**McCulloch v Maryland (1819)**

-The National Government creates a national bank and a branch of that national bank in Maryland.

-McCulloch is the manager of that bank.

-The southern states distrust the federal government and the national bank and want to destroy the bank.

-Mary land passes a law requiring the National Government to purchase special paper that has a MD stamp on it. In essence the state is requiring the national government to pay a tax.

-McCulloch refuses to pay the tax and Maryland takes McCulloch to court.

-Maryland wins. (surprise, surprise)

-McCulloch appeals the case to the Supreme Court.

-The Supreme Court has to answer two questions

1. Can the national government create a national bank?

Why?

a) Fiscal responsibilities found in Art I, Sec 8, Par 1-3, 5 and 6.

b) Necessary and Proper Clause (elastic clause) found in Art I, Sec 8, Par 18.

c) Implied power

2. Can the state of Maryland tax the national Government?

Why?

a) Power to create = power to preserve

Power to tax = power to destroy

Power to preserve is **not equal** to the power to destroy

Therefore – power to create is **not equal** to power to tax

b) Art VI, Par 2 (Supremacy Clause)