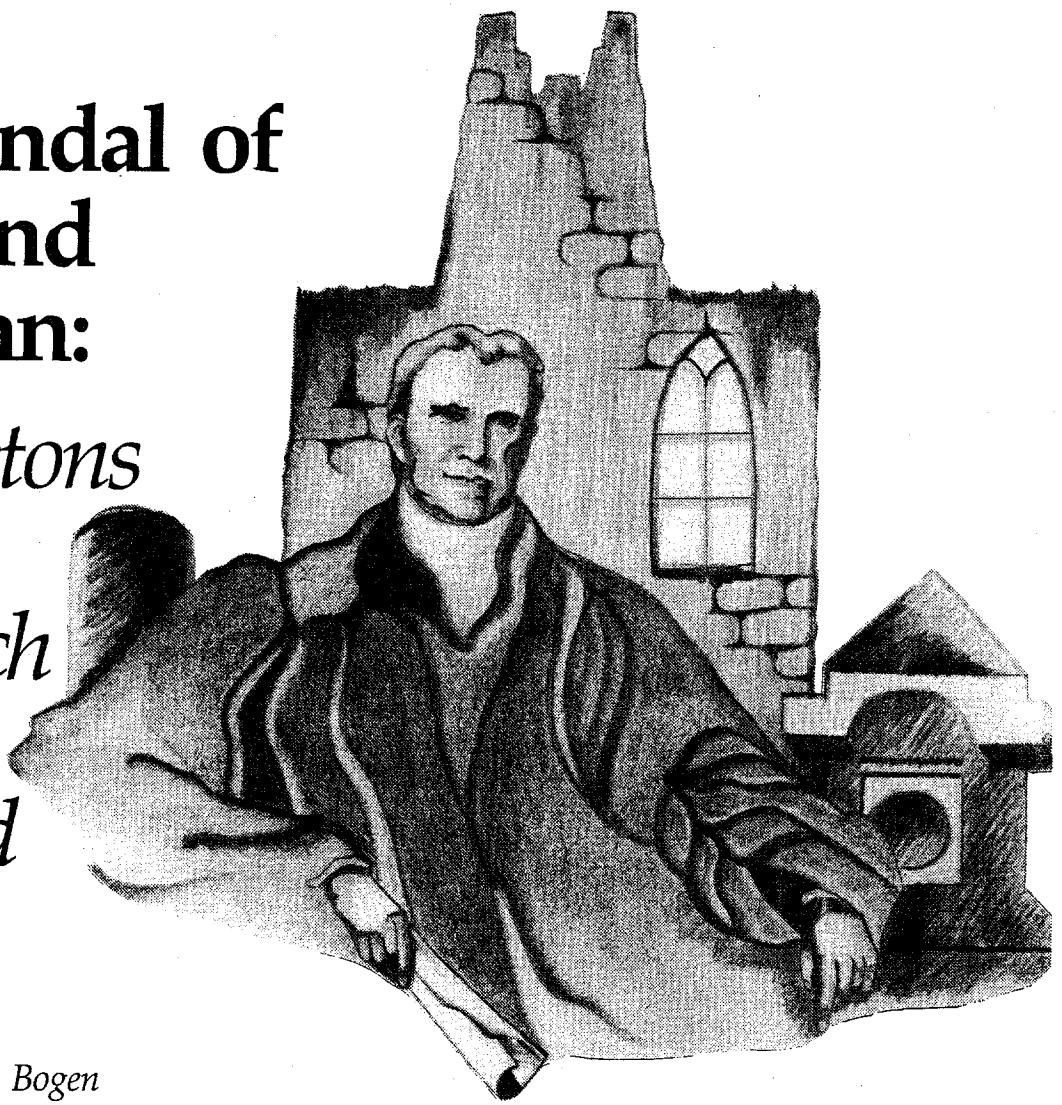
The Scandal of Smith and Buchanan:

The Skeletons in the McCulloch vs. Maryland Closet



by David S. Bogen

Musty law books can hardly carry the full measure of the people behind our most hallowed legal opinions. This article is taken from Prof. Bogen's lectures on Constitutional Law at the University of Maryland School of Law. Students sit among the marble markers in the Westminster Church Graveyard on the Law School grounds. Prof. Bogen's words, on a warm autumn afternoon, serve to remind his students that the flesh of real people once dressed these bones of judicial history.

