

'The power to tax is the power to destroy' -Chief Justice John Marshall; by Bill Federer

"The power to tax is the power to destroy," wrote John Marshall, 4th Chief Justice of the U.S. Supreme Court, who was born SEPTEMBER 24, 1755.

No one had a greater impact on Constitutional Law than John Marshall.

Home schooled as a youth, he served with the Culpeper

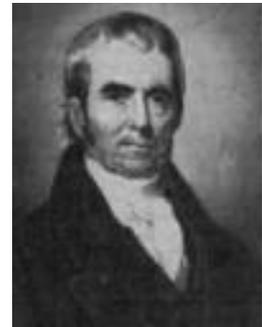
Minutemen at the beginning of the Revolutionary War.



Marshall joined the Continental Army and served as a captain in Virginia Regiment under General George Washington, enduring the freezing winter at Valley Forge.

John Marshall later described George Washington:

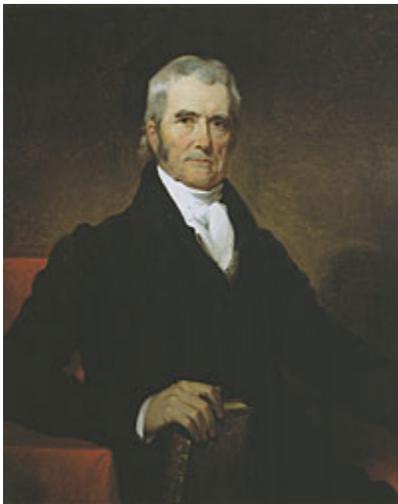
"Without making ostentatious professions of religion, he was a sincere believer in the Christian faith, and a truly devout man."





John Marshall then studied law under Chancellor George Wythe at the College of William and Mary.

He as a U.S. Congressman from Virginia, and became Secretary of State under President John Adams, who then nominated him to the Supreme Court.



John Marshall swore in as Chief Justice on February 4, 1801, and served 34 years.

Every Supreme Court session opens with the invocation:

"God save the United States and this Honorable Court."

John Marshall helped write over 1,000 decisions, usually favoring the Federal Government, which put him at odds with President Thomas Jefferson who championed State Governments.

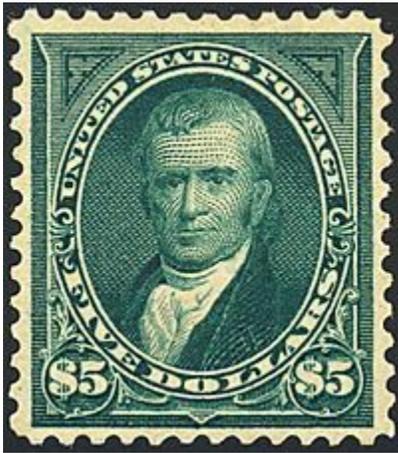
John Marshall decided in favor of the Cherokee Indian nation to stay in Georgia against the Indian Removal Act of 1830, which was hurriedly pushed through Congress by Democrat President Andrew Jackson.

Ignoring John Marshall's decision, the Federal Government removed over 46,000 Native



Americans from their homes and relocated them west, leaving vacant 25 million acres open to the expansion of slavery.

Chief Justice John Marshall commented May 9, 1833, on the pamphlet *The Relation of Christianity to Civil Government in the United States* written by Rev. Jasper Adams, President of the College of Charleston, South Carolina (*The Papers of John Marshall*, ed. Charles Hobson, Chapel Hill: University of North Carolina Press, 2006, p, 278):



"No person, I believe, questions the importance of religion to the happiness of man even during his existence in this world..."

The American population is entirely Christian, and with us, Christianity and religion are identified.

It would be strange, indeed, if with such a people, our institutions did not presuppose Christianity, and did not often refer to it, and express relations with it."



According to tradition, the Liberty Bell cracked while tolling at John Marshall's funeral, July 8, 1835.

hundred years after John Marshall's death, the Supreme Court Building was completed in 1935, with Herman A. MacNeil's marble relief above the east portico featuring Moses with two stone tablets.



Inside the Supreme Court chamber are Adolph A. Weinman's marble friezes depicting lawgivers throughout history, including Moses holding the Ten Commandments, and John Marshall.

A story was originally published in the *Winchester Republican* newspaper, and recounted in Henry Howe's *Historical Collections of Virginia* (Charleston, South Carolina, 1845, p. 275-276; Albert J. Beveridge, *The Life of John Marshall*, Boston and New York, Houghton Mifflin Company, 1919, Vol. 4, The Building of the

Nation, 1815-1835):

"There is, too, a legend about an astonishing flash of eloquence from Marshall - 'a streak of vivid lightning' - at a tavern, on the subject of religion.

