

The Burger Court Opinion Writing Database

*Railway Labor Executives' Association v.
Gibbons*
455 U.S. 457 (1982)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

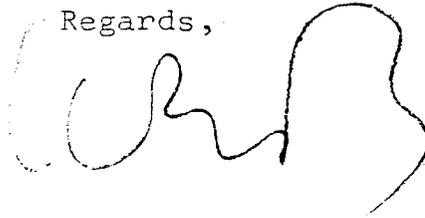
January 27, 1982

Re: No. 80-415 - Railway Labor Executives' Association v.
Gibbons, Trustee
80-1239 - Railway Labor Executives' Association v.
Gibbons, Trustee

Dear Bill:

I join.

Regards,



Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 14, 1981

RE: No. 80-415 Railway Labor Executives' Assn. v.
80-1239 Gibbons

Dear Byron, Thurgood and Harry:

The four of us are in dissent in the above. Would you, Byron, be willing to undertake the dissent?

Sincerely,



Justice White

Justice Marshall

Justice Blackmun

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 28, 1982

RE: Nos. 80-415& 1239 Railway Labor Executives' Assn. v.
Gibbons, Trustee

Dear Bill:

I agree.

Sincerely,



Justice Rehnquist

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

February 16, 1982

RE: Nos. 80-415 and 80-1239 Railway Labor Executives'
Assn. v. William M. Gibbons, etc., et al.

Dear Bill:

I have joined your opinion but Thurgood's concurrence gives me qualms. I refer particularly to his reference to a failure of Amtrak in his concluding paragraph. Another example might be the failure of Conrail, the single carrier that emerged from the 3R's Act. Since our 3R's opinion found no violation of the Bankruptcy Clause in a statute covering the eight railroads, would under your opinion the clause invalidate a statute addressed solely to Conrail? In any event, doesn't Thurgood's argument require an answer?

Sincerely,



Justice Rehnquist

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

February 17, 1982

RE: Nos. 80-415 and 80-1239 Railway Labor Executives Assn.
v. Gibbons

Dear Bill:

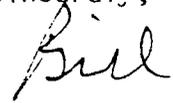
Thank you for your response to my suggestion. Even the insertion of "regional" before "bankrupt railroad" doesn't quite answer my worries. It is the Conrail rather than Amtrak situation that's troublesome for me. Conrail is a "single regional carrier" today, created by the 3R Act to reorganize 8 bankrupt railroads, stripped of excess facilities, into a single viable system (Conrail) operated by a private, for profit corporation. In our 3R decision, 419 U.S. 102, 156-161, we held that the Act did not contravene the uniformity requirement of the Bankruptcy Clause. The argument that it did because the Act was restricted to a single, statutorily defined region was rejected on the ground that the uniformity requirement did not preclude Congress from fashioning legislation to resolve geographically isolated problems and Congress, consistently with that requirement, dealt with the national rail crisis centering in the region defined by the Act, and applied the Act to every railroad then in reorganization throughout the United States.

Suppose Conrail (which is certainly having its financial problems) were now to fail, and Congress amended the 3R Act specifically addressed to the redress of Conrail's difficulties. Would it not fall within your description at page 13 of an Act "by its specific terms applying to only one bankrupt railroad" and thus violative of the Bankruptcy Clause because it "cannot be said to apply uniformly even to major railroads in bankruptcy proceedings throughout the United States." Id Yet, despite the change in form from 8 bankrupt roads to a single carrier, is not the reality that the problem remains a geographically isolated crisis? I would think that the emphasis in our 3R opinion, 419 U.S., at 158, upon the "flexibility inherent in the constitutiona

provision" might well persuade the Court that Congress would not violate uniformity by a statute addressing the problem of a failed Conrail.

I joined your opinion and I dislike being an "Indian giver". But I think I'll feel more comfortable if I withdraw my join and either write on my own or work out with Thurgood whether I can join him.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice Rehnquist

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 19, 1982

RE: Nos. 80-415 and 80-1239 Railway Labor Executives
v. Gibbons

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 14, 1981

RE: 80-415 & 80-1239 - Railway
Labor Executives' Assn. v. Gibson

Dear Bill:

I may well join an affirmance based on the Bankruptcy Clause. If that approach is unconvincing, I shall be glad to draft a dissent. Of course, someone else may know now that his vote to reverse is very likely final.

