

whether or not it is going to be attacked by one political party or another, its usefulness will be very seriously impaired."

We do not know whether Mr. Clark spoke as he did because he believes or fears that the Commission is now being subjected to political influence, or merely as a warning against the attempt to exercise such influence. The point is, that what he said is true. Whether or not there has been political influence, we may all agree that the successful exertion of such influence would be bad for the country and destroy, in great measure, the value of our regulating body. We would go farther than Mr. Clark did, however, and say that already there appears to be an element of what might be called politics in some of the decisions and rulings of the Commission lately. It is time for such influences to cease and for the Commission to disregard them if they continue.

#### DEATH OF H. C. BARLOW

Another big figure in the transportation world has passed with the death of Henry C. Barlow, traffic director of the Association of Commerce. He was the Nestor of industrial traffic men, and will be missed, perhaps, more than any other of the several stalwarts who have dropped from the ranks in the last few years. Over seventy years old, he remained in the harness until the last, being about his business even on the day of his death. For years, as traffic director of a great commercial organization and as a leader in the National Industrial Traffic League, of which he was one of the organizers and of whose executive committee he was chairman, he was a great force—and a force for good—in transportation. His influence was due to his wide knowledge, his unflinching fairness, tact and courtesy, but withal, his courage and aggressiveness. Men, of course, frequently disagreed with him, but they always respected him. To him, perhaps, more than to any other one man is due the gradual evolution through which the carriers have come to consider the shippers as a party to be considered in important projects and whose co-operation was necessary. He was highly regarded by the Interstate Commerce Commission and by the lawmakers in Washington, and in more ways and instances than were generally known his influence was felt. He had brains and knowledge and personality, but, greater than all these, he had character.

#### THE RATE SITUATION

The rate situation, with reference to the general inquiry instituted by the Commission, the reductions ordered by the Commission in the western grain rate case, and the ten per cent reduction on all agricultural commodities proposed by the carriers as a substitute for the western grain reductions, is not yet clear, but some things have appeared that were not plain when we discussed this subject last week. The first is that the Commission, in announcing a general inquiry to determine its right to order "further general reductions" in rates, did not have in its mind any question as to the right or propriety of granting the carriers permission to make a nation-wide ten per cent reduction in agricul-

tural commodities, for it has since issued that permission. Another thing made plain is that it is not yet clear whether the Commission intends to rescind its order in the grain case that the general agricultural reduction may be substituted, or is merely permitting the carriers to make reductions on the entire agricultural list, if they choose, in addition to the reductions ordered in the grain case. It has not yet withdrawn its grain order and protests are being filed against its doing so. The carriers will probably not go ahead with their proposed general agricultural reduction until the intention of the Commission in this respect is made clear. If it then appears that the Commission does not intend to withdraw the grain reduction order, it is considered likely that the carriers will not avail themselves of the permission granted to make the ten per cent agricultural reductions. So, really, the clearness of the situation now consists merely in the fact that the things that are not clear are defined.

In our remarks last week we erred in saying that the Commission had neglected to include in its list of questions in the program for the hearing in the general rate inquiry one as to whether reductions should be made by commodities or by the percentage method. Such a question is included.

#### RAILROAD-STEAMSHIP CONTRACTS

Reciprocal traffic agreements between American railroads and foreign steamship companies are held by the United States Shipping Board to be "harmful to the development of American commerce in American vessels" and "a menace to the success of ships operating under the flag of the United States." Abrogation of such agreements through voluntary action of the railroad companies is, therefore, urged by the board, which, through its spokesman, has expressed the belief that the agreements will be dissolved without action by the board under what power it may have to compel termination of them.

