

# SUPREME COURT CASE PACK

## FOR MIDDLE SCHOOL CLASSROOMS

# MCCULLOCH V. MARYLAND

## (1819)

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## McCulloch v. Maryland (1819)

**Argued:** February 28–March 3, 1819

**Decided:** March 6, 1819

### Background and Facts

In 1791, Congress created the First Bank of the United States to serve as a central, national bank for the country. A central bank can help the government manage its economy. At the time, the government was still very new and there was a lot of debate over how much power the national government should have. Many people pointed out that the Constitution did not expressly give Congress the power to create banks. However, they thought that they could interpret the Constitution as giving the federal government an “implied” power. This is because it gave Congress the power to regulate trade, coin money, impose taxes, and spend money. This implied power would allow the national government to create a central bank. The idea of implied powers worried many people who feared that the federal government might become too powerful. They worried that it would take power away from state governments.

The national bank had branches throughout the United States. Many states did not want branches of the bank within their borders for several reasons. First, the Bank of the United States competed with their own banks. Second, the states found many of the managers of the bank to be untrustworthy. Third, the states felt that the federal government was exerting too much power over them.

Maryland attempted to close the Baltimore branch of the national bank. The state passed a law that required all banks created outside of the state to pay a large tax. James McCulloch, the manager of the Baltimore branch, refused to pay the tax. The state of Maryland sued McCulloch. They said that Maryland had the power to tax any business in its state. They also said that the Constitution does not give Congress the power to create a national bank. McCulloch lost the case, but then appealed the decision until it eventually reached the Supreme Court of the United States.

### Constitutional Question

Does the Constitution allow Congress to create a national bank? If so, does Maryland have the power to tax a branch of the national bank within the state borders?

### Arguments for McCulloch (petitioner)

- The Necessary and Proper Clause allows Congress to make laws that are needed to carry out their Constitutional powers. The Constitution gives Congress the power to make taxes and borrow or spend money. Creating a national bank is needed to help carry out all those other powers.
- The Constitution does not say that Congress has the power to create a national bank. However, there is also nothing in the Constitution limiting the powers of Congress to those listed.

- If Congress passed a law within its powers under the Constitution, a state cannot interfere with that law. Maryland is interfering with Congress's powers by trying to tax the bank so heavily that that it would not be able to exist. The **Supremacy Clause** prohibits that.

### **Arguments for Maryland (respondent)**

- The Constitution never says that Congress can create a national bank. The Constitution does say that Congress can borrow money, coin money, spend money, and collect taxes. It can do all this without a national bank.
- The Constitution says that the powers not given to the United States belong to the states.
- The federal government shares the power to make taxes with the states. Maryland has the power under the Constitution to tax businesses within its borders.

### **Decision**

In a **unanimous** decision, the Supreme Court ruled in favor of McCulloch. The Supreme Court decided that Congress did have the power to create a national bank and that the states did not have the power to tax it.

The opinion was written by Chief Justice John Marshall. He wrote that it is true that the Constitution did not directly give Congress the power to create a national bank. However, there is nothing in the Constitution that limits Congress's powers to those listed. The Necessary and Proper Clause gives Congress the power to make laws needed to carry out the powers that are listed. The creation of a national bank is needed to carry out its other powers.

The Supreme Court also said that Maryland could not tax the national bank because the Constitution and federal laws relating to constitutional powers are supreme, so it was **unconstitutional** for Maryland to pass a law that conflicted with that power.

### **Impact of the Case**

This case was important because it explained how **federalism** works in the United States. Federalism is the division of powers between the national and state governments. Although both levels of government have certain powers, there is still a strong national government and federal law has authority over state law. This means that states can't just ignore federal laws.

This case also shows that the federal government has implied powers that are not listed in the Constitution. Therefore, *McCulloch v. Maryland* increased the power of the federal government.

**Source Information:** This is a secondary source written by the non-profit organization Street Law, Inc. It has been reviewed by Constitutional law experts and teachers.

