

## **McCulloch vs. Maryland**

### **Background of the Case:**

After the War of 1812, the U.S. government needed additional funds to pay off the debts of the war. Instead of being able to borrow money from one institution, the government had to work with multiple state banks. As a result, in 1816, Congress opted to set up the Second Bank of the United States with branch offices in multiple locations. Many states opposed the National Bank because the state banks then had to compete for business. In response, Maryland passed a law requiring the national bank to pay a heavy tax to the state of Maryland. James McCulloch, the bank's cashier, refused to pay the tax.

McCulloch was convicted of failing to pay the tax and was fined \$2,500. He appealed the case to the Maryland Court of Appeals, which upheld the decision of the lower court and affirmed McCulloch's conviction. The dispute reached the Supreme Court of the United States.

The Court Considered These Constitutional Questions:

- Did Congress have the power to establish a national bank?
- Did the Maryland law to tax the nationally chartered bank unconstitutionally interfere with federal powers?

Relevant Excerpts of the Constitution:

- The Necessary and Proper Clause (Article I, Section 8, Clause 18)

"The Congress shall have the Power ... To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested in this Constitution."

The Necessary and Proper Clause is also known as the "Elastic Clause" because its meaning may be stretched to allow Congress to pass a variety of laws.

- The Supremacy Clause (Article VI, Clause 2)

"This Constitution, and the Laws of the United States which shall be made in pursuance thereof ... 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."

This part of the Constitution specifically states that federal laws take priority over state laws.

- The Tenth Amendment

"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."

### Main Arguments for McCulloch:

- Although the power to charter a national bank is not specifically mentioned in the Constitution, it is one of the implied powers that the Necessary and Proper Clause grants Congress.
- The bank is a "necessary and proper" way for Congress to conduct the financial affairs of the country.
- If Maryland is allowed to tax the bank, the state could destroy the bank by taxing it so much that it would have to close.

### Main Arguments for Maryland:

- The right of the national government to establish a bank is not specifically granted in the Constitution.
- It is also not an implied power, so Congress had no right to establish a national bank.
- The power to establish banks is reserved for the states.
- States are sovereign (they have complete and permanent authority over themselves), so they have the authority to tax institutions and businesses in their borders.

### **The Court's Decision:**

The Court unanimously ruled in favor of the national government's right to establish the bank and also found that the state did not have the power to tax the institution.

Chief Justice Marshall, writing for the Court, stated that the federal government possessed powers that were not explicitly expressed in the Constitution, known as implied powers. Although the federal government did not specifically have the power to charter a national bank, the national Congress did have the authority to make all laws "necessary and proper" to accomplish other tasks.

Marshall also held that even though the states retained the power of taxation, "the constitution and the laws made in pursuance thereof are supreme ... they control the constitution and laws of the respective states, and cannot be controlled by them." Maryland did not have the ability to tax a federal establishment. Taxing the national bank was really an attempt by the state to destroy the bank, and this was a challenge to the federal government's constitutional supremacy.

## **PART 1: Guided Questions for Watching McCulloch v. Maryland**

Directions: As you view the clip, think about the following questions:

- Summarize John Marshall's concerns about Federalism.
- Who were the major players in the case?
- What was at the root of the conflict?
- What did the Court decide in the case of McCulloch v. Maryland? What reasons did the Court give for its decision?
- Explain how the Supreme Court's decision in the case of McCulloch v. Maryland helped to further refine the balance of power under federalism
- Do you agree or disagree with the decision made in McCulloch v. Maryland? Explain your answer.

**FEDERALISM CLASSIFICATION ACTIVITY**

Federalism: a system in which power is divided between local, state, and national governments. Directions: Classify the following powers in the chart. Take the time to consider which category would be the most appropriate fit based on the description.

- declare and engage in war
- conduct elections
- print and coin money
- govern marriage laws
- maintain an army, navy, and air force
- regulate interstate and foreign commerce
- regulate intrastate commerce
- punish lawbreakers
- levy and collect taxes
- protect the rights of citizens
- set traffic standards
- admit new states
- provide for public safety
- borrow money
- establish and maintain schools
- negotiate treaties with foreign countries
- protect public health
- determine the qualifications of voters
- set up a post office
- set rules for immigration
- maintain the state militia (also known as the National Guard)

Powers of the National Government	Powers Shared by the State and National Governments	Powers of the State Governments