A willingness to comply with the board's wishes was expressed by representatives of American railroads serving Atlantic and Gulf ports at a hearing before Commissioners Thompson, Lissner, Plummer and Chamberlain last week. Probably the most important of the contracts held by these lines is that entered into between the Baltimore & Ohio and the Donaldson Line, under which Vice-President Fries said the Baltimore & Ohio did not discriminate in favor of the ships of the foreign lines, and that no tonnage was routed under the agreements. So far as the Baltimore & Ohio is concerned, Mr. Fries said, the contracts it has may be abrogated.

A different situation was developed with regard to agreements that the Great Northern and the Chicago, Milwaukee & St. Paul have with the Nippon Yusen Kabushiki Kaisha and the Osaka Shosen Kabushiki Kaisha, respectively, under which the rail lines receive each year a substantial volume of tonnage originating in the Orient and deliver outbound tonnage to the Japanese vessels at Puget Sound ports. It was easily to be seen from the statements made at the hearing that the two great transcontinental lines involved value these agreements highly because of the revenue derived therefrom.

The agreements are of long standing but have been renewed recently.

Renewal, October 18, by the Great Northern of its contract with its Japanese connection was commented on by Commissioner Thompson, who acted as chairman at the hearing, as an act "in direct competition with the government." but he later asserted that the board was not talking "patriotism," but "business." The issue, therefore, has been joined on a "business" basis. That is as it should be. It is on that basis that the position taken by the board and by the transcontinental lines should be considered.

The representatives of the Great Northern and the Chicago, Milwaukee & St. Paul went on record as desirous of co-operating with the board in building up an American merchant marine. But, at the same time, they asked in effect whether it was the fair thing to provide that American vessels get tonnage at the expense of the treasuries of the railroads. They had no assurance, they contended, that, should the agreements be wiped out, the inbound tonnage carried by the Japanese lines would not go to Canadian ports and be carried to eastern inland destinations via Canadian railroads. They further expressed doubt as to the ability of the board to control, for American vessels, the tonnage originating in the United States and shipped to the Far East on the foreign steamships.

Looking at the situation thus developed from the business point of view, it is difficult to see how the Shipping Board, acting as an agency of the federal government, rightfully can ask the Great Northern and the Chicago, Milwaukee & St. Paul to abrogate their agreements with the Japanese lines, unless the board, directly or indirectly, can assure them that a similar amount of traffic will be available to them through vessels under the American flag.

It appears to us that Vice-President Kenney of the Great Northern stated the case in a nutshell when he said there would be no benefit to the American merchant marine for the Great Northern to lose the inbound tonnage it gets from its Japanese connection, unaccompanied by a diversion of that tonnage to American vessels.

The Shipping Board points to section 28 of the merchant marine act of 1920, as defining the intent of Congress that American railroads be preferential feeders of tonnage for American ships. No one will question the desirability of such an arrangement if it can be carried out without loss to the railroads. But Congress surely does not wish to build up the American merchant marine at the expense of the railroads; and it is again difficult to see why the railroads should be condemned for having sought and obtained business where it could be obtained.

It is also significant that an authority no less than the Interstate Commerce Commission has seen fit to call to the attention of Congress, in its annual report made public this week, that section 28 may not, if made operative, accomplish what its advocates have contended it would accomplish.

"The ultimate effect of section 28 may be merely to divert traffic from certain ports to others, with little or no gain in tonnage for United States vessels," the Commission says.

The straightforward statement of Vice-President Calkins of the Chicago, Milwaukee & St. Paul, that he could not promise that he would recommend the abrogation of the contract his company has with the Japanese unless he could at the same time offer something to take its place, did not merit the rejoinder of Commissioner Thompson that a "discordant note" had been struck. We do not see that Mr. Calkins, with substantial revenue at stake, could have answered otherwise.

## TAX ON TRANSPORTATION

*The Traffic World Washington Bureau*

The Treasury Department, in Treasury decisions Nos. 3255 and 3256, has made rulings about the collection of the taxes on transportation contracts that are in process of execution when the law eliminating the taxes becomes effective, January 1. Treasury Decision No. 3255, addressed to collectors of internal revenue and others concerned, pertains to freight. The other covers passenger business.

