



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

HAMMER V. DAGENHART (1918)

JANUARY 24, 2010

OVERVIEW

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This month's Landmark Supreme Court Cases and the Constitution eLesson looks at the 1918 case *Hammer v. Dagenhart*. In this case, the Supreme Court analyzed the constitutionality of a federal law banning the shipment across state lines of goods made in factories which employed children under the age of fourteen. In a decision overturned decades later, the Court held that Congress had overstepped its constitutional power in attempting to regulate the production of goods.

RESOURCES

- http://www.oyez.org/cases/1901-1939/1917/1917_704
- <http://www.constitutionbee.org/user/StudentGuide.aspx?id=765>
- <http://www.constitutionbee.org/user/StudentGuide.aspx?id=797>
- <http://www.constitutionbee.org/user/StudentGuide.aspx?id=804>

ACTIVITY

Around the turn of the Twentieth Century in the US, it was not uncommon for children to work long hours in factories, mills and other industrial settings. Many families depended on the income earned by their children. Public concern about the effect this kind of work had on children began to rise. Advocates for child labor laws pointed out that children who worked such long hours (sometimes as much as sixty or seventy hours a week) were deprived of education, fresh air, and time to play. They also worried about the physical risks: children in factories had high accident rates. Some states passed laws restricting child labor, but these placed states with restrictions at an economic disadvantage.

In response to these concerns, Congress passed the Keating-Owen Act of 1916. This law forbade the shipment across state lines of goods made in factories which employed children under the age of 14, or children between 14 and 16 who worked more than eight hours a day, overnight, or more than six days/week. Congress claimed constitutional authority for this law because Article I, Section 8 gives it the power to regulate interstate commerce.

Roland Dagenhart of North Carolina worked at a textile mill with his two teenage sons. He believed the law was unconstitutional and sued, eventually taking his case to the Supreme Court. He made three constitutional arguments. First, he argued that the law was not a regulation of commerce. Secondly, he believed the Tenth Amendment left the power to make rules for child labor to the states. Finally, his liberty and property protected by the Fifth Amendment included the right to allow his children to work.

In *Hammer v. Dagenhart*, Court agreed with Dagenhart and struck down the Keating-Owen Act as unconstitutional. The Court held that while Congress has the power to regulate interstate commerce, "the manufacture of goods is not commerce." Furthermore, the Court reasoned, the Tenth Amendment made clear that powers not delegated to the national government remained with the states or the people. The power "to regulate the hours of labor of children in factories and mines within the states, is a purely state authority." The Court noted that all states had some restrictions on child labor already. Even if states with very restrictive child labor laws were at an economic disadvantage, Congress did not have the constitutional power to impose uniform rules for the country.

The ruling in this case was overturned in *US v. Darby Lumber Company* (1941) where the Court interpreted the Commerce Clause as giving Congress the power to regulate labor conditions. In this unanimous decision, the Court upheld the Fair Labor Standards Act, asserting, "While manufacture is not of itself interstate commerce the shipment of manufactured goods



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interstate is such commerce and the prohibition of such shipment by Congress is indubitably a regulation of the commerce.”

COMPREHENSION AND CRITICAL THINKING QUESTIONS

1. What was the Keating-Owen Act of 1916?
2. Why did Dagenhart believe it was unconstitutional?
3. How did the Supreme Court rule in *Hammer v. Dagenhart* (1918)?
4. The majority stated, “It must never be forgotten that the Nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the National Government are reserved.” Critics of the ruling point out that the Tenth Amendment does not in fact use the word “expressly.” Why might that be important?
5. How did the Court interpretation of the Commerce Clause differ in the case of *US v. Darby Lumber Company* (1941)? Do you agree with the Court’s reasoning?



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ANSWERS

1. A federal law prohibiting the interstate sale of goods made in factories which employed child labor.
2. He believed it exceeded Congress's authority under the Commerce Clause, it violated the Tenth Amendment's protection of state powers, and that it deprived him of liberty and property under the Fifth Amendment.
3. The Court struck down the Keating-Owen Act as unconstitutional.
4. The Tenth Amendment would have created a more limited government had it used the word "expressly." Though the Constitution creates a government of enumerated powers, lawmakers and judges have understood there to be implied powers of the federal government – powers not expressly listed but which can be reasonable understood to come from the powers which are listed.
5. The Court argued that while production was not commerce, the federal regulation was in fact a regulation of commerce. Accept reasoned answers.