁸⁶ Ibid., p. 8345.

Party in House	No. in Party	Vote on Resolution		
		Against	For	Nonvoting
Democratic	136	92	0	44
Republican	244	8	184	52

version of the bill. The motion cutting off debate (previous question) was passed, 122-90, even though a group of 26 Republicans supported the Democratic position. A vote against the motion offered the only hope to save the Senate amendments eliminated by the Conference Report. Following the adoption of the motions of previous question, the House passed the Conference Report, 215-4, putting the bill one step closer to becoming law. Only 1 Democrat and 3 Republicans opposed.⁸⁷

The indices of party support for a strong bill on railroad regulation, as derived from the voting on H.R. 12987 in the Senate of the 59th Congress are 78 for the Democrats and 33 for the Republicans. This indicates much stronger support for an effective measure among the minority party than among the majority. The numerous roll calls on this bill provided the data, moreover, for testing this idea with the individual senator as the basis of study, rather than the party. After placing each senator

⁸⁷Ibid., pp. 9077-78 (Conference Report); ibid., p. 9084 (Previous Question); ibid., p. 9085 (Report).

Party in House	No. in Party	<u>Vote on Motion of Previous Question</u>		
		Against	For	Nonvoting
Democratic	136	64	3	67
Republican	245	26	119	100

into a category connoting his support for key proposals taken up during consideration of the bill, a continuum of political attitudes toward the measure was derived. This continuum was produced through utilization of the Guttman scaling technique. Seven roll calls were selected from those on H.R. 12987, upon the dual basis of their substantive nature and the split vote produced in the Senate. (Unanimous roll calls do not help to disclose difference of opinion.) The object was to see if these seven roll calls were "scaleable," that is, could they be arranged in an order of increasing (decreasing) support for a strong bill so that category (scale types) could be produced. In this case, the seven roll calls proved to be scaleable; categories or scale types were found to fit the data. Fourteen types were derived from a type 1 senator, who favored the weakest of the bills, to a type 14 senator, who favored the strongest.⁸⁸ The results of this analysis clearly

⁸⁸See Appendix II. The poles "strong" and "weak" were designed to signify positions with emphasis on "public interest" rather than "railroad interest." Kolko suggested that differences of opinion in the Senate on the Hepburn bill were not significant inasmuch as most senators agreed upon the need for giving the ICC rate-making powers; Kolko, Railroads and Regulation: 1877-1916, p. 141. Granted that the rate-making power was the crux of the legislation, it

showed that whereas 90.6 percent of the Democrats fell into the group of senators comprising the most consistent advocates of meaningful legislation in railroad regulation, that is, types 11 to 14, only 9.4 percent of the Republican senators so qualified. A percentage of 30.2 of the Republicans fell into types 6 to 10, while 60.4 percent were among types 1 to 5.

After passage of H.R. 12987 in the Senate, two other roll calls pertinent to federal regulation of interstate carriers occurred in the 59th Congress. Robert LaFollette (Republican-Wisconsin) offered an amendment to H.R. 14396, a bill to incorporate the Lake Erie and Ohio River Ship Canal, which gave the Interstate Commerce Commission control over the issuance of the corporation's stocks and bonds, and over its indebtedness. Moreover, the directors or officers of the company were liable to a ten-year jail sentence, if they tried to get around this provision. A motion to lay LaFollette's amendment on the

still appears that disagreement over the extent of jurisdiction awarded to the ICC -- as shown in the roll calls selected for scaling -- was as important as a true indicator of attitude toward railroad regulation.

table was offered, and carried by the vote of 33-20.⁸⁹ Seventeen Democrats and 3 Republicans tried to block the tabling motion in order to get the matter before the Senate; 32 Republicans and a Democrat provided the votes necessary to pass it. A vote against the tabling motion was favorable to extending the authority of the ICC. LaFollette offered a second amendment to the same bill, which gave the ICC the power and the authority to conduct a value of property investigation of the canal company, and to determine a fair appraisal of its worth. The Commission was directed to keep the evaluation up to date. This amendment was similarly placed upon the table, 30-20.⁹⁰ Seventeen Democrats and 3 Republicans tried to save it by defeating the motion; 29 Republicans and a Democrat supported the tabling procedure.

⁸⁹59 C.R., 40, 8626.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	17	1	15
Republican	56	3	32	21

⁹⁰Ibid., p. 8679.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	33	17	1	15
Republican	56	3	29	24

In the 60th Congress, the Senate considered a joint resolution (No. 74) suspending the commodity clauses of the 1906 Act to Regulate Commerce for twenty months. Weldon Heyburn (Republican-Idaho) proposed an amendment to the resolution which would make all long haul-short haul discriminations illegal. A motion to table Heyburn's amendment carried, 30-23.⁹¹ A vote against was favorable to the curbing of a longtime railroad abuse. Eleven Democrats and 12 Republicans sought to block the motion; 26 Republicans and 4 Democrats gave it their support. Joseph Foraker (Republican-Ohio), one of the three senators who had voted against the 1906 Railroad Regulation Act, suggested an amendment to the resolution in the nature of a substitute. Its major significance was the proviso that the law would not effect commodities owned by interstate carriers prior to July 29, 1906. The proposal was rejected,

⁹¹60 C.R., 42, 6200.

Party in Senate	No. in Party	<u>Vote on Tabling Heyburn Amendment</u>		
		<u>Against</u>	<u>For</u>	<u>Nonvoting</u>
Democratic	31	(11+1) 12	4	15
Republican	64	12	(26+1) 27	22

23-32.⁹² A vote against the amendment was favorable to rapid elimination of the practice of manufacturing and selling of products by interstate carriers. Seventeen Democrats and 15 Republicans joined to defeat the Foraker amendment; 23 Republicans voted for it.

The passage of the 1906 Act to Regulate Commerce whetted the appetite of the American public for effective federal regulation of interstate carriers. Theodore Roosevelt's successor in the White House, William Howard Taft, felt that there was need for further legislation in the field. Responding in part to his own juridical background, he wanted a special administrative court competent to judge upon the decisions of the Interstate Commerce Commission. With Taft's prodding, the Republican leadership in the 61st Congress whipped up S. 6737, a bill to create a Court of Commerce. Playing for the support of both the railroads and shippers, Republican leaders included provisions legalizing railroad rate agreements and granting the ICC the

⁹²Ibid., p. 6754.

Party in Senate	No. in Party	Votes on Foraker Amendment		
		Against	For	Nonvoting
Democratic	31	(17+2) 19	0	12
Republican	61	(15+3) 18	23	20

power to examine existing rates upon its own initiative.⁹³

In the Senate of the 61st Congress, thirty-five roll calls were recorded on S. 6737. It appears that most Democrats and "progressive" Republicans hoped to scuttle the Commerce Court, or at the least limit its jurisdiction vis-a-vis the Interstate Commerce Commission, while trying to extend the powers of the latter federal agency.⁹⁴

Whether right or not, this alliance of reformers saw the Court as a direct threat to the working of the ICC.⁹⁵

1. Moses Clapp (Republican-Minnesota) offered an amendment to a Stephen Elkins amendment which declared that nothing in the act enlarges the jurisdiction of the circuit courts of the United States that is to be transferred and vested in the Court of Commerce. Clapp wanted the

⁹³Kolko, Railroads and Regulation: 1877-1916, p. 184.

⁹⁴The story of the political infighting regarding the Mann-Elkins Act of 1910 can be found in Mowry, Theodore Roosevelt and the Progressive Movement, pp. 94-102; Hechler, op. cit., pp. 163-77; Kolko, Railroads and Regulation: 1877-1916, pp. 184-91.

⁹⁵It was the opinion of at least one legal expert that the Court was never given a chance to develop its potential as a new juridical institution, the administrative court. Felix Frankfurter, "The Business of the Supreme Court of the United States -- A Study in the Federal Judicial System: IV. Federal Courts of Specialized Jurisdiction," Harvard Law Review, 39 (March, 1926), 594-615.

amendment to read that the act in no way increased the jurisdiction of the Commerce Court beyond that possessed by the circuit courts at that time. The Minnesotan's revision was rejected, 25-40;⁹⁶ 16 Democrats and 9 Republicans favored it; 36 Republicans and 4 Democrats blocked its adoption.

2. Furnifold Simmons (Democrat-North Carolina) also tried to revise the Elkins amendment. Simmons' amendment inserted into Elkins' proposal a clause making it read that nothing in the act was to be construed as conferring upon the Court of Commerce any jurisdiction not then possessed by the circuit courts. This, too, was turned down, 30-39.⁹⁷ Twenty-two Democrats and 8 Republicans backed it, but 38 Republicans and a Democrat defeated it.

3. Albert Cummins (Republican-Iowa) suggested that

⁹⁶61 C.R., 45, 4507.

Party in Senate	No. in Party	Vote on Clapp Amendment		
		For	Against	Nonvoting
Democratic	32	16	4	12
Republican	60	9	36	15

⁹⁷Ibid.

Party in Senate	No. in Party	Vote on Simmons Amendment		
		For	Against	Nonvoting
Democratic	32	22	1	9
Republican	60	8	38	14

the amendment include the statement that the Court of Commerce was to have no different or greater jurisdiction than the circuit courts. The Senate responded negatively to Cummins' amendment, 28-36.⁹⁸ Twenty Democrats and 8 Republicans voted for it, while 36 Republicans voted against it. In each of these three roll calls, a vote for the amendment was favorable to clearly delineating (and thus restricting) the authority of the new administrative court.

4. The alliance between Democrats and "progressive" Republicans to undercut the Commerce Court became even more obvious when Albert Cummins (Republican=Iowa) offered an amendment to the bill striking the first six sections, and thereby completely eliminating mention of the Court in the bill. The effort was turned back, 28-37.⁹⁹ Twenty Democrats

⁹⁸Ibid., p. 4508.

Party in Senate	No. in Party	Vote on Cummins Amendment		
		For	Against	Nonvoting
Democratic	32	20	0	12
Republican	60	8	36	16

⁹⁹Ibid., p. 6342.

Party in Senate	No. in Party	Vote on Cummins Amendment		
		For	Against	Nonvoting
Democratic	32	(20+1) 21	0	11
Republican	60	8	(37+3) 40	12

and 8 Republicans were for Cummins' suggestion, but 37 Republicans saw it differently.

5. Cummins then offered another amendment limiting the number of judges on the Court to three, and providing that they have staggered terms, three years' maximum. This proposal was defeated, 25-35.¹⁰⁰ A vote for was favorable to preventing the perpetuation of "anti-regulation" judges on the bench of this Court. Sixteen Democrats and 9 Republicans gave support to this amendment, but it was defeated by 34 Republicans and a Democrat.

6. Robert LaFollette (Republican-Wisconsin) suggested an amendment regarding the eligibility of men for the judgeships on the Court of Commerce. His proposal denied the position to any person related to owners of interstate carriers, or having either stock or interest in such. In a close vote, the amendment was defeated, 29-32. A vote for was favorable to keeping judges biased toward railroads off the Court. Sixteen Democrats and 13

¹⁰⁰Ibid., p. 6346.

Party in Senate	No. in Party	Vote on Cummins Amendment		
		For	Against	Nonvoting
Democratic	32	16	1	15
Republican	60	9	(34+2) 36	15

Republicans were for the LaFollette amendment; 32 Republicans blocked its adoption.¹⁰¹

7. LaFollette proposed another amendment affecting the appointment of judges to the Court. Section 10 of S. 6737 provided that the Chief Justice of the Supreme Court would be solely responsible for making appointments to fill vacancies on the Commerce Court. LaFollette suggested that a majority vote by the justices of the Supreme Court be the procedure. The Senate disagreed with the Wisconsin senator, 18-39.¹⁰² Twelve Democrats and 6 Republicans took LaFollette's position; 37 Republicans and 2 Democrats denied his measure support.

8. Another attempt was made by the coalition to gut the Commerce Court, when Augustus Bacon (Democrat-Georgia) proposed an amendment to the bill striking those

¹⁰¹Ibid., p. 7347.

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	32	(16+2) 18	0	14
Republican	60	13	(32+1) 33	14

¹⁰²Ibid., p. 7351.

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	32	(12+1) 13	2	17
Republican	60	6	(37+1) 38	16

sections creating the Commerce Court. Once again, this idea was turned down, 25-38.¹⁰³ This time, 19 Democrats and 6 Republicans favored the proposition; 38 Republicans protected the president's project.

9. Turning to the question of whether water transportation should fall under the control of the Interstate Commerce Commission, the Senate considered the Elkins amendment, which specifically denied to the Commission the right to establish any through route, classification, rate, fare, or charge, when transportation was wholly by water. Opposing points of view were expressed on the amendment by George Chamberlain (Democrat-Oregon) and Augustus Bacon (Democrat-Georgia). The Oregonian felt that ICC supervision was necessary; as he felt that railroads, by owning shipping lines in competition with other railroads, could drive these companies out of business through rate-cutting. The Georgian, on the other hand, believed that water freight, if left alone, would provide the best competition

¹⁰³Ibid., p. 7365.

Party in Senate	No. in Party	Vote on Bacon Amendment		
		For	Against	Nonvoting
Democratic	32	(19+2) 21	0	11
Republican	60	6	(38+1) 39	15

for railroads. The Senate approved the Elkins amendment by a lopsided vote of 51-9.¹⁰⁴ A vote against was favorable to putting water transportation under the ICC.

Thirteen Democrats and 38 Republicans backed the Elkins amendment; only 4 Democrats and 5 Republicans voted against.

10. To protect water carriers, the Senate adopted an amendment proposed by Theodore Burton (Republican-Ohio), which gave the Interstate Commerce Commission the authority to prevent railroads from raising rates after lowering them just to destroy water carrier competition. The ICC could, in this case, prescribe new rates. The vote on the amendment was 54-1;¹⁰⁵ a vote for was favorable to eliminating cut-throat practices used by some railroads to eliminate competition.

11. The matter of redefining the ICC's authority

¹⁰⁴ibid., p. 4658 (Chamberlain and Bacon statements); ibid., p. 4659 (vote).

Party in Senate	No. in Party	Vote on Elkins Amendment		
		Against	For	Nonvoting
Democratic	32	4	13	15
Republican	60	5	(38+1) 39	16

¹⁰⁵ibid., p. 7202 (Burton Amendment); ibid., p. 7203 (vote). The Senate adopted, just previous to this, an amendment protecting water carriers offered by Simmons (Democrat-North Carolina). Ibid., p. 7200.

in rate-fixing came up in several amendments that the Senate considered at this time. Albert Cummins (Republican-Iowa) proposed an amendment in the nature of a substitute for Section 7 of the Elkins amendment. Cummins would have had the section include not only a provision that traffic agreements among railroads and schedules of rates and fares be examined and approved by the ICC, but another giving the federal agency the power to review rates emanating from approved schedules. The Elkins amendment as amended by Coe Crawford (Republican-South Dakota) contained the first proviso.¹⁰⁶ Cummins' suggestion to strengthen the Commission's hand was turned down by the Senate, 29-35.¹⁰⁷ Eighteen Democrats and 11 Republicans favored his proposal; 35 Republicans did not.

12. Senator Cummins introduced another amendment; this time to one offered by Joseph Bristow (Republican-

¹⁰⁶The Elkins amendment had been amended by Crawford to give the ICC power to approve such agreements and schedules, but not the power to review them later; this was a concession that conservative Republicans were willing to make. Hechler, op. cit., 170-71.

¹⁰⁷61 C.R., 45, 5567.

Party in Senate	No. in Party	Vote on Cummins Amendment		
		For	Against	Nonvoting
Democratic	32	(18+7) 25	0	7
Republican	60	(11+2) 13	(35+6) 41	6

Kansas).¹⁰⁸ It was suggested by Cummins that when a new rate, higher than the one in effect, was proposed by a railroad company, its imposition must be deferred until after the ICC had held a hearing upon it. The ICC was to start such a hearing within ten days after the company filed its proposed changes. The Commission was to hold the same power over the proposed changes as it did over rates already in effect.¹⁰⁹ Before the Cummins amendment could be voted upon, Thomas Martin (Democrat-Virginia) proposed an amendment to it which called upon the ICC to render a decision within six months after a schedule was filed.¹¹⁰

Martin's amendment presented a real problem in that its effect was not clear. "Progressive" Republicans were fearful that the six-month deadline would be interpreted as a point after which interstate carriers could impose the new rates without the express approval of the ICC. Cummins of Iowa noted:¹¹¹

¹⁰⁸Ibid., p. 6499 (Bristow Amendment).

¹⁰⁹Ibid., p. 6773 (Cummins Amendment).

¹¹⁰Ibid., p. 6914 (Martin Amendment).

¹¹¹Ibid., pp. 6783-84 (Cummins Statement).

I think the Commission can do it usually in less than six months, and ought to do it, in most instances, in much less than one hundred and twenty days; but I know there have been some instances and there will be other instances, in which it could not be done within six months, and I want to stand upon the proposition that increases of rates shall not go into effect until they are approved by the Commission.

A statement by Clarke of Arkansas (Democrat) corroborated such fears:¹¹²

The effect of the amendment should be to require the Commission to proceed to hear what was presented within six months, and to make all reasonable efforts to conclude the investigation and announce a decision within six months; but if for any reason it was not done, then the proposed rate should go into effect and remain in effect until the Commission should reach a decision and announce it.

Martin of Virginia (Democrat) shared neither the opinion of his colleague from Arkansas nor the fears of the senator from Iowa:¹¹³

Unless the railroad company shall in less time than six months have affirmatively satisfied the minds of the Commission that the increase is justifiable, right and proper, then an order should be made forbidding the increase. That is where I want to leave it, and where I think the language I suggested does leave it.

Dolliver, a member of the "progressive" Republican group

¹¹²Ibid., p. 6789 (Clarke Statement).

¹¹³Ibid., p. 6788 (Martin Statement).

(for this bill), summed up the position of his comrades upon Martin's amendment, with a touch of humor:¹¹⁴

I have read [Martin's amendment as placed in the Cummins amendment] and I have been inclined to agree with the interpretation put upon it by the Senator from Virginia [Martin]; but I belong to a little group of people here who are described as children at the mercy of superior wisdom, ready to accept language under the supposition that it means one thing, when in point of fact, wiser, or at least sharper, men are well advised that it means something else.

Martin's amendment was rejected by the Senate, 18-54.¹¹⁵ It drew support only from Democrats; 50 Republicans and 4 Democrats opposed. Interestingly, this roll call was the only one taken during consideration of the railroad regulation bill in the Senate in which Republicans voted as a block. "Progressive" Republicans obviously did not feel as did 18 Democrats that a vote for the amendment was favorable to speedy decisions on rate schedules by the ICC.

¹¹⁴Ibid., p. 6792 (Dolliver Statement).

¹¹⁵Ibid., p. 6914.

Party in Senate	No. in Party	Vote on Martin Amendment		
		For	Against	Nonvoting
Democratic	32	18	4	10
Republican	60	0	54	10

13. With Martin's amendment to the Cummins amendment rejected, the Senate prepared to vote on the Iowan's proposal giving the ICC the power to keep new rates from going into effect until it had decided, after hearings, that the changes were warranted. The amendment was not carried, the Senate voting 29-43.¹¹⁶ Seventeen Democrats and 12 Republicans supported this Cummins proposal; 39 Republicans and 4 Democrats rejected its adoption. A vote for was favorable to giving the ICC the authority to block higher rates before they were imposed.

14. James P. Clarke (Democrat-Arkansas) offered an amendment to the Bristow amendment in line with his statement on the Martin "six-month" provision. The senator from Arkansas would have required the Commission to begin hearings on proposed rate changes, ten days after such were filed by the company. If after six months, the ICC had not come to a decision, then, provided that the delay was not the fault of the petitioning railroad company, the rates

¹¹⁶Ibid., p. 6915.

Party in Senate	No. in Party	Vote on Cummins Amendment		
		For	Against	Nonvoting
Democratic	32	(17+1) 18	4	10
Republican	60	12	(39+2) 41	7

would go into effect. After that the rates could be annulled by the Commission if they were found to be unreasonable, and a new rate schedule could be prescribed. Clarke's effort gained more support than Cummins', but fell short of adoption. The vote was 35-40.¹¹⁷ Twenty-three Democrats and 12 Republicans voted for it; 40 Republicans resisted the move.