McCulloch v. Maryland[1] announced principles of constitutional interpretation, federal power and federal immunity from state interference which are now basic doctrines of constitutional law. The opinion is studded with familiar lines -- "We must never forget it is a constitution we are expounding"[2] -- "let the end be legitimate, 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 consist with the letter and spirit of the constitution are constitutional"[3] -- "the power to tax involves the power to destroy."[4] Yet it was quickly the most widely attacked of all John Marshall's decisions. A reader of McCulloch today may have great difficulty understanding the criticisms. One key lies in understanding the people behind McCulloch. The bones of some of these individuals lie here in the Westminster Graveyard beneath us.

Marshall's opinion followed the lines laid down by William Pinkney, the

leading attorney for the Bank of the United States. Marshall painted a picture of the State of Maryland attacking the federal government. Joseph Hopkinson, counsel for Maryland set forth a very different view: "profits and large dividends to the stockholders . . . are the real object of this contest."[5] Although the Bank of the United States received its corporate charter from the federal government rather than from a state, the Bank was owned and operated by private individuals seeking personal profit. The federal government held only 20% of the stock and named only five of its 25 directors.[6]

The Baltimore branch of the Bank of the United States was the bank involved in McCulloch. It was controlled by three persons. The first, George Williams, is buried in Greenmount Cemetery, a few miles northwest of the Westminster Church. The family vault where his father lies is in the catacombs directly under the Westminster Church belfry. The second man who controlled the Baltimore branch was James A. Buchanan, buried in the vault to the east of the church. All of Buchanan's stock purchases were in the name of Smith & Buchanan. Buchanan's partner, General Samuel Smith, is also buried here in a vault at the southern end of the graveyard. Smith, however, was a silent partner who never exercised his power. The third man controlling the bank was the named defendant in McCulloch, James W. McCulloh (the Court did not spell his name right). He is connected to the Westminster site only through the men buried here.

McCulloh did not come from a wealthy family. He worked in George Williams' counting house. In 1819, McCulloh earned a salary of $4,000. Yet in the same year, he owned more than half a million dollars, largely for stock purchases. It may seem astonishing that the Bank of the United States would lend half a million dollars to an individual with a $4,000 salary. It is understandable, when one realizes that the manager of the Bank was the same James W. McCulloh.

In March of 1819, Marshall delivered his opinion in McCulloch v. Maryland announcing principles of governmental immunity. That same month the Bank of the United States discovered the degree to which its Baltimore branch was being run for the personal benefit of Williams, Buchanan and McCulloh. To understand the events of that fateful March, it is useful to begin three decades earlier.

THE MERCHANT ECONOMY

In 1790, Baltimore harbor was filled with sailing ships. Long wharfs reached out like fingers to the channel where ships loaded and unloaded their cargo. Merchants shipped wheat, lumber, rum and tobacco abroad. They received manufactured goods, wine, sugar and spices from Europe and the West Indies.

One of the most successful merchants was Samuel Smith, hero of the Revolutionary War. He left the front as a colonel in 1779 to repair his family fortunes. Because he was the highest ranking soldier from Maryland, he was designated head of Maryland militia, the home guard. Fortunately, the British did not invade Maryland during the Revolutionary War, so Smith was able to devote himself to making money through government contracts and privateering. After the war, he kept profits up by trading where he could. Success required courage, cunning and a touch of larceny. He paid tribute to the Barbary Coast pirates to gain access to the Mediterranean. Despite English prohibitions, Smith also managed to maintain an active trade with France by bribery, forgery and concealment.

