NAME ______________________ CLASS ____________ DATE ____________

Close Up on the Supreme Court Landmark Cases

McCulloch v. *Maryland*, 1819

Historical Background

Throughout the early years of the Republic, the power of the Federal Government had continued to grow. By the second decade of the 19th century, cases pitting advocates of States' rights against those arguing for the supremacy of the National Government came frequently before the Court.

By the late 1810s, financial stability had become an issue of major national concern. The Democratic-Republican Madison administration and the Republican Congress had not renewed the charter of the Bank of the United States when it expired in 1811. When the War of 1812 pressed the economy of the nation, many banks collapsed. Those banks that survived, chartered by the States, lacked sufficient credit to spur postwar industrial growth. In 1816, Congress granted a charter to the Second Bank of the United States and supplied one-fifth of its capital of $35 million. Many local bankers, politicians, and farmers detested the bank, which they viewed as a symbol of the power and privilege of national moneyed interests.

Circumstances of the Case

Among the States unhappy with the establishment of the Second Bank of the United States was Maryland. In those days, before the establishment of a single form of paper currency, local banks not only made loans but issued their own bank notes to serve as daily-use currency, instead of gold and silver coins. These banks enjoyed the lack of federal regulation and often pursued speculative policies. The Second Bank of the United States was authorized to regulate the issuance of currency by local banks, and followed a more cautious fiscal policy. Local banks thus looked to their State legislatures to restrict the Bank of the United States' operation.

The Maryland legislature responded to this action by levying a tax on all branches of banks "not chartered by the legislature"—a move aimed at destroying the Baltimore branch of the Bank of the United States. When called upon to pay the $15,000 annual tax, James McCulloch, cashier of the Baltimore branch, refused. McCulloch was convicted by a Maryland court and fined $2,500. He appealed the decision to the Maryland Court of Appeals, and, failing there, to the U.S. Supreme Court.

Constitutional Issues

The case centered on Article IV's National Supremacy Clause and the Necessary and Proper Clause, Article I, Section 8. Was the Bank of the United States a "necessary and proper" exercise of powers granted by the Constitution or was the bank unconstitutional? Did the National Supremacy Clause prohibit State taxes on federal activities or was the Maryland tax law constitutional? Was the Maryland tax on only federally chartered banks a discriminatory action, antagonistic to the federal system?

Arguments

For McCulloch: The creation of a national bank had been fully debated in Congress as a means for conducting the financial operations

Thousands of state-chartered banks, such as the Boylston Bank in Massachusetts, issued their own currency until Congress passed the National Bank Act in 1863, which led to the establishment of a uniform paper currency.

of the nation, and Congress had deemed its establishment "necessary and proper." Moreover, minute details of national operations cannot be specified in a document like the Constitution, which provides only a framework. As such, many legitimate powers of government are implied by, rather than stated, in the Constitution. The bank was a legitimate federal function with which no State may interfere. The Maryland tax on the national bank, therefore, was unconstitutional.

For Maryland: As a sovereign State, Maryland was vested by its people with all authority to regulate business and to tax institutions inside its borders. The regulation of banks was long accepted as a necessary means to prevent financial abuses. Since the Federal Government had created a number of statutes to regulate State banks, what should prevent Maryland from regulating federal banks? Furthermore, since no authority to charter a federal bank is included in the Constitution, the Bank of the United States was, the State argued, unconstitutional.

Decision and Rationale

Speaking for a unanimous (7–0) Court, Chief Justice Marshall rejected the Maryland argument. The decision centered on Maryland's claim that because the Constitution was ratified by State conventions, the States were sovereign. Marshall refuted this claim, saying that the Constitution was the instrument of the people, not the States. Therefore, the Court asserted the supremacy of the Federal Constitution over the States. The Court also emphasized the importance of national supremacy. Marshall stated that "…the Government of the Union, though limited in its powers, is supreme within its sphere of action…."

The Court also rejected Maryland's argument that the Constitution did not explicitly allow for a national bank. Marshall's argument rested on this simple point: "…we must never forget that it is a *constitution* we are expounding." In other words, the Constitution was meant to be an outline of basic ideas, easily understood by the general public, and open to interpretation. Marshall went on to argue that while the powers of government are limited, the "necessary and proper" clause was meant to enlarge the ability of Congress to carry out its enumerated powers. He wrote: "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…"

Turning to Maryland's action in imposing the tax, he observed that "…the power to tax involves the power to destroy…," and on that basis, the Court ruled that Maryland did not have the power to destroy a duly constituted institution of the Federal Government.

Questions for Discussion

1. Based on Marshall's use of the "necessary and proper clause" in this decision, what do the words "necessary" and "proper" mean in the context of the Constitution?
2. What was the most important result of Marshall's decision in *McCulloch* v. *Maryland*?