Baker v. Carr (1962)

Argued: April 19–21, 1961
Re-argued: October 9, 1961
Decided: March 26, 1962

Background

In the U.S. each state is responsible for determining its legislative districts. For many decades states drew districts however they wanted. By the 1950s and 1960s, questions arose about whether the states' division of voting districts was fair. Many states had not changed their district lines in decades. During that time many people moved from rural areas to cities. As a result, a significant number of legislative districts became uneven—for example, a rural district with 500 people and an urban district with 5,000 people each would have only one representative in the state legislature. Some voters filed lawsuits to address the inequities, but federal courts deferred to state laws and would not hear these cases.

Federal courts did not hear these cases because they were thought to be "political" matters. Courts were reluctant to interfere when another branch of government (the executive or legislative) made a decision on an issue that was assigned to it by the Constitution. For example, if the president negotiated a treaty with another country (a power granted to the president by the Constitution), the courts would generally not decide a case questioning the legality of the treaty. The power of state legislatures to create voting districts was one of those "political questions" that the courts traditionally had avoided.

This is a case about whether federal courts could rule on the way states draw their state boundaries for the purpose of electing members of the state legislature.

Facts

In the late 1950s, Tennessee was still using boundaries between electoral districts that had been determined by the 1900 census. Each of Tennessee's 95 counties elected one member of the state's General Assembly. The problem with this plan was that the population of the state changed substantially between 1901 and 1950. The distribution of the population had changed too. Many more people lived in Memphis (and its district—Shelby County) in 1960 than had in 1900. But the entire county was still only represented by one person in the state legislature, while rural counties with far fewer people also each had one representative.

In fact, the state constitution required revising the legislative district lines every 10 years to account for changes in population. But state lawmakers ignored that requirement and refused to redraw the districts.

An eligible voter who lived in an urban area of Shelby County (Memphis), Charles Baker, believed that he and similar residents of more heavily populated legislative districts were being denied "equal

protection of the laws" under the 14th Amendment because their votes were "devalued." He argued that his vote, and those of voters in similar situations, would not count the same as those of voters residing in less populated, rural areas. He sued the state officials responsible for supervising elections in the U.S. District Court for the Middle District of Tennessee.

The state of Tennessee argued that courts could not provide a solution for this issue because this was a "political question" that federal courts could not decide. The state said that its political process should be allowed to function independently. The District Court dismissed Baker's complaint on the grounds that it lacked authority to decide the case. Baker appealed that decision up to the U.S. Supreme Court, which agreed to hear his case.

Issue

Do federal courts have the power to decide cases about the apportionment of population into state legislative districts?

Relevant Constitutional Clauses

- **Article III, section 2 of the U.S. Constitution**

  "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority. . . ."

- **14th Amendment to the U.S. Constitution**

  No State shall…deny to any person within its jurisdiction the equal protection of the laws."

Decision

In a 6–2 decision, the U.S. Supreme Court decided in favor of Baker. The Supreme Court decided that the lower court's decision that courts could not hear this case was incorrect. In a dramatic break with tradition and practice, the majority concluded that federal courts have the authority to enforce the requirement of equal protection of the law against state officials— including, ultimately, the state legislature itself—if the legislative districts that the state creates are so disproportionally weighted as to deny the residents of the overpopulated districts equivalent treatment with underpopulated districts. The majority concluded that there is no inherent reason why courts cannot determine whether state districts are irrationally drawn in ways that result in substantially differing populations. Even though politics may enter into the drawing of districts, the constitutional guarantee of equal protection is judicially enforceable. A challenge to the differing populations of legislative districts does not present a "political question" that courts are unable to decide.

The Court did not decide whether Tennessee's districts actually were unconstitutional, however. Instead, the justices instructed the District Court to allow a hearing on the merits of Baker's claim that the state's legislative districts violated his 14th Amendment rights. That course established a

precedent that dozens of federal courts later followed in allowing disgruntled residents to try to prove that legislative districts are unconstitutionally unbalanced.