## **McCulloch v. Maryland / Glossary**

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- **Appealed**: applied to a higher court for a reversal of the decision of a lower court.
- **Coin money**: to create money.
- **Economy**: the way a country manages its money and resources to produce, buy, and sell goods and services.
- **Expressly**: specifically listed in the text of the Constitution.
- **Federal**: the level of government that controls the United States as a whole rather than just a single state.
- **Federalism**: the division of powers between the national and state governments.
- **Implied powers**: powers that are not specifically listed in the Constitution. Instead, they are permitted by the “Necessary and Proper Clause” and inferred from other expressly stated powers.
- **Necessary and Proper Clause**: the part of the Constitution that grants Congress the power to pass laws that are needed to carry out the powers specifically given to them in the Constitution.
- **Supremacy Clause**: the part of the Constitution that says that the Constitution and federal law are the supreme law of the land and superior to state law.
- **Unanimous**: agreed upon by everyone.
- **Unconstitutional**: not allowed by or contained in the Constitution. If a law is found to be unconstitutional, it will be struck down, meaning it is no longer a law.

## McCulloch v. Maryland / Primary Source #1\*

A R T I C L E VI.

All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

▷ 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.

*Excerpted transcription:* “This **Constitution**, and the laws of the United States which shall be made in pursuance thereof...under the authority of the United States, shall be the **supreme law of the land...**”

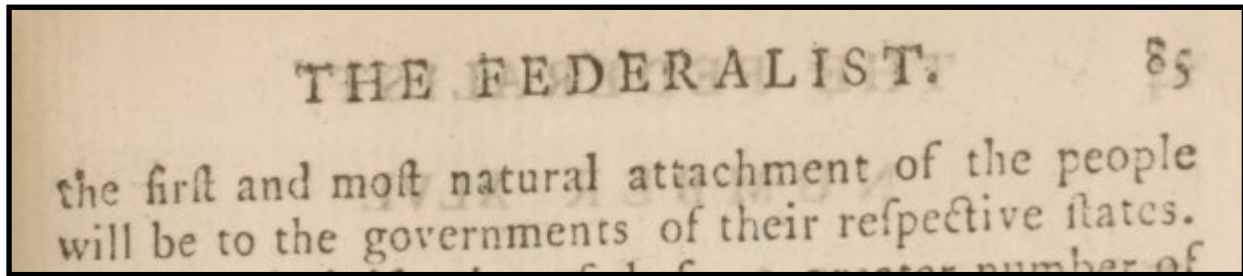
**Source Information:** This is an excerpt from the Constitution known as the “Supremacy Clause.” It was cited in the *McCulloch v. Maryland* decision.

### Questions to Consider

1. **Source:** What type of document is this source? When was it written? Why was this source created? Based on the source information, I understand this document differently because...
2. **Context:** How might the circumstances in which the document was created affect its content?
3. **Claim Development:** What does this document say about the federal government’s supremacy over state governments? Based on this evidence, I think the federal government should/shouldn’t be supreme over state governments in all matters because...

\* **Source:** United States, United States Constitutional Convention, John Carter, and Constitutional Convention Broadside Collection. *We, the people of the United States, in order to form a more perfect union.* [Providence: Printed by John Carter, 1787] Pdf. <https://www.loc.gov/item/90898138/>.

## McCulloch v. Maryland / Primary Source #2<sup>†</sup>



*Excerpted transcription:* "...the first and most natural attachment of the people will be to the governments of their respective states."

**Source Information:** This is an excerpt from an essay by James Madison, one of the Framers (or writers of the Constitution). It was first published in 1788, as the Framers were drafting the Constitution to convince people to support their state's ratification (approval).

