

COMMERCE BOARD WOULD REGULATE TELEGRAPH TOLLS

Commission Recommends That Wire Companies Be Required to Post Tariffs; Want Rail Charges Uniform.

Washington, Dec. 21.—The annual report of the interstate commerce commission, which was given to the public yesterday, contains recommendations for many important amendments to the interstate commerce act. Among these recommendations are:

"That section 6 of the act be amended to require telephone, telegraph and cable companies to publish, file, and post tariffs, and to empower the commission to reject and refuse to file any schedule tendered for filing which has the effect of exceeding the number of supplements or the volume of supplemental matter permitted under the commission's tariff regulations.

"To make the Elkins act applicable to telephone, telegraph and cable companies.

"That the stimulus of requirement be applied to the long delayed progress toward the adoption of a uniform classification.

"To provide additional safeguards in railroad transportation for employees and the public: (a) By standardization of operating rules of all interstate carriers; (b) by requiring the adoption of steel cars, postal, baggage and passenger; (c) by amending the hours of service law, making clear the proviso in section 3 of the act; (d) by legislation requiring the use of the block signal system.

"That the commission be relieved of the jurisdiction of the physical operation of street railways in the District of Columbia.

"To provide for the regulation and control of capitalization and suitable provisions for the valuation of railway property.

"The construction of an adequate and suitable office building for the use of the commission.

Work of Commission.
Decisions in 507 cases instituted by formal complaints of shippers and others or by the commission on its own motion have been announced during the past year, and 145 cases of the same character have been dismissed on stipulation of the parties or upon motion of complainants. This removes from the docket of formal complaints a total of 652 cases. As a whole, the work of the commission is well in hand.

During the year 881 formal complaints have been filed and 12 proceedings of inquiry instituted by the commission on its own motion. In addition there have been instituted 43 proceedings of investigations and suspensions of tariffs containing proposed increases in rates, resulting in a total of 68 cases of this character since the commission was given the power of suspension. Seven of these have been consolidated with formal complaints; advances were condoned in nine and permitted in 24; partial advances permitted in four; and two were voluntarily withdrawn, leaving 22 pending.

62 Indictments Returned.
Since December 1, 1910, 62 indictments for criminal violations of the act to regulate commerce have been returned, many of which were against two or more defendants jointly. Of these, 29 are against carriers or carriers' agents, 26 against shippers of passengers, and seven against carriers and shippers jointly.

During the past year 42 prosecutions have been concluded, in 16 of which the defendants pleaded guilty; in 13, juries rendered a verdict of guilty; in three, juries rendered a verdict of not guilty; six cases were nolleprossed; two were dismissed on motion of defendant.

Looking up a discussion of the west-bound transcontinental rate the report says:

"Probably the most important decision rendered by the commerce court up to the present time is that dealing with the fourth section orders of the commission in reference to west-bound transcontinental rates.

"The water rate, in cents per 100 pounds, by all routes has always been somewhat lower than the rail transcontinental rate from New York to San Francisco. The commission has found, and of this there can be no question, that this water transportation has limited the rate which could be obtained by the carriers between New York and Pacific coast terminals.

inates at New York, it must divide the transportation charges with its connection east of Chicago, which brings the traffic from the Atlantic seaboard.

Many Rates Applied.
"As a result of these contending forces it has finally come to pass that the same rates are applied to all territory north of the Potomac and Ohio rivers as far west as the Missouri river, and southward as far west as Colorado common points. That is, if the rate upon a given article from New York to San Francisco is \$1 per 100 pounds, the rate from Omaha, approximately 1500 miles west of New York, and sometimes from Denver, 2000 miles west of New York, is also \$1. This, it should be carefully noted, is not to meet water competition from New York, but is rather in recognition of the market competition which exists in territory upon and east of the Missouri river. This same market competition has never been recognized upon the Pacific coast.

"Rates from all the vast blanket embraced in transcontinental westbound commodity tariffs are constructed for the most part to interior points by adding the full local rate from the Pacific coast terminal to the interior point. By looking at the map this will be more readily understood. Take a \$1 commodity rate which applies from New York and also from Omaha to San Francisco. The rate on this commodity from San Francisco to Reno may be, and frequently is, 50 cents per 100 pounds. The rates, then, would be: From Omaha to Reno, \$1.50 per 100 lbs. From Omaha to San Francisco, \$2.00, through Reno, \$1.00 per 100 lbs. The distance from Reno to San Francisco is 244 miles and the haul is over one of the most difficult mountain ranges upon this continent.

