

Am. Hist.

Chapter I American Constal System

A. Nature of the Fed. Union

- Texas v. White (1869): The states always present as entities, the Union may become illegal and follow an illegal conspiracy. "any acts not illegal were binding afterwards. Furthermore, the acts of the provisional govt. were binding."

B. Div. of power betw Fed govt & states:

McCullough v. Md. (1819): state cannot tax prop of Fed govt. or interfere on its proper performance of duties. Bank falls within "implied powers".

Barron v. Baltimore (1833): 5th Amend. applied only to Fed govt., & agreed. indiv. could not sue state in Fed Ct. 14th Amend. brot in the states on due process, but the 14th Amend. was expanded so to protect property that probably Barron v. Baltimore would have been reversed anyhow.

Crandall v. Nevada (1867) state can't penalize or prevent the free movement thru the land of citizens of the U.S.

Tarble's Case (1871): No state writ of habeas corpus can lie vs. federal officers who has custody of army enlistee.

Ex parte Siebold (1880): Habeas corpus lies to state officers where Congressional action overlaps state election laws.

Pong v. Teasenden (1922): In refusing h.c. to Tt. Ct. ruled that the machinery of one jurisdiction shouldn't be used for the purpose of hindering the machinery of the other.

Kansas v. Colorado (1907): Fed. govt. cannot interfere as a party in suit under idea of inherent powers to occupy the "twilight zone" between state-fed govt.

Schechter Poultry Corp. v. U.S. (1935)

Hammer v. Dargatzis (1918): Fed. IC pur. can't be used to reserve to the state reg. of child labor.

Take over functions
Schechter Poultry Corp. v. U.S. (1935): Emergency conditions don't enlarge constitutional powers of Fed govt.

U.S. v. Butler (1936): U.S. can't go into states for the regulation of agriculture under the taxing & spending power.

Ashton v. Cameron B. Water Co. (1936): U.S. can't use bankruptcy clause to coerce local govt.'s activities.

C. Inherent powers of Fed govt. in foreign affairs
Fong Yue Ting v. U.S. (1893): Congress does not have to observe
 individ. rts. w/ reference to aliens. These are political issues.

D. Principle of Sep. of Powers.
Evans v. Gore (1920) ~~State~~ Fed. Officer can't tax fed. judge.
 (See also cases on delegation of power.)

E. Function of Judiciary in Interpreting the Const.
Marbury v. Madison (1803) Writ lies vs. Exec. Officer. Ct. can
 interpret Const. & declare act of Cong. unconstitutional.
Chicago & Grand Trunk Ry Co. v. Wellman (1892): friendly cases which
 are not real and actual are not judgeable.

F. Equality of the States within the Union
Coyle v. Smith (1911): States come into Union = despite previous
 promises to Congress.

G. Status of Indian Tribe, Territories & Possessions
Cherokee Nation v. Georgia (1831): Indian tribes, despite treaties, are
 only domestic dependent nations. Not are they citizens.
Amer. Insurance Co v. Canter (1828): Cong has the power to set

up Cts. in the Territories.
Downes v. Bidwell (1901): Puerto Rico is not under Constitution
 unless Cong. so decrees & ∴ imports may be laid.

H. Amendment of the Fed Const.
Hawke v. Smith (1920): The "legislature" does not mean a referendum.
Coleman v. Miller (1939): Cong. need not give final date for an
 amendment to be ratified. State can vote more than once if it, too

Chap. II Elections to Congress

A. Factual Elections
Ex parte Siebold (1880): Cong. can regulate elections of Fed. Officers
 and do what is necessary to prevent fraud.
Ex parte Yarbrough (1884) State election Officers may be prosecuted
 for preventing negroes from voting.
Guinn v. U.S. (1915): Grandfather clause knocked out.

B. Primary Elections

Newberry v. U.S. (1920) Conf. can't rule primaries re. Campaign funds.
Drovey v. Townsend (1935) OK to exclude Negroes from party in Texas.
U.S. vs. Classic (1941) Overruled Newberry v. Townsend (la) allowed vote to Negroes in primary.
Smith v. Allright (1944) Overruled Drovey v. Townsend in allowing Negro to vote in Texas. ~~Repeal~~

Chap. III Powers of Cong.: Taxation & Appropriation

A. Direct & Indirect Taxes

Hylton v. U.S. (1796) tax on carriages is direct & forbidden as not being apportioned acc to rep & pop.
Pollock v. Farmers Loan & Trust Co. (1895) Income tax is a void direct tax.
Evans v. Macomber (1920) Stock dividends not taxable as income.