Brown v. Board of Education of Topeka (1954)

Argued: December 9–11, 1952
Reargued: December 7–9, 1953
Decided: May 17, 1954

Background

The 14th Amendment to the U.S. Constitution was adopted in the wake of the Civil War and says that states must give people equal protection of the laws. It also empowered Congress to pass laws to enforce the provisions of the Amendment. Although Congress attempted to outlaw racial segregation in places like hotels and theaters with the Civil Rights Act of 1875, the Supreme Court ruled that law was unconstitutional because it regulated private conduct. A few years later, the Supreme Court affirmed the legality of segregation in public facilities in their 1896 decision in *Plessy v. Ferguson*. There, the justices said that as long as segregated facilities were qualitatively equal, segregation did not violate the U.S. Constitution. This concept was known as "separate but equal" and provided the legal foundation for Jim Crow segregation. In *Plessy*, the Supreme Court said that segregation was a matter of social equality, not legal equality, and therefore the justice system could not interfere. In that 1896 case the Court stated, "If one race be inferior to the other socially, the constitution of the United States cannot put them on the same plane."

By the 1950s, many public facilities had been segregated by race for decades, including many schools across the country. This case is about whether such racial segregation violates the Equal Protection Clause of the 14th Amendment.

Facts

In the early 1950s, Linda Brown was a young African-American student in Topeka, Kansas. Every day she and her sister, Terry Lynn, had to walk through the Rock Island Railroad Switchyard to get to the bus stop for the ride to the all-black Monroe School. Linda Brown tried to gain admission to the Sumner School, which was closer to her house, but her application was denied by the Board of Education of Topeka because of her race. The Sumner School was for white children only.

At the time of the Brown case, a Kansas statute permitted, but did not require, cities of more than 15,000 people to maintain separate school facilities for black and white students. On that basis, the Board of Education of Topeka elected to establish segregated elementary schools.

The Browns felt that the decision of the Board violated the Constitution. They and a group of parents of students denied permission to white-only schools sued the Board of Education of Topeka, alleging that the segregated school system deprived Linda Brown of the equal protection of the laws required under the 14th Amendment.

The federal district court decided that segregation in public education had a detrimental effect upon black children, but the court denied that there was any violation of Brown's rights because of the

"separate but equal" doctrine established in *Plessy*. The court said that the schools were substantially equal with respect to buildings, transportation, curricula, and educational qualifications of teachers. The Browns asked the U.S. Supreme Court to review that decision, and the Supreme Court agreed to do so. The Court combined the Browns' case with similar cases from South Carolina, Virginia, and Delaware.

Issue

Does segregation of public schools by race violate the Equal Protection Clause of the 14th Amendment?

Relevant Constitutional Clauses

- **14th Amendment to the U.S. Constitution**

  "No State shall…deny to any person within its jurisdiction the equal protection of the laws."

Decision

The Supreme Court ruled for Linda Brown and the other students, and the decision was unanimous. Chief Justice Earl Warren delivered the opinion of the Court, ruling that segregation in public schools violates the 14th Amendment's Equal Protection Clause.

The Court noted that public education was central to American life. Calling it "the very foundation of good citizenship," they acknowledged that public education was not only necessary to prepare children for their future professions and to enable them to actively participate in the democratic process, but that it was also "a principal instrument in awakening the child to cultural values" present in their communities. The justices found it very unlikely that a child would be able to succeed in life without a good education. Access to such an education was thus "a right which must be made available to all on equal terms."

The justices then compared the facilities that the Board of Education of Topeka provided for the education of African-American children against those provided for white children. Ruling that they were substantially equal in "tangible factors" that could be measured easily, (such as "buildings, curricula, and qualifications and salaries of teachers"), they concluded that the Court must instead examine the more subtle, intangible effect of segregation on the system of public education. The justices then said that separating children solely on the basis of race created a feeling of inferiority in the "hearts and minds" of African-American children. Segregating children in public education created and perpetuated the idea that African-American children held a lower status in the community than white children, even if their separate educational facilities were substantially equal in "tangible" factors. This deprived black children of some of the benefits they would receive in an integrated school. The opinion said, "We conclude that in the field of public education the doctrine of 'separate but equal' has no place." Separate educational facilities are inherently unequal. This ruling was a clear departure from the reasoning in *Plessy v. Ferguson*, and in many ways it echoed aspects of Justice Harlan's dissent in that earlier case.

