

McCulloch vs. Maryland

John Marshall was a prominent figure in the history of the United States as the man who helped shape the Supreme Court to the power it is today. His decisions strengthened the power of the federal government in period of growth for our new nation and established a greater purpose for the Supreme Court.

Born September 24, 1755 in Virginia, he went on to attend the college of William and Marry, which became his only formal education. Early in the revolutionary war, he served under the Third Virginia Continental Regiment, rising through the ranks to lieutenant and captain. After the war, he settled back in Virginia to become a lawyer. He became active in the Virginia House of delegates and also the leader of the Federalists party there, rivaling Thomas Jefferson. In 1797, Adams sent him to France with two others for negotiations, which erupted into the XYZ affair. He became known for his steadfastness in refusing to pay bribes. In 1799, he is elected into the House of Representatives and the following year, Adams appoints him as Secretary of State. Before Adams term is over in 1801, he appoints Marshall as one of the “midnight judges,” where Marshall becomes Chief Justice beginning his reign and contributions to the court.

One of Marshall’s major rulings came with *McCulloch vs. Maryland*. The basis of the case comes from when Maryland tries to tax a branch of the Bank of the United States in an attempt to drive them out. Specifically, Maryland forced a 15,000 annual tax on the bank notes. McCulloch, the cashier of the Baltimore branch, refused to pay the tax and Maryland filed suit against him. The Baltimore County Court convicted McCulloch and fined him 2500. McCulloch then appealed, but the Maryland Court of Appeals upheld the decision of the former court. Finally, he appealed to the Supreme Court and the case was brought before Marshall and the justices.

In the case, Marshall begins by using three reasons to support the notion that Congress is given power to establish the Bank of the United States. First, he states the supremacy of the government based on the social contract between the government and people. Secondly, he states, *“Among the enumerated powers, we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which, like the articles of confederation, excludes incidental or implied powers; and which requires that everything granted shall be expressly and minutely described”* and that *“Although, among the enumerated powers of government, we do not find the word "bank" or "incorporation," we find the great powers, to lay*

and collect taxes; to borrow money; to regulate commerce . . . But it may with great reason be contended, that a government, entrusted with such ample powers . . . must also be entrusted with ample means for their execution. The power being given, it is the interest of the nation to facilitate its execution . . .” He explains that Congress has to act under implied powers because it is impossible for them to list all the powers in the constitution. Though the constitution doesn’t specifically mention the bank, it does mention powers such as taxing and commerce, implying that Congress has the right to create a bank. In stating this, Marshall brings the use of implied powers into the Supreme Court, where it is used henceforth. Thirdly, he uses the necessary and proper clause directly from the Constitution stating *“To its enumeration of powers is added, that of making "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 thereof.” . . .*” To legitimize his argument with Constitutional backing, Marshall refers to the “necessary and proper clause, using it to state that the Bank of the United States is needed and therefore Congress has the prerogative to establish it.

After establishing the Bank Constitutional, he states, *“This was not intended by the American people. They did not design to make their government dependent on the states. . . .”* to implement the fact that the federal government has supremacy over states, and that the states shouldn’t be able to control government institutions, i.e. the national Bank. The verdict came out as *“The result is a conviction that the states have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control, the operations of the constitutional laws enacted by congress to carry into execution the powers vested in the general government. This is, we think, the unavoidable consequence of that supremacy which the constitution has declared. We are unanimously of opinion, that the law passed by the legislature of Maryland, imposing a tax on the Bank of the United States, is unconstitutional and void.”* Basically, he states that Maryland’s tax is unconstitutional and therefore is void because it cannot supercede federal powers. The vote was unanimously (7 votes) in favor of McCulloch.

As a federalists appointed before Adams left office, he continued to make federalist-minded decisions long after the party died out. Due to this, he made many decisions to strengthen the power of central government during his term, which has lasting influences on the type of government we live under. One of his most important decisions to the court is the concept of judicial review, boosting the power of the Supreme Court and giving it a greater purpose in the context of our government system. With *McCulloch v. Maryland*, his ruling emphasized two other principles. It supported the use of the elastic clause, giving way to a loose interpretation of the Constitution. It also reiterated federal supremacy over the states.

Even to this day, Marshall's decision can be seen in today's society. Whenever the courts have to make a decision that is not stated in the Constitution, it comes back to the original decision by John Marshall to interpret the Constitution loosely. In the case *Idaho v. Horiuchi*, the question of national supremacy was questioned, in whether or not federal officers have immunity against state criminal laws. In the end, it was decided that the decision is still left up to Congress – that it was their decision whether to prosecute or to pardon – showing that the federal government still holds greater power.

In my opinion, this case has a huge significance in the way our country has turned out. The fact that he uses the concept of implied powers in validating constitutionality of the Bank of the United States plays a huge part in future decisions. Now, the government is able to do things not specifically stated in the Constitution without hesitation if they deem it necessary. Also, once again, the firm establishment of national supremacy over states creates the strong centralized government that we are now running on. If not for these important early decisions by Marshall, our country may not be run in the same fashion as it is today.

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