15. Wesley Jones (Republican-Washington) proposed a third amendment to the Bristow amendment which was modified by Thomas Paynter (Democrat-Kentucky). The Jones-Paynter amendment gave the ICC the right to add an additional suspension period of six months onto the original suspension period it might impose on new increased rates. If after the double suspension period, the ICC had not arrived at a decision, the new rates could be re-imposed. However, in these circumstances, all bills of lading issued by the railroads were to show both the old and the new rates. If the Commission finally decided against the rate

¹¹⁷Ibid., p. 6915 (Clarke Amendment); ibid., p. 6920 (vote).

Party in Senate	No. in Party	Vote on Clarke Amendment		
		For	Against	Nonvoting
Democratic	32	23	0	9
Republican	60	12	40	8

increase, the railroad was to reimburse its clients for the difference between the two rates. The amendment¹¹⁸ was adopted, 72-0.

16. The basic question of how to deal with that recurrent abuse, the long haul-short haul discrimination, was resolved by the Senate when it adopted an amendment in the nature of a substitute for Section 4 of the bill proposed by Joseph Dixon (Republican-Montana). Dixon's amendment provided for flexibility of action by the Commission in its handling of long-haul-short haul matters. The agency could authorize cheaper rates for long hauls than short, if there were reason. Even so, the Commission was directed to see to it that short haul rates remained reasonable. It was also given the power to revoke such authorizations. The vote on Dixon's amendment was 57-10.¹¹⁹ Thirteen Democrats and 44 Republicans supported it, while 5 Democrats and 5 Republicans voted against it. William

¹¹⁸Ibid., p. 6921.

¹¹⁹Ibid., p. 6208 (Dixon Amendment); ibid., p. 6213 (vote).

Party in Senate	No. in Party	Vote on Dixon Amendment		
		For	Against	Nonvoting
Democratic	32	(13+3) 16	(5+1) 6	10
Republican	60	(44+1) 45	5	10

Stone (Democrat-Missouri) claimed the "Dixon-Paynter amendment" on long haul-short haul as a triumph for Democrats and insurgent Republicans.¹²⁰

17. George Sutherland (Republican-Utah) suggested an amendment regarding the long haul-short haul provisions in the bill, which after modification by Paynter (Democrat-Kentucky) gave the ICC a year or more in which to determine the rate schedules in question. Paynter's revision left the matter of time (over a year) up to the discretion of the ICC. The Sutherland Paynter amendment passed by the very close vote of 31-27.¹²¹ This question was of great interest to senators from the East and West coastline states, and those from the "intermountain" West; it held relatively little interest amongst southern senators. Coastline state senators tried to block the adoption of the Sutherland amendment; their point of view was articulately

¹²⁰Ibid., pp. 6331-34. Hechler claimed that the Dixon Amendment was a compromise readily accepted by Aldrich, when he realized that the Democrats were lining up behind the much more radical Overman Amendment. Hechler, op. cit., p. 173. Actually, the Democratic amendment in question was only introduced by Overman of North Carolina for his comrade, Simmons. 61 C.R., 45, 5820.

¹²¹Ibid., p. 7341.

Party in Senate	No. in Party	Vote on Sutherland Amendment		
		For	Against	Nonvoting
Democratic	32	9	(4+2) 6	17
Republican	60	22	23	15

expressed by Chamberlain of Oregon (Democrat):¹²²

I insist, Mr. President, that if that course be pursued, and this amendment be adopted, the effect of it will be to increase the rates of all coast points, east or west, to equal the sum of the intermediate rates, and that there will be no relief at all afforded to the intermountain points.

Smoot of Utah (Republican) answered this type of statement, by saying:¹²³

I do not think they [the railroads] are going to increase the terminal rates. The profits of the roads show beyond question that there is no necessity for increasing the rates.

Paynter of Kentucky (Democrat) appeared to take a neutral position, while offering what he considered a way out of the dilemma:¹²⁴

It is a very interesting discussion as to whether the interior points are paying more freight charges than they should, and whether or not the coastal points, where there is water competition, are getting reasonable rates in view of all the conditions in the railroad and transportation business, but I beg to say to the Senators that in my opinion that will come before the Interstate Commerce Commission to determine. That commission will have to determine the question that you

¹²²Ibid., p. 7339 (Chamberlain Statement).

¹²³Ibid., p. 7333 (Smoot Statement).

¹²⁴Ibid., pp. 7335, 7338 (Paynter Statement).

are discussing. So it seems to me the question to be determined is what time should be given the Interstate Commerce Commission in which to determine the question which we are forcing them to decide as between the carriers and the shippers at interior and coast points. . . . I offer my amendment, which places the matter [time] in the power of the Interstate Commerce Commission.

It would appear then that this roll call does not reflect sentiment on strengthening the powers of the ICC, but that it was rather a question of regional economic advantages under the existing system of railroad rates and the possible loss of such under rigorous elimination of the long haul-short haul practice. Twenty-two Republicans and 9 Democrats voted for the amendment; 23 Republicans and 4 Democrats voted against it.

18. Weldon Heyburn (Republican-Idaho) refused to see the issue settled without another attempt to incorporate in the bill a simple statement outlawing under any circumstances charging more for a part of a trip than for a longer trip along the same route. The Senate was seemingly

¹²⁵Ibid., p. 7369.

Party in Senate	No. in Party	Vote on Heyburn Amendment		
		Against	For	Nonvoting
Democratic	32	(11+3) 14	1	17
Republican	60	(36+1) 37	7	16

satisfied with the more flexible Dixon amendment, and rejected Heyburn's measure, 8-47.¹²⁵ A vote against was the position sticking with the compromise measure which had already won the approval of the upper chamber. Eleven Democrats and 36 Republicans rejected Heyburn's suggestion; 1 Democrat and 7 Republicans voted for it.

19. Some senators in this Congress hoped to include the right to conduct property evaluations among the powers of the ICC. Jonathan Dolliver (Republican-Iowa) proposed an amendment which would have added eleven new sections to the bill. Among its provisions was a directive to the ICC calling for a value survey of all interstate carriers. Moreover, he granted the Commission supervisory powers of all stock issuance by such companies. Issuance of stock without approval of the Commission made the officers of the company liable to a three-year jail sentence and a \$5,000 fine. Interstate carriers and holding companies were prohibited from purchasing stock in competing

¹²⁵Ibid., p. 7369.

Party in Senate	No. in Party	Vote on Heyburn Amendment		
		Against	For	Nonvoting
Democratic	32	(11+3) 14	1	17
Republican	60	(36+1) 37	7	16

lines. Both parties divided on Dolliver's proposal. Democrats who opposed expressed the opinion that the federal government had no constitutional right to confer such authority on its administrative agency, that the measure went too far. The amendment was rejected, 19-47.¹²⁶ Fifteen Republicans and 4 Democrats supported it; 16 Democrats and 31 Republicans refused to sanction it. A vote for was the position favoring extensive federal regulation over the financial operations of interstate carriers in an effort to preserve competition. It would appear that this measure smacked too much of Rooseveltian progressivism for most Democrats, who were still trying to compromise Jeffersonian concepts of personal freedoms with the desirability of federal regulation in certain areas.

20. On the single aspect of interstate carriers buying out competing lines, the Senate expressed its sentiment when it turned down a proposal of the senator from Nebraska, Norris Brown (Republican). Brown suggested

¹²⁶Ibid., pp. 6954-55 (Dolliver Amendment); ibid., p. 6972 (vote).

Party in Senate	No. in Party	Dolliver Amendment		
		For	Against	Nonvoting
Democratic	32	(4+3) 7	(16+1) 17	8
Republican	60	(15+1) 16	(31+1) 32	12

that carriers be forbidden to buy stock of competing lines, in fact, be prevented by law from owning, running, or leasing such a line. The measure included a \$5,000 a day fine for violation of retaining such interest. The vote of rejection was 20-41.¹²⁷ Nine Democrats and 11 Republicans voted for it, while 9 Democrats and 32 Republicans voted against it.

21. Another aspect of Dolliver's amendment, the property value investigation, was considered by itself when the Senate voted on an amendment offered by Robert LaFollette of Wisconsin. LaFollette proposed that a new section be added onto the bill giving the ICC the authority to conduct investigations to determine the property value of all companies covered by the 1887 Act to Regulate Commerce and its subsequent amendments. The Commission was ordered to keep its data up to date, and to rely upon the Court of Commerce to force corporations to file periodic reports. LaFollette's amendment was defeated, 25-30.

¹²⁷Ibid., p. 7129 (Brown Amendment); ibid., p. 7135 (vote).

Party in Senate	No. in Party	Vote on Brown Amendment		
		For	Against	Nonvoting
Democratic	32	(9+1) 10	(9+1) 10	12
Republican	60	(11+1) 12	(32+1) 33	15

Fifteen Democrats and 10 Republicans backed it, but 30 Republicans kept it from being adopted.¹²⁸

The voting on the LaFollette measure taken in conjunction with the results of the voting on Brown's amendment tends to show that a faction of Democrats (7) supported the idea of value investigations but not that of stock-purchasing supervision. It is not surprising that these seven voted against the Dolliver amendment encompassing both propositions. Six other Democrats who joined the opposition to the Dolliver proposal and then voted for both the Brown and LaFollette proposals, appear to have been against ICC supervision of company stock issuance.

22. Furnifold Simmons (Democrat-North Carolina) also tried to get the Senate to write a property value investigation clause into the bill. His amendment declared that in any proceeding before the ICC, when the agency found that the value of property was "material to the determina-

¹²⁸Ibid., p. 7139 (LaFollette Amendment); ibid., p. 7196 (vote).

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	32	(15+7) 22	0	10
Republican	60	(10+1) 11	(30+1) 31	18

tion" of the case, the "Commission shall have the authority to ascertain and determine, after full hearing, the physical value of the property of such corporation." Simmons' proposal was rejected by the Senate, 28-30.¹²⁹ Sixteen Democrats and 12 Republicans favored it.

23. Later in the session, the senator from North Carolina put a slightly modified version of his property evaluation amendment before the Senate for its consideration. Although coming very close to being adopted, this version was also defeated, 29-31.¹³⁰ Eighteen Democrats and 11 Republicans voted for it, but it was turned aside by 31 Republicans.

24. LaFollette of Wisconsin (Republican) placed his amendment empowering the ICC to initiate value of property investigations for all interstate carriers before

¹²⁹ Ibid., p. 7177 (Simmons Amendment); ibid., p. 7199 (vote).

Party in Senate	No. in Party	Vote on Simmons Amendment		
		For	Against	Nonvoting
Democratic	32	(16+4) 20	0	12
Republican	60	12	30	18

¹³⁰ Ibid., p. 7726 (Simmons Amendment); ibid., p. 7270 (vote).

Party in Senate	No. in Party	Vote on Simmons Amendment		
		For	Against	Nonvoting
Democratic	32	(18+3) 21	0	11
Republican	60	11	(31+1) 32	17

the Senate a second time, and explained that he did so in order to give senators, who had been absent when the chamber had defeated this proposal before, an opportunity to record their views. The passage of time had not mellowed senatorial sentiment, however, for LaFollette's measure lost again, this time by a vote of 24-32.¹³¹ Eleven Democrats and 13 Republicans gave it their support, while 31 Republicans and a Democrat refused it theirs.

25. Several amendments were offered regarding the procedure to be followed by the ICC in its dealings with the Court of Commerce. Cummins of Iowa (Republican) suggested an amendment which put control of the defense in all cases involving the ICC's decisions in the hands of lawyers designated by the Commission. William Alden Smith (Republican-Michigan) proposed an amendment to Cummins' measure which put the attorney general in charge of all cases in the Court involving interests of the United States, and gave him the right to retain special lawyers. The attorney general would notify the ICC, if it was involved, and it could

¹³¹Ibid., p. 7371 (LaFollette Amendment); ibid., p. 7372 (vote).

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	32	(11+3) 14	1	17
Republican	60	13	31	16

then provide its own lawyers. Corporations and associations interested in the proceedings involving the ICC were to have the opportunity to intervene in the proceedings, and to defend or continue any suit regardless of any action taken by the attorney general. Smith's amendment was approved, 40-23.¹³² A vote against was the position favoring ICC control of its own defense in the Court of Commerce. Thirteen Democrats and 10 Republicans voted against Smith's revision, but 37 Republicans and 3 Democrats were for it.

26. Two amendments were offered which aimed at extending the authority of the ICC over communications networks. Dixon (Republican-Montana) produced a proposal to include telegraph and telephone companies under the provisions of the Acts to Regulate Commerce. A motion to lay Dixon's amendment on the table was offered, and turned aside, 22-37.¹³³ A vote against was the position favorable to bringing communication companies under the jurisdiction

¹³²Ibid., p. 6346 (Cummins Amendment); ibid., p. 6462 (Smith Amendment and vote).

Party in Senate	No. in Party	Vote on Smith Amendment		
		Against	For	Nonvoting
Democratic	32	(13+2) 15	3	14
Republican	60	10	(37+3) 40	10

¹³³Ibid., pp. 6972-73 (Dixon Amendment); ibid., pp. 6975-76.

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	32	16	1	15
Republican	60	21	21	18

of the Interstate Commerce Commission. Sixteen Democrats and 21 Republicans joined to block the tabling motion; 21 Republicans and 1 Democrat voted for the motion. Dixon's amendment was then approved by the Senate.

27. LaFollette suggested an amendment which paralleled Dixon's. Besides placing the communications companies under federal regulation, his proposal prohibited the practice of "free franks and passes" for telephone and telegraph messages. An amendment to the LaFollette measure put government telegraph and telephone operation outside the provision. LaFollette's amendment was accepted by the Senate, 34-28.¹³⁴ Eighteen Democrats and 16 Republicans voted for it; 27 Republicans and 1 Democrat voted against. The one Democrat, Bailey of Texas, explained that he felt the ICC would not be able to handle the expanded load that Congress was imposing by the inclusion of the communications companies.¹³⁵

¹³⁴Ibid., p. 7264 (LaFollette Amendment and modification); ibid., p. 7266 (vote).

Party in Senate	No. in Party	Vote on LaFollette Amendment			
		For	Against	Nonvoting	
Democratic	32	(18+1)	19	1	12
Republican	60	16		27	17

¹³⁵Ibid., p. 7265 (Bailey Statement).

28. This same Senator Bailey suggested an amendment on another aspect of the bill. He proposed that railroads should not carry any article produced, manufactured, or mined by any of its subsidiaries. His amendment prohibited, moreover, a railroad from shipping articles from any company in which it held stock. Bailey's additions to the commodity clauses of the 1906 Act failed to get the necessary support; the vote was 25-31.¹³⁶ Fourteen Democrats and 11 Republicans approved his suggestions; 31 Republicans disapproved.

29. Lee Overman (Democrat-North Carolina) proposed a substitute for another amendment offered by Coe Crawford (Republican-South Dakota), in which Crawford had sought to restrict utilization of injunctions to subvert regulatory laws. Overman's proposal stated that interlocutory injunctions suspending the action of state officials from carrying out state laws, issued because the judge felt the statute was unconstitutional, should not be granted except by a three man court, one justice of which was to be a circuit court judge

¹³⁶Ibid., p. 7207 (Bailey Amendment); ibid., p. 7218 (vote).

Party in Senate	No. in Party	Vote on Bailey Amendment		
		For	Against	Nonvoting
Democratic	32	(14+6) 20	0	12
Republican	60	11	31	18

or a justice of the Supreme Court. A motion to place Overman's substitute on the table, thus killing it, was denied by the Senate, 28-31.¹³⁷ Sixteen Democrats and 15 Republicans voted to block the tabling motion; 28 Republicans voted for it. The Senate then adopted the Overman substitute to the Crawford amendment by a vote of 33-28, and passed Crawford's amendment as amended by the same vote. Eighteen Democrats and 15 Republicans brought about the adoption of the Overman version;¹³⁸ 28 Republicans tried to block the revision.

30. LaFollette of Wisconsin proposed an amendment which permitted a shipper to bring a case involving rate increases before the Court of Commerce even while the ICC was hearing the said case, under the following conditions: if the fifth amendment to the Constitution, violation of _____

¹³⁷Ibid., p. 7252 (Crawford version); ibid., p. 7253 (Overman version); ibid., p. 7257 (vote).

Party in Senate	No. in Party	Vote on Tabling		
		Against	For	Nonvoting
Democratic	32	(96+3) 19	0	13
Republican	60	(15+1) 16	(28+1) 29	15

¹³⁸Ibid., p. 7258.

Party in Senate	No. in Party	Vote on Overman Substitute		
		For	Against	Nonvoting
Democratic	32	(18+4) 22	0	10
Republican	60	15	28	17

property without due process of law was involved; if enforcement of the new rate would deal irreparable injury to the complainant. LaFollette's attempt to give shippers suffering seriously from carrier rate increases a means to an immediate audience before the Court of Commerce was rejected by the Senate, 29-33.¹³⁹ Seventeen Democrats and 12 Republicans were in favor of its adoption; 33 Republicans voted against the proposal.

31. Elkins (Republican-West Virginia) offered an amendment to the bill putting its effective date sixty days after approval by the president. His proposal carried, 32-25. A vote against was favorable to not putting off the effective date of the bill. Democrats asked why the wait was necessary, and inferred that it was not in the public interest. Sixteen Democrats and 9 Republicans voted against the amendment; 31 Republicans and a Democrat voted for it.¹⁴⁰

¹³⁹Ibid., pp. 7263-64 (LaFollette Amendment); ibid., p. 7264 (vote).

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	32	(17+3) 20	0	12
Republican	60	(12+1) 13	33	14

¹⁴⁰Ibid., pp. 7271-72.

Party in Senate	No. in Party	Vote on Elkins Amendment		
		Against	For	Nonvoting
Democratic	32	16	1	15
Republican	60	9	(31+1) 32	19

32. In final action on the measure, the Senate considered the bill sent up from the House, H.R. 17536, struck out the enacting clause, substituted its own S. 6737, and passed the proposition by a vote of 50-12.¹⁴¹ Forty-four Republicans and 6 Democrats voted for the bill; 12 Democrats voted in opposition. Those Democrats who kept the vote from being unanimous felt that the Court of Commerce, because of its possible negative effect on the workings of the ICC, made the bill undesirable.

The indices of party support for the "progressive" positions on the many roll calls taken on the Mann-Elkins Act of 1910 were 70 for Democratic senators and 41 for Senate Republicans. The index for the Democrats would be slightly higher (and for the Republicans slightly lower) if roll calls on final passage and the acceptance of the Conference Report were not included in the analysis. "Progressive" Republicans, although sharing negative feeling toward the Court of Commerce with the Democrats, voted with their party on these latter roll calls.

¹⁴¹Ibid., p. 7375.

Party in Senate	No. in Party	Vote on Passage of Bill		
		For	Against	Nonvoting
Democratic	32	6	(12+2) 14	12
Republican	60	(44+7) 51	0	9

On an individual basis, senator for senator, a greater part of the Democratic party supported "progressive" amendments to this bill than did a corresponding part of the Republican party. Using the Guttman scaling technique again, seven roll calls displaying varied support for a strong bill were chosen and "scaled."¹⁴² Twelve types were produced, from a Type 1 Senator, who favored an effective and powerful ICC, to a Type 12 Senator, who favored minimal legislation. Sixteen Democrats of the twenty-seven who participated in these roll calls (59 percent) fell into Types 1 through 5. Republicans, on the other hand, produced thirteen out of fifty-five senators for the same category, a score of 24 percent. Democrats, moreover, added all the rest of their party in the next grouping, Types 6 through 10, while Republicans in this group totaled five, for another 9 percent. This left the majority party with the bulk of its senators in the last group, those opposing "controversial" features of the bill; thirty-seven Republicans fell into this group -- 67 percent of the party.

The House of the 61st Congress worked on its own version of a bill to create a Court of Commerce, H.R. 17536.

¹⁴²See Appendix III.

On May 10, 1910, the Republican leadership was prepared to bring the bill to final passage. Mann (Republican-Illinois) offered an amendment to the bill (actually the substitute amendment) which prohibited railroads from purchasing competing lines or water routes. Future purchases by railroad companies of noncompeting lines would require the approval of the Interstate Commerce Commission. William Adamson (Democrat-Georgia) spoke for his comrades, and severely criticized the Mann amendment. He called it "nefarious" in that it read like an antitrust act, and yet would in practice do no more than rob the states of the power to curb railroad mergers.¹⁴³ On a measure broaching the same subject in the Senate, the Dolliver amendment, both parties broke two to one against.¹⁴⁴ Now, in the House, an alliance of 139 Democrats and 30 Republicans formed to defeat the Mann amendment 161-169.¹⁴⁵ Only 4 Democrats supported the

¹⁴³61 C.R., 45, 5839 (Adamson Statement).

