In the Supreme Court of the United States.
McCulloh, Writoterrorfrom McCulloh, Writolerrorfrom the Court of Ap-

(Concluded.) That the power of taxing it by the States may be exercised so as to destroy it, is too obvious to be denied. But taxation is said to be an absolute power which acknowledges no other limits than those expressly prescribed in the constitution, and like sovereign power of every other description, is trusted to the discretion of those who use it. But the very terms of this argument admit that the sovereignty of the state in the article of taxation itself, is subord nate to, and may be controlled by, the constitution of the U. States. How far it has been controled by that instrument must be a suestion of construction. In mak ing this construction, no principle not declared, can be admissible. which would defeat the legitimate operations of a supreme government. It is of the very essence of supremacy to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its own operations from their own influence. This effect need not be stated in terms. It is so involved in the declaration of supremacy, so necessarily implied in it, that the expression of it could not make it more certain. We must, therefore, keep it in view while construing the co. stitution.

The argument on the part of the State of Maryland is not that the states may directly resist a law of Congress, but that they may exercise their acknowledged nowers upon it. & that the constitution leads them this right in the confidence that they will not abuse it.

Before we proceed to examine this argument, and to subject it to the test of the constitution, we must be permitted to bestow a few considerations on the nature and extent of this original right of taxation, waich is acknowledged to remain with the states. It is admitted that the power of taxing the people and their property is essential to the existence of government, & may be legitimately exercised on the objects to which it is applicable, to the utmost extent to which the government may chuse to carry it. The only security against the abuse of this power, is found in the structure of the government itself. In imposing a tax the legislature acts upon itself and upon its constituents. This is in general a sufficient security against erroneous and oppressive taxation.

The people of a state, therefore, give to their government a right of taxing themselves and their properry, and as the exigencies of government cannot be limited, they prescribe no limits to the exercise of this right, resting confidently on the interest of the regislator, and on the influence of the constituents over their representative, to guard them against its abuse. But the means employed by the government of the union have no such security. nor is the right of a state to tax them sustained by the same theory. Those means are not given by the people of a particular state, not given by the constituents of the legis lature which claim the right to tax them, but by the people of all the and most valuable interests? In the states. They are given by all, for the benefit of all-and upon theory, should be subjected to that government only which belongs to all.

It may be objected to this definition that the power of taxation is not confined to the people and property of a state. It may be exercised upon every object brought within its jurisdiction.

This is true. But to what source do we trace this right? It is obvious that it is an incident of sovereignty, and is co-extensive with that to which it is an incident. All subjects over which the sovereign power of a state extends are objects of taxation; but those over which it does not extend, are upon the soundest principles, exempt from taxation. This proposition may almost be pronounced self-evident.

The sovereignty of a state extends to every thing which exists by its own authority, or is introduced by its permission, but does it extind to those means which are employed by Congress to carry into execution powers conferred on that body by th people of the United States? We think it demonstrable that it does not. Those powers are not given by the people of a single state. They ar given by the people of the

laws made in pursuance of the constitution are declared to be supreme -consequently, the people of a single state cannot confer a sovereignty which will extend over them.

If we measure the power of taxation residing in a state, by the ex tent of sovereignty which the people of a single state possess, & can confer on its government, we have an intelligent standard applicable to every case to which the power may he applied. We have a principle which leaves the power of taxing the people and property of a state unimpaired, which leaves to a state the command of all its resources; and which places beyond its reach. all those powers which are conferred by the people of the U. States on the government of the Union, and all those means which are given for the purpose of carrying those powers into execution. We have a principle which is safe for the states. and safe for the Union. We are relieved, as we ought to be, from clashing sovereignty, from interfering powers: from a repugnancy between a right in one government to pul down, what there is an acknowledged right in another to build up; from the incompatibility of a right in one government to Jestroy what there is a right in another to preserve. We are not driven to the perplexing enquiry, so unfit for the junicial department, what degree of taxation is the legitimate use, and what degree may amount to the abuse of the The attempt to use it on the means employed by the governments of the Union, in pursuance of the Constitution, is itself an abuse, because, it is the usurpation of a power which the people of a single state cannot give.

