In the years following Marbury Vs. Madison, the Supreme Court established itself as a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ branch of government. However, the debate continued about how to balance the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with the rights of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Both sides agreed that the Constitution gave certain powers to Congress. These powers are known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. One of these, number 18, is the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ clause. This clause gives Congress the \_\_\_\_\_\_\_\_\_\_\_\_\_ to make all laws that are necessary and proper to execute foregoing (previous) powers.

In 1791, Alexander Hamilton urged Congress to create a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. However, there was a disagreement over whether Congress had the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to do this. Hamilton thought ‘necessary’ meant that the national government had the power to do all things which are \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and convenient. Jefferson thought it meant \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Hamilton’s view broadens the power of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and is supportive of a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Jefferson’s view \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the power of the national government.

In 1811, the charter for the First Bank of the United States \_\_\_\_\_\_\_\_\_\_\_\_. The War of 1812 created financial trouble, and the U.S. issued a charter for the Second Bank of the United States. The bank was controversial because some thought it \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the Constitution and it was competitive with other banks chartered by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The national bank was especially \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in Maryland. To make it \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the national bank to survive, they passed a law that imposed a special \_\_\_\_\_\_\_\_\_\_\_\_\_ on all banks doing business in Maryland that had not received a \_\_\_\_\_\_\_\_\_\_\_ or franchise from the state. This meant that only the Second Bank of the United States had to pay, making it more \_\_\_\_\_\_\_\_\_\_\_ for the national bank to operate.

James \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was a cashier for the Baltimore branch of the Second Bank of the United States. He \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to pay the tax, claiming the state of Maryland had no \_\_\_\_\_\_\_\_\_\_\_\_ to tax the federal government. Maryland sued, and their courts sided with Maryland. When the case reached the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, they had several questions to answer that would decide if the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ government was superior, or if the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ government supreme.

*Did a state have the power to tax an \_\_\_\_\_\_\_\_\_ (agency) of the national government?*

*Did \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ even have the power to create a national bank in the first place?*

The court ruled that there were \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ powers in the Constitution, found in the necessary and proper clause, which allowed Congress to charter a national bank. Chief Justice \_\_\_\_\_\_\_\_\_\_\_\_\_ argued that interpretation of the necessary and proper clause was that Congress had \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ powers, which should not be violated, but that Congress must also have the means to carry out its powers. He devised a \_\_\_\_\_\_\_\_\_\_ to determine if an act of Congress fit within the necessary and proper clause.

1. Was the act within the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of the Constitution?
2. Was it designed to help Congress carry out its \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ powers?

But what about Maryland’s right to tax the national bank? The court settled this with Article 6, known as the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ clause, which means the Constitution is the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ law of the land. The state of Maryland, by trying to tax a constitutionally-established bank, was placing itself over the federal government. Maryland claimed the Constitution was the product of an \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by the states, but Marshall said that Constitution had really been \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by the people. Because it came from the people, the states had to abide by it. The court \_\_\_\_\_\_\_\_\_\_\_\_\_ that a state could tax an entity of the federal government, and the law was \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

McCulloch vs. Maryland was the classic example of the necessary and proper clause. Chief Justice Marshall predicted that the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ over limits of Congress’s powers would continue.

*Thought Questions:*

1. What does the Maryland Vs. McCulloch ruling do to the debate over how to read and interpret the Constitution?
2. Given Marshall’s prediction that the debate over the limits of Congress’s power would continue, what are two issues today that reflect the conflict between power of the national government and that of the states?