

But the framers of our constitution foresaw this state of things, and provided for it, by declaring the supremacy not only of itself, but of the laws made in pursuance of it. The nullity of any act, inconsistent with the constitution, is produced by the declaration that the constitution is the supreme law.... In every case the act of Congress or the treaty, is supreme; and the law of the state, though not enacted, in the exercise of powers not converted, must yield to it.

In pursuing this inquiry at the bar, it has been said that the constitution does not confer the right of intercourse between state and state. That right derives its source from those laws whose authority is acknowledged by civilized man throughout the world. This is true. The constitution found it an existing right, and gave to Congress the power to regulate it. In the exercise of this power, Congress has passed "an act for enrolling or licensing ships or vessels to act for enrolling or licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same." The counsel

This act demonstrates the opinion of Congress, that steam boats may be enrolled and licensed, in common with vessels using sails. They are, of course, entitled to the same privileges, and can no more be restrained from navigating waters, and entering ports which are free to such vessels, than if they were wafted on their voyage by the winds, instead of being propelled by the agency of fire. The one element may be as legitimately used as the other, for every commercial purpose authorized by the laws of the Union; and the act of a State inhibiting the use of either to any vessel having a license under the act of Congress comes, we think, in direct collision with that act.

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Marshall's opinion was generally greeted with praise. Most Americans believed that the transportation monopolies hindered economic growth and led to unnecessary interstate conflicts. Within two weeks after the decision, a ship from Connecticut arrived in New York harbor. This was the end of interstate rivalries and retaliation over shipping monopolies. Within a year, the New York court struck down the Livingston monopoly for shipping solely within the state. *Gibbons* is the most important commerce clause case in Supreme Court history. All subsequent nineteenth-century commerce clause cases (and many twentieth-century ones) were, to a great extent, merely commentary on *Gibbons*.

THE SECOND BANK OF THE UNITED STATES

In 1791, Secretary of the Treasury Alexander Hamilton proposed that Congress charter the Bank of the United States, which would be a depository for public funds and serve as the government's central financial institution, regulating currency and lending money to the national treasury. The bank would also be a private corporation whose stockholders would share the profits. The bank raised fundamental questions of distributive justice. Should the government give public support to a private enterprise in such a way that some would benefit and others might be harmed? Or should the government avoid such economic activity, even if the commerce of the entire nation suffered? These continued as political and legal issues for the next forty years.

Hamilton believed that the bank was vital for economic development and that it would make the young nation prosperous, vigorous, and glorious. He argued that the bank was constitutionally permissible, under the necessary and proper clause of Article I. Congressmen