

## **THE SUPREMACY CLAUSE**

"This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

- *U.S. Constitution, Article VI, Clause II*

The Supremacy Clause clarifies that above all else—above state law, federal laws, and the state constitutions—is the Constitution of the United States. The clause applies to all legal interpreters including Members of Congress, the President, federal officials, federal judges, state court judges, and other state and local officials. While both federal and state governments have power to enact laws, there must be a mechanism to determine which law applies in the event of a conflict. Under the Supremacy Clause, national laws, as long as they are constitutional, take priority over any state laws that conflict with the national law. This clause is not a grant of power; it specifies how to resolve conflicts.

At the Constitutional Convention, James Madison proposed congressional power to veto state laws. However, the Convention repeatedly rejected proposals for a federal veto power over state laws, seeking to reduce conflict between state and federal governments. The Convention accepted the Supremacy Clause in its final form without much opposition.

The Supremacy Clause's historical context and text still leave several questions unanswered. For example, what is a conflict? Generally, federal law "preempts" state law when Congress enacts legislation that is intended to "occupy the field" on a certain issue. When the federal law "occupies the field" it becomes the final word on that issue and leaves no room for state law. Additionally, a conflict can result when it is impossible to comply with both a state law and a federal law or when a state law obstructs compliance with federal law. However, the Court has noted that federal law does not preempt state law unless Congress clearly intends that the federal law do so.

The Supremacy Clause is often seen as the source of the principle that states cannot regulate or control federal activities. In the U.S. Supreme Court case *McCulloch v. Maryland* (1819), Chief Justice John Marshall declared that supremacy allowed the federal government to "remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its own operations from their influence." Since federal law is the "supreme law of the land", in order for states to impose laws that are contrary to federal law, the federal law must be repealed. Throughout history, states and citizens have come together to change federal laws so that states can create their own regulations according to the wants and needs of its citizens.