

CONSTITUTION 101

Module 7: The Legislative Branch: How Congress Works

7.4 Primary Source

WICKARD V. FILBURN (1942)

SUMMARY

View the case on the National Constitution Center's Website [here](#).

During the Great Depression, Congress passed the Agricultural Adjustment Act of 1938, a law regulating the production of wheat in an attempt to stabilize the economy and the nation's food supply. In particular, this law set limits on the amount of wheat that farmers could grow on their own farms. Roscoe Filburn, a farmer, sued Claude Wickard, the Secretary of Agriculture, when he was penalized for violating the statute. Filburn argued that the amount of wheat that he produced in excess of the quota was for his personal use (e.g., feeding his own animals), not commerce (e.g., selling it on the market), and therefore could not be constitutionally regulated. The Supreme Court upheld the law, explaining that Congress could use its commerce power to regulate such activity because, even if Filburn's actions had only a minimal impact on commerce, the aggregated effect of an individual farmer's wheat-growing exerted a substantial economic effect on interstate commerce. In terms of the Constitution, this holding offered a broad reading of Congress's power under the Commerce Clause.

[Read the Full Opinion](#)

Excerpt: Majority Opinion, Justice Jackson

Old constitutional categories no longer apply; we can't answer Commerce Clause questions by applying wooden formulas. The Court's recognition of the relevance of the economic effects in the application of the Commerce Clause exemplified by this statement has made the mechanical application of legal formulas no longer feasible. Once an economic measure of the reach of the power granted to Congress in the Commerce Clause is accepted, questions of federal power cannot be decided simply by finding the activity in question to be 'production' nor can consideration of its economic effects be foreclosed by calling them 'indirect.'

...

We can't just look at Filburn's actions in isolation; if many people acted as Filburn did, that would have a massive effect on the market. The maintenance by government regulation of a price for wheat undoubtedly can be accomplished as effectively by sustaining or increasing the demand as by limiting the supply. The effect of the statute before us is to restrict the amount which may be produced for market and the extent as well to which one may forestall resort to the market by producing to meet his own needs. That [Filburn's] own contribution to the demand for wheat may be trivial by itself is not enough to remove him from the scope of federal

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regulation where, as here, his contribution, taken together with that of many others similarly situated, is far from trivial.

Actions like those of Filburn, when combined with the actions of others, affects the price of wheat on the market; Congress can regulate this activity under the Commerce Clause.

It is well established by decisions of this Court that the power to regulate commerce includes the power to regulate the prices at which commodities in that commerce are dealt in and practices affecting such prices. 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. The stimulation of commerce is a use of the regulatory function quite as definitely as prohibitions or restrictions thereon. This record leaves us in no doubt that Congress may properly have considered that wheat consumed on the farm where grown if wholly outside the scheme of regulation would have a substantial effect in defeating and obstructing its purpose to stimulate trade therein at increased prices.

This may seem unfair to Filburn, but regulations often restrain individuals; it's up to Congress, not the courts, to balance such harms against the benefits to the wider community. It is said, however, that this Act, forcing some farmers into the market to buy what they could provide for themselves, is an unfair promotion of the markets and prices of specializing wheat growers. It is of the essence of regulation that it lays a restraining hand on the self-interest of the regulated and that advantages from the regulation commonly fall to others. The conflicts of economic interest between the regulated and those who advantage by it are wisely left under our system to resolution by the Congress under its more flexible and responsible legislative process. Such conflicts rarely lend themselves to judicial determination. And with the wisdom, workability, or fairness, of the plan of regulation we have nothing to do. . . .

Plus, it's not even clear that the program harms a farmer like Filburn. In its effort to control total supply, the Government gave the farmer a choice which was, of course, designed to encourage cooperation and discourage non-cooperation. The farmer who planted within his allotment was in effect guaranteed a minimum return much above what his wheat would have brought if sold on a world market basis. Exemption from the applicability of quotas was made in favor of small producers. The farmer who produced in excess of his quota might escape penalty by delivering his wheat to the Secretary or by storing it with the privilege of sale without penalty in a later year to fill out his quota, or irrespective of quotas if they are no longer in effect, and he

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could obtain a loan of 60 per cent of the rate for cooperators, or about 59 cents a bushel, on so much of his wheat as would be subject to penalty if marketed. Finally, he might make other disposition of his wheat, subject to the penalty. It is agreed that as the result of the wheat programs he is able to market his wheat at a price 'far above any world price based on the natural reaction of supply and demand.' We can hardly find a denial of due process in these circumstances, particularly since it is even doubtful that appellee's burdens under the program outweigh his benefits. It is hardly lack of due process for the Government to regulate that which it subsidizes.

[Read the Full Opinion](#)

***Bold sentences give the big idea of the excerpt and are not a part of the primary source.**