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Aggressive Nationalism: McCulloch v. Maryland and the Foundation of Federal Authority in the Young Republic

Richard E. Ellis

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McCulloch v. Maryland (1819) has long been recognized to be one of the most significant decisions ever handed down by the United States Supreme Court. Indeed, many scholars have argued it is the greatest opinion handed down by the greatest Chief Justice, in which he declared the act creating the Second Bank of the United States constitutional and Maryland's attempt to tax it unconstitutional. Although it is now recognized as the foundational statement for a strong and active federal government, the immediate impact of the ruling was short-lived and widely criticized.

Placing the decision and the public reaction to it in their proper historical context, Richard E. Ellis finds that Maryland, though unopposed to the Bank, helped to bring the case before the Court and a sympathetic Chief Justice, who worked behind the scenes to save the embattled institution. Almost all treatments of the case consider it solely from Marshall's perspective, yet a careful examination reveals other, even more important issues that the Chief Justice chose to ignore. Ellis demonstrates that the points which mattered most to the States were not treated by the Court's decision: the private, profit-making nature of the Second Bank, its right to establish branches wherever it wanted with immunity from state taxation, and the right of the States to tax the Bank simply for revenue purposes. Addressing these issues would have undercut Marshall's nationalist view of the Constitution, and his unwillingness to adequately deal with them produced immediate, widespread, and varied dissatisfaction among the States. Ellis argues that Marshall's "aggressive nationalism" was ultimately counter-productive: his overreaching led to Jackson's democratic rejection of the decision and failed to reconcile states' rights to the effective operation of the institutions of federal governance.

Elegantly written, full of new information, and the first in-depth examination of *McCulloch v. Maryland*, *Aggressive Nationalism* offers an incisive, fresh interpretation of this familiar decision central to understanding the shifting politics of the early republic as well as the development of federal-state relations, a source of constant division in American politics, past and present.

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