Because regulations may be premised on the presence of persons or objects that have or will cross state lines, this also appears to allow the regulation of purely intrastate activity. For instance, prohibitions of discrimination in public accommodations, discussed previously as regulation of channels of commerce, can also be justified based on receipt and sale of food or other items that have moved across states lines.[760] Or, Congress has validly penalized convicted felons who had no other connection to interstate commerce for the possession or receipt of firearms which had been previously transported in interstate commerce. This was allowed even though the predicate transportation had been done independently of any activity by the two felons.[761]

Affecting Commerce.—Under this third and most expansive category, Congress' power reaches not only transactions or actions that occasion the crossing of state or national boundaries, but extends as well to activities that, though local, "affect" commerce. This power derives from the Commerce Clause enhanced by the Necessary and Proper Clause, § 8, cl. 18, which authorizes Congress "[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing powers." Chief Justice Marshall alluded to the commerce power being enhanced by this clause when he said that the regulatory power did not reach "those internal concerns [of a state] . . . with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government." [762] There are, however, numerous cases permitting Congress to reach "purely" intrastate activities on the theory that it is necessary to regulate them in order that the regulation of interstate activities might be fully effectuated.[763] In other cases, the Nec-

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[760] Katzenbach v. McClung, 379 U.S. 294, 298, 300–02 (1964); Daniel v. Paul, 395 U.S. 298, 305 (1969).

[761] Scarborough v. United States, 431 U.S. 563 (1977); Barrett v. United States, 423 U.S. 212 (1976). However, because such laws reach far into the traditional police powers of the states, the Court insists that Congress clearly speak to its intent to cover such local activities. United States v. Bass, 404 U.S. 336 (1971). *See also* Rewis v. United States, 401 U.S. 808 (1971); United States v. Enmons, 410 U.S. 396 (1973). A similar tenet of construction has appeared in the Court's recent treatment of federal prosecutions of state officers for official corruption under criminal laws of general applicability. *E.g.*, McCormick v. United States, 500 U.S. 257 (1991); McNally v. United States, 483 U.S. 350 (1987). Congress has overturned the latter case. 102 Stat. 4508, § 7603, 18 U.S.C. § 1346.

[762] Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1, 195 (1824).

[763] *E.g.*, Houston & Texas Ry. v. United States, 234 U.S. 342 (1914) (necessary for ICC to regulate rates of an intrastate train in order to effectuate its rate setting for a competing interstate train); Wisconsin R.R. Comm'n v. Chicago, B. & Q. R.R., 257 U.S. 563 (1922) (same); Southern Ry. v. United States, 222 U.S. 20 (1911) (upholding requirement of same safety equipment on intrastate as interstate trains). *See also* Wickard v. Filburn, 317 U.S. 111 (1942); United States v. Wrightwood Dairy Co., 315 U.S. 110 (1942); Gonzales v. Raich, 545 U.S. 1 (2005).