B. Uniform Taxes

Head Money Case (1884): excise on bringing in immigrants is legal bec. it is uniform on all pertaining to the class.
Knowlton v. Moore (1900): inheritance tax is OK and = in its effect geographically and it may be progressive.

C. Mutual Exemption of Fed & State govt from taxation

McCullough v. Md. (1819): State can't tax Fed. institution or activity.
~~U.S. v. Doremus (1912)~~
Collector v. Day (1871) Fed govt can't tax state officers.
S. Caro. v. U.S. (1905): Private enterprise of state subject to Fed. taxation.
Grass v. N.Y. & rel O'Keefe (1939): State may tax income of Fed. employee.

D. Use of Taxes to accomplish purposes other than that of raising revenue.

McLean v. U.S. (1904): Allee tax OK on IC also.
U.S. v. Doremus (1912): Tax for registering handlers of narcotics OK.
Child Labor Tax Case (1922): Hidden regulatory purpose can't accomplish what couldn't otherwise be accomplished.

(14.)
(1922)

Hill v. Wallace: hidden purpose of regulating conduct of grain trade thru a tax is void.

Mass v. Mellon (1923): Prot. indiv. can't sue re. tax affecting vast number of citizens the same way. Grants-in-aid for maternity care are legal.

U.S. v. Butler (1936): Processing tax is void.

Steward Machine Co. v. Davis (1937): Soc. Sec. Tax is uniform excise & doesn't violate 5 or 10th Amend.

Helvering v. Davis (1937): Cong. may tax to spend money for natl. welfare w/o violating 10th Amend.

Chap. IV Powers of Cong: Interstate & Foreign Commerce

A What is Interstate Comm. generally?

Dibbons v. Ogden (1824) navigable rivers are IC & state monopoly grants on them can be broken by Fed govt.

Daniel Ball (1871): Reg. of intrastate line going into IC OK.

Annacola Telegraph v. Western Union (1878): Telegraphy is IC & ^{not} regulated in toto by state govt.

U.S. v. Appalachian Electric Power Co (1940): Potentially navigable streams are regulable under commerce clause.

Paul v. Va (1868) which held that Insurance transactions were not commerce was reversed by U.S. v. Southeastern Underwriters (1944) in a suit to restrain a conspiracy.

Brown v. Md (1827) original package

U.S. v. E.C. Knight (1895) Sherman Act OK as reg. of IC conspiracies.

Univ. of Ill. v. U.S. (1933) State has to pay customs duties to U.S. despite claim to exemption from Fed taxation.

B. Fed. Regulation of Public Carriers

1. Reg. of Income of Publ. Carriers

Dayton-Horseshoe Ry v. U.S. (1924) Recapture clause OK.

2. Relations of Public Carriers/employees

Adair v. U.S. (1908): Act vs. ~~public carrier~~ on carriers
void bec. labor is not IC

2nd Employer's Liability Cases (1912): Act restricting & enforcing liability
of carriers to injured employees held within IC pur.

Wilson v. New (1917): Emergency rr. wage & hr (Adamson) Act
upheld.

Rr. Retirement Bd v. Alton rr (1935) Retirement & pension
system on rr. void.

Virginian Ry. Co v. System Fed. #40 (1937): Cong. can regulate
under Ry Labor Act of 1926 the labor relations of carriers
potentially interfering w/ IC.

Wash, VA & Md Coach Co v NLRB (1937): compulsory
bargaining of IC Coach line upheld.

C. Fed. reg. of Goods & Persons Transported in IC

1. Prohibiting harmful traffic

Lottery case (1903 Champion v. Ames). Prohibition of ticket
traffic is under IC pur.

Hammer v. Dagenhart (1918) harmless products per se
cannot be prohibited under due process.

