

Sec. 8—Powers of Congress

Cl. 3—Power to Regulate Commerce

Congress was empowered to do anything it might deem appropriate to save interstate commerce from interruption or burdening. Inasmuch as the labor of employees was necessary for the function of commerce, Congress could certainly act to ameliorate conditions that made labor less efficient, less economical, and less reliable. Assurance of compensation for injuries growing out of negligence in the course of employment was such a permissible regulation.⁸⁶⁶

Congressional Regulation of Other Methods of Conveyance.—In 1914, the Court affirmed the power of Congress to regulate the transportation of oil and gas in pipelines from one state to another, and held that this power applied to the transportation even though the oil or gas was the property of the lines.⁸⁶⁷ Subsequently, the Court struck down state regulation of rates of electric current generated within that state and sold to a distributor in another state as a burden on interstate commerce.⁸⁶⁸ Proceeding on the assumption that the ruling meant the Federal Government had the power, Congress in the Federal Power Act of 1935 conferred on the Federal Power Commission authority to regulate the wholesale distribution of electricity in interstate commerce,⁸⁶⁹ and three years later vested the FPC with like authority over natural gas moving in interstate commerce.⁸⁷⁰

Thereafter, the Court sustained the power of the commission to set the prices at which gas originating in one state and transported into another should be sold to distributors wholesale in the latter state.⁸⁷¹ “The sale of natural gas originating in the State and its transportation and delivery to distributors in any other State constitutes interstate commerce, which is subject to regulation by Congress The authority of Congress to regulate the prices of commodities in interstate commerce is at least as great under the

⁸⁶⁶ The *Second Employers' Liability Cases*, 223 U.S. 1 (1912). For a longer period, a Court majority reviewed a surprising large number of FELA cases, almost uniformly expanding the scope of recovery under the statute. Cf. *Rogers v. Missouri Pacific R.R.*, 352 U.S. 500 (1957). This practice was criticized both within and without the Court, cf. *Ferguson v. Moore-McCormack Lines*, 352 U.S. 521, 524 (1957) (Justice Frankfurter dissenting); Hart, *Foreword: The Time Chart of the Justices*, 73 HARV. L. REV. 84, 96–98 (1959), and has been discontinued.

⁸⁶⁷ The *Pipe Line Cases*, 234 U.S. 548 (1914). See also *State Comm'n v. Wichita Gas Co.*, 290 U.S. 561 (1934); *Eureka Pipe Line Co. v. Hallanan*, 257 U.S. 265 (1921); *United Fuel Gas Co. v. Hallanan*, 257 U.S. 277 (1921); *Pennsylvania v. West Virginia*, 262 U.S. 553 (1923); *Missouri ex rel. Barrett v. Kansas Gas Co.*, 265 U.S. 298 (1924).

⁸⁶⁸ *Public Utilities Comm'n v. Attleboro Co.*, 273 U.S. 83 (1927). See also *Utah Power & Light Co. v. Pfost*, 286 U.S. 165 (1932); *Pennsylvania Power Co. v. FPC*, 343 U.S. 414 (1952).

⁸⁶⁹ 49 Stat. 863, 16 U.S.C. §§ 791a–825u.

⁸⁷⁰ 52 Stat. 821, 15 U.S.C. §§ 717–717w.

⁸⁷¹ *FPC v. Natural Gas Pipeline Co.*, 315 U.S. 575 (1942).