¹⁴⁴The Dolliver amendment specifically prohibited the purchase of competing lines; the Mann amendment appeared to be a back door through which railroads could accomplish that very thing.

¹⁴⁵61 C.R., 45, pp. 6030-31.

Party in House	No. in Party	Vote on Mann Amendment		
		Against	For	Nonvoting
Democratic	174	139	4	31
Republican	216	30	157	29

proposal. With this victory behind him, Adamson suggested that the House adopt a motion to recommit the bill with instructions; the committee was to be directed to eliminate those provisions of the bill creating the Commerce Court. To "progressive" Republicans and Democrats, the Court appeared to pose a threat to an effective Interstate Commerce Commission. On this roll call, the Democrats were able to attract only 12 Republicans to their own ranks of 145. This was not enough to bring about passage of the motion, as 175 Republicans were there to block its adoption.¹⁴⁶ With the motion to recommit defeated, Mann brought the bill to passage. It received a favorable vote of 201-126,¹⁴⁷ as the Republicans voted 186 strong for the bill, while Democrats split, 15 for and 126 against. It would appear that most Democrats in the House, as did their colleagues

¹⁴⁶Ibid., p. 6032.

Party in House	No. in Party	Vote on Adamson Motion		
		For	Against	Nonvoting
Democratic	174	145	1	28
Republican	216	12	175	29

¹⁴⁷Ibid., pp. 6032-33.

Party in House	No. in Party	Vote on Passage of Bill		
		For	Against	Nonvoting
Democratic	174	15	126	33
Republican	216	186	0	30

in the Senate, thought so poorly of the Court of Commerce that they could not vote for the bill no matter what other progress it laid the groundwork for.

On June 7, 1910, the Democratic party had occasion to appear somewhat more "progressive." Irvine Lenroot (Republican-Wisconsin) presented a motion to concur in the Senate amendment, the Senate bill S. 6737, with an amendment making its long haul-short haul provisions effective immediately after passage. The latter amendment was of secondary importance. The major aim of the Lenroot motion was to have the House accept the Senate version of the bill over its own measure, H.R. 17536. Three key Democratic House members, Adamson, Rufus Hardy of Texas, and Charles Bartlett of Georgia warmly supported the Senate amendment (bill) as a great improvement over the House bill.¹⁴⁸ They were not able to supply enough Democratic votes as the motion was just short of adoption, 156-162.¹⁴⁹ One hundred and thirty-six Democrats joined 26 Republicans in this vain

¹⁴⁸Ibid., p. 7573.

¹⁴⁹Ibid., p. 7577.

Party in House	No. in Party	Vote on Lenroot Motion		
		For	Against	Nonvoting
Democratic	174	130	6	38
Republican	217	26	156	35

attempt, while 6 Democrats gave the majority the votes it needed for victory.

When the House turned aside the Lenroot motion, it set the stage for a conference between select committees from each of the houses of Congress. The result of their meeting was encompassed in a Conference Report on the bill, which was brought up for approval in the Senate on June 17, 1910. Francis Newlands (Democrat-Nevada) explained that he and his fellow Democrats could not join with their comrades across the aisle in adopting the report. The bill, he noted, still contained the Court of Commerce, and that institution, he claimed, was destined to mutilate the Interstate Commerce Commission.¹⁵⁰ The majority did not need the votes of the minority party as it easily passed the Conference Report, 50-11.¹⁵¹ Seven Democrats, four of whom had voted for the bill, stood with the majority.

With the Democrats in control of the House in the

¹⁵⁰Ibid., pp. 8368-74 (Newlands Speech).

¹⁵¹Ibid., p. 8391.

Party in Senate	No. in Party	Vote on Conference Report		
		For	Against	Nonvoting
Democratic	33	7	(11+4) 15	11
Republican	59	(43+9) 52	0	7

62nd Congress (1911-1913), it was not surprising to see a drive get under way to abolish the Court of Commerce. The method chosen seemed to be the safest, under the circumstances. Since the Court was an idea of the president's, it hardly seemed wise to present Taft with a bill whose sole purpose was to destroy his brainchild. Instead, the Democrats tacked the abolition of the Court onto H.R. 24023, the Legislative, Executive and Judicial Appropriations bill, as a rider. Taft refused to go along with this maneuver, and vetoed the appropriation bill. The Democratic leadership attempted to get the House to override the President's veto, but they fell short of success when the House voted only 147-107 for the motion to override.¹⁵² The procedure called for a two-thirds majority vote. One hundred and thirty-five Democrats and 12 Republicans voted to bring the law into effect over the president's veto; 17 Democrats and 100 Republicans voted to uphold the veto.

¹⁵²62 C.R., 48, 11034-35.

Party in House	No. in Party	Vote on Motion to Override Veto		
		For	Against	Nonvoting
Democratic	231	135	17	79
Republican	159	12	90	57

In the Senate of the 62nd Congress, Democrats and "progressive" Republicans had to fight to save the House rider (abolishing the Court) while considering H.R. 24023. The Senate was confronted with a committee amendment striking the rider out of the bill. The alliance, with Democrats now numbering forty-plus, for the first time in a decade and a half, had the votes to force their will. The committee amendment was turned back, 24-36,¹⁵³ thus saving the rider for the moment. Twenty-eight Democrats and 12 Republicans formed the coalition favoring discontinuance of the Court, while 26 Republicans and 2 Democrats tried to protect it. Hoke Smith of Georgia (Democrat) then offered an amendment to the bill reducing the number of circuit court judges by five, and repealing that part of the 1910 Act to Regulate Commerce that created the additional five judges for the Commerce Court. A point of order was raised against the Smith amendment, claiming that it was general legislation and as such had no jurisdiction for

¹⁵³Ibid., p. 7969.

Party in Senate	No. in Party	Vote on Committee Amendment		
		Against	For	Nonvoting
Democratic	43	(26+2) 28	(1+1) 2	13
Republican	51	(10+2) 12	(23+3) 26	13

being in an appropriation bill. The Chair sustained the point of order, but its decision was overturned by the consensus of the Senate. The Senate, by a vote of 22-29,¹⁵⁴ refused to agree to the Chair's rule. Twenty-five Democrats and 7 Republicans expressed themselves against the sustaining move, while 22 Republicans stood up for it. The parliamentary maneuvers continued as Porter McCumber (Republican-North Dakota) suggested an amendment in the nature of a substitute for the Smith amendment, which inserted five additional judges, all of whom were to be appointed by the Chief Justice of the Supreme Court for service in the district courts, into the bill. McCumber's amendment was rejected by the Senate, 23-25.¹⁵⁵ Twenty-two Democrats and 3 Republicans withstood the pressure of 22 Republicans and a Democrat to adopt it. The way was finally cleared for a

¹⁵⁴Ibid., p. 7999.

Party in Senate	No. in Party	Vote on Rule of Chair		
		Against	For	Nonvoting
Democratic	43	(23+2) 25	0	18
Republican	51	(6+1) 7	22	22

¹⁵⁵Ibid., p. 8125.

Party in Senate	No. in Party	Vote on McCumber Amendment		
		Against	For	Nonvoting
Democratic	43	(22+1) 23	1	19
Republican	51	3	(22+6) 28	20

direct vote on Smith's amendment abolishing the positions of five circuit court judges (those on the Court of Commerce). It passed by the slim margin of 28-26,¹⁵⁶ as 3 Republicans joined 25 Democrats to carry it, while 25 Republicans and a Democrat stood opposed. The Democratic defender of the Court was Thomas Paynter of Kentucky, who had voted for the 1910 Act which created it.

A second act in this drama of Congress versus the president of the United States over whether to kill or save the Court of Commerce rapidly unfolded. Actually, it was highly repetitive of the first act. A new legislative, executive, and judicial appropriations bill, H.R. 26321, was introduced into the House. It passed and was sent to the Senate, where Senator Overman of North Carolina (Democrat) sponsored an amendment to a committee measure, calling for abolition of the Court. Overman's

¹⁵⁶Ibid., pp. 8125-26.

Party in Senate	No. in Party	Vote on Smith Amendment		
		For	Against	Nonvoting
Democratic	43	25	1	17
Republican	51	3	(25+1) 26	22

proposal carried, 35-23.¹⁵⁷ Twenty-two Democrats and 13 Republicans were still eager to bring down the Court of Commerce, while 20 Republicans and 3 Democrats fought to preserve it. President Taft vetoed H.R. 26321, just as he had H.R. 24023. Once again, the coalition could not gather the necessary support to pass a motion overriding the presidential veto. The vote went 34-27;¹⁵⁸ 25 Democrats and 9 Republicans supported the motion to override, but the negative votes of 26 Republicans and a Democrat were sufficient to keep the motion from adoption.

The third act was somewhat anticlimactic. When the president vetoed the second appropriations bill and the Congress failed to override the veto, Congress set about passing yet another appropriations bill, H.R. 26680. A committee amendment was presented in the Senate calling for an appropriation of some \$20,000 to be made available immediately for the payment of rent and the salaries of

¹⁵⁷Ibid., p. 11241 (Overman Amendment); ibid., p. 11255 (vote).

Party in Senate	No. in Party	Vote on Overman Amendment		
		For	Against	Nonvoting
Democratic	43	22	3	18
Republican	51	13	20	18

¹⁵⁸Ibid., p. 11458.

Party in Senate	No. in Party	Vote on Motion to Override		
		For	Against	Nonvoting
Democratic	43	(25+8) 33	(1+1)	8
Republican	53	9	26	16

clerks for Commerce Court. The committee amendment carried, 33-20.¹⁵⁹ Thirteen Democrats and 7 Republicans stood their ground, in opposition to any legislation allowing the Court of Commerce to continue to operate, but 10 Democrats joined 23 Republicans to pass the measure. Abolition of the Court was carried out in the first year of the Wilson administration.

Aside from the infighting on the abolition of the Court, the alliance sought to protect the decisions of the Commission from injunction or executive orders. Coe Crawford (Republican-South Dakota) suggested an amendment to the Legislative, Executive and Judicial Appropriation bill, which made provisions of the 1910 Act regarding restrictions on injunctions pertain to the issuance of injunctions or executive orders made by admiralty boards or commissions created by state statutes. Crawford's amendment was upheld

¹⁵⁹62 C.R., 49, 1564.

Party in Senate	No. in Party	Vote on Amendment		
		Against	For	Nonvoting
Democratic	43	13	10	20
Republican	51	7	(23+1) 24	20

by a vote of 32-17.¹⁶⁰ Twenty-three Democrats and 9 Republicans cast their lot for the measure, while 17 Republicans tried to defeat it.

Later in the session, the Senate considered the Panama Canal bill, H.R. 21969. The House bill contained a provision calling for the Interstate Commerce Commission to investigate and make sure that railroads did not own stock in water carriers. Hoke Smith (Democrat-Georgia) offered an amendment to this, which restricted the water carriers in question to those "using the Panama Canal." The "progressive" position was articulated by James O'Gorman (Democrat-New York), who wanted the broader approach -- the complete divorce of railroads and water transportation -- adopted. The broad approach supporters could garner only 10 Democrats and 8 Republicans, nowhere near enough to stop the 16 Democrats and 33 Republicans¹⁶¹

¹⁶⁰C.R., 48, 8120 (Crawford Amendment); ibid., p. 8123 (vote).

Party in Senate	No. in Party	Vote on Crawford Amendment		
		For	Against	Nonvoting
Democratic	43	(23+5) 28	0	15
Republican	51	9	17	25

¹⁶¹Ibid., p. 10458 (Smith Amendment); ibid., p. 10459 (O'Gorman Statement); ibid., p. 10584 (vote).

Party in Senate	No. in Party	Vote on Smith Amendment		
		Against	For	Nonvoting
Democratic	43	10	(16+1) 17	16
Republican	51	8	(33+3) 36	7

who favored the Smith restrictive amendment. A number of those who voted for the Smith amendment probably favored the principle involved, but did not feel it should be applied in legislation about the running of the Panama Canal. Jones of Washington (Republican) articulated this position, when he told the Senate:¹⁶²

As a general principle I am in favor of divorcing, if possible, the ownership of railroads and steamboats. . . . This is a broad question, a large question and a most important one, and I think we should confine this legislation to the Panama Canal, unless we can get satisfactory provision extending the time under which the Interstate Commerce Commission, or some body of that kind, can take into account all the conditions that exist in the various sections of the country, so they can work out what we probably all desire, without disturbing the business and without doing really more harm than good.

Victory for those who wanted a ban on railroad ownership of water transportation stock was not long in coming, however. Jonathan Bourne (Republican-Oregon) offered an amendment to the bill granting power to the Interstate Commerce Commission to order railroads to get rid of their stock in water transportation, if the public interest was hindered. Bourne's provision received a positive vote of

¹⁶²Ibid., p. 10578 (Jones Statement).

36-25, with 17 Democrats joining 19 Republicans to pass it over the opposition of 20 Republicans and 5 Democrats.¹⁶³ James Reed (Democrat-Missouri) proposed an amendment which sought to put pressure on shipowners not to violate the antitrust laws of the country. If a shipowner was adjudged by a court of competent jurisdiction to have violated said laws, his ships might be denied passage through the Panama Canal. Reed's proposal passed 35-28, as 20 Democrats and 15 Republicans turned back 24 Republicans and 4 Democrats.¹⁶⁴ A vote on Reed's amendment before the Senate produced much the same results, 36-23.¹⁶⁵

¹⁶³Ibid., p. 10586.

Party in Senate	No. in Party	Vote on Bourne Amendment		
		For	Against	Nonvoting
Democratic	43	17	5	21
Republican	51	19	20	12

¹⁶⁴Ibid., p. 10585.

Party in Senate	No. in Party	Vote on Reed Amendment		
		For	Against	Nonvoting
Democratic	43	20	4	19
Republican	51	15	24	12

¹⁶⁵Ibid., p. 10589.

Party in Senate	No. in Party	Vote on Reed Amendment		
		For	Against	Nonvoting
Democratic	43	19	54	20
Republican	51	17	(19+1) 20	14

During consideration of S. 8033, a bill to authorize the Connecticut River Company to relocate and construct a dam, Borah (Republican-Idaho) offered an amendment affecting the scope of the ICC's supervision of interstate commerce. He proposed that hydroelectric companies crossing state, county, or territory lines should be put under the provisions of the Regulation of Commerce Acts. The ICC was to fix and establish "just and equal rates." Borah's measure won sweeping approval, 82-1.¹⁶⁶ Only Paynter (Democrat-Kentucky) found fault with the idea.

The indices of party support for the "progressive" positions on matters relating to the regulation of interstate commerce were 71 for Democratic senators and 42 for Republican senators of the 62nd Congress.

¹⁶⁶62 C.R., 49, 3266-67.

CHAPTER VII

LABOR LEGISLATION

The trend toward better working conditions for the American laborer can be portrayed as the coming together of many movements. During the nineteenth century, among the movements which won advocates from the working class and its sympathizers were the demand for shorter working hours per day with a full day's pay, the right of men to join unions and not be penalized for it, the right of unions to strike as a valid means of pressure against employers, the elimination of child labor as a device to keep down the wages of adult laborers, the right of laborers and their families to be protected against loss of income due to injury or death on the job, and the improvement of working conditions along with the modernizing of regulations regarding merchant seamen's duties. In the years 1897-1913, Congress considered legislation dealing with most of these matters. In almost every case, more support for action in line with the demands of labor organizations

came from the Democratic side of the aisle than from the Republican.

The 55th Congress took action in the field of railroad labor problems by superseding the Arbitration Act of 1888 with new legislation, the Erdman Act of 1898. In the former act, "provision was made for the voluntary arbitration of controversies between interstate carriers and their employees (the award to be enforceable only through the pressure of public opinion), and for the investigation of each such dispute by a temporary commission to be appointed by the president of the United States at his discretion."¹ The act was utilized just once in its ten-year life span; President Cleveland appointed a commission to study the Pullman Strike of 1894 after the affair had been terminated. The new statute of 1898 included among its provisions "arbitration in strengthened form" and the "principle of mediation," though the government could still not intervene on its own initiative.² Either labor or management could request the Chairman of the Interstate Com-

¹Sharfman, op. cit., p. 100. Leonard A. Lecht, Experience Under Railway Labor Legislation (New York, 1955, p. 15).

²Lecht, op. cit., p. 17.

merce Commission and the Commissioner of Labor to enter into a railroad "dispute involving employees engaged in operating trains" as mediators. If mediation failed, these officials were to set up arbitration proceedings. If the terms arrived at through arbitration were acceptable to both labor and management, the Act of 1898 provided that "the terms of the award were to be enforceable through equity proceedings, and" that "strikes and lockouts during the course of the arbitration procedure and for three months following the award were expressly prohibited."³

During consideration of the bill that became the Erdman Act, S. 3662 (Arbitration between Railroad Companies and Employees), a faction of Democrats attempted to knock out of the bill several provisions that were obnoxious to labor. Stephen Mallory, Jr. (Democrat-Florida) offered an amendment which struck Section 8 outlawing violence against persons or property during strikes, from the bill. Mallory claimed that the provision did not belong in the bill; and inferred that it was unnecessarily antagonistic to labor. The amendment was defeated, 10-37, with the Democrats splitting 9 for and 9 against, and the Republican

³Sharfman, op. cit., p. 100.

senators voting in a bloc against.⁴ A second amendment was suggested that struck out that part of Section 3 that required employees to work for three months after the arbitrated settlement, or to give a notice of thirty days. Proponents of this revision thought the provision placed the worker in a state of bondage, because it removed his freedom to quit whenever he felt it to his benefit. This effort was turned back by the vote of 11-34, Democrats again splitting into 8 for and 10 against, while the Republicans voted solidly against.⁵ The bill passed with little opposition, 47-3; the three in opposition were Democrats who had voted for each of the amendments: Rawlins of Utah, Tillman of South Carolina, and Money of Mississippi.⁶ The House approved the Senate version of their bill, H.R. 4372, by the overwhelming vote of 226-5.⁷

⁴55 C.R., 31, 4856.

Party in Senate	No. in Party	Vote on Mallory Amendment		
		For	Against	Nonvoting
Democratic	36	9	(9+1) 10	17
Republican	43	0	24	19

⁵Ibid., p. 4856.

Party in Senate	No. in Party	Vote on Amendment		
		For	Against	Nonvoting
Democratic	36	(8+2) 10	(10+1) 11	15
Republican	43	0	22	21

⁶Ibid., p. 4858.

⁷Ibid., p. 5052.

On July 8, 1898, the Senate prepared to consider House Resolution 259 proposing annexation of Hawaii. In a maneuver to delay consideration of this measure, a motion was offered that the upper chamber take up H.R. 7389 as the next order of business. H.R. 7389 was a bill establishing maximum hours for government laborers and mechanics employed on public works projects. The bill was an attempt to improve upon the legislation enacted on the subject in 1892.⁸ Granted that the motion was a parlia-

⁸The impetus for regulation of working hours for employees of the government began with President Van Buren's executive order in 1840 establishing a ten-hour day in government navy yards. Working hours were limited without a corresponding reduction in wages. In 1868, Congress adopted a bill that called for an eight-hour day for laborers, workmen, and mechanics "employed by or on behalf of the government of the United States." The law did not work as planned, as contractors utilized agreements on overtime to bypass its provisions. In 1892, Congress acted again; the law of 1892 provided for stiff penalties, if the hour limitations were disregarded. However, the new measure did not apply to the manufacture of many goods purchased by the government, nor did it apply to the production of goods purchased by contractors or sub-contractors under contract to the government. Moreover, contractors made extensive use of the emergency provisions of the 1892 law to get their men to work overtime. A twenty-year fight for more effective legislation in the field culminated in the Act of June 19, 1912, in which provision was made for an eight-hour clause to be inserted in all contracts involving employment of "laborers and mechanics, when made by, for or on behalf of the federal government, its territories, or the District of Columbia. John R. Commons, Principles of Labor Legislation (New York 1936, p. 118. Marion Cotter Cahill, Shorter Hours; A Study of the Movement Since the Civil War (New York, 1932), pp. 68-93.

mentary device to block another proposal, the vote still reflected some measure of support for the substitute proposition. The motion to consider the labor bill was rejected, 18-29.⁹ Fourteen Democrats and 4 independents supported it, while 2 Democrats (the senators from Alabama) split off and voted with the members of the majority party. Later that day, Richard Pettigrew (Independent-South Dakota) proposed an amendment to House Resolution 259 on Hawaii, which repealed contract laws and forced service in the islands. Nine Democrats approved this pro-labor stand for the workers of Hawaii, but 6 crossed over to side with the Republican block against.¹⁰

A better indication of support for the bill establishing an eight-hour day for workers on government public works (H.R. 7389) came two days before the last day of the 55th Congress, March 2, 1899. A motion to consider the bill

⁹55 C.R., 31, 6692.

