The Interstate Commerce Commission (ICC) was a regulatory agency in the United States created by the Interstate Commerce Act of 1887. The agency's original purpose was to regulate railroads (and later trucking) to ensure fair rates, to eliminate rate discrimination, and to regulate other aspects of common carriers, including interstate bus lines and telephone companies. Congress expanded ICC authority to regulate other modes of commerce beginning in 1906. The agency was abolished in 1995, and its remaining functions were transferred to the Surface Transportation Board.

The Commission's five members were appointed by the President of the United States with the consent of the United States Senate; the commission was authorized to investigate violations of the Act and order the cessation of wrongdoing. However, in its early years, ICC orders required an order by a federal court to become effective. The Commission was the first independent regulatory body (or so-called Fourth Branch), as well as the first agency to regulate big business in the U.S.\[1\]

1 Creation

The ICC was established by the Interstate Commerce Act of 1887, which was signed into law by President Grover Cleveland.\[2\] The creation of the commission was the result of widespread and longstanding antirailroad agitation. Western farmers, specifically those of the Grange Movement, were the dominant force behind the unrest, but Westerners generally — especially those in rural areas — believed that the railroads possessed economic power that they systematically abused. A central issue was rate discrimination between similarly situated customers and communities.\[3,4\]

The Act applied to all railroads engaged in interstate commerce, even if they were located entirely within a single state, and it also applied to water carriers — riverboats, barges, ferries — owned or controlled by railroads. The Act states that rates charged by the railroads had to be “just and reasonable,” but it did not set standards for reasonableness. Railroads were forbidden to give preference, advantage, special rates, or rebates to any person, company, location, city or type of traffic.\[1\] There had been alleged attempts by railroads to obtain influence over city and state governments and a widespread practice of granting free transportation in the form of yearly passes to opinion leaders (elected officials, newspaper editors, ministers, et al.). Railroads were not allowed to charge more for a short haul than a long haul under the same circumstances when the short haul was a segment of a longer haul (e.g., a New York-Baltimore trip should not cost more than a New York-Washington, D.C. trip). The act prohibited pooling, which, in a railroad's case, was the sharing of revenue or freight. Railroads were required to publish rates and give advance notice of change.\[1\]

2 Initial implementation and legal challenges

The ICC had a troubled start because the Act failed to give it adequate enforcement powers.

“The Commission is, or can be made, of great use to the railroads. It satisfies the popular clamor for a government supervision of the railroads, while at the same time that supervision is almost entirely nominal.” - Richard Olney, US Attorney General, circa 1889.\[4\]

Following passage of the Act, the ICC proceeded to set maximum shipping rates for railroads. However, several railroads challenged the agency's rate-making authority in 1897, with the Supreme Court ruling that the ICC had no power to fix rates. This ultimately nullified the clause stating that the short haul should cost no more than the long haul.\[1,3\] \[90ff\] [5]

3 Expansion of ICC authority

The situation of the ICC began to change after the turn of the century as Congress expanded the ICC's powers through subsequent legislation. The 1893 Railroad Safety Appliance Act gave the ICC jurisdiction over railroad safety, removing this authority from the states, and this was followed with amendments in 1903 and 1910.\[6\] The Elkins Act (1903) increased penalties for rate discrimination and made those who sought rebates as guilty as the railroads that granted them.\[1\] The Hepburn Act (1906) authorized the ICC to set maximum railroad rates, and extended the agency's authority to cover bridges, terminals, ferries, sleeping cars, express companies and oil pipelines.\[1,7\] The Act also declared that any order of the ICC had the force of a court order. It also introduced new accounting methods and raised the number of commissioners to seven.\[1\]
A long-standing controversy was how to interpret language in the Act that banned long haul-short haul fare discrimination. The Mann-Elkins Act of 1910 addressed this question by giving the ICC power to suspend rate increases pending hearings and laid on the railroads the burden of proof that the rate — not just the increase — was just and reasonable. The Act also set up a court to hear only ICC cases and the gave the ICC authority to begin judicial proceedings against railroads without the need for the Attorney General to initiate the action. It also expanded the ICC’s jurisdiction to include regulation of telephone, telegraph and wireless companies. (That authority was transferred to the Federal Communications Commission in 1934. [1][8])

