AMERICAN LAW PROGRAM
The Catholic University of America, Columbus School of Law
Jagiellonian University, Faculty of Law and Administration
19th year, 2018-2019

ENTRANCE EXAM 3 – ESSAY PART

Dear American Law Program Candidate!

In order to let the American Law Program staff assess your English language skills and abilities to actively participate and benefit from the regular courses, we kindly ask you to take our Entrance Exam. As the amount of students willing to join the program exceeds the amount of students who can be admitted, it serves also the selection of the best candidates in an objective manner.

To make the assessment and competition both fair and reasonable, we kindly ask you to obey the following rules:

During the exam **you are not allowed** to:
- consult anyone nor any materials, except for the texts that we distribute;
- look at other candidate's work;
- leave the room without permission;
- possess turned on cell phones or similar devices.

During the exam **you are supposed** to:
- write in a readable way, so that we are able to read your answers and grade them;
- mark your papers with your PESEL only.

The exam contains of two parts and **altogether lasts 100 minutes.**

The **first part**, is an **essay** part. Your task is to write an essay on the separate sheet of paper, on the assigned topic, which is based on the text attached in order to inspire you. You are supposed to show us that you can discuss a general legal topic in an interesting manner and proper English. Your essay must not exceed one sheet of the given paper. You have **60 minutes** to complete this part. After this time you must turn in your essay. This part is graded for 0-30 points.

The **second part**, which you are supposed to take later, is a **reading** part. You should read the text provided carefully. You may take notes on the separate sheet of paper. After **30 minutes** you must turn in the texts, but you may still keep the notes. Then you receive the questions and answers sheet. You are supposed to mark T for True and F for False on the given questions, for which you have **another 10 minutes**. This part is graded for 0-20 points.

The **results** should be available in the middle of July 2018. The results will be sent to you via e-mail and published on our website: http://www.okspo.wpia.uj.edu.pl/spa as well as on our Facebook: http://www.facebook.com/szkolaprawaamerykanskiego

Good luck!

Essay Question

The J. Langbein's article, Substantial Compliance with the Wills Act*, published in "Harvard Law Review" 1975/88.3, attempts to justify retreat from the Wills Act strict formalities into a more aim-oriented analysis of the statute, so that values behind formalization are protected and at the same time clear and unambiguous expression of intent, but lacking full formality requirement, is acknowledged:*

The law of wills is notorious for its harsh and relentless formalism. The Wills Act prescribes a particular set formalities for executing one's testament. The most minute defect in formal compliance is held to void the will, no matter abundant the evidence that the defect was inconsequential. Probate courts do not speak of harmless error in the execution of wills. To be sure, there is considerable diversity and contradiction the cases interpreting what acts constitute compliance with formalities. But once a formal defect is found, Anglo-American courts have been unanimous in concluding that the attempted will fails.

This Article contends that the insistent formalism of the law of wills is mistaken and needless. The thesis, stimulated in part by relatively recent developments that have lessened the authority of the Wills Act, is that the familiar concept of substantial compliance should now be applied to the Wills Act. The finding of a formal defect should lead not to automatic invalidity, but to a further inquiry: does the noncomplying document express the decedent's testamentary intent, and does its form sufficiently approximate Wills Act formality to enable the court to conclude that it serves the purposes of the Wills Act? […]

Proper compliance with the Wills Act, so-called due execution, is the basis in modern law for certain presumptions which shift the burden of proof from the proponents of a will to any contestants. Unless the contestants advance disproof, the proponents need establish no more than due execution. […] These presumptions are extremely wise and functional. They routinize probate. They transform hard questions into easy ones. Instead of having to ask, "Was this meant to be a will, is it adequately evidenced, and was it sufficiently final and deliberate?," the court need only inquire whether the checklist of Wills Act formalities seems to have been obeyed. In all but exceptional cases, a will is simply whatever complies with the formalities. […]

The substantial compliance doctrine would virtually always follow present law in holding that an unsigned will is no will; a will with the testator's signature omitted does not comply substantially with the Wills Act, because it leaves in doubt all the issues on which the proponents bear the burden of proof: the formation of testamentary intent, deliberate and evidenced. The formality of signature is so purposive that it is rarely possible to serve the purposes of the formality without literal compliance. Because the proponents of an unsigned purported will bear an almost hopeless burden of proof, it is unlikely that people would litigate such claims in any number.

