**NECESSARY AND PROPER CLAUSE**

Clause 18. The Congress shall have Power \*\*\* To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof.

**NECESSARY AND PROPER CLAUSE**

**Scope of Incidental Powers**

The Necessary and Proper Clause, sometimes called the “coefficient” or “elastic” clause, is an enlargement, not a constriction, of the powers expressly granted to Congress. Chief Justice Marshall’s classic opinion in *McCulloch v. Maryland*45 set the standard in words that reverberate to this day. “Let the end be legitimate,” he wrote, “let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.” Moreover, the provision gives Congress a share in the responsibilities lodged in other departments, by virtue of its right to enact legislation necessary to carry into execution all powers vested in the National Government. Conversely, where necessary for the efficient execution of its own powers, Congress may delegate some measure of legislative power to other departments.

This decision had been clearly foreshadowed fourteen years earlier by Marshall’s opinion in United States v. Fisher, (1805). Upholding an act which gave priority to claims of the United States against the estate of a bankrupt, he wrote: “The government is to pay the debt of the Union, and must be authorized to use the means which appear to itself most eligible to effect that object. It has, consequently, a right to make remittance, by bills or otherwise, and to take those precautions which will render the transaction safe.”

**Operation of Clause**

Practically every power of the National Government has been expanded in some degree by the coefficient clause. Under its authority Congress has adopted measures requisite to discharge the treaty obligations of the nation;it has organized the federal judicial system and has enacted a large body of law defining and punishing crimes. Effective control of the national economy has been made possible by the authority to regulate the internal commerce of a State to the extent necessary to protect and promote interstate commerce. The right of Congress to utilize all known and appropriate means for collecting the revenue, including the distraint of property for federal taxes, and its power to acquire property needed for the operation of the Government by the exercise of the power of eminent domain,have greatly extended the range of national power. But the widest application of the necessary and proper clause has occurred in the field of monetary and fiscal controls. Inasmuch as the various specific powers granted by Article I, § 8, do not add up to a general legislative power over such matters, the Court has relied heavily upon this clause in sustaining the comprehensive control which Congress has asserted over this subject.