The ICC soon grew to have authority over almost every aspect of railroading, ranging from locomotive boilers and passenger accounting to the diameter of grab irons and speed limits. The railroads reached their peak in extent and influence by 1915, about the time the ICC was hitting its stride. Ironically, just as railroads began to suffer from highway and waterway competition, the ICC set out to protect the public from the railroads. [1]

4 Esch-Cummins Act: Consolidation proposals

The Transportation Act of 1920 (a.k.a. the Esch-Cummins Act) contained a clause granting the railroads a fair return. The Act (which was repealed in 1933) also allowed the ICC to set minimum rates and instructed the ICC to prepare a plan to consolidate the railroads of the U.S. into several large systems. [1] Between 1920 and 1933 William Z. Ripley, a professor of political economy at Harvard University, wrote up ICC’s plan for the regional consolidation of the U.S. railways, which became known as the Ripley Plan. In 1929, the ICC published Ripley’s Plan under the title Complete Plan of Consolidation. Numerous hearings were held by ICC regarding the plan under the topic “In the Matter of Consolidation of the Railways of the United States into a Limited Number of Systems.” [10]

4.1 Regional railroads

The proposed 21 regional railroads were as follows:

1. **Boston & Maine Railroad**: Maine Central Railroad; Bangor & Aroostook Railroad; Delaware & Hudson Railway
2. **New York, New Haven & Hartford Railroad**: New York, Ontario & Western Railroad; Lehigh & Hudson River Railway; Lehigh & New England Railroad
3. **New York Central Railroad**: Rutland Railroad; Virginian Railway; Chicago, Attica & Southern Railroad
4. **Pennsylvania Railroad**: Long Island Rail Road
5. **Baltimore & Ohio Railroad**: Central Railroad of New Jersey; Reading Railroad; Western Maryland Railroad; Buffalo & Susquehanna Railroad; Buffalo, Rochester & Pittsburgh Railway; 50 percent of Detroit, Toledo & Ironton Railroad (DT&I); 50 percent of Detroit & Toledo Shore Line Railroad (DTSL); 50 percent of Monon Railroad; Chicago & Alton Railroad (Alton Railroad)
6. **Chesapeake & Ohio-Nickel Plate Road**: Hocking Valley Railway; Erie Railroad; Pere Marquette Railway; Delaware, Lackawanna & Western Railroad; Bessemer & Lake Erie Railroad; Chicago & Illinois Midland Railroad; 50 percent of DT&I; Toledo, Peoria and Western Railroad
7. **Wabash-Seaboard Air Line Railway**: Lehigh Valley Railroad; Wheeling & Lake Erie Railway; Pittsburgh & West Virginia Railway; Western Maryland Railway; Akron, Canton & Youngstown Railway; Norfolk & Western Railway; 50 percent of DT&I; Toledo, Peoria and Western Railroad;
Ann Arbor Railroad; 50 percent of Winston-Salem Southbound Railway

8. Atlantic Coast Line Railroad; Louisville & Nashville Railroad; Nashville, Chattanooga & St. Louis Railway; Clinchfield Railroad; Atlanta, Birmingham & Coast Railroad; Mobile & Northern Railroad; New Orleans Great Northern Railroad; 25 percent of Chicago, Indianapolis & Louisville Railway (Monon Railway); 50 percent of Winston-Salem Southbound Railway

9. Southern Railway; Norfolk Southern Railroad; Tennessee Central Railway (east of Nashville, Tennessee); Florida East Coast Railway; 25 percent of Monon Railroad

10. Illinois Central Railroad; Central of Georgia Railroad; Minneapolis and St. Louis Railway; Tennessee Central Railway (west of Nashville); St. Louis Southwestern Railway (Cotton Belt Railway); Atlanta & St. Andrews Bay Railroad

11. Chicago & North Western Railway; Chicago & Eastern Illinois Railway; Litchfield & Madison Railway; Mobile & Ohio Railroad; Columbus & Greenville Railway; Lake Superior & Ishpeming Railroad

12. Great Northern-Northern Pacific Railway; Spokane, Portland & Seattle Railway; 50% of Butte, Anaconda & Pacific Railway

13. Milwaukee Road; Escanaba & Lake Superior Railroad; Duluth, Missabe & Northern Railroad; Duluth & Iron Range Railroad; 50% of Butte, Anaconda & Pacific Railway; trackage rights on Spokane, Portland & Seattle Railway to Portland, Oregon.

