

4. In which cases did the Court rule Congress could not use the commerce power to regulate child labor? What later case overturned the child labor decision?
5. Historians claim that from the late 1800s to 1937 the Supreme Court adopted a conservative point of view. Thus, the Court often struck down as unconstitutional laws it viewed as interfering with the free operation of business. Identify four cases supporting this claim. Explain.
6. Since 1937 what stance has the Court held on commerce power? Support your answer with evidence from the table.

TABLE 1

The Court and Development of the Commerce Power

1888—**Kidd v. Pearson**

Manufacturing of goods such as liquor is not commerce. Thus, Congress cannot regulate such manufacturing as interstate commerce.

1903—**Champion v. Ames**

Congress may use its power to regulate commerce to outlaw the interstate sale and shipment of lottery tickets.

1904—**McCray v. United States**

Congress may regulate the sale of oleomargarine (a butter substitute) by placing a high tax on oleomargarine. This decision, along with *Champion*, strengthened Congress' ability to use the commerce power as a "police" power.

1905—**Swift and Co. v. United States**

Court announces "stream of commerce" doctrine. The meat packing industry is part of a "stream of commerce" from the time an animal is purchased, on the hoof, until it is processed and sold as meat. Congress could regulate at any point along that "stream."

"Stream of commerce" doctrine became a basic legal concept in the expansion of the federal commerce power.

1908—**Adair v. United States**

Labor relations do not directly affect interstate commerce. Thus, Congress cannot use the commerce power to prohibit certain kinds of labor contracts.

1910—**Hammer v. Dagenhart**

Congress may not use the commerce power as police power to regulate working conditions for child laborers, or to prohibit the use of children in factories.

1914—**Shreveport Rate Cases**

Court announces the "Shreveport Doctrine." The federal government has power to regulate rail rates within states (intrastate) as well as between states (interstate).

Sets the key precedent that whenever intrastate and interstate transactions (such as rail rates) become so related that regulation of one involves control of the other, Congress, **not** the states, has final authority.

1922—**Bailey v. Drexel Furniture Co.**

Congress may not use its police power to place a high tax on the profits of companies employing child laborers.

This decision along with **Hammer** in 1918 greatly narrowed the federal "police" power. With these two decisions the Court frustrated attempts by Congress to end child labor.

1935—**Railroad Retirement Board v. Alton Railroad Co.**

The commerce clause does not give Congress the power to set up a pension system for railroad workers.

1936—**Carter v. Carter Coal Co.**

Mining is not commerce and does not affect commerce directly. Thus, Congress may not regulate labor relations in the coal mining industry.

1937—**National Labor Relations Board v. Jones & Laughlin Steel Corp.**

Congress may regulate labor relations in manufacturing to prevent possible interference with interstate commerce. This decision overturned the *Adair* and *Carter* decisions.

With this decision the Court gave up the narrow view of Congress' power to regulate commerce it had followed for many years. It based its decision on precedents set in the *Swift* and *Shreveport* cases.

1939—**Mulford v. Smith**

The commerce power gives Congress the authority to regulate marketing quotas for agricultural production.