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Parties, court, & year: McCulloch v. Maryland, 17 U.S. 316, SCOTUS 1819

Procedural overview: The state of Maryland sues the manager of the Bank of the United States for failing to pay its annual state tax; the state of Maryland required any bank not chartered by the state to pay an annual tax. However, the case was really about the constitutional power to charter a bank—see facts below.

The trial courts found in favor of Maryland, and McCulloch appealed until he reached SCOTUS.

Summary of the facts: Congress had chartered the Bank of the United State to help the federal government raise money. There was discussion during the framing of the Constitution as to whether the federal government would have the power to charter canal corporations, ultimately that question was never reached. Regardless, two other banks were chartered by the federal government (and later dismantled) before the Bank of the United States was chartered. Several framers indicated to the president before he signed the charter that they believed it was constitutional to do so. Several states disagreed, and passed laws like the one in Maryland which fined banks that were not chartered by the state.

Relevant Constitutional language: There is no explicit authorization in the Constitution to charter a bank or any other kind of corporation, but both parties give the following a great deal of weight in their arguments:

10th amendment: "...powers "not delegated to the United States, nor prohibited to the states, are reserved to the states or to the people."

The necessary and proper clause: to make "all laws which shall be necessary and proper, for carrying into execution the foregoing powers [see below], and all other powers vested by this constitution, in the government of the United States, or in any department thereof."

Other relevant enumerated 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.

Summary of the Issue: Does Congress have the power to charter a bank, in spite of that specific power being left out of the constitution?

Holding: Under the necessary and proper clause, Congress is given the power to authorize a bank in order to facilitate the completion of its other jobs, such as laying and collecting taxes, and the others enumerated above.

Justification/rationale:

The court spends some time interpreting the necessary and proper clause to decide whether chartering banks is necessary for the function of congress's other jobs. They conclude that "necessary" doesn't imply absolute physical necessity, such that Congress can't function without it. Common interpretations of the word "frequently import no more than that one thing is convenient, or useful, or essential to another." A bank needn't be strictly necessary to Congress's functioning to be necessary. It certainly makes their job easier/more convenient.

They also argue that the “necessary” is flexible, as is the majority of the constitution, to be adapted “to the various crises of human affairs.” This is an area where they feel the definition of necessary is not to be as strictly applied as in areas that more directly affect human rights.

The consideration of “proper” is seen as a question of the legitimacy of the means and the ends: “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.” This law passes that test for the court

Evaluation, dissenting/concurring opinions: there are no separate opinions included in the book. This case (as note 2 says) is all about federalism. The court comes down on the side of giving the gov’t the power to do its job, rather than making it rely on the states for money. If the states had the sole power to create banks (which the federal government would presumably need to collect taxes, etc.) the federal government would have to rely on the states before it could pass any sort of funding bill. It is important to note that this case doesn’t affect the states’ powers to charter banks, it just takes away their ability to object to federal/national banks.