

Sec. 8—Powers of Congress

Cl. 3—Power to Regulate Commerce

**Congressional Regulation of Production and Labor:
Antidepression Legislation**

In the words of Chief Justice Hughes, spoken in a case decided a few days after President Franklin D. Roosevelt's first inauguration in 1933, the problem then confronting the new Administration was clearly set forth. "When industry is grievously hurt, when producing concerns fail, when unemployment mounts and communities dependent upon profitable production are prostrated, the wells of commerce go dry."⁸⁹⁶ In the years immediately following, Congress and the President, relying on the *Swift* doctrine, set to work to combat the Depression. But, in fact, much of the legislation enacted at this time marked a wide advance upon the measures which had previously been challenged and upheld. The new laws did not stop with regulating traffic among the states and the instrumentalities thereof, but attempted to govern production and industrial relations. Confronted with this expansive exercise of Congress' power, the Court again deemed itself called upon to define a limit to the commerce power that would save to the states their historical sphere, and especially their customary monopoly of legislative power in relation to industry and labor management.

Not all antidepression legislation, however, was of this new approach. For instance, the Securities Exchange Act of 1934⁸⁹⁷ and the Public Utility Company Act (also known as the "Wheeler-Rayburn Act") of 1935⁸⁹⁸ were not. The former created the Securities and Exchange Commission, authorized it to lay down regulations designed to keep dealing in securities honest and aboveboard, and closed the channels of interstate commerce and the mail to dealers refusing to register under the act. The latter required the companies governed by it to register with the Securities and Exchange Commission and to inform it concerning their business, organization, and financial structure. Failure to do so would result in a prohibition on the use of facilities of interstate commerce and the mail. Section 11 of the same act, the so-called "death sentence" clause, would close the channels of interstate communication after a certain date to certain types of public utility companies whose operations, Congress found, were calculated chiefly to exploit the investing and consuming public. All of these provisions were sustained,⁸⁹⁹ with the Court relying principally on *Gibbons v. Ogden*.

⁸⁹⁶ *Appalachian Coals, Inc. v. United States*, 288 U.S. 344, 372 (1933).

⁸⁹⁷ 48 Stat. 881, 15 U.S.C. §§ 77b *et seq.*

⁸⁹⁸ 49 Stat. 803, 15 U.S.C. §§ 79–79z-6.

⁸⁹⁹ *Electric Bond Co. v. SEC*, 303 U.S. 419 (1938); *North American Co. v. SEC*, 327 U.S. 686 (1946); *American Power & Light Co. v. SEC*, 329 U.S. 90 (1946).