Party in Senate	No. in Party	Vote on Motion to Consider		
		For	Against	Nonvoting
Democratic	37	(14+2) 16	2	19
Republican	43	0	(27+3) 30	13

¹⁰Ibid., p. 6709.

Party in Senate	No. in Party	Vote on Pettigrew Amendment		
		For	Against	Nonvoting
Democratic	37	(19+2) 21	(6+1) 7	9
Republican	43	(0+1) 1	(34+1) 35	7

was approved, 30-19.¹¹ Fifteen Democrats, 9 Republicans, and 6 independents joined to adopt the motion of consideration over the opposition of 7 Democrats and 12 Republicans. A few moments later, however, senators were tested again as to their support for limiting working hours of government laborers. A motion was offered to proceed to consideration of H.R. 12198, the Fortifications Appropriation bill. Turley (Democrat-Tennessee) tried to have the Senate agree to take up the labor bill after the Fortifications bill was disposed of; since the suggestion required unanimous consent, the objection of Senator Morgan (Democrat-Alabama) eliminated that route of keeping the measure before the Senate. It was clear that a favorable vote to consider H.R. 12198 would effectively kill the labor measure during the 55th Congress. The motion was adopted, 39-11,¹² as

¹¹55 C.R., 32, 2717.

Party in Senate	No. in Party	Vote on Motion to Consider		
		For	Against	Nonvoting
Democratic	37	(15+5) 20	7	10
Republican	44	(9+1) 10	12	22

¹²Ibid., p. 2718.

Party in Senate	No. in Party	Vote on Motion to Consider		
		Against	For	Nonvoting
Democratic	37	(7+1) 8	12	17
Republican	43	1	23	19

5 Democrats and all 9 Republicans who had voted for consideration of the labor bill supported the consideration of the Fortifications bill. Eight Democrats refused to go along with the procedure to ditch the maximum hours proposal.

The House in the third session of the 55th Congress considered S. 95, the Protection of American Seamen bill. An amendment was offered which struck out the clause "and at the discretion of the court, imprisonment for not more than one month." The revision was aimed at removing this penalty for a sailor's infraction of the rules, and at making the system less harsh. The amendment was defeated, 107-125,¹³ although Democrats voted in a block for it. They were joined by 6 Republicans and 10 independents, and opposed solely by Republicans.

¹³Ibid., p. 157.

Party in House	No. in Party	Vote on Amendment		
		For	Against	Nonvoting
Democratic	127	91	0	36
Republican	203	6	125	72

The fight to gain protective legislation for the American merchant seamen was spearheaded by Andrew Furuseth, head of the International Seamen's Union; the struggle was maintained until Congress finally acted by producing a significant law on the subject in 1915. Cahill, op. cit., pp. 91-92.

The indices of party support for labor legislation sympathetic to labor for the 55th Congress were 82 for House Democrats, 52 for House Republicans, 60 for Senate Democrats, and 32 for Senate Republicans.

In the first session of the 56th Congress, one of the amendments offered to the Littlefield Anti-Trust bill of 1900, called for the statement that nothing in the Sherman Act of 1890 was "to be construed as to apply to trade unions or other labor organizations." The Act of 1890, when it was passed was not thought to apply to unions, but it was made applicable to labor disputes in the 1890's with the concurrence of the federal courts.¹⁴ The amendment drew bipartisan support and passed, 260-8, with the only opposition coming from the Republican side of the aisle.¹⁵ The Littlefield bill, as has been stated in a previous chapter, did not get further than a senatorial committee.

The Senate in the same session refused a motion

¹⁴Union officials began to lobby for legislation exempting unions from the Act of 1890 as early as 1900, although it was the decision of the Supreme Court in the Danbury Hatters Case (1908) that really upset them, for they felt that it might lead to making labor organizations and their activities illegal. Commons, op. cit., p. 385.

¹⁵56 C.R., 33, 6501.

offered by Pettigrew (Independent-South Dakota) to discharge from the Education and Labor Committee H.R. 6882, a bill limiting hours for laborers working for the United States government, and H.R. 5450, a bill limiting the interstate commerce of prison- and reformatory-made goods. The motion to bring these two measures regarding labor up failed by a vote of 28-33.¹⁶ Sixteen Democrats, 8 Republicans, and 4 independents could not override the voting power of 30 Republicans, 2 independents, and a Democrat. Vest (Democrat-Missouri) was the only member of the minority to register his support against the motion. The senator from South Dakota suggested another motion of consideration pertaining to labor on March 2, 1901, when he asked the Senate to take up H.R. 10302, a bill amending the 1893 Safety of Employees Act (Automatic Coupling on Interstate Railways). The 1893 Act was the first congressional effort to establish a "comprehensive system of service regulation."¹⁷

¹⁶Ibid., p. 6800.

Party in Senate	No. in Party	Vote on Motion to Discharge		
		For	Against	Nonvoting
Democratic	28	(16+3) 19	1	8
Republican	51	8	30	13

¹⁷Sharfman, op. cit., pp. 249-55. This reference provides background on legislation pertaining to safety devices on interstate carriers.

By its provisions, railroads were ordered to introduce and maintain power-driving wheel brakes and automatic couplers. H.R. 10302 (as did the bill passed on the subject in the next Congress) sought to clarify the terms of the 1893 measure, to extend it to other appliances, and to increase the authority of the Interstate Commerce Commission in supervising its effectiveness. The motion of consideration passed, 29-21, as 23 Democrats were joined by 12 Republicans and 4 independents in favor of the proposal;¹⁸ 18 Republicans, 2 Democrats, and an independent formed the opposition. With only a day or two to go before final adjournment, the Senate had left no time for proper consideration of the measure. It was not passed.

The House in the second session of the 56th Congress considered a bill (H.R. 1917) limiting the definition of "conspiracy" and "restraining orders and injunctions" as applied to disputes between employers and employees. Its application was restricted to the District of Columbia,

¹⁸56 C.R., 34, 3439.

Party in Senate	No. in Party	Vote on Motion to Consider		
		For	Against	Nonvoting
Democratic	28	23	2	3
Republican	53	12	18	23

the territories and businesses engaged in interstate and foreign commerce. "Conspiracy" was the legal term used against workingmen who "combined" into organizations to improve their working conditions and increase their wages in the early part of the nineteenth century in the United States. As unions became more prevalent, convictions on charges of "conspiracy" became rarer. In the 1880's and 1890's, other legal devices were utilized to restrict labor activities. Boycotts and strikes, interpreted by the courts to infringe upon the right of property holders "to enter or do business," were found to be outside the law. To stop these activities, the courts made extensive use of the injunction. Labor union leaders, by the turn of the century, put legislative action restricting the use of injunctions at the top of their list of priorities.¹⁹ H.R. 1917 by title appeared to be just what union leaders would want to alleviate their situation in relation to the courts. However, William Flemming (Democrat-Georgia) while addressing the House, informed his colleagues that labor union officials did not favor passage of the bill, that it was not a measure that would be advantageous to the union

¹⁹ Commons, op. cit., p. 384.

movement.²⁰ This probably was the case, as the House defeated the bill by a large vote with concurrence from both major parties. The Democrats voted against the bill, 94-1, while the Republicans split, 48 against to 53 for the measure.²¹

In the 57th and 58th Congresses, Democratic senators took up the cause of the American merchant seamen whose jobs were threatened by the availability of cheap Chinese labor. On May 16, 1902, during discussion of S. 2960, the Chinese Exclusion bill, Henry Cabot Lodge (Republican-Massachusetts) offered an amendment striking the provision from the bill against the use of Chinese sailors on American boats going to American territory. Lodge's amendment was accepted, 47-29, with 42 Republicans and 5 Democrats casting their votes "aye," while 23 Democrats, 5 Republicans, and

²⁰56 C.R., 34, 2595 (Flemming Statement).

²¹Ibid., p. 2598.

Party in House	No. in Party	Vote on Bill		
		Against	For	Nonvoting
Democratic	161	94	1	67
Republican	186	48	53	85

an independent voted "nay."²² On February 27 and March 3, 1904, the Senate rejected two amendments suggested by Democrats whose purpose was to exclude Chinese sailors from employment on American merchant ships. The upper chamber was debating S.2263, the Employment of Vessels of the United States for Public Purposes bill, when Thomas Patterson (Democrat-Colorado) proposed an amendment which prohibited the use of Chinese, except bona fide citizens of the United States, on ships benefiting from the act. A motion was offered to lay Patterson's amendment on the table. A vote against was favorable to adoption of the amendment. The tabling motion carried 37-18, as 16 Democrats and 2 Republicans tried to block the will of 37 Republicans.²³ On March 3, Edward Carmack (Democrat-Tennessee) suggested an amendment which added a proviso to

²²57 C.R., 35, 4221.

Party in Senate	No. in Party	Vote on Lodge Amendment		
		Against	For	Nonvoting
Democratic	32	(23+3) 26	5	1
Republican	55	5	(42+2) 44	6

²³58 C.R., 38, 2463 (Patterson Statement); Ibid., p. 2468 (vote).

Party in Senate	No. in Party	Vote on Patterson Amendment		
		For	Against	Nonvoting
Democratic	33	(16+1) 17	0	16
Republican	56	2	37	17

the bill that none but American citizens were to be employed on the vessels profiting from the act. Carmack's amendment was turned down, 19-38, with Democrats providing all favorable votes and Republicans all the negative ones.²⁴

Democratic support for the exclusion of Chinese sailors on American vessels slipped in the 59th Congress. Patterson of Colorado (Democrat) offered an amendment to H.R. 480, a bill to provide for the construction of the Panama Canal, which denied subsidies to ships that carried Chinese as part of their deck force or crew. His motion was defeated, 17-47, with substantial help coming from his own party to block it. Nine Democrats and 8 Republicans voted for Patterson's amendment, while 12 Democrats joined 34 Republicans in opposition. All 5 western Democratic Senators (two from Colorado, one each from Oregon, Idaho, and Nevada) registered support for Chinese exclusion.

²⁴Ibid., p. 2594 (Carmack Amendment); ibid., p. 2595 (vote).

Party in Senate	No. in Party	Vote on Carmack Amendment		
		For	Against	Nonvoting
Democratic	33	(19+2) 21	0	12
Republican	56	0	38	18

²⁵59 C.R., 40, 2549 (Patterson Amendment); ibid., p. 2550.

Party in Senate	No. in Party	Vote on Patterson Amendment		
		For	Against	Nonvoting
Democratic	32	(9+1) 10	13	9
Republican	57	8	(34+3) 37	12

In the closing moments of the first session of the 59th Congress, Robert LaFollette (Republican-Wisconsin) put a motion before the Senate to consider S. 5133, a bill to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees. The motion was offered to get some idea of sentiment for the measure in the Senate, so that its supporters would know if it had a chance to pass in the second session. LaFollette's motion was adopted, 38-11, as 16 Democrats joined 22 Republicans in favor of it, and 10 Republicans and a Democrat opposed.²⁶ The drive to pass a bill limiting the hours of employees operating the trains of the nation started early in the second session, under the direction of the dynamic Senator from Wisconsin. Frank Brandegee (Republican-Connecticut) offered an amendment in the nature of a substitute that called for a maximum of sixteen hours of service in any twenty-six-hour period on interstate carriers, and a maximum fine of \$1,000 for each violation. Brandegee's

²⁶Ibid., p. 9262.

Party in Senate	No. in Party	Vote on Motion to Consider		
		For	Against	Nonvoting
Democratic	32	16	1	15
Republican	57	22	10	25

proposal, although an improvement on the bill, did not meet the standards LaFollette hoped for. Following his lead, the Senate turned back the Connecticut senator's version, 23-45.²⁷ Twenty-eight Republicans and 17 Democrats formed the majority, while 17 Republicans and 6 Democrats made up the minority. LaFollette then put his substitute amendment before the chamber. LaFollette's proposal established a work pattern of a maximum of sixteen hours of consecutive service followed by ten hours off, and an alternative system of sixteen hours of work in aggregate followed by eight hours off. It specifically set up a fine of \$1,000 for each and every violation of the act, and provided the Interstate Commerce Commission with inspectors to carry out investigations of suspected violations. The ICC was granted the power to administer oaths and to interrogate witnesses. This stronger measure was adopted by a close vote in the

²⁷59 C.R., 41, 891.

Party in Senate	No. in Party	Vote on Brandegee Amendment		
		Against	For	Nonvoting
Democratic	33	17	(6+1) 7	9
Republican	57	28	17	12

Senate, 36-32.²⁸ Twenty Democrats and 16 Republicans withstood the negative voting of 28 Republicans and 4 Democrats. Analysis of the latter two roll calls produced a significant grouping of senatorial support for this type of legislation.²⁹ Senators who had voted against both the Brandegee and LaFollette proposals would appear to have been against any legislation on the matter; those who had voted for the Brandegee substitute and against the LaFollette version, a weaker bill; senators who voted for both leaned toward the weaker version but were willing to support the stronger measure if that was necessary to adopt some legislation. A fourth category included those who rejected the Brandegee measure as too weak and voted only for LaFollette's. Among Democrats, 3 fell into the first group: McCreary and Blackburn of Kentucky, and Pettus of Alabama; 1 into the second category: Clark of Montana; 6 into the third: Bacon and Clay of Georgia, Patterson and Teller of Colorado, Money of Mississippi and Tillman of South Carolina;

²⁸ Ibid.

Party in Senate	No. in Party	Vote on LaFollette Version		
		For	Against	Nonvoting
Democratic	33	(20+2) 22	4	7
Republican	57	16	28	13

²⁹ See Appendix IV.

and 14 (who voted against the Brandegee and for the La Follette version) in the fourth. Among Republicans, there were 15 senators in the first group, 13 in the second, 3 in the third, and 13 in the last group. Democrats who helped make up the first two groups represented 15 percent of their party membership, whereas Republicans in these same categories represented 64 percent of the majority party. On the other hand, Democrats falling into the latter two groups formed 85 percent of their party, while Republicans favoring either the LaFollette amendment alone or both amendments, made up 36 percent of their party. A much higher percentage of Democrats than Republicans were supporters of the strongest version of this labor measure.

The senators who favored LaFollette's substitute had to fight off two attempts to weaken it. Gallinger (Republican-New Hampshire) proposed an amendment which would have extended the scope of accidents involving railroad employees for which railroad companies would not have been liable. He wanted the phrase "casualty occurring before he started on his [the employee's] trip, or by unknown casualty" stricken, and replaced by "unavoidable accident, or act of God." Gallinger's proposition was turned

back, 31-35.³⁰ Nineteen Democrats and 16 Republicans withstood the pressure for revision and weakening advocated by 26 Republicans and 5 Democrats. Another amendment cutting down the over-all effectiveness of the bill was offered by Augustus Bacon (Democrat-Georgia). The Georgian wanted a proviso included that would have excluded railroad companies lying "wholly within the limits of one state" from the provisions of the bill. Bacon's amendment was defeated by a large vote, 16-46.³¹ He was supported by 13 Republicans and 2 other Democrats. Nineteen Democrats and 27 Republicans joined to dismiss this amendment. Passage of the bill was bipartisan and overwhelming, 70-1. Only Pettus of Alabama refused to vote for it.³²

In the House, the Republican leadership presented

³⁰ 59 C.R., 41, 892.

Party in Senate	No. in Party	Vote on Gallinger Amendment		
		Against	For	Nonvoting
Democratic	33	(19+1) 20	5	8
Republican	57	16	(26+1) 27	14

³¹ Ibid., p. 893

Party in Senate	No. in Party	Vote on Bacon Amendment		
		Against	For	Nonvoting
Democratic	33	19	3	11
Republican	57	27	13	17

³² Ibid., p. 895.

a motion to suspend the rules and pass S. 5133 with an amendment. The House substitute version changed the fine system from \$1,000 to \$500 for each violation, and weakened the authority of the Interstate Commerce Commission as provided in the Senate bill. Adamson (Democrat-Georgia) told the lower chamber that the LaFollette measure (the Senate bill) was much the better proposition.³³ The motion to suspend the rules and pass the amended bill failed; it needed a two-thirds majority vote, and fell short, 169-121.³⁴ Eighteen Republicans joined 103 Democrats in opposing the motion (and the weakened bill). All 169 favorable votes came from the majority party. Five days later, February 23, 1907, a resolution was offered passing S. 5133 with six minor amendments, and calling for a conference between the two houses to settle the differences. This resolution won unanimous support, 281-0.³⁵ On March 3, 1907, the next to the last day of the 59th Congress, the House unanimously

³³Ibid., p. 3237 (Adamson Statement).

³⁴Ibid., pp. 3252-53.

Party in Senate	No. in Party	Vote on Motion to Suspend Rules		
		Against	For	Nonvoting
Democratic	133	103	0	30
Republican	244	18	169	57

³⁵Ibid., p. 3755 (Conference Report); ibid., p. 3761 (vote).

approved a Conference Report on the Sixteen Hour Railroad bill, 235-0.³⁶ Upon this occasion, Democratic leaders unashamedly claimed a good part of the credit for the passage of this measure. The voting statistics would clearly support their contention. Meanwhile, in the Senate, La Follette led his comrades in the fight to preserve his bill and to defeat House amendments. On March 2, 1907, the allies for the untampered Senate bill turned back those who sought to get the Senate to adopt the Conference Report on S. 5133, which encompassed House amendments. The vote was 22-38, as 20 Democrats lined up with 18 Republicans to oppose adoption, and 21 Republicans and 1 Democrat took the opposite position.³⁷ Two days later, the Senate unanimously agreed to a new Conference Report on the bill, 77-0.³⁸

Indices of party support for pro-labor legislation in the 59th Congress show an increase for each of the

³⁶Ibid., p. 4620 (Conference Report); ibid., pp. 4625-26 (vote).

³⁷Ibid., p. 4549.

Party in Senate	No. in Party	Vote on Adoption		
		Against	For	Nonvoting
Democratic	32	(20+1) 21	1	10
Republican	58	(18+1) 19	(21+1) 22	17

³⁸Ibid., p. 4635 (Conference Report); ibid., p. 4636 (vote).

parties, with the Democrats still significantly ahead of their opposites. The indices were 86 for House Democrats, 63 for House Republicans, 76 for Senate Democrats, and 58 for Senate Republicans.

The 60th Congress considered H.R. 20310, the Employers' Liability bill, which provided that men while working on interstate carriers were protected by the right to sue their employers for damages, accidents, or death "by reason of any defect or insufficiency, due to its [railroad company] negligence."³⁹ On a motion to suspend the rules and pass the bill, the House approved this legislation by a near-unanimous vote of 302-1.⁴⁰ When the bill came up in the Senate, a few days later on April 9, 1908, Dolliver (Republican-Iowa) offered a motion to strike the enacting clause of the House version and to substitute another

³⁹For background on the subject of payment for employee injury or death on the job, during the nineteenth and early twentieth century in the United States, see Richard A. Lester, Economics of Labor (New York, 1949), pp. 493-97; E. H. Downey, Workmen's Compensation (New York, 1924), pp. 143-61; Harry Weiss, "Employers' Liability and Workmen's Compensation," in Don D. Lescossier and Elizabeth Brandeis, History of Labor in the United States, 1896-1932 (New York, 1935), pp. 561-77. For importance, effects, and history of the liability law of 1908, see Walter F. Dodd, Administration of Workmen's Compensation (New York, 1936), pp. 15-16.

⁴⁰60 C.R., 42, 4438-39. Democratic thinking was presented in a minority report ibid., p. 4428, and in a statement by House minority leader John S. Williams, ibid., p. 4434.

drafted by LaFollette (Republican-Wisconsin). Knute Nelson (Republican-Minnesota), one of the majority party regulars, quickly asked the Senate to adopt his motion to lay Dolliver's motion on the table. A vote cast against Nelson's motion was favorable to the substitution of the more "progressive" and, in this instance, pro-labor measure suggested by the Senator from Wisconsin. Nelson's motion was agreed to, 35-22, and the House version was preserved.⁴¹ The majority of each party preferred the House bill, as 26 Republicans and 9 Democrats overrode the LaFollette bill supporters, among whom were 16 Republicans and 6 Democrats. Had the Democrats voted in a block that day against the Nelson motion, they would have thrown the vote the other way. Having split over the first amendment proposal, Democrats united to try to amend the House bill into one more sympathetic to labor while still in tune with their political philosophy. Clarke (Democrat-Arkansas) proposed that the clause defining the nature of the accident or death covered by the bill, which read "from causes incident to his assisting said carrier in carrying on such commerce

Ibid., p. 4530 (LaFollette bill); ibid., p. 4538 (vote).

