

them. The railroad companies that see fit to do their own express business ought not, either as respects principles or methods, to be subjected in the management of such business to any different control or regulation from that which the independent express companies of the country are required to obey. If the latter are not within the contemplation of the Act to regulate commerce all express business, by whomsoever carried on, should be excluded. Justice to the public as well as to that business demands that it be governed throughout the country by rules of general application, and which shall not be dependent on mere forms or on the will of those who happen to be in the control of the railroads, and therefore have the power to determine by what agencies this important portion of the business of the roads shall be conducted.

What is said of the express business is applicable also to the business of furnishing extra accommodations to passengers in sleeping- and parlour-cars. These accommodations are furnished in some cases by the railroad companies and in others by outside corporations, which are not supposed to be embraced by the terms of the law. Outside companies are also to some extent engaged in the transportation of live-stock in cars owned by themselves, but transported over the railroads under special agreements with the railroad companies which supply the motive power. As these last-named companies furnish better accommodations for live-stock, and transport them with less liability to injury and with less shrinkage than is done in the ordinary stock-car, it is not improbable that they, like the companies which furnish special accommodations for passengers, may in time build up a large business, in respect to which they will not be controlled by any existing legislation.

It is well known, also, that the transportation of mineral oil is already to a very large extent in tank cars owned by parties who are not carriers, subject to regulation under the Act to regulate commerce. A willingness to disregard the rules of equality and justice as between shippers, when it can be made for the interest of the carriers to do so, is as likely to make its appearance in the action of the managers of any one of these outside organizations as in that of the managers of the railroads, for the temptations will be the same, and the same class of persons will be bidding for special privileges and advantages which before the Act was passed prospered so unfairly upon railroad favours. The Act has not changed the nature or the grasping disposition of individuals; it has only interposed certain restraints which it is reasonable to assume will be evaded if the opportunity shall be presented.

These facts are noted for the purpose of placing the whole subject distinctly before the national Legislature. If it is the will of Congress that all transportation of persons and property by rail should come under the same rules of general right and equity some further designation of the agencies in transportation, which shall be controlled by such rules, would seem to be indispensable.

II.—THE LONG- AND SHORT-HAUL CLAUSE OF THE ACT.

Another question presenting itself immediately on the organization of the Commission was that respecting the proper construction of the 4th section of the Act, which, after providing "That it shall be unlawful for any common carrier subject to the provisions of this Act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance," proceeds to say: "That, upon application to the Commission appointed under the provisions of this Act, such common carrier may, in special cases, after investigation by the Commission, be authorised to charge less for longer than for shorter distances for the transportation of passengers or property, and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this Act."

The provision against charging more for the shorter than for the longer haul under the like circumstances and conditions over the same line and in the same direction, the shorter being included within the longer distance, is one of obvious justice and propriety. Indeed, unless one is familiar with the conditions of railroad traffic in sections of the country where the enactment of this provision is found to have its principal importance, he might not readily understand how it could be claimed that circumstances and conditions could be such as to justify the making of any exceptions to the general rule.

It is a part of the history of the Act that one House of Congress was disposed to make the rule of the 4th section imperative and absolute, and it is likely that in some sections of the country many railroad managers would very willingly have conformed to it, because, for the most part, they could have done so without loss, and with very little disturbance to general business. But in some other parts of the country the immediate enforcement of an ironclad rule would have worked changes so radical that many localities in their general interests, many great industries, as well as many railroads, would have found it impossible to conform without suffering very serious injury. In some cases, probably, the injury would have been over-balanced by a greater good; in others it would have been irremediable. To enforce it strictly would have been, in some of its consequences in particular cases, almost like establishing, as to vested interests, a new rule of property.

A study of the conditions under which railroad traffic in certain sections of the country has sprung up is necessary to an understanding of the difficulties which surround the subject. The territory bounded by the Ohio and the Potomac on the north and by the Mississippi on the west presented to the Commission an opportunity, and also an occasion, for such a study. The railroad business of that section has grown to be what it is in sharp competition with water-carriers, who not only have had the ocean at their service, but by means of navigable streams were able to penetrate the interior in all directions. The carriers by water were first in the field, and were having a very thriving business while railroads were coming into existence; but when the roads were built the competition between them and the water-craft soon became sharp and close, and at the chief competing points the question speedily came to be, not what the service in transportation was worth, or even what it would cost to the party performing it, but at what charge for its service the