Nevertheless, there may be rare cases where it would be appropriate to admit to probate an unsigned will. Consider the testator who publishes the document as his will to his gathered attesting witnesses and takes up his pen and lowers it toward the dotted line when an interloper's bullet or a coronary seizure fells him. In such unique cases where there is persuasive evidence that the testator's intention to sign the will was final, and only a sudden impediment stayed his hand, the purposes of the Wills Act are satisfied without signature. […]

What is, in your opinion, the function of formality in law? What values are protected thereby, and what are challenged? Should the formality requirement be exempted, if contrary intent is expressed in a clear and unambiguous way, is proven by undeniable evidence, but still did not manage to formally comply? Consider various relations, in which formality is involved, especially those in which formality requirement is unknown to the party, or those, in which the formality mistake will never be corrected (e.g. regarding last will of a person already deceased).

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ENTRANCE EXAM 3 – READING PART (TEXT)

Read the text of the U.S. Supreme Court judgment in: *U.S. v. Lopez*, 514 U.S. 549 (1995), in which the Court challenged the Congress legislation penalizing gun possession in a school zone on the grounds of federal power lacked competence to enact law in this field – as the Commerce Clause did not extend as to justify the admissibility of the legislation. You may also take notes. After 30 minutes you will have to turn in the text and answer the questions with a use of your notes as well as your understanding only.

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

In the Gun Free School Zones Act of 1990, Congress made it a federal offense "for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone." 18 U.S.C. § 922(q)(1)(A) (1988 ed., Supp. V). The Act neither regulates a commercial activity nor contains a requirement that the possession be connected in any way to interstate commerce. We hold that the Act exceeds the authority of Congress "[t]o regulate Commerce . . . among the several States . . . ." U. S. Const., Art. I, §8, cl. 3.

On March 10, 1992, respondent, who was then a 12th grade student, arrived at Edison High School in San Antonio, Texas, carrying a concealed .38 caliber handgun and five bullets. Acting upon an anonymous tip, school authorities confronted respondent, who admitted that he was carrying the weapon. He was arrested and charged under Texas law with firearm possession on school premises. See Tex. Penal Code Ann. §46.03(a)(1) (Supp. 1994). The next day, the state charges were dismissed after federal agents charged respondent by complaint with violating the Gun Free School Zones Act of 1990. 18 U.S.C. § 922(q)(1)(A) (1988 ed., Supp. V).

A federal grand jury indicted respondent on one count of knowing possession of a firearm at a school zone, in violation of §922(q). Respondent moved to dismiss his federal indictment on the ground that §922(q) "is unconstitutional as it is beyond the power of Congress to legislate control over our public schools." The District Court denied the motion, concluding that §922(q) "is a constitutional exercise of Congress' well defined power to regulate activities in and affecting commerce, and the `business' of elementary, middle and high schools . . . affects interstate commerce." App. to Pet. for Cert. 55a. Respondent waived his right to a jury trial. The District Court conducted a bench trial, found him guilty of violating §922(q), and sentenced him to six months' imprisonment and two years' supervised release.

On appeal, respondent challenged his conviction based on his claim that §922(q) exceeded Congress' power to legislate under the Commerce Clause. The Court of Appeals for the Fifth Circuit agreed and reversed respondent's conviction. It held that, in light of what it characterized as insufficient congressional findings and legislative history, "section 922(q), in the full reach of its terms, is invalid as beyond the power of Congress under the Commerce Clause." 2 F. 3d 1342, 1367-1368 (1993). Because of the importance of the issue, we granted certiorari, 511 U. S. ___ (1994), and we now affirm.

