2018 Wisconsin Discussion Group on Constitutionalism

“McCulloch v. Maryland at 200: The Past and Future of American Constitutional Law”

Lubar Commons (Room 7200)
University of Wisconsin Law School

Day 1: Friday, November 16, 2018

3:30-3:45 Welcome and Introductions

3:45-5:30 Panel 1: McCulloch’s Aftermath – the Late Marshall and Taney Court Eras

Did John Marshall Have a Death Wish for his McCulloch Opinion? The Dangerous Invitation in “A Friend to the Union” No. 2.
Eric Lomazoff, Villanova University, Dept. of Political Science

The Brig, the Steamboat, and the Immense Mass of State Laws
Alison LaCroix, University of Chicago Law School

The Jacksonian Makings of the Taney Court
Mark Graber, University of Maryland, Carey School of Law

5:30 Adjourn

7:00-9:00 Dinner at Steenbock’s on Orchard
(330 N Orchard Street)
Day 2: Saturday, November 17, 2018

8:45-9:10  Continental Breakfast

9:10-10:20  Panel 2: McCulloch in the mid-Twentieth Century

*McCulloch, Brown, and Section 5*
**Brad Snyder**, Georgetown University Law Center

“*Withholding the Most Appropriate Means*”: *McCulloch and the New Deal Judicial Crisis*
**David Schwartz**, University of Wisconsin Law School

10:20-10:40  Break

10:40-12:20  Panel 3: McCulloch and Constitutionalism

*Our Administered Constitution: Administrative Constitutionalism from the Founding to the Present*
**Sophia Lee**, University of Pennsylvania Law School

Letter or Spirit? *What Does it Mean to “Never forget that it is a constitution we are expounding”?*
**Martin Lederman**, Georgetown University Law Center

False Flags and Fragments– The Questionable Past and Uncertain Future of the Analysis of Judicial Review
**Neil Komesar**, University of Wisconsin Law School

12:20-1:20  Lunch (on site)

1:20-2:30  Panel 4: McCulloch’s Ambiguities

*The Confusing Language of McCulloch v. Maryland: Did Marshall Really Know What He Was Doing (or Meant)?*
**Sanford Levinson**, University of Texas at Austin School of Law

McCulloch’s Strategic Ambiguity
**John Mikhail**, Georgetown University Law Center
2:30-2:50  Break

2:50-4:00  **Panel 5: McCulloch’s Context**

* A Virginia Perspective on McCulloch  
  **Matthew Steilen**, University of Buffalo School of Law

* M’Culloch in Context  
  **Mark Killenbeck**, University of Arkansas School of Law

4:00-4:20  Break

4:20-5:30  **Panel 6: McCulloch and the American Empire**

* What FEMA Should Do After Puerto Rico: Toward Critical Administrative Constitutionalism  
  **Yxta Murray**, Loyola Law School, Los Angeles

* A Constitution of Empire without McCulloch v. Maryland  
  **Sam Erman**, University of Southern California Law Center

5:30  Adjourn

7:00-9:00  Dinner at Harvest  
(21 N Pinckney Street)