



# LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

## *BARRON V. BALTIMORE* (1833)

MONDAY, DECEMBER 18, 2006

### OVERVIEW

© [The Bill of Rights Institute](#), All rights reserved

This month we spotlight the 1833 case *Barron v. Baltimore*, in which the Court affirmed the Founders' intention that the Bill of Rights served to limit the actions of the federal government only. Protections in the Bill of Rights, including, in this case, that just compensation be paid for taken property, could not be applied to state governments.

### RESOURCES

- <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=32&invol=243>
- <http://www.law.umkc.edu/faculty/projects/FTrials/conlaw/barronvbalt.html>

### ACTIVITY

Barron and his partner owned a very profitable wharf in the city of Baltimore. It included the deepest water in the harbor and enabled them to dock large ships. But all that changed when the city of Baltimore diverted some streams as part of various paving and construction projects. Gradually, the sediment deposited by these streams made the water in front of Barron's wharf more and more shallow. Soon it was so shallow that no big boats could use it. Barron lost all income from his wharf. Its value had been destroyed.

Barron believed that because the city of Baltimore's actions (diverting of streams) had caused him to lose the value of his wharf, that the Fifth Amendment of the US Constitution meant he was entitled to just compensation for his lost property. The Fifth Amendment says in part, "nor shall private property be taken for public use, without just compensation." His case eventually went to the Supreme Court.

The Supreme Court acknowledged that Barron's formerly profitable wharf had been reduced to "little or no value," and that the city was responsible. But Chief Justice John Marshall, writing for the Court, explained that the Supreme Court had no jurisdiction in the case, because it involved state government and not federal government action. The Fifth Amendment, like the entire Bill of Rights, had been written to limit only the actions of the federal government. The actions of state governments were only limited by their own constitutions. (Except in those ways specifically listed in the Constitution's Article I. For example, states cannot make treaties, pass bills of attainder, or coin money.)

Chief Justice Marshall explained, "Had the framers of [the amendments] intended them to be limitations on the powers of the State governments, they would have ... expressed that intention.... These amendments contain no expression indicating an intention to apply them to the State governments. This Court cannot so apply them."

More than thirty years after this case, in 1868, the Fourteenth Amendment was ratified. This amendment does expressly limit the actions of state government, forbidding them from passing laws that "abridge the privileges or immunities of citizens," or deny people "life, liberty, or property, without due process of law..." Since the passage of the Fourteenth Amendment, the decision in *Barron* has been overturned, in a sense. The Supreme Court has interpreted "privileges and immunities" and "due process of law" to refer to some Bill of Rights protections.

### QUESTIONS

1. What happened to Barron's wharf, and what caused it?
2. Why did Barron believe he was entitled to just compensation from Maryland?
3. How did the Supreme Court rule?
4. What are the benefits of subjecting the state governments to Bill of Rights limitations, regardless of their own constitutions? What are the risks?



## LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

*BARRON V. BALTIMORE* (1833)

MONDAY, DECEMBER 18, 2006

### ANSWERS

1. Barron's wharf lost all its value, because its formerly deep waters became too shallow to dock large boats. The change in water level was caused by the city of Baltimore's diverting of streams as part of paving and construction projects.
2. Barron believed that the Fifth Amendment to the US Constitution meant that Maryland had to pay him just compensation.
3. The Court disagreed with Barron. The Court ruled that since Barron's state government (and not the federal government) had taken his property, the Fifth Amendment did not apply and the US Supreme Court had no jurisdiction in the case.
4. Answers will vary. Benefits might include a uniformity of limitations on government power that may reflect protection of the rights deemed most fundamental by a majority of people. Risks might a "one-size-fits-all" approach to government, and potentially stripping state governments of the power to enact laws that fit the particular needs of citizens.