We start with first principles. The Constitution creates a Federal Government of enumerated powers. See U. S. Const., Art. I, §8. As James Madison wrote, "[t]he powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite." The Federalist No. 45, pp. 292-293 (C. Rossiter ed. 1961). This constitutionally mandated division of authority "was adopted by the Framers to ensure protection of our fundamental liberties." *Gregory* v. *Ashcroft*, 501 U.S. 452, 458 (1991) (internal quotation marks omitted). "Just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front." *Ibid.*

The Constitution delegates to Congress the power "[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U. S. Const., Art. I, §8, cl. 3. The Court, through Chief Justice Marshall, first defined the nature of Congress' commerce power in *Gibbons* v. *Ogden*, 9 Wheat. 1, 189-190 (1824): "Commerce, undoubtedly, is traffic, but it is something more: it is intercourse. It describes the commercial intercourse between nations, and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse."

The commerce power "is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the constitution." *Id.*, at 196. The *Gibbons* Court, however, acknowledged that limitations on the commerce power are inherent in the very language of the Commerce Clause.

"It is not intended to say that these words comprehend that commerce, which is completely internal, which is carried on between man and man in a State, or between different parts of the same State, and which does not extend to or affect other States. Such a power would be inconvenient, and is certainly unnecessary. Comprehensive as the word `among' is, it may very properly be restricted to that commerce which concerns more States than one. . . . The enumeration presupposes something not enumerated; and that something, if we regard the language or the subject of the sentence, must be the exclusively internal commerce of a State." *Id.*, at 194-195.

For nearly a century thereafter, the Court's Commerce Clause decisions dealt but rarely with the extent of Congress' power, and almost entirely with the Commerce Clause as a limit on state legislation that discriminated against interstate commerce. See, *e.g., Veazie* v. *Moor*, 14 How. 568, 573-575 (1853) (upholding a state created steamboat monopoly because it involved regulation of wholly internal commerce); *Kidd* v. *Pearson*, 128 U.S. 1, 17, 20-22 (1888) (upholding a state prohibition on the manufacture of intoxicating liquor because the commerce power "does not comprehend the purely domestic commerce of a State which is carried on between man and man within a State or between different parts of the same State") […]

In 1887, Congress enacted the Interstate Commerce Act, 24 Stat. 379, and in 1890, Congress enacted the Sherman Antitrust Act, 26 Stat. 209, as amended, 15 U.S.C. § 1 *et seq*. These laws ushered in a new era of federal regulation under the commerce power. When cases involving these laws first reached this Court, we imported from our negative Commerce Clause cases the approach that Congress could not regulate activities such as "production," "manufacturing," and "mining." See, *e.g.*, *United States* v. *E. C. Knight Co.*, 156 U.S. 1, 12 (1895) ("Commerce succeeds to manufacture, and is not part of it"); *Carter* v. *Carter Coal Co.*, 298 U.S. 238, 304 (1936) ("Mining brings the subject matter of commerce into existence. Commerce disposes of it"). Simultaneously, however, the Court held that, where the interstate and intrastate aspects of commerce were so mingled together that full regulation of interstate commerce required incidental regulation of intrastate commerce, the

Commerce Clause authorized such regulation. See, *e.g., Houston, E. & W. T. R. Co.* v. *United States*, 234 U.S. 342 (1914) (*Shreveport Rate Cases*).

In *A. L. A. Schecter Poultry Corp.* v. *United States*, 295 U.S. 495, 550 (1935), the Court struck down regulations that fixed the hours and wages of individuals employed by an intrastate business because the activity being regulated related to interstate commerce only indirectly. In doing so, the Court characterized the distinction between direct and indirect effects of intrastate transactions upon interstate commerce as "a fundamental one, essential to the maintenance of our constitutional system." *Id.*, at 548. Activities that affected interstate commerce directly were within Congress' power; activities that affected interstate commerce indirectly were beyond Congress' reach. *Id.*, at 546. The justification for this formal distinction was rooted in the fear that otherwise "there would be virtually no limit to the federal power and for all practical purposes we should have a completely centralized government." *Id.*, at 548.

