

to justify making the greater charge for that which was the shorter, and had prescribed the extent of the permissible exception. By others the fact was emphasized that the charging or receiving "any greater compensation in the aggregate for the transportation of passengers, or of the like kind of property" "for a shorter than for a longer distance over the same line in the same direction, the shorter being included in the longer distance," was only declared by the section to be unlawful when both were "under substantially similar circumstances and conditions;" and they confidently affirmed that the carrier could require no order of relief from the Commission when the circumstances and conditions were in fact dissimilar, since the greater charge was not then unlawful and not forbidden. This view would leave the carrier at liberty to act on its own judgment of the conditions and circumstances in any case, subject to responsibility to the law if the greater charge were made for the shorter transportation when the circumstances and conditions were not in fact dissimilar, unless authorised to make such greater charge by the relieving order of the Commission.

When the Commission was called upon, in the performance of its duty, to give an interpretation to this section it was found on comparison of views that the interpretation last above mentioned seemed to all its members to be the one best warranted by the phraseology of the statute. Moreover, when it was considered how vast was the railroad mileage of the country, how numerous were the cases in different sections in which, for divers reasons, the general rule prescribed by the 4th section was then departed from, this interpretation seemed the only one which, in administering the law, would be found practical or workable. Possibly the Commission might therefore have been justified in making immediate announcement of this opinion. It was not, however, believed to be wise to make such announcement at that time. The construction of a new statute having great remedial purposes in view ought not to be hastily made by the tribunal called upon to act under it. When a question of construction comes before the Courts parties interested in taking different views are heard by counsel, and if the case is important the Court is likely to have all the considerations which support the several views presented, and will thus be fully informed when it comes to make decision. The Commission had not had the benefit of discussion by counsel of this most important provision. To delay before taking any action whatever until, in the ordinary course of affairs, a case should arise where the proper construction of the section should be the point in controversy might be exceedingly injurious to many interests. Under these circumstances it seemed to the Commission that the prudent course, and the course most consistent with the general purposes the Act was intended to accomplish, was to take such action as for the time being would disturb as little as possible the general business of the country, and at the same time give ample opportunity for full discussion and consideration of this most important question.

The Act to regulate commerce was not passed to injure any interests, but to conserve and protect. It had for its object to regulate a vast business according to the requirements of justice. Its intervention was supposed to be called for by the existence of numerous evils, and the Commission was created to aid in bringing about great and salutary measures of improvement. The business is one that concerns the citizen intimately in all the relations of life, and sudden changes in it, though in the direction of improvement, might, in their immediate consequences, be more harmful than beneficial. It was much more important to move safely and steadily in the direction of reform than to move hastily, regardless of consequences, and perhaps be compelled to retrace important steps after great and, possibly, irremediable mischief had been done. The Act was not passed for a day or for a year; it had permanent benefits in view, and to accomplish these with the least possible disturbance to the immense interests involved seemed an obvious dictate of duty.

Acting upon these views, and in order to give opportunity for full discussion, the Commission, after having made sufficient investigation into the facts of each case to satisfy itself that a *prima facie* case for its intervention existed, made orders for relief under the 4th section, where such relief was believed to be most imperative. These orders were temporary in their terms, and in making them it was announced that sessions would be held in the section of the country to which a majority of these orders related, at which all parties interested in the questions they presented were at liberty to appear and present their views. Whatever view should ultimately be taken of the proper interpretation of the 4th section, this course could result in no serious injury. If the first impression of the Commission should be held to be correct the orders would only sanction what might have been done without them, but if the opposite view should be taken they would only postpone for a time the strict enforcement of the 4th section, and give opportunity during that period for the business of the country to adapt itself as far as possible to the new requirement. The considerations which were influential in determining when these temporary orders should be granted were not more the relief of the carriers from danger of loss than the prevention of threatened disturbance of business interests in certain localities, which, by its reflex action, seemed liable to embarrass seriously the entire country. When no great or special urgency was shown, connecting threatened injury to important interests with the literal enforcement of the section, or when the only showing made was of the loss of a certain line of traffic to one carrier, which nevertheless was adequately served by being given another direction, temporary orders were not made. Fifty-eight petitions were filed for relief from the operation of the 4th section, some of which were joint; ninety-five railroad companies were petitioners; temporary orders were made in twenty cases, by the terms of which forty-three carriers were, for a limited period and pending full investigation, relieved from the operation of the section as to certain points enumerated in each order, where the charging of less for the longer distance was permitted to be continued for the time being. The opinion of the Commission upon the applications for relief is herewith given in Appendix A. In the same Appendix is given a list of the carriers petitioning, and a statement of the action of the Commission on each case.

In finally announcing its conclusion, as it did on the petition of the Louisville and Nashville Railroad Company for relief, the Commission called the attention of the several carriers which had obtained orders to the desirability of revising their tariffs, and bringing them more nearly into conformity with the general rule of the 4th section. The opinion was expressed that this revision was