

Sec. 8—Powers of Congress

Cl. 3—Power to Regulate Commerce

hibit it. The debate was concluded in 1941 by the decision in *United States v. Darby*,⁹⁵⁹ which sustained a prohibition on the shipping of goods produced in violation of the Fair Labor Standards Act.⁹⁶⁰ The final resolution of this debate in favor of congressional power is an event of first importance for the future of American federalism.

The earliest acts prohibiting commerce were in the nature of quarantine regulations and usually dealt solely with interstate transportation. In 1884, the exportation or shipment in interstate commerce of livestock having any infectious disease was forbidden.⁹⁶¹ In 1903, power was conferred upon the Secretary of Agriculture to establish regulations to prevent the spread of such diseases through foreign or interstate commerce.⁹⁶² In 1905, the same official was authorized to lay an absolute embargo or quarantine upon all shipments of cattle from one state to another when the public necessity might demand it.⁹⁶³ A statute passed in 1905 forbade the transportation in foreign and interstate commerce and the mails of certain varieties of moths, plant lice, and other insect pests injurious to plant crops, trees, and other vegetation.⁹⁶⁴ In 1912, a similar exclusion of diseased nursery stock was decreed,⁹⁶⁵ while by the same act and again by an act of 1917,⁹⁶⁶ the Secretary of Agriculture was invested with powers of quarantine, similar to those for animals described above, for the protection of plant life from disease. Although the Supreme Court originally held federal quarantine regulations of this sort to be constitutionally inapplicable to intrastate shipments of livestock, on the ground that federal authority extends only to foreign and interstate commerce,⁹⁶⁷ this view has today been abandoned.

The Lottery Case.—The first case to come before the Court in which the issues discussed above were canvassed at all thoroughly was *Champion v. Ames*,⁹⁶⁸ involving the act of 1895 “for the suppression of lotteries.”⁹⁶⁹ An earlier act excluding lottery tickets from

⁹⁵⁹ 312 U.S. 100 (1941).

⁹⁶⁰ 312 U.S. 100, 112–24 (1941), overruling *Hammer v. Dagenhart*. See also Corwin, *The Power of Congress to Prohibit Commerce*, 3 SELECTED ESSAYS ON CONSTITUTIONAL LAW 103 (1938).

⁹⁶¹ 23 Stat. 31.

⁹⁶² 32 Stat. 791.

⁹⁶³ 33 Stat. 1264.

⁹⁶⁴ 33 Stat. 1269.

⁹⁶⁵ 37 Stat. 315.

⁹⁶⁶ 39 Stat. 1165.

⁹⁶⁷ *Illinois Central R.R. v. McKendree*, 203 U.S. 514 (1906). See also *United States v. DeWitt*, 76 U.S. (9 Wall.) 41 (1870).

⁹⁶⁸ *Lottery Case (Champion v. Ames)*, 188 U.S. 321 (1903).

⁹⁶⁹ 28 Stat. 963.