Two years later, in the watershed case of *NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937), the Court upheld the National Labor Relations Act against a Commerce Clause challenge, and in the process, departed from the distinction between "direct" and "indirect" effects on interstate commerce. *Id.*, at 36-38 ("The question [of the scope of Congress' power] is necessarily one of degree"). The Court held that intrastate activities that "have such a close and substantial relation to interstate commerce that their control is essential or appropriate to protect that commerce from burdens and obstructions" are within Congress' power to regulate. *Id.*, at 37. […]

In *Wickard* v. *Filburn*, the Court upheld the application of amendments to the Agricultural Adjustment Act of 1938 to the production and consumption of home grown wheat. 317 U. S., at 128-129. The *Wickard* Court explicitly rejected earlier distinctions between direct and indirect effects on interstate commerce, stating: "[E]ven if appellee's activity be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce, and this irrespective of whether such effect is what might at some earlier time have been defined as `direct' or `indirect.' " *Id.*, at 125.

The *Wickard* Court emphasized that although Filburn's own contribution to the demand for wheat may have been trivial by itself, that was not "enough to remove him from the scope of federal regulation where, as here, his contribution, taken together with that of many others similarly situated, is far from trivial." *Id.*, at 127-128.

Jones & Laughlin Steel […] and *Wickard* ushered in an era of Commerce Clause jurisprudence that greatly expanded the previously defined authority of Congress under that Clause. In part, this was a recognition of the great changes that had occurred in the way business was carried on in this country. Enterprises that had once been local or at most regional in nature had become national in scope. But the doctrinal change also reflected a view that earlier Commerce Clause cases artificially had constrained the authority of Congress to regulate interstate commerce.

But even these modern era precedents which have expanded congressional power under the Commerce Clause confirm that this power is subject to outer limits. In *Jones & Laughlin Steel*, the Court warned that the scope of the interstate commerce power "must be considered in the light of our dual system of government and may not be extended so as to embrace effects upon interstate commerce so indirect and remote that to embrace them, in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government." 301 U. S., at 37 […]

[…] we have identified three broad categories of activity that Congress may regulate under its commerce power. *Perez* v. *United States*, *supra*, at 150; see also *Hodel* v. *Virginia Surface Mining & Reclamation Assn.*, *supra*, at 276-277. First, Congress may regulate the use of the channels of

interstate commerce. See, *e.g., Darby*, 312 U. S., at 114; *Heart of Atlanta Motel*, *supra*, at 256 (" `[T]he authority of Congress to keep the channels of interstate commerce free from immoral and injurious uses has been frequently sustained, and is no longer open to question.' " (quoting *Caminetti* v. *United States*, 242 U.S. 470, 491 (1917)). Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. See, *e.g., Shreveport Rate Cases*, 234 U.S. 342 (1914); *Southern R. Co.* v. *United States*, 222 U.S. 20 (1911) (upholding amendments to Safety Appliance Act as applied to vehicles used in intrastate commerce); *Perez*, *supra*, at 150 ("[F]or example, the destruction of an aircraft (18 U.S.C. § 32), or . . . thefts from interstate shipments (18 U.S.C. § 659)"). Finally, Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, *Jones & Laughlin Steel*, 301 U. S., at 37, *i.e.*, those activities that substantially affect interstate commerce. *Wirtz*, *supra*, at 196, n. 27.

Within this final category, admittedly, our case law has not been clear whether an activity must "affect" or "substantially affect" interstate commerce in order to be within Congress' power to regulate it under the Commerce Clause. Compare *Preseault* v. *ICC*, 494 U.S. 1, 17 (1990), with *Wirtz*, *supra*, at 196, n. 27 (the Court has never declared that "Congress may use a relatively trivial impact on commerce as an excuse for broad general regulation of state or private activities"). We conclude, consistent with the great weight of our case law, that the proper test requires an analysis of whether the regulated activity "substantially affects" interstate commerce.