Merchants buying goods from abroad had to finance their purchases by credit from overseas sellers. The price of goods, plus the cost of shipping and credit was eventually paid in goods or specie (i.e. gold or silver). Also, when a merchant sold goods abroad, he had to pay in specie for shipment. He did this by discounting a bill drawn on his foreign buyer with another merchant who had unused specie.[7] This was a short term loan, for that merchant soon needed specie himself. It was more efficient to pool the specie of merchants in a single association. The association could issue notes redeemable in specie, so it would not be necessary to actually move the metal. The marvelous thing about notes redeemable in specie was that, so long as

a person knew he could get gold or silver, he would accept the notes. This meant that a bank with $500 in specie could lend $1,000. It would have assets of $1,500 (specie plus the borrower's promise to pay $1,000). Thus the money supply could increase at a time when specie was scarce. The only problem was that if too many notes were in the hands of creditors who sought specie from fear of non-payment,the system would collapse. Therefore, it was necessary to carefully control the amount of notes issued against the amount of specie held. by 1790, it was apparent that the merchant community must have a bank.

BANKERS WERE A "SUSPECT CLASS"

This was a simpler age. People wanted to deal with individuals. Nearly all private business was done in individual or partnership form. The idea that one could avoid debts even though solvent, and the fear of concentrations of wealth made legislatures wary of granting corporate charters to banks. It was not that corporations were unknown. The problem was that each charter was a grant from the legislature, granted only on a showing of public necessity where large sums of money from a variety of sources were needed, as for insurance, educational institutions, canals and water companies.[8] In early 1790, only three banks existed in the whole of the United States. Colonel James McHenry, a member of the Constitutional Convention and delegate to the Maryland Ratification Convention (buried in the southwest corner of the graveyard), had applied unsuccessfully for a charter to the Maryland legislature six years earlier. In 1790, Samuel Smith took his cousin, James A. Buchanan as a partner and freed himself for political activity. In the fall of that year, Smith was elected to the Maryland State Assembly. By November, Sam and his friends got a state charter to operate the Bank of Maryland. Subscriptions opened in December and the Bank of Maryland started business in 1791.[9]

In Philadelphia, the new nation's temporary capital, another drive for a bank began. This one was to be incorporated by the federal government. Alexander Hamilton, the Secretary of the Treasury, submitted a report to Congress in December of 1790 urging the creation of a national bank. It was needed, he argued, to provide a safe place to deposit federal money, to facilitate payments (with specie in Philadelphia, a note could be sent to Savannah or even issued there without having to ship metal by carriage across the country), to enhance revenue collection by increasing circulation, and to provide a source for borrowing by the government.[10] The bank was to be primarily owned and operated by private individuals. Hamilton sought to avoid a repetition of the experience during the Revolution when notes issued by the Continental Congress led to the widely popular phrase "not worth a continental." The value of those notes had depreciated rapidly as more notes were printed to pay expenses and the flood of notes made redemption in specie less likely.[11]

Resistance to a federal bank was even greater than to state banks. In addition to general fears of banks and corporations, opponents of a federal bank feared the federal government itself. In the House, James Madison argued that a national bank was unconstitutional.[12] He knew that at the Constitutional Convention, a proposal to give Congress the power to crate corporations had died in Committee. After all, he made the proposal.[13]

Despite the resistance, the bill creating the Bank of the United States passed 39-20. The Senate also passed the bill. In President Washington's cabinet, Attorney General Randolph and Secretary of State Jefferson wrote memoranda objecting to the Bank's constitutionality, but Hamilton's counter-memo carried the day, and Washington signed. On February 25, 1791, the Bank of the United States was chartered for 20 years.[14] In July, subscriptions opened. Capital quickly flowed in and the Bank was off to a roaring start. Its directors established local branches over the objections of Hamilton, who complained that the Bank could not adequately superintend local operations.[15]