Party in Senate	No. in Party	Vote on Tabling Dolliver Motion		
		Against	For	Nonvoting
Democratic	31	6	(9+1) 10	15
Republican	61	16	(26+1) 27	18

and while so actually engaged" be amended to say "causes incident to his occupation." Clarke's suggestion was rejected, 21-31, 12 Democrats and 9 Republicans succumbing to the voting strength of 30 Republicans and a Democrat.⁴² Culberson (Democrat-Texas) offered an amendment which stated that suits instituted in state courts for injuries or death resulting from the negligence of common carriers engaging in interstate or foreign commerce shall not be removable to federal courts. Culberson's measure was defeated by a vote of 16-34, as 12 Democrats and 4 Republicans opposed 34 Republicans.⁴³ The final amendment was that suggested by Gore (Democrat-Oklahoma) who proposed that "all questions of fact relating to negligence be determined by the jury." Gore's amendment drew support from

⁴²Ibid., p. 4541 (Clarke Amendment); ibid., p. 4543 (vote).

Party in Senate	No. in Party	Vote on Clarke Amendment		
		For	Against	Nonvoting
Democratic	31	(12+4) 16	16	14
Republican	61	9	(30+1) 31	21

⁴³Ibid., p. 4544 (Culberson Amendment); ibid., p. 4545 (vote).

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	31	(12+4) 16	0	15
Republican	61	4	34	23

only 1 Republican besides 12 Democrats; 37 Republicans opposed it.⁴⁴

The 60th Congress also took up a bill regulating child labor in the nation's capital, S. 4812. In the Senate, Nelson (Republican-Minnesota) brought to the attention of his colleagues an amendment which struck out of the bill the restrictions against child labor in mercantile establishments, stores, and business offices. His argument was that such jobs were not likely to endanger the health of children. His amendment was adopted in the Senate meeting as a Committee of the Whole, 32-30, and in the Senate, 29-27.⁴⁵ In both cases, the bulk of the Democratic senators voting provided the votes necessary to carry this anti-labor proposal. In the first vote, 12 Democrats joined 20 Repub-

⁴⁴Ibid., p. 4550.

Party in Senate	No. in Party	Vote on Gore Amendment		
		For	Against	Nonvoting
Democratic	31	(12+3) 15	0	16
Republican	61	1	37	23

⁴⁵Ibid., p. 5791 (Nelson Amendment); ibid., p. 5792.

Party in Senate	No. in Party	Vote on Nelson Amendment		
		Against	For	Nonvoting
Democratic	31	4	(12+1) 13	14
Republican	61	26	20	15

licans to push the Nelson proposition over the objections of 26 Republicans and 4 Democrats. In the second vote, 11 Democrats sided with 18 Republicans to retain the Nelson amendment in the bill, whereas only 5 supported the pro-labor position of the 22 Republicans opposed.⁴⁶ Senator Piles (Republican-Washington) suggested another amendment which weakened the child labor bill. It permitted the judge of the Juvenile Court in the District of Columbia to issue working permits to children between the ages of twelve and fourteen, if the work was not unhealthful and was needed for family support. The Piles amendment was accepted, 37-19, as 11 Democrats and 26 Republicans approved this loophole in the law, and 5 Democrats and 14 Republicans disapproved.⁴⁷ Among Democrats, only Clay of Georgia, McCreary of Kentucky, and Owen of Oklahoma opposed both the Nelson and the Piles weakening amendments. In

⁴⁶Ibid., p. 5802.

Party in Senate	No. in Party	Vote on Nelson Amendment		
		Against	For	Nonvoting
Democratic	31	5	11	15
Republican	61	22	18	21

⁴⁷Ibid.

Party in Senate	No. in Party	Vote on Piles Amendment		
		Against	For	Nonvoting
Democratic	31	5	11	15
Republican	61	14	26	21

the House, on a motion to suspend the rules, adopt a substitute amendment, and pass the amended bill, the vote went 200-0.⁴⁸ The minority leader of the House, John Sharp Williams of Mississippi, spoke highly of the House substitute which he found more "progressive" than that of the Senate.⁴⁹

Later in the session, the Senate voted favorably to consider H.R. 21844, a bill providing compensation for government employees for injuries while working. The vote was 48-1, as 43 Republicans got support from 5 Democrats. The lone dissenter was Bailey of Texas (Democrat). On this roll call, 25 of the 31 Democrats in the Senate either abstained or were absent.⁵⁰

The House, in the second session of the 60th Congress, debated H.R. 15447, a bill providing for the investigation of controversies affecting interstate commerce. Adamson of Georgia (Democrat) and William Ryan of New York (Democrat) both condemned the bill as an anti-labor measure involving forced arbitration.⁵¹ When Charles Townsend (Republican-Michigan) made a motion for the House to resolve

⁴⁸Ibid., p. 6030 (House Substitute); ibid., pp. 6034-35 (vote).

⁴⁹Ibid., p. 6032.

⁵⁰Ibid., p. 7266.

⁵¹60 C.R., 43, 119 (Adamson Statement); ibid., p. 128 (Ryan Statement).

itself into the Committee of the Whole House to consider H.R. 15447, a test vote on the measure occurred. The House refused the motion, 103-112, and that was the last the lower chamber heard of the bill in the 60th Congress.⁵² To block consideration, 96 Democrats were aided by 16 Republicans; 5 Democrats crossed over to vote with 98 Republicans, who sought to adopt the motion.

In the 61st Congress, a few isolated roll calls were recorded on matters important to labor. During consideration of S. 6737, a bill to create a Court of Commerce, La Follette (Republican-Wisconsin) sought to improve upon the Sixteen Hour Railroad Employees Act (1905). He proposed an amendment to S. 6737, calling for a fourteen-hour-day for employees of interstate carriers, and a schedule encompassing ten hours off in every twenty-four. His amendment was rejected by a vote of 24-31.⁵³ Twelve Democrats and an equal number of Republicans were not enough to beat the

⁵²Ibid., pp. 165-66.

Party in House	No. in Party	Vote on Motion to Consider		
		Against	For	Nonvoting
Democratic	167	96	5	66
Republican	223	16	93	109

⁵³C.R., 45, 7353 (LaFollette Amendment); ibid., p. 7355 (vote).

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	32	12	1	19
Republican	60	12	30	18

opposition of 30 Republicans and a Democrat. A few days later, while the Senate was considering H.R. 2552, the Sundry Civil Appropriations bill, a motion was offered to strike a provision from the bill that labor unions wanted very much. The proviso in question stated that no appropriation included in the bill was to be used against "associations formed for the increasing of wages, the shortening of hours, or the bettering of the condition of labor." In effect, if the proviso remained in the bill, unions would not have to fear federal prosecution under the Regulation of Commerce Acts. A vote against the motion was favorable to the exclusion of unions from the application of anti-trust action. The motion was adopted, however, 34-16, as 32 Republicans and 2 Democrats voted for striking the pro-labor proviso, and 11 Democrats and 5 Republicans tried to save it.⁵⁴ When the House received its appropriation bill back with the Senate amendment striking the proviso, it approved a motion to insist upon the inclusion of the pro-

⁵⁴Ibid., p. 7648 (Proviso); ibid., p. 7654 (vote).

Party in Senate	No. in Party	Vote on Motion to Strike		
		Against	For	Nonvoting
Democratic	33	(11+1) 12	2	19
Republican	59	(5+1) 6	32	21

labor statement. The Conference Report returned to the House showed that the Senate still insisted upon its amendment. On June 21, 1910, the House approved a motion persisting in its disagreement with the Senate amendment, by a vote of 154-105.⁵⁵ One hundred and seventeen Democrats and 37 Republicans stuck to their guns in support of union rights; 104 Republicans and a Democrat sought to have the House acquiesce to the Senate's anti-labor position. The Republican leadership exerted pressure on their congressional troops for, later in the session, the House adopted (by a very close vote) a motion to recede from its disagreement with the Senate amendment striking the proviso.⁵⁶ Support for the proposition shrank in both parties, but the Democrats registered 109 votes (a loss of 9), whereas the Republicans had only 21 (a loss of 16).

⁵⁵Ibid., p. 8656.

Party in House	No. in Party	Vote on Senate Amendment		
		Disagree	Agree	Nonvoting
Democratic	173	117	1	55
Republican	216	37	104	75

⁵⁶Ibid., p. 8853.

Party in House	No. in Party	Vote on Motion to Recede		
		Against	For	Nonvoting
Democratic	173	109	3	61
Republican	216	21	135	60

The Republican ranks pushing for acceptance of the Senate amendment rose to 135 (a gain of 31); 3 Democrats (a gain of 2) joined them. The indices of party support for pro-labor measures in the 61st Congress were 82 for House Democrats, 29 for House Republicans, 66 for Senate Democrats and 32 for Senate Republicans.

The 62nd Congress, with the Democratic party in ascendancy, passed several pieces of legislation bearing on the welfare of labor. The Senate, in the second session of the three-session 62nd Congress, debated and passed S. 252, a bill to establish a Children's Bureau in the Department of Commerce and Labor. Southern Democrats, as evidenced by their actions in the 61st Congress during consideration of the District of Columbia child labor law, were none too eager for legislation in this field. This antagonism was reflected in the new Congress, when Overman (Democrat-North Carolina) offered an amendment to S. 252 which struck the enacting clause of the measure and substituted a bill that provided for an investigation on child welfare to be conducted by the secretary of the interior. Overman's proposal was designed to prevent the establishment of a permanent agency dealing solely with child labor. His amendment was defeated 30-46, as 23 Democrats and 7

Republicans fell before the combined forces of 35 Republicans and 11 Democrats.⁵⁷ Of the latter group of Democrats, those who supported the Children's Bureau on this vote, 8 were from northern and western states, while 2 others were from the southwest. The only southern Democrat to support the Bureau was Rayner of Maryland. When passage of S. 252 was before the chamber, resistance to the measure among southern Democrats weakened.⁵⁸ Nine southern Democrats, including Rayner of Maryland and 3 Southwestern Democrats, Democrats, voted for the bill. The over-all vote was 54-20, as 21 Democrats and 33 Republicans pushed the proposition across in the face of opposition formed by 11 Democrats and

⁵⁷62 C.R., 48, 1564 (Overman Amendment); ibid., p. 1565 (vote).

Party in Senate	No. in Party	Vote on Overman Amendment		
		Against	For	Nonvoting
Democratic	42	11	23	8
Republican	49	(35+3) 38	7	4

⁵⁸One minor amendment was attached to the bill to make it somewhat more acceptable to the southern block. The proposal, offered by Culberson of Texas (Democrat), withdrew authority from agents of the Bureau to enter houses "used exclusively as a family residence" without permission of the head of the family. The vote on the Culberson amendment was 39-34, with 29 Democrats and 10 Republicans opposing 31 Republicans and 3 Democrats. Culberson Amendment, 62 C.R., 48, 1576; vote, ibid., p. 1578.

9 Republicans.⁵⁹ Support for S. 252 on the final roll call among southern democrats came from both senators from Virginia, Maryland, and Tennessee, and from senators representing Georgia, South Carolina, North Carolina, and Mississippi.⁶⁰ In the column of antagonists to the measure were both senators from Texas and West Virginia, and senators from Florida, South Carolina, North Carolina, Louisiana, Missouri, and Kentucky. O'Gorman of New York was the lone Democratic dissenter from the North.

When the Senate-approved measure was sent to the House, it was directed to the House Committee on Interstate and Foreign Commerce. A few days later, William B. Wilson (Democrat-Pennsylvania) presented a motion before the House calling for the discharge of the Children's Bureau bill from said committee and the assignment of it to the Committee on Labor. Wilson, who was chairman of the Committee on Labor, announced that, as his committee had

⁵⁹Ibid., p. 1579.

Party in Senate	No. in Party	Vote on Passage of Bill		
		For	Against	Nonvoting
Democratic	42	(21+2) 23	11	8
Republican	49	(33+3) 36	(9+1) 10	3

⁶⁰One of the Democratic senators from Tennessee was paired for the measure.

"already reported and placed on the calendar a similar bill," it should have control of S. 252. Adoption of the Wilson motion appeared to insure quick and favorable consideration of the bill. The motion was carried, 175-113, with 114 Democrats voting along with 60 Republicans and a Socialist for it, and 62 Democrats and 51 Republicans voting against.⁶¹ Taking the 176 Democrats who voted on this motion and dividing them by their position ("aye" or "nay") and their region (North and West or South and Southwest), we find that Democratic congressmen from the South registered 56 "ayes" and 47 "nays," while those from the North and West produced 58 "ayes" and only 15 "nays." In percentage form, southern Democrats rated 54 percent, while their comrades from northern states rated 79 percent. If this roll call was a true reflection of support for the Children's Bureau bill, then clearly such was relatively stronger among northern than southern Democrats. All the same, it must be pointed out that there was some support for this measure among southern Democrats. State Demo-

⁶¹Ibid., p. 1873 (Wilson Statement; vote).

Party in House	No. in Party	Vote on Referral		
		For	Against	Nonvoting
Democratic	228	114	62	52
Republican	163	60	51	52

cratic delegations in the House that were strong for the motion were those representing Ohio, Indiana, Pennsylvania, New Jersey, Oklahoma, and Missouri. Those strongly antagonistic were Alabama, Mississippi, Texas, and New York.

On April 2, 1912, the House adopted a motion suspending the rules and passing S. 252 by a vote of 177-17.⁶² Ninety-eight Democrats and 79 Republicans provided the large majority as only token opposition was offered by 17 Democrats. Southern and southwestern Democrats cast 53 votes for and 14 votes against, while northern and western Democrats provided 45 positive votes and 3 negative. The states whose representatives produced the bulk of the negative votes were Texas, North Carolina, Mississippi, and New York.

S. 5382, a bill establishing an "exclusive" and "mandatory" system of compensation for injuries or death befalling railroad employees during their hours of work, split the Democratic party in both houses of Congress. The

⁶²Ibid., p. 4227.

Party in House	No. in Party	Vote on Passage		
		For	Against	Nonvoting
Democratic	230	98	17	115
Republican	161	79	0	82

measure was designed to replace all previous statutes regarding liability and negligence suits, and to set up a system by which injured railroad men could be guaranteed rapid and meaningful payment. Proponents of the bill expressed the feeling that it was time that the United States passed legislation of this nature imitating the action already taken by every industrialized power in Europe.⁶³ They also claimed that it would benefit railroad workers many fold if they knew that they would not have to prove negligence on the railroad company's part in court in order to collect for damages. The mechanism proposed in the bill provided for standardized payments for the degrees of injury. Those who berated the bill spoke highly of the 1908 Liability Law (as amended in 1910) and bemoaned the sinister motives of the bill's supporters to kill previous enactments that had proved effective.⁶⁴ They called the 1912 measure, S. 5382, "a railroad bill pure and simple," as they felt that it insured railroads against large losses in damage or liability actions brought

⁶³Extensive statements made in defense of the bill: Chamberlain, 62 C.R., 48, 5746; Brantley, 62 C.R., 49, 4545.

⁶⁴Among those who severely criticized the bill were Sabath of Illinois, 62 C.R., 49, 4503-6; Henry of Texas, ibid., p. 4503; Hardwick of Georgia, ibid., pp. 4543-44.

by their injured employees.⁶⁵ Those who didn't like the bill hoped to delay consideration of it until union members and legislators could study its provisions sufficiently to note all the "jokers."⁶⁶ When that ploy failed, they tried to amend the proposition so as to make it (what they thought would be) a better deal for labor. They were prepared to use every parliamentary tactic to slow down action on the bill, and if possible, to bring about its defeat.

On May 2, 1912, the Senate began consideration of S. 5382. Hoke Smith (Democrat-Georgia) who assumed the leadership of those opposed to the compensation bill, offered a motion for the Senate to recess. It was both a delaying tactic and a test vote for the bill. Smith's motion was defeated handily, 25-44, as 6 Democrats joined the Republicans en masse to block the delay wanted by 25 Democrats.⁶⁷ Had the motion carried, it was likely that

⁶⁵Ibid., p. 4481 (Floyd Statement).

⁶⁶62 C.R., 48, 5740, 5744 (Reed Statements); 62 C.R., 49, 4483-84 (Minority Statement).

⁶⁷62 C.R., 48, 5748.

Party in Senate	No. in Party	Vote on Motion to Recess		
		Against	For	Nonvoting
Democratic	43	(6+1) 7	25	11
Republican	52	(38+1) 39	0	13

the measure would have been laid aside, and left for a future Congress.

Smith's cohorts, knowing that the bill's proponents had the votes to pass the measure, now tried to win support for revisions. Culberson (Democrat-Texas) suggested that the word "exclusive" be dropped from the bill, and the word "optional" be substituted. As part of this alteration, he wanted the proviso that "except as herein provided employer shall not be civilly liable for injury or death resulting from accident to employee" deleted. In essence, Culberson hoped to save the 1908 Liability Law, which had recently been upheld as constitutional by the United States Supreme Court. His proposal was rejected, 26-52, as 25 Democrats and 1 Republican (Miles Poindexter of Washington) fell before the will of 10 Democrats and 42 Republicans.⁶⁸ Bacon (Democrat-Georgia) followed the Culberson proposal with an analogous one that would have added a section onto the bill which provided that employer and employee could

⁶⁸Ibid., p. 5951.

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	43	(25+1) 26	(10+1) 11	17
Republican	52	1	(42+1) 43	18

agree to use the terms of the 1908 law instead of the provisions of this bill. Bacon's amendment met the same fate as Culberson's 28-51, as 44 Republicans and 7 Democrats denied 28 Democrats.⁶⁹ Overman (Democrat-North Carolina) also suggested a new section, one that would state that the jurisdiction of state courts over cases pertaining to negligence and liability statutes was not restricted by the act. Overman's idea was rejected, 23-52; 22 Democrats and 1 Republican (Poindexter) voted for it, while 11 Democrats and 41 Republicans voted against.⁷⁰ Reed (Democrat-Missouri) asked that a provision permitting the waiving of jury trials in exceptional cases brought to court be stricken from Section 14 of the bill. Reed's amendment was defeated, 28-53, as 24 Democrats and a Republican could not withstand the voting power of 11

⁶⁹Ibid., p. 5952.

Party in Senate	No. in Party	Vote on Bacon Amendment		
		For	Against	Nonvoting
Democratic	43	28	7	8
Republican	52	0	44	8

⁷⁰Ibid.

Party in Senate	No. in Party	Vote on Overman Amendment		
		For	Against	Nonvoting
Democratic	43	22	11	10
Republican	52	1	(41+1) 42	9

Democrats and 42 Republicans.⁷¹ Smith (Democrat-Georgia) proposed an amendment which would have allowed employees to go to either a federal adjuster (provided for elsewhere in the bill) or a state court for compensation claims; moreover, the case, if brought to a state court could not be removed to a federal court. This latter proviso was the essence of the 1910 law amending the Liability Act of 1908. The vote on Smith's amendment was in the ratio of two-to-one against: 24-48.⁷² Twenty-three Democrats and a Republican supported it, while 42 Republicans and 6 Democrats opposed it successfully. These amendments had aimed to bring the proposed legislation in line with previous enactments on similar matters. None had carried.

The next batch of amendments offered sought to make the provisions underlying the system of compensation more liberal, that is, more favorable to the working man. A

⁷¹Ibid.

Party in Senate	No. in Party	Vote on Reed Amendment		
		For	Against	Nonvoting
Democratic	43	24	11	8
Republican	52	1	42	9

⁷²Ibid., pp. 5956-57.