One year later, the Court addressed the implementation of its decision in a case known as *Brown v. Board of Education II*. Chief Justice Warren once again wrote an opinion for the unanimous court. The Court acknowledged that desegregating public schools would take place in various ways, depending on the unique problems faced by individual school districts. After charging local school authorities with the responsibility for solving these problems, the Court instructed federal trial courts to oversee the process and determine whether local authorities were desegregating schools in good faith, mandating that desegregation take place with "with all deliberate speed."

That language proved unfortunate, as it gave the Southern States in particular an incentive to delay compliance with the Court's mandate. This led to further litigation, culminating in the Court's declaration in *Griffin v. County School Board of Prince Edward County* (1964) that "[t]he time for mere 'deliberate speed' has run out, and that phrase can no longer justify denying . . . school children their constitutional rights."

Citizens United v. FEC (2010)

Argued: March 24, 2009
Reargued: September 9, 2009
Decided: January 21, 2010

Background

Each election cycle billions of dollars are spent on congressional and presidential campaigns, both by candidates and by outside groups who favor or oppose certain candidates. Americans disagree about the extent to which fundraising and spending on election campaigns should be limited by law. Some believe that unlimited fundraising and spending can have a corrupting influence—that politicians will "owe" the big donors who help them get elected. They also say that limits on fundraising and spending help make elections fair for those who don't have a lot of money. Others believe that more spending on election campaigns supports broader debate and allows more people to learn about and discuss political issues. Those supporting more spending say that giving and spending money on elections is a basic form of political speech protected by the First Amendment.

Over the past 100 years, Congress has attempted to set some limits on campaign fundraising in order to reduce corruption or anything that can be perceived as corruption.

The Supreme Court has decided that both donating and spending money on elections is a form of speech. For candidates, the money pays for ways to share his or her views with the electorate—through advertisements, mail and email, and travel to give speeches. For donors, giving money to a candidate is a way to express political views. Therefore, any law that limits donating or spending money on elections limits free speech, and the government must have a very good reason for making such laws.

The Supreme Court has ruled that laws that restrict how much candidates can spend on a campaign are unconstitutional, since candidates spend money to get their message out, which is a very important form of political speech. However, the Court has said that laws that restrict how much individuals and groups can donate directly to candidates are allowed, because that spending is slightly removed from core political speech, and such laws can prevent corruption. In 2018, the maximum amount an individual could give directly to a federal candidate was $2,700.

This case, however, is not about direct donations to candidates. Instead, this case is about how and when companies and other organizations can spend their own money to advocate the election or defeat of a candidate.

Facts

One of the federal laws that regulates how election money can be raised and spent is the Bipartisan Campaign Reform Act (BCRA), also known as the McCain-Feingold Act. Passed in 2002, one part of this law dealt with how corporations and unions could spend money to advocate the election or

defeat of a candidate. The law said that corporations and unions could not spend their own money on campaigns. Instead, they could set up political action committees (PACs). Employees or members could donate to the PACs, which could then donate directly to candidates or spend money to support candidates. The law prohibited corporations and unions from directly paying for advertisements that supported or denounced a specific candidate within 30 days of a primary election or 60 days of a general election. It is this part of the BCRA that is at issue in *Citizens United v. Federal Election Commission.*

