

Notes on  
Civil Rts Cases

AG  
Regin Commerce clause

See Levin - *Minimum & Maximum* <sup>cycles</sup>  
or *International Law* Fifth Edition

Commerce in reg. a Congress' power under the 14th Amendment  
to prevent the denial of equal protection of the law to any person  
The 14th Amendment also provides that Congress may enforce  
this provision by appropriate legislation. p-23

3 states - MASS - NY & Kansas had laws before 1870 - 27 since

14th  
FD R 5, reliance is on state action

In an economy of increasing mobility and interdependence, business  
which operates across state lines are coming to the interstate as  
well as the local market - places burden is wrong  
1 - limits the market - hence hindering business  
2. Worst is direct taxation to interstate commerce

This affects cross national product - Regon interstate income large  
concentration - opens

Negro income 2.1 billion - shared income to 31-32 billion 10% of

Missouri: No question that acts of racial discrimination which  
affect interstate commerce are an appropriate subject  
for regulation.

Commerce Dept, Kings & water - misuse of phraseology - criminal & immoral  
acts price fixing - discriminatory practices  
Commerce by means -

Commerce clause is consent of the nation - it authorizes Congress  
to protect interstate commerce from burdens and obstructions - It is not  
limited to transactions which in nature are an essential part



(2)

of the form of commerce - it includes all appropriate legislation for the protection & advancement of commerce - to regulate measures to promote its growth - its safety - to protect against restraint, restriction, hindrance & abuse & White Plains Case (Cape Henry)  
protection interfering with commerce  
must be a connection between Commerce & the rule to regulate

Friend - Prohibit of laws and goods in our territory has worked many problems - than in local - so raising of national cases -

The authority of the federal government over interstate commerce does not differ in extent or character from that retained by the states over interstate commerce. Wick v. Case 302 US 333, 58-9-

Daly - 317/100, 116

November 1914

Nothing further in proportion that the restriction which the measure is directed may occur in or affect the commerce that occurs more states than one or even more plainly may occur in our territory which affects such commerce. There are effects upon such matters as the free movement of individuals and goods across state lines, the kind of demand of the national product and the freedom of enterprise engaged in commerce to purchase restrictions that their local competitors may ignore.

To legislate in this field falls within the great limitations of the Congress in the exercise of this explicit power.

It is true the measure constitutes an interference with the free use of private property a problem that is recognizable & there is an inevitable conflict between the claim for the autonomy of ownership of the claims of individuals upon such autonomy of property and who here for its control  
NLRB



## Right to travel constitutionally protected -

Commerce determined that racial discrimination affects commerce. This finding cannot be sustained unless clearly arbitrary or unreasonable.

Example: Nevada 73/35 (1983) 303/80 (1941) 228/576 (1944) 371/10 (1912)

Cars taking place of bus & train - fuel tax goes to roads - accommodation available  
Spent by interstate Commerce law passed: 346/689 (1905) 988; 334/689 (1902); 312/100 (1914)  
<sup>FLSA</sup>  
301/1 (1913) 228/115 (1912) 317/111 (1902) 234/342 (1914) 338/219 (1908)

Examples of Congressional exercise of power - 247/618 (1918) pure profit drug; 242/470 (1915) White Star; 227/308 since 188/321 (1903) anti-bullying Social injustice in commercial activities

See Paul Freund - p. 17 only -

Issue is one of CONSTITUTIONAL LAW NOT OF MORALS

VA: - Madison #42 Federalist. See p. 5. OBJECT of commerce clause: need of states which import & export through other states "from the impugnated activities listed on them by the latter" words would be found to load the arbitrary import & export during passage through their jurisdiction with duties...