The impression said to have been made by Marshall on this occasion was heightened by his appearance when he arrived at the inn.

The shafts of his ancient gig were broken and 'held together by switches formed from the bark of a hickory sapling'; he was negligently dressed, his knee buckles loosened.



In the tavern a discussion arose among some young men concerning 'the merits of the Christian religion.'

The debate grew warm and lasted 'from six o'clock until eleven.'

No one knew Marshall, who sat quietly listening.

Finally one of the youthful combatants turned to him and said:

'Well, my old gentleman, what think you of these things?'

Marshall responded with a 'most eloquent and unanswerable appeal.'

He talked for an hour, answering 'every argument urged against the teachings of Jesus.'

'In the whole lecture, there was so much simplicity and energy, pathos and sublimity, that not another word was uttered.'

The listeners wondered who the old man could be.

Some thought him a preacher; and great was their surprise when they learned afterwards that he was the Chief Justice of the United States."

Albert J. Beveridge wrote in *The Life of John Marshall* (Boston and New York, Houghton Mifflin Company, 1919, Vol. IV, The Building of the Nation, 1815-1835, p. 70):

"John Marshall's daughter makes this statement regarding her father's religious views:

'He told me that he believed in the truth of the Christian Revelation...during the last months of his life he read Alexander Keith on

Prophecy, where our Saviour's divinity is incidentally treated, and was convinced by this work, and the fuller investigation to which it led, of the supreme divinity of our Saviour.

He determined to apply to the communion of our Church, objecting to communion in private, because he thought it his duty to make a public confession of the Saviour."



Albert J. Beveridge continued in *The Life of John Marshall* (referencing Bishop William Meade's *Old Churches, Ministers and Families of Virginia*, 2 Vols., Richmond, 1910, Vol. 2, p. 221-222):

"He attended (Episcopal) services. Bishop William Meade informs us, not only because 'he was a sincere friend of religion,' but also because he wished 'to set an example.'

The Bishop bears this testimony: 'I can never forget how he would prostrate his tall form before the rude low benches, without backs, at Coolspring Meeting-House (Leeds Parish, near Oakhill, Fauquier County) in the midst of his children and grandchildren and his old neighbors.'

When in Richmond, Marshall attended the Monumental Church where, says Bishop Meade, 'he was much incommoded by the narrowness of the pews...

Not finding room enough for his whole body within the pew, he used to take his seat nearest the door of the pew, and, throwing it open, let his legs stretch a little into the aisle."



John F. Dillon wrote in *John Marshall-Life, Character and Judicial Services-As Portrayed in the Centenary and Memorial Addresses and Proceedings Throughout the United States on John Marshall Day, 1901* (Chicago: Callaghan & Company, 1903):

"John Marshall Day, February 4, 1901, was appropriately observed by exercises held in the hall of the House of Representatives, and attended by the President, the members of the Cabinet, the Justices of the Supreme and District courts, the Senate and House of Representatives, and the members of the Bar of the District of Columbia...

The program, prepared by a Congressional committee acting in conjunction with committees of the American Bar Association and the Bar Association of this District, was characterized by a dignity and simplicity befitting the life of the great Chief Justice..."



After an invocation delivered by John Marshall's great-grandson, Rev. Dr. William Strother Jones of Trenton, N.J., Chief Justice Fuller made introductory remarks:

"The August Term of the year of our Lord eighteen hundred of the Supreme Court of the United States had adjourned at Philadelphia... However, it was not until Wednesday, February 4th, when John Marshall...took his seat upon the Bench..."

U.S. Attorney General Wayne MacVeagh then

stated: "The centennial anniversary of the entrance by John Marshall into the office of Chief Justice of the United States...Under his forming hand, instead of becoming a dissoluble confederacy of discordant States, became a great and indissoluble nation, endowed with...the divine purpose for the education of the world...securing to the whole American continent 'government of the people, by the people, and for the people'...

Venerating the Constitution...as 'a sacred instrument'...we have lived to see...such generous measures of political equality, of social freedom, and of physical comfort and well-being as were never dreamed of on the earth before...Let us, on this day of all days...acknowledge that nations cannot live by bread alone...

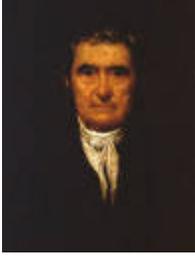
We have heretofore cherished, the Christian ideal of true national greatness; and our fidelity to that ideal, however imperfect it has been, entitled us in some measure to the divine blessing, for having offered an example to the world for more than an entire generation of how a nation could marvelously increase in wealth and strength and all material prosperity while living in peace with all mankind...

