

# Supreme Court Case Study 4



## Regulation of Interstate Commerce

### *Gibbons v. Ogden, 1824*

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

In 1798 the New York legislature gave Robert Fulton a monopoly for steamboat navigation in New York. In 1811 Fulton’s partner, Robert Livingston, assigned to Aaron Ogden an exclusive license to run a ferry service on the Hudson River between New York and New Jersey—a very profitable business. Seeking to take advantage of this flourishing trade, a competitor, Thomas Gibbons, secured a license from the federal government to operate a ferry between Elizabethtown, New Jersey, and New York City.

Claiming that his monopoly rights were being infringed, Ogden obtained an injunction in a New York state court forbidding Gibbons’s boat from docking in New York. (An injunction is an order by a court prohibiting a person or a group from carrying out a specific action.) Gibbons appealed the state court’s decision to the United States Supreme Court.

#### *Constitutional Issues* \*\*\*\*\*

The Constitution did not make clear what was meant by interstate commerce or the extent to which it could be regulated. At the time of this case in 1824, New York had closed its ports to vessels not owned or licensed by a monopoly chartered by the state. In retaliation, other states passed similar laws that limited access to their ports. The United States attorney maintained that the country faced a commercial “civil war.” In the absence of a clear statement of what is meant by interstate commerce, how did the federal government have the power to intervene?

The *Gibbons v. Ogden* case presented the Supreme Court with the first opportunity to consider the ramifications of the commerce clause contained in Article I, Section 8 of the Constitution. This clause gave Congress the power “to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.” Several constitutional questions were involved in the case, revolving around an interpretation of the commerce clause.

The first question was whether navigation should be considered to be a part of commerce. Then, if navigation should be so considered, to what extent might Congress regulate it? Another question was whether Congress had an exclusive right to regulate interstate commerce or if this was a “concurrent” power to be shared with the states.

#### \*\*\*\*\* The Supreme Court’s Decision \*\*\*\*\*

The Court held in favor of Gibbons. Chief Justice John Marshall wrote that commerce “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 mind can scarcely conceive a system for regulating commerce between nations which shall exclude navigation . . . .”

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## Supreme Court Case Study 4 *(continued)*

Marshall applied the same reasoning to commerce between states. In fact, he noted, the United States government had always regulated navigation. “All America understands,” he wrote, “and has uniformly understood the word ‘commerce’ to comprehend navigation. . . .” Thus the Court held that “a power to regulate navigation is expressly granted as if that term had been added to the word ‘commerce.’”

Marshall now turned to the meaning of “among,” as in “among the several states.” He reasoned that since “among” means “intermingled with,” “commerce among the states cannot stop at the external boundary line of each state but may be introduced into the interior.” Congress had no power over commerce which was confined to one state alone, but that power was in full force as soon as a state’s boundary line had been crossed. And the power to regulate must necessarily follow any commerce in question right across those boundaries.”

Marshall concluded that, like other congressional powers, the power to regulate commerce is unlimited so long as it is applied to objects specified in the Constitution.

The case also raised the question as to whether Congress’s power to regulate is exclusive. If it is, then a state would be prevented from making its own commerce regulations. Marshall chose not to resolve this question. Instead, he wrote that in the *Gibbons* case there was a conflict between the state’s law and a federal statute. “In every such case, the act of Congress . . . is supreme; and the law of the state . . . must yield to it.” *Gibbons*’s right to operate ferry service in competition with *Ogden* was therefore upheld.

By broadening the meaning of interstate commerce, Marshall laid the groundwork for including not only such clearly interstate activities as railroads and pipelines, but also the minimum wage regulation and prohibition of child labor. Robert Jackson, a Supreme Court justice who served in the mid-1900s, was thus correct when he declared, “Chief Justice Marshall described the federal commerce power with a breadth never exceeded.”



### Questions



**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. If you operated a trucking service between San Francisco, California, and Portland, Oregon, could you be subject to regulation by either or both of the states and the federal government? Explain.
2. Why was it necessary for Marshall to take the trouble to explain why navigation should be considered as part of commerce?
3. Explain in what way Justice Jackson’s characterization of Marshall’s *Gibbons* opinion was correct.
4. In what way is Marshall’s ruling in the *Gibbons* case consistent with his other decisions, such as *McCulloch v. Maryland*, that related to federal versus state powers?
5. Do you agree with Marshall’s ruling that *Gibbons* had a right to compete with *Ogden*’s ferry line? Give reasons for your answer.