

Sec. 8—Powers of Congress

Cl. 3—Power to Regulate Commerce

law controlled the railroads' operations over a wide area.¹¹⁶⁴ If other states began regulating at different lengths, as they would be permitted to do, the burden on the railroads would burgeon. Moreover, the additional number of trains needed to comply with the cap just within Arizona was costly, and delays were occasioned by the need to break up and remake lengthy trains.¹¹⁶⁵

Conversely, the Court found that, as a safety measure, the state cap had "at most slight and dubious advantage, if any, over unregulated train lengths." That is, although there were safety problems with longer trains, the shorter trains mandated by state law required increases in the numbers of trains and train operations and a consequent increase in accidents generally more severe than those attributable to longer trains. In short, the evidence did not show that the cap lessened rather than increased the danger of accidents.¹¹⁶⁶

Conflicting state regulations appeared in *Bibb v. Navajo Freight Lines*.¹¹⁶⁷ There, Illinois required the use of contour mudguards on trucks and trailers operating on the state's highways, while nearby Arkansas required the use of straight mudguards and banned contoured ones. At least 45 states authorized straight mudguards. The Court sifted the evidence and found it conflicting on the comparative safety advantages of contoured and straight mudguards. But, admitting that if that were all that was involved the Court would have to sustain the costs and burdens of outfitting with the required mudguards, the Court invalidated the Illinois law, because of the massive burden on interstate commerce occasioned by the necessity of truckers to shift cargoes to differently designed vehicles at the state's borders.

Arguably, the Court in more recent years has continued to stiffen the scrutiny with which it reviews state regulation of interstate carriers purportedly for safety reasons.¹¹⁶⁸ Difficulty attends any evaluation of the possible developing approach because the Court has spoken with several voices. A close reading, however, indicates that although the Court is most reluctant to invalidate regulations that touch upon safety and that if safety justifications are not illusory it

¹¹⁶⁴ The concern about the impact of one state's regulation upon the laws of other states is in part a reflection of the *Cooley* national uniformity interest and partly a hesitation about the autonomy of other states. *E.g.*, *CTS Corp. v. Dynamics Corp. of America*, 481 U.S. 69, 88–89 (1987); *Brown-Forman Distillers Corp. v. New York State Liquor Auth.*, 476 U.S. 573, 583–84 (1986).

¹¹⁶⁵ *Southern Pacific Co. v. Arizona*, 325 U.S. 761, 771–75 (1945).

¹¹⁶⁶ 325 U.S. at 775–79, 781–84.

¹¹⁶⁷ 359 U.S. 520 (1959).

¹¹⁶⁸ *Raymond Motor Transp., Inc. v. Rice*, 434 U.S. 429 (1978); *Kassel v. Consolidated Freightways Corp.*, 450 U.S. 662 (1981).