In 2008, Citizens United, a non-profit organization funded partially by corporate donations, produced *Hillary: The Movie*, a film created to persuade voters not to vote for Hillary Clinton as the 2008 Democratic presidential nominee. Citizens United wanted to make the movie available to cable subscribers through video-on-demand services and wanted to broadcast TV advertisements for the movie in advance. The Federal Election Commission said that *Hillary: The Movie* was intended to influence voters, and, therefore, the BCRA applied. That meant that the organization was not allowed to advertise the film or pay to air it within 30 days of a primary election. Citizens United sued the FEC in federal court, asking to be allowed to show the film. The district court heard the case and decided that even though it was a full length movie and not a traditional television ad, the film was definitely an appeal to vote against Hillary Clinton. This meant that the bans in the BCRA applied: corporations and organizations could not pay to air this sort of direct appeal to voters so close to an election.

Because of a special provision in the BCRA, Citizens United was allowed to appeal the decision directly to the U.S. Supreme Court, which the organization did. Citizens United asked the Court to decide whether a feature-length film really fell under the rules of the BCRA and whether the law violated the organization's First Amendment rights to engage in political speech. The Supreme Court agreed to hear the case and heard oral argument in March 2009. Two months later the Supreme Court asked both parties to submit additional written responses to a further question: whether the Court should overrule its prior decisions about the constitutionality of the BCRA. The Court scheduled a second oral argument session for September 2009.

Issue

Does a law that limits the ability of corporations and labor unions to spend their own money to advocate the election or defeat of a candidate violate the First Amendment's guarantee of free speech?

Relevant Laws

- **First Amendment** "Congress shall make no law . . . abridging the freedom of speech"
- **The Bipartisan Campaign Reform Act (BRCA) of 2002 (Also known as the McCain-Feingold Act)**

Among other things, this federal law banned any corporation (for-profit or non-profit) or union from paying for "electioneering communications." It defined an "electioneering communication" as a broadcast, cable, or satellite communication that named a federal candidate within 60 days of a general election or 30 days of a primary.

In 2003, in a case called *McConnell v. FEC,* the Supreme Court said that the portion of the BCRA about electioneering communications was constitutional.

Decision

The Court ruled, 5–4, that the First Amendment prohibits limits on corporate funding of independent broadcasts in candidate elections. The Court reversed two earlier decisions that held that political speech by corporations may be limited (*Austin v. Michigan Chamber of Commerce* and portions of *McConnell v. FEC*). The justices said that the government's rationale for the limits on corporate spending—to prevent corruption—was not persuasive enough to restrict political speech. A desire to prevent corruption can justify limits on donations to candidates, but not on independent expenditures (spending that is not coordinated with a candidate's campaign) to support or oppose candidates for elected office. Moreover, the Court said, corporations have free speech rights and their political speech cannot be restricted any more than that of individuals. Justice Kennedy, writing for the majority, said that political speech is "indispensable to a democracy, which is no less true because the speech comes from a corporation." The majority did not strike down parts of the BCRA that require that televised electioneering communications include disclosures about who is responsible for the ad and whether it was authorized by the candidate.

Engel v. Vitale (1962)

Argued: April 3, 1962
Decided: June 25, 1962

Background

The First Amendment to the Constitution protects the right to religious worship yet also shields Americans from the establishment of state-sponsored religion. Courts are often asked to decide tough cases about the convergence of those two elements—the Free Exercise and Establishment Clauses of the First Amendment.

The United States has a long history of infusing religion into its political practices. For instance, "In God We Trust" is printed on currency. Congress opens each session with a prayer. Before testifying in court, citizens typically pledge an oath to God that they will tell the truth. Traditionally, presidents are sworn in by placing their hand on a bible. Congress employs a chaplain, and Supreme Court sessions are opened with the invocation "God save the United States and this Honorable Court." Public schools are a bedrock of institution in U.S. democracy, where the teaching of citizenship, rights, and freedoms are common. This is a case about whether public schools may also play a role in teaching faith to God through the daily recitation of prayer.