Party in Senate	No. in Party	Vote on Smith Amendment		
		For	Against	Nonvoting
Democratic	43	23	6	14
Republican	52	1	42	9

committee amendment was before the Senate, stating that where death occurred because of injury on the job, the amounts enumerated were to be paid to the survivors for eight years with the exception of children of the deceased, who were to be paid until each was sixteen. Culberson (Democrat-Texas) suggested that the committee amendment be changed so as to provide for children of the deceased until each was eighteen. Culberson's revision was not accepted by the Senate, the vote going 25-34.⁷³ Asle Gronna of North Dakota and Poindexter of Washington were the only Republicans to join 23 Democrats in support of the amendment to the amendment; 3 Democrats aligned themselves with 31 Republicans in opposing it. The senior senator from Texas then proposed that in calculating compensation the wage schedule should be pegged at between \$75 and \$150 per month instead of between \$50 and \$100 as provided for in the bill before the Senate. Culberson was giving expression to the fear stated by some union sympa-

⁷³Ibid., p. 5820.

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	43	23	3	17
Republican	52	2	(31+1) 32	18

thizers that a ceiling of \$100 would have a depressant effect on wage levels for years to come. Culberson's amendment fared no better than any of the others, as it went down, 27-50.⁷⁴ Twenty-six Democrats and 1 Republican took the positive side, while 41 Republicans and 9 Democrats lined up on the negative. Reed (Democrat-Missouri) modified Culberson's amendment and offered a wage schedule for compensation of between \$75 and \$125. It failed to carry, 26-51.⁷⁵ Twenty-five Democrats and a Republican voted for it, but 42 Republicans and 9 Democrats voted against. Pomerene (Democrat-Ohio) asked that Section 7, Paragraph 1 be stricken from the bill so as to eliminate the differences in claims cases between resident and non-resident dependents. Pomerene's proposal fared no better

⁷⁴Ibid., p. 5952.

Party in Senate	No. in Party	Vote on Culberson Amendment		
		For	Against	Nonvoting
Democratic	43	26	9	8
Republican	52	1	41	10

⁷⁵Ibid., p. 5953.

Party in Senate	No. in Party	Vote on Reed Amendment		
		For	Against	Nonvoting
Democratic	43	25	9	9
Republican	52	1	(42+1) 43	8

than the previous ones; it failed, 29-45.⁷⁶ Gronna and Gallinger (New Hampshire) supplied the only Republican votes for the suggestion along with 27 Democrats; 6 Democrats and 42 Republicans joined to defeat it. Pomerene's next amendment also failed. This revision would have directed the federal government to grant equal rights to nonresident dependents if the county in which the deceased resided did so. The vote defeating Pomerene's second amendment went 29-44, as 27 Democrats and a Republican supported it, while 41 Republicans and 3 Democrats helped to reject it.⁷⁷ Hitchcock (Democrat-Nebraska) wanted compensation paid unmarried daughters, upon the death of a parent, to be carried until they were twenty. This was two years more than the bill provided for. Hitchcock's proposal was not favorably received by the Senate, the vote being

⁷⁶Ibid.

Party in Senate	No. in Party	Vote on Pomerene Amendment		
		For	Against	Nonvoting
Democratic	43	27	6	10
Republican	52	2	42	8

⁷⁷Ibid.

Party in Senate	No. in Party	Vote on Pomerene Amendment		
		For	Against	Nonvoting
Democratic	43	28	3	12
Republican	52	1	41	10

30-47.⁷⁸ Twenty-nine Democrats and a Republican failed to override the votes of 43 Republicans and 4 Democrats. Kern (Democrat-Indiana) proposed that a widow without dependent children get 50 percent (instead of 40 percent) of her late husband's wages. The amendment was rejected, 28-50, as 27 Democrats and 1 Republican succumbed to 43 Republicans and 7 Democrats.⁷⁹ The junior senator from Indiana then asked that each dependent child be awarded 10 percent of the dead father's monthly wages, a family receiving up to 80 percent. Kern's second amendment was defeated, 29-49; 28 Democrats and a Republican voted for it, 43 Republicans and 6 Democrats voted against it.⁸⁰

⁷⁸Ibid., p. 5984.

Party in Senate	No. in Party	Vote on Hitchcock Amendment		
		For	Against	Nonvoting
Democratic	43	29	4	10
Republican	52	1	43	8

⁷⁹Ibid.

Party in Senate	No. in Party	Vote on Kern Amendment		
		For	Against	Nonvoting
Democratic	43	27	7	9
Republican	52	1	43	8

⁸⁰Ibid.

Party in Senate	No. in Party	Vote on Kern Amendment		
		For	Against	Nonvoting
Democratic	43	28	6	9
Republican	52	1	43	8

Kern offered a third amendment providing for dependent children without a mother: 33 percent of the dead parent's monthly wage for the first child, 10 percent for each of the others. This one was defeated 25-50, as 24 Democrats and a Republican were denied by 43 Republicans and 7 Democrats.⁸¹ The Indianian came forth with a fourth amendment which extended compensation coverage due to the loss of hearing from seventy to ninety-six months. This Kern amendment lost by the vote of 28-49, as 27 Democrats and a Republican could not match the negative votes of 43 Republicans and 6 Democrats.⁸² Smith (Democrat-Georgia) wanted the basic plan of compensation extended from eight years to "during life expectancy of the deceased." Smith's motion was defeated, 22-49, as 22 Democrats faced the opposition of 42 Republicans, whose ranks were augmented by 7

⁸¹Ibid., pp. 5954-55.

Party in Senate	No. in Party	Vote on Kern Amendment		
		For	Against	Nonvoting
Democratic	43	24	7	12
Republican	52	1	43	8

⁸²Ibid., p. 5955.

Party in Senate	No. in Party	Vote on Kern Amendment		
		For	Against	Nonvoting
Democratic	43	27	6	10
Republican	52	1	43	8

Democrats.⁸³ The junior senator from Georgia then proposed an amendment which excused an employee from notifying his employer of legal action if the latter was told about the accident within thirty days of its happening. This Smith proposal received a vote of 23-49.⁸⁴ Twenty-three Democrats supported it, while 43 Republicans and 6 Democrats voted to kill it. Reed (Democrat-Missouri) suggested a new definition of "dependent over sixteen": for a male, one who was physically or mentally disabled; for a female, until she married or reached the age of twenty, whichever came sooner. Reed's amendment was turned aside by the Senate, 27-49,⁸⁵ as 26 Democrats and a Republican favored its

⁸³Ibid., p. 5957.

Party in Senate	No. in Party	Vote on Smith Amendment		
		For	Against	Nonvoting
Democratic	43	22	7	14
Republican	52	0	42	10

⁸⁴Ibid., p. 5956.

Party in Senate	No. in Party	Vote on Smith Amendment		
		For	Against	Nonvoting
Democratic	43	23	6	14
Republican	52	0	43	9

⁸⁵Ibid., p. 5955.

Party in Senate	No. in Party	Vote on Reed Amendment		
		For	Against	Nonvoting
Democratic	43	26	6	11
Republican	52	1	43	8

adoption, and 43 Republicans and 6 Democrats did not. The junior senator from Missouri offered another amendment which would have added 25 percent of the normal claim to the compensation paid an injured railroad employee, if it was proven in court that his company had failed to obey federal regulations regarding the operation of interstate carriers. This Reed proposal died, 29-46; 28 Democrats and a Republican could not deter the will of 46 Republicans and 6 Democrats.⁸⁶

With the alliance of Republicans and certain Democrats determined to bring the bill to final passage, the foes of the "unamended" measure now desperately offered a motion to postpone further consideration for three weeks. The maneuver did not work, as the motion went down to defeat, 24-55.⁸⁷ Ten Democrats joined 45 Republicans in refusing delay on the motion; 24 Democrats supported the maneuver. The roll call on final passage in the Senate came soon

⁸⁶Ibid., p. 5958.

Party in Senate	No. in Party	Vote on Reed Amendment		
		For	Against	Nonvoting
Democratic	43	28	6	9
Republican	52	1	40	11

⁸⁷Ibid., p. 5959.

Party in Senate	No. in Party	Vote on Motion to Postpone		
		Against	For	Nonvoting
Democratic	43	10	24	9
Republican	52	45	0	7

thereafter. The vote provided little surprise except for the larger than might be expected Democratic support for the bill. S. 5382 passed, 64-15.⁸⁸ Twenty Democrats and 44 Republicans approved it, while 15 Democrats refused their sanction to the very end.

When the bill reached the House, it was sent to the Committee on Judiciary for the rest of the second session. On ^March 1, 1913, the bill as amended by this Committee was brought before the lower chamber and presented for speedy passage.⁸⁹ On a motion to suspend the rules and pass the bill, S. 5382 with House amendments received a favorable vote of 218-81.⁹⁰ One hundred and sixteen Republicans and 101 Democrats pushed the bill through over the opposition of 79 Democrats and 2 Republicans. The action in the House

⁸⁸Ibid.

Party in Senate	No. in Party	Vote on Passage of Bill		
		For	Against	Nonvoting
Democratic	43	(20+2) 22	(15+1) 16	5
Republican	52	45	0	7

⁸⁹Brantley claimed that the bill had been bottled up in committee by Floyd of Arkansas for almost a year; 62 C.R., 49, 4545.

⁹⁰Ibid., p. 4547

Party in House	No. in Party	Vote on Passage of Bill		
		For	Against	Nonvoting
Democratic	224	101	79	44
Republican	156	116	2	38

so late in the third session left little time for both the House and Senate to agree on a final version of the bill. Sutherland (Republican-Utah), the floor leader of the measure in the Senate, tried to steer the Senate toward a quick acceptance of the ninety-eight amendments tacked onto the bill by the House. He told his colleagues that most of the revisions were of a "formal" character (that is, word changes), and thus should be readily acceptable to the Senate; as to amendments of a "material" nature, one raised the wage schedule used for figuring compensation rates to a new maximum figure of \$60 (from \$50), a second shortened the waiting period before payment to five days (instead of two weeks), and a third included a proviso in the bill restricting the removal of cases brought into court either to the county where the action arose or where the employee resided. It was clear from the manner of Sutherland's statement that he hoped the upper chamber would act quickly and positively on the amended. Smith of Georgia (Democrat) was ready, however, to develop the "coup de grace" to the bill. He could not stop a motion to consider the House amendments, which passed 44-10 (31 Republicans and 13 Democrats for, with the opposition consisting of 9 Democrats and 1 Repub-

lican),⁹¹ but he could and did threaten to talk the rest of the session out rather than let the Senate vote again on the measure.⁹² Not only would a filibuster kill S. 5382, but it would prevent final action on a number of appropriation bills that were perennially left for the final hours of the short session. Smith's threat was taken seriously as the bill was laid aside.

In the Senate, support for the compensation bill as it was reported from committee came from 43 Republicans and 4 Democrats (Chamberlain of Oregon, Newlands of Nevada, Percy of Mississippi, and Thornton of Louisiana).⁹³ These 47 resisted consistently every effort to amend the bill in any way. Eight Democrats, who voted for passage of the bill and for consideration of the House amendments (thereby displaying support for bringing the bill closer to enactment) formed a middle group, each of whose members at times broke from the first group of "standpatters" and supported sundry amendments. The eight senators grouped in order of

⁹¹Ibid., p. 4673.

Party in Senate	No. in Party	Vote on Consideration		
		For	Against	Nonvoting
Democratic	45	13	9	23
Republican	50	(31+1) 32	1	17

⁹²Ibid., pp. 4673, 4675 (Smith Statement).

⁹³See Appendix V.

increasing support for amendment of the bill were: Foster of Louisiana, Johnson of Maine, Pomerene of Ohio; Chilton of West Virginia and Williams of Mississippi; Clarke of Arkansas and Gardner of Maine; Watson of West Virginia. Three Democrats who were constant backers of revision efforts, but who voted for passage and the consideration of House amendments formed a third group: Lea of Tennessee, Martin of Virginia, and O'Gorman of New York. Smith of South Carolina missed most of the 1912 action on the measure, but his vote for consideration places him close to those in the third group. A group of six Democrats for amendment after amendment, abstained from voting on the motion of consideration, but did deliver their votes for passage of the bill: Gore of Oklahoma, Hitchcock of Nebraska, Johnston of Alabama, Martine of New Jersey, Smith of Arizona, and Swanson of Virginia. The one Republican who deviated from the bloc, Poindexter of Washington, fell into this category. A last group of sixteen Democrats, after offering and supporting amendments to the bill, refused to vote either for passage or for the final motion of consideration. These were the men ready to filibuster to kill the bill: Bacon and Smith of Georgia, Bryan and Fletcher of Florida, Over-

man and Simmons of North Carolina, Reed and Stone of Missouri, Kern and Shively of Indiana, Ashurst of Arizona, Culberson of Texas, Davis of Arkansas, Myers of Montana, Paynter of Kentucky, and Tillman of South Carolina.

In the House, support for S. 5382 came primarily from Republicans, northern Democrats, and Democrats from Alabama, Virginia, Missouri, Kentucky, and Louisiana. Strong opposition came from the Democratic delegations of Texas, North Carolina, Arkansas, Mississippi, Tennessee, Georgia, and Missouri. The Missouri delegation split five for, seven against. A breakdown of the Democratic party in the lower chamber by region on the vote to pass S. 5382 with amendments shows that southern and southwestern Democrats provided 68 votes opposing the measure and 31 favoring it, while northern and western Democrats cast 70 ballots for and only 11 against. In other words, 80 percent of the Democrats from non-South states and 31 percent of the Democrats from the South supported final passage of the bill.

It would appear from the nature of the support delivered to the bill by the Republican party in both houses, and the "conservative" character of those Democratic senators whose voting pattern hardly differed from that of

members of the majority in the upper chamber, that passage of this bill would have been a fine example of the type of "progressive" reform that a present-day historian calls "triumphs of conservatism."⁹⁴ Federal regulation of injury and death compensation promised efficiency and uniformity throughout the nation. Moreover, it relieved the railroads of both "radical" state legislation and unlimited damage awards by labor-sympathetic juries. It seemed on the surface to help labor, and yet was perfectly acceptable to business.

The Senate acted on other labor questions in the period between May, 1912, and March 14, 1913. While considering H.R. 9081, a bill establishing an eight-hour day for federal laborers and mechanics, Lodge (Republican-Massachusetts) offered an amendment to the measure which permitted a nine-hour work day during the week and a three-hour Saturday shift. Reed (Democrat-Missouri) noted that labor officials were opposed to the amendment; it was defeated 14-35, as 20 Democrats and 15 Republicans blocked it

⁹⁴Kolko, Triumph of Conservatism, 2, 279-83.

over the support of 12 Republicans and 2 Democrats.⁹⁵
 The bill passed on May 31, 1912, by a vote of 45-11.⁹⁶
 Twenty-five Democrats and 20 Republicans voiced their approval, while 10 Republicans and a Democrat disagreed. The Senate passed another eight-hour bill, this one for dredge workers, H.R. 18787, and sent it back to the House with amendments. On January 24, 1913, McCumber (Republican-North Dakota) offered a motion to call back H.R. 18787 from the House, and to reconsider the Senate vote on passage in order to send the bill back to the Commerce Committee. Shively (Democrat-Indiana) tried to block McCumber's recall suggestion by proposing a motion to lay it on the table. Shively's motion was defeated by a tie vote, 31-31, as 28 Democrats and 3 Republicans voted "aye" to preventing a vote of reconsideration, and 29 Republicans

⁹⁵62 C.R., 48, 6935 (Lodge Amendment); *ibid.*, p. 6941.

Party in Senate	No. in Party	Vote on Lodge Amendment		
		Against	For	Nonvoting
Democratic	43	(20+3) 23	2	18
Republican	52	(15+2) 17	(12+2) 14	21

⁹⁶*ibid.*, p. 7455.

Party in Senate	No. in Party	Vote on Passage of Bill		
		For	Against	Nonvoting
Democratic	43	(25+2) 27	(1+1) 2	14
Republican	52	(20+4) 24	(10+1) 11	17

and 2 Democrats voted "nay."⁹⁷ McCumber's proposal when put to a direct vote failed to carry, 27-37.⁹⁸ Twenty-eight Democrats and 9 Republicans rejected reconsideration while 25 Republicans and 2 Democrats favored it.

On August 12, 1912, the Senate was considering H.R. 21279, the Post Office Appropriation bill, when several amendments touching labor questions were presented. A committee amendment gave postal workers the right to unionize. Wesley Jones (Republican-Washington) offered an amendment to the committee amendment which added the proviso "only those unions not affiliated with outside organizations." Jones' amendment was a restriction upon already established unions. It was turned down, 20-31, as 20 Democrats and 11 Republicans said no, and 18 Republicans and 2 Democrats

⁹⁷62 C.R., 49, 1954.

Party in Senate	No. in Party	Vote on Motion to Table		
		For	Against	Nonvoting
Democratic	44	(28+1) 29	2	13
Republican	51	3	29	19

⁹⁸Ibid., p. 1955.

Party in Senate	No. in Party	Vote on McCumber Motion		
		Against	For	Nonvoting
Democratic	44	(28+1) 29	2	13
Republican	51	9	(25+1) 26	16

voted yes.⁹⁹ Reed (Democrat-Missouri) suggested that a statement be put in the bill that postal workers, as members of the civil service, were not to strike. Only 7 senators, 1 Democrat and 6 Republicans, stuck up for the freedom of government employees to strike.¹⁰⁰ Twenty-two Democrats and 27 Republicans supported Reed's restrictive amendment. Burton (Republican-Ohio) offered an amendment that struck those provisions from the bill that permitted the utilization of postal workers for more than eight hours a day under emergency conditions for extra pay. The amendment sought to strengthen the eight-hour-day movement by eliminating the normal route of abuse. Burton's proposal was defeated, 20-40.¹⁰¹ Eleven Democrats and 9 Republicans

⁹⁹62 C.R., 48, 10792.

Party in Senate	No. in Party	Vote on Jones Amendment		
		Against	For	Nonvoting
Democratic	43	20	2	21
Republican	51	(11+1) 12	(18+1) 19	20

¹⁰⁰Ibid., p. 10804.

Party in Senate	No. in Party	Vote on Reed Amendment		
		Against	For	Nonvoting
Democratic	43	1	22	20
Republican	51	6	(27+2) 29	16

¹⁰¹Ibid., p. 10821.

Party in Senate	No. in Party	Vote on Burton Amendment		
		For	Against	Nonvoting
Democratic	43	11	(14+1) 15	17
Republican	51	9	(26+1) 27	15

supported the move, but 26 Republicans and 14 Democrats opposed. Bryan (Democrat-Florida) proposed an amendment which provided that postal workers be given time off the day after (except Sundays) they were required to work overtime. The time off was in lieu of extra pay. The amendment was accepted by voice vote. Myers (Democrat-Montana) made a motion that the Senate reconsider its vote on the Bryan amendment. Myers' motion was favorable to removing this "bad deal" for labor from the bill. The motion to reconsider was rejected, 22-29, as 14 Democrats and 8 Republicans took the "pro-labor" stance, and 21 Republicans and 8 Democrats took the "pro-economy" position.¹⁰²

The final bill pertaining to labor undertaken by the 62nd Congress was H.R. 23673, a bill regarding seamen in the American merchant marine. Its subtitle was a bill to "abolish involuntary servitude while in foreign ports, to prevent unskilled manning of American vessels, the training of boys in the American Merchant Marine. . . ." LaFollette

¹⁰²ibid., pp. 10821-22 (Bryan Amendment); ibid., p. 10831 (Myers Motion and vote).

Party in Senate	No. in Party	Vote on Motion to Reconsider		
		For	Against	Nonvoting
Democratic	43	14	8	21
Republican	51	8	21	22

(Republican-Wisconsin), who was one of the leading voices calling for a measure of this kind in the Senate over many years, offered several amendments designed to improve the lot of the average seamen. His first suggestion was that in the section regarding holidays for seamen, the words "or vessels less than 300 gross tons, or vessels whose total voyage is less than twenty-four hours" should be stricken from the list of vessels to which the section was not to apply. The amendment lost, 24-37, as the Democrats split 13-13 over it.¹⁰³ LaFollette's second proposal struck that part of the bill directed against people using threats or force to persuade others not to go on a ship, or to stay on a ship, or to disobey lawful orders of the master. This lost also, 28-40, as 17 Democrats and 11 Republicans could not overcome 27 Republicans and 13 Democrats.¹⁰⁴ LaFollette's

¹⁰³ 62 C.R., 49, 4563 (Text of bill); ibid., p. 4585 (vote).

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	45	13	13	19
Republican	50	11	24	15

¹⁰⁴ ibid., pp. 4585-86.