We now turn to consider the power of Congress, in the light of this framework, to enact §922(q). The first two categories of authority may be quickly disposed of: §922(q) is not a regulation of the use of the channels of interstate commerce, nor is it an attempt to prohibit the interstate transportation of a commodity through the channels of commerce; nor can §922(q) be justified as a regulation by which Congress has sought to protect an instrumentality of interstate commerce or a thing in interstate commerce. Thus, if §922(q) is to be sustained, it must be under the third category as a regulation of an activity that substantially affects interstate commerce.

First, we have upheld a wide variety of congressional Acts regulating intrastate economic activity where we have concluded that the activity substantially affected interstate commerce. Examples include the regulation of intrastate coal mining; *Hodel*, *supra*, intrastate extortionate credit transactions, *Perez*, *supra*, restaurants utilizing substantial interstate supplies, *McClung*, *supra*, *inns* and hotels catering to interstate guests, *Heart of Atlanta Motel*, *supra*, and production and consumption of home grown wheat, *Wickard* v. *Filburn*, 317 U.S. 111 (1942). These examples are by no means exhaustive, but the pattern is clear. Where economic activity substantially affects interstate commerce, legislation regulating that activity will be sustained.

Even *Wickard*, which is perhaps the most far reaching example of Commerce Clause authority over intrastate activity, involved economic activity in a way that the possession of a gun in a school zone does not. Roscoe Filburn operated a small farm in Ohio, on which, in the year involved, he raised 23 acres of wheat. It was his practice to sow winter wheat in the fall, and after harvesting it in July to sell a portion of the crop, to feed part of it to poultry and livestock on the farm, to use some in making flour for home consumption, and to keep the remainder for seeding future crops. The Secretary of Agriculture assessed a penalty against him under the Agricultural Adjustment Act of 1938 because he harvested about 12 acres more wheat than his allotment under the Act permitted. The Act was designed to regulate the volume of wheat moving in interstate and foreign commerce in order to avoid surpluses and shortages, and concomitant fluctuation in wheat prices, which had previously obtained. The Court said, in an opinion sustaining the application of the Act to Filburn's activity: "One of the primary purposes of the Act in question was to increase the market price of wheat and to that end to limit the volume thereof that could affect the market. It can hardly be denied that a factor of such

volume and variability as home consumed wheat would have a substantial influence on price and market conditions. This may arise because being in marketable condition such wheat overhangs the market and, if induced by rising prices, tends to flow into the market and check price increases. But if we assume that it is never marketed, it supplies a need of the man who grew it which would otherwise be reflected by purchases in the open market. Home grown wheat in this sense competes with wheat in commerce." 317 U. S., at 128.

Section 922(q) is a criminal statute that by its terms has nothing to do with "commerce" or any sort of economic enterprise, however broadly one might define those terms. Section 922(q) is not an essential part of a larger regulation of economic activity, in which the regulatory scheme could be undercut unless the intrastate activity were regulated. It cannot, therefore, be sustained under our cases upholding regulations of activities that arise out of or are connected with a commercial transaction, which viewed in the aggregate, substantially affects interstate commerce.

