

The Commerce Clause- The Gibbons v Ogden Case

The Commerce Clause:

“The Congress shall have Power... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”

Facts:

- New York had given a steamboat company exclusive use of New York waters
- Congress has a regulatory system for licensing that allows licenses for other boat operators

Issue:

- Which controls, the federal licensing scheme or that of N.Y.?

Arguments:

- Plaintiff: N.Y. controls, because Congress has no power to regulate waterways within N.Y. state
- Defendant: The federal regulations control because of the “supremacy” clause of the U.S. Constitution

The Commerce Clause- The Gibbons v Ogden Case (cont.)

Outcome:

- The court found that Congress has the power to license boats usage of intrastate waterways

Reasoning:

The “commerce clause” includes 3 elements:

- 1) Regulation of the channels and instrumentalities of interstate commerce
 - 2) Regulation of things that travel in interstate commerce
 - 3) Regulation of activities that have a substantial effect on interstate commerce
- Waterways are instrumentalities of interstate commerce and have a substantial effect on interstate commerce. Since Congress can regulate these issues, the states cannot and the New York licensing rules are void!

History of the Commerce Clause

Keep in mind: The commerce clause is Congress' most important and widest source of power and it allows Congress to regulate many issues that are traditionally in the domain of the states.

The turn of the Century cases (mixed):

- United States v. E.C. Knight Co (Congress cannot regulate intrastate sugar refineries through the Sherman Act).
- Stafford v. Wallace (Congress can regulate stockyards where livestock is to be shipped interstate, even though the maintenance of the yards are completely intrastate)

History of the Commerce Clause (cont.)

The New Deal era: (very limited Commerce clause)

- A.L.A. Schechter Poultry Corp. v. United States
(Congress cannot regulate employment conditions relating to the poultry manufacturing industry)
- Carter v. Carter Coal (striking down a Congressional rule establishing a system of local coal boards that would ensure that employees working in the coal industry could attain a satisfactory bargaining position in order to negotiate terms relating to their employment)

History of the Commerce Clause (cont.)

The court packing plan and the “switch in time to save nine”:

- N.L.R.B. v. Jones & Laughlin Steel Corp. (upholding the National Labor Relations Act, which set up a comprehensive system for regulating bargaining relations between employees and employers)
- Wickard v. Filburn (allowing Congress to set a quota for wheat production that applied to intrastate farmers, even if they did no interstate business)

Recent Commerce Clause Decisions

The widening of the commerce clause

- Heart of Atlanta Motel, Inc. v. United States (Congress may prevent public accommodations from discriminating on the basis of race based on the commerce clause)
- Katzenbach v. McClung (allowing civil rights legislation to apply to any restaurant because some of its food must have traveled interstate)
- Perez v. United States (allowing federal loan sharking criminal statute)
- Maryland v. Wirtz (upholding Fair Labor Standards Act of 1938, which extended the minimum wage and maximum hours coverage to schools and hospitals, including those operated by states or their subdivisions)

Recent Commerce Clause Decisions (cont.)

The Swing of the Pendulum:

- Lopez v. United States (1995): Court struck down the Gun-Free Schools Zones Act of 1990 that made it a federal crime to knowingly “possess a firearm at a place that an individual knows or has reasonable cause to believe, is a school zone.”
- Morrison v. United States (1998): A federal law that provided a civil remedy for victims of gender-motivated violence, was beyond the scope of federal power

“Gender-motivated crimes of violence are not, in any sense of the phrase, economic activity. While we need not adopt a categorical rule against aggregating the effects of any noneconomic activity in order to decide these cases, thus far in our Nation's history our cases have upheld Commerce Clause regulation of intrastate activity only where that activity is economic in nature”

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QUIZ TIME!