

HARRIMAN v. THE INTERSTATE COMMERCE COMMISSION.

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M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

RELATIVE TO

**THE RECENT DECISION OF THE SUPREME COURT OF THE UNITED STATES IN THE CASE OF HARRIMAN VERSUS THE INTERSTATE COMMERCE COMMISSION.**

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JANUARY 6, 1909.—Read; referred to the Committee on Interstate Commerce and ordered to be printed.

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*To the Senate and House of Representatives:*

The recent decision of the Supreme Court of the United States in *Harriman versus the Interstate Commerce Commission*, seems to render advisable further legislation in the way of amendments to the existing law which will confer upon the Interstate Commerce Commission, so far as the Congress has constitutional power to do so, the authority claimed for it in the case recently decided against it by the Supreme Court. Mr. Justice Day, in delivering the dissenting opinion, concurred in by Mr. Justice Harlan and Mr. Justice McKenna, says in part:

The function of investigation which Congress has conferred upon the Interstate Commerce Commission is one of great importance, and while of course, it can only be exercised within the constitutional limitations which protect the individual from unreasonable searches and seizures and unconstitutional invasions of liberty, the act should not be construed so narrowly as to defeat its purposes.

Apparently the language of the act is such that there is danger lest the last-mentioned result will unavoidably ensue upon the authoritative construction placed thereon by the Supreme Court, and it is therefore obvious that the Congress should amend the act and change the language so as explicitly to empower the commission to require by subpoena the attendance and testimony of witnesses, and the production of all books and papers relating to any matter under investigation, and this by virtue of the powers conferred upon the said commission by any section of the law under which it is acting, or of any act amendatory thereof, so as to aid it in ascertaining facts upon

which it can recommend any additional legislation in reference to the regulation of commerce that it may conceive to be within the power of the Congress to enact.

I further recommend that the commission be explicitly empowered by order to postpone the application of any increase of rates by any railroad pending examination by the said commission into said increase to see whether or not it is justified. The regulation of the railroads should be put as completely as possible in the hands of the commission, for it can only be rendered effective by being put completely under the control of some branch of the National Executive, the action of this branch to take effect immediately.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 6, 1909.*