Second, §922(q) contains no jurisdictional element which would ensure, through case by case inquiry, that the firearm possession in question affects interstate commerce. For example, in *United States* v. *Bass*, 404 U.S. 336 (1971), the Court interpreted former 18 U.S.C. § 1202(a), which made it a crime for a felon to "receiv[e], posses[s], or transpor[t] in commerce or affecting commerce . . . any firearm." 404 U. S., at 337. The Court interpreted the possession component of §1202(a) to require an additional nexus to interstate commerce both because the statute was ambiguous and because "unless Congress conveys its purpose clearly, it will not be deemed to have significantly changed the federal state balance." *Id.*, at 349. The *Bass* Court set aside the conviction because although the Government had demonstrated that Bass had possessed a firearm, it had failed "to show the requisite nexus with interstate commerce." *Id.*, at 347. The Court thus interpreted the statute to reserve the constitutional question whether Congress could regulate, without more, the "mere possession" of firearms. See *id.*, at 339, n. 4; see also *United States* v. *Five Gambling Devices*, 346 U.S. 441, 448 (1953) (plurality opinion) ("The principle is old and deeply imbedded in our jurisprudence that this Court will construe a statute in a manner that requires decision of serious constitutional questions only if the statutory language leaves no reasonable alternative"). Unlike the statute in *Bass*, §922(q) has no express jurisdictional element which might limit its reach to a discrete set of firearm possessions that additionally have an explicit connection with or effect on interstate commerce.

Although as part of our independent evaluation of constitutionality under the Commerce Clause we of course consider legislative findings, and indeed even congressional committee findings, regarding effect on interstate commerce, see, *e.g., Preseault* v. *ICC*, 494 U.S. 1, 17 (1990), the Government concedes that "[n]either the statute nor its legislative history contain[s] express congressional findings regarding the effects upon interstate commerce of gun possession in a school zone." Brief for United States 5-6. We agree with the Government that Congress normally is not required to make formal findings as to the substantial burdens that an activity has on interstate commerce. See *McClung*, 379 U. S., at 304; see also *Perez*, 402 U. S., at 156 ("Congress need [not] make particularized findings in order to legislate"). But to the extent that congressional findings would enable us to evaluate the legislative judgment that the activity in question substantially affected interstate commerce, even though no such substantial effect was visible to the naked eye, they are lacking here.

[…] The Government's essential contention, *in fine*, is that we may determine here that §922(q) is valid because possession of a firearm in a local school zone does indeed substantially affect interstate commerce. Brief for United States 17. The Government argues that possession of a firearm in a school zone may result in violent crime and that violent crime can be expected to affect the functioning of the national economy in two ways. First, the costs of violent crime are substantial, and, through the mechanism of insurance, those costs are spread throughout the population. See *United States* v. *Evans*, 928 F. 2d 858, 862 (CA9 1991). Second, violent crime reduces the willingness of individuals to travel

to areas within the country that are perceived to be unsafe. Cf. *Heart of Atlanta Motel*, 379 U. S., at 253. The Government also argues that the presence of guns in schools poses a substantial threat to the educational process by threatening the learning environment. A handicapped educational process, in turn, will result in a less productive citizenry. That, in turn, would have an adverse effect on the Nation's economic well being. As a result, the Government argues that Congress could rationally have concluded that §922(q) substantially affects interstate commerce.

We pause to consider the implications of the Government's arguments. The Government admits, under its "costs of crime" reasoning, that Congress could regulate not only all violent crime, but all activities that might lead to violent crime, regardless of how tenuously they relate to interstate commerce. See Tr. of Oral Arg. 8-9. Similarly, under the Government's "national productivity" reasoning, Congress could regulate any activity that it found was related to the economic productivity of individual citizens: family law (including marriage, divorce, and child custody), for example. Under the theories that the Government presents in support of §922(q), it is difficult to perceive any limitation on federal power, even in areas such as criminal law enforcement or education 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.

Although Justice Breyer argues that acceptance of the Government's rationales would not authorize a general federal police power, he is unable to identify any activity that the States may regulate but Congress may not. Justice Breyer posits that there might be some limitations on Congress' commerce power such as family law or certain aspects of education. *Post*, at 10-11. […]

Justice Breyer focuses, for the most part, on the threat that firearm possession in and near schools poses to the educational process and the potential economic consequences flowing from that threat. *Post*, at 5-9. […]

For instance, if Congress can, pursuant to its Commerce Clause power, regulate activities that adversely affect the learning environment, then, *a fortiori*, it also can regulate the educational process directly. Congress could determine that a school's curriculum has a-significant" effect on the extent of classroom learning. As a result, Congress could mandate a federal curriculum for local elementary and secondary schools because what is taught in local schools has a significant "effect on classroom learning," cf. *post*, at 9, and that, in turn, has a substantial effect on interstate commerce.

