



## Teacher Notes: *McCulloch v. Maryland* (1819)

### Part 1: (0:00-1:38)

One major debate that existed in our new republic was how to balance the power of the **national** government and the **state** governments. It was this debate that led to our second landmark case.

Define enumerated powers:

The powers of Congress that are specifically listed in the Constitution, such as the power to tax and the power to coin money, etc.

The last of the enumerated powers (#18) is the **necessary and proper** clause. Explain the clause in your own words: **Congress has the power do the things it needs to do to carry out its list of powers.**

### Part 2: (1:39-5:27)

In 1791, Alexander Hamilton urged Congress to create a **National Bank**. However, there was a disagreement over whether Congress had the **power** under the Constitution to do this. The reason there was a disagreement is that nowhere does the Constitution give Congress the power to create a **bank**.

Hamilton's Views on the Necessary and Proper Clause	Jefferson's Views on the Necessary and Proper Clause
<b>Congress can do whatever is useful and convenient to carry out its duties. This view broadens the power of the national government.</b>	<b>Congress can only do things that are vital and crucial. This view narrows the power of the national government.</b>

Explain at least two reasons why many disliked the National Bank:

- People felt that a National Bank violated the Constitution.**
- The National Bank was in competition with state banks.**
- People were angry when the bank restricted credit, causing many to lose homes and businesses.**
- People were fearful that the National Bank gave too much power to the national government.**

What did Maryland do in regards to the National Bank? What was the goal of this law?

**Maryland passed a law requiring all banks not created by Maryland to pay a \$15,000 tax to operate in the state. They were hoping to make it too expensive for the National Bank to operate in Maryland and therefore it would close.**

### Part 3: (5:28-8:46)

James **McCulloch** was the chief cashier for the Baltimore branch of the Second Bank of the United States. He **refused** to pay the tax, claiming the state of Maryland had no **power** to tax the federal government. Maryland prosecuted McCulloch in a state court, and, of course, that court sided with Maryland. When the case reached the Supreme Court, it had two questions to answer.

What were the two big questions that the Supreme Court had to answer?

- Did Congress have the constitutional power to create a National Bank?**
- Did a state have the power to tax a part of the national government?**

#### Part 4: The Ruling (8:47-End)

The Court ruled that Congress has **implied** powers as a result of the necessary and proper clause, which allowed Congress to charter a national bank. Chief Justice **Marshall** reasoned that Congress has **limited** powers, which should not be exceeded, but that Congress must also have the means to carry out its powers. He devised a **test** to determine if an act of Congress fits within its powers under the Constitution.

1. Was the act within the **letter** and **spirit** of the Constitution?
2. Was it designed to help Congress carry out its **enumerated** powers?

Explain the Court's ruling in your own words:

**Congress has to be able to do the things that it needs to do to carry out its job. They should use common sense. Congress can't do things that violate the Constitution, but its powers shouldn't be too limited either.**

What about Maryland's power to tax the national bank? The court settled this with Article 6, Paragraph 2, which is known as the Supremacy Clause. Explain this clause in your own words:

**The Constitution is the supreme law of the land followed by the laws of the U.S. made in pursuance of the Constitution (laws of Congress which do not conflict with the Constitution) and treaties. State laws or actions which conflict with laws of Congress or with a part of the Constitution in the opinion of the Court must fall.**

*"The power to tax involves the power to destroy."*

—John Marshall

How was the Supremacy Clause applied to the Maryland tax on the National Bank?

**Maryland was trying to destroy the National Bank by taxing it, therefore placing itself in conflict with a Constitutional action of Congress. This violates the Supremacy Clause.**

*McCulloch v. Maryland* is the classic example of the Supreme Court's interpretation of the necessary and proper clause. Chief Justice Marshall predicted that the debate over the limits of Congress's powers would continue.

#### Discussion Questions:

1. Think back to our discussion at the beginning of class, how does *McCulloch v. Maryland* relate to taxing of students to pay for the field trip? Did the Supreme Court's ruling change your opinion? Why or why not?  
**The students are like the state of Maryland and the question is do they have the power to tax other students in the school.**
2. Does the Supreme Court's ruling in *McCulloch v. Maryland* favor Hamilton or Jefferson's interpretation of the Constitution? Fully explain your answer.  
**It favors Hamilton's interpretation because it gave broader powers to the national government.**
3. Given Marshall's prediction that the debate over the limits of Congress' power would continue, what issues currently being debated reflect the conflict between the power of the national government and that of the states?  
**Possible answers include immigration or the healthcare law.**