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	45	17	13	15
Republican	50	11	27	12

third amendment striking "carrying passengers" from the definition of a sailing vessel ("those navigating rivers exclusively") that was not to be included in the act, was adopted by a vote of 47-16.¹⁰⁵ It received the approval of 25 Democrats and 22 Republicans, while 14 Republicans and 2 Democrats disapproved. His fourth idea was that a "board of inspectors" was to administer the practical test for seamen regarding the launching and handling of lifeboats, instead of a "master." This, too, was adopted, 35-30, with 19 Democrats and 16 Republicans favoring it, and 20 Republicans and 10 Democrats opposing.¹⁰⁶ After these victories, LaFollette put his first amendment striking vessels over 300 tons or those whose journey was less than twenty-four hours from vessels not be included in the act, before the Senate again. It was rejected a second time, 21-39, receiving 14 Democratic and 7 Republican favorable votes, but

¹⁰⁵Ibid., p. 4586.

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	45	25	2	18
Republican	50	22	14	14

¹⁰⁶Ibid.

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	45	19	10	16
Republican	50	16	20	14

27 Republican and 12 Democratic negative ones.¹⁰⁷ Burton (Republican-Ohio) got into LaFollette's show by offering an amendment which inserted after "vessels" the words "carrying passengers for hire," which had the effect of deleting LaFollette's third proposal. Burton's idea was turned down by a vote of 21-37, as 19 Democrats and 18 Republicans sought to preserve LaFollette's position, and 15 Republicans and 6 Democrats attempted to reverse that Senate decision.¹⁰⁸

An analysis of the roll calls of the Seamen's bill of 1913 demonstrates that region, which appeared to be such a vital factor in other labor questions such as child labor and compensation insurance, also played a part in the voting on this matter as far as Democratic Senators were concerned.¹⁰⁹ Of the 18 Democrats who favored the

¹⁰⁷Ibid., p. 4587.

Party in Senate	No. in Party	Vote on LaFollette Amendment		
		For	Against	Nonvoting
Democratic	45	14	12	19
Republican	50	7	27	16

¹⁰⁸Ibid., p. 4588.

Party in Senate	No. in Party	Vote on Burton Amendment		
		Against	For	Nonvoting
Democratic	45	19	6	20
Republican	50	(18+1) 19	15	16

¹⁰⁹See Appendix VI.

Seamen's bill as Senator LaFollette envisioned it, 8 were from the North and Northwest, while 10 were from the South and Southwest; of the 13 Democrats who opposed LaFollette's revisions, 3 represented northern and northwestern states, while 10 were from the South and Southwest. In percentage form, northern Democrats in the Senate favored the LaFollette positions, 73 percent to 27 percent, while southerners broke 50 percent-50 percent. As for Republican support, of the 13 who favored LaFollette's amendments, 12 represented states west of the Mississippi. (Thirteen Democrats and 11 Republicans missed the roll calls in these, the last, days of the third session.)

For the 62nd Congress, the degree to which Democratic senators favored pro-labor legislation was expressed by the index of 65, while their Republican opposites produced a rating of 32. For the Democratic Representatives in the 62nd, the index was 71, while Republicans in the House were at 66.

CHAPTER VIII

CONCLUSIONS

The Democratic party in Congress played a vital, and yet unappreciated, role in bringing reform legislation into the arena of national politics, 1897-1913. The party, weak in numbers and wracked by a struggle for power among regional leaders, did compile an impressive record on key reform issues. Moreover, in most cases, the Democrats were led by men from the southern states of the Union.¹ Whether these men were populist sympathizers or just represented the important interests in their home districts, they did tend to sponsor programs smacking of populism. Direct election of senators, federal income tax, regulation of large corporations and of railroads -- all of these were demanded by the agrarian crusaders and all of these were accepted by the bulk of the congressional Democrats

¹Anne Firor Scott, The Southern Progressive in National Politics, 1906-1916 (Radcliffe, Ph.D. Dissertation, 1957), passim. Arthur S. Link, "The Progressive Movement in the South, 1870-1914," North Carolina Historical Review, 23 (1946), 172-95.

in the days of McKinley, Roosevelt, and Taft. However, if it is granted that progressive reform was "not simply the Populist buggy rolled out for a new century," that it "was much more genuinely concerned with the problems of labor," then it must be said that the Democrats were eager in this period to play the role of friend of labor.² Although southern Democratic support for reform legislation pertaining to labor was not always as strong as northern and western Democratic support, at no time did the former couch their resistance in terms of antagonism to labor. Democrats who held back from federal regulation of child labor, the merchant marine, and compensation insurance usually said that they were not ready to let the need for such legislation overcome their wariness toward an expanding national government. The party's advocacy of labor reform and its record were duly noted by the leadership of the American Federation of Labor.³

The adoption of a constitutional amendment embodying direct election of senators was delayed primarily by

²Quote from Eric Goldman, Rendezvous with Destiny: A History of Modern American Reform (New York, 1958), Pb., p. 60.

³Marc Karson, American Labor Unions and Politics (Boston, 1965), Pb, pp. 42-73.

the Republicans in the Senate of the United States, who had the control necessary to block consideration of the proposal for years. Both Democrats and Republicans in the House of Representatives registered overwhelming support for the reform in each of the first three Congresses of the period, although there was some sentiment among Republicans for a watered-down version featuring "option." Senate Democrats, unlike their fellows across the aisle, were as eager for the electoral change as their compatriots in the lower chamber; however, they were unable to bring about consideration of the project with their limited voting power. When a group of western farm-state Republicans appeared in the Senate after 1906, the picture changed. The die was cast when the election of 1910 increased Democratic bastions and decreased the number of those actively opposed to the constitutional amendment. The interjection of the Negro voting rights issue confused the matter for a while, but the question was resolved favorably in spite of it.

Immediately below is a chart expressing in statistics the degree to which each party supported alteration in the method of electing United States Senators.

<u>Congress</u>	<u>House Democrats</u>	<u>House Republicans</u>	<u>Senate Democrats</u>	<u>Senate Republicans</u>
55th	79	71	. .	. .
56th	88	77	. .	. .
57th	. .	. .	86	23
60th	. .	. .	58	34
61th	. .	. .	78	42.5
62nd	81	80	84	74.5

There appears to be little question that the Democratic party provided the basic support and leadership in Congress necessary for the adoption of income tax as a valid source of revenue for the government. The Republicans of this generation, as did the Supreme Court, chose to forget the precedent established by their precursors of the Civil War years. Democrats called in clarion voice for either an amendment to the Constitution permitting the government to tax incomes or other bills incorporating the income tax to test the Court's decision. Alone, Democrats could only speak out; with allies among the majority party, in the latter years of this period, they pushed the reform through Congress. The chart immediately below expresses the degree to which the major parties favored a constitutional amendment encompassing the income tax:

<u>Congress</u>	<u>House Democrats</u>	<u>House Republicans</u>	<u>Senate Democrats</u>	<u>Senate Republicans</u>
55th	88	8	. .	. .
56th	91	12	89	9
61st	94	28	92	47
62nd	55	48	88	62

Democrats throughout 1897-1913 were united and consistent in their efforts to curb what they considered tendencies toward monopoly in the American economy. They pushed for broad, sweeping legislation at times, although they more often sought to hit at particular "trusts" or in some limited way to bring about the arrest of trustification. They tried to get the government to consider buying goods overseas for projects undertaken by federal agencies (for example, the Panama Canal, battleships) as a means of forcing American industries to bring their domestic prices in line with those in the world market. They attempted to get the government to investigate prices of American goods overseas and at home, in order to publicize the suspected discrepancy and awake public reaction. It appears clear that Republicans, especially those in the Senate, were not well disposed toward efforts proposed by Democrats to control business practices. Support for anti-

trust legislation given by each of the parties is expressed in the following chart:

<u>Congress</u>	<u>House Democrats</u>	<u>House Republicans</u>	<u>Senate Democrats</u>	<u>Senate Republicans</u>
55th	. .	. .	78	11
56th	87	26	77	19
57th	82	52	90	20
58th	75	25	. .	. .
59th	81	39	77	18
60th	83	19	65	25
61st	. .	. .	88	12
62nd	60	59	. .	. .

Democrats, for the most part, believed that there was a serious need for legislation to bring railroad practices into harmony with the public welfare. At first, they sought to strike at railroads by reducing appropriations for the carrying of the mails. Only a few were in sympathy with the populist Omaha Platform's call for federal ownership and operation of interstate carriers. Many believed that a good way to keep railroad rates down was to safeguard competition in the field; thus, the Anti-Scalping bill of 1899, with provisions that Democrats

thought would encourage consolidation, was vigorously opposed by them. They supported the Elkins Anti-rebate bill of 1903, not because they thought it was the answer to their demands, but because they believed that it was the best that could be gotten at the time. They sought further powers for the Interstate Commerce Commission to curb railroad abuses, then and later, and not just the elimination of rebates -- a practice that railroad owners themselves wanted. During debate on the Hepburn (railroad) bill of 1906, Senate Democrats supported amendments which extended the provisions of the Interstate Commerce Act of 1887 to corporations transporting commodities by pipe line; which severely limited the issuance of "free passes"; which banned the transportation of commodities manufactured or bought for sale by the railroads; which set up a high fine system for violation of same; which eliminated the long haul-short haul discriminatory procedure; which clearly outlawed discrimination by falsely representing rates; which removed the power of federal courts to interfere with orders of the ICC; which curtailed the power of federal courts to act rapidly to stop ICC orders; which directed the ICC to consider revenue from intrastate traffic in rate-fixing; which gave the ICC a chance to review information

presented to an appellate court that had not been before it before; which sought to prevent judges with railroad stocks or "free passes" from sitting on appeals from ICC decisions; which ordered the ICC to investigate property evaluation of railroad company holdings. Roll call analysis of votes on these amendments designed to strengthen the hand of the ICC in dealing with railroad abuses and to produce a measure slanted in the public interest, placed 90 percent of the Senate Democrats among those most vigorous with such support along with 10 percent of Senate Republicans. In the House of Representatives of the 59th Congress, House Democrats tried vainly to have their colleagues across the aisle join them in instructing the conference committee of the House to approve Senate improvements in the bill.

In the same manner, Democrats were in the forefront of those pushing for the enactment of effective railroad regulation legislation in 1910. They tried to eliminate those provisions in the (Mann-Elkins) bill setting up a Court of Commerce -- a device they suspected would seriously undermine the ability of the ICC to fix fair rates. Knowing the president (Taft) was solidly behind the Court and that their chances to scuttle it completely were narrow,

they sought at least to limit its powers and jurisdiction. They backed provisions to keep judges owning railroad stock from presiding over ICC cases; which gave the ICC the power to conduct property evaluation investigations; which extended the authority of the ICC over communications networks; which banned "free passes and franks" for telegraph and telephone messages; which prohibited transportation of commodities produced by companies in which railroads held stock or owned; that curtailed power of federal judges to prevent the carrying out of state laws that they felt were "unconstitutional"; that gave shippers an immediate audience before the Court of Commerce under certain conditions. Roll call analysis on the votes cast pertaining to the 1910 Railroad Regulation bill showed that 59 percent of Senate Democrats along with 24 percent of Senate Republicans favored those proposals strengthening the measure (vis-a-vis the public interest).

In the 62nd Congress, Democrats in both houses sought to kill the Commerce Court by attaching riders to appropriations bills. Their strategy was foiled for the time being by two presidential vetoes. In the Senate, Democratic support was instrumental in the adoption of an amendment to the Panama Canal bill of 1912, granting the

ICC the power to order railroads to get rid of water transportation stock, if the holding of such was not in the public interest. Support for regulation of interstate carriers legislation over the years, 1897-1913, is noted in the chart below:

<u>Congress</u>	<u>House Democrats</u>	<u>House Republicans</u>	<u>Senate Democrats</u>	<u>Senate Republicans</u>
55th	73	28	65	21
56th	79	20	58	21
58th	88	32	86	24
59th	81	49	78	32
60th	. .	. .	72	42
61st	71	36	70	39
62nd	76	25	71	42

In the field of labor legislation in the years 1897-1913, there was a multiplicity of issues. In general, support for pro-labor laws was stronger among non-southern Democrats than southern Democrats, and stronger among Democrats than Republicans. While the Senate was discussing the Erdman Act of 1898, a faction of Democrats unsuccessfully tried to improve labor's position in arbitration procedure. Democrats sought to get eight-hour work bills

pertaining to government employees before the Congress time and again. They tried to get Congress to remove labor organizations from the jurisdiction of the Sherman Anti-Trust Act of 1890. They blocked legislation on "conspiracy" and "injunctions" regarding labor when they were convinced that it was not in the best interest of the unions. Most tried to eliminate the utilization of cheap Chinese labor on American trans-oceanic vessels by the passage of restrictive legislation. They were instrumental in pushing the strong LaFollette version of the limitation of hours for railroad workers bill across in the Senate, and were key to the effort to block weakening of the Senate bill in the House of Representatives.

During consideration of the employers' liability bill of 1908, Senate Democrats failed to coalesce sufficiently around LaFollette's version and permitted a weaker bill to stand as the working model. Then, they tried and failed to improve the latter version. This "softness" toward federal regulation of business-labor relationships was further evidenced in the child labor bill for the District of Columbia (60th Congress), the children's bureau bill (62nd Congress), the compulsory compensation

bill (62nd Congress) and the merchant seamen's bill (62nd Congress). Actually, hard-core opposition to federal intervention on the side of labor was characteristic, not of the southern Democratic wing of the party, but of men representing those states that were in the process of developing manufacturing (particularly textiles) industries, viz., North Carolina, South Carolina, Georgia, Florida. There was support for each of these measures from southern Democrats as well as northern and western Democrats. The chart below notes the support given pro-labor legislation during 1897-1913 by each of the major parties:

<u>Congress</u>	<u>House Democrats</u>	<u>House Republicans</u>	<u>Senate Democrats</u>	<u>Senate Republicans</u>
55th	82	52	63	33
56th	84	66	85	37
57th	. .	. .	83	15
58th	. .	. .	79	18
59th	86	63	76	58
60th	80	65	55	44
61st	82	29	67	31
62nd	71	66	65	32

There is no doubt that "progressive" Republicans in both the House and the Senate were fundamental to the reform movement in the twentieth century. No one can begrudge historians who have dwelt at length on their thoughts, programs, and activities. On the other hand, it is right and proper now to accord some recognition to their allies, the congressional Democrats, without whom there would have been few victories for reform. The "progressive Republicans" were courageous to buck their party leaders and seek the road of reform; but it should not be forgotten that that route made them bedfellows of the Democrats, and they had been keeping the bed warm (in expectation) for a decade!

APPENDICES

APPENDIX I

To get the Grassmuck index for a Congress, all roll calls on the question at hand for the Congress were subjected to the following analysis:

On a roll call, the total number of votes favoring the "progressive" position, the total number opposing that position, and the total number of nonvoting were tallied for each party. "Progressive" was defined as that position most favorable to meaningful reform as articulated by those openly advocating reform. In Senate roll calls on railroad and corporation regulation after 1905, the position taken by Robert LaFollette of Wisconsin was quite often used as a guide to progressive sympathy.

When there was more than one roll call for a Congress on the issue, the sum of all votes favoring the reform cast by the party membership, and the sums representing votes cast opposing by the party, and votes not cast by the party, were produced.

Nonvoting was one problem that required a special procedure for this project. Absenteeism was frequently high at the turn of the century. It was considered desirable to keep the nonvote figure as low as possible in order to register the maximum sentiment for or against a measure.

This was particularly important in treating roll calls of the Senate, as the numbers involved there are relatively small to begin with. At the same time, nonvoting figures could only be adjusted if there was accurate information regarding position on the matter aside from the actual abstention of vote. The following rule of thumb was arbitrarily selected:

A nonvoter was placed in the appropriate voting column (vote favoring, vote against) and withdrawn from the nonvoting column for that roll call if he was recorded as favoring one position or the other by his own statement or one made in his behalf immediately before a roll call (Senate) or immediately after (House). This rule of thumb was made use of in step (1) of the analysis. In step (2) the summing of the columns, the adjusted figures were the ones tallied. In the roll call charts produced in the footnotes of this study, when a vote was adjusted the actual vote and the shifted vote appear together in parentheses joined by an additive sign. Thus, $(17+1)$ 18 should be understood to signify 17 votes for, 1 nonvote stating for, 18: the adjusted vote.

As soon as the totals were produced in step (2), a

second procedure for coping with nonvoting was utilized. The figure for nonvoting, at this point, represented all those members of the party not recorded as voting in the roll call(s) and whose intentions were not indicated in the manner described above. The method which seemed to offer the greatest degree of impartiality under the circumstances was to divide the nonvote figure for each party in half, and add that to each of the voting columns of the respective parties. (For example, if there were 24 votes favoring, 12 votes against and 12 not voting, the adjusted figures would read: 30 votes favoring and 18 votes against.) Two other methods of coping with the nonvoter were rejected inasmuch as they encompassed the assumption that nonvoters would have voted in precisely the same ratios as the rest of their comrades; although this might have been closer to the truth of the matter, the assumption was not verifiable.

After the nonvote was adjusted in step (2), the final part of the analysis was at hand. At this point, there was an adjusted figure representing all votes of the party cast favoring reform, and another for all votes of the party cast against. Together, these numbers represent the total voting power of the party for all of the roll calls on the

issue for that Congress. The index for support of reform was then produced by dividing the total voting power figure into the adjusted votes favoring figure. (For example, if the Democrats could have provided a maximum of 200 votes favoring tariff revision, and did produce 150, the index for support of tariff revision for the party would be 75.

Some generalizations can be offered about the characteristics of the Grassmuck index. At 100 and at zero, the index designates unanimity within the party. At 50, it points to maximum division within the party. The higher it is, the greater the sentiment for the desired reform; concurrently, the lower it is, the greater the sentiment against the reform. The index in series is quite useful in determining the buildup of support over time. Perhaps a sample case will most easily illustrate this. If the index for one party remained over 80 over a period of years, and the index for the other party jumped from 20 to 40 to 60 to 70 over the same time, it can be concluded that the first party solidified its support on the issue before or early in the period and maintained that position, while the second started with relatively little support for the position and gradually developed a large block favoring it.

APPENDIX II

SCALING OF SENATE VOTING ON H.R. 12987,
RAILROAD BILL (1906)

A plus sign (+) designates a vote favoring a stronger bill. P+ indicates a pair for. A minus sign (-) designates a vote favoring a weaker bill (or perhaps none at all). P- indicates a pair against. Roll calls are arranged by increasing party support for strong provisions.

Perfect Types

(1)	-	-	-	-	-	-	-
(2)	-	-	-	-	-	-	NV
(3)	-	-	-	-	-	-	+
(4)	-	-	-	-	-	NV	+
(5)	-	-	-	-	-	+	+
(6)	-	-	-	-	NV	+	+
(7)	-	-	-	-	+	+	+
(8)	-	-	-	NV	+	+	+
(9)	-	-	-	+	+	+	+
(10)	-	-	NV	+	+	+	+
(11)	-	-	+	+	+	+	+
(12)	-	NV	+	+	+	+	+
(13)	-	+	+	+	+	+	+
(14)	+	+	+	+	+	+	+

Type 1 connotes those favoring the weakest of bills. Type 14 represents those favoring the strongest of bills.