We find then, on just theory, a total failure of this original right to tax the means employed by the government of the Union for the execution of its powers. The right never existed, and the question whether it has been surrendered, cannot

But waying this theory for the present; let us resume the enquiry whether this power can be exercisd by the respective states, consistently with a fair construction of the constitution?

That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another which other, with respect to those very measures, is declared to be supreme over that which exerts the control, are propositions not to be denied. But all inconsistencies are to be reconciled by the magic word confidence. Taxation, it is said, does not necessarily and unavoidably destroy. To carry it to the excess of destruct on, would be an abuse, to presume which would banish that confidence which is essential to all government. But is this a case of confidence? Would the people of any one state trust those of another with a pow er to control the most insignificant operations of their state govern ment? We know they would not. Why then should we suppose that the people of any one state should be willing to trust those of another with a power to control the operations of a government to which they have confided their most important legislature of the Union alone, are all represented. The legislature of the Union alone, ther fore, can be trusted by the people with the power of controling measures which concern all, in the confidence that it will not be abused. This then, is not a case of confidence, and we

must consider it as it really is. If we apply the principle for which the state of Maryland contends, to the constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the government, and of prostrating it at the foot of the states. The American people have declared their Constitution, & the laws made in pursuance thereof, to be supreme; but this principle would transfer the supremacy in fact to the states.

If the states may tax one instrument employed by the government in the execution of its powers, they may tax any and every other instru ment. They may tax the mail, they may tax the mint, they may tax pa tent rights, they may tax the papers of the custom house, they may tax judicial process, they may tax alhe means employed by the govern ment, to an excess which would de United States to a government whose | feat all the ends of government.

This was not intended by the Ame- ral and state governments is acto make their government dependent on the states.

Gentlemen says they do not claim the right to extend state taxations to these objects. They limit their pretensions to property. But on what principle is this distinction Those who make it have furnished no reason for it, and the principle for which they contend denies it. They contend that the power of taxation has no other limit than is found in the 10th section of the 1st article of the constitution; that, with respect to every thing else, the power of the state is supreme, and a mits of no control. It this be true, the distinction between property and other subjects to which the power of taxation is applicable, is merely arbitrary, and can never be sustained. This is not all. If the controling power of the states be established, if their supremacy as to taxation be acknowledged. what is to restrain their exercising this control in any shape they may please to give it? Their sovereigntv is not confined to taxation. That is not the only mode in which it might be displayed. The question is, in truth, a question of supremary; and if the right of the states to tax the means employed by the general government be conceded, the declaration that the constitution, and the laws made in pursuance thereof, shall be the supreme law of the land, is empty and unmeaning declamation.

In the course of the argument. the Federalist has been quoted; and the opinions expressed by the authors of that work have been justiy supposed to be entitled to great res pect in expounding the constitution. No tribute can be paid to their worth which exceeds their merit; but in applying their opinions to the cases which may arise in the progress of our government, a right to judge of their correctness must be retained: and to understand the argument, we must examine the proposition it maintains and the objections against which it is directed. The subject of those numbers, from which passages have been cited, is the unli mited power of taxation which is vested in the general government.

The objection to this unlimited power, which the argument seeks to remove, is stated with fulness & clearness. It is, "that an indefiinite power of taxation in the latter '(the government of the Union,) might, and probably would, in time, deprive the former (the government of the states) of the means of prowiding for their own necessities; & would subject them entirely to the smercy of the national legislature. ·As the laws of the Union are to shecome the supreme laws of the ·land; as it is to nave power to pass 'all aws that may be necessary for carrying into execution the authorities with which it is proposed to evest it; the national government emight at any time abolish the taxes simposed for state objects, upon the *pretence of an interference with its own. It might allege a necessity for doing this, in order to give refficary to the national revenues; and thus, all the resources of taxa scion might by degrees, become the subjects of federal monopoly, to the tentire exclusion and destruction of 'the state governments."

The objections to the constitution on which are noticed in these num bers were to the undefined power of the government to tax, not to the incidental privilege of exempt ing its own measures from state tex ation. The consequences apprehended from this undefined power, were, that it would absorb all the objects of taxation, "to the exclusion and destruction of the state governments." The arguments of the Federalist are intended to prove the fallacy of these apprehensions; not to prove that the government was incapable of executing any of its powers, without exposing the means it employed to the embarrassments of state taxation.

