The Honorable Warren G. Magnuson  
Chairman, Committee on Interstate  
and Foreign Commerce  
United States Senate  
Washington, D. C.

Dear Chairman Magnuson:

Your letter of February 2, 1955, addressed to the  
Chairman of the Commission and requesting a report and  
comment on a bill, S. 908, introduced by Senator Lehman  
(for himself and Senators Douglas, Humphrey, Jackson,  
McNamara, Morse, Murray, Neely, Neuberger, and Pastore),  
"Providing relief against certain forms of discrimination  
in interstate transportation," has been referred to our  
Committee on Legislation and Rules. After careful con-  
sideration by that Committee, I am authorized to submit  
the following comments in its behalf:

This bill, if enacted into law, would provide that  
all interstate travelers "shall be entitled to the full  
and equal enjoyment of the accommodations, advantages,  
and privileges of any public conveyance operated by a  
common carrier * * * and all the facilities furnished or  
connected therewith, * * * without discrimination or  
segregation based on race, color, religion, or national  
origin."
Under section 3(1) of the Interstate Commerce Act, it is now unlawful "for any common carrier * * * to make, give, or cause any undue or unreasonable preference or advantage to any particular person * * * or to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." This provision relates principally to rail carriers. There are similar provisions in other parts of the act applicable to motor and water carriers and freight forwarders.

Soon after the Interstate Commerce Commission was established in 1887, it was called upon to decide whether the provision above quoted prohibited the railroads in certain sections of the country from requiring that Negro and white passengers occupy separate coaches and other facilities, as they were compelled to do by statutes in a number of States. In all such cases, which have become increasingly numerous and complicated in recent years, the Commission has limited its inquiry to the question whether equal accommodations and facilities are provided for members of the two races, adhering to the view that the Interstate Commerce Act neither requires nor prohibits segregation of the races.
In *Plessy v. Ferguson*, 163 U.S. 537 (1896), the Supreme Court of the United States held that a Louisiana statute requiring railroads carrying passengers in their coaches in that State to provide equal, but separate, accommodations for the white and colored races in the form of separate or divided coaches was not in conflict with the provisions of either the Thirteenth or the Fourteenth Amendment to the Constitution of the United States. The Court concluded (pp. 550-551):

* * * we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the Fourteenth Amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

Earlier in that decision the Court had stated (p. 544):

* * * Laws permitting, and even requiring their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced.
In the recent decision of Brown v. Board of Education, 347 U.S. 483 (1954) and the related cases decided in the consolidated opinion of May 17, 1954, the Supreme Court quoted with approval the language of the Kansas District Court as follows:

Segregation of white and colored children in public schools has a detrimental effect upon the colored children. This impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. * * *

The Court went on to say:

Whatever may have been the extent of psychological knowledge at the time of Plessy v. Ferguson, this finding is amply supported by modern authority. Any language in Plessy v. Ferguson contrary to this finding is rejected.

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

In Docket No. 31423, National Association for the Advancement of Colored People et al. v. St. Louis-San Francisco Railway Company et al., which is now pending before the Commission, we are asked to rule whether the provision of separate but equal transportation facilities violates section 3 of the Interstate Commerce Act or the Constitution, and in Docket No. MC-C-1564, Sarah Keys v. Carolina Coach Co.,
which is also pending before the Commission, we are asked to rule whether such provision violates section 216(d) of the act.

In view of the pendency of the above-mentioned proceedings, we believe it would be inappropriate for us to express any opinion in regard to S. 903.

Respectfully submitted,

Richard F. Mitchell

Chairman, Committee on Legislation and Rules
Richard F. Mitchell
Howard G. Preas
Kenneth H. Tuggle