(ArmstrongEconomics.COM)

QUESTION: Can Trump reopen the economy at will?

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ANSWER: There is no doubt that Americans have been getting a civics lesson as they turn to Washington for answers to the coronavirus crisis, but discover that their state governors have assumed far more control over what goes on in their daily lives than the constitution allows. It has been State and local authorities making decisions about shutting down businesses and allocating medical equipment to hospitals - not the President. They have merely listened to Bill Gates and the compromised Anthony Fauci whose recommendations are illegal.

This is what the "United States" meant that there was a separation of powers between federal and state. This is the system the founding fathers designed, though it seems anachronistic to many while people like Fauci have been the stooge for Bill Gates claiming this is a deadly disease that warrants we be locked-down as prisoners in our own homes without any legal authority under the Constitution.

It is the **Commerce Clause** in the United States Constitution (**Article I, Section 8**, **Clause 3**) that governs this question. The **Commerce Clause** states that the United States Congress shall have power:

"[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

The Supreme Court ruled in **Swift and Company v. United States**, 196 U.S. 375 (1905), that Congress had the authority to regulate **local commerce**, as long as that activity could become part of a continuous **"current"** of commerce that involved the interstate movement of goods and services.

My interpretation of this is simple. It is unconstitutional for any state to block interstate commerce. Consequently, the President has the executive power to issue a binding order to open

up commerce and the states cannot legally resist that order for keeping the economy locked-down violates the **Commerce Clause**. Over the years, the meaning of the word "commerce" has been a source of controversy. The Constitution did not explicitly define the word. That has led to legal arguments back and forth.

Some argue that the word "Commerce" refers only to trade or exchange. Others counter that claim arguing that the Framers intended to describe more broadly commercial and social connections between citizens of different states. Hence, the interpretation of "Commerce" has been the dividing line between federal and state power. My reading is that they intended to prevent states from discriminating against each other and to ensure the free-flow of both the people with the freedom to travel and commerce in an economic sense.

In **Gibbons v. Ogden**, 22 U.S. 1 (1824), the Supreme Court held back then that intrastate activity could be regulated under the **Commerce Clause**, provided that the activity is part of a larger interstate commercial scheme. In **Swift**, as I said, the Supreme Court held that Congress had the authority to regulate local commerce provided it was part of a continuous "current" of commerce that involved the interstate movement of goods and services. Therefore, from 1905 until about 1937, the Supreme Court used this narrow version of the **Commerce Clause**. However, that changed with Franklin D. Roosevelt who stacked the court to justify his socialism and the New Deal. Beginning with **NLRB v. Jones & Laughlin Steel Corp**, 301 U.S. 1 (1937), the Supreme Court recognized broader grounds upon which the **Commerce Clause** could be used to regulate state activity since FDR was seeking more power to dominate the states.

The Supreme Court held in **NLRB** that activity was **commerce** if it had a **"substantial economic effect"** on interstate commerce or if the **"cumulative effect"** of a single act could have an effect on such commerce. Then in **NLRB v. Jones, United States v. Darby**, 312 U.S. 100 (1941) and **Wickard v. Filburn**, 317 U.S. 111 (1942), the Supreme Court revealed its socialist interpretation which broadened the scope of the **Commerce Clause**. Suddenly, what emerged was a highly dynamic and integrated national economy, whereby the Court applied its broad interpretation of the **Commerce Clause**, reasoning the even local activity will likely affect the larger interstate commercial economic scheme. The limitations between state and federal were no longer so clear.

After 1937 until 1995, the Supreme Court never invalidated a single law on the basis of the **Commerce Clause**. State's rights seem to fade into the distant horizon. Then in 1995, the Supreme Court attempted to curtail this expansive interpretation of the **Commerce Clause** and was returning to a more conservative interpretation. This decision came down in **United States v. Lopez**, 514 U.S. 549 (1995). In **Lopez**, the defendant was charged with carrying a handgun to school in violation of the federal Gun-Free School Zones Act of 1990. The defendant argued that the federal government had no authority to regulate firearms in local schools, while the government claimed that this fell under the **Commerce Clause**, arguing that possession of a firearm in a school zone would lead to violent crime, thereby affecting the general economic conditions. The Supreme Court rejected that argument and held that Congress only has the power to regulate the channels of commerce, the instrumentalities of commerce, and action that substantially affects interstate commerce. The Court declined to further expand the **Commerce Clause** holding:

“To do so would require us to conclude that the Constitution's enumeration of powers does not presuppose something not enumerated, and that there never will be a distinction between what is truly national and what is truly local. This we are unwilling to do.”

In **Gonzales v. Raich**, 545 U.S. 1 (2005), the Supreme Court returned to its more liberal construction of the **Commerce Clause** in relation to intrastate production. In **Gonzales**, the Court upheld federal regulation of intrastate marijuana production.

Then in 2012, the Supreme Court again dealt with the **Commerce Clause** in **NFIB v. Sebelius**, 567 US. 519 (2012) concerning the individual mandate in the **Affordable Care Act** (AFA), which sought to require uninsured individuals to secure health insurance (Obamacare) in an attempt to stabilize the health insurance market. Focusing on **Lopez's** requirement that Congress could regulate only commercial activity, the Court held that the individual mandate could not be enacted under the **Commerce Clause**. The Court stated that requiring the purchase of health insurance under the AFA was not the regulation of commercial activity so much as inactivity and was, accordingly, impermissible under the **Commerce Clause**.

CONCLUSION

Therefore, relying on these decisions, the attempt by the states to lock-down the economy is **UNCONSTITUTIONAL** and the President has the power even under National Security to reopen the economy since it has been illegally shut down at the request of Bill Gates and his surrogate Anthony Fauci. This is dealing **DIRECTLY** with interstate commerce which is no different than protectionism that each state could then impose tariffs on imports from another state, which was the clear intention of the Founding Fathers to prohibit.