[…] But we think they point the way to a correct decision of this case. The possession of a gun in a local school zone is in no sense an economic activity that might, through repetition elsewhere, substantially affect any sort of interstate commerce. Respondent was a local student at a local school; there is no indication that he had recently moved in interstate commerce, and there is no requirement that his possession of the firearm have any concrete tie to interstate commerce.

[…] Admittedly, some of our prior cases have taken long steps down that road, giving great deference to congressional action. See *supra*, at 8. The broad language in these opinions has suggested the possibility of additional expansion, but we decline here to proceed any further. To do so would require us to conclude that the Constitution's enumeration of powers does not presuppose something not enumerated, cf. *Gibbons* v. *Ogden*, *supra*, at 195, and that there never will be a distinction between what is truly national and what is truly local, cf. *Jones & Laughlin Steel*, *supra*, at 30. This we are unwilling to do.

For the foregoing reasons the judgment of the Court of Appeals is affirmed.

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ENTRANCE EXAM 3 – READING PART (QUESTIONS)

Based on the read texts of the U.S. Supreme Court judgment in: *U.S. v. Lopez*, 514 U.S. 549 (1995), in particular your notes as well as your understanding to it, decide whether the statements below are True (T) or False (F). You have 10 minutes to complete this part of the exam.

PESEL:

		True	**False**
1.	The opinion of the Supreme Court was written by its single member we know from name.		
2.	Sale of gun in a school zone was made a federal offence.		
3.	Lacking federal indictment Lopez will not be charged with any offence.		
4.	In the case of Lopez only the Supreme Court analysed the admissibility of the federal legislation based on Commerce Clause.		
5.	As Madison claims, powers delegated to the States are indefinite, unlike those delegated to the federal government.		
6.	Commerce Clause is an amendment to the U.S. Constitution, which delegates to the Congress e.g. with foreign Nations.		
7.	In *Gibbons* the Court defined "among several States" as more than 2.		
8.	First cases analyzed within jurisprudential history of the Commerce Clause in the judgment delineated the internal commerce of the State as outside Commerce Clause.		
9.	The line of cases analyzed by the Supreme Court which broadens the applicability of the Commerce Clause to internal commerce of the State at first based on the doctrine of indirect relation to interstate commerce.		
10.	In *Wickard* the Court held that e.g. even though the activity challenged may not be regarded as commerce, it may still exert a substantial economic effect and this is why can be affected by federal legislation.		
11.	In a case responsible for broadening the application of Commerce Clause the Court warned that extension of Commerce Clause applicability may once lead to centralization of government.		

12.	Eventually three categories of activities regulated under Commerce Clause were established: channels of interstate commerce, instrumentalities of interstate commerce even though threat comes from internal commerce, activities having substantial relation to interstate commerce.		
13.	In *Wickard* the analyzed legislation was on limitation of certain type of agriculture production because of natural environment protection.		
14.	One of the prior legislations in the field of gun possession was accepted by the Court under Commerce Clause as next to gun possession it involved also its transportation or trade.		
15.	The Congress justifying its legislation by Commerce Clause must prove its effect on interstate commerce.		
16.	The Government found arguments that violent crimes affect the national economy, e.g. because its costs through insurance spread throughout population.		
17.	Criminal law or education have historically been areas of state legislation.		
18.	Accepting Government arguments on national productivity reasoning, the Supreme Court would find it hard to show any activity outside the scope of Congress legislative authority.		
19.	Accepting Justice Breyer argument on educational process affecting economy, the Supreme Court shows that following this reasoning the Congress would establish a federal curriculum.		
20.	The Supreme Court reached the same conclusion as the previous instance court.		