Brooks v. U.S. (1925) auto stealing can be federally punished
in IC

2. Protection of States in their exercise of local self-govt

Clark Distilling Co v. Western Md Ry Co (1917) it couldn't force
to carry in liquor in viol. of state act supported by
Walt-Kenyon Act which is valid.

Kentucky Whip & Collar v IC Bd (1937) Off. Convent products excluded
from state.

Hokey v. U.S.
Canine v. U.S.
Brooks v. U.S.
Hepburn v. U.S.

D. Fed. Reg. of Conditions Affecting Commerce

1. Prevention of Obstacles to Commerce

In re Debs (1895) R.R. strike hurts IC can be forbidden.
Also anti-racketeering act of 1934 (under U.S. v. Local 807 of Teamsters' Union, terms of act excluding relations of employees to employer ~~also~~ extended to include ^{also} men seeking to be employees).

2. Combinations in Restraint of Trade

Addyston Pipe & Steel Co v U.S. (1899) Collusion to control price came under Sherman Act & is valid reg. of IC.
Apex Hosiery Co v Leader (1940): sit-down strike not covered by Sherman Act.

3. Removal of Obstructions to Commerce Caused by Conditions

Primarily Local.
U.S. v. Ferguson (1919): Fraudulent bills of lading can come under IC.
Stafford v Wallace (1922): Stockyard activities may be controlled under IC.
Schechter Poultry Corp v US (1935): Local business cannot have itself regulated under IC per.
Carter v Carter Coal Co. (1936) Natl. Bit Coal Act void as determining conditions of work & prices completely local.
NLRB v. Jones & Laughlin Steel Corp. (1937): Labor relations are in IC. NLR Act upheld.
Malford v Smith (1939): 1937 AAA upheld as not controlling production but re disposition of tobacco once it reaches arteries of IC.
U.S. v. Darby (1941): Reversing Hammer v. Dagenhart, holds that wages & hours of everyone may be reg. under IC per. ^{nat. dist. limited co.}
U.S. v. Wrightwood Dairy Co (1942) OK to regulate locally produced & consumed milk prices in pursuance of IC objectives.
Wickard v Filburn (1942) " for quota restrictions on substance farmers.

E. Restrictions Upon State Power resulting from Cong's Power over IC.

1. Restrictions upon reg. Interstate when interfering w/ IC.
Gibbons v Ogden (1824) - navigation monopoly
Cooley v Bd of Wardens of Phila. (1851) in silence of Cong. on matter clearly within its power, state may regulate pilots licensing & other local conditions of IC.
Houston & W Texas Ry v U.S. (Shreveport Case) (1914). Interstate rrs can be regulated out of necessity for regulating interstate rrs.
Pa v. W Va (1923): The forcing of locally produced gas into local consumption invades the free flow of that gas to traditional customers in another state.

2. Restrictions Upon the Power of States to Tax
~~Hammer v Dribble (1892) - tax on interstate commerce~~
Brown v Maryland (1827) Cant tax goods in orig. package bec. they are still in foreign commerce.
Reading Br. Co v Penn. (State freight tax case, 1873) tax of state on freight going thru is void.
Eastern Air Transport Inc v S. Ca Tax Comm (1932) Tax on gas fills by planes OK even tho no local use of the gas.
Kenneford v Filer Mason Co (1937) Use tax on equipment bought outside state to be used inside, if = is OK.
(Distinguished from Baldwin v Seelig (N. H. milk price fixing case))

3. Restrictions Upon the Police Power.
Hammett & St. Joe v. Husem (1877): State cannot under cover of police power substantially forbid IC in cattle bec. of remote chance of infection.
Lesig v. Hardin (1890) Silence of Cong. is consent to liquor commerce. State cant keep out liquor.
Pleumley v. Mass. (1894) State can keep out 'harmful' & 'unpleasant' like also and decentful.
Buck v. Kykendall (1925): State of Wash. discriminatory licensing on interstate highway is an unconstitutional obstruction.
Di Santo v. Penn. (1927): ticket-selling is so directly related to foreign commerce that it cannot be state regulated.
Bradley v Publ Utilities Comm. of Ohio (1933): State can ban permission to use publ. hwy even for IC traffic if road is congested, etc.

(8.)
Ingle v. Morf (1937): Excessive tax on IC caravans & cars
is illegal interference w/ IC.