Sincerely,



Justice Brennan

cc: Justice Marshall

Justice Blackmun

bkh

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 29, 1981

Re: 80-415 - Railway Labor Executives v.
Gibbons
80-1239 - Railway Labor Executives v.
Gibbons

Dear Bill,

As previously advised, I am inclined to join your opinion, but will await other writing, if any.

Sincerely,



Justice Rehnquist

Copies to the Conference

bkh

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 8, 1982

Re: 80-415 and 80-1239:

Railway Labor Executives Ass'n v. Gibbons

Dear Bill,

I am content with your proposed opinion for
the Court.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

cpm

FEB 12 1982

4th DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-415 AND 80-1239

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-415

v.

WILLIAM M. GIBBONS, TRUSTEE, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-1239

v.

WILLIAM M. GIBBONS, TRUSTEE, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

[February —, 1982]

JUSTICE MARSHALL, concurring in the judgment.

I agree with the Court that the Rock Island Transition and Employee Assistance Act (RITA) violates the uniformity requirement of the Bankruptcy Clause. I write separately, however, because the Court accords a broader scope to that requirement than the Clause's language, its history, and the Court's cases justify. In particular, I am concerned that the Court's rationale may unduly restrict Congress' power to legislate with respect to the distinctive needs of a particular railroad or its employees. I conclude that the Clause permits such legislation if Congress finds that the application of the law to a single debtor (or limited class of debtors) serves a

P. 5 &
STYLISTIC CHANGES THROUGHOUT

FEB 19 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-415 AND 80-1239

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-415

v.

WILLIAM M. GIBBONS, TRUSTEE, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-1239

v.

WILLIAM M. GIBBONS, TRUSTEE, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

[February —, 1982]

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

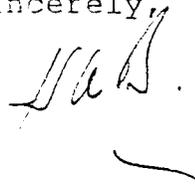
January 25, 1981

Re: No. 80-415) - Railway Labor Executives' Ass'n v. Gibbons
No. 80-1239) - Railway Labor Executives' Ass'n v. Gibbons

Dear Bill:

Please join me.

Sincerely,



Justice Rehnquist

cc: The Conference

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December 30, 1981

80-415 and 80-1239 Railway Labor Executives v. Gibbons

Dean Bill:

You have a fine opinion, and I expect to join it.

I do have, however, these suggestions.

1. In note 8 (p. 6) you properly reserve the Just Compensation Clause issue, as well as the other issues. In the text (p. 5), your draft states that the DC - prior the Staggers Act - found a violation of the Just Compensation Clause. This finding was reaffirmed after the Staggers Act. A majority of this Court agree that, even with the Staggers Act, there would be a taking of private property under this legislation. It is, of course, unnecessary for us to say this in view of your reliance on the Bankruptcy Clause. I would have expected you, nevertheless, to include at least a statement of the facts that prompted the DC to find a taking. Unless these facts are stated, one reading the opinion will wonder ~~why~~ the courts below invalidated an Act of Congress. There was a flagrant legislative attempt to take property from creditors and give it to former employees who had no claim on the bankrupt estate. Unless the extent and result of this "taking" are stated, Congress also may be tempted - in this or some other similar situation - to reenact Staggers-type legislation - subsequent to insolvency - that substantially alters the vested rights of creditors.

2. The first sentence in the paragraph that begins on page 8 reads as follows:

"In sum, RITA established a mechanism by which a bankrupt railroad's obligations to its employees are to be satisfied."

In view of the record in this case, I could not agree that there were any "obligations" to employees that remained unsatisfied. The District Court found that all obligations to employees had been fully satisfied. The Act

of Congress simply created new obligations against the bankrupt estate at the expense of preexisting creditors.

3. On page 12, it seems to me that your draft is a good deal more generous with the Staggers Act than it need be. The last sentence in the first full paragraph states that "it may well have been Congress' intent to impose labor protection obligations in all bankruptcy proceedings involving major railroads". I had not thought that the legislative history with respect to this Act supported such a statement. Unless it clearly does, the statement weakens your opinion.

