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# Regulation of Interstate Commerce

## *US v. Lopez, 1995*

★★★★★★★★★★★★★★★★★ **Background of the Case** ★★★★★★★★★★★★★★★★★★

High school senior Alfonso Lopez walked into his San Antonio high school carrying a concealed weapon. He was charged with violating a Texas law that banned firearms in schools. The next day, the state charges against him were dismissed after he was charged with violating a federal law: the Gun Free School Zones Act. This Act made it a federal offense “for any individual knowingly to possess a firearm [in] a school zone.” Lopez was indicted by a grand jury and later found guilty. He was sentenced to six months in prison followed by two years’ probation.

Lopez challenged his conviction, arguing that the Gun Free School Zones Act was an unconstitutional exercise of Congress’s power. Schools were controlled by state and local governments and were not under the authority of the federal government. The federal government claimed that it had the authority to ban guns in schools under its commerce power. The Commerce Clause of the Constitution gives Congress the power to “regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

### *C*onstitutional Issues ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

Since 1937 and until *United States v. Lopez*, the Supreme Court had consistently upheld, and greatly expanded, Congress's powers under the Commerce Clause. Before the New Deal, the Supreme Court interpreted the clause literally and narrowly, ruling in *United States v. E. C. Knight* (1895) and *Schechter Poultry v. United States* (1935), for example, that the Commerce Clause only permits federal regulation of the buying, selling, and transportation of goods between states, not over the manufacture of goods within states, even if that manufacture was closely related to interstate commerce. Yet in the late 1930s the Supreme Court greatly changed course, ruling that federal laws regulating the local production of goods "substantially affected" interstate commerce and was therefore constitutional. By the 1960s and 1970s, in fact, the Court ruled that laws banning segregation in roadside motels and restaurants and outlawing local practices of loan sharking "substantially affected" interstate commerce and were constitutional.

## ★★★★★★★★★★★ **The Supreme Court's Decision** ★★★★★★★★★★★★

The Supreme Court rejected the government's claim, holding that the law was not substantially related to commerce. The Court held, "Under the theories that the Government presents...it is difficult to perceive any limitation on federal power, even in areas...where States historically have been sovereign. Thus, if we were to accept the Government's arguments, we are hard-pressed to posit any activity by an individual that Congress is without power to regulate...." The Supreme Court also cited the Founders' speeches and writings on the balance between state and federal power, and in particular their belief in limited government: the federal government did not have any powers except those delegated to it in the Constitution.

*U.S. v. Lopez* is a particularly significant case because it marked the first time in half a century that the Court held Congress had overstepped its power under the Commerce Clause. The Rehnquist Court's decision in *Lopez* and the cases that followed it may be the harbinger of a developing constitutional revolution in federalism.

**DIRECTIONS: Answer the following questions on a separate sheet of paper.**

1. What two laws was Lopez charged with violating, and what happened to those charges?
2. How did the Supreme Court rule? Do you agree with their ruling?
3. In his dissenting opinion, Justice Breyer argued, "Education, although far more than a matter of economics, has long been inextricably intertwined with the Nation's economy.... guns in the hands of six percent of inner-city high school students and gun-related violence throughout a city's schools must threaten the trade and commerce that those schools support." Is this a strong argument that the law is constitutional under the Commerce Clause? Why or why not?
4. What are the consequences of a strict interpretation of the term "commerce" when deciding the constitutionality of federal laws? What are the consequences of a liberal interpretation?