The Interstate Commerce Act (1887)

During the 1870s a number of states experimented with various programs developed to regulate railroad rates and practices, and those subjects were also repeatedly investigated by Congress. In 1886 the Supreme Court held, in the *Wabash Case,* that state governments could not regulate interstate shipments within their borders. In response to that decision, Congress adopted the first federal program for regulating private business. Adopted in February 1887, An Act to Regulate Commerce has usually been termed the Interstate Commerce Act.

Major provisions of the law (including some modifications in the ensuing two years) were as follows:

1. The law applied to all railroads engaged in interstate commerce, even if located entirely within one state, and to water carriers owned or controlled by them.
2. Railroad rates must be "just and reasonable"; the law prohibited "every unjust and unreasonable charge." No explicit standards of reasonableness were stated in the law.
3. Personal discrimination was prohibited; that is, charging different amounts "for doing a like and contemporaneous service in the transportation of a like amount of traffic under substantially similar circumstances and conditions."
4. Carriers were forbidden "to give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic."
5. Carriers were prohibited from charging a larger total amount for a shorter than for a longer haul, "under substantially similar circumstances and conditions," when the shorter haul was a segment of the longer.
6. Pooling—that is, collusive agreement to share freight or revenue—was prohibited.
7. Carriers were required to publish their rates and adhere to them, giving advance notice of changes.
8. The Interstate Commerce Commission (ICC) was created. Its members were to be appointed by the president with the advice and consent of the Senate. It was authorized to investigate alleged violations of the law and to bring against any violator an order to "cease and desist" from the unlawful conduct. However, the ICC could make its orders effective only by seeking a federal court order.

The Sherman Anti-Trust Act (1890)

Sherman Anti-Trust Act, an act passed by the U.S. Congress in 1890 to combat monopoly and improper restraints on competition. Because of the increase in industrialization following the Civil War, and the inability of the common law and state legislation to curb concentrations of economic power and abuses of such power, Congress enacted on July 2, 1890, a statute that has come to be regarded as the country's economic constitution, an expression of national faith in free competitive enterprise. The act was named for U.S. Senator John Sherman (1823–1900), a former secretary of the treasury. With respect to activities affecting interstate and foreign commerce, the Sherman Act prohibits two broadly phrased practices: (1) contracts, combinations, and conspiracies in restraint of trade, and (2) monopolization and attempts and conspiracies to monopolize.

At first the Sherman Act was rendered ineffective by Supreme Court decisions such as in United States v. E. C. Knight Company (1895). The act's provision for federal injunctions, however, was used against unions until1932. Nonetheless President Theodore Roosevelt's "trust-busting" oratory and the creation (1903) of the Antitrust Division in the Department of Justice enabled the federal government to crack down on some of the most egregious anti-competitive behaviors. Numbered among the act's major achievements are the dissolution of Northern Securities Company (1904), the Standard Oil Trust (1911), and the American Tobacco Company (1911).

The Clayton Anti-Trust Act (1914)

Clayton Anti-Trust Act, in American history, legislation enacted on Oct. 15, 1914, and named for its chief promoter, former Rep. Henry De Lamar Clayton. It attempted to strengthen and to supplement the Sherman Antitrust Act of 1890. It reflected the mood of the period, as Woodrow Wilson and the Democratic Party had based much of the 1912 presidential campaign on the principle that "private monopoly" was "indefensible and intolerable.

The act forbade a corporation to purchase stock in a competitive firm, outlawed contracts based on the condition that the purchaser would do no business with the seller's competitors, and made interlocking stockholdings and directorates illegal. It also made corporate officials individually responsible for corporate antitrust violations.

In response to the demands of organized labor, the Clayton Act recognized the right of labor to strike and to picket, exempted unions from antitrust prosecution (traditionally courts had considered them illegal combinations restraining trade), and placed restrictions on the court's power to grant injunctions in labor disputes. Qualifying phrases accompanying the provisions and unsympathetic court interpretations, however, weakened the act in practice and made the labor clauses of no real value.

Questions

1. *What industry was targeted by the Interstate Commerce Act?*

2. *What business practices did the Interstate Commerce Act attempt to outlaw?*

3. *What did the Sherman Anti-Trust Act do?*

4. *What factors limited the effectiveness of the Sherman Anti-Trust Act?*

5. *How did the Clayton Anti-Trust Act attempt to close loopholes in earlier anti-trust legislation?*

LANDMARK ANTI-TRUST CASES

CASE	FACTS	CONSTITUTIONAL ISSUE(S)	OPINION(S)
Munn v. Illinois (1877)	Farmers in Illinois felt that railroads were charging them too much to hall their crops. The state of Illinois passed a law that allowed the state to fix the maximum rate that the railroad could charge.	Does the regulation of railroad rates by a state deprive a railroad company of property without "due process" of law? Amendments: 4, 5, and 14	No. States may regulate trade within their borders (intrastate commerce), *as long as such a regulation is in the "public interest."*
Wabash, St. Louis & Pacific Railway Co. v. Illinois (1886)	People in small towns were made that railroads charged sometimes charged higher prices for "short hauls" (routes without competition) than on "long hauls" (routes with competition). The state of Illinois passed a law regulating freight rates on the portion of an interstate trip that occurred within the state's borders.	Does a state government have the power to regulate railroad prices on the part of an interstate trip that passes through it borders? The Commerce Clause	No. Such a law would essentially give states the right to regulate interstate commerce. This power is clearly delegated to the federal government alone. Note: As a result, Congress passed the Interstate Commerce Act one
United States v. E.C. Knight Co. (1895)	E.C. Knight company owned 90% of all sugar refining in the U.S. While the sugar was produced in the state of Louisiana, it was sold throughout the Union. The federal government deemed this to be a violation of the Sherman Anti-Trust Act and consequently tried to break up the "Sugar Trust."	Does Congress have the right to regulate manufacturing under the Sherman Anti Trust Act? The Commerce Clause	Not in this case. Because this year later. manufacturing was done within one state, Congress had no such power. *The courts later modified this ruling in Swift v. U.S.
Northern Securities Co. v. United States (1904)	Northern Securities was a holding company that owned the two major competing railroads of northern plains. The federal government believed this was a violation of the Sherman Anti-Trust Act and wanted to regulate the company accordingly.	Does Congress have the right to regulate a holding company that is engaged in interstate commerce under the Sherman Anti-Trust Act? The Commerce Clause	Yes. *As long as the company is engaged in interstate trade* and it can be shown that the company is unreasonably restraining trade, the federal government *can* regulate such a company.
Swift v. United States(1905)	Swift and other meatpackers was accused of illegally fixing the prices of livestock in the Chicago stockyards. Although the buying and selling of the livestock only occurred in Illinois, they were originally shipped from other states, and the butchered meat was sold throughout the Union.	Does Congress, under the Sherman Anti Trust Act, have the power to outlaw price fixing on an intrastate transaction that is part of an interstate business? The Commerce Clause	Yes. In a reversal of the prior decision in U.S. v. E.C. Knight, the court said that such *intrastate transactions could be regulated if they were part of a larger "stream of interstate commerce."*

QUESTIONS

1. What two criteria have to be met for a state to be able to regulate commerce? Identify the case that said this.

2. Under what circumstances can the federal government regulate commerce? Identify two cases that say this.

3. Compare and contrast the Supreme Court's rulings in U.S. v. E.C. Knight and Swift v. U.S.?