be a noteworthy case,[787] or whether it was rather a "warning shot" across the bow of Congress, urging more restraint in the exercise of power or more care in the drafting of laws, was not immediately clear. The Court's decision five years later in *United States v. Morrison*,[788] however, suggests that stricter scrutiny of Congress' commerce power exercises is the chosen path, at least for legislation that falls outside the area of economic regulation.[789] The Court will no longer defer, via rational basis review, to every congressional finding of substantial effects on interstate commerce, but instead will examine the nature of the asserted nexus to commerce, and will also consider whether a holding of constitutionality is consistent with its view of the commerce power as being a limited power that cannot be allowed to displace all exercise of state police powers.

In *Morrison* the Court applied *Lopez* principles to invalidate a provision of the Violence Against Women Act (VAWA) that created a federal cause of action for victims of gender-motivated violence. Gender-motivated crimes of violence "are not, in any sense of the phrase, economic activity," [790] the Court explained, and there was allegedly no precedent for upholding commerce-power regulation of intrastate activity that was not economic in nature. The provision, like the invalidated provision of the Gun-Free School Zones Act, contained no jurisdictional element tying the regulated violence to interstate commerce. Unlike the Gun-Free School Zones Act, the VAWA did contain "numerous" congressional findings about the serious effects of gender-motivated crimes,[791] but the Court rejected reliance on these findings. "The existence of congressional findings is not sufficient, by itself, to sustain the constitutionality of Commerce Clause

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[787] "Not every epochal case has come in epochal trappings." 514 U.S. at 615 (Justice Souter dissenting) (wondering whether the case is only a misapplication of established standards or is a veering in a new direction).

[788] 529 U.S. 598 (2000). Once again, the Justices were split 5–4, with Chief Justice Rehnquist's opinion of the Court being joined by Justices O'Connor, Scalia, Kennedy, and Thomas, and with Justices Souter, Stevens, Ginsburg, and Breyer dissenting.

[789] For an expansive interpretation in the area of economic regulation, decided during the same Term as *Lopez*, see Allied-Bruce Terminix Cos. v. Dobson, 513 U.S. 265 (1995). *Lopez* did not "purport to announce a new rule governing Congress' Commerce Clause power over concededly economic activity." Citizens Bank v. Alafabco, Inc., 539 U.S. 52, 58 (2003).

[790] 529 U.S. at 613.

[791] Dissenting Justice Souter pointed to a "mountain of data" assembled by Congress to show the effects of domestic violence on interstate commerce. 529 U.S. at 628–30. The Court has evidenced a similar willingness to look behind congressional findings purporting to justify exercise of enforcement power under the Fourteenth Amendment. See discussion under Fourteenth Amendment, Enforcement, infra. In *Morrison* itself, the Court determined that congressional findings were insufficient to justify the VAWA as an exercise of Fourteenth Amendment power. 529 U.S. at 619–20.