Arguments urged against these objections, and these apprehensions are to be understood as relating to the points they mean to prove. Had the authors of those excellent essays been asked, whether they con tended for that construction of the constitution, which would place within the reach of the states those measures which the government might adopt for the execution of its powers; noman, who has read their instructive pages, will 'hesitate to admit, that their answer must have been in the negative.

It has also been insisted that, as the power of taxation in the gene- ourselves from the carriage. At

argument which would sustain the right of the general government to tax banks chartered by states, will equally sustain the right of the states to tax banks chartered by the general government.

But the two cases are not on the same reason. The people of all the states have created the general go; vernment; and have conferred upon it the general power of taxation. The people of all the states, and the states themselves, are represented in Congress, and by their represenratives exercise this power. When they tax the chartered institutions of the states, they tax their constituents; and these taxes must be uniform. But, when a state taxes the operations of the government of the United States, it acts upon institutions created, not by their own constituents, but by people, over whom they claim no control. It acts upon the measures of a government created by others, as well as themselves, for the benefit of others in common with themselves. The difference is that which always exists, and always must exist, between the action of the whole or a part, and the action of a part and the whole-between the laws of a government declared to be supreme, and those of a government which, when in opposition to those laws, is not supreme.

. Bu if the full application of this argument could be admitted, it might bring into question the right of Congress to tax the state banks. & could not prove the right of the states to tax the Bank of the United States.

The court has bestowed on this subject its most deliberate consideration. The result is conviction that the states have no power, by taxation, or otherwise, to retard, imp de, 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 guvernment. 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 unconstitutio al and void.

This opinion does not deprive the states of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank, in common with the other real property within the state, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the state. But this is a tax on the operation of the bank, and is consequently a tax on the op rations of an instrument employed by the government of the Union, to carry its powers into execution. Such a tax must be unconstitutional.

The judgment of the court of appeals of the state of Maryland, is therefore erroneous, and must be reversed; and a mandate be issued to that court, directing a judgment to be entered for the plaintiff in error.

From the Telegraph. opy of a letter from the attorney general of Maryland, to a friend in this city, dated

Annapolis, March 18.

In compliance, my dear sir. with your request, I give you the following derail of the unfortunate events of yesterday, in which I was not a little interested, and which I shall long remember.

I had only returned home last Sunday, from my attendance on the supreme court of the United States. when my business obliged me on Wednesday to betake myself to Annapolis. I took my seat in the stage at half past six in the morning. My only companion was the hon. Mr. Maxey, who was returning to his family.

We had left the turnpike, & were proceeding on the road towards Grags' Ferry. I was busily engaged in reading the mornings paper, when I heard Mr. Maxcy cry out, "whoe! whoe! whoe!" I asked what was the matter? he answered me, the driver has fallen off, and the horses are running away with us." He was sitting on my left hand-& the road was through a piece of woods. I begged him for God's sake to let down the glass, and open the side door, that should it be ne cessary, we might be able to free

seat, watening the novement of horses, and using every exerting stop them. I looked round & he

and Mr. Maxcy, both of the presumed to be coming on after In requesting Mr. Maxey to a the door, I only meant that means of escape might be in means—but not to resort to the means except in case of the land tremity. I had seen too many accidents happen in similar in The place where the driver

was about a mile north from

of ground belonging to me, the have a tenant of the name at ler, living in a house close by a road side. I reflected that if horses kept the direct track of it road, and I thought this proper we should soon approach thather -my intention was that as some my voice could be heard, I was endeavour to alarm the family, bring them to the door in time stop the horses. Having that cided on my own conduct, I had a tolerable composure arrived with view of Butler's house, when the horses who had been proceeding the far in a very ast trot, either fr my continued exertions to stop the r from beginning to want brur n some measure slackened to peed, and of course the noise offi wheels rattling on the rough a frozen ground was something minished. It was then for the time my ears were saluted an sounds of distress I pushed ope the door and looked out. Gricia God! How was my soul shocked when I beheld a human being dre ged along by the side of the sta —his cloatlis almost wholly torn -himself torn and mangledbody all covered with blood-...h! with what additional horsors I struck when I viewed that po suffering object, as my friend a companion, who had that morning taken his seat with me in the sig