We all believe that the true glory of America and her true mission in the new century...is what a great prelate of the Catholic Church has recently declared it to be: to stand fast by Christ and his Gospel; to cultivate not the Moslem virtues of war, of slaughter, of rapine, and of conquest, but the Christian virtues of self-denial and kindness and brotherly love...

Then we may some day hear the benediction: 'Inasmuch as ye have done it unto one of the least of these my brethren ye have done it unto me'...

The true mission of nations as of men is to promote righteousness on earth... and taking abundant care that every human creature beneath her starry flag, of every color and condition, is as secure of liberty, of justice and of peace as in the Republic of God.

In cherishing these aspirations...we are wholly in the spirit of the great Chief Justice; and...so effectually honor his memory." (Dillon, Vol. 1, p. 7-42)



U.S. Supreme Court Justice Horace Gray gave an address the same day in Virginia:

"Gentlemen of the Bar of the Commonwealth of Virginia, and of the City of Richmond: One hundred years ago today, the Supreme Court of the United States, after sitting for a few years in Philadelphia, met for the first time in Washington, the permanent capital of the Nation; and John Marshall, a citizen of Virginia, having his home in Richmond, and a member of this bar, took his seat as Chief Justice of the United States...

Chief Justice Marshall was a steadfast believer in the truth of Christianity as revealed in the Bible. He was brought up in the Episcopal Church; and Bishop Meade, who knew him well, tells us that he was a constant and reverent worshipper in that church, and contributed liberally to its support, although he never became a communicant.

All else that we know of his personal religion is derived from the statements (as handed down by the good bishop) of a daughter of the Chief Justice, who was much with him during the last months of his life.

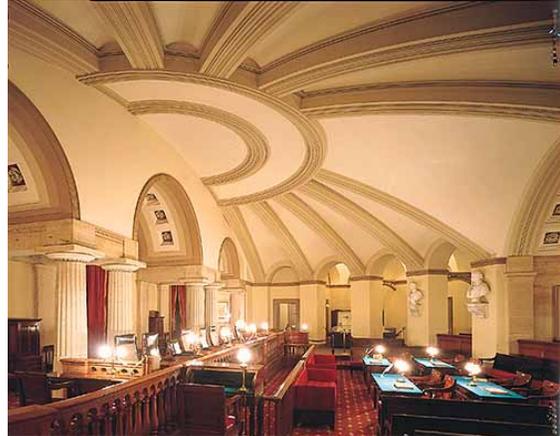
She said that her father told her he never went to bed without concluding his prayer by repeating the Lord's Prayer and the verse beginning, 'Now I lay me down to sleep,' which his mother had taught him when he was a child;

and that the reason why he had never been a communicant was that it was but recently that he had become fully convinced of the divinity of Christ, and he then 'determined to apply for admission to the communion of our church objected to commune in private, because he thought it his duty to make a public confession of the Saviour and, while waiting for improved health to enable him to go to the church for that purpose, he grew worse and died, without ever communing.'"

(Dillon, Vol. 1, p. 42, 47, 88)

New Hampshire Supreme Court Judge Jeremiah Smith gave an address:

"And this brings us to what is...the great distinguishing feature in Marshall's life; the real secret of his extraordinary success...that is his high personal character..."



John Marshall was pre-eminently single minded. His whole life was pervaded by an overpowering sense of duty and by strong religious principle. A firm believer in the Christian religion, his life was in accord with his belief." (Dillon, Vol. 1, p. 162)

Charles E. Perkins, nephew of Harriet Beecher Stowe and President of the Connecticut Bar Association stated:

"As a man, Marshall appears to have been as near perfection in disposition, habits, and conduct as it is possible for a mortal man to be...He had no vices and, I may almost say, no weaknesses.

In spite of his eminent talents, his high positions, and his great reputation, there was no tinge of conceit..."

His charities were constant and great. He bore no malice toward those who offended or injured him.

He was a sincere Christian and believed in and obeyed the commands of the Bible." (Dillon, Vol. 1, p. 330)



U.S. Rep. William Bourke Cockran addressed the Erie County Bar Association, Buffalo, New York:

"Aside from the establishment of Christianity, the foundation of this republic was the most memorable event in the history of man...

And if the foundation of this government be the most momentous human achievement of all the centuries, then clearly the appointment of John Marshall to the Chief Justiceship of the United States was the first event of the last century no less in the magnitude of its importance than in the order of its occurrence." (Dillon, Vol. 1, p. 404-405)

U.S. Senator and former Maryland Governor William Pinkney Whyte stated:

"Would you not call a man religious who said the Lord's Prayer every day? And the prayer he learned at his mother's knee went down with him to the grave.

He was a constant and liberal contributor to the support of the Episcopal Church.

He never doubted the fact of the Christian revelation, but he was not convinced of the fact of the divinity of Christ till late in life.

Then, after refusing privately to commune, he