McCulloch v. Maryland (1819)

Vocabulary

real property Land or buildings, real estate.

implied powers Powers of the national government that are not specified in the Constitution but are based on the "necessary and proper" clause (elastic clause), which gives Congress authority to carry out its specified functions.

delegated powers Powers specifically granted to the national government in the Constitution.

sovereignty A state or nation's authority to govern itself.

Reviewing the Case

The early 1800s were years in which the United States faced unfamiliar situations concerning federalism and the division of authority between the national government and the various state governments. Such questions were often taken to court for definition and interpretation. Some of the decisions made then have had a lasting impact on how the country is governed. One of these early landmark cases is *McCulloch v. Maryland*, which arose in 1819.

In April 1816, Congress chartered the Second National Bank of the United States. This bank was the successor to the first Bank of the United States, started through the efforts of Alexander Hamilton. The original charter had expired in 1811 and was not immediately renewed because of questions about the constitutionality of a national bank. Many people objected to both the idea and the existence of a national bank. They thought it harmed state economies and local businesses and gave the national government too much power. The Second National Bank was in Philadelphia, with branch offices in other states. One branch was in Baltimore, Maryland.

On February 11, 1818, the Maryland state assembly passed an act aimed specifically at the Second National Bank. It imposed a "stamp tax" on the paper that banks used in printing bank notes. All banks not chartered by the state had to pay either a tax to obtain the special stamped paper or an annual state tax of $15,000. Each violation would result in a fine of $500 for the bank and a $100 fine for each individual responsible.

James McCulloch, cashier of the Baltimore branch, refused to pay the tax, despite repeated notices from the state. The state of Maryland brought suit against him in the County Court of Baltimore and later appealed to the State Court of Appeals, where McCulloch lost.

On behalf of himself and the U.S. government, McCulloch then brought the case to the Supreme Court in an attempt to reverse the decision. As it came to the Supreme Court, the issue became: Does any state have the constitutional right to tax an agency of the United States government?

Some of the most famous lawyers of the time argued the case. The attorneys for the state of Maryland argued that a state did have the right to tax because it was not forbidden by Article I, Section 10, of the Constitution, which lists the powers denied to the states. The only restrictions on the state's power to tax, they said, were those specifically mentioned. Those limits concern mainly imports and exports. The state also questioned the right of the Congress to create a national bank and to place branches in the various states without legislative approval.

The lawyers for the United States government argued that the states were forbidden to tax anything of the national government beyond **real property** that the national government owned in the states. They stated that the power of the state to tax the Second National Bank or any other agency of the national government would create the power to destroy the national government.

The Supreme Court decided on behalf of McCulloch, defining two issues of constitutional law:

First, the Court found that creating a national bank was within the **implied powers** of Congress, based on Article I, Section 8, of the Constitution. The final clause of Article I gives Congress the power to pass the legislation needed, or "necessary and proper," to carry out the other functions for which it is responsible. These are its **delegated powers**. In this instance, the creation of a national bank was necessary in order for Congress to create and coin a national currency, collect taxes, and borrow money in an emergency, among other things. These are delegated powers, specifically granted to Congress alone.

If, however, the act establishing a national bank was constitutional, did the state legislature of Maryland have the right to tax the bank? Citing Article VI of the Constitution, the Court declared that this action violated the principle of the supremacy of the national government over the states. The Court believed that granting individual states the right to tax the national government would in effect place the states in a position of **sovereignty** over the national government.

It would also place the individual states in a position superior to people of the Union collectively. This interpretation would return the country to the turmoil suffered under the Articles of Confederation.

Writing for the Court, Chief Justice John Marshall stated:

> It being the opinion of the court that the act incorporating the bank is constitutional, and that the power of establishing a branch in the state of Maryland might be properly exercised by the bank itself, we proceed to inquire: Whether the state of Maryland may, without violation of the Constitution, tax that branch? . . . That the power of taxing it by the states may be exercised so as to destroy it, is too obvious to be denied. . . . We are unanimously of the opinion that the law passed by the legislature of Maryland, imposing a tax on the Bank of the United States, is unconstitutional and void.

The significance of *McCulloch v. Maryland* goes to the very root of the purpose of a federal government, one divided by the Constitution between a central government and state governments. The purpose of such government was "to provide a more perfect union." Limits of power were imposed at both national and state levels, but enough power remained at the national level to carry out what Congress found "necessary and proper" to provide good government for the people of the country as a whole. This decision confirmed the legitimate right of Congress to utilize the implied powers clause in passing laws to carry out its delegated powers. It further declared and validated the supremacy of the people collectively represented by Congress over the powers of individual states.