Baldwin v. Seelig (1935): One state can't police another's commerce as does
N.Y. statute setting conditions on milk imports from VT.

Edwards v. California (1941): Law keeping out migrants is an illegal
burden on IC (Douglas, concurring, also brings in 14th Amend.)

4. Effect of 21st Amend.

State Bd. of Equalization v. Young's Market Co. (1936): 21st Amend allows
state tax on liquor import even tho ~~not~~ discriminatory.

Chap V Powers of Cong: Money, Bankruptcy, Mail, Investigation

A. Banks and Banking

McCulloch v. Md. (1819) Rt. to establish natl. bk. under Fed. pow. to
execute legislative policy.

Veazie Bank v. Fenno (1869): 10% tax on state bank issues held
within taxing pow.

B. Legal Tender

Legal Tender Case (1871) Paper money as legal tender does not
violate obligations of contract clause of Const.

Julliard v. Greenman (1884) One process of law not violated by
making paper money legal tender despite possible loss.

C. Devaluation of gold dollar

Norman v. B & O R. Co. (1935) Pow. of Cong. over currency is
stronger than the obligations of a contract in re deval. of dollar.

Perry v. U.S. (1935) Stated promise to pay bonds in gold no good vs.
Congressional devaluation act.

D. Bankruptcy Laws

Ashton v. Cameron Co. Water Supply (1936) Pow. over bankruptcy
cannot extend to violations of local sovereignty.

Wright v. Variton Branch Mountain Trust Bank (1937): carefully
drafted law on mortgagee's rts does not deprive him of the process.

E. Powers over the Mails

In re Rapier (1892) Use of mails not a rt which is good vs. Act to bar lotteries from mails.

F. Power of Investigation in connection w/ legislation

Mc Grain v Daugherty (1927) may be subpoenaed in pursuance of investigation by Dept of Justice.

Chap. VI Powers of Congress: War Powers

A. Drafting of troops

Selective Draft Law Act (1918) OK to draft citizens for emergency.

B. Control of activities incidental to raising & supporting armies

Ashwander v T/A: Cong has power to build dams as measure for national security.

C. Relation of War Powers to Freedom of Speech & Press

Schenck v U.S (1919) inflammatory & subversive leaflets in time of war constitute "clear & present danger" & are void.

Chap. VII Restrictions upon Congress

A. Freedom of Speech & Press

Schenck v U.S. above
AP vs NLRB (1937): OK not violation of 1st amend. to force press to keep a union editor.

B. Unreasonable searches & seizure; self-incrimination

Boyd v U.S. (1886) Personal books & papers are free from seizure
Brown vs. Walker (1896) Officers of corp. not immune from testifying
U.S. v. White (1944) Union officers must produce union papers
Silverthorne Lumber Co. v U.S (1920) Rt. of Corp. to unlawful seizure includes rt. to any use of such materials seized.
Burdick v Mc Donald (1921) stolen evidence which govt. gets from 3rd party may be used in Ct.
Olmstead v U.S (1928) OK to tap wires.
Goldman v U.S. (1944) OK to use det. telephone

- C. Double Jeopardy; trial by jury; habeas corpus
U.S. v Perez (1824) discharge of jury doesn't bar retrial
Moore v. Illinois (1852) 2 sovereignties may punish 1 crime.
Ex Parte Milligan (1866) military etc. subject to M.C.
In re Ross (1891) trial for homicide aboard Amer. vessel of Eng. subject in Amer. Consular Ct need not be by jury. Even Amer. citizens could not ask for jury trial which is granted under the Const to the U.S.A & not anywhere else.
Patton v. U.S. (1930) jury need not be 12 men.

- D. Due Process of Law in Civil Cases; Eminent Domain
Omnia Commercial Co Inc v. U.S. (1923) Contracts not good vs. govt. repositioning power.
Railroad Retire. Bd v Alton R Co (1935) Due process violated by pension fund.
Skeward Machine Co v Davis (1937) for. Sec. Act upheld w/pension fund.

Chap. VIII Citizenship in the U.S.

