

# Chapter 7: The Commerce Power

# Introduction

- Commerce: a controversial power.
- Significant legal disputes.
- Involvement of federal government.
- Questions raised by power battles.

# Foundations of the Commerce Power (1 of 6)

- Constitutional convention.
- Economy following the Revolutionary War.
- Tax and custom duties.
- States in charge.

# Foundations of the Commerce Power (2 of 6)

- Raising revenue to pay debts.
- Increasing domestic sales.
- Effect of states working independently.
- Reaching the economic breaking point.

# Foundations of the Commerce Power (3 of 6)

## Commerce and the Constitutional Convention

- Centralized economic regulation.
- Article I.
- The powers removed.
- The powers granted.

# Foundations of the Commerce Power (4 of 6)

## Commerce and the Constitutional Convention

- Need for Congress to speak for the nation.
- Foreign commerce.
- Interstate commerce.

# Foundations of the Commerce Power (5 of 6)

## Marshall Defines the Commerce Power

- Interstate commerce.
- Intrastate commerce.
- Problems with distinctions of terms.

# Foundations of the Commerce Power (6 of 6)

## Marshall Defines the Commerce Power

- *Gibbons v. Ogden*.
- Important points made by Marshall.
- State regulating in absence left unanswered.



# Attempts to Define the Commerce Power in the Wake of the Industrial Revolution (1 of 3)

- Delay in invoking the commerce clause.
- Businesses: intrastate to interstate.
- Commercial growth during the revolution.
- Regulating business practices.

# Attempts to Define the Commerce Power in the Wake of the Industrial Revolution (2 of 3)

- Ruling of the justices.
- Use of commerce as police powers.
- *Champion v. Ames*.

# Attempts to Define the Commerce Power in the Wake of the Industrial Revolution (3 of 3)

- *Hoke v. United States.*
- *Hammer v. Dagenhart.*
- Implications for congressional power.

# The Supreme Court and the New Deal (1 of 6)

- Court's embrace of free enterprise.
- Public opposition to regulation.
- The crash of New York Stock Exchange.
- The need for change in politics.

# The Supreme Court and the New Deal (2 of 6)

## The Depression and Political Change

- Election of Franklin D. Roosevelt.
- Clash with the Court.
- The Emergency Banking Act of 1933.
- The New Deal policies.

# The Supreme Court and the New Deal (3 of 6)

## The Court Attacks the New Deal

- Challenge posed by businesses.
- Fight for the federal role in the economy.
- Four Horsemen of the Apocalypse.
- *Panama Refining Company v. Ryan*.

# The Supreme Court and the New Deal (4 of 6)

## The Court Attacks the New Deal

- Black Monday
- *Humphrey's Executor v. United States.*
- *Louisville v. Radford.*
- *A.L.A. Schechter Poultry Corp. v. United States.*

# The Supreme Court and the New Deal (5 of 6)

## The Court-packing Plan

- *Carter v. Carter Coal Company*.
- The election of 1936.
- Court packing plan.



# The Supreme Court and the New Deal (6 of 6)

## The Switch in Time That Saved Nine

- *West Coast Hotel v. Parrish.*
- *National Labor Relations Board v. Jones & Laughlin Steel Corporation.*
- Retirement of Justice Van Devanter.
- Preservation of a nine-justice institution.

# The Era of Expansive Commerce Clause Jurisprudence (1 of 3)

- Overruling previous precedents.
- *U.S. v. Darby* and *Wickard v. Filburn*.
- New era: commerce clause interpretation.

# The Era of Expansive Commerce Clause Jurisprudence (2 of 3)

- Congress decides.
- Elimination of discriminatory conditions.
- *Brown v. Board of Education*.
- Passing of the Civil Rights Act of 1964.

# The Era of Expansive Commerce Clause Jurisprudence (3 of 3)

- *Heart of Atlanta Motel, Inc. v. U.S.*
- Interpretation of Commerce.
- Justice Stewart's view of power.

# Limits on the Commerce Power: The Republican Court Era (1 of 4)

- Change in the settled law.
- *United States v. Lopez*.
- Different interpretations of the case.
- Different views by the justices.

# Limits on the Commerce Power: The Republican Court Era (2 of 4)

- *United States v. Morrison.*
- *Jones v. United States.*
- Modification of commerce clause.
- The evolution in doctrine.

# Limits on the Commerce Power: The Republican Court Era (3 of 4)

- *Gonzales v. Raich*.
- The Obama and Trump administrations.
- The nonenforcement policy.
- Infringement of state powers.

# Limits on the Commerce Power: The Republican Court Era (4 of 4)

- *National Federation of Independent Business v. Sebelius.*
- Considerations by justices.
- Understanding the Court's decision.
- The varying commerce clause doctrine.