

Mr. WRIGHT. I am just a little curious, what was the basis of your action against the Interior Department? Was it simply that you felt the Department had failed to comply with the law that you are charged with administering by refusing to come and ask you for a certificate of convenience and necessity?

Mr. AVERY. Yes.

Mr. WRIGHT. Is this all that was involved? Or did you have some more pronounced objection to their operating this little shuttle?

Mr. AVERY. No, Mr. Wright. Of course I cannot now and we have never taken a position publicly on what we would say about the desirability of the service. That is a matter which I cannot comment on, because it has got to come before the full Commission. But what we were saying, what we said to the Interior Department was that the concessionaire was a person engaged in transportation for hire in the Washington metropolitan district and, therefore, we had no choice but to take the position that the compact applied to it.

Now, the Secretary had two arguments. He referred first to certain statutory provisions which gave him exclusive jurisdiction over the Mall area of the District of Columbia, and he referred to the exemption in our compact of transportation by the Federal Government.

We carefully considered his arguments and we thought that his position on the law was not so clear that we felt we should accept it.

So that in order to clarify the law, we brought an action in the court and tried to expedite it as quickly as we could to get the question settled.

Now, the court, as it turned out, agreed with our interpretations of the acts investing the Secretary with jurisdiction over the park areas and with our interpretation of the exemption, and held: Yes, this was transportation for hire by a person in the Washington metropolitan district, and therefore the compact had to be complied with.

Mr. WRIGHT. I believe that you raised an interesting point and have served the Commission well by bringing this to our attention in order that we may determine what we wish the legislation to do—whether expressly to subject this to your jurisdiction, or expressly to exempt it.

If it were subjected to your jurisdiction, what would be the questions you would want to have answered from a concessionaire? What will be the area of your determination?

Mr. AVERY. Well, in the first instance, Mr. Wright, the first question that comes up is in the proceeding for a certificate of convenience and necessity. The question in that proceeding is: Is there a need for the service? Would the public convenience and necessity be usefully served by the institution of this service?

Mr. WRIGHT. Now, if the Congress directs in legislation that service of this type be provided, would this still confer upon you, in your judgment, a need to make a determination that there is a public convenience and necessity to be served? Would you be obliged to hold a judicial inquiry to find out whether or not it should be done if Congress has directed that it be done?