less temperate presence of Luther Martin, who by the time the 1815 Term of the Marshall Court opened was renowned not only for his "iron memory" and his "fullness of legal knowledge"[119] but also for "often appear[ing] in Court evidently intoxicated."[120] Martin was sixty-seven by 1815, and four years later, in August 1819, he suffered a severe stroke and never argued a case again. His career thus belongs largely to an earlier time, but his remarkable disposition and his memorable argument in *McCulloch* v. *Maryland,* made four months before his stroke, justify a brief sketch of him here.

Martin was a contemporary of John Marshall; he was born in 1748, seven years before Marshall, and died in 1826, nine years before the Chief Justice. By 1772, six years after his graduation from Princeton, Martin had established a law practice in Accomock and Northampton counties on the Eastern Shore of Virginia, and had also become licensed to practice in the adjoining state of Maryland. Martin had taught school while studying law and entered law practice in debt, but by 1774 he was earning "nearly or quite equal to a thousand pounds a year, with every prospect of increase."[121] During his early years on the Eastern Shore Martin became acquainted with Samuel Chase; the resulting friendship endured until Chase's death in 1810. Chase and Martin were both involved in Revolutionary politics, and after independence Chase used his influence to help Martin become attorney general of Maryland in 1778, a position in which he remained until 1805. On becoming attorney general, Martin moved to Baltimore, which was to become his home for the rest of his professional life,[122] and continued his private law practice. During his years as attorney general Martin had been a delegate to the 1787 Constitutional Convention, where he had been a thorn in the side of the Madisonian majority that eventually prevailed. He also developed a reputation as an "excessively voluble orator," based principally on a speech he delivered on June 27 and 28.[123] Martin's role at the Convention was that of champion of the small states, advocate of equal representation for all states in the Senate, and opponent of extensive powers in the federal government. He was subsequently to modify all of these positions, be-

[119] Chief Justice Roger B. Taney in S. Tyler, *Memoir of Roger Brooke Taney* (1872), 67.

[120] Ibid., 65.

[121] L. Martin, *Modern Gratitude* (1801), 150. This curious pamphlet, engendered by an acrimonious dispute Martin had with his son-in-law, Richard Reynal Keene, who eloped with Eleonora, one of Martin's daughters, in 1802, when Eleonora was fifteen, serves as a kind of autobiography, although it was not primarily written for that purpose. For more detail on Martin's domestic life, see P. Clarkson and R. S. Jett, *Luther Martin of Maryland* (1970), 195–97, 291–92.

[122] On Chase's role in Martin's career see Beveridge, *John Marshall,* III, 186; Clarkson and Jett, *Luther Martin,* 41–42.

[123] J. Beck, *The Constitution of the United States* (1924), 90; see M. Farrand, *Records of the Federal Convention* (4 vols., 1937), IV, 20–28.

coming a Federalist in the early nineteenth century and remaining so until his death.[124]

The year he resigned as attorney general Martin also participated in the most famous case of his career, the impeachment of his old friend, Samuel Chase, who his opponents claimed had engaged in excessively biased conduct in trying some sedition cases. This is not the place to review the Chase trial, which has been widely commented upon elsewhere,[125] but Martin's performance at that proceeding was among his finest. Henry Adams's characterization of Martin's performance, while regularly quoted, is still apt. Adams called Martin then "the most formidable of American advocates . . . rollicking, witty, audacious . . . drunken, generous, slovenly, grand," and felt that "nothing can be finer in its way than Martin's [argument]," with "its rugged and sustained force; its strong humor, audacity, and dexterity; its even flow and simple choice of language; free from rhetoric and affections; its close and compulsive grasp of the law; [and] its good natured contempt for the obstacles put in its way."[126] One passage from Martin's argument captures its flavor. He said, in response to charges that Chase had "prejudged" cases,

> To *prejudge* any case, I consider as meaning, that a person without competent knowledge of facts hath formed an opinion injurious to the merits of the case. If the term, prejudication, is used in this sense, there is no pretence that my honorable client gave a *prejudicated* opinion in the case of Fries; for it is not alleged that the opinion given was not strictly legal and correct . . .
>
> But if by a prejudicated opinion, is meant, that a judge, from his great legal knowledge, and familiar acquaintance with the law, as relative to the doctrine of treason . . . had formed a clear decided opinion that the facts stated in the indictment against Fries, if proved, as laid, amounted to treason, I will readily allow that I have no doubt my honorable client had *thus* prejudicated the law. . . . But if this manner of prejudicating the law, is thought improper, nay, criminal in a judge, a prejudication which is nothing more than an eminent and correct knowledge of the law, why I pray are gentlemen of great talents and high legal attainments sought in your appointments of judges?[127]

[124] See Clarkson and Jett, *Luther Martin,* 72–134; C. Warren, *The Making of the Constitution* (1929), 245–47.

[125] C. Evans, *Report of the Trial of the Honorable Samuel Chase* (1805), is a contemporary account of the Chase trial. Among the secondary treatments are H. Adams, *History of the United States of America during the Administration of Jefferson and Madison* (9 vols., 1891), II, 147–57; Beveridge, *John Marshall,* III, 157–222; C. Warren, *The Supreme Court in United States History* (3 vols., 1922); I, 269–99; Haskins and Johnson, *Foundations of Power,* 215–45.

[126] H. Adams, *John Randolph* (1882), 141, 147.

[127] Quoted in Evans, *Report of Chase Trial,* 193–94. Italics in original.