Sincerely,

Justice Rehnquist

lfp/ss

January 11, 1982

80-415, 80-1239 Railway Labor Executives v. Gibbons

Dear Bill:

Thank you for your letter of this date.

Your proposals in paragraphs in 1-3 are agreeable. As to paragraph 4, I see no reason to suggest that Congress might consider it sound policy to dispossess existing creditors in order to impose labor protection obligations. I have no doubt that Congress could do this if it provided adequate compensation for prior valid claims. Why say anything along these lines?

I do appreciate your trying to accommodate me.

Sincerely,

Justice Rehnquist

lfp/ss

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 18, 1982

80-415 and 80-1239 Railway Labor Executives v. Gibbons

Dear Bill:

Please join me.

Sincerely,

L.F.P.

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

pp. 3, 11, 12

To: The Chief Justice
Justice Brennan
Justice White
 Justice Marshall
Justice Black

From: _____
Filed: DEC 23 1981
Reconvened: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-415 AND 80-1239

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-415

v.

WILLIAM M. GIBBONS, TRUSTEE, ET AL.

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-1239

v.

WILLIAM M. GIBBONS, TRUSTEE, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS

[December —, 1981]

JUSTICE REHNQUIST delivered the opinion for the Court.

In March 1975, the Chicago, Rock Island and Pacific Railroad Company (Rock Island) petitioned the United States District Court for the Northern District of Illinois for reorganization under §77 of the Bankruptcy Act of 1898, 11 U. S. C. §205. Under the protection of §77, the Rock Island continued to operate for approximately four and one-half years until it ceased all operations in September 1979 as a result of a labor strike that had depleted its cash reserves. Pursuant to 49 U. S. C. §11125, the Interstate Commerce Commission (ICC) directed the Kansas City Terminal Railway Company to provide rail service over the Rock Island lines. On January 25, 1980, the reorganization court concluded that reorganization was not possible. It then directed the Trustee of the Rock Island estate to prepare a plan

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Stylistic Changes

TP 2, 3, 5, 6, 9, 10, 11, 12, 13, 14

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

Recirculated: 1/5/82

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-415 AND 80-1239

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-415

v.

WILLIAM M. GIBBONS, TRUSTEE, ET AL.

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-1239

v.

WILLIAM M. GIBBONS, TRUSTEE, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS

[December —, 1981]

JUSTICE REHNQUIST delivered the opinion for the Court.

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K

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 11, 1982

Re: Railway Labor Executives' Association v. Gibbons, Nos.
80-415, 80-1239

Dear Lewis:

In response to your letter of December 30, I propose to make the following changes in my draft opinion.

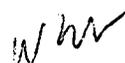
1. After the last sentence on p. 2, I propose to add the following sentence: "The court reasoned that § 17(a) of the MRRA does not apply to a total, system-wide abandonment of a railroad. App. 263a-264a."

2. Before the last sentence of the first paragraph on p. 5, I propose to quote part of the reorganization court's reasoning at App. 153a regarding its conclusion that the employee protection provisions of RITA constitute a taking. I will then add: "Since it determined that the Rock Island is no longer subject to the obligations of an operating railroad, the court concluded that the Rock Island creditors' and bondholders' interests in the estate's remaining assets may not be taken to serve the public's interest in providing economic protection to displaced employees. App. 154a."

3. The sentence on p. 8 to which you objected has been re-phrased to indicate that in RITA Congress imposed upon a bankrupt railroad "the duty to pay large sums of money to its displaced employees."

4. With regard to the legislative history of the Staggers Act (p. 12), I propose the following: "As the legislative history of the Staggers Act indicates, ante, at 9, Congress might deem it sound policy to impose labor protection obligations in all bankruptcy proceedings involving major railroads."

Sincerely,



Justice Powell

Changes: pp. 1, 3, 5, 9, 13

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

Recirculated: JAN 14 1982

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-415 AND 80-1239

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-415

v.

WILLIAM M. GIBBONS, TRUSTEE, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-1239

v.

WILLIAM M. GIBBONS, TRUSTEE, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

[January —, 1982]

JUSTICE REHNQUIST delivered the opinion for the Court.

