Legal Precedent

The Federal government justifies much of its current power through an expansive interpretation of the commerce clause that has nothing to do with its original meaning.

Two court cases are notorious for providing justification for such power. In *Wickard v Filburn*, the court ruled that wheat grown and consumed at home was interstate commerce. In *Gonzales v Raich*, the court ruled that a marijuana plant grown in one's own backyard and never sold was somehow under the purview of D.C. under the interstate commerce clause.

About Tenth Amendment Center

Thank you for your interest in Tenth Amendment Center, featuring comprehensive research coverage of key sovereignty issues and topics, and daily Tenth Amendment news and analysis.

The Tenth Amendment Center is a national think tank that works to preserve and protect the principles of strictly limited government through information, education, and activism. The center serves as a forum for the study and exploration of state and individual sovereignty issues, focusing primarily on the decentralization of federal government power.

To learn more about the Commerce Clause or to contact us with questions or comments, please visit:

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The Commerce Clause

10th Amendment Center

The Commerce Clause is an enumerated power in Article I, Section 8 of the Constitution. It states that Congress shall have power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

What *is* the Commerce Clause?

Gonzales v Raich Decision

"This makes a mockery of Madison's assurance to the people of New York that the "powers delegated" to the Federal Government are "few and defined", while those of the States are "numerous and indefinite."

-Justice Clarence Thomas

Original Meaning

According to Constitutional scholar Randy Barnett, the original meaning of "commerce" was limited to the "trade and exchange" of goods and transportation for this purpose. The original meaning of "to regulate" generally meant "to make regular" -that is, to specify how an activity may be transacted-when applied to domestic commerce, but when applied to foreign trade also included the power to make "prohibitory regulations." "Among the several States" meant between persons of one state and another.

Original Intent

If, like any legal document, the words of the Constitution mean today what they meant at the moment it was signed, we must understand the original meaning of the words from the time of the founding.

Significant Spillover Effects

According to Constitutional scholar Rob Natelson, the interstate commerce clause gave Congress power to regulate interstate commerce — not any "matters that have significant spillover effects across state lines." The Constitutional Convention rejected the wording of the Virginia Plan, which arguably would have let the Federal government regulate any activity with interstate spillover. In other words, the Founders made the deliberate decision to leave many activities with spillover effects to the states.

Learn more about the Commerce Clause at:

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To Make Regular

The Commerce Clause was designed to "make regular" the exchange of goods between the people of the several states – to empower the Federal government to ensure that no states would enact restrictions that would prevent the free-flow of goods across state lines.

Tenth Amendment Center Articles For Further Reading on the Commerce Clause

On the Constitution, Beware the Word "Clearly"

The Courts and the Commerce Clause: Obliterating Original Intent