**HANDOUT #2**

**MCCULLOCH v. MARYLAND**

[1819](http://www.oyez.org/cases/1819)

**Location:** [Maryland State House](http://www.oyez.org/cases/1792-1850/1819/1819_0#map)

Facts of the Case

In 1816, Congress chartered The Second Bank of the United States. In 1818, the state of Maryland passed legislation to impose taxes on the bank. James W. McCulloch, the cashier of the Baltimore branch of the bank, refused to pay the tax.

Question

The case presented two questions: Did Congress have the authority to establish the bank? Did the Maryland law unconstitutionally interfere with congressional powers?

Conclusion

**Decision:** 7 votes for McCulloch, 0 vote(s) against
**Legal provision:** US Const. Art 1, Section 8 Clauses 1 and 18

In a unanimous decision, the Court held that Congress had the power to incorporate the bank and that Maryland could not tax instruments of the national government employed in the execution of constitutional powers. Writing for the Court, Chief Justice Marshall noted that Congress possessed unenumerated powers not explicitly outlined in the Constitution. Marshall also held that while the states retained the power of taxation, "the constitution and the laws made in pursuance thereof are supreme. . .they control the constitution and laws of the respective states, and cannot be controlled by them."

Questions:

1. What did Congress do in 1816?
2. How did Maryland respond?
3. How many justices voted for the ruling? How many voted against?
4. What did the court say about what Maryland could not do?
5. According to Chief Justice John Marshall, why could Congress create the Bank?
6. According to Chief Justice John Marshall, why couldn’t Maryland tax the bank?