14. Burlington Route; Colorado & Southern Railroad; Fort Worth & Denver Railroad; Green Bay & Western Railroad; Missouri-Kansas-Texas Railroad; 50% of Trinity & Brazos Valley Railroad; Oklahoma City-Ada-Atoka Railway

15. Union Pacific Railroad; Kansas City Southern Railway

16. Southern Pacific Railroad

17. Santa Fe Railway; Chicago Great Western Railway; Kansas City, Mexico & Orient Railway; Missouri & North Arkansas Railroad; Midland Valley Railroad; Minneapolis, Northfield & Southern Railway

18. Missouri Pacific Railroad; Texas & Pacific Railway; Kansas, Oklahoma & Gulf Railway; Denver & Rio Grande Western Railroad; Denver & Salt Lake Railroad; Western Pacific Railroad; Fort Smith & Western Railroad

19. Rock Island-St. Louis-San Francisco Railway; Alabama, Tennessee & Northern Railroad; 50% of Trinity & Brazos Valley Railroad; Louisiana & Arkansas Railway; Meridian & Bigbee Railroad

20. Canadian National; Detroit, Grand Haven & Milwaukee Railway; Grand Trunk Western Railway

21. Canadian Pacific; Soo Line; Duluth, South Shore & Atlantic Railway; Mineral Range Railroad

4.2 Terminal railroads

There were 100 terminal railroads that were also proposed:

1. Toledo Terminal Railroad; Detroit Terminal Railroad; Kankakee & Seneca Railroad

2. Indianapolis Union Railway; Boston Terminal; Ft. Wayne Union Railway; Norfolk & Portsmouth Belt Line Railroad

3. Toledo, Angola & Western Railway

4. Akron and Barberton Belt Railroad; Canton Railroad; Muskegon Railway & Navigation

5. Philadelphia Belt Line Railroad; Fort Street Union Depot; Detroit Union Railroad Depot & Station; 15 other properties throughout the United States

6. St. Louis & O'Fallon Railway; Detroit & Western Railway; Flint Belt Railroad; 63 other properties throughout the United States

7. Youngstown & Northern Railroad; Delray Connecting Railroad; Wyandotte Southern Railroad; Wyandotte Terminal Railroad; South Brooklyn Railway

4.3 Plan rejected

Many small railroads failed during the Great Depression of the 1930s. Of those lines that survived, the stronger ones were not interested in supporting the weaker ones. Congress repudiated Ripley’s Plan with the Transportation Act of 1940, and the consolidation idea was scrapped.

5 Later years

By 1952, the ICC had jurisdiction over railroads, ferries, pipelines, bridges, internal and coastal shipping, trucks, and interstate bus lines, the catch being that the majority of internal waterway traffic and truck traffic was,
by virtue of one law or another, exempt from ICC control. The ICC’s authority over the railroads extended to the setting of maximum and minimum rates, approving or disapproving consolidations and mergers, authorizing construction and abandonment of lines, and issuance of securities — indeed, every aspect of the railroad business but labor relations.[1]

The Transportation Act of 1958 gave the ICC jurisdiction over passenger train discontinuances, previously under the authority of the state commissions (state authorities had allowed discontinuance of through trains with states, e.g., allowing a New York–Chicago train to be discontinued within Ohio). The ICC earned a reputation for capriciousness in the matter of passenger-train discontinuances. This was illustrated when the ICC denied the Milwaukee Road’s petition to drop a coach-only Chicago-Minneapolis local service on a route that had three other trains, yet it permitted the discontinuance of Chicago & Eastern Illinois Railroad’s well-patronized Georgian-Humming Bird. It was the last passenger train on the Chicago-Danville-Terre Haute-Evansville run, and it was less a local train than it was a north end of Chicago-Atlanta and Chicago-Mobile service operated jointly by the Louisville & Nashville Railroad.[1]

In the matter of mergers, the ICC functioned at a glacial pace. Proceedings in connection with the proposed merger of the Chicago, Rock Island & Pacific Railroad (Rock Island) and Union Pacific Railroad (UP) dragged on for ten years, during which time the Rock Island fell apart and ceased to be the desirable merger partner that UP had courted. Railroad historian George Drury commented that some of the blame was laid on the other railroads. The usual reaction of a railroad company upon learning of a proposed merger between two of its competitors is not “We’re good enough to give them a run for their money even if they merge” but rather “They’ll run us out of business.”[1]

