

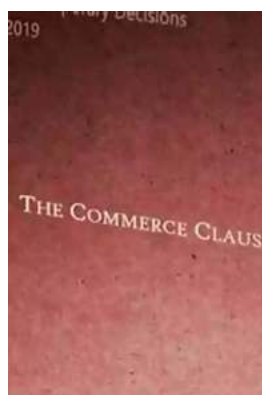
The Commerce Clause Landmark Publications

The Commerce Clause has long been a topic of interest and discussion in the field of constitutional law. It grants Congress the power to regulate commerce among the states, and this power has been the subject of many landmark publications. In this article, we will explore some of the most influential publications related to the Commerce Clause and discuss their importance in shaping constitutional interpretation.

1. "Gibbons v. Ogden: The Birth of the Commerce Clause Jurisprudence"

One of the earliest and most significant cases involving the Commerce Clause is the landmark decision of *Gibbons v. Ogden*. This case, decided by the Supreme Court in 1824, established the broad interpretation of the Commerce Clause that continues to influence constitutional doctrine to this day.

Chief Justice John Marshall, writing for the majority, held that Congress's power to regulate interstate commerce included the power to regulate navigation. The case involved a dispute over steamboat operations in New York waters, and Marshall's opinion expanded the scope of the Commerce Clause to cover not only the movement of goods but also the means by which goods are transported.



The Commerce Clause

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★★★★★ 5 out of 5

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The Gibbons v. Ogden decision set the stage for future interpretations of the Commerce Clause, establishing a precedent that allowed Congress to regulate not only interstate commerce but also any activity that has a substantial effect on interstate commerce.

2. "Wickard v. Filburn: Expanding Congressional Authority"

In 1942, the Supreme Court decided the case of Wickard v. Filburn, further expanding the reach of the Commerce Clause. The case involved a farmer, Roscoe Filburn, who was penalized for growing wheat for personal consumption in excess of his quota under the Agricultural Adjustment Act.

The Supreme Court, in a unanimous decision, held that Filburn's actions, although seemingly local and non-commercial, had a substantial effect on the national wheat market. This decision established the principle that Congress can regulate even non-commercial activities if they have a substantial economic impact on interstate commerce.

Wickard v. Filburn represented a significant shift in Commerce Clause jurisprudence, broadening Congress's regulatory authority and giving rise to debates about the extent of federal power.

3. "United States v. Lopez: Limiting Congressional Power"

While many Commerce Clause cases have expanded congressional authority, there have also been cases that set limits on the scope of this power. *United States v. Lopez*, decided by the Supreme Court in 1995, marked a significant moment in Commerce Clause jurisprudence.

The case involved a high school student, Alfonso Lopez Jr., who was charged with violating the federal Gun-Free School Zones Act. The Court, in a 5-4 decision, held that the act was unconstitutional under the Commerce Clause. It concluded that the possession of a firearm near a school was not an economic activity substantially affecting interstate commerce.

United States v. Lopez reaffirmed the importance of preserving the boundaries between state and federal authority. It limited Congress's power under the Commerce Clause, signaling a shift towards a more restrained interpretation of federal power.

4. "National Federation of Independent Business v. Sebelius: The Affordable Care Act Challenge"

In 2012, the Supreme Court faced a major challenge to the Affordable Care Act (ACA) in *National Federation of Independent Business v. Sebelius*. This case centered on the individual mandate provision of the ACA, which required most Americans to obtain health insurance or pay a penalty.

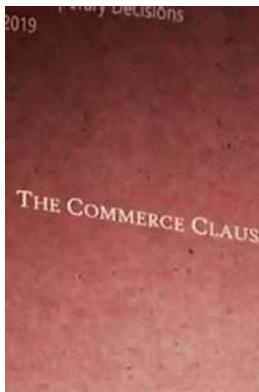
The Court, in a 5-4 decision, upheld the individual mandate as a valid exercise of Congress's power under the Commerce Clause. However, it limited Congress's authority under the Necessary and Proper Clause, ruling that the penalty for non-compliance could not be justified as a regulation of commerce.

This case had significant implications for the interpretation of the Commerce Clause and highlighted the ongoing debates about the limits of federal power.

