

## ***Gibbons v. Ogden (1824)***

**Argued:** February 5–9, 1824

**Decided:** March 2, 1824

### **Background**

Before the current United States Constitution, the states were governed by the **Articles of Confederation**. The system of government created by the Articles of Confederation was short-lived in part because the federal government had very little power compared to the states. A major problem was that the states could pass laws that controlled **commerce**, or economic activity, outside of their borders. Many states did precisely that, creating self-serving and protectionist trade barriers between and among the states. This made trade between the states difficult and ineffective. The weak national government under the Articles of Confederation had no power to regulate interstate commerce or nullify protectionist state measures.

When the Constitution was written to replace the Articles of Confederation, the Framers were careful to make sure that this problem would not continue under the new system. To prevent this, they included the **Commerce Clause** in Article I, Section 8. This gives Congress the power to create laws governing interstate (and foreign) commerce. **Interstate commerce** refers to economic activity involving multiple states or their citizens. This differs from **intrastate commerce**, which occurs entirely within the borders of a single state. The Framers hoped that the Commerce Clause would strengthen the U.S. economy by allowing states to trade more efficiently.

In the early 19<sup>th</sup> century, the Constitution was still new and was largely untested. There were a lot of questions about which powers it gave to the three branches of the government, as well as to the states. Article VI, Clause 2 of the Constitution, known as the **Supremacy Clause**, says that when a state law conflicts with a federal law, the federal law prevails over the state law.

### **Facts**

In 1808, the state of New York granted a license to Robert Livingston and Robert Fulton that gave them the sole right to operate boats on New York waterways for 30 years. That meant that no one other than Livingston, Fulton, and those who worked for them could operate boats in New York waters.

In 1815, Aaron Ogden bought a **franchise** from Livingston and Fulton. In selling a franchise, Livingston and Fulton allowed Ogden to operate boats in New York under their name in exchange for a fee and a percentage of his profits. Ogden's business made money by carrying goods between New York and New Jersey.

Thomas Gibbons, Ogden's former business partner, wanted to compete with Ogden. Gibbons obtained a license from the federal government, based on an act of Congress, to operate his boats in the same

waters. His license allowed him to transport individuals between New York and New Jersey. Ogden sued in a New York state court to stop Gibbons from using that route, arguing that the federal government lacked authority to interfere with New York state's control over access to its waterways. By contrast, Gibbons argued that transportation between New York and New Jersey met the definition of interstate commerce and should, therefore, be governed by the federal government, not New York. The New York state court found in favor of Ogden (who had the New York state license) and prohibited Gibbons (who had the federal license) from operating his boats on that route. Gibbons asked the Supreme Court of the United States to hear his case, and it agreed.

## Issue

Does the Commerce Clause of the U.S. Constitution give Congress the power to regulate interstate navigation and to override any state laws that interfere with the interstate flow of persons and goods?

## Constitutional Provisions and Supreme Court Precedents

- **Commerce Clause, Article I, Section 8 of the U.S. Constitution**

Article I, Section 8 gives Congress the power "To regulate Commerce...among the several states."

- **Supremacy Clause, Article VI, Clause 2 of the U.S. Constitution**

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding."

- ***Marbury v. Madison* (1803)**

*Marbury v. Madison* established the concept of **judicial review**, giving the federal courts the power to determine whether federal and state laws and executive orders are constitutional. If a court decides that a law conflicts with the U.S. Constitution, the law is said to be unconstitutional and will be struck down. *Marbury* greatly expanded the Supreme Court's powers, as it held that the Constitution is the supreme law of the land and that the Supreme Court has the final say in interpreting it.

- ***McCulloch v. Maryland* (1819)**

This landmark case reaffirmed the supremacy of the U.S. Constitution and federal law. In particular it recognized the ability of the federal government to exercise implied powers, greatly expanding its authority to act for the general welfare of the nation. In their decision, the justices declared that "the constitution and the laws made in pursuance thereof are supreme; that they control the constitution and laws of the respective states and cannot be controlled by them."

