McCulloch vs Maryland

*The Constitution is intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs. —*Chief Justice John Marshall (1819)[[1]](#footnote--1)

The court case known as McCulloch v. Maryland of March 6, 1819, was a key Supreme Court Case that affirmed the right of implied powers, that there were powers that the federal government had that were not specifically mentioned in the Constitution, but were implied by it. In one case, the Court expanded Congress' powers to include those implied by the Constitution, established the inferior status of the states in relation to the federal government, and set the constitutional sovereignty of the nation over the states. McCulloch remains today a fundamental bedrock of American constitutional law and is often considered the second most important legal act in United States’ history, behind only the signing of the Constitution itself. [[2]](#footnote-0)

**Background**

The Constitution was ratified only after promises were made that a bill of rights would be added to it, and when the First Congress met, it drafted the Bill of Rights. One amendment in particular addressed the concerns of those who worried the new national government would eliminate the powers of the states. The 10th Amendment stated, “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.”[[3]](#footnote-1) Even after the Bill of Rights was ratified in 1791, doubts remained about just what powers the U.S. government could exercise. Sooner or later, the U.S. Congress was bound to pass a law that the states would claim went beyond the constitutional powers of the national government.  
 In contrast to the 10th Amendment, a passage in Article I of the U.S. Constitution states: "Congress shall have power... to make all laws which shall be necessary and proper for carrying into execution the ... powers vested by this Constitution in the government of the United States." This provision was a repeated subject of debate among legal experts in the early decades of the nation. Some argued that it meant no law could be passed unless it was legitimized by a power articulated elsewhere in the Constitution. Others argued that it granted Congress power to make laws in areas not explicitly mentioned by the Constitution.[[4]](#footnote-2)  
     Relatively soon after the founding of the nation, in 1816, Congress created a second Bank of the United States and it was made to serve as a central bank for the country. President James Madison believed that a National bank was necessary to fulfill the powers of the National government and its ability to regulate commerce and involve itself in international trade. Financial problems continued to plague the country and the bank seemed to add to these troubles. It was mismanaged, and radical swings in its interest rates hurt many competing state banks. Many Americans, especially in the South and West, concluded that the bank was causing the economic depression ravaging the country. Some states attempted to retaliate against the “monster monopoly.”[[5]](#footnote-3) They either banned the bank outright or taxed it.  
     Maryland decided to set a high waged yearly tax on "any bank not chartered within the state" at $15,000.[[6]](#footnote-4) They worded it as such to make it seem like they weren't just targeting the national bank. It was obvious they were, though, because the national bank was the only bank that wasn't chartered within the state. James McCulloch disagreed with the payment of $15,000 a year and refused to make payments. Maryland took him to court.  
     The case was eventually presented to the Supreme Court when Maryland decided to sue McCulloch for his actions. Maryland's belief was "as a sovereign state, it had the power to tax any business within its borders"(Par 2 Line 3). McCulloch's attorneys had a different viewpoint and they argued that in order for Congress to truly establish its enumerated powers, the national bank was necessary and proper for the matter.[[7]](#footnote-5)

The case was brought to the Supreme Court on February 22nd, 1819 and was decided two weeks later. The case centered around two constitutional questions. First, did Congress have the constitutional power to create a nationally chartered bank? Second, did Maryland (and other states) have the constitutional power to tax a national bank chartered by Congress?

**Ruling and Justification**

The Supreme Court decided, unanimously, that Congress held the right to establish the bank within the state. They were allowed to do this because of the Necessary and Proper Clause found in Article I, Section 8. It is specifically said there that Congress possesses the ability to execute its enumerated powers by passing laws that are necessary and proper to fulfilling these powers. In this case, the bank was created to tax, borrow, and regulate interstate commerce. These are what make up parts of the national government’s enumerated powers.[[8]](#footnote-6)   
        The court also concluded that Maryland did not have the right to put taxes on National government properties due to the Supremacy Clause found in Article IV of the Constitution. The Supremacy Clause allows laws of the United States to take order over state laws that may conflict with national laws. Maryland was unconstitutionally interfering with this clause.  
        Maryland's tax was also going against constitutional sovereignty. Sovereignty lies with the people. It does not lie in the hands of the individual states. The tax went against the people of the whole nation when Maryland is only accountable for a certain number of people; namely the people who live within the state. Therefore, Maryland was going against the Constitution as viewed from a national perspective.[[9]](#footnote-7)

        Because of a unanimous decision, there was no dissent written for this case. All judges and Chief Marshall ruled in favor of McCulloch. They believed that everything he stood for was constitutional and everything that Maryland did was unconstitutional.