Meanwhile, back in Baltimore, Smith was moving on to greater things. In 1792, he was sent to Congress as a representative.[16] The Bank of Maryland and the firm of Smith & Buchanan prospered. In 1795, Smith's political rival, Colonel McHenry got a charter from the state for the Bank of Baltimore.[17] In 1802, Smith moved to the Senate and became a power there, strongly urging the merchants' interest. President Jefferson offered Smith the position of Secretary of the Navy, but Smith turned it down. Jefferson gave it to Smith's brother, Robert (buried in the vault next to Buchanan). Robert Smith moved up to Secretary of State in President Madison's cabinet in 1808.[18]

The Bank of the United States came up for recharter in 1811. Madison now gave tepid support to the Bank at the insistence of his Secretary of the Treasury, Albert Gallatin. Senator Samuel Smith at this time was on the boards of directors of both the Bank of Maryland and the Bank of Baltimore and was a shareholder in other local banks. In the Senate, he initially urged recharter with a prohibition on branches which compete with local banks. The Baltimore branch of the Bank of the United States tightened credit, demanding specie from state banks whose notes it held. Smith saw this as a political move designed to blackmail local merchants. He joined with Senator Henry Clay, who opposed all banks, to successfully oppose rechartering the Bank.

In 1814, a new war with Great Britain began. A nasty controversy between Madison and Robert Smith in 1812-13 had destroyed Samuel Smith's political influence, but the war gave him a chance to recover. As Brigadier General, Samuel Smith led the Maryland militia to defend Baltimore. Victory in the Battle of Baltimore gave him national recognition as a hero. The heroism came too late to save his Senate seat which he lost to the Federalists, but he was back in Congress as a representative in 1815.[19]

THE SECOND BANK OF THE UNITED STATES

Although Smith managed to get money for the defense of Baltimore, state banks generally through the country were not up to the task. Some were issuing notes out of proportion to their specie, and no one receiving bank notes from another state knew what they were worth. State banks suspended specie payment. That led to a devaluation of bank notes and general consternation. A proposal for a new national bank charter was vetoed by Madison in January of 1815, but he proposed a new charter in his December message to Congress.[20] The charter bill passed with the support of Smith despite objections by Federalists like Webster and Hopkinson. The Federalists disputed, not the constitutionality, but the wisdom of a bank formed on Republican terms.[21] The Second Bank of the United States was similar to the First Bank, but a new rule prohibited any shareholder from voting more than thirty shares. The Second Bank received its charter in 1816.[22]

The Second Bank opened in January, 1817. Its president was William Jones, although Smith's trading partner, James A. Buchanan, had been proposed for the job by John Jacob Astor. Buchanan was now one of the nation's leading commercial figures. Buchanan and the cashier of the Baltimore branch, James W. McCulloh, were strong advocates of an easy money policy--liberal lending to promote commercial interests.[23] Part of their influence came from the respect Buchanan commanded in the world of commerce, but part flowed from their financial control of the Second Bank. George Williams had circumvented the voting rules by buying 1,172 shares in the names of individuals he found on the streets of Baltimore, keeping beneficial interest in the stock and getting the named owners to give him their proxy.[24] He purchased another 1,000 shares in this manner in partnership with McCulloh and Buchanan.[25] As a result, the trio controlled the operations of the Baltimore branch and had power nationally as well. Williams was made a director of the parent bank in Philadelphia, Buchanan assumed the presidency of the Baltimore branch and McCulloh became its manager.