Facts

Each day, after the bell opened the school day, students in New York classrooms would salute the U.S. flag. After the salute, students and teachers voluntarily recited this school-provided prayer, which had been drafted by the state education agency, the New York Regents: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country." The prayer was said aloud in the presence of a teacher, who either led the recitation or selected a student to do so. Students were not required to say this prayer out loud; they could choose to remain silent. Two Jewish families (including Stephen Engel), a member of the American Ethical Union, a Unitarian, and a non-religious person sued the local school board, which required public schools in the district to have the prayer recited. The plaintiffs argued that reciting the daily prayer at the opening of the school day in a public school violated the First Amendment's Establishment Clause. After the New York courts upheld the prayer, the objecting families asked the U.S. Supreme Court to review the case, and the Court agreed to hear it.

Issue

Does the recitation of a prayer in public schools violate the Establishment Clause of the First Amendment?

Relevant Constitutional Clauses

– **First Amendment to the U.S. Constitution**

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof…;"

Decision

The Supreme Court ruled, 6–1, in favor of the objecting parents. The Court ruled that the school-sponsored prayer was unconstitutional because it violated the Establishment Clause. The prayer was a religious activity composed by government officials (school administrators) and used as a part of a government program (school instruction) to advance religious beliefs. The Court rejected the claim that the prayer was nondenominational and voluntary. The Court's opinion provided an example from history: "…this very practice of establishing governmentally composed prayers for religious services was one of the reasons which caused many of our early colonists to leave England and seek religious freedom in America." The Court also explained that, while the most obvious effect of the Establishment Clause was to prevent the government from setting up a particular religious sect of church as the "official" church, its underlying objective is broader:

> "Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion. The history of governmentally established religion, both in England and in this country, showed that whenever government had allied itself with one particular form of religion, the inevitable result had been that it had incurred the hatred, disrespect and even contempt of those who held contrary beliefs. That same history showed that many people had lost their respect for any religion that had relied upon the support of government to spread its faith."

The Court also said that preventing the government from sponsoring prayer does not indicate hostility toward religion.

Gideon v. Wainwright (1963)

Argued: January 15, 1963
Decided: March 16, 1963

Background

The Sixth Amendment to the U.S. Constitution protects the rights of people accused of crimes. Among these protections is the right to have the assistance of a lawyer for one's defense. That means that the government cannot prevent someone from consulting with a lawyer and having a lawyer represent them in court. However, not everyone who has been accused of a crime can afford to hire a lawyer. In 1938, the Supreme Court ruled that, in federal criminal courts, the government must pay for a lawyer for defendants who cannot afford one themselves. *Gideon v. Wainwright* is a case about whether or not that right must also be extended to defendants charged with crimes in state courts.

The 14th Amendment says that states shall not "deprive any person of life, liberty, or property, without due process of law." The Supreme Court has ruled that some of the constitutional rights that, at first, only protected people from infringement by the federal government, are so fundamental to our concept of liberty (protected by the 14th Amendment) that they must also apply to state governments. In 1963, the Supreme Court had to decide whether, in criminal cases, the right to counsel paid for by the government was one of those fundamental rights.

Facts

In 1961, a burglary occurred at the Bay Harbor Pool Room in Panama City, Florida. Police arrested Clarence Earl Gideon after he was found nearby with a pint of wine and some change in his pockets. Gideon, who could not afford a lawyer, asked the Florida court to appoint one for him, arguing that the Sixth Amendment entitles everyone to a lawyer. The judge denied his request. Florida state law required appointment of counsel for indigent defendants only in capital (death penalty) cases. Gideon defended himself at trial and did not do well. He was found guilty of breaking and entering and petty larceny, a felony under Florida law. While serving his five-year sentence in a Florida state prison, Gideon began studying law. His study reaffirmed his belief that his rights were violated when the Florida Circuit Court refused his request for appointed counsel. Gideon filed a *habeas corpus* petition, arguing that he was improperly imprisoned because he had been refused the right to counsel during his trial, thus violating his constitutional rights guaranteed by the Sixth Amendment. The Florida Supreme Court ruled against him. From his prison cell, Gideon wrote a petition to the U.S. Supreme Court, asking the Court to hear his case. The Supreme Court agreed to hear Gideon's case.

