Gibbons v. Ogden / Background •••—Answer Key

The case of *Gibbons v. Ogden* (1824), decided 35 years after the ratification of the Constitution, was a key turning point for the expansion of federal power to address national problems.

Under the Articles of Confederation, the national government was virtually powerless to enact policies to rationalize the actions of states. One problem that emerged during this time was the way in which state policies tended to restrict commerce within and beyond their borders, making market exchanges inefficient and costly. In the Constitution, the Framers included the Commerce Clause in Article I, Section 8 to address this issue. The Commerce Clause states that Congress has the power "[t]o regulate Commerce with foreign Nations, and among the several States." The hope was that giving Congress such a power would help to unify commerce policies, thereby making market exchanges more efficient and less costly.

Though the clause clearly gave Congress some power over commerce, it was unclear just how much. It was also unclear what constituted commerce. The *Gibbons* case clarified some of these issues under a decision issued by Chief Justice John Marshall, who had nationalist intentions.

In 1808, Robert Fulton and Robert Livingston acquired a monopoly from the New York state legislature to operate steamboats on the state's waters. This monopoly extended to interstate waterways, those areas of water that stretch between states. Aaron Ogden held a Fulton-Livingston license to operate steamboats under this monopoly. However, Thomas Gibbons held a federal coasting license, granted under a 1793 act of Congress, and operated steamboats between New Jersey and New York that competed with Ogden's.

Ogden filed a complaint in the Court of Chancery of New York asking the court to restrain Gibbons from operating his boats. Ogden's lawyer contended that states often passed laws on issues regarding interstate matters and that states should have fully concurrent power with Congress on matters concerning interstate commerce. The monopoly, therefore, should be upheld.

Gibbons' lawyer, Daniel Webster, argued that Congress had exclusive national power over interstate commerce according to Article I, Section 8 of the Constitution and that to argue otherwise would result in confusing and contradictory local regulatory policies.

The Court of Chancery of New York found in favor of Ogden and issued an injunction to restrict Gibbons from operating his boats. Gibbons appealed the case to the Court of Errors of New York, which affirmed the decision. Gibbons appealed the case to the Supreme Court of the United States.

Questions to Consider

1. Under what authority, state or federal, did Ogden operate his steamboats? Gibbons?
   Ogden operated under state government authority. Gibbons operated under federal (national) government authority.
2. What argument did Ogden use to support his license to operate steamboats? Gibbons?
   Ogden contended that states often passed laws that had interstate consequences and that states should have concurrent (dual) power with the national government on interstate commerce. Gibbons argued that to give states concurrent power over interstate commerce would result in confusing and contradictory law. He argued that the federal (national) government should have exclusive power over interstate commerce.
3. Gibbons relied on the Commerce Clause of Article I, Section 8 of the U.S. Constitution to justify his case. If Ogden wanted to use the U.S. Constitution to back up his case, what section or amendment might he use?
   The 10th Amendment, which provides that all powers not specifically granted to federal government are reserved for the states or for the people.
4. The Commerce Clause was meant to clarify who had authority over interstate commerce; however, like most of the U.S. Constitution, the clause is stated in general terms that leaves open the possibility for interpretation. For instance, in this case there was a question about whether the transport of people constituted commerce. What is another circumstance where the application of this clause would be unclear?
   Answers will vary. Perhaps if commerce left the state and then was brought back into the state, or if a waterway was used that flowed among more than one state but was only used within a state. Suppose a farmer in New York went to a store in New York where he ordered a plow that was to be manufactured in New Jersey, and then shipped to the New York store for pickup. Could Congress regulate the size of the plow? Later there would be questions about whether Congress could regulate other activities not imagined by the Framers, such as broadcasting and internet sales.
5. This case appears to be a local dispute between two businesspeople. However, the decision in this case is one of the most important in constitutional history. Please explain.
   The issue here concerns commerce generally, who has control over laws concerning commerce between states, and the definition of commerce. The very development of the economy of the United States was dependent on this decision, as it would determine whether states could continue to create laws that were in their own self-interest but harmed the nation's economy.