**Significance**

      The significance of the case is that it is one of the first and most important Supreme Court cases on federal power. It dealt with an issue between the states and the national government. In Article I, Section 8, it gave the federal government the power to create the bank based off of the Commerce Clause and the Necessary and Proper Clause. Chief Justice John Marshall said, "Although, among the enumerated powers of the government, we did not find the word 'bank,'... we find the great powers to lay and collect taxes; to borrow money; to regulate commerce...". [[10]](#footnote-8)  
        This is also one of Marshall's most important decisions he has made for the expansion of the federal power. One of the many questions that this case posed was whether or not the federal government holds sovereign power over the states. People questioned if Congress establishing the bank was constitutional, and that would then lead to people asking if the individual states had the right to tax the bank or even ban it all together from their state. The Supreme Court looked it over and, by using the Elastic clause, Commerce Clause, Supremacy Clause, and the Necessary and Proper Clause, all Supreme Court judges including Chief Justice Marshall sided with McCulloch. [[11]](#footnote-9)  
        Included in all the things Chief Justice Marshall pointed out, he also said, "But it may with great reason be contended, that a government, entrusted with such ample powers... must also be entrusted with ample means for their execution. The power being given, it is the interest of the nation to facilitate its execution.... ".[[12]](#footnote-10)With all the things Marshall noted to the rest of the judges, he made their decision a whole lot easier, which is why it was a unanimous decision in favor of McCulloch.

The Court ruled that Maryland lacked the power to tax the Bank because, pursuant to the [Supremacy Clause](javascript:word('ic')) of Article VI of the Constitution, the laws of the United States overrule conflicting state laws. As Marshall put it, "the government of the Union, though limited in its powers, is supreme within its sphere of action, and its laws, when made in pursuance of the constitution, form the supreme law of the land." Because "the power to tax is the power to destroy," Maryland was unconstitutionally undermining the superior laws and institutions of the United States.[[13]](#footnote-11)

The Court held that the "sovereignty" (political authority) of the Union lies with the people of the United States, not with the individual states that comprise it. The United States, not a simple alliance of states, is a nation of "constitutional sovereignty" with its authority resting exclusively with the people who created and are governed by the Constitution. To the Court, "the government of the Union is a government of the people; it emanates from them; its powers are granted by them; and are to be exercised directly on them, and for their benefit."[[14]](#footnote-12) Maryland's tax, however, violated constitutional sovereignty because it acted as a levy against all the people in the United States by a state accountable to only some of the people.

Chief Justice Marshall explained the Court’s decision this way:

“The government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means . . . The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is, therefore, perceived, why it may not pass as incidental to those powers which are expressly given, if it be a direct mode of executing them.”[[15]](#footnote-13)

Also, the Supreme Court found that the Maryland law did unconstitutionally interfere with Congressional powers. Seeing as the Court decided that Congress needed the national bank to perform its constitutional duties, Maryland's attempt to tax the bank was unconstitutional and violated federal supremacy. The Supreme Court found that federal law had authority over state laws, and that states could not interfere with federal powers. Marshall explained the Court’s decision as follows: “If the States may tax one instrument, employed by the government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the customhouse; they may tax judicial process; they may tax all the means employed by the government, to excess that would defeat all the ends of government. The American people did not intend this. They did not design to make their government dependent on the States. . .”[[16]](#footnote-14)

**Relevance Today**

This decision has ramifications in every facet of American law up until the present day. There remains a great conflict between states and the federal government with regards to what powers each possesses and the scope of the states’ right to self determination. There are clear examples in fields as diverse as environmental regulation, gun ownership rights, cooperation with immigration regulations and regulators, and even methods of determining the percentage of electoral votes that will come from any particular state to any given candidate in a federal election.