Over-regulation of railroads reached the point that the ICC could (and did) require railroads to continue operations that lost money. In 1962, President John F. Kennedy delivered a message on transportation to Congress in which he criticized the regulatory structure, which resulted in successor Lyndon B. Johnson establishing the federal United States Department of Transportation (DOT) in 1966. The DOT was to develop and coordinate policies that would encourage a national transportation system. Some rate-making and regulatory functions remained with the ICC, however. The Federal Railroad Administration would be born out of the DOT, for the sole purpose of dealing with railroad affairs, with a focus on safety.[1]

6 Abolition

Congress passed various deregulation measures in the 1970s and 1980s which diminished ICC authority, including the Railroad Revitalization and Regulatory Reform Act of 1976 (“4R Act”) and the Motor Carrier Act of 1980.[14] Full deregulation finally came on October 14, 1980, when President Jimmy Carter signed into law the Staggers Rail Act (named for Democratic Congressman Harley Orrin Staggers of West Virginia). It was a massive deregulation of the railroads. The law included provisions to raise any rate that fell below 160 percent of out-of-pocket costs (this figure eventually rose to 180 percent), and allowed carriers to enter into contracts with shippers to set price and service, both without ICC approval.[1]

In 1995, when most of the ICC’s powers had been eliminated, Congress finally abolished the agency with the Interstate Commerce Commission Termination Act.[15] Final Chair Gail McDonald oversaw transferring its remaining functions to a new agency, the Surface Transportation Board.

Prior to its abolition, the ICC issued identification numbers to Motor Carriers (bus lines, shipping companies, etc.) which it issued licenses. These identification numbers were generally in the form of “ICC MC-000000”. When the ICC was dissolved, the function of licensing interstate Motor Carriers was transferred to the Department of Transportation, so now all motor carriers which have federal licenses have a different “DOT number” such as “DOT 000000”.

7 Legacy

The ICC served as a model for later regulatory efforts. Unlike, for example, state medical boards (historically administered by the doctors themselves), the seven Interstate Commerce Commissioners and their staffs were full-time regulators who could have no economic ties to the industries they regulated. Post-1887, state and other federal agencies adopted this structure. And, like the ICC, later agencies tended to be organized as multi-headed independent commissions with staggered terms for the commissioners. At the federal level, agencies patterned after the ICC included the Federal Trade Commission (1914), the Federal Communications Commission (1934), the U.S. Securities and Exchange Commission (1934), the National Labor Relations Board (1935), the Civil Aeronautics Board (1940), Postal Regulatory Commission (1970), the Consumer Product Safety Commission (1975), and the Federal Energy Regulatory Commission (1977). In recent decades, this regulatory structure of independent federal agencies has gone out of fashion; the agencies created after the 1970s generally have single heads appointed by the President and are divisions inside executive Cabinet Departments (e.g., the
8.1 History

Main article: Timeline of the African-American Civil Rights Movement

- April 28, 1941 - In *Mitchell v. United States*, the United States Supreme Court rules that discrimination in which a colored man who had paid a first class fare for an interstate journey was compelled to leave that car and ride in a second class car was essentially unjust, and violated the Interstate Commerce Act. The court thus overturns an ICC order dismissing a complaint against an interstate carrier.

- June 3, 1946 - In *Morgan v. Virginia*, the Supreme Court invalidates provisions of the Virginia Code which require the separation of white and colored passengers where applied to interstate bus transport. The state law is unconstitutional insofar as it is burdening interstate commerce, an area of federal jurisdiction.

- June 5, 1950 - In *Henderson v. United States*, the Supreme Court rules to abolish segregation of reserved tables in railroad dining cars. The Southern Railway had reserved tables in such a way as to allocate one table conditionally for blacks and multiple tables for whites; a black passenger traveling first-class was not served in the dining car as the one reserved table was in use. The ICC ruled the discrimination to be an error in judgment on the part of an individual dining car steward; both the United States District Court for the District of Maryland and the Supreme Court disagreed, finding the published policies of the railroad itself to be in violation of the Interstate Commerce Act.

- September 1, 1953 - In *Sarah Keys v. Carolina Coach Company*, Women's Army Corps private Sarah Keys, represented by civil rights lawyer Dovey Roundtree, becomes the first black to challenge the "separate but equal" doctrine in bus segregation before the ICC. While the initial ICC reviewing commissioner declined to accept the case, claiming *Brown v. Board of Education* (1954) "did not preclude segregation in a private business such as a bus company," Roundtree ultimately prevailed in obtaining a review by the full eleven-person commission.