Issue

Does the Sixth Amendment's right to counsel in criminal cases extend to defendants in state courts, even in cases in which the death penalty is not at issue?

Relevant Constitutional Clauses

- **U.S. Constitution, Amendment VI**

  "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense."

- **U.S. Constitution, Amendment XIV**

  "…nor shall any State deprive any person of life, liberty, or property, without due process of law…."

Decision

The Supreme Court ruled unanimously for Gideon. The Supreme Court overturned part of *Betts v. Brady,* in which it had concluded that the Sixth Amendment's guarantee of counsel is not a fundamental right. Instead, the Court in *Gideon* said that the right to the assistance of counsel in felony criminal cases is a fundamental right essential to a fair trial. Therefore, this protection from the Sixth Amendment applied to state courts as well as federal courts. State courts must appoint counsel to represent defendants who cannot afford to pay for their own lawyers if charged with a felony.

The Court said that the best proof that the right to counsel is fundamental and essential is that governments spend a lot of money to try to convict defendants and those defendants who can afford to almost always hire the best lawyer they can get. This indicates that both the government and defendants consider the aid of a lawyer in criminal cases absolutely necessary. In addition, the opinion noted that the Constitution places great emphasis on procedural safeguards designed to guarantee that defendants get fair trials.

NOTE: The decision in *Gideon* did not have any legal impact in terms of providing free legal counsel for the poor in civil cases. In fact the decision only applied to criminal defendants charged with felonies. In 1972, the Court decided the case of *Argersinger v. Hamlin,* which extended the *Gideon* rule so that indigent misdemeanants could not be imprisoned unless they had received free legal counsel.

Marbury v. Madison (1803)

Argued: There was no oral argument at the appeals stage in this case.
Decided: February 24, 1803

Background

Article III of the U.S. Constitution, which provides the framework for the judicial branch of government, is relatively brief and broad. It gives the Supreme Court the authority to hear two types of cases: original cases and appeals. "Original jurisdiction" cases start at the Supreme Court—it is the first court to hear the case. "Appellate jurisdiction" cases are first argued and decided by lower courts and then appealed to the Supreme Court, which can review the decision and affirm or reverse it.

In order to build the court system and clarify the role of the courts, Congress passed the Judiciary Act of 1789. This law authorized the Supreme Court to "issue writs of *mandamus* … to persons holding office under the authority of the United States." A writ of *mandamus* is a command by a superior court to a public official or lower court to perform a special duty. These are common in court systems.

In 1801, at the end of President John Adams' time in office, he appointed many judges from his own political party before the opposing party took office. It was the responsibility of the secretary of state, John Marshall, to finish the paperwork and give it to each of the newly appointed judges—this was called "delivering the commissions." Although Marshall signed and sealed all of the commissions, he failed to deliver 17 of them to the respective appointees. Marshall assumed that his successor would finish the job. However, when Thomas Jefferson became president, he told his new secretary of state, James Madison, not to deliver some of the commissions because he did not want members of the opposing political party to assume these judicial positions. Those individuals couldn't take office until they actually had their commissions in hand.

Facts

William Marbury, who had been appointed a justice of the peace of the District of Columbia, was one of the appointees who did not receive his commission. Marbury sued James Madison and asked the Supreme Court to issue a writ of *mandamus* requiring Madison to deliver the commission.

The politics involved in this dispute were complicated. The new chief justice of the United States, who was being asked to decide this case, was John Marshall, the Federalist secretary of state, who had failed to deliver the commission. President Jefferson and Secretary of State Madison were Democratic-Republicans who were attempting to prevent the Federalist appointees from taking office. If Chief Justice Marshall and the Supreme Court ordered Madison to deliver the commission, it was likely that he and Jefferson would refuse to do so, which would make the Court look weak. However, if they didn't require the commission delivered, it could look like they were backing down

out of fear. Chief Justice Marshall instead framed the case as a question about whether the Supreme Court even had the power to order the writ of *mandamus*.