The Bank opened in prosperity and the Baltimore branch was particularly eager to finance growing commercial operations. The Bank actually was thinly

capitalized because when subscriptions were made, they were payable in installments. Many subscribers met their payments by borrowing from the bank itself on a pledge of their stock, so the stock purchased was the security for the purchase. Thus, far less specie than anticipated was actually put in.[26] Further, The Second Bank had a mandate to coerce state banks into redeeming their notes for specie. It did this by threatening to refuse to accept state bank notes unless the state bank agreed to redeem them in specie. This forced the state banks to call in their own obligations to get specie, and the contraction of state bank credit caused considerable resentment against the new federal operation.[27]

Maryland was hit first and hardest by calls for specie. Since the demise of the First Bank of the United States, local banks had multiplied until Maryland had more banks than any other state in the union.[28] Faced with demands for specie from out-of-state banks and the Second Bank, the Maryland banks and the people who used them became quite troubled. On February 11, 1818 Maryland passed a tax on bank notes not issued by banks chartered by the state (the Bank of the United States was the only such bank).[29] The tax was 1-2% of the value of the note or a cash payment of $15,000 to avoid the tax. The statute provided for a $500 penalty for each violation and permitted half of the penalty to be collected by an informer who told the state government about the violation. On May 18, 1818, John James sued the Bank, with McCulloh as cashier the named party, for issuing notes to George Williams without paying the tax. James sued to collect his half of the reward for informers and as representative of the state's interest in the other half. The Baltimore County Court held that the Bank was liable on an agreed statement on facts and the Court of Appeals of Maryland affirmed per curiam without opinion on June 18.[30]

SHENANIGANS AT THE BALTIMORE BRANCH

The notes on which James' suit was founded may have had their own significance in addition to being the peg from which hung the case of McCulloch v. Maryland. McCulloh made a practice of issuing notes to Williams, Buchanan, himself and a "club" of friends who needed money for their enterprises, including Williams' brothers and his cousin, Lemuel Taylor and Dennis Smith.[31] At that time, there was nothing particularly wrong in a bank lending to the officers of the bank. However, these transactions were not reported to the parent bank, and the notes were given with little or no security. One such transaction later received detailed attention.

In 1817, Dennis Smith (no relation to Samuel), the President of the Mechanics Bank owed that bank more than $800,000 in specie. The Mechanics Bank, in turn, was obligated to pay a similar amount to the Bank of the United States, Neither Dennis nor the Mechanics Bank had sufficient specie, and the officers of the Baltimore branch of the Bank of the United States were concerned over the possibility of bank failure. Fortunately, Dennis had thousands of shares of stock in the Bank of the United States. McCulloh and Buchanan purchased Dennis Smith's stock with notes issued by the Bank of the United States. He used these notes to pay off his debt to the Mechanics Bank, and that bank then paid its debt to the Bank of the United States with the same notes. The only hitch in this transaction was that McCulloh and Buchanan bought the stock for themselves rather than as agents for the Bank. They recorded the transaction in the ledgers, but they told the other directors that stock pledge loans were matters for the executives (McCulloh and Buchanan) which need not be decided upon by the board since they were secured by stock. McCulloh, however, as cashier did not pledge the stock to secure the loan to himself, but used it to acquire more stock elsewhere.[32] At their height, McCulloh, Williams and Buchanan were purchasing the $100 par share stock for $140, but the price had fallen below $100 by the end of 1818. By the early spring of 1819, the trio of Williams, McCulloh and Buchanan had borrowed $1.9 million from the Philadelphia branch secured by 18,000 shares of Bank stock at $100 par.

Unknown to the Philadelphia bank, they also borrowed $1.5 million from the Baltimore branch secured by the pledge of the purported surplus value of the shares already pledged to the Philadelphia parent bank.[33] The word, "borrow," is used advisedly, since the three were acquitted of more serious charges of fraud.

