

McCulloch v. Maryland (1819)

Argued: February 22–26, 1819

Reargued: March 1–3, 1819

Decided: March 6, 1819

Background

In 1791, the First Bank of the United States was established to serve as a central bank for the country. It was a place for storing government funds, collecting taxes, and issuing sound currency. At the time it was created, the government was in its infancy and there was a great deal of debate over exactly how much power the national government should have. In particular, many individuals focused on the fact that the Constitution did not expressly grant the power to Congress to charter corporations or banks. Many thought that the only way to justify the federal government’s creation of a central bank would be to interpret the Constitution as giving the federal government “implied” powers. This idea of implied powers worried many individuals who feared that this interpretation of the Constitution—providing implied powers—would create an all-powerful national government that would threaten the presumed sovereignty of the states.

The debate about the constitutionality of the First Bank was intense. Some people, such as Alexander Hamilton, argued for the supremacy of the national government and a broad interpretation of its powers, which would include the ability to establish a bank. Others, such as Thomas Jefferson, advocated states’ rights, limited government, and a narrower interpretation of the national government’s powers under the Constitution and, therefore, no bank. While James Madison was president, the First Bank’s charter was not renewed. Congress proposed a Second Bank of the United States in 1816. President Madison, who was a staunch opponent of the creation of the First Bank, approved the charter, believing that its constitutionality had been settled by prior practices and understandings.

The Second Bank established branches throughout the United States. Many states opposed opening branches of this bank within their boundaries for several reasons. First, the Bank of the United States competed with their own banks. (At this point in history, there was no single currency in the U.S. Each state issued its own money, and the Bank of the United States also had authority to issue currency.) Second, the states found many of the managers of the Second Bank to be corrupt. Third, the states felt that the federal government was exerting too much power over them by attempting to curtail the state practice of issuing more paper money than they were able to redeem on demand.

Facts

Maryland attempted to close the Baltimore branch of the national bank by passing a law that forced all banks chartered outside of the state to pay a yearly tax (the Second Bank was the only such bank

in the state). James McCulloch¹, the chief administrative officer of the Baltimore branch, refused to pay the tax. The state of Maryland sued McCulloch, saying that Maryland had the power to tax any business in its state and that the Constitution does not give Congress the power to create a national bank. McCulloch was convicted, but he appealed the decision to the Maryland Court of Appeals. His attorneys argued that the establishment of a national bank was a “necessary and proper” function of Congress, one of many implied, but not explicitly stated, powers in the Constitution.

The Maryland Court of Appeals ruled in favor of Maryland, and McCulloch appealed again. The case was heard by the Supreme Court of the United States.

Issues

Did Congress have the authority under the Constitution to commission a national bank? If so, did the state of Maryland have the authority to tax a branch of the national bank operating within its borders?

Constitutional Text and Amendments

- **U.S. Constitution, Article I, Section 8, Clause 18 (Necessary and Proper Clause)**
“The Congress shall have Power... To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”
- **U.S. Constitution, Article VI, Clause 2 (Supremacy Clause)**
“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.”
- **U.S. Constitution, Amendment X**
“The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”

Arguments for McCulloch (petitioner)

- The Necessary and Proper Clause permits Congress to make laws as they see fit. A law creating a national bank is necessary for the running of the country.

¹ In the Supreme Court’s opinion for this case, James McCulloch’s surname was spelled M’Culloch.

- While the Constitution does not specifically say that Congress has the power to establish a national bank, there is also nothing in the Constitution restricting the powers of Congress to those specifically enumerated.
- The Constitution does give Congress the power to levy taxes, borrow or spend money, and raise and support an army and navy, among other things. Establishing a national bank is “necessary and proper” to the exercise of all of those other powers.
- If Congress passed a law within its authority under the Constitution, a state cannot interfere with that action. Maryland is attempting to interfere with Congress’s action and might try to tax the bank so heavily that that it would be unable to exist. The Supremacy Clause prohibits that kind of state interference with federal law.

Arguments for Maryland (respondent)

- The Constitution never says that Congress may establish a national bank.
- The Constitution says that the powers not delegated to the United States are reserved to the states.
- The federal government shares the ability to raise taxes with the states—it is a concurrent power. Taxation within a sovereign state’s border, including of federal entities, is a state’s exercise of a Constitutional power.
- The establishment of a national bank interferes with the states’ abilities to control their own supply of money and their own economies.

Decision

The decision was unanimous in favor of McCulloch and the federal government. Chief Justice John Marshall authored the opinion of the Court.

The Supreme Court determined that Congress did have the power under the Constitution to create a national bank. Even though the Constitution does not explicitly include that power, there is also nothing in the Constitution that restricts Congress’s powers to those specifically enumerated. The Necessary and Proper Clause gives Congress the authority to make “all laws which shall be necessary and proper” for exercising the powers that are specifically enumerated, and the establishment of a national bank is “necessary and proper” to exercising other enumerated powers.

The Court also ruled that Maryland could not tax the Bank of the United States. In their decision the justices declared that “the constitution and the laws made in pursuance thereof are supreme; that they control the constitution and laws of the respective states, and cannot be controlled by them.” Allowing a state to tax a branch of the national bank created by Congress would allow that state to interfere with the exercise of Congress’s constitutional powers. Thus because “states have no power, by taxation or otherwise, to retard, impede, burden or in any manner control” the operation of

constitutional laws passed by Congress, Maryland could not be allowed to tax a branch of the national bank, even though that branch was operating within its borders.