

one carrier or the other might obtain the business. In this competition the boat owners had great advantages: the capital invested in their business was much smaller; they were not restricted closely to one line, but could change from one to another, as the exigencies of business might require; the cost of operation was less; but the railroads had an advantage in greater speed, which at some times, and in respect to some freight, was controlling.

In this competition of boat and railroad the rates of transportation, which were directly controlled by it, soon reached a point to which the railroads could not possibly have reduced all their tariffs and still maintain a profitable existence. They did not attempt such a reduction, but, on the contrary, while reducing their rates at the points of water competition to any figures that should be necessary to enable them to obtain the freights, they kept them up at all other points to such figures as they deemed the service to be worth, or as they could obtain. It often happened, therefore, that the rates for transporting property over the whole length of a road to a terminus on a water highway would not exceed those for the transportation for half the distance only, to a way station not similarly favoured with competition. The seeming injustice was excused on the plea of necessity. The rates to the terminus, it was said, were fixed by the competition, and could not be advanced without abandoning the business to the boats. The greater rates to the local points were no more than was reasonable, and they were not, by reason of the low rates to the competitive point, made greater than they otherwise would have been. On the contrary, if the rates on the railroad were established on a mileage basis throughout, with no regard to special competitive forces at particular points, the effect in diminishing the volume of business would be so serious that local rates at non-competitive points would necessarily be advanced beyond what they are made when the competitive business can be taken also, even though the competitive business be taken at rates which leave little margin above the actual cost of movement. Such is the common argument advanced in support of the short-haul rates.

But the lower rates on the longer hauls have not been due altogether to water competition; railroad competition has been allowed to have a similar effect in reducing them. But as the railroad tariffs are commonly agreed upon between the parties making them, the necessity which controlled the water competition was not so apparent here, and to some extent the lower rates have been conceded to important towns in order to equalise advantages as between them and other towns which were their rivals, and to which low rates had been given under a pressure of necessity. But they were given, also, in many cases as a means of building up a long-haul traffic that could not possibly bear the local rates, and which, consequently, would not exist at all if rates were established on a mileage basis, or on any basis which, as between the long and short-haul traffic, undertook to preserve anything like relative equality.

It would be foreign to the purposes of this report to discuss at this time the question whether in this system of rate making the evils or the advantages were most numerous and important. Some of the evils are obvious, not the least of which is the impossibility of making it apparent to those who have not considered the subject in all its bearings that the greater charge for the shorter haul can in any case be just. The first impression necessarily is that it must be extortionate, and until that is removed it stands as an impeachment of the fairness and relative equity of railroad rates. But, on the other hand, it must be conceded that this method of making rates represents the best judgment of experts who have spent many years in solving the problems of railroad transportation; and its sudden termination, without allowing opportunity for business to adapt itself to the change, would, to some extent, check the prosperity of many important places, render unprofitable many thriving enterprises, and probably put an end to some long-haul traffic now usefully carried on between distant parts of the country. It is also quite clear that the more powerful corporations of the country, controlling the largest traffic and operating on the chief lines of trade through the most thickly settled districts, can conform to the statutory rule with much more ease and much less apparent danger of loss of income than can the weaker lines, whose business is comparatively light and perhaps admits of no dividends, and the pressure of whose fixed charges imposes a constant struggle to avoid bankruptcy.

If Congress intended this immediate change of system it was not for the Commission to inquire whether the evils of making it at once would or would not exceed the benefits. The law must stand as the conclusive evidence of its own wisdom, and the authorities charged with enforcing it were not to question but to obey it. With the Commission, therefore, the first question was one of interpretation; and when it was clearly perceived what Congress intended, the line of duty was plain. The intent should be given effect, not only because it was enacted, but because in the enactment it was determined by the proper authority that the public good required it.

In coming to a consideration of the 4th section of the Act it was immediately perceived that many different views were taken of it, some of which were settled convictions, which were the result of thought and reflection, while others were mere off-hand impressions and deserving of little attention. By some persons it was assumed that the Commission had by the Act been given a general authority to suspend altogether the operation of the 4th section, and upon this utterly baseless and unreasonable assumption the Commission was plied with arguments in support of a general suspension. Other views went to the opposite extreme, and, while holding that the general rule must be enforced in all cases until the Commission had sanctioned exceptions, would restrict the power to make exceptions to individual shipments, made under circumstances and conditions which were special and peculiar. Such a restriction would obviously render the authority to make exceptions of no practical utility.

But among these who had given the subject thought and attention, and whose views for that reason were deserving of consideration, a most important difference of opinion was found to exist regarding the stage at which the intervention of the Commission under the 4th section was to be invoked. By some persons it was believed that a rule was laid down by that section which could not lawfully be departed from until the Commission, on investigation, had determined that the circumstances and conditions of the longer and of the shorter transportation were so dissimilar as