

ment. Not until it was confronted with the Child Labor Law, which prohibited the transportation in interstate commerce of goods produced in establishments in which child labor was employed, did the Court hold that the state police power was an obstacle to adoption of a measure which operated directly and immediately upon interstate commerce. In *Hammer v. Dagenhart*,¹⁹ five members of the Court found in the Tenth Amendment a mandate to nullify this law as an unwarranted invasion of the reserved powers of the states. This decision was expressly overruled in *United States v. Darby*.²⁰

During the twenty years following *Hammer v. Dagenhart*, a variety of measures designed to regulate economic activities, directly or indirectly, were held void on similar grounds. Excise taxes on the profits of factories in which child labor was employed,²¹ on the sale of grain futures on markets which failed to comply with federal regulations,²² on the sale of coal produced by nonmembers of a coal code established as a part of a federal regulatory scheme,²³ and a tax on the processing of agricultural products, the proceeds of which were paid to farmers who complied with production limitations imposed by the Federal Government,²⁴ were all found to invade the reserved powers of the states. In *Schechter Poultry Corp. v. United States*,²⁵ the Court, after holding that the commerce power did not extend to local sales of poultry, cited the Tenth Amendment to refute the argument that the existence of an economic emergency justified the exercise of what Chief Justice Hughes called "extraconstitutional authority."²⁶

In 1941, the Court came full circle in its exposition of the Tenth Amendment. Having returned four years earlier to the position of John Marshall when it sustained the Social Security Act²⁷ and the National Labor Relations Act,²⁸ the Court explicitly restated Marshall's thesis in upholding the Fair Labor Standards Act in *United States v. Darby*.²⁹ Speaking for a unanimous Court, Chief Justice Stone wrote: "The power of Congress over interstate commerce 'is complete in itself, may be exercised to its utmost extent, and ac-

¹⁹ 247 U.S. 251 (1918).

²⁰ 312 U.S. 100 (1941).

²¹ *Child Labor Tax Case*, 259 U.S. 20, 26, 38 (1922).

²² *Hill v. Wallace*, 259 U.S. 44 (1922). See also *Trusler v. Crooks*, 269 U.S. 475 (1926).

²³ *Carter v. Carter Coal Co.*, 298 U.S. 238 (1936).

²⁴ *United States v. Butler*, 297 U.S. 1 (1936).

²⁵ 295 U.S. 495 (1935).

²⁶ 295 U.S. at 529.

²⁷ *Steward Machine Co. v. Davis*, 301 U.S. 548 (1937); *Helvering v. Davis*, 301 U.S. 619 (1937).

²⁸ *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937).

²⁹ 312 U.S. 100 (1941). See also *United States v. Carolene Products Co.*, 304 U.S. 144, 147 (1938); *Case v. Bowles*, 327 U.S. 92, 101 (1946).