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The shenanigans of the Baltimore branch were beginning to come to light toward the end of 1818. In August, the northern branches of the Bank of the United States stopped redeeming in specie the notes issued by other branches. The problem was a logical consequence of the flow of commerce, in that southern and western branch banks would issue notes to help local merchants pay their suppliers. Those notes were redeemed in the northeastern cities.[34] The flow of notes meant that the northern branches were pressed for specie and the southern and western branches continued to issue notes in profusion because their own specie reserves were not being drawn upon to the same extent. Shortness of specie and the need to pay for the Louisiana Purchase forced the Bank of the United States to scramble to get specie from the state banks and to contract their own lending policies. This occurred during a period when the end of the war in Europe and revival of European trade and agriculture sharply reduced the markets which American merchants expected to increase. As a result, the Bank's policies tended to worsen the recession. In October, a House committee was established to investigate the Bank. The committee reported in January on the shortness of specie and particularly the degree to which the Baltimore bank was issuing large amounts of notes drawn on Philadelphia, Boston and New York.[35] They also reported on Williams' manipulations to gain control of voting and on a risk-free stock purchase arranged for Jones by the Baltimore trio.[36] The Bank's President, William Jones, resigned and a sharper look at Baltimore practices began. McCulloh, however, had altered the records to show loans on personal guarantee rather than stock purchase loans, so the nature of his conduct remained hidden for a time.[37]

While the Bank was under this critical attack for mismanagement, the arguments on the Maryland tax began before the Supreme Court. Congressional allies in the fight against the Second Bank, Daniel Webster and Joseph Hopkinson, opposed each other as attorneys in the litigation. Webster was joined by two of Maryland's leading attorneys to represent the Bank of the United States, former United States Attorney General William Pinkney and the incumbent Attorney General William Wirt. Joseph Hopkinson for the State of Maryland was joined by Walter Jones and the fabled Luther Martin. Counsel for the state stressed the private commercial nature of the bank. But Bank counsel leaped over distinctions to argue that the bank was properly created by the federal government and, as a federal entity, must be immune from state taxation and regulation.

March 6th was an eventful day. Langdon Cheves took over the presidency of the Bank of the United States and began to deal with its affairs, particularly the actions of the Baltimore branch.[38] The very same day, John Marshall delivered his opinion in McCulloch v. Maryland. Marshall kept his eye on a vision of an effective union, but the core fact of a private bank run by the shareholders for their own profit was never mentioned. Langdon Cheves, the new president of the Bank had to deal with that reality.

THE HOUSE OF CARDS FALLS

On March 16, Cheves called the Baltimore bankers to Philadelphia where he discovered that the branch had lent nearly three million dollars "without any authority and without the knowledge of the board of that office, or that of the parent bank."[39] Of that sum, Buchanan, McCulloh and Williams took $1.54 million for their own use. Cheves got the three men to agree in March to furnish $900,000 security--$300,000 each.[40] McCulloh lived up to his part of the bargain by getting sixteen merchants to guarantee

his notes, $12,500 each, and by offering his home for security.[41] Among the guarantors were John McKim (buried beneath the church) and Robert Oliver (interred below the parish house).

Beginning in March, with a domino impact, the overextended merchants of Baltimore began to fail. The troubled Bank which had fueled the speculative fever could not aid the merchants now. In April, Smith & Buchanan failed.[42] In May, Cheves fired McCulloh and all of Baltimore learned of the sorry mess. Samuel Smith, who began the year believing himself to be one of the wealthiest men in Baltimore, a national hero and a respected statesman, was prostrated by the events. He suffered a collapse as devastating as did his merchant empire. He stayed in bed throughout the summer.[43] Meanwhile, Luther Martin, counsel for Maryland in McCulloch, was engaged in the last legal task of his life--preparing criminal charges against the Baltimore group, Buchanan, McCulloh and Williams. While still working on the indictments, he suffered a stroke on August 18 which destroyed his mental capacity.[44] The indictment brought in Baltimore City Court charged the defendants with conspiracy to defraud the Bank of the United States of $1.5 million.[45] The trial was removed to Harford County, because the defendants complained that they could not get a fair trial in their hometown. In Harford, defense counsel persuaded the county court to dismiss the indictment by a 2-1 vote. They argued that conspiracy to defraud was not a statutory crime or a common law offense, and further, the state could not make it illegal to defraud a federal bank in view of the opinion in McCulloch.[46] The state brought a writ of error and the Court of Appeals unanimously reversed. Even if improper taking of money under one's control is a breach of trust with only civil consequences, the common law makes a conspiracy to an improper end a criminal offense. Foreshadowing later controversies over the commerce clause, the state court held that, in the absence of federal legislation and with no federal criminal common law, the state had concurrent jurisdiction to apply its own criminal laws so long as it does not control or impede bank operations.[47]

