when a federal statutory provision "commandeers" a state's legislative or executive authority in order to implement a regulatory program.[746]

There appear to be several reasons for the development of a robust federal authority in this area. Not only has there been legislative advancement and judicial acquiescence in Commerce Clause jurisprudence, but the melding of the nation into one economic union has been more than a little responsible for the reach of Congress' power. "The volume of interstate commerce and the range of commonly accepted objects of government regulation have . . . expanded considerably in the last 200 years, and the regulatory authority of Congress has expanded along with them. As interstate commerce has become ubiquitous, activities once considered purely local have come to have effects on the national economy, and have accordingly come within the scope of Congress' commerce power." [747]

Congress' commerce power has been characterized as having three separate but interrelated principles of decision, some old, some of recent vintage. The Court in 1995 described "three broad categories of activity that Congress may regulate under its commerce power. First, Congress may regulate the use of the channels of interstate commerce. Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. Finally, Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, *i.e.*, those activities that substantially affect interstate commerce." [748]

Channels of Commerce.—This category concerns congress' authority to regulate obstructions or restraints on channels of commerce. For instance, Congress has validly legislated to protect interstate travelers from harm; to prevent such travelers from being deterred in the exercise of interstate traveling; and to prevent them from being burdened. Many of the laws prohibiting discrimination in public accommodations were premised on the theory that the larger of these establishments often served interstate travelers, and that refusing to serve persons based on their race limits them in their ability to travel. Even small stores, restaurants, and the like may

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[746] New York v. United States, 505 U.S. 144 (1992); Printz v. United States, 521 U.S. 898 (1997). For elaboration, *see* the discussions under the Supremacy Clause and under the Tenth Amendment.

[747] New York v. United States, 505 U.S. 144, 158 (1992).

[748] United States v. Lopez, 514 U.S. 549, 558–59 (1995) (citations omitted).