- A. Citizenship before the 14th Amend.
Scott v Sandford (1857) Comp. of 1850 void. A slave is a slave everywhere.
- B. Citizenship After 14th Amend.
Elk v Wilkins (1884) Indians not citizens under the 14th Amend.
U.S. vs Wong Kim Ark (1898) Amer. born Chinese are citizens under the 14th Amend.
- C. Privileges & Immunities of National Citizenship
Slaughter-House Cases (1873) civil rts are not protected vs. state intervention
Mumoi v Happersett (1875) Women not given vote under 14th Amend.
Civil Rts. Cases (1883) Cannot forbid private discrimination vs. negroes under 14th Amend.

(11)
Twining v New Jersey (1908) Compulsory self incrimination not forbidden to state under privilege + Immunities Clause of 14th Amend.

Madden v Kentucky (1940) Equality in Classification under state law is not protected by 14th Amendment. (tax on foreign bank deposits of Ken. citizen more than tax on local bank deposits)

Chap IX Powers of The President

A. Military Powers

Martin v. Mott (1827) Pres. is sole judge of emergency, calling of militia.

Prize Cases (1863) Pres. can institute blockade

Ex parte Quirin (194) Saboteurs

B. Conclusiveness of Administrative Determinations

U.S. v. Ju Toy (1905) Chinese seeking admission to U.S. claims U.S. birth, but is denied by admin. tribunal & on appeal to Sup Ct, Ct refuses to review facts de novo bec. that is an admin. matter.

Crowell v. Benson (1932) Jurisdictional facts reversible in doubt as to whether "employee" is considered such or not.

C. Limitations of Delegated Legislative Power

J. W. Hampton & Co v. US (1928) deleg. of contingent tariff legis. to Pres. is illegal.

Panama Refining Co v. Ryan (1935) deleg. to Pres. of power to prescribe adoption of state laws is void as being vague.

Schechter Poultry Corp v US (1935) deleg. to Pres. of power to adopt private codes & make general rules too broad.

Cotton Mills v. W & H Administrator (1941) deleg. of 4th raise min. wage under restrictions set forth is OK.

Curtis-Wright Export Corp. (1936) Pres. can embargo exports of war materials under general Corp. authority.

Yakus v. U.S. OPA power to fix price w/o Cong. specific participation is OK.

U.S. v. Ruckelshaus

McClellan v. U.S.

Humphrey's Executor v. US (1935) members of Indus. Comm. can only be removed by Pres. for causes prescribed by Cong.

Morgan v. TVA (193) TVA Bd member may be removed w/o cause if cause is stated.

Myers v. U.S. (1926) - Executive Officers, i.e., postmaster, removal by Pres. w/o charges.

Pardoning Pwr (12)

E. Ex parte Grossman (1925): Pardon pwr. of Pres extends to contempt of court.

F. Treaty-making Pwr

Hawenstien v Lynham (1880) N. State law on inheritance conflicts w V.S. Treaty & is $\therefore$ void.

Need Money Cases (1884) Tho all attempts will be made to reconcile them, an act of Cong. is superior to a treaty & hence it will not even consider allegation that ~~act~~ money ^{act} violates treaty.

Missouri v Holland (1920) Treaty can override state laws on matters within state pwr, & V.S. can do under treaty pwr, apparently, more than under its IC pwr.

G. Extradition of fugitive criminals.

Valentine v U.S. & rel Neidecker (1936) Pres can't extradite fugitive citizen criminal to France w/o express law of Congress.

Chap. X Jurisdiction of the Fed. Cts

A. What is a case or controversy?

U.S. v Evans (1909): Ct. will not declare its opinion on cases not growing out of actual controversy (murder case in D.C.)

Nashville C & St. Louis Ry. v. Wallace (1933) Despite the fact that State it has given "declaratory judgment" on case, it is a real controversy & may be judged by Sup Ct.

Ex parte Levitt (1937): motion to void appointment of Justice Black has no interest outside of the general to allow its adjudication.

B. Jurisdiction Based upon nature of controversy

Martin v. Hamner's Lessee (1816) State Cts are sworn to uphold the Const. & the juris. of Sup Ct. & extend to State Ct. case under the Const.