Spokane Rate Considered.
"The commission has considered, at great length, rates from St. Paul to Spokane as compared with those to Seattle. Spokane is the largest of these inland cities and has been able to extract, in a way, certain concessions as to its rates from the railroads which serve it, but the rate is still much higher to Spokane than to Seattle. Many examples of actual shipments were presented to the commission, of which the following may be selected as a fair illustration:

"Upon a carload of books originating at Chicago, the Northern Pacific received for its haul from St. Paul to Spokane, a distance of 1600 miles, \$25.65. Had the same car gone to Seattle, involving an additional haul of one-fourth in distance over the most extensive part of the entire route, the receipts of the Northern Pacific would have been \$500.35.

"This intermountain country, pointing to the prosperity of its railroads and to its own development, urges that the time has come when the same treatment should be accorded to it which has been accorded to the middle west, and that even though higher rates are maintained from the extreme Atlantic seaboard to this region than to San Francisco there is certainly no excuse for a higher rate from factories 1000 miles distant from the Atlantic seaboard.

Water Rate Fluctuates.
"The water rate is not a continuing and a permanent rate, but rather fluctuates from day to day and from season to season. The rail rate of the transcontinental line depends upon whether it is the purpose of that line to take much or little of the business. A rate of \$1 per 100 pounds will carry but little of a commodity; 85 cents per 100 pounds will carry some of it; 70 cents per 100 pounds may drive the ships out of the business. Now, within those limits what rate shall the carrier make?"

"Of the Willamette valley rate case the report says:

"This case concerns an order of the commission establishing rates for the transportation of green fir lumber, in carloads, from the Willamette valley to San Francisco by points.

"With but a brief interval the Southern Pacific had maintained for six years for this service a rate of \$3.10 per ton from certain points and \$3.35 per ton from certain other points. In April, 1907, a rate of \$5 per ton was established from all points. This rate the commission held to be unreasonable in so far as it exceeded \$3.40 from those points at which the \$3.10 rate had been maintained and \$3.55 from those points to which the \$3.35 rate had been applied. It will be seen that an advance of about 10 per cent was allowed above the rates voluntarily established and

for six years maintained by the carrier itself.

Based on Understanding.
"It appeared upon the hearing that the \$3.10 rate had been established after investigation by the Southern Pacific company and upon the understanding by that company that a lumber business in the Willamette valley could not be successfully conducted upon a higher basis of rates. It was claimed that in case of one large operation there was an agreement to the effect that this rate should not be exceeded, but no such contract was found by the commission. It did appear, however, that extensive mills had been constructed during these six years, involving the outlay of great sums of money, and that large tracts had been bought upon the assumption that this rate was regarded by the Southern Pacific as, on the whole, a fair one, and that it would be maintained. It conclusively appeared that the action of the Southern Pacific in advancing that rate to \$5 seriously impaired the value of all this property and in some instances amounted to virtual confiscation.

"These facts were developed in the testimony and were referred to by the commission in its opinion, but the case was not decided upon this ground alone, nor, indeed, was this the principal subject of consideration. We carefully examined the method in which this lumber was handled, the cost of its transportation, and the financial condition of the line between San Francisco and Portland. From this examination we reached the conclusion that the handling of this traffic at the old rate was remunerative and that upon the whole situation, while the original rate was not somewhat advanced, it should not exceed the figures stated above.

Order Held Unlawful.
"Upon proceedings to enjoin the enforcement of this order the circuit court refused an injunction, but the supreme court reversed the court below and held that the order of the commission was unlawful.

"The carrier attacked the order upon the ground that it was not an attempt upon the part of the commission to establish a reasonable rate of transportation, but was rather in the nature of a decree enforcing an equitable estoppel between these parties. Below is given the language of the supreme court stating the question presented to it and its conclusion:

"It is clear, therefore, as we have said at the outset, that the result of the contentions and concessions of the respective parties is to reduce the controversy to a single issue, which is, What, in substance, was the power which the commission exerted in making the order?"

"Coming to a consideration of that subject, we are of the opinion that the court below erred in not restraining the enforcement of the order complained of, because we see no escape from the conclusion that the order was void because it was made in consequence of the assumption by the commission that it possessed the extreme powers which the railroad companies insist the order plainly manifests."

"It is impossible to say exactly what significance should attach to this decision. The court did not find that the rate established was too low. It apparently held that the commission was not undertaking to establish a reasonable rate, but, rather, to enforce the contracts and understandings between the parties under which the old rate had been put in and maintained. Of course, the commission has no such power, and if it attempted to exercise that power its order was clearly unlawful.

Effect of Decision.
"If, upon the other hand, this is to be interpreted as a holding that in passing upon the justice of an advance in a rate of transportation, this body can not consider those rates which have been voluntarily established and maintained by carriers, the investments which have been made, the development which has occurred upon the strength of such rates, and the effect upon business and financial interests which the advance involves, then that decision would be a most important and a most

unfortunate one. This commission has never understood that it was a court of equity, with power to enforce by its orders the law of equity, but it has supposed that it was an administrative tribunal, whose duty it was to do equity between the carrier and the shipper in so far as might properly be done.

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