**McCulloch v. Maryland-Limiting the Implied Powers of Congress**

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 sound currency.

At the time it was created, the government was in its infancy and there was a great deal of debate

over exactly how much power the national government should have. Some people, such as

Alexander Hamilton, argued for the supremacy of the national government and a loose

interpretation of its powers, which would include the ability to establish a bank. Others, such as

Thomas Jefferson, advocated states' rights, limited government, and a stricter interpretation of the

national government's powers under the Constitution and, therefore, no bank. While Jefferson was

President, the Bank's charter was not renewed. After the War of 1812, President James Madison

determined that the country could utilize the services of a national bank to help fulfill its powers

listed in Article I, Section 8, Clause 18 of the Constitution. In response to his suggestion, Congress

proposed a Second Bank of the United States in 1816.

President Madison approved the charter and branches were established throughout the United States. Many states opposed opening branches of this bank within their boundaries 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 of the United States to be corrupt. Third, the states felt that the federal government was exerting too much power over them by attempting to curtail the

state practice of issuing more paper money than they were able to redeem on demand.

One state opposed to the Bank of the United States was Maryland. In an attempt to drive the

Baltimore branch of the Bank of the United States out of business, the Maryland State Legislature

required that all banks chartered outside of Maryland pay an annual tax of $15,000. There was a $500

penalty for each violation of this statute. James McCulloch, cashier of the Baltimore branch of the

Bank of the United States, refused to pay the tax.

The State of Maryland took him to court, arguing that because Maryland was a sovereign state, it had the authority to tax businesses within its border, and that because the Bank of the United States was one such business, it had to pay the tax. Luther Martin, one of the attorneys for Maryland, reasoned that because the federal government had the authority to regulate state banks, Maryland could do the same to federal banks. Besides, he argued, the Constitution does not give Congress the power to establish a Bank of the United States. McCulloch was convicted by a Maryland court of violating the tax statute and was fined $2,500. McCulloch appealed the decision to the Maryland Court of Appeals. His attorneys, who included Daniel Webster, asserted that the establishment of a national bank was a "necessary and proper" function of the Congress. Webster stated that many powers of the government are implied rather than specifically stated in the Constitution. Furthermore, he argued, Maryland did not have the authority to levy the tax, because doing so interfered with the workings of the federal government. After the Maryland Court of Appeals upheld the original decision against McCulloch, he appealed again. The case was heard by the Supreme Court of the United States, then headed by Chief Justice John Marshall. The Supreme Court reversed the ruling of the lower courts and overturned McCulloch’s conviction. They said that establishing a national bank is within the constitutional powers of Congress citing the “necessary and proper clause” as its authority. This also meant that Maryland as a state has no authority to tax a federal institution.

Level-3

**McCulloch v. Maryland-Limiting the Implied Powers of Congress**

In 1791, the U.S. government created the first national bank for the country. During this time, a national bank was controversial because people had different opinions about what powers the national government should have. Alexander Hamilton believed that the national government had the power to create a new national bank. Thomas Jefferson believed that the national government did not have such a power. When Thomas Jefferson was president, he did not renew the national bank's charter. After the War of 1812, President James Madison decided that the country needed a national bank, and he asked Congress to create a Second Bank of the United States in 1816.

After President Madison approved the bank, many branches were opened throughout the country. Many states did not want the new bank branches to open. There were several reasons why the states opposed these national banks. They competed with the state banks, many national bank managers were thought to be corrupt, and the states believed that the national government was getting too powerful.

Maryland tried closing down the Baltimore branch of the national bank by passing a law that forced all banks that were created outside of the state pay a $15,000 tax each year. James McCulloch, who worked at the Baltimore Branch, refused to pay the tax. The State of Maryland took McCulloch to court saying that Maryland had the power to tax any business in its state. Luther Martin, a lawyer for Maryland, said that if the national government had the power to regulate state banks, then Maryland had the power to regulate national banks. He also said that the Constitution does not give Congress the power to create a national bank.

