

**SUPREME COURT OF THE UNITED  
STATES**

No. 94-688

NATIONAL PRIVATE TRUCK COUNCIL, INC.,  
ET AL., PETITIONERS v. OKLAHOMA  
TAX COMMISSION ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT  
OF OKLAHOMA  
[June 19, 1995]

JUSTICE KENNEDY, concurring.

One reason for difficulty in adapting 42 U. S. C. §1983 to an action attacking a state tax is, in my view, that §1983 was not intended for claims based on the Commerce Clause at all. See *Dennis v. Higgins*, 498 U. S. 439, 451 (1991) (KENNEDY, J., dissenting) (violations of the Commerce Clause do not give rise to a cause of action under §1983); see also *Golden State Transit Corp. v. Los Angeles*, 493 U. S. 103, 117 (1989) (KENNEDY, J., dissenting) (a federal statute's pre-emptive effect does not secure a right within the meaning of §1983). The Court has not adopted that position, however, and on that premise I agree with today's opinion and join it in full.