Should not use Commerce clause as a ~~them~~ system for social reform  
One of rights of people is to discriminate in private life establishments  
How can the Commerce clause deny it in favor of ~~the~~ 13th Amendment? The enumeration for the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." Also X Amendment  
Motel on Courtland St 2 blocks from downtown Pauline St  
& nearby, available to <sup>state</sup> Highway 23 & 41 & starts 25 & 85

FLA -

No showing of Commerce - connection at most is incidental and not direct - meeting room to interstate traveler, then connection with any hire being direct connection with Commerce.  
Such Commerce as found is terminated & came to an end prior to their use - hence Commerce clause not  
Yellow Cab 332/218 -

NY:

Congress was never obstructive to freedom of commerce  
Labor relations in a notable within reach - 358/99 (1918)  
Every regulatory enactment within less of freedom. And if  
is denied of accountability to ~~congress~~ a segment of the public  
which linkages were not anyway. Blockades IT at 12 p. 181  
Whether Congress could withstand or otherwise by finding  
that race discrimination by states of 19-17 common  
to the business of Title 7 necessary appropriate to eliminate  
the evil which Congress found to exist.

Issue

Kennedy  
Message to  
Congress on  
civil rights

Artistic Commerce by impolitic - a horrible - was example  
of regulation in absence of demonstrated evil  
Legislation in NY 80 years - 30 states plus DC "covering  
one 2/3 of this country and were over 2/3 of the people"

NOT  
WARRANTED  
FIGHT

Also see Bryan in Ball v Bond - local laws have recanted  
in no impairment of private property nor of individual liberties  
Local laws upheld: 326/88 (1904) - 372/714 (1919) - 344/100,109 (1953)  
333/28 (1948) have two precedents under IV and  
Rock Royal 307/533 (1939):

"The authority of the Federal Govt over interstate  
commerce does not depend in so much as depends  
from that retained by the states over interstate  
'commerce' - 569-70

Nov 13th

This "seminal & spurious argument" (13th v. 18th) - it had to  
do with personal labor - even in thought those cases this is  
unplanned - 16 WALL 36 68, 69, 72 (1873) - aimed at slavery

MASS:

Congress sought to legislate only pursuant to Commerce clause & post  
14th - have civil rights cases out - state action necessary since  
based on 14th alone - Not all persons should be entitled to full & equal rights  
system & race color etc



Civil lit cases not operate twice that have not occurred in prior Commerce Clause - see 109/19

These Commerce clause + "state action" or "divided" issue by Congress Original → Granted Congress tried in all cases where "the harmony Res of Commerce of the United States ~~may~~ be interrupted by the exercise of individual legislation" Madison debates 14 Dec Dec #398 69th Cong 479 (1865) Quinlan proposed to limit Congress to matters more closely related to his was upheld at 234 - language sent to Committee on Detail and it came up with language

The Constitution was framed upon the theory that the people of the several states must unite or sever together, and that in the long run prosperity and salvation are in union not division." 294/511, 523 (1932)

Also see ~~244/533~~ 322/533 - 230/352, 398.

Thomas opinion 257/415  
120-125; 234/342, 350-511; 188/323, 344-7 (1933)

Waiving 297/124  
267/432  
need that creates it." 298/238 328 (1936) - 230/352, 398  
196/375, 398-399 - 96/1, 9, 12 -

See *Schwarze v Calif* 314/160 on inquiry states

Units of Congressional power under Commerce Clause not susceptible of simple

definition nor precise statement - not to be jurisdictional because much is subsequent to enactment. precedents that of Commerce

"Whether activity sought the regulation has a real and substantial relation to the national interest in light of purposes of Commerce Clause to promote Commerce to provide for uniformity in all matters affecting the economic well-being of the nation

Pub. Trade U

Chicopee

Nov 1, 37

also 758/195,

5-11

Contract practice that abstracts someone is within regulation of Copyright law, for it to evade the test of danger + merit, we need not substitute our judgment for that of Congress, unless relation non-susceptible

Here no express finding - Court must assume relation set by facts

which cases have been found - See *Caroline* 304/144, 152 - *William*

See *Opinion* 348/483, 487-488 - *Boag* Note 312/321-23

Statement as what Congress might have found. p. 16-17

Constitutional language not technical nor telegraphic - its meaning

cannot be derived by arithmetic. Quotations are typical,

Civil War cases suggest that local legislation - narrow jurisdiction

See 341/11955. 125 - 247 hours 589, 595.

Congress not seeking to legislate morals - asks to control ~~the~~

whether that affects someone citizens + not their

boundaries shall rest with the discretion