

## Sec. 8—Powers of Congress

## Cl. 3—Power to Regulate Commerce

issuance of securities by them and all consolidations of existing companies or lines.<sup>854</sup> Further, the commission was charged with regulating so as to foster and promote the meeting of the transportation needs of the country. Thus, from a regulatory exercise originally begun as a method of restraint there has emerged a policy of encouraging a consistent national transportation policy.<sup>855</sup> For instance, although its statutory jurisdiction did not explicitly apply to intrastate rate systems, the commission early asserted the right to review intrastate rates, set by states, which gave intrastate lines competitive advantages over interstate lines whose rates had been set by the commission.

This power was challenged in *Houston & Texas Ry. v. United States (The Shreveport Rate Cases)*, which involved a line operating wholly intrastate in Texas but which paralleled an interstate line operating between Louisiana and Texas. The case arose because a Texas rate body had fixed the rates of the intrastate line substantially lower than the rate fixed by the ICC on the interstate line. In upholding the ICC order to raise those intrastate rates, the Court held that: “[w]herever the interstate and intrastate transactions of carriers are so related that the government of the one involves the control of the other, it is Congress, and not the State, that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority and the States and not the Nation, would be supreme in the national field.”<sup>856</sup> This holding, referred to as the *Shreveport*

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international rate covering transportation in the United States and abroad and to order domestic carriers to pay reparations in the amount by which the rate is unreasonable. *Canada Packers v. Atchison, T. & S. F. Ry.*, 385 U.S. 182 (1966), and cases cited.

<sup>854</sup> Disputes between the ICC and other government agencies over mergers have occupied a good deal of the Court's time. *Cf. United States v. ICC*, 396 U.S. 491 (1970). See also *County of Marin v. United States*, 356 U.S. 412 (1958); *McLean Trucking Co. v. United States*, 321 U.S. 67 (1944); *Penn-Central Merger & N & W Inclusion Cases*, 389 U.S. 486 (1968).

<sup>855</sup> Among the various provisions of the Interstate Commerce Act which have been upheld are: a section penalizing shippers for obtaining transportation at less than published rates, *Armour Packing Co. v. United States*, 209 U.S. 56 (1908); a section construed as prohibiting the hauling of commodities in which the carrier had at the time of haul a proprietary interest, *United States v. Delaware & Hudson Co.*, 213 U.S. 366 (1909); a section abrogating life passes, *Louisville & Nashville R.R. v. Mottley*, 219 U.S. 467 (1911); a section authorizing the ICC to regulate the entire bookkeeping system of interstate carriers, including intrastate accounts, *ICC v. Goodrich Transit Co.*, 224 U.S. 194 (1912); a clause affecting the charging of rates different for long and short hauls. *Intermountain Rate Cases*, 234 U.S. 476 (1914).

<sup>856</sup> *Houston & Texas Ry. v. United States (The Shreveport Rate Cases)*, 234 U.S. 342, 351–352 (1914). See also, *American Express Co. v. Caldwell*, 244 U.S. 617 (1917); *Pacific Tel. & Tel. Co. v. Tax Comm'n*, 297 U.S. 403 (1936); *Weiss v. United States*, 308 U.S. 321 (1939); *Bethlehem Steel Co. v. State Board*, 330 U.S. 767 (1947); *United States v. Walsh*, 331 U.S. 432 (1947).