Using the example of environmental regulation and management, there is a constant conflict with the more resource and manufacturing heavy states in the union. Legal battles are on-going with regards to land usage for the mining of oil, natural gas, and bauxite, where in the states, looking firmly at the economic interests of its citizens are attempting to loosen regulations where in companies can exploit the natural resources, while the federal government has put on restrictions for the greater environmental good of the nation. The constitutional battle here is one in which the states can see no ‘necessary and proper’ reason that the federal government should be managing state lands, as the unique economic and environmental opportunities (or concerns) are not relevant to the nation as a whole. The federal government will use environmental concerns as an overarching threat that does in fact affect the citizens of multiple states, and therefore much be federally regulated. McCulloch v Maryland is the foundational precedent on which the US government will stand.

As a second example, there is a huge concern with regards to gun laws and regulations within all 50 states. Each state has unique, and often very different rules with regards to ownership requirements, and these differences put neighboring states in conflict with one another, as there is no physical way to enforce the law often until a crime has been committed (assault, possession, etc). There is raising public pressure to increase federal regulations across all 50 states, but many ‘gun-friendly’ states are resistant, as it does not meet the desires of its citizens. McCulloch v Maryland comes into play here as the federal government may seek to enforce stricter national policies, in order to shore up differences across state lines. Reasoning centered on public safety, taxation, and even commerce could clearly be supported by the 1819 ruling.

Therefore, the relevancy of this foundational case in American legal history is with us every day. Given the wide and growing political divide in the United States presently, states are often taking sides with regards their wants and needs from the federal government. Many states, again primarily from the south and west, have a citizenry who prefer a more hands off national approach, and each of these states has and will continue to protest federal overreach as they see it.

**Conclusion**

The 1819 case of McCulloch v Maryland was perhaps the most critical legal precedent in the history of the nation, and was vital to determining the powers of the federal government vis-à-vis the states. Despite the clarity and flexibility inherent in the United States Constitution, there will always be many details that are left to sort out, and 1819 was no exception. Marshall’s broad view of national power gradually overshadowed the 10th Amendment and the idea that Congress could act only on those powers specifically mentioned in the Constitution. Albert Beveridge, the biographer of John Marshall, has written that the chief justice made the Constitution “a living thing, capable of growth, capable of keeping pace with the advancement of the American people and ministering to their changing necessities.”[[17]](#footnote-15)

1. John Marshall and the Bank Case; Constitutional Rights Foundation. http://www.crf usa.org/images/pdf/mcculloch.pdf [↑](#footnote-ref--1)
2. McCullogh v Maryland; Weebly. <https://mccullochvmaryland2.weebly.com/> [↑](#footnote-ref-0)
3. McCullogh v Maryland; Weebly. <https://mccullochvmaryland2.weebly.com/> [↑](#footnote-ref-1)
4. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-2)
5. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-3)
6. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-4)
7. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-5)
8. https://www.khanacademy.org/humanities/ap-us-government-and-politics/foundations-of-american-democracy/constitutional-interpretations-of-federalism/a/mcculloch-v-maryland-1819 [↑](#footnote-ref-6)
9. John Marshall and the Bank Case; Constitutional Rights Foundation. [↑](#footnote-ref-7)
10. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-8)
11. Schwartz, David S. Misreading McCullogh v Maryland; Penn Law. <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1578&context=jcl> [↑](#footnote-ref-9)
12. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-10)
13. Schwartz, David S. Misreading McCullogh v Maryland; Penn Law.

    <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1578&context=jcl> [↑](#footnote-ref-11)
14. http://www.streetlaw.org/en/landmark/cases/mcculloch\_v\_maryland [↑](#footnote-ref-12)
15. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-13)
16. John Marshall and the Bank Case; Constitutional Rights Foundation. <http://www.crf-usa.org/images/pdf/mcculloch.pdf> [↑](#footnote-ref-14)
17. <https://billofrightsinstitute.org/educate/educator-resources/lessons-plans/landmark-supreme-court-cases-elessons/mcculloch-v-maryland-1819/> [↑](#footnote-ref-15)