I had not seen him when he jum ed out. That he had fallen-th he had became in some way entarg led with the carriage-not a dem remained on my mind. His ext ence might depend upon a moment -I lost all sense o' my own da ger. I sprang from the carries happity without even falling-rus ed forward, and was instantly i possession of the reins. But I con not leave the heads of the hour I looked back-I saw the driver, z I supposed, at a considerable de tance after me. I hailed himhe koned to him, to hasten. Her rived-ianguage is too weak ton press my feelings, when I sawith

poor, wretched cripple, who prod to be the actual sufferer. The ho es demanded all ney arrention. Maxcy extricated his legs. Wed ed Butler and his family to our ! sistance. And while some of were placing him on a door, who was taken off the hinges and cove ing him with blankets brought in the house for that purpose, other loosed the horses from the stage, one of which Mr. Maxcy to town for a surgeon and anoth driver. The rest of us had the serable object of our cares came the fire as comfortably as we con waiting the arrival of the surge--and in the mean time giving h all the attentions in our power.

At length Mr. Maxcy artiveds companied by Dr. Gibson, who examination of his patient, for one of his legs broken in two place -one just below the knee, the oth a little above the ancle: and thou he was dreadfully bruised, his fe torn and mangled, and his body skil ned by being dragged near a mile a fast trot, over the frozen group yet there was not, I believe, anoth bone broken, or a single joint dis

Such my dear sir, are the distre sing scenes which I yesterday V nessed, scenes which have been mo painful to me than any of the ki which during a long life I had er before experienced which ha made an impression on my soul ver to be erased-and which no emphatically proclaim "that in t midst of life we are in death" at how important it is that we should all live as we would wish we be done, when we come to die.

[The driver died the next day.]

myself alone, Mr. Mancy had ed out. From the moment I comil myself as the only person interest in the passing scene. The da

ication. M xcy, who stood before me! But we were not unmindful off

LUTHER MARTIN

HARYLAND GAZE

OL. LXXVII.

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or the manner in which his under g will be executed, the subscriber offer only the pledge of some little tience in, and an ardent predilec for agricultural pursuits. Besides usble collection already made he taken measures to be supplied with new publications of our own counted of Europe, and he expects to ided by the correspondence of in gent landholders. With these ex tions, offered in sincerity & truth forms those who may feel dispos o subscribe, that "The American ner" will be published for \$4 pc: indred subscribers are already ned, and some extra numbers will ricken off, to give complete files to who may make early application Subscriptions will be received by at No. 8 Calvert street.

J. S. SKINNER.
S. All Editors who will give this ess one or two insertions, will lay te the favour in any way in his

tate of Maryland, sc. -Arundel County Orphans Court,

March 9th, 1819. application by petition of Provey ey, executriz of the last will and ment of William Henry Cockey, of Anne Arundel county, deceased, ordered that she give the notice red by law for creditors to exhieir claims against the said deceasnd that the same be published in each week, for the space of six serve weeks, in the Maryland Ga and Political Intelligenear

John Gassaway, Reg. Wills. A. A. County.

ptice is hereby given, at the subscriber of Anns Arundel y, hathobtained from the orphans of Anné-Arundel county, in Mad, letters testamentary on the per-estate of William Henry Cockey Anns-Arondel County, Vieleased. rsons having claims against the deceased, are hereby warned to of the same, with the voluchers of to the subscriber, at or before ret day of July next, they may wise by law he excluded from all it of the said estate Given un my hand this Och day of March

Provey Cockey. Executrix of the last will and testament of Wm. H. Cockey.

Annapolis, the subject the following-lands, long on Elk Ridge, lounty, on which the Harrood resided, all hove M Coy's Tavern A12 12 acres. The results of the control of th ip the country, and I to Baltimore, pads t The best judges are c is expable of being m of the Elk Ridge lar it a good dwelling ho ent out houses, a gar most excellent water house and an ice house so sell parts of seve he whole being in or taining about 416 1.

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FOR S The Hodses, no Robinson as a Bo the Farmers Bank. tagether, or separat

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