In March 1823, the bank conspiracy case came to trial before the Harford court. The defendants opted for a trial without a jury. Not surprisingly, the judges who were willing to dismiss the indictment now found the defendants not guilty. Chief Judge Dorsey, who had dissented from the dismissal, dissented again from the acquittal. The defendants case was simple: "they relied too strongly upon the hopes and calculations in which the whole community indulged; but the failure of their stock speculations were rather to be pitied as a misfortune than condemned as a crime."[48] If bank stock had risen in price, they "would have been looked upon as nobles, as the architects of their fortunes, by the very men who prosecuted them, and lauded to the skies as possessing spirits fraught with enterprise."[49] The circuit court bought the argument--they "had charged themselves with the loans in the books of the Bank,"[50] and they intended to repay them. "Their subsequent disappointment by the failure of their speculation and their consequent ruin could not convert that into a crime which was not one at the time of doing it."[51] The dissent was not as charitable: "The Traversers, in violation of a sacred trust and under false representations calculated to deceive those who were interested in the due execution of the trust, have taken from the funds of the office a large sum of money, which they converted to their own use, and have failed to return to the Bank a cent of their spoil."[52]

The litigation in this case was not yet finished. With the collapse of the fortunes of Buchanan, McCulloh and Williams, the Bank of the United States sued to recover on the guarantees which had been supplied. One of McCulloh's guarantors, Solomon Etting, refused to pay on the ground that the Bank knew the impossible situation McCulloh was in when it demanded security and failed to reveal the fact to potential guarantors. Etting hired Daniel Webster (co-counsel for the Bank in McCulloch) and Roger Taney (later Chief Justice) to represent him. The Bank was represented by William Wirt (co-counsel with Webster in McCulloch) and Thomas Addis Emmet. The Bank had won below, and, in Etting v. The Bank of the

United States,[53] the Supreme Court affirmed by an equally divided court.

AND FROM THE ASHES

With an unpaid debt of $1.5 million, one might expect the destruction of the fortunes of the men involved. It did not happen that way. From the beginning, McCulloh took the offensive. In August 1819, Anna Boyd (buried in the southwest quadrant of the graveyard) wrote to her brother John McHenry, "I think John, one of the most provoking parts of the business is, that these destroyers of widows, and orphans, affect to consider themselves as persecuted men. McCulloh for example struts about in all the pride and gaiety belonging to an honest heart, and unspotted name boasting as it were; that he is stript of his feathers, that they were determined to bring him down and have succeeded."[54] His comedown was only temporary. In the 1820's, he was elected to the House of Delegates from Baltimore County and was elected Speaker of the House for the 1826 session.[55] In the thirties, he was a lobbyist for the C & O Canal, credited by the president of that company with the successful passage of the internal improvements bill of 1835.[56] When he died in 1861, he was a successful Baltimore County businessman and lawyer.[57]

As for Buchanan, he appeared to see trouble coming and placed his assets in the hands of his relatives. Thus, when McCulloh's farm on Rolling Road was foreclosed and sold at auction in 1825, it was John Lewis Buchanan, James' son who purchased it. Portions of the property remained in Buchanan hands by sale or lease through 1842.[58]

Smith lost his personal fortune in the collapse of 1819, but he roused himself from prostration in the fall of 1819 and was able to manage his wife's estate to restore comfort. In 1822, he was appointed to the Senate when Pinkney died in office, and he remained there until 1832.[59]

