

ings in a Federal Court to recover damages or penalty, or both, in which case the finding of the Commission would be *prima facie* evidence of the facts recited in it.

Abstracts of the decisions made by the Commission in the cases litigated before it, and which up to this time it has been enabled to decide, are given in an appendix hereto, marked B. A brief statement is also made of the proceedings in all the cases begun by formal complaint, whether already disposed of or still pending. In every case in which the Commission made an order against the carrier complained of, the carrier has filed notice of its compliance. In the course of the hearings before the Commission, a great body of evidence has been taken, which will remain on file in the office for reference or for any future use for which there may be occasion.

VI.—PROCEEDINGS BEFORE THE COMMISSION.

It has been deemed exceedingly desirable that proceedings before the Commission on complaints against carriers should be made as informal as should be consistent with order and regularity, and that dilatory action of every nature should be discouraged. The rules of procedure, therefore, which were early adopted and put in force made no other requirement for a complaint than that it should be in the form of a verified petition and set forth the facts which constitute the grievance complained of. When such a statement has appeared, however informally made, the petition has been accepted, and an answer called for. Demurrers or motions to dismiss have not been favoured, unless the case was such that the whole merits would thereby be presented; but the defendant has been expected to disclose its defence by answer, so that one hearing may be sufficient for the final disposition of the case. By this method of procedure technicalities are discarded, the complaints and the answers to them are treated as presenting business controversies which the parties, if they elect so to do, can manage for themselves. This they may do without being placed at disadvantage by the want of legal learning, unless the case is such as to depend rather upon the law than upon disputed questions of fact, which many of them do not. When parties have managed their own cases the taking of testimony has been somewhat informal also, and the Commission has given its aid in the examination of the witnesses produced, in order that the whole truth bearing on the matter in controversy might, as far as possible, be brought out and made plain. It is a pleasure to note that in this informal mode of procedure the parties have, in general, most heartily co-operated, and that they have been very liberal in agreeing upon the facts when it was practicable to do so, thereby materially shortening the hearings and making them assume more the form of amicable contentions.

A copy of the rules of procedure adopted by the Commission under the 17th section of the Act is hereto appended, marked D.

VII.—EXPENSE OF HEARINGS.

The Act provides for compulsory process to bring witnesses before the Commission, and that when summoned they shall be paid for their attendance. It requires the principal office of the Commission to be at the national capital, and apparently contemplates that its sittings shall in general be there held. It provides, however, in the 19th section that, "Whenever the convenience of the public or of the parties may be promoted, or delay or expense prevented thereby, the Commission may hold special sessions in any part of the United States. It may, by one or more of the Commissioners, prosecute any inquiry necessary to its duties in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this Act."

The Commission understands that witnesses produced by parties to controversies are to be paid by the parties producing them. This, in some cases where they must come long distances, is a great burden, especially in view of the fact that the Commission is not given authority to tax costs or even to impose the costs of the hearing upon the defeated party; and the Commission has endeavoured to obviate it, first by inducing the parties as far as possible to stipulate the facts, and next by providing for the taking of the testimony by deposition, after the manner in which it is taken in the Federal Courts. Where, however, a great number of witnesses are to be examined it has been deemed advisable to hold the sessions near where the transactions which are to be inquired into have taken place, not only because this course is least expensive to the parties, but because, in that way, the facts are more likely to be completely brought out. In some cases this course is almost a necessity. The nature of the questions involved is such that they concern large sections of the country quite as much as they do the parties complainant and defendant, and the case ought to be so conducted that any citizen whose interests may be affected can make his views known. A complainant is often only a representative of many interests or of a considerable district of country, but he may be a self-chosen representative, and those for whom a decision of his case will constitute a precedent ought not to be concluded without a hearing. On the other hand, a railroad company may be rather a nominal than a real defendant; the rate, the classification, or the practice complained of may concern some class of its customers who approve of and defend it more than it does the railroad company itself, and the company might be entirely willing to make the change demanded but for the fact that its doing so would bring forward a new class of complainants. Where thus the real controversy is between different interests or different classes of the carrier's customers the propriety of giving to both the real parties a hearing is obvious, but to make this the most useful and satisfactory it may be necessary to go for the purpose to the part of the country that is specially concerned in the controversy. There are some questions also which, from their nature, are such that they can be best investigated where the business they concern is or where the transactions have taken place out of which they arise. Impressed with this belief, the Commission has held sittings in several Southern States, and also in Vermont, Minnesota, and Illinois, and some of the cases now pending might, no doubt, best be heard at still more distant points; but the appropriation at the service of the Commission has not warranted incurring the necessary expenditures. It seems very certain, however, that the best results cannot be attained through sessions held altogether at the national capital.