Name____Class_________Date______ _________

McCulloch v. Maryland (1819)

Facts of the Case

In 1791, the First Bank of the United States was established to serve as a central bank for the country. It was a place for storing government funds, collecting taxes, and issuing sound currency. At the time it was created, the government was in its infancy and there was a great deal of debate over exactly how much power the national government should have. In particular, many people focused on the fact that the Constitution did not expressly grant the power to Congress to charter corporations or banks. Many thought that the only way to justify the federal government's creation of a central bank would be to interpret the Constitution as giving the federal government "implied" powers. This idea of implied powers worried many individuals who feared that this interpretation of the Constitution—providing implied powers—would create an all-powerful national government that would threaten the presumed sovereignty of the states.

The debate about the constitutionality of the First Bank was intense. Some people, such as Alexander Hamilton, argued for the supremacy of the national government and a broad interpretation of its powers, which would include the ability to establish a bank. Others, such as Thomas Jefferson, advocated states' rights, limited government, and a narrower interpretation of the national government's powers under the Constitution and, therefore, no bank. While James Madison was president, the First Bank's charter was not renewed. Congress proposed a Second Bank of the United States in 1816. President Madison, who was a staunch opponent of the creation of the First Bank, approved the charter, believing that its constitutionality had been settled by prior practices and understandings.

The Second Bank established branches throughout the United States. Many states opposed opening branches of this bank within their boundaries for several reasons. First, the Bank of the United States competed with their own banks. (At this point in history, there was no single currency in the United States. Each state issued its own money, and the Bank of the United States also had authority to issue currency.) Second, the states found many of the managers of the Second Bank to be corrupt. Third, the states felt that the federal government was exerting too much power over them by attempting to curtail the state practice of issuing more paper money than they were able to redeem on demand.

Questions to Consider

1. What are the advantages for the federal government of establishing a national bank?

2. Article I, Section 8, Clause 18 of the U.S. Constitution 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 in any Department or Officer thereof." Which enumerated power of Congress listed in Article I, Section 8 might be helped by such a bank?

3. Why might states feel threatened by a national bank?

4. In your opinion, does the U.S. government have the authority to establish a national bank? Provide justification for your answer.

5. Should a state be able to tax a national bank? Why or why not?

6. Why do you think the Supreme Court of the United States heard the case? What made the case important?

Issues

Did Congress have the authority under the Constitution to commission a national bank? If so, did the state of Maryland have the authority to tax a branch of the national bank operating within its borders?

Constitutional Provisions

- **Article I, Section 8, Clause 18** (Necessary and Proper Clause) of the U.S. Constitution "The 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."
- **Article VI, Clause 2** (Supremacy Clause) of the U.S. Constitution "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or 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."
- **10th Amendment to the U.S. Constitution** "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."

Arguments

If the argument supports the petitioner, **McCulloch,** write MC in the blank space after the argument. If the argument supports the respondent, **Maryland**, write a MD in the blank space after the argument. When you have finished, highlight which argument for each side is the most persuasive.

1. The Constitution does give Congress the power to levy taxes, borrow or spend money, and raise and support an army and navy, among other things. Establishing a national bank is "necessary and proper" to the exercise of all of those other powers.

2. The Constitution never says that Congress may establish a national bank.

3. The establishment of a national bank interferes with the states' abilities to control their own supply of money and their own economies.

4. The Necessary and Proper Clause permits Congress to make laws as they see fit. A law creating a national bank is necessary for the running of the country.

5. The Constitution says that the powers not delegated to the United States are reserved to the states.

6. If Congress passed a law within its authority under the Constitution, a state cannot interfere with that action. Maryland is attempting to interfere with Congress's action and might try to tax the bank so heavily that that it would be unable to exist. The Supremacy Clause prohibits that kind of state interference with federal law.

7. While the Constitution does not specifically say that Congress has the power to establish a national bank, there is also nothing in the Constitution restricting the powers of Congress to those specifically enumerated.

Decision

The decision was unanimous in favor of McCulloch and the federal government. Chief Justice John Marshall authored the opinion of the Court.

The Supreme Court determined that Congress did have the power under the Constitution to create a national bank. Even though the Constitution does not explicitly include that power, there is also nothing in the Constitution that restricts Congress' powers to those specifically enumerated. The Necessary and Proper Clause gives Congress the authority to make "all laws which shall be necessary and proper" for exercising the powers that are specifically enumerated, and the establishment of a national bank is "necessary and proper" to exercising other enumerated powers.

The Court also ruled that Maryland could not tax the Bank of the United States. In their decision the justices declared that "the constitution and the laws made in pursuance thereof are supreme; that they control the constitution and laws of the respective states, and cannot be controlled by them." Allowing a state to tax a branch of the national bank created by Congress would allow that state to interfere with the exercise of Congress' constitutional powers. Thus because "states have no power, by taxation or otherwise, to retard, impede, burden or in any manner control" the operation of constitutional laws passed by Congress, Maryland could not be allowed to tax a branch of the national bank, even though that branch was operating within its borders.

Questions to Consider

1. Who did the Court rule in favor of? What was the split?

2. How did the Court use the "necessary and proper clause" to support their decision?

3. What additional decision did the Court make in regards to Maryland's ability to tax the Bank of the United States? What was their reasoning?

Impact

McCulloch v. Maryland was an important case because it clarified how the United States federal system would work. The decision explained that although certain powers were reserved for the state governments, the federal government is still strong and when laws are in conflict, federal law is supreme over state law. By reinforcing that Congress had implied powers that were not explicitly listed in the Constitution, McCulloch v. Maryland greatly increased the powers of Congress and, therefore, the federal government.

Questions to Consider

1. What was the long-term impact of the Court's decision in the McCulloch v. Maryland case?