In 1835, another Bank scandal brought Samuel Smith back to public attention. The Bank of Maryland (Smith by now had long since ceased to have a part in it) closed its doors in 1834. Although its director said the Bank could pay its debts, the directors held up payment for a long period. Anger at the directors culminated in riots against the bank and its directors in 1835.[60] After the worst of the violence, Samuel Smith, age 83, addressed a group of citizens and organized the citizenry to patrol the streets and restore calm. His leadership led to his election as mayor that fall, and he served until shortly before his death in 1839 at age 87.[61] He was buried in the Westminster graveyard, only a stone's throw from his over optimistic partner, Buchanan.

ENDNOTES

1. 17. U.S. (44 Wheat.) 316 (1819).
2. Id. at 407.
3. Id. at 421.
4. Id. at 431.
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6. B. Hammond, Banks and Politics in America From the Revolution to the Civil War, 244 (1957).
7. Browne, Baltimore and the Panic of 1819, in Law, Society and Politics in Early Maryland, 219 (1977).
8. J. Davis, 4 Essays in the Earlier History of American Corporations, 22 (1965).
9. Id. at 49.
10. 1 Documentary History of Banking and Currency in the United States 230 (H. Kroose ed. 1969) [hereinafter cited as Documentary History].
11. See B. Hammond, supra note 6, at 29.
12. Supra note 10, at 262.
13. J. Madison, The Debates in the Federal Convention of 1787 Which Framed the Constitution of the United States 420, 564 (G. Hunt & J. Scott eds. 1920).
14. Documentary History, supra note 10, at 307.
15. B. Hammond, supra note 6 at 126.
16. F. Cassell, Merchant Congressman in the Young Republic 46 (1971).
17. J. Davis, supra note 8, at 97.
18. F. Cassell, supra note 16, at 146.
19. Id. 212.
20. Documentary History, supra note 10, at 404.
21. Id. at 412.
22. Id. at 460.
23. Browne, supra note 7, at 217.
24. Documentary History, supra note 10, at 527.
25. Id. at 523.
26. Id. at 504.
27. Id.
28. B. Hammond, supra note 6, at 167-68.
29. H. Niles, 14 Weekly Register 14 (Feb. 28, 1818).
30. See McCulloch, supra note 1, at 317.
31. Brown, supra, note 7, at 218.
32. R. Catterall, The Second Bank of the United States 44 (1902).
33. Documentary History, supra note 10, at 586.
34. Id. at 509.
35. Id. at 508.
36. Id. at 523.
37. R. Catterall, supra note 32, at 48.
38. Documentary History, supra note 10, at 588.
39. Id. at 586.
40. Id.
41. See Etting v. The Bank of the United States, 24 U.S. (4 Wheat.) 59, 61 (1826), and B. Marks, Hilton Heritage 9 (1972).
42. Browne, supra note 7, at 219.
43. F. Cassell, supra note 16, at 224.
44. P. Clarkson & R. Jett, Luther Martin of Maryland 302 (1970).
45. R. Harper, A Report of the Conspiracy Cases 3 (1823).
46. Id. at 17.
47. State v. Buchanan, 5 H&J 317, 361-62 (1821).
48. R. Harper, supra note 45, at 113.
49. Id. at 170.
50. Id. at 246.
51. Id.
52. Id. at 243.
53. Supra note 41.
54. Letter from Anna Boyd to John McHenry, August 6, 1819 (McHenry papers, manuscript, Maryland Historical Society).
55. W. Ridgway, Community Leadership in Maryland 1790-1840 107 (1979).
56. Id. at 112.
57. B. Marks, supra note 41, at 10.
58. Id. at 15.
59. F. Casssell, supra note 16, at 230.
60. Grimsted, Democratic Rioting: A Case Study of the Baltimore Bank Mob of 1835, in Insights and Parallels: Problems and Issues of American Social History 125 (W. O'Neill ed. 1973).
61. F. Cassell, supra note 16, at 260.