- November 7, 1955 – ICC bans bus segregation in interstate travel in *Sarah Keys v. Carolina Coach Company*. This extends the logic of *Brown v. Board of Education*, a precedent ending the use of "separate but equal" as a defense against discrimination claims in education, to bus travel across state lines.

- December 5, 1960 - In *Boynton v. Virginia*, the Supreme Court holds that racial segregation in bus

8.1 History

The Interstate Commerce Commission had a strong influence on the founders of Australia. The Constitution of Australia provides (§§ 101-104; also § 73) for the establishment of an Inter-State Commission, modeled after the United States' Interstate Commerce Commission. However, these provisions have largely not been put into practice; the Commission existed between 1913–1920, and 1975–1989, but never assumed the role which Australia's founders had intended for it.

7.1 International influence

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7.2 Criticism

A Puck magazine cartoon from 1907 depicting two large bears named "Interstate Commerce Commission" and "Federal Courts" attacking Wall Street.

The limitation on railroad rates introduced in 1906 depreciated the value of railroad securities, a factor that contributed to the panic of 1907.

Some economists and historians, such as Milton Friedman assert that existing railroad interests took advantage of ICC regulations to strengthen their control of the industry and prevent competition, constituting regulatory capture. Economist David D. Friedman argues that the ICC always served the railroads as a cartelizing agent and used its authority over other forms of transportation to prevent them, where possible, from undercutting the railroads.

8 Racial integration of transport

Although racial discrimination was never a major focus of its efforts, the ICC had to address civil rights issues when passengers filed complaints.
terminals is illegal because such segregation violates the Interstate Commerce Act.[24] This ruling, in combination with the ICC's 1955 decision in *Keys v. Carolina Coach*, effectively outlaws segregation on interstate buses and at the terminals servicing such buses.

- **September 23, 1961 - The ICC, at Attorney General Robert F. Kennedy's insistence, issues new rules ending discrimination in interstate travel. Effective November 1, 1961, six years after the commission's own ruling in *Keys v. Carolina Coach Company*, all interstate buses required to display a certificate that reads: “Seating aboard this vehicle is without regard to race, color, creed, or national origin, by order of the Interstate Commerce Commission.”

### 8.2 Relationship between regulatory body and the regulated

A friendly relationship between the regulators and the regulated is evident in several early civil rights cases. Throughout the South, railroads had established segregated facilities for sleeping cars, coaches and dining cars. At the same time, the plain language of the Act (forbidding "undue or unreasonable preference" as well as "personal discrimination") could be read as an implied invitation for activist regulators to chip away at racial discrimination.

"It shall be unlawful for any common carrier subject to the provisions of this part to make, give, or cause any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic, in any respect whatsoever; or to subject any particular person, company, firm, corporation, association, locality, port, port district, gateway, transit point, region, district, territory, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. . ."[25]

In at least two landmark cases, however, the Commission sided with the railroads rather than with the African-American passengers who had filed complaints. In both *Mitchell v. United States* and *Henderson v. United States*, the Supreme Court took a more expansive view of the Act than the Commission. In 1962, the ICC banned racial discrimination in buses and bus stations, but it did not do so until several months after a binding pro-integration Supreme Court decision in *Boynont v. Virginia* and the Freedom Rides (in which activists engaged in civil disobedience to desegregate interstate buses).

### 9 See also

- Civil Aeronautics Board, a comparable body regulating American air travel
  - Airline deregulation in the United States, an overview of the CAB’s rise and fall
- History of rail transport in the United States
- Regulatory capture
- United States administrative law
- Virginia Mae Brown, first woman to head the Commission

### 10 References


[22] Challenging the System: Two Army Women Fight for Equality, Judith Bellafaire Ph.D., Curator, Women In Military Service For America Memorial Foundation


12 External links

- Public Broadcasting Service (PBS). “People & Events: Interstate Commerce Commission.” (Notes for the television program The American Experience: Streamliners.)
- Historic technical reports from the Interstate Commerce Commission (and other Federal agencies) are available in the Technical Report Archive and Image Library (TRAIL)

11 Sources

13 Text and image sources, contributors, and licenses

13.1 Text


13.2 Images

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