merce.[809] A counterweight to this limiting principle, however, was the idea that Congress could regulate "streams" or "currents" of commerce. Using this latter theory, the Court found that congressional authority to regulate was available for some industries or commercial activities, but not others. For instance, federal regulation of the waterways or the railroads was approved of by the Court early on, while regulation of manufacturing was not. However, as the national economy became more interrelated and federal regulation more comprehensive, these distinctions became increasingly difficult to police. Ultimately, the Court's acceptance of vast new federal regulations enacted in response to the Great Depression led to the erosion of the "direct"—"indirect" distinction.

Congressional Regulation of Waterways

Navigation.—Early on, keeping navigable waterways clear of impediments was found by the Court to be integral to trade between the states. In *Pennsylvania v. Wheeling & Belmont Bridge Co.*,[810] the Court granted an injunction requiring that a bridge erected over the Ohio River under a charter from the State of Virginia either be altered so as allow of free navigation of the river or else be removed. The decision was justified based on both the dormant Commerce Clause and on a compact between Virginia and Kentucky, under which both states had agreed to keep the Ohio River "free and common to the citizens of the United States." The injunction was promptly rendered inoperative by an act of Congress declaring the bridge to be "a lawful structure" and requiring all vessels navigating the Ohio to be so regulated as not to interfere with it.[811]

This congressional act was sustained by the Court as within Congress' power under the Commerce Clause, saying: "So far . . . as this bridge created an obstruction to the free navigation of the river, in view of the previous acts of Congress, they are to be regarded as modified by this subsequent legislation; and, although it still may be an obstruction in fact, [it] is not so in the contemplation of law. . . . [Congress] having in the exercise of this power, regulated the navigation consistent with its preservation and continuation, the authority to maintain it would seem to be complete. That authority combines the concurrent powers of both governments, State and federal, which, if not sufficient, certainly none can be found in our system

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[809] *E.g.*, United States v. E. C. Knight Co., 156 U.S. 1 (1895); Hammer v. Dagenhart, 247 U.S. 251 (1918). Of course, there existed much of this time a parallel doctrine under which federal power was not so limited. *E.g.*, Houston & Texas Ry. v. United States (The Shreveport Rate Case), 234 U.S. 342 (1914).

[810] 54 U.S. (13 How.) 518 (1852).

[811] Ch. 111, § 6, 10 Stat 112 (1852).