

**PANEL: HISTORY OF THE ICC —
PERSPECTIVES FROM WITHIN**

GEORGE M. CHANDLER; ROBERT L. CALHOUN;
BEATRICE AITCHISON; AND ROBERT S. BURK.
MODERATOR: ROBERT W. MINOR

MR. MINOR: Thank you, and good morning, former colleagues, present members of the staff and of the Commission, distinguished guests, and welcome to the first panel of the day.

As John said, we are going to talk about the history of the ICC, perspectives from the inside.

Fritz Kahn has recruited a distinguished panel of "insiders" to afford a rare view of our subject. Each will have approximately 25 years to cover, and I will introduce each of them in their turn.

Before I do, however, let me share with you a perspective that I am quite sure many of you in this room will recall, for I believe it was in this room 25 years ago, almost to the day, that we celebrated the Commission's 75th birthday, and it was a splendid occasion. We had the Marine Band to play for us. Chairman Pete Murphy was the presiding officer at that time. Speakers included representatives of the industry, Mr. Justice Tom Clark, Senator Warren Magnuson, who was Chairman of what was at that time called the Senate Interstate and Foreign Commerce Committee, Representative Oren Harris, the indefatigable Chairman of the House Committee on Interstate and Foreign Commerce, and United States Court of Appeals Judge E. Barrett Prettyman, who had shortly before been named by President Kennedy to head the Administrative Conference of the United States.

I could go on and on, but for me — and I am sure for most of the people who were present, the most unforgettable appearance that morn-

ing was that of Mr. Justice Felix Frankfurter of the United States Supreme Court. He had been on the bench of the Supreme Court of the United States for 23 years. His talk was an outstanding tour de force. He spoke for, I suspect, 30-35 minutes, without a manuscript, without a note, and his comments were learned, perceptive, concise, and characteristically most articulate.

He traced the history of the Commission, named some of those who, in his opinion, had particularly graced its bench. But most of all he defined and he identified the characteristics that, in his judgment, had made the ICC the model for the many agencies Congress devised through subsequent decades.

Listen for a moment to Mr. Justice Frankfurter. Talking about character, he said:

In the first place, the Commission illustrates throughout its life unblemished character. I don't merely mean character in the crude sense of the word, but character in its largest affirmative sense, character meaning a fastidious regard for responsibility, a complete divorcement between public and private interests and all other concomitants of a true and worthy conception of public duty.

And he spoke of the competence of the Commission:

Secondly, I would say we are here to celebrate as striking a manifestation of competence in government as any I know of in the three branches. With all respect for those — and I say this after having thought a good deal about it — my deep conviction is that so far as competence with reference to its responsibilities which from 1887 to this day have been invested in it, this Commission has as high a record of competence as any element of the government.

Third, he spoke of the persons who had served on the Commission and the independence they demonstrated. In that connection, he cited the example of Commissioner Joe Eastman, who exhibited such complete independence from the Executive Branch that his reappointment was in serious jeopardy for some time. However, he was finally reappointed by President Herbert Hoover. In fact, Commissioner Eastman earned the distinction of having been appointed by four Presidents — Wilson, Harding, Hoover, and Roosevelt — and his independence was demonstrated by the fact he never asked to be reappointed.

Then, Mr. Justice Frankfurter suggested that the Interstate Commerce Commission served as an excellent laboratory for solving governmental problems in the domain of economics.

I am sorry that Mr. Miller has left.

Finally, in noting that he had served 23 years on the bench of the Supreme Court, he said — and I think this is typical of Mr. Justice Frankfurter:

I want to say it is very generous of the Commission to ask me to take part in

this event, because while for 23 years as a teacher of law I lectured about the Commission, during the last 23 years from time to time I have dared to lecture to the Commission. Being an independent body, it has, I need not tell you, paid very little attention to my lectures.

I commend this document to you. I had to go to The State Library of Ohio to find it. It is reported in House Document 294 of the 87th Congress; the full record of the proceedings on that day are contained there.

I would urge you also to read the 76th annual report of the Commission which refers to the 75th anniversary. Interestingly, it reports that on the same day on which the celebration of the 75th anniversary took place, the Commission received a message from then-President Kennedy. The report reads:

On the same day the President transmitted to the Congress a transportation message. The President asked for a more coordinated federal policy, a less segmented approach, equality of opportunity for all forms of transportation and their users. He called for more reliance on competitive forces and less federal regulation.

Still a cloud no larger than a man's hand, but the beginning, I think, of the emphasis on deregulation.

Our first speaker today will discuss the first 25 years of the Commission. His appointment to this task is fortuitous, because he is the great-great-grandson of the first Chairman of the Interstate Commerce Commission, Judge Thomas Cooley.

George Chandler joined the ICC staff in 1957 as an attorney in the former Bureau of Operating Rights. He served as a Branch Chief, Assistant Chief in the Section of Proceedings, and Chairman of Review Board Number Two.

In 1967, he left the Commission to become a Special Assistant to the First Undersecretary of the Department of Transportation. Later at the Department of Transportation he was a Division Director in the Office of Planning and Program Review.

In 1969, he left the Department to go into private practice, but returned to the Commission in 1970 as Principal Legal Assistant to George Stafford. He headed up the Commission Task Force on the Northeastern Railroad Problems, created following the bankruptcy of the Penn Central.

He was appointed Director of the Rail Services Planning Office upon its creation in 1974 and remained there until that job was finished in October of 1975, and then rejoined Chairman Stafford. He later served on the staff of Commissioner Virginia Mae Brown.

He was the first Director of the Policy Review Office created by Chairman O'Neal. He became Associate Director of the Commission's Office of Proceedings in November of 1978. In June of 1980, he gave up those

administrative responsibilities to resume a decisionmaking position as Chairman of Review Board Number Two.

In 1983, the number of review boards was reduced, and George accepted a position as Senior Attorney in the Rail Section of the Office of Proceedings. He held this position until his retirement from the federal service on August 4, 1984.

To share with us his views on the history of the ICC from 1887 to 1912, here is George Chandler.