Issues

Does Marbury have a right to his commission, and can he sue the federal government for it? Does the Supreme Court have the authority to order the delivery of the commission?

Relevant Constitutional Clauses

- **Article III, Section 2, Clause 2 of the U.S. Constitution**

  "In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make."

Decision

The decision in *Marbury v. Madison* ended up being much more significant than the resolution of the dispute between Marbury and the new administration. The Supreme Court, in this decision, established a key power of the Supreme Court that continues to shape the institution today.

The Court unanimously decided not to require Madison to deliver the commission to Marbury. In the opinion, written by Chief Justice Marshall, the Court ruled that Marbury was entitled to his commission, but that according to the Constitution, the Court did not have the authority to require Madison to deliver the commission to Marbury in this case. They said that the Judiciary Act of 1789 conflicted with the Constitution because it gave the Supreme Court more authority than it was given in Article III. The Judiciary Act of 1789 authorized the Supreme Court to "issue writs of *mandamus* … to persons holding office under the authority of the United States" as a matter of its original jurisdiction. However, Article III, section 2, clause 2 of the Constitution, as the Court read it, authorizes the Supreme Court to exercise original jurisdiction only in cases involving "ambassadors, other public ministers and consuls, and those [cases] in which a state shall be a party. In all other cases, the Supreme Court shall have appellate jurisdiction." The dispute between Marbury and Madison did not involve ambassadors, public ministers, consuls, or states. Therefore, according to the Constitution, the Supreme Court did not have the authority to exercise its original jurisdiction in this case. Thus the Judiciary Act of 1789 and the Constitution were in conflict with each other.

Declaring the Constitution "superior, paramount law," the Supreme Court ruled that when ordinary laws conflict with the Constitution, they must be struck down. Furthermore, the Court said, it is the job of judges, including the justices of the Supreme Court, to interpret laws and determine when they conflict with the Constitution. According to the Court, the Constitution gives the judicial branch the power to strike down laws passed by Congress (the legislative branch) and actions of the president and his executive branch officials and departments. This is the principle of judicial review.

The opinion said that it is "emphatically the province and duty of the judicial department to say what the law is."

This decision established the judicial branch as an equal partner with the executive and legislative branches within the government, with the power to rule actions of the other branches unconstitutional. The ruling said that the Constitution is the supreme law of the land and established the Supreme Court as the final authority for interpreting it.

McCulloch v. Maryland (1819)

Argued: February 22–26, 1819
Reargued: March 1–3, 1819
Decided: March 6, 1819

Background

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 individuals 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 U.S. 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.

Facts

Maryland attempted to close the Baltimore branch of the national bank by passing a law that forced all banks chartered outside of the state to pay a yearly tax (the Second Bank was the only such bank in the state). James McCulloch[1], the chief administrative officer of the Baltimore branch, refused to

pay the tax. The state of Maryland sued McCulloch, saying that Maryland had the power to tax any business in its state and that the Constitution does not give Congress the power to create a national bank. McCulloch was convicted, but he appealed the decision to the Maryland Court of Appeals. His attorneys argued that the establishment of a national bank was a "necessary and proper" function of Congress, one of many implied, but not explicitly stated, powers in the Constitution.

The Maryland Court of Appeals ruled in favor of Maryland, and McCulloch appealed again. The case was heard by the Supreme Court of the United States.

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?

Relevant Constitutional Clauses

- **U.S. Constitution, Article I, Section 8, Clause 18 (Necessary and Proper Clause)**

  "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."

- **U.S. Constitution, Article VI, Clause 2 (Supremacy Clause)**

  "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."

- **U.S. Constitution, Amendment X**

  "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."

Decision

The decision was unanimous in favor of McCulloch and the federal government. 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's powers to those specifically enumerated. The Necessary

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[1] In the Supreme Court's opinion for this case, James McCulloch's surname was spelled M'Culloch.

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's 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.