Osborn v. Bank of U.S. (1824) Cong. can give appellate juris or original juris. to Circ Ct of Appeals if it so desires so long as orig. juris. of Sup Ct is untouched $\therefore$ US Bank can sue directly in Circ Ct of Appeals as Cong. directed.

The Lottawanna (1875): On libel case, Ct. applies maritime law as enacted by U.S. Cong, not general IL.

C. Jurisdiction Based Upon the Character of the Parties

1. Suits Between States

Kansas v. Colorado (1907): Colorado in helping Italy has done damage to Kansas. Not enough, says Ct, in applying what it calls "interstate common law".

2. Suits betw a State and a Foreign State

Principality of Monaco v. Miss. (1934) State cannot be sued by foreign state in U.S. Ct w/o states' consent.

3. Suits betw a State & citizen of another State

Chisholm v. Georgia (1793) State may be sued w/o its consent. Followed by XI Amendment

Chester v. Virginia (1821) Information re. IT in appeal for selling lottery tickets re. State act. The appellate judicial juris. of Sup Ct is not affected by XI Amend & Ct can consider cases arising under the Const by a citizen re a state w/o consent of state.

South Dakota v. N. Carolina (1904) IT accepted 10 bonds from owners of many and sued Δ to force their redemption by Δ 's instrumentality. Suit is allowable since bonds are perfectly within title to IT. However, if done as subterfuge, not permissible, as e.g. New Hampshire v. La (1883).

4. Hans v. La (1890) State can't be sued by its own citizen w/o its consent.

5. Suits between Citizens of different States
Bank of Augusta v. Earle (1839): Corporation can sue of another state even tho bills owing it from citizens of another state. even tho a corp. is not a citizen under privilege & immunities clause. However, its owners are citizens. State policy must be strictly oppose, before contracts w/ a foreign corp. are declared void.

6. Prosecution of Fed Officers by a State

Tennessee v. Davis (1879): Fed. Officer may be removed by Fed. Ct. from state Ct. when they are being tried on alleged state offenses but a Fed. question is involved.

On re Neagle (1890): Killing by U.S. marshal in defense of Fed. judge followed by state arrest. Habeas corpus lies from Fed. Ct.

D. Non-Justiciable Controversies

Luther v. Borden (1849): Where 2 de facto ^{state} govts exist & a? of pt. arises under them, recognition of one is a political, non-judicial matter.

Mississippi v. Johnson (1867) through ministerial acts by lower officers may be enjoined to perform, Pres. cannot, as executive and political chief, be enjoined not to perform an action demanded by Congress even Pres. Congress' act may be unconstitutional.

Pac. States T & Co v Oregon (1912) The plea that the use of the initiative & referendum ~~is~~ deprives a state legislature of its legal existence under the Const is a political one & can't be decided by Ct.

E. Law of the Federal Courts

Erie R.R. vs. Tompkins (1938) The doctrine of Swift v. Tyson that a Federal common law existed, which in this liability case would react to Δ's benefit, was reversed because of many harmful political & social results as typified by case of B & W Taxicab v. B & W. Except under the Const, only the state law can be applied.

Chap XI Interstate Relations

A. The Full Faith and Credit Clause

Atherton v. Atherton (1901): Divorce laws of Kentucky must be honored in N.Y.

and Williams v. N. Ca (1945?): Nevada divorce is invalid if resident of N. Ca got it in violation of N. Ca. law.

B. Reciprocal Interstate Privilege & Immunities of Citizenship

Paul vs. Virginia (1869): Special privilege (here insurance charters) given by one state should not give same privilege in others.

Blake v. McClung (1898): In distributing assets of insolvent concern, state citizen cannot legally be given preference over non resident.

C. Interstate Rendition of Fugitive Criminals
Kentucky v. Dennison (1861): No. mandamus lies vs. the gov. of 1 state, a high political officer, to deliver up a fugitive on demand of another state, even No Court. specifically imposes on him the duty.

D. Agreements Between States
Virginia v. Tennessee (1893): Ct. gives order in conformance w/ interstate compact approved by Cong.