### Questions to Consider

1. **Source:** Who wrote this essay? When was this essay written? What do we know about the author's perspective and how might it impact the information provided in the essay? The author probably believes...
2. **Context:** Who was the audience for this essay? What else was going on at the time of this essay? The author may have been influenced by...
3. **Claim Development:** What claims does the author make about the federal government's supremacy over state governments? Based on this evidence, I think the federal government should/shouldn't be supreme over state governments in all matters because...

<sup>†</sup> **Source:** Alexander Hamilton, James Madison, John Jay, Samuel Chase, Elizabeth Schuyler Hamilton, Angelica Schuyler Church, Thomas Jefferson, Thomas Jefferson Library Collection, American Imprint Collection, and John Davis Batchelder Collection. *The federalist: a collection of essays, written in favour of the new Constitution, as agreed upon by the Federal Convention,; in two volumes.* [New-York: Printed and sold by J. and A. M'Lean ..., MDCCLXXXVIII, 1788] Pdf. <https://www.loc.gov/item/09021562/>.



## McCulloch v. Maryland / Primary Source #3‡

“... it will be found that the power retained by **individual states**, small as it is, will be a **clog upon the wheels of the government of the United States**; the latter therefore will be naturally inclined to remove it out of the way. Besides, it is a truth confirmed by the unerring experience of ages, that every man, and every body of men, invested with power, are ever disposed to increase it, and to acquire a superiority over every thing that stands in their way. This disposition, which is implanted in human nature, will **operate** in the **federal legislature to lessen and ultimately to subvert the state authority**, and having such advantages, will most certainly succeed, if the federal government succeeds at all.”

**subvert:**  
undermine or  
lessen the  
power of

**Source Information:** This is an excerpt from an essay by an anonymous author who published using the name “Brutus.” Brutus was from New York and wrote multiple essays arguing against ratification of the new Constitution. This essay was first published in 1787, as the Framers were drafting the Constitution. While no image of the original text exists, Brutus’ words live on.

### Questions to Consider

1. **Source:** Who wrote this essay? When was this essay written? What do we know about the author’s perspective and how might it impact the information provided in the essay? The author probably believes...
2. **Context:** Who was the audience for this essay? What else was going on at the time of this essay? The author may have been influenced by...
3. **Claim Development:** What claims does the author make about the federal government’s supremacy over state governments? Based on this evidence, I think the federal government should/shouldn’t be supreme over state governments in all matters because...

‡ **Source:** Brutus, *Brutus 1*, (October 18, 1787), excerpted in Teaching American History Core Document Library, <https://teachingamericanhistory.org/library/document/brutus-i/>.

# McCulloch v. Maryland / Essential Question

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Should the federal government be supreme over the states in all matters?

Use the case summary, source information, and the sources themselves to support your answer.

- Develop a claim that responds to the question.
- Explain how one source supports your claim.
- Use another source to support your claim OR explain how another source does not support your claim.
- Use details and examples from the selected sources to support your response.

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## **McCulloch v. Maryland / Suggested Resources**

- **Landmark Cases: *McCulloch v. Maryland***  
(<https://www.landmarkcases.org/cases/mcculloch-v-maryland>): Street Law's LandmarkCases.org includes leveled readings, definitions of legal concepts, and teaching activities. The materials and activities are geared toward middle and high school students.
- **State and Local Government Lesson Plans and Resources**  
(<https://www.icivics.org/curriculum/state-and-local-government>): This set of lesson plans, online games, and resources from iCivics helps students learn about the powers of the federal government and state governments.
- ***McCulloch v. Maryland* Video** (<https://www.annenbergclassroom.org/resource/supremacy-clause-mcculloch-v-maryland/>): This 24-minute downloadable video from Annenberg Classroom provides detailed information about the Supremacy Clause, its history, and its connection to *McCulloch v. Maryland*.
- **“To Sign or Not to Sign” Lesson Plan**  
(<https://constitutioncenter.org/media/files/ConDayKit.pdf>): This lesson plan from the National Constitution Center can help students understand some of the conflicts between Federalists and Anti-Federalists in the signing of the Constitution.