The Commerce Clause landmark publications have played a crucial role in shaping constitutional interpretation and defining the scope of congressional power. From the broad interpretation established in *Gibbons v. Ogden* to the limitations set forth in *United States v. Lopez*, these publications reflect the ongoing tension between federal authority and states' rights.

As scholars continue to analyze and debate the Commerce Clause, these landmark publications provide a foundation for understanding the evolving nature of constitutional law and the intricate balance between federal and state powers.

By examining these influential cases, we gain insights into the complexities of the Commerce Clause and its enduring impact on our legal system.



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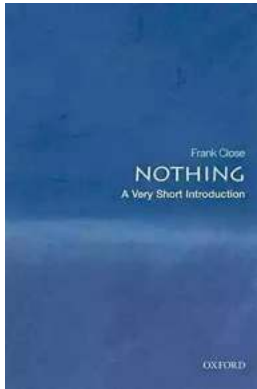
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THIS CASEBOOK contains a selection of U. S. Court of Appeals decisions that analyze, interpret and discuss Commerce Clause doctrine. The selection of decisions spans from 2014 to the date of publication. The Commerce Clause gives Congress the power "[t]o regulate Commerce . . . among the several

States." U.S. Const. art. I, § 8, cl. 3. Although by its terms the clause speaks only of congressional authority, "the [Supreme] Court long has recognized that it also limits the power of the States to erect barriers against interstate trade." *Dennis v. Higgins*, 498 U.S. 439, 446, 111 S.Ct. 865, 112 L.Ed.2d 969 (1991) (quoting *Lewis v. BT Inv. Managers, Inc.*, 447 U.S. 27, 35, 100 S.Ct. 2009, 64 L.Ed.2d 702 (1980)). This implicit or "dormant" constraint is driven primarily by concerns over "economic protectionism—that is, regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors." *New Energy Co. of Ind. v. Limbach*, 486 U.S. 269, 273-74, 108 S.Ct. 1803, 100 L.Ed.2d 302 (1988). *Colon Health Centers of America, LLC v. Hazel*, 813 F. 3d 145 (4th Cir. 2016). To that end, the Supreme Court has instructed that "[t]he principal objects of dormant Commerce Clause scrutiny are statutes that discriminate against interstate commerce." *CTS Corp. v. Dynamics Corp. of Am.*, 481 U.S. 69, 87, 107 S.Ct. 1637, 95 L.Ed.2d 67 (1987) (emphasis added). "[W]hen a state statute [] discriminates against interstate commerce, it will be struck down unless the discrimination is demonstrably justified by a valid factor unrelated to economic protectionism." *Yamaha Motor Corp. v. Jim's Motorcycle, Inc.*, 401 F.3d 560, 567 (4th Cir.2005) (quoting *Wyoming v. Oklahoma*, 502 U.S. 437, 454, 112 S.Ct. 789, 117 L.Ed.2d 1 (1992)). While discrimination "simply means differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter," *Or. Waste Sys., Inc. v. Dep't of Env'tl. Quality of State of Or.*, 511 U.S. 93, 99, 114 S.Ct. 1345, 128 L.Ed.2d 13 (1994), not all economic harms or anticompetitive choices can or should be remedied through application of the dormant Commerce Clause. See *Brown v. Hovatter*, 561 F.3d 357, 363 (4th Cir.2009). Under the prevailing framework courts must chart a narrow course between "rebuff[ing] attempts of states to advance their own commercial interests by curtailing the movement of articles of commerce . . . [and] generally supporting their right to impose even burdensome regulations in the interest of local health

and safety." H.P. Hood & Sons, Inc. v. Du Mond, 336 U.S. 525, 535, 69 S.Ct. 657, 93 L.Ed. 865 (1949). Colon Health Centers of America, LLC v. Hazel, *ibid.*



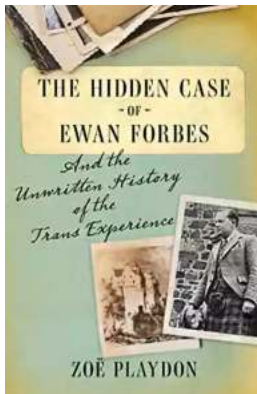
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