Roll Calls Used for This Analysis

Bailey Amendment	40,6672-73
Tillman Amendment	7014
LaFollette Amendment	6809
Culberson Amendment	6455
Culberson Amendment	6945
Carter Amendment	6370
Foraker Amendment	6811

NV = Nonvoting

Type 1: 10 Senators - Roll Calls

Bulkeley (R)	-	-	-	-	NV	-	-
Dick (R)	NV	-	-	-	-	-	-
Foraker (R)	-	-	-	-	+	-	(E)
Gallinger (R)	-	-	-	-	-	-	-
Kean (R)	-	-	-	-	-	-	-
Morgan (D)	-	NV	NV	NV	NV	NV	-
Platt (R)	NV	-	-	-	-	-	-
Scott (R)	-	-	-	-	-	NV	-
Smoot (R)	-	-	-	-	-	-	-
Wetmore (R)	-	-	-	-	+	-	(E)

Type 2: 5 Senators - Roll Calls

Clark, Wyo. (R)	-	-	-	-	-	-	NV
Hale (R)	+	NV	-	-	NV	-	NV (E)
Hopkins (R)	-	-	-	-	+	-	NV (E)
Sutherland (R)	-	P-	-	+	-	-	NV (E)
Warren (R)	P-	NV	NV	-	NV	-	NV

Type 3: 5 Senators - Roll Calls

Aldrich (R)	-	NV	-	-	NV	+	- (MPV, 1 or 6)
Carter (R)	-	-	-	-	-	-	+
Dillingham (R)	-	-	-	-	-	-	+
Dryden (R)	-	-	-	-	-	-	+
Proctor (R)	NV	NV	NV	NV	NV	-	+

Type 4: 2 Senators - Roll Calls

Ankeny (R)	-	-	-	-	-	NV	NV
Crane (R)	-	-	-	-	-	NV	+

Type 5: 11 Senators - Roll Calls

Alger (R)	-	-	-	-	-	+	+
Allee (R)	-	-	-	-	-	+	+
Beveridge (R)	-	NV	NV	NV	-	+	NV
Burnham (R)	NV	-	-	-	-	+	+
Cullom (R)	-	NV	-	-	-	+	+
Flint (R)	-	-	-	-	+	-	+
Hansborough (R)	-	+	-	-	+	-	+
Lodge (R)	-	-	-	-	-	+	+
McCumber (R)	-	-	-	-	+	-	+
Millard (R)	-	-	-	-	-	+	NV
Spooner (R)	-	-	P-	P-	-	+	NV

(MPV, 7 or 3)
(1E, MPV 7 or 3)
(MPV, 7 or 3)

Type 6: 3 Senators - Roll Calls

Allison (R)	-	NV	P-	NV	NV	NV	+	(MPV, 9 or 3)
Hemenway (R)	-	NV	-	-	NV	+	NV	
Kittredge (R)	-	-	-	+	-	NV	+	(MPV, 9 or 4)

Type 7: 6 Senators - Roll Calls

Brandegee (R)	-	-	-	-	+	+	+	
Burrows (R)	-	NV	-	-	+	+	+	
Fulton (R)	-	-	-	-	+	+	NV	
Nelson (R)	-	-	-	+	-	+	+	(MPV, 9 or 5)
Perkins (R)	-	-	-	-	+	+	+	
Piles (R)	-	-	-	-	+	+	+	

Type 8: 1 Senator - Roll Calls

Penrose (R)	-	-	-	NV	+	+	NV	
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Type 9: 5 Senators - Roll Calls

Elkins (R)	-	-	+	-	+	+	NV	(MPV, 11 or 7)
Frye (R)	-	-	-	+	+	+	+	
Knox (R)	-	-	-	+	+	+	+	
Long (R)	-	-	-	+	+	-	+	(1E)
Nixon (R)	-	-	-	+	+	NV	+	

Type 10: 3 Senators - Roll Calls

Clapp (R)	-	-	NV	+	+	+	+	
Daniel (D)	-	-	NV	+	+	+	+	
Pettus (D)	-	-	NV	+	+	+	+	

Type 11: 2 Senators - Roll Calls

McEnergy (D)	+	NV	-	+	+	+	NV	(MPV, 14 or 9)
Warner (R)	-	-	+	+	+	+	+	

Type 12: 2 Senators - Roll Calls

Bacon (D)	-	NV	+	+	+	+	NV	
Money (D)	NV	NV	NV	+	NV	+	NV	(MPV, 14 or 9)

Type 13: 9 Senators - Roll Calls

Blackburn (D)	+	-	+	+	+	+	+	(MPV, 14 or 11)
Clark, Mont. (D)	-	+	NV	+	+	+	+	
Culberson (D)	-	+	+	+	+	+	+	
Dolliver (D)	-	+	+	+	+	-	+	(1E)

Type 13 - continued

Gamble (D)	-	+	+	P+	+	+	+	
Mallory (D)	NV	NV	+	NV	+	+	+	(MPV, 14 or 11)
Newlands (D)	-	+	+	NV	+	+	+	
Taliaferro (D)	-	+	+	+	+	P+	+	
Teller (D)	+	-	+	+	+	+	+	(MPV, 14 or 11)

Type 14: 21 Senators - Roll Calls

Bailey (D)	+	NV	+	+	+	+	+	
Berry (D)	+	+	+	+	+	+	+	
Burkett (R)	+	+	+	+	+	+	+	
Carmack (D)	P+	+	NV	NV	NV	NV	NV	
Clark, Ark. (D)	+	+	+	+	+	+	+	
Clay (D)	+	+	+	+	+	+	+	
DuBois (D)	+	NV	+	+	+	+	+	
Foster (D)	+	+	+	+	+	+	+	
Frazier (D)	+	+	+	+	+	+	+	
Gearin (D)	+	+	+	+	NV	+	+	
LaFollette (R)	+	+	+	+	+	+	+	
Latimer (D)	+	+	+	+	+	+	+	
McCreary (D)	+	NV	+	+	+	+	+	
McLaurin (D)	+	+	+	+	NV	+	+	
Martin (D)	+	NV	NV	+	+	+	+	
Overman (D)	+	+	+	+	+	+	+	
Patterson (D)	P+	NV	NV	NV	+	NV	NV	
Rayner (D)	+	+	NV	+	+	+	+	
Simmons (D)	+	+	+	+	+	+	+	
Stone (D)	+	+	NV	+	+	+	+	
Tillman (D)	+	+	+	+	+	+	+	

MPV = Mid-point value

E = Error

NV = Nonvoting

Summary of Scaling on H.R. 12987

Party	<u>Least "Progressive"</u>					<u>Types</u>					<u>Most "Progressive"</u>			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Democrats	1	0	0	0	0	0	0	0	0	2	1	2	7	19
Republicans	9	5	5	2	11	3	6	1	5	1	1	0	2	2

APPENDIX III

SCALING OF SENATE VOTING ON S.6737 (1910)

A plus sign (+) indicates position favorable to "progressive" point of view. P+ indicates a pair for. A minus sign (-) indicates position antagonistic to "progressive" viewpoint. P- indicates a pair against.

	<u>Perfect Types</u>						
(1)	+	+	+	+	+	+	+
(2)	+	+	+	+	+	+	NV
(3)	+	+	+	+	+	+	-
(4)	+	+	+	+	+	NV	-
(5)	+	+	+	+	+	-	-
(6)	+	+	+	+	-	-	-
(7)	+	+	+	-	-	-	-
(8)	+	+	NV	-	-	-	-
(9)	+	+	-	-	-	-	-
(10)	+	-	-	-	-	-	-
(11)	NV	-	-	-	-	-	-
(12)	-	-	-	-	-	-	-

Type 1 connotes those favoring the strongest of bills. Type 12 represents those favoring the weakest of bills.

Roll Calls Used for This Analysis

Overman Amendment	45, 7258
Clarke Amendment	6920
LaFollette Amendment	7372
Cummins Amendment	6915
Brown Amendment	7129
Elkins Amendment	4659
Heyburn Amendment	7369

Type 1: 4 Senators - Roll Calls

Bristow (R)	+	+	+	+	+	+	+
Burkett (R)	NV	+	+	+	P+	NV	+
LaFollette (R)	+	+	+	+	+	+	+
Purcell (D)	+	+	+	+	+	NV	+

Type 2: 3 Senators - Roll Calls

Cummins (R)	P+	+	NV	+	+	+	NV
Gore (D)	+	+	+	+	+	+	NV
Owen (D)	NV	+	P+	+	P+	+	NV

Type 3: 7 Senators - Roll Calls

Borah (R)	+	+	+	+	+	-	+	(MPV, 5 or 1)
Brown (R)	+	-	+	-	+	-	+	(MPV, 5 or 1) (3E)
Chamberlain (D)+	+	+	+	+	+	+	-	
Clapp (R)	+	+	+	+	+	+	P-	
Clay (D)	+	+	P+	+	NV	+	-	
Dixon (R)	+	+	+	+	+	-	+	(MPV, 5 or 1)
Dolliver (R)	+	+	+	+	+	+	-	

Type 4: 8 Senators - Roll Calls

Beveridge (R)	+	+	+	+	NV	NV	-	
Clarke (D)	NV	+	NV	+	NV	NV	NV	(MPV, 6 or 2)
Gamble (R)	+	+	+	+	NV	NV	-	
Johnston (D)	+	+	P+	+	NV	NV	-	
Newlands (D)	NV	+	+	NV	NV	NV	NV	(MPV, 7 or 2)
Percy (D)	P+	+	+	NV	NV	NV	-	
Shively (D)	+	+	+	+	+	NV	-	
Smith, S.C.(D)	+	+	P+	+	NV	NV	NV	(MPV, 6 or 2)

Type 5: 7 Senators - Roll Calls

Bourne (R)	+	+	+	+	+	-	-	
Crawford (R)	+	+	+	+	+	-	-	
Martin (D)	+	+	NV	+	+	-	NV	
Money (D)	+	NV	+	NV	+	-	-	
Overman (D)	+	+	NV	+	+	-	NV	
Rayner (D)	+	+	NV	P+	+	-	NV	
Simmons (D)	+	+	NV	+	+	-	NV	

Type 6: 7 Senators - Roll Calls

Bacon (D)	P+	+	+	+	-	-	-	
Fletcher (D)	+	+	+	+	-	-	-	
Foster (D)	P+	NV	NV	P+	P-	-	-	
Frazier (D)	+	+	NV	+	-	-	-	
Jones (R)	+	-	+	-	+	-	-	(MPV, 5 or 7) (2E)
Paynter (D)	NV	+	NV	+	-	-	-	
Stone (D)	+	+	+	+	-	NV	-	

Type 7: 1 Senator - Roll Call

Bailey (D)	+	+	+	-	-	NV	-	
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Type 8: 4 Senators - Roll Call

McEnery (D)	NV	NV	NV	-	NV	NV	NV	
Richardson (R)	NV	NV	NV	P-	P-	-	NV	
Smith, Md. (D)	NV	NV	NV	-	-	NV	-	
Taylor (D)	NV	+	NV	-	-	-	NV	

Type 9: 1 Senator - Roll Call

Hughes (D)	NV	+	-	NV	-	-	-
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Type 10: 3 Senators - Roll Calls

Burton (R)	+	-	-	-	-	-	-
Piles (R)	+	-	-	-	-	-	-
Warner (R)	+	-	-	-	-	-	-

Type 11: 8 Senators - Roll Calls

Aldrich (R)	NV	-	-	-	NV	-	-
Bradley (R)	NV	-	NV	-	NV	NV	NV
Guggenheim (R)	NV	-	-	-	-	-	-
Hale (R)	NV	-	NV	-	NV	NV	NV
Kean (R)	NV	-	-	-	-	-	-
Oliver (R)	NV	-	NV	-	NV	NV	NV
Smith, Mich.(R)	NV	-	NV	-	-	-	NV
Wetmore (R)	NV	-	NV	-	-	-	NV

Type 12: 29 Senators - Roll Calls

13 (R's)*	-	-	-	-	-	-	-
Briggs (R)	-	-	NV	-	-	P-	NV
Bulkeley (R)	-	NV	-	NV	-	-	-
Burrows (R)	-	-	NV	-	-	-	NV
Carter (R)	-	-	-	-	-	NV	-
Clark, Wyo.(R)	-	-	-	-	-	NV	-
Depew (R)	-	-	-	-	NV	-	-
Dick (R)	-	-	-	-	NV	-	-
Dillingham (R)	P-	NV	-	P-	NV	NV	-
Flint (R)	-	-	-	NV	-	NV	-
Frye (R)	-	-	-	-	-	NV	-
Gallinger (R)	-	-	-	-	-	NV	-
Heyburn (R)	-	-	-	-	-	-	+ (LE)
Nelson (R)	-	-	-	-	-	NV	-
Nixon (R)	-	-	NV	-	-	-	NV
Smoot (R)	-	-	NV	-	-	-	NV
Stephenson (R)	-	-	-	-	-	NV	-

* Brandegee, Burnham, Crane, Cullom, Curtis, DuPont, Elkins, Lodge, Page, Perkins, Scott, Sutherland, Warren.

Type: Indeterminates - 10 Senators

Bankhead (D), Culberson (D), Daniel (D), Davis (D), Lorimer (R), McCumber (R), Penrose (R), Richardson (R), Taliaferro (D), Tillman (D).

Summary of Scaling on S. 6737Types

Party	<u>Most "Progressive"</u>					<u>Least "Progressive"</u>						
	1	2	3	4	5	6	7	8	9	10	11	12
Democrats	1	2	2	6	5	6	1	3	1	0	0	0
Republicans	3	1	5	2	2	1	0	1	0	3	8	29

APPENDIX IV

SCALING OF SUPPORT FOR MAXIMUM HOURS FOR RAILROAD
WORKERS BILL, 59th CONGRESS, SENATE

Types:	(1)	For weak (or no) bill	-	-	(Against both amend-
	(2)	For weaker amendment only	+	-	ments)
	(3)		+	NV	
	(4)	For both amendments	+	+	
	(5)	For second amendment	NV	+	
	(6)	For second amendment only	-	+	(Strongest bill position)

Roll Calls: 59 C.R. 41, 891. (Both)

Type 1: Ankeny (R), Blackburn (D), Burrows (R), Carter (R), Clapp (R), Cullom (R), Depew (R), Dick (R), Foraker (R), Fulton (R), Gallinger (R), Kean (R), Lodge (R), McCreary (D), McCumber (R), Millard (R), Pettus (D), Piles (R).

Type 2: Bulkeley (R), Clark, Mont. (D), Clark, Wyo. (R), Crane (R), Dillingham (R), Frye (R), Hale (R), Heyburn (R), Knox (R), Long (R), Proctor (R), Smoot (R), Sutherland (R), Warren (R).

Type 3: Alger (R).

Type 4: Bacon (D), Brandegee (R), Clay (D)*, DuPont (R), Flint (R), Money (D), Paterson (D), Teller (D), Tillman (D).

Type 5: Martin (D), Gearin (D).

Type 6: Berry (D), Beveridge (R), Burkett (R), Culberson (D), Daniel (D), Dolliver (R), Dubois (D), Elkins (R), Foster (D), Frazier (D), Hansborough (R), Hemenway (R), Hopkins (R), Kittredge (R), LaFollette (R), Latimer (D), Mallory (D), Nelson (R), Overman (D), Perkins (R), Rayner (D), Scott (R), Simmons (D), Stone (D), Taliaferro (D), Warner (R), Whyte (D).

*P+ on the first vote.

	Summary of Types							
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>% 1-3</u>	<u>% 4-6</u>
Democrats	3	1	0	6	2	14	15	85
Republicans	15	13	1	3	0	13	64	36

APPENDIX V

SCALING OF SUPPORT FOR S. 5382, WORKMEN'S
COMPENSATION BILL (1912)

A plus sign (+) designates vote for bill in "unamended" form. P+ means paired for that position. A minus sign (-) designates vote for amendment, against consideration, against passage of unamended bill. P- means paired for this position.

Perfect Types

(1)	+	+	+	+	+	+	+	(For bill as is)
(2)	+	+	+	+	+	+	NV	
(3)	+	+	+	+	+	+	-	
(4)	+	+	+	+	+	-	-	
(5)	+	+	+	+	-	-	-	
(6)	+	+	+	-	-	-	-	
(7)	+	+	-	-	-	-	-	
(8)	NV	+	-	-	-	-	-	
(9)	+	NV	-	-	-	-	-	
(10)	-	-	-	-	-	-	-	(Against bill as it stands)

Roll Calls Used for This Analysis

Passage	48, 5952
Motion to Consider House Amendments	49, 4673
Overman Amendment	48, 5952
Culberson Amendment	48, 5951
Bacon Amendment	48, 5952
Reed Amendment	48, 5958
Hitchcock Amendment	48, 5954

Type 1

+ + + + + + +
 Bourne (R), Brandegee (R), Briggs (R),
 Bristow (R), Brown (R), Burnham (R),
 Burton (R), Catron (R), Chamberlain (D),
 Clapp (R), Clark, Wyo. (R), Crane (R),
 Crawford (R), Cullom (R), Cummins (R),
 Curtis (R), DuPont (R), Fall (R), Gallinger
 (R), Gronna (R), Guggenheim (R), Jones (R),
 Lippitt (R), Lodge (R), McCumber (R),
 McLean (R), Nelson (R), Newlands (R),
 Nixon (R), Oliver (R), Page (R), Percy (D),
 Perkins (R), Richardson (R), Root (R),
 Sanders (R), Smoot (R), Sutherland (R),
 Thornton (D), Townsend (R), Wetmore (R),
 Works (R).

APPENDIX VI

SCALING OF SENATE VOTING ON H. R. 23673,
SEAMEN'S BILL (1913)

A plus sign (+) designates LaFollette's position. A minus sign (-) designates opposition to LaFollette's sentiments on the bill. NV designates abstention or nonvoting.

Roll Calls: C.R. 49, 4588; C.R. 49, 4585-6; C.R. 49, 4585.

Perfect Types

(1)	+	+	+
(2)	+	+	NV
(3)	+	+	-
(4)	+	NV	-
(5)	+	-	-
(6)	NV	-	-
(7)	-	-	-

- Type 1: Ashurst, Ariz. (D); Borah, Idaho (R); Bristow, Kan. (R); Chamberlain, Ore. (D); Clapp, Minn. (R); Fall, New Mexico (R); Kenyon, Iowa (R); Kern, Ind. (D); LaFollette, Wis. (R); Lea, Tenn. (D); Martine, New Jersey (D); Myers, Mont. (D); Pittman, Nevada (D); Poindexter, Wash. (R); Pomerene, Ohio (D); Sheppard, Texas (D); Smith, So. Carolina (D); Smith, Ariz. (D); Williams, Miss. (D); Works, Calif. (R).
- Type 2: Gardner, Maine (D); Owen, Okla. (D); Watson, W. Va. (D); Webb, Tenn. (D).
- Type 3: Cummins, Iowa (R); Dixon, Mont. (R); Gronna*, N. Dak. (R); Jones, Wash. (R); Page*, Vt. (R); Stone*, Mo. (D); Tillman, S. C. (D).
- Type 4: Newlands, Nevada (D).
- Type 5: Brandegee, Conn. (R); Hitchcock, Neb. (D); Johnson, Me. (D); Johnston, Ala. (D); Lodge, Mass. (R); McCumber, N. D. (R); McLean, Conn. (R); O'Gorman, N. Y. (D); Overman, N. C. (D); Perkins, Calif. (D).
- Type 6: Bradley, Ky. (R); Catron, N. J. (R); Dillingham, Vt. (R); DuPont, Del. (R); Kavanaugh, Ark. (D); Penrose, Pa. (R); Simmons, N. C. (D).
- Type 7: Brady*, Idaho (R); Briggs, N. J. (R); Bryan, Fla. (D); Burnham, N. H. (R); Burton, Ohio (R); Clark, Wyo. (R); Crane, Mass. (R);

Type 7 - continued

Crawford, S. D. (R); Fletcher, Fla. (D); Foster, La. (D);
Gallinger, N. H. (R); Gamble, S. D. (R); Oliver, Pa. (R);
Paynter, Ky. (D); Percy, Miss. (D); Richardson, Del. (R); Root,
N. Y. (R); Smoot, Utah (R); Smith, Ga. (D); Wetmore, R. I. (R).

* Gronna, Page and Stone had a voting pattern of: + - +. This could be either Type 1 or Type 5 (with error). They were put in Type 3. Brady had a voting pattern of - - +; he was classified as a Type 1 with error.

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BIOGRAPHICAL SKETCH

Edward Michael Silbert was born and reared in New York City. He was graduated from Abraham Lincoln High in June, 1955, and from the City College of New York in January, 1960. He attended the latter institution with the assistance of a New York State Regents College Scholarship. From February to June of 1960, he taught at George Washington High in New York City. Having received a two-year grant, the New York State Regents College Teaching Fellowship, he studied at Cornell University and received a Master of Arts degree. Mr. Silbert was then awarded a teaching assistantship at the University of Florida for the school year, 1962-63. He was subsequently granted similar awards by the University of Florida for 1963-64 and 1964-65 in order to pursue his program of graduate studies. In April, 1964, he was admitted to candidacy for the Doctor of Philosophy degree. During the summer of 1964, he was an Instructor of American Studies in the Peace Corps Training Program at the University of Florida. Since September, 1965, he has been Instructor in the Department of History at the University of South Florida.

This dissertation was prepared under the direction of the chairman of the candidate's supervisory committee and has been approved by all members of that committee. It was submitted to the Dean of the College of Arts and Sciences and to the Graduate Council, and was approved as partial fulfillment of the requirements for the degree of Doctor of Philosophy.

April 23, 1966

E. Ruppel Jones
Dean, College of Arts and Sciences

Dean, Graduate School

Supervisory Committee:

John G. Walker
Chairman

C. H. Gradish

Leola W. McClinton

Charles D. Farris

E. A. Hammond