After McCulloch was convicted of violating the tax statute and fined $2,500, he appealed the court's decision to the Maryland Court of Appeals. His lawyer argued that creating a national bank was a "necessary and proper" job of Congress. He stated that many of the powers of the national government are not written in the Constitution, but are necessary for the national government to do

its job. Also, he claimed that Maryland could not place a tax on the national bank because the tax

would not let the national bank do its job.

The Maryland Court of Appeals agreed with the lower court's decision. McCulloch then appealed to

the Supreme Court of the United States, led by Chief Justice John Marshall. The Supreme Court reversed the ruling of the lower courts and overturned McCulloch’s conviction. They said that establishing a national bank is within the constitutional powers of Congress citing the “necessary and proper clause” as its authority. This also meant that Maryland as a state has no authority to tax a federal institution.

Level-2

**McCulloch v. Maryland-Limiting the Implied Powers of Congress**

In 1791, the U.S. government created the first national bank. At this time, a national bank was controversial. Some people believed that the national government had the power to create a national bank. Others believed that the national government did not have this power. When Thomas Jefferson was president, he did not renew the national bank's charter . Jefferson believed in placing

greater limits on the power of the national government. However, when James Madison became

president he asked Congress to create a Second Bank of the United States in 1816.

Many branches of the Bank of the United States were opened throughout the country. Some states did not like these branches. The national banks competed with state banks and people thought that the national banks were corrupt . In addition, states were worried about the increasing power of the national government.

The State of Maryland tried to close a branch of the Bank of the United States by making that branch pay $15,000 in taxes. James McCulloch, who worked at the Baltimore branch of the Bank of the United States, did not pay the tax. The State of Maryland took him to court.

The State of Maryland argued that if the national government could regulate state banks, the state

could make rules for the national bank. The State of Maryland also said that there was no permission

in the Constitution for the national government to create a national bank. Article I, Section 8, Clause

18 of the Constitution lists the powers of Congress. It says nothing about creating a national bank.

On the other hand, McCulloch's attorney argued that the power to create a national bank was a "necessary and proper" power of Congress. It is true that there is nothing in the Constitution about a national bank; however, there are many things that the government must do that would be helped by a national bank. Therefore, creating a national bank is an implied power of Congress.

McCulloch was convicted of violating Maryland's tax law. McCulloch then appealed the lower

court's decision to the Maryland Court of Appeals. After the Maryland Court of Appeals agreed with

the lower court's decision, McCulloch appealed to the Supreme Court of the United States, which

was led by Chief Justice John Marshall.

Level-1

**Article I Section VIII of the United States Constitution**

* The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;
* To borrow Money on the credit of the United States;
* To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;
* To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;
* To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;
* To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;
* To establish Post Offices and post Roads;
* 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;
* To constitute Tribunals inferior to the supreme Court;
* To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;
* To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;
* To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;
* To provide and maintain a Navy;
* To make Rules for the Government and Regulation of the land and naval Forces;
* To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;
* 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;
* 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
* **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.**

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Hour \_\_\_\_\_\_

**McCulloch v. Maryland-Limiting the Implied Powers of Congress**

**Directions:** After you have finished reading the document titled *McCulloch v. Maryland-Limiting the Implied Powers of Congress* please answer the following questions is well throughout complete sentences on a separate sheet of paper.

1. What are the advantages for the federal government of establishing a national bank?
	1. Read through Article I, Section 8, Clause 18 of the U.S. Constitution to determine which functions of Congress might be helped by such a bank.
2. Why would states feel threatened by a national bank?
3. In your opinion, does the United States government have the authority to establish a national bank? Provide justification for your answer. You may want to review Article I, Section 8, Clause18 of the Constitution to see what powers it specifically gives Congress.
4. If the United States does have authority to establish a bank, does Maryland have the authority to tax that bank? Why or why not?
5. Why do you think the Supreme Court of the United States agreed to hear this case? What larger

 principles were at stake?

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Hour \_\_\_\_\_\_

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