In March 1975, the Chicago, Rock Island and Pacific Railroad Company (Rock Island) petitioned the United States District Court for the Northern District of Illinois for reorganization under §77 of the Bankruptcy Act of 1898, 11 U. S. C. §205. Under the protection of §77, the Rock Island continued to operate for approximately four and one-half years until it ceased all operations in September 1979 as a result of a labor strike that had depleted its cash reserves. Pursuant to 49 U. S. C. §11125, the Interstate Commerce Commission (ICC) directed the Kansas City Terminal Railway Company to provide rail service over the Rock Island

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To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

FOOTNOTE ADDED pp. 4-5

From Justice Rehnquist

Circulated: _____

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4th DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-415 AND 80-1239

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-415

v.

WILLIAM M. GIBBONS, TRUSTEE, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-1239

v.

WILLIAM M. GIBBONS, TRUSTEE, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

[January —, 1982]

JUSTICE REHNQUIST delivered the opinion for the Court.

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Pp 7, 12, 15

The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Stevens
Justice O'Connor

5th DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-415 AND 80-1239

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-415

v.

WILLIAM M. GIBBONS, TRUSTEE, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS

RAILWAY LABOR EXECUTIVES'
ASSOCIATION, APPELLANT

80-1239

v.

WILLIAM M. GIBBONS, TRUSTEE, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

[January —, 1982]

JUSTICE REHNQUIST delivered the opinion for the Court.

In March 1975, the Chicago, Rock Island and Pacific Railroad Company (Rock Island) petitioned the United States District Court for the Northern District of Illinois for reorganization under §77 of the Bankruptcy Act of 1898, 11 U. S. C. §205. Under the protection of §77, the Rock Island continued to operate for approximately four and one-half years until it ceased all operations in September 1979 as a result of a labor strike that had depleted its cash reserves. Pursuant to 49 U. S. C. §11125, the Interstate Commerce Commission (ICC) directed the Kansas City Terminal Railway Company to provide rail service over the Rock Island

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Supreme Court of the United States
Washington, D. C. 20543



CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 16, 1982

Re: No. 80-415 and 80-1239 Railway Labor
Executives' Assn. v. William M. Gibbons

Dear Bill:

I have received your letter of February 16th, suggesting that Thurgood's concurrence should be answered by the Court opinion in this case. Since we have before us only a provision applicable to one regional railroad, I would think it best to pretermitt decision as to whether a provision applicable to only one national railroad of a peculiar type -- such as AMTRAK in Thurgood's example -- would fare, though I should think there is a substantial difference between the two cases.

In order to make sure that the opinion not be read to foreclose the argument that AMTRAK is different than a single regional carrier, I would be happy to insert to word "regional" before the word "bankrupt railroad" where it appears in the first line on page 12 of the fourth draft, again in the third line from the bottom on that page, and to insert the word "regional" before the word "debtor" in line 6 on page 15. I would prefer this approach to some sort of footnote reply which would simply say that the AMTRAK question is not before us in this case.

Sincerely,

Justice Brennan

Copies to the Conference

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HAB

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 1, 1982

MEMORANDUM TO THE CONFERENCE

Case Held for Nos. 80-415 and 80-1239, Railway Labor Executives' Assn. v. Gibbons

No. 80-704 Gibbons v. Railway Labor Executives' Association

In this case, appellees in Nos. 80-415 and 80-1239 seek review prior to judgment by CA 7 of the DC's order of October 15, 1980, enjoining enforcement of RITA, as amended by the Staggers Rail Act. Since CA 7 has rendered judgment and this Court has affirmed that judgment in No. 80-1239, I recommend that this Court deny the petition in No. 80-704.

Sincerely,



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 4, 1982

Re: 80-415 and 80-1239 - Railway Labor
Executives' Assn v. Gibbons

Dear Bill:

Please join me.

Respectfully,



Justice Rehnquist

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

January 22, 1982

No. 80-415 Railway Labor Executives' Assoc.
v. Gibbons
No. 80-1239 Railway Labor Executives' Assoc.
v. Gibbons

Dear Bill,

Please join me in your opinion in the
referenced cases.

Sincerely,



Justice Rehnquist

Copies to the Conference