**(Write your answers on a separate sheet of paper)**

**How Interpretation of the Commerce Power Has Changed Over Time**

Since the decision in *Gibbons* v. *Ogden*, there have been many cases before the Court that have dealt with the Commerce Clause. Over time, the Congress has used its commerce power to justify many pieces of legislation that may seem only marginally related to commerce. The Supreme Court of the United States has, at various points in history, been more or less sympathetic to the use of the Commerce Clause to justify congressional legislation.

Listed below are brief descriptions of some important cases that have come before the Court that deal with the Commerce Clause. They are listed in chronological order.

Read each summary and complete items one through four below:

1. Do you think the Commerce Clause can be used to allow Congress to make the law or take the action in question?
2. Decide whether the Court's decision has increased Congress's power or held Congress's power in check.
3. Write a brief summary of any trend you notice in the willingness of the Supreme Court of the United States to allow Congress to use the Commerce Clause to justify new powers not explicitly granted in the Constitution.

4. Determine whether you think the Supreme Court allowed the “expansion of power.”

***United States* v. *E.C. Knight Company* (1895)**

In 1890, Congress passed the Sherman Antitrust Act, which made it illegal to monopolize or restrain (or attempt to do so) interstate commerce. On the basis of this Act, the United States filed a suit against five sugar manufacturing companies to keep them from merging after one firm purchased the stock of the other four (E.C. Knight Co. was one of the four firms bought out). The American Sugar Refining Company had gained control over 98 percent of the sugar refining business in the United States in this way and was considered a monopoly.

**Case Question: Could the Sherman Antitrust Act suppress a monopoly in the *manufacture* of a good, as well as its *distribution*?**

***Hammer* v. *Dagenhart* (1918)**

In 1916, Congress passed the Federal Child Labor Act in an attempt to reduce the abuse of child labor. The Act barred interstate shipment of products that were made by children under the ages of 14 or that were made by those between the age of 14 and 16 who worked more than eight hours a day, more than six days a week, or at night.

**Case Question: Did Congress have the power under the Commerce Clause to pass the Federal Child Labor Act?**

***National Labor Relations Board* v. *Jones & Laughlin Steel Corp.* (1937)**

Congress passed the National Labor Relations Act (Wagner Act) in 1935 in an attempt to stop unfair labor practices by businesses that affected commerce. The idea behind the law was that unfair actions by businesses caused strikes and other actions by workers that hindered the flow of interstate commerce. Union workers started proceedings before the National Labor Relations Board (NLRB) against the Jones & Laughlin Steel Corporation, accusing the business of discouraging employees from joining the union and firing some men because of their union activities. The NLRB ordered the corporation to re-employ the men, but it refused saying that the Wagner Act was unconstitutional because it regulated labor relations, not commerce.

**Case Question: Did Congress have the power under the Commerce Clause to regulate labor-business relations in the Wagner Act?**

***United States* v. *Darby* (1941)**

In 1938, Congress passed the Fair Labor Standards Activities, which banned the interstate shipment of goods produced by employees who were paid less than a minimum wage or who had worked over 44 hours a week without overtime pay. Fred Darby, who operated a lumber business in Georgia, was indicted for violating the Fair Labor Standards Act. A federal district court threw out the indictment, stating that the act was unconstitutional because the manufacturing activity in question was not a part of interstate commerce.

**Case Question: Did Congress have the power under the Commerce Clause to regulate wages as it did in the Fair Labor Standards Act?**

***Heart of Atlanta Motel, Inc.* v. *United States et al.* (1964)**

This suit challenged Title II of the Civil Rights Act of 1964, which banned racial discrimination in public accommodations. A motel owner in Atlanta, Georgia who mostly served interstate travelers refused to allow African Americans to stay at the hotel in violation of the act. He claimed that Congress lacked the authority under the Commerce Clause to regulate his private business.

**Case Question: Did Congress have the power under the Commerce Clause to ban discrimination as it did in the Civil Rights Act of 1964?**

***United States* v. *Lopez* (1995)**

In 1990, the U.S. Congress passed a crime bill that included the Gun-Free School Zones Act of 1990. The Act forbids "any individual knowingly to possess a firearm at a place that [he] knows . . . is a school zone," 18 U.S.C. 922(q)(1)(A). A student named Lopez was arrested for carrying a gun to a school in San Antonio, Texas and was charged with violating the Gun-Free School Zones Act of 1990. Lopez tried to get the case dismissed on the basis that the Gun-Free School Zones Act of 1990 violated the U.S. Constitution because Congress did not have the power to pass such a law.

**Case Question: Did Congress have the power under the Commerce Clause to pass the Gun-Free School Zones Act?**