

McCulloch v. Maryland / Implied Powers Activity— Answer Key

Directions:

1. Read the **Background** section.
 2. Complete the **Implied Powers** section.
 3. Answer the **Questions to Consider**.
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Background

In Article I, Section 8 of the U.S. Constitution the Framers listed the powers of Congress. These are called Congress' enumerated powers. **Article I, Section 8, Clause 18** states that Congress has the power *“To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”* Sometimes called the **Necessary and Proper Clause** or the **Elastic Clause**, it has greatly expanded the powers of Congress. The Necessary and Proper Clause bestows powers on Congress that are only implied (not stated directly) in the Constitution earning them the name **implied powers**.

Implied Powers

Decide which enumerated power(s) in Article I, Section 8 (see page 3) make each implied power below “necessary and proper.” Write the name of the clause(s) on the blanks that follow.

1. Create regulations regarding workplace safety 3
2. Create the Selective Service and issue a draft in wartime 11,12,13
3. Establish a national bank 1,2
4. Pass a national minimum wage law 3
5. Prohibit the mailing of certain items (e.g., illegal drugs) 7,3
6. Pass a law restricting immigration from specific countries 4
7. Purchase planes, drones, and tanks to send to Afghanistan 12
8. Maintain camping grounds in National Parks 17
9. Sell United States savings bonds 2
10. Pass child labor laws 3

11. Establish military academies (e.g., West Point and the Naval Academy) 12,13
12. Build interstate highways 3,7
13. Create the Internal Revenue Service (IRS) 1
14. Pass laws prohibiting the importation of certain guns and ammunition 3
15. Replace Andrew Jackson with Harriet Tubman on the \$20 bill 5
16. Pass laws making it illegal for streaming services to show movies without permission from the creator 8,3
17. Purchase and maintain mail trucks for the U.S. Postal Service 7
18. Pass laws regarding women serving in combat positions in the armed forces 14
19. Pass laws prohibiting discrimination public places (e.g., hotels and restaurants) 3
20. Audit and punish tax evaders 1

Questions to Consider

1. Which clause was used to imply the most powers on the list? Why do you think that is?
The Commerce Clause: #3. “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes” Student answers will vary but may include that many activities are based on trade (buying/selling).
2. Are there any implied powers on the list that you feel are not “necessary and proper” to make sure the enumerated powers are executed? Explain.
Student answers will vary.
3. List other examples of implied powers Congress uses. Which enumerated powers imply those powers?
Student answers will vary but may include regulating testing on cosmetics (Commerce Clause: #3), establishing the Transportation Security Administration (TSA) (Provide for common “defence” #1), establishing the Department of Education (Provide for general welfare #1), creating the Air Force (Provide for common “defence” #1, Raise and support armies #12), and/or holding naturalization ceremonies for new citizens (Establish rules for naturalization #4).

Article I, Section 8 of the U.S. Constitution

The Enumerated Powers of Congress

1. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;
2. To borrow Money on the credit of the United States;
3. To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; (*Often called the "Commerve Clause"*)
4. To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;
5. To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;
6. To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;
7. To establish Post Offices and post Roads;
8. To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;
9. To constitute Tribunals inferior to the supreme Court;
10. To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;
11. To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;
12. To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;
13. To provide and maintain a Navy;
14. To make Rules for the Government and Regulation of the land and naval Forces;
15. To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;
16. To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;
17. To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards and other needful Buildings;--And
18. To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof. (*Often called the "Elastic Clause" or the "Necessary and Proper Clause"*)