Summary of *McCulloch v. Maryland*, 17 U.S. 316, 4 Wheat. 316, 4 L. Ed. 579 (1819).

**Facts**

Maryland (P) enacted a statute imposing a tax on all banks operating in Maryland not chartered by the state. The statute provided that all such banks were prohibited from issuing bank notes except upon stamped paper issued by the state. The statute set forth the fees to be paid for the paper and established penalties for violations.

The Second Bank of the United States was established pursuant to an 1816 act of Congress. McCulloch (D), the cashier of the Baltimore branch of the Bank of the United States, issued bank notes without complying with the Maryland law. Maryland sued McCulloch for failing to pay the taxes due under the Maryland statute and McCulloch contested the constitutionality of that act. The state court found for Maryland and McCulloch appealed.

**Issues**

1. Does Congress have the power under the Constitution to incorporate a bank, even though that power is not specifically enumerated within the Constitution?
2. Does the State of Maryland have the power to tax an institution created by Congress pursuant to its powers under the Constitution?

**Holding and Rule (Marshall)**

1. Yes. Congress has power under the Constitution to incorporate a bank pursuant to the Necessary and Proper clause (Article I, section 8).
2. No. The State of Maryland does not have the power to tax an institution created by Congress pursuant to its powers under the Constitution.

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. There is nothing in the Constitution which excludes incidental or implied powers. If the end be legitimate, and within the scope of the Constitution, all the means which are appropriate and plainly adapted to that end, and which are not prohibited, may be employed to carry it into effect pursuant to the Necessary and Proper clause.

The power of establishing a corporation is not a distinct sovereign power or end of Government, but only the means of carrying into effect other powers which are sovereign. It may be exercised whenever it becomes an appropriate means of exercising any of the powers granted to the federal government under the U.S. Constitution. If a certain means to carry into effect of any of the powers expressly given by the Constitution to the Government of the Union be an appropriate measure, not prohibited by the Constitution, the degree of its necessity is a question of legislative discretion, not of judicial cognizance.

The Bank of the United States has a right to establish its branches within any state. The States have no power, by taxation or otherwise, to impede or in any manner control any of the constitutional means employed by the U.S. government to execute its powers under the Constitution. This principle does not extend to property taxes on the property of the Bank of the United States, nor to taxes on the proprietary interest which the citizens of that State may hold in this institution, in common with other property of the same description throughout the State.

**Disposition**

Reversed; judgment for McCulloch.