

**"The people of these United States constitute one nation."**

**Crandall v. Nevada**

73 U.S. (6 Wall.) 35, 18 L.Ed. 744 (1868).

In 1865, three years before adoption of the Fourteenth Amendment, Nevada levied a tax of one dollar on every person leaving the state by public conveyance and required the transporting company to collect the tax and turn it over to the state treasury. Later, Nevada officials arrested Crandall, an agent for the Pioneer Stage Co. at Carson City, for refusing to collect the tax. In his defense, he asserted that the levy was unconstitutional. After losing in state courts, he obtained a writ of error from the U.S. Supreme Court.

Mr. Justice **MILLER** delivered the opinion of the court. ...

The people of these United States constitute one nation. They have a government in which all of them are deeply interested. This government has necessarily a capital established by law, where its principal operations are conducted. Here sits its legislature, composed of Senators and Representatives, from the states and from the people of the states. Here resides the President, directing through thousands of agents, the execution of the laws over all this vast country. Here is the seat of the supreme judicial power of the nation, to which all its citizens have a right to resort to claim justice at its hands. Here are the great Executive Departments, administering the offices of the mails, of the public lands, of the collection and distribution of the public revenues, and of our foreign relations. These are all established and conducted under the admitted powers of the Federal government. That government has a right to call to this point any or all of its citizens to aid in its service, as members of the Congress, of the courts, of the Executive Departments, and to fill all its other offices; and this right cannot be made to depend upon the pleasure of a state over whose territory they must pass to reach the point where these services must be rendered. The government also, has its offices of secondary importance in all other parts of the country. On the seacoasts and on the rivers it has its ports of entry. In the interior it has its land offices, its revenue offices, and its sub-treasuries. In all these it demands the services of its citizens, and is entitled to bring them to those points from all quarters of the nation, and no power can exist in a state to obstruct this right that would not enable it to defeat the purposes for which the government was established.

The Federal power has a right to declare and prosecute wars and, as a necessary incident, to raise and transport troops through and over the territory of any state of the Union.

If this right is dependent in any sense, however limited, upon the pleasure of a state, the government itself may be overthrown by an obstruction to its exercise. Much the largest part of the transportation of troops during the late Rebellion was by railroads, and largely through states whose people were hostile to the Union. If the tax levied by Nevada on railroad passengers had been the law of Tennessee, enlarged to meet the wishes of her people, the Treasury of the United States could not have paid the tax necessary to enable its armies to pass through her territory.

But if the government has these rights on her own account, the citizen also has correlative

rights. He has the right to come to the seat of government to assert any claim he may have upon that government, or to transact any business he may have with it. To seek its protection, to share its offices, to engage in administering its functions, he has a right to free access to its sea-ports, through which all the operations of foreign trade and commerce are conducted, to the sub-treasuries, the land offices, the revenue offices, and the court of justice in the several states, and this right is in its nature independent of the will of any state over whose soil he must pass in the exercise of it.

The views here advanced are neither novel nor unsupported by authority. The question of the taxing power of the states, as its exercise has affected the functions of the Federal government, has been repeatedly considered by this court, and the right of the states in this mode to impede or embarrass the constitutional operations of that government, or the rights which its citizens hold under it, has been uniformly denied.

The leading case of this class is that of *McCulloch v. Maryland* [1819]. ...

It is not possible to condense the conclusive argument of Chief Justice Marshall in that case, and it is too familiar to justify its reproduction here; but an extract or two, in which the results of his reasoning are stated, will serve to show its applicability to the case before us. "That the power of taxing the bank by the states," he says, "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 prescribed by the Constitution; and, like sovereign power of any 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 is subordinate to, and may be controlled by, the Constitution of the United States." ...

It will be observed that it was not the extent of the tax in that case which was complained of, but the right to levy any tax of that character. So in the case before us, it may be said that a tax of one dollar for passing through the state of Nevada, by stage coach, or by railroad, cannot sensibly affect any function of the government, or deprive a citizen of any valuable right. But if the state can tax a railroad passenger one dollar, it can tax him \$1,000. If one state can do this, so can every other state. And thus one or more states covering the only practicable routes of travel from the east to the west, or from the north to the south, may totally prevent or seriously burden all transportation of passengers from one part of the country to the other. ...

Those principles, as we have already stated them in this opinion, must govern the present case.

*The judgment of the Supreme Court of the State of Nevada is, therefore, reversed, and the case remanded to that court, with directions to discharge the plaintiff in error from custody.*

Mr. Justice **CLIFFORD**. ...

... I hold that the act of the state legislature is inconsistent with the power conferred upon Congress to regulate commerce among the several states, and I think the judgment of the court should have been placed exclusively upon that ground. ...

The Chief Justice [**CHASE**] also dissents, and concurs in the views I have expressed.