

Supreme Court Case Study 2



Power of the Federal Government v. Power of the State Government

McCulloch v. Maryland, 1819

It was 1819 and the United States had been a nation under the Constitution for barely a generation when an important case about federal power reached the Court. After a first attempt in 1791, Congress established the second National Bank of the United States in 1816. Many states opposed branches of the National Bank within their borders. They did not want the National Bank competing with their own banks, and objected to the establishment of a National Bank as an unconstitutional exercise of Congress's power.

The state of Maryland imposed a tax on the bank of \$15,000/year, which cashier James McCulloch of the Baltimore branch refused to pay. The case went to the Supreme Court. Maryland argued that as a sovereign state, it had the power to tax any business within its borders. McCulloch's attorneys argued that a national bank was "necessary and proper" for Congress to establish in order to carry out its enumerated powers.

Chief Justice John Marshall wrote, "Although, among the enumerated powers of government, we do not find the word 'bank,'...we find the great powers to lay and collect taxes; to borrow money; to regulate commerce...Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

Further, the Court ruled that Maryland could not tax the national bank: "That the power to tax involves the power to destroy. . . . If the states may tax one instrument, employed by the [federal] government in the execution of its powers, they may tax any and every other instrument....This was not intended by the American people. They did not design to make their government dependent on the states."

Marshall also noted an important difference between the Constitution and the Articles of Confederation (the United States' first governing document that had been replaced by the Constitution). The Articles said that the states retained all powers not "expressly" given to the federal government. The Tenth Amendment, Marshall noted, did not include the word "expressly." This was further evidence, he argued, that the Constitution did not limit Congress to doing only those things specifically listed in Article I.

Questions

1. What happened to bring *McCulloch v. Maryland* to the Supreme Court?
2. Can Congress effectively carry out its powers without establishing a national bank?
3. How did the Supreme Court rule?
4. To what extent did the ruling in *McCulloch v. Maryland* expand federal power?