shall's death, however, the Court proceeded on the theory that the Tenth Amendment had the effect of withdrawing various matters of internal police from the reach of power expressly committed to Congress. This point of view was originally put forward in *New York City v. Miln*,[131] which was first argued but not decided before Marshall's death. *Miln* involved a New York statute that required captains of vessels entering New York Harbor with aliens aboard to make a report in writing to the Mayor of the City, giving certain prescribed information. It might have been distinguished from *Gibbons v. Ogden* on the ground that the statute involved in the earlier case conflicted with an act of Congress, whereas the Court found that no such conflict existed in this case. But the Court was unwilling to rest its decision on that distinction.

Speaking for the majority, Justice Barbour seized the opportunity to proclaim a new doctrine. "But we do not place our opinion on this ground. We choose rather to plant ourselves on what we consider impregnable positions. They are these: That a state has the same undeniable and unlimited jurisdiction over all persons and things, within its territorial limits, as any foreign nation, where that jurisdiction is not surrendered or restrained by the constitution of the United States. That, by virtue of this, it is not only the right, but the bounden and solemn duty of a state, to advance the safety, happiness and prosperity of its people, and to provide for its general welfare, by any and every act of legislation, which it may deem to be conducive to these ends; where the power over the particular subject, or the manner of its exercise is not surrendered or restrained, in the manner just stated. That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called *internal police*, are not thus surrendered or restrained; and that, consequently, in relation to these, the authority of a state is complete, unqualified, and exclusive."[132] Justice Story, in dissent, stated that Marshall had heard the previous argument and reached the conclusion that the New York statute was unconstitutional.[133]

The conception of a "complete, unqualified and exclusive" police power residing in the states and limiting the powers of the national government was endorsed by Chief Justice Taney ten years later in the *License Cases*.[134] In upholding state laws requiring licenses for the sale of alcoholic beverages, including those imported from other states or from foreign countries, he set up the Supreme

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[131] 36 U.S. (11 Pet.) 102 (1837).
[132] 36 U.S. at 139.
[133] 36 U.S. at 161.
[134] 46 U.S. (5 How.) 504, 528 (1847).