McCulloch v. Maryland: defining federal power

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Ask people to name landmark Supreme Court cases and they're likely to come up with such textbook examples as *Brown v. Board of Education*, *Roe v. Wade*, and *Dred Scott v. Sandford*, but not many will think to include the 1819 decision in *McCulloch v. Maryland*. But this less-famous Supreme Court case established two important principles in constitutional law. It confirmed the "Necessary and Proper" clause of the Constitution, granting Congress broad, implied powers in creating a functional national government. It also established the hierarchy of federal and state government by determining that state law cannot impede valid federal actions. These principles federal and state government by determining that state law cannot impede valid federal actions. These principles remain as relevant today as they were in the early 1800s, as can be seen in the Justice Department's 2018 suit against the state of California.

The facts of the case

In 1816, the federal government established the Second National Bank of the United States, which was chartered to handle all fiscal transactions of the United States government. The idea of a national bank was highly controversial; opponents charged that its establishment was unconstitutional and that it trampled on state sovereignty.

In 1818, Maryland placed a prohibitive tax on bank notes issued by Bank of the United States. The bank, in the name of its Baltimore branch manager James W. McCulloch, refused to pay the tax and appealed to the U.S. Supreme Court. Both parties' arguments addressed the underlying principle: the primacy of federal government. Maryland argued that as a sovereign state, it could legally tax any business within its borders. The Bank of the United States argued that a federal bank was necessary for Congress to carry out its enumerated powers, and so states could not interfere.

Federal first

The Supreme Court unanimously agreed with the bank: taxation counted as interference. Chief Justice John Marshall wrote, "The States have no power, by taxation or otherwise, to retard, impede, burthen, or in any manner control the operations of the constitutional laws enacted by Congress to carry into effect the powers vested in the national Government."

The Court did, however, allow that the federal government was not exempt to less direct forms of taxation, such as real estate taxes for property used by the bank. Likewise, citizens of the state who derived any sort of profit from the bank were still subject to state income taxes.

"Necessary and Proper"

Even more significant than the specific question of taxation, the court agreed with the bank's characterization of the "Necessary and Proper Clause" of the Constitution (Article I, Section 8), which states that Congress has the 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 any Department or Officer thereof."

Marshall wrote, "Let the end be legitimate, let it be within the scope of the constitution, and all means… which are not prohibited … are constitutional." By agreeing that the Congress may hold powers which are not expressly prohibited by the Constitution – rather than only those which are expressly granted – the Court greatly extended the possible scope of federal government.

Tagged Congress, constitutional law, SCOTUS, taxes

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