

***McCulloch v. Maryland* / Summary of Decision**

In an opinion written by Chief Justice Marshall, the Supreme Court unanimously ruled in favor of McCulloch and against the state of Maryland. The Court addressed two questions: 1) whether Congress had the authority under the Constitution to commission a national bank, and 2) if so, whether Maryland had the authority to tax a branch of the national bank operating within its borders.

The justices first addressed the issue of whether the Constitution gave Congress the power to establish a national bank. They acknowledged that it was not within the enumerated powers of Congress (authority explicitly given to Congress in the Constitution) to establish a national bank. Chief Justice Marshall also noted that there is nothing in the Constitution restricting the powers of Congress to those specifically enumerated. Rather, only the “great outlines” of the powers of the three branches are specified. Instead of listing every power of Congress, the Constitution gives Congress the authority to make “all laws which shall be necessary and proper” for exercising the powers that are specifically enumerated. This means that Congress has the authority to pass any law that is “necessary and proper” to exercise its power as specified in the Constitution, even if the Constitution does not explicitly give Congress the authority to pass that specific law or to regulate that specific matter. This is the principle of unenumerated or implied powers. The justices noted that the Constitution expressly gives Congress the powers 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.” Because a national bank would be “necessary and proper” to allow Congress to exercise these enumerated powers, the Court concluded that the Constitution gave Congress the authority to establish one.

The second issue the Court considered is whether the state of Maryland had the authority to tax a branch of the national bank operating within its borders. The Court determined that it did not. 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.” In other words, if the U.S. Congress passed a law within its authority under the Constitution, a state legislature could not pass a law to interfere with that action. “The power to tax is the power to destroy,” they decided. 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. The law passed by the Maryland state legislature imposing a tax on the Bank of the United States “is unconstitutional and void.”