In this case the "others concerned" are the agents of railroad companies whose duty it is to collect the taxes and to refund them, under certain conditions. The ruling with regard to freight, made by D. H. Blair, commissioner of internal revenue, and approved by Secretary A. W. Mellon, is as follows:

Subdivisions (a), (b) and (c) of Section 500 of the Revenue Act of 1918 impose tax on amounts paid for transportation. The provisions of the 1918 Act imposing tax on charges for transportation service are repealed effective January 1, 1922, by the Revenue Act of 1921. Cases will arise where the transportation service will be only partially performed before January 1, 1922. It is held that tax imposed by subdivisions (a), (b) and (c) of the Revenue Act of 1918 applies to amounts prepaid for transportation in cases where the shipments are made before January 1, 1922, but does not apply in cases where the charges are "collected" on shipments made before, but arriving at destination on or after January 1, 1922.

Transportation companies have been authorized as set forth in Article 115, Regulations 49, Revised, to adjust tax in adjusting overcharges, taking credit on any subsequent return for tax so adjusted. In order to terminate this authority uniformly and at a time that will make it practicable for the credits to be taken on returns made by the carriers, it is directed that in adjusting overcharges and in redeeming unused and partially used tickets and mileage books, no adjustments be made of tax after December 31, 1921. It is suggested that transportation companies, as soon as practicable, advise all claimants who have claims pending or who file claims after December 31, 1921, that claim for refund of tax should be filed on Treasury Department Form 46, with the Commissioner of Internal Revenue within four years from time tax was paid, claim being barred by statute of limitations if received after such time. In the event the transportation companies retain the freight receipts, express receipts, redeemed tickets, or mileage books as part of their files on a claim, it will facilitate handling claim filed with the Commissioner for refund of the tax if the transportation companies will, when adjusting the transportation charge, furnish to the claimant a statement or certificate containing the following information, retaining a copy thereof in their files:

- (a) Number assigned claim by transportation company.
- (b) Amount of charges refunded on the claim.
- (c) Amount of tax actually collected on the refunded amount.
- (d) Date (or dates) on which tax was collected.

In order that right to refund may be established it will be necessary for claimant to either furnish the original receipts, showing payment of tax or to furnish the above statement or certificate in lieu thereof.

The ruling respecting tickets and taxes on Pullman accommodations is as follows:

Subdivision (d) of Section 500 of the Revenue Act of 1918 provides as follows: "(d) Under regulations prescribed by the Commissioner with the approval of the Secretary, refund shall be made of the proportionate part of the tax collected under subdivision (c) or (d) of section 500 of the Revenue Act of 1918 on tickets or mileage books purchased and only partially used before January 1, 1922."

No tax should be collected on the charge for a ticket or mileage book sold before January 1, 1922, if no part of it can be used until on or after January 1, 1922.

Where, however, tax has been collected under subdivision (c) or (d) of Section 500, Revenue Act of 1918, on a ticket or mileage book which is only partially used before January 1, 1922, the tax applicable and proportionate to the unused part of such ticket or mileage book may be refunded.

Claim for refund should be filed by the person paying the tax, on Form 46, which should show the following:

- (a) Statement of the facts on which claim is based.
- (b) Statement that no claim is pending nor will any be filed with the transportation company for adjustment of the tax.
- (c) Statement that the unused part of the ticket or mileage book, in connection with which refund is requested, is in hands of claimant when claim is filed, has been marked to show the amount of tax for which claim has been filed.

The claim should also be supported by a statement from an agent of the transportation company (or from a collector of internal revenue if such information can be furnished by him) giving the following data concerning the ticket or mileage book in connection with which refund is requested: (a) The number, (b) date of purchase, (c) price paid, (d) the proportionate part remaining unused on January 1, 1922, and (e) the proportionate amount of tax applicable to the unused part.

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