Chap. XII Restrictions Upon the States: Bills of Credit, Ex Post Facto Laws, Impairment of Contracts

A. Bills of Credit
Craig v. Missouri (1830) certificate issued by Mo. as legal tender are bills of credit & void.

B. Ex Post Facto Laws; Bills of Attainder & post facto law is necessarily retrospective, not every retrospective law is ex post facto. Here Caldwell v. Bull (1798) The every retrospective law is ex post facto. Here Cummings v. Missouri (1867) Priest coming under Mo. act making oath of previous loyalty during Civil War a prerequisite to pursuing several liberal professions. Both post actions & past thoughts are punished and therefore law is ex post facto and bad.

C. Laws Impairing Obligation of Contract
1. Contracts between States & Individuals
Hatch v. Peck (1810) A wrongfully acquired title once legally conveyed becomes a legal title. It cannot be impaired.
N. Jersey v. Wilson (1812) An exemption from taxation conveyed along with real property in a lawful sale remains with the purchaser.
Dartmouth College v. Woodward (1819): Private institutional charter has title which cannot be taken by legislature vs. their will.
Charles River Bridge v. Warren Bridge (1837): Public interest demands that contracts conceding public title be strictly construed & every charter is not creating a public bridge.

Yelpcke v. Dubuque (1864): Bonds issued under a favorable decision of state Sup Ct used alleged to become illegal under the reversal of its decision by the Ct. Sup Ct holds that the issue is legal & what was rightfully contracted couldn't be taken away by a new judicial decision.

2. Subordination of Charters to the Police Power

Northwestern Fertilizing Co v Hyde Park (1878): Charter of TT designated location which later became inhabited. New town banned Co. Nuisance may be legally done away with. Two states may bind itself not to tax a corp, it can change its ~~representation~~ ^{charter} under the police power. w/o being held to have bound itself.

Stone v. Mississippi (1880): Legislative act incorporating lottery co. may be repealed by another legislative act. The police power is not binding on the state can't bargain away the police power.

ICR v. Ill (1882): State grant of title to much of Chicago's waterfront cannot be upheld judicially vs. a revocation for important public uses.

3. Contract Between Citizens

Dwight v. Crowninshield (1819) Bankruptcy laws of state cannot impair obligation of contracts strictly construed.

Home Building & Loan Assoc v Blaisdell (1934) Minn. law regulating mortgage foreclosures upheld. Remedy for enforcing obligation may be altered so long as the obligation is not impaired.

Richmond Mortgage & Loan Corp v Wachovia Bank & Trust (1937) State law forbidding what in effect is enrichment thru literal enforcement of the obligation of contract is held not to ~~impaired~~ impair obligation thereof.

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Chap. XIII Restrictions Upon The States: Due Process of Law

A. Due Process in Relation to Procedure

Hurtado v. California (1884): Presentment by indictment by jury is not necessary part of 14th Amend. & state can substitute indictment by information.

Turney v. N. Jersey (1908): Procedural due process requires only that state ~~proceed~~ have jurisdiction & give notice & opportunity for hearing to parties, not, as in this case, protection vs. self-incrimination.

Turney v. Ohio (1927) State violates due process when it gives a major ~~ret.~~ to try case & a pecuniary interest in convicting.

Powell v. Alabama (1932): Denial of assistance of counsel violates due process because no fair hearing is possible.

Brown v. Mississippi (1936): Torture to extract confession is violation of due process.

Palko v. Conn. (1937): Rt. of state to obtain re-trial in order to get stronger penalty is ~~not~~ upheld as not violating due process.

B. Due Process in Relation to Taxation

Davidson v. N. Orleans (1878) Narrow interpretation of due process to cover present case where a brusque & treatment was given ~~the~~ states may employ unequal taxation or violate other federal constitutional principles.

C. Due Process in Relation to Police Power.

1. Protection of Public Health

Jacobson v. Mass. (1905) Compulsory vaccination held ok.

Powell v. Penn. (1888) Also business ^{jurisdictionally} ~~contended~~ on notoriety. That also is bad.

Buck v. ~~Washington~~ (1927) Salpingectomy is within state power if done under proper precautions.

2. Protection of the Public Safety

Sprengle v. Briford (1932) Classification penalizing heavy trucks must be allowed under state police power.

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Rubin v McBride (1928) Price-fixing by N. Jersey of
employment agency fees is viol. of due process.
(Defunct after Nebbia case, apparent in
Glavin v. Nebraska.)

