

mission or may bring suit in his or her own behalf for the recovery of the damages" in a Federal Court.

The 13th section is, "That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act, in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts, whereupon a statement of the charges thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the Commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper." "Said Commission shall, in like manner, investigate any complaint forwarded by the Railroad Commissioner or Railroad Commission of any State or Territory, at the request of such Commissioner or Commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made." "No complaint shall at any time be dismissed because of the absence of direct damage to the complainant." The complaints made to the Commission have been very numerous, and in many cases the complainants have appeared to suppose that the Commission could interpose and correct at once an alleged evil on an *ex parte* statement of its existence. In other cases the statement of facts has been so defective that no opinion could be formed whether or not a real grievance existed. In no case has the Commission declined to give attention to a complaint because of its being informal or imperfectly presented, but when not in shape for its action, if the facts indicated a probable grievance, it has opened correspondence with the carrier with a view to redress. In the majority of cases the correspondence has resulted in satisfactory arrangement. Either the complainant has been found to be mistaken in his facts, or if wronged it has been through the carelessness or mistake of an agent which the carrier readily corrected, or if the facts presented a case of difference of opinion the parties, when brought into communication, succeeded in finding some basis for settlement without further intervention. This method of disposing of complaints is believed by the Commission to be more useful than any other, because its tendency is towards the establishment of desirable relations between the carriers and those who must be their customers; but when such a disposition of a case proves to be impracticable the complainant, if he desires it, is given the necessary directions for putting his complaint in form for an adjudication.

It is provided by the 14th section of the Act, "That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed *prima facie* evidence as to each and every fact found."

And by the 15th, "That if in any case in which an investigation shall be made by said Commission it shall be made to appear to the satisfaction of the Commission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this Act, or of any law cognisable by said Commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the Commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the Commission; and if, within the time specified, it shall be made to appear to the Commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the Commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the Commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law."

In none of the cases so far decided by the Commission has it felt called upon to order reparation to be made for past injury. Most of the cases were such as to present no case for reparation—they looked only to the establishment of a rule for the future. Some complaints, however, were evidently made in the expectation that the Commission might proceed to give damages upon a grievance that would support an action on the common law side of the Federal Court. The Commission, when such complaints have been brought to a hearing, has not discovered in the statute a purpose to confer upon it the general power to award damages in the cases of which it may take cognisance. The failure to provide in terms for a judgment and execution is strong negative testimony against such a purpose; but what is, perhaps, more conclusive is that the Act must be so construed as to harmonize with the seventh amendment to the Federal Constitution, which preserves the right of trial by jury in common law suits. It is believed to be unquestionable that parties cannot be deprived of this right through conferring authority to award reparation upon a tribunal that sits without a jury as assistant; and that, therefore, any determination that reparation should be made, in a case in which a suit at law might have been maintained, cannot be made absolutely binding and enforceable against the defendant in the form of a judgment; but that under the statute it will put the defendant to election, either to satisfy the complainant, in which case he will be relieved from further liability or penalty, or, on the other hand, to take the risks of proceed-