**Barron v. Baltimore**

Facts: Barron and Craig had a profitable wharf. Due to the city of Baltimore's street paving and other public works, eventually their wharf became valueless. Deposits of a sand and dirt in the waters around the wharf were the problem. The city said it had a charter from the state and the power to do what it was doing and it did not need to offer just compensation.

Lower Courts: Lower court awarded them $4500. On appeal state appellate court was reversed.

Issue:

Does the 5th amendment restrain the states.

Held

No. 5th does not apply to the states. No “repugnancy” between act of Maryland and the Constitution

Judgment: affirmed

Arguments:

Barron Maryland

1. Constitution protects property 1. Maybe true, but not against

Right these kinds of state acts

2. 5th Amendment applies to 2. Nothing in text or history

states suggests this is true

3. Text can be read as applying to 3.

more than just Congress

Legal Reasoning by Justice Marshall

1. Union theory of sovereignty

A. People formed national government

B. Limitations in the Constitution are to be generally read as

limitations on that government

2. Read text of 5th amendment as restraining only national government

3. Some states already had provisions for handling property rights in their constitutions. Constitution was not meant to replace such

provisions.

4. States upon ratifying Constitution did not think they needed to change anything in their constitutions as to how they handle property rights

5. Congressional intent is clear. In other parts of the Constitution limitations on the states are clearly laid out.

Relation to other cases: Basically there are none cited in the opinion. This is the first case involving this issue

Source of Law: Constitution generally and 5th Amendment

Interpretation Style

In a very short opinion, Marshall bases his arguments on a variety of materials including political science(nature of our democracy), history, framer’s intent and textual interpretation.