Therefore, Maryland was not allowed to tax a branch of the national bank because it burdened the function of constitutional laws passed by Congress.

### **Arguments for Gibbons (petitioner)**

- Article I, Section 8 of the U.S. Constitution gives Congress the power to regulate commerce between states. Transportation from New Jersey to New York is a form of interstate commerce, so only Congress had the power to make laws controlling it.
- Navigation involving transportation of goods and people between states is interstate commerce, which Congress may regulate by giving people the right to conduct business across state borders and into a state.
- The Supremacy Clause and *McCulloch v. Maryland* demonstrate that when state and federal laws conflict, the federal law is supreme, and the state law should be struck down.

### **Arguments for Ogden (respondent)**

- Mere navigation or transportation of goods or people is not “interstate commerce” because nothing is being bought or sold.
- Congressional power to regulate interstate commerce is a limited power that does not extend to navigation within a state’s own territory, including its waterways.
- The Constitution reserves to the states the authority to decide who may conduct business within the state’s borders, including by granting exclusive licenses to operate in its waterways.

### **Decision**

In a unanimous decision, the Supreme Court ruled in Gibbons’ favor that the Commerce Clause gave Congress the power to regulate interstate navigation. The justices agreed that the Commerce Clause gave Congress the power to regulate the operation of steamboats between New York and New Jersey. The New York state law was unconstitutional because it conflicted with the license granted by the federal law. The majority opinion was written by Chief Justice Marshall.

### ***Opinion of the Court (unanimous)***

Chief Justice Marshall stated that Congress has the power to regulate interstate commerce under Article I, Section 8 of the U.S. Constitution. The decision centered on the Court’s interpretation of the Commerce Clause, which gives Congress “power to regulate commerce ... among the several states.” The first issue raised in this case was the definition of the word “commerce.” The second issue was the meaning of the phrase “among the several states.” Writing the opinion for the Court, Chief Justice Marshall interpreted the meaning of the Commerce Clause to give Congress broad power over commercial activity and reduced that of the states. He stated that interstate commerce includes trade and transportation on roads and waterways between states. In this case, the boat route involved the

movement of goods and people between New York and New Jersey. Therefore, Congress had the power to regulate this activity.

The New York law was unconstitutional because it interfered with a right created by the federal law. Under the Supremacy Clause and the decision in *Marbury v. Madison*, the federal law trumps the state law when they are in conflict.

## Impact

The decision in *Gibbons v. Ogden* was crucial in establishing the broad power that Congress has under the Constitution's Commerce Clause. The Court adopted a broad meaning of the power to "regulate" commerce as allowing Congress to make the "rules" for conducting interstate commerce. This decision also limited state powers and ensured the supremacy of federal law. The Articles of Confederation failed largely because the federal government lacked power, and *Gibbons v. Ogden* helped to make sure that the new federal government had enough power to allow the Constitution to succeed. The Commerce Clause was even used to justify why the Civil Rights Act of 1964 could make it illegal for motels, restaurants, and other places to discriminate against customers based on race. It said that although the motels and restaurants are inside of one state, the people spending their money there are likely travelers who may be from other states making it interstate commerce. Today, Congress uses its Commerce Clause powers to pass a wide variety of laws, including laws regulating marijuana sales, gun shows, requirements for truck drivers, and more.

After losing the case, Ogden was no longer able to operate his steamboat so went back to his former job as a lawyer in New Jersey. He eventually went bankrupt. It is believed that Gibbons planned for Ogden to go bankrupt due to a personal feud between the two former business partners. Ogden was arrested for not paying his debts, and he was sent to debtors' prison where he remained until a law was passed that said Revolutionary War veterans could not be imprisoned for debt. Later Congress created a job for him as the collector of customs of Jersey City, where he lived until his death.

Additional information about ***Gibbons v. Ogden***, including background at three reading levels, opinion quotes and summaries, teaching activities, and additional resources, can be found at <https://www.landmarkcases.org/>.