



### Points to Remember

1. 10<sup>th</sup> Amendment v. Federal (Article One) Commerce Power
2. The Federal Commerce Power only applies when the activities:
  - Involve "Channels of Commerce": Anything to do with sale or exchange of goods in the interstate marketplace. .Historically, this does not include the sole act of manufacturing.
  - Involve "Instrumentalities of Commerce": Planes, trains, automobiles; roads, airways, railways, water.. Even if the instrumentality does not cross state lines it is interstate commerce.
  - Have a "Substantial Relation to Interstate Commerce": i.e. those activities that substantially affect interstate commerce.. This involves application of the "necessary and proper" clause: Congress can regulate activities that are not, in and of themselves, commerce as long as they have a "substantial relation" to commerce. If the activity is an economic one, there is a pretty good chance that it bears a "substantial relationship" to interstate commerce.

### 1890-1937

#### Commerce Clause Scorecard

Case	10 <sup>th</sup> Amendment	Commerce Power	Rationale
<b>Before 1890</b>			
<u>Gibbons</u> (1824)		X	Instrumentalities
<b>1890-1937</b>			
<u>E.C. Knight</u> (1895)	X		Manufacture local
Lottery Case (1903)	X		(I) Inter / intradistinction
<u>Shreveport</u> (1914)		X	Impacts interstate commerce
<u>Carter Coal</u> (1936)	X		Production local
<u>Schechter</u> (1935)	X		Local poultry business not part of stream of commerce
<u>Dagenhart</u> (1918)	X		Local trade, mfr. Not subject to federal regulation; 10 <sup>th</sup> Amend.; Child Labor
<b>1937-1990s</b>			
<u>Laughlin Steel</u> (1937)		X	Impacts interstate commerce; matter w/in state lines affects; matter

			beyond state's lines
<u>Darby</u> (1941)		X	FLSA; overrules Dagenhart; rejects 10 <sup>th</sup> Amendment as limit on Commerce Clause power
<u>Fillburn</u> (1942)		X	Exceeding wheat acreage for personal use impacts interstate commerce
<i>Civil Rights Act</i>			
(1883)			Under 14 <sup>th</sup> Amendment, Congress can't regulate individual conduct. It can only regulate governmental conduct.
(1964)		X	Outlaws private discrimination in the employment and public accommodations contexts
<u>Heart of Atlanta</u> (1964)			Impacts interstate commerce. Court will validate Commerce Clause legislation unless it is clear that there is no rational basis for congressional finding that regulated activity affects interstate commerce
<u>Katzenbach</u> (1964)		X	Service local; food travels through interstate commerce
<u>Perez v. US</u> (1971)		X	Local loan sharks affect interstate commerce
<u>Usery</u> (1976)	X		May Congress regulate states as private employers? For federal law to violate 10 <sup>th</sup> Amendment, must regulate states as states; particular govt. function traditional, integral?

<u>Garcia</u> (1985)		X	Overrules <i>Usery</i> ; <i>FLSA</i> applies to <i>San Antonio Transit Auth</i> ; <i>min. wage, overtime</i>
<b>1990s to present</b>			
<u>Lopez</u> (1995)		X	Gun possession in school zone doesn't affect interstate commerce
<u>Morrison</u>		X	No Fed. civil remedy for victims of gender-motivated violence
<u>10<sup>th</sup> Amend. as Limit on Congress' Authority</u>			
<u>Gregory v. Ashcroft</u> (1991)		X	Fed. law that imposes substantial burden on state govt; Congress must clearly indicate intent
<u>NY v. US</u> (1992)		X	Congress can't direct states to regulate federal program
<u>Printz v. U.S.</u> (1997)		X	Congress can't compel state <u>officers</u> to enforce fed. Regulatory program
<u>Reno v. Condon</u> (2000)	<u>Reno v. Condon</u> (2000)		X Congress can regulate state activities (not manner in which state regulates private individuals)