

McCulloch v. Maryland,

17 U.S. 316 (1819)

Condensed Case



The Big Picture

Congress's power includes more than just those powers explicitly mentioned in the Constitution; it also includes the implied power to do things reasonably related to carrying out its explicit powers. States cannot interfere with any of those powers.

Ruling

Congress can establish a federal bank pursuant to its power to pass legislation that is "necessary and proper" to the execution of its other explicit powers.

Maryland's attempt to tax the federal bank interfered with this congressional power and, thus, violated the Supremacy Clause.

Constitutional Text

The Supremacy Clause, Article VI, Clause 2: *This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or*

OPINION OF THE COURT:

[Numerous disputes arose in the early 1800s between the federal government and state governments concerning the extent of their powers. When Congress chartered the Second Bank of the United States, Maryland imposed a tax the bank's Maryland branch. A Maryland state court held that the federal government lacked the power to charter a bank.]

[The first question is, does Congress have the power to incorporate a bank?] Among the enumerated powers [of Congress], we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which excludes incidental or implied powers; and which requires that everything granted shall be expressly and minutely described. A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would [be so long that it would not be understandable]. It would, probably, never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves.

[The Constitution explicitly grants Congress power to] lay and collect taxes; to borrow money; to regulate commerce; to declare and conduct a war; and to raise and support armies and navies. But a government [entrusted] with such ample powers must also be [entrusted] with ample means for their execution. [The Constitution explicitly grants that power by providing that Congress has the power to "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers."].

The clause is placed among the powers of congress, not among the limitations on those powers. [The] terms purport to enlarge, not to diminish the powers vested in the government. It purports to be an additional power, not a restriction on those already granted. Had the intention been to make this clause restrictive, it would unquestionably have been so in form as well as in effect.



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.

The Necessary and Proper Clause, Article I, Section 8: *[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.*

Dissenting Opinion

There was no dissenting opinion filed in this case.

We admit that the powers of the government are limited. But we think the sound construction of the constitution must allow to the national legislature that discretion with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. 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.

[The Supreme Court reasoned that establishing a bank was an effective means to carry out Congress's other powers regarding money and commerce, and there is no reason to expect the constitution to have specifically referenced the minor power to create a bank.]

[The second question is:] Whether the state of Maryland may, without violating the constitution, tax that branch?

The sovereignty of a state extends to everything which exists by its own authority, but does it extend to those means which are employed by congress to carry into execution powers conferred on that body by the people of the United States? We think it demonstrable, that it does not. Those powers are not given by the people of a single state. They are given by the people of the United States, to a government whose laws, made in pursuance of the constitution, are declared to be supreme. Consequently, the people of a single state cannot confer a sovereignty which will extend over them.

Would the people of any one state trust those of another with a power to control the most insignificant operations of their state government? We know they would not. Why, then, should we suppose that the people of any one state should be willing to trust those of another with a power to control the operations of a government to which they have confided their most important and most valuable interests? In the legislature of the Union alone are all represented. The legislature of the Union alone, therefore, can be trusted by the people with the power of controlling measures which concern all, in the confidence that it will not be abused.

If we apply the principle for which the state of Maryland contends, to the constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the government, and of prostrating it at the foot of the states. The American people have declared their constitution and the laws made in pursuance thereof to be supreme, but this principle would transfer the supremacy, in fact, to the states.

If the states may tax one instrument, employed by the government in the execution of its powers, they may tax any and every other instrument. They



may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the custom house; they may tax judicial process; they may tax all the means employed by the government to an excess which would defeat all the ends of government. This was not intended by the American people. They did not design to make their government dependent on the states.

The court has bestowed on this subject its most deliberate consideration. The result is a conviction that the states have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operations of the constitutional laws enacted by congress to carry into execution the powers vested in the general government. This is, we think, the unavoidable consequence of that supremacy which the constitution has declared.