New State Ice Co v. Liebmann (1932): State reg. of ice business
not be distinguished from other unlawful regulations of
ordinary business & is bad under 14th A.

Nebbia v. N.Y. (1934) N.Y. milk price fixing is OK as reg. of
business affected w/ public interest. No closed category
" " " " " "

6. Reg. of Misc. Social Conditions

Chicago v. Sturges (1911): city not denied due process
by state law requiring it to indemnify sufferers
from mob violence. Collective responsibility upheld.

Hollman v. N.Y. (1928) N.Y. criminal syndicalist law
upheld for punishing criminal anarchoistic incitements
to violent overthrow of govt. (Hollman dissent)

Herndon v. Lowry (1937) organized membership in
Communist Party not a present incitement to violence.

It. also held that statute too indefinite to be good anyway.
Nease v. Minn. (1931): Liberty of press & speech as within
protection of 14th amend. Imposition providing
"previous to publication" censorship is void.

De Jonge v. Oregon (1937): speaking at a Communist
meeting does not bring one the same treatment as a
Communist even ~~if~~ if unlawfulness of latter is assumed.

Hague vs CIO (1939) Police action & denial of hall to CIO
illegal on viol. of principles & immunities under 14th A &
viol. of due process.

Whitney v. Calif. (1941) no incitement lies to non-
workers picketing. Picketing was peaceful & comes
under it of free speech.

Thornhill v. Alabama (1940) law forbidding picketing viol.
under free speech.

Bridges v. Calif.

Turner Motor Co v. Superior Ct of Calif.

John decided on principle
that threats made were
not serious enough to lose
them protection of 14th Amend.

c. Restrictions upon freedom of education & religion
Meyer v. Nebraska (1923) State can't forbid teaching of
foreign ~~languages~~ in grammar school.

Prince v. Society of Sisters (1925) State law prescribing
compulsory public schools is void.

Minersville School District v. Gobitis (1940) Refusal
to salute flag for religious reasons is not lawful.
W. Va. v. Barnette (1943) Reversed Gobitis case.
Even residential zoning is OK.

d. Zoning - Euclid v. Ambler Realty (1926) = Protection of Laws

Chap. XIV Restrictions of States

A. = Protection of Laws in re procedure
Strader v. W. Va (1807) State law forbidding Negroes
on jury is void.

Hill v. Texas (1941) Practice of forbidding Negroes on
jury is void. = Protection.
Adkins v. Texas (1946)

B. = Protection in Relation to Substantive Rts
1. Discrimination v. Negroes
Plessy v. Ferguson (1896) Separation of races or = terms is OK.

Buchanan v. Warley (1917) Residential segregation vs. Const.

Missouri ex rel Gaines v. Canada (1938) Negro must be admitted
to white law school if no negro law school exists in state.

2. Discrimination v. Alien
Truax v. Raich (1915) Arizona law setting low % of
aliens to be employed is a viol. of = protection clause which
applies to all persons within its juris, incl. aliens.

3. Discrimination v. Secret Societies
N.Y. ex rel Bryant v. Zimmerman (1928) Distinction
in classification betw. harmful societies & harmless societies
held reasonable.

4. Discrimination v. Particular Persons & Businesses

Barber v. Connolly (1885) law forbidding public laundry work betw. 10 PM & 6 AM held within the police pur of San Francisco & classification is based reasonably on work of like character.

Yick Wo v. Hopkins (1886) San Fran. law couples naked & arbitrary power on Comm. to regulate life or death of laundries & its administration is flagrantly discriminatory.

Arpa v. Corrigan (1921) Dir. law forbidding injurious save in cases where irreparable injury is possible is void unless state it has constituted this case wrongly. (Holmes, Brandeis dissent) ^{employees = protection of laws}

5. Discrimination in Respect to Taxation

Majoun v. Ill. Trust & Savings Bank (1898) State is allowed freedom to make any reasonable classification for inheritance tax w/o viol. due process.

State Bd of Tax Commrs. v. Jackson (1931): Tax on

no. of stores in state increasing w/no. is a reasonable discrimination in view of chain store problem.

ATP v. Grosjean (1937) upheld state law laying progressive tax on no. of stores owned by single owners throughout nation.