The law of interstate commerce and its federal regulation

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THE LAW

OF

INTERSTATE COMMERCE

AND ITS

FEDERAL REGULATION

BY

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OF THE ST. LOUIS BAR

SECOND EDITION

CHICAGO
T. H. FLOOD & CO.
1912
PREFACE.

The first edition of this book was published in May, 1905, and a supplement thereto in August, 1906, after the adoption of the amendments of that year to the Interstate Commerce Act. To such an extent has the law of Interstate Commerce and its federal regulation been developed and expanded during the intervening years, not only through judicial construction, but through far-reaching statutory changes, that a new edition is now required not only because much must be added, but also for the further reason that much of what was then declared to be the law must of necessity be rewritten.

It was said in the preface to the first edition that it was the purpose of the book to present in a compact form the law of interstate commerce as declared by the court since the adoption of the constitution, and also as enacted by Congress and applied by the Interstate Commerce Commission in the direct exercise of the power of federal regulation, and that the book was written under the conviction that the direct federal regulation of interstate commerce had come to stay.

It was also said that the rules declared by the Interstate Commerce Commission in what were then the eighteen years of its existence, though its powers had been in some respects curtailed by the judicial construction of the Interstate Commerce Act, were a body of administrative railroad law which was properly included in such a treatise, as every phase of the complex adjustment of railway rates had been considered by the Commission, and its rulings in this infinite variety of cases had a permanent value in the solution of the transportation problems of the future. At the present time it must be said that the powers of the Interstate Commerce Commission have been greatly enhanced, not only by legislation, but also by judicial construction. It now exercises powers, not only of investigation and administration, but also those that are essentially
judicial and legislative. It passes on and determines the reasonableness of rates and other regulations of carriers, and fixes their limitations for the future; and these administrative orders within the limits of their powers are not subject to judicial review. It is the more important, therefore, that the rulings of this body should be formulated, so far as may be, for the guidance of our vast transportation interests, both of railroads and the public.

In the preface to the first edition reference was made to the then agitation for the amendment of the Interstate Commerce Act. During the period which has elapsed from that publication the legislation of 1906 and 1910 has in effect given to the Commission all the increased powers that were then the subject of agitation.

As was said in the preface to the first edition, in view of the informality of the procedure, as well as for convenience and in the interest of brevity, the citations of the Commission's cases have been by the book and page of the reports without the names of the parties. It is also true that the reports of the Commission, while of permanent value, are not adjudications in the ordinary sense of the term, in that they deal with temporary conditions which may be transitory, and the administrative orders are effective for only a period of two years. It has been the aim to note those rulings which are of value as precedents for the determination of similar controversies.

While the book is entitled "The Law of Interstate Commerce and Its Federal Regulation," and deals in Part I with the law of interstate commerce as declared by the courts, the remaining parts of the book are taken up with the actual regulation of interstate commerce through the acts relating to transportation and with the Anti-Trust Act which, as declared by the Supreme Court, was enacted to protect interstate commerce against unlawful combinations. The enforcement of this act is so closely allied to the subject of the regulation of commercial intercourse that it seemed properly included in a treatise of this character.

The law of interstate commerce has through recent legislation of Congress a still broader scope, illustrated in such acts as the Pure Food, Meat Inspection, and National Quarantine
Acts, and the like, which are enacted in what for want of a better term may be classed as police regulation under the Interstate Commerce clause. The discussion of this legislation seemed apart from the scope planned for this work, and only incidental reference has been made thereto. On the other hand the questions relating to the concurrent powers of the State and Federal Government in interstate commerce, and the federal control of state regulation of state traffic of interstate carriers conducted with the same equipment and same employes as interstate traffic, seemed properly included in a treatise on the federal regulation of interstate commerce.

I take great pleasure in acknowledging my services to Mr. J. Edgar Smith, of the Washington, D. C., bar, now associated with the Interstate Commerce Commission, in valuable suggestions and assistance, especially in the annotation of Section 1 of the Interstate Commerce Act, also to Mr. J. Porter Henry, of the St. Louis bar, for very efficient services in revision, correcting proofs, and in the difficult and tedious work of preparing index.

St. Louis, Dec. 1911.
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