

language of the Constitution or the historical context of the ratification and amendment process. Accordingly, the Court ruled that the takings clause of the Fifth Amendment was “intended solely as a limitation on the exercise of power by the government of the United States, and is not applicable to the legislation of the states.” Because the decision implied that “no repugnancy” existed between the “several acts of the general assembly of Maryland, given in evidence . . . and the Constitution of the United States,” the Court acknowledged no jurisdiction over the case. It was dismissed and the verdict of the appellate court was upheld.¹⁵

The Court’s decision in *Barron* has often perplexed constitutional scholars. By ruling that the Fifth Amendment, and correspondingly the Bill of Rights, did not ensure the liberties of citizens from the actions of state governments, the case stands as an instance where the characteristically nationalistic Marshall Court limited the powers of the federal government in favor of the states. In this sense, *Barron* has been perceived as paradoxical, if not downright contradictory, to that Court’s previous landmark rulings in *McCullough v. Maryland*, *Gibbons v. Ogden*, and *Cohens v. Virginia*. Yet, in the most comprehensive history of the Marshall Court, Edward White has considered *Barron* an instance where the Chief Justice “sacrificed a particular outcome . . . for the sake of retaining the integrity of a general theory.” The theory that White referred to was Marshall’s guiding principle that the Constitution served as the chief protector of republican government.¹⁶ Furthermore, when considered in its political context as well as

¹⁵ *Ibid.*, 247-251.

¹⁶ Edward White, *The Marshall Court and Cultural Change, 1815-1835: The Oliver Wendell Holmes Devise History of the Supreme Court*, v. 3-4 (New York: 1988), 952, 589-593. On Marshall’s jurisprudence also see Charles F. Hobson, *The Great Chief Justice: John Marshall and the Rule of Law* (Lawrence: 1996).