Case Name: **McCulloch v. Maryland (1819)**

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| Background & Facts:**Background:*** **In 1791, the First Bank of the United States was established to serve as a central bank for the country. It was a place for storing government funds, collecting taxes, and issuing currency.**
* **The debate about constitutionality of the First Bank was INTENSE! WHY?? ,Many people focused on the fact that the Constitution did not expressly grant Congress the power to charter corporations or banks.**
* **Many thought that the only way to justify the federal government’s creation of a central bank would be to interpret the Constitution as giving the federal government “implied” powers. (i.e. feared this gave the national gov’t too much power over the states)**
* **The First Bank of the United States had a 20 year charter and expired in 1811 under President James Madison (staunch opponent of the creation of the First Bank)**
* **Congress proposed a Second Bank in 1816 and was created**
* **The Second Bank established branches throughout the United States. Many states opposed opening branches of this bank within their boundaries for several reasons:**
1. **Bank of the United States competed with their (states) own banks.**
2. **States found many of the managers of the Second Bank to be corrupt**

**Facts:*** **One of the branches the bank opened was in Baltimore, Maryland (the U.S. gov’t didn’t ask Maryland for permission – it just opened the branch and started doing business) MARYLAND WAS PISSED!**
* **Maryland attempted to close the Baltimore branch of the national bank by passing a law that forced all banks chartered outside of the state to pay a yearly tax (the Second Bank was the only such bank in the state)**
* **James McCulloch, the chief administrative officer of the Baltimore branch, refused to pay the tax.**
* **The state of Maryland sued McCulloch, saying that Maryland had the power to tax any business in its state and that the Constitution does not give Congress the power to create a national bank.**
* **McCulloch was convicted, but he appealed the decision to the Maryland Court of Appeals. His attorneys argued that the establishment of a national bank was a “necessary and proper” function of Congress, one of many implied, but not explicitly stated, powers in the Constitution.**
* **The Maryland Court of Appeals ruled in favor of Maryland, and McCulloch appealed again. The case was heard by the Supreme Court of the United States.**
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| Issue: **-Did Congress have the authority under the Constitution to commission a national bank?****-If so, did the state of Maryland have the authority to tax a branch of the national bank operating within its borders?** |
| Constitutional Provisions/Statues/Precedents:* Article I, Section 8, Clause 18 (Necessary and Proper Clause) of the U.S. Constitution

“The Congress shall have 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.”* **Article VI, Clause 2 (Supremacy Clause) of the U.S. Constitution**

“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.”* **10th Amendment to the U.S. Constitution**

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.” |
| **Arguments for the Petitioner: McCulloch****-The Necessary and Proper Clause permits Congress to make laws as they see fit. A law creating a national bank is necessary for the running of the country.****-While the Constitution does not specifically say that Congress has the power to establish a national bank, there is also nothing in the Constitution restricting the powers of Congress to those specifically enumerated.** **-The Constitution does give Congress the power to levy taxes, borrow or spend money, and raise and support an army and navy, among other things. Establishing a national bank is “necessary and proper” to the exercise of all of those other powers.** **-If Congress passed a law within its authority under the Constitution, a state cannot interfere with that action. Maryland is attempting to interfere with Congress’ action and might try to tax the bank so heavily that that it would be unable to exist. The Supremacy Clause prohibits that kind of state interference with federal law.** | Arguments for the Respondent: **Maryland*** **The Constitution never says that Congress may establish a national bank.**
* **The Constitution says that the powers not delegated to the United States are reserved to the states.**
* **The federal government shares the ability to raise taxes with the states—it is a concurrent power. Taxation within a sovereign state’s border, including of federal entities, is a state’s exercise of a state constitutional power that is a necessary attribute of its sovereignty and essential to its ability to function effectively.**
* **The establishment of a national bank interferes with the states’ abilities to control their own supply of money and their own economies.**
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|  Decision & Opinions**- The decision was unanimous in favor of McCulloch and the federal government. Chief Justice John Marshall authored the opinion of the Court.** **- The Supreme Court determined that Congress did have the power under the Constitution to create a national bank.****- Even though the Constitution does not explicitly include that power, there is also nothing in the Constitution that restricts Congress’ powers to those specifically enumerated.** -**The NECESSARY AND PROPER CLAUSE gives Congress the authority to make “all laws which shall be necessary and proper” for exercising the powers that are specifically enumerated, and the establishment of a national bank is “necessary and proper” to exercising other enumerated powers.****- The Court also ruled that Maryland could not tax the Bank of the United States.** **(SUPREMACY CLAUSE!!!)** |

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