the mail had been upheld in the case *In re Rapier*,[970] on the proposition that Congress clearly had the power to see that the very facilities furnished by it were not put to bad use. But in the case of commerce, the facilities are not ordinarily furnished by the National Government, and the right to engage in foreign and interstate commerce comes from the Constitution itself or precedes it.

How difficult the Court found the question produced by the act of 1895, forbidding any person to bring within the United States or to cause to be "carried from one State to another" any lottery ticket, or an equivalent thereof, "for the purpose of disposing of the same," was shown by the fact that the case was argued three times before the Court and the fact that the Court's decision finally sustaining the act was a five-to-four decision. The opinion of the Court, on the other hand, prepared by Justice Harlan, marked an almost unqualified triumph at the time for the view that Congress' power to regulate commerce among the states included the power to prohibit it, especially to supplement and support state legislation enacted under the police power. Early in the opinion, extensive quotation is made from Chief Justice Marshall's opinion in *Gibbons v. Ogden*,[971] with special stress upon the definition there given of the phrase "to regulate." Justice Johnson's assertion on the same occasion is also given: "The power of a sovereign State over commerce, . . . amounts to nothing more than a power to limit and restrain it at pleasure." Further along is quoted with evident approval Justice Bradley's statement in *Brown v. Houston*,[972] that "[t]he power to regulate commerce among the several States is granted to Congress in terms as absolute as is the power to regulate commerce with foreign nations."

Following the wake of the *Lottery Case*, Congress repeatedly brought its prohibitory powers over interstate commerce and communications to the support of certain local policies of the states, thereby aiding them in the repression of a variety of acts and deeds objectionable to public morality. The conception of the federal system on which the Court based its validation of this legislation was stated by it in 1913 in sustaining the Mann "White Slave" Act in the following words: "Our dual form of government has its perplexities, State and Nation having different spheres of jurisdiction . . . but it must be kept in mind that we are one people; and the powers reserved to the States and those conferred on the Nation are adapted to be exercised, whether independently or concurrently, to

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[970] 143 U.S. 110 (1892).
[971] 22 U.S. (9 Wheat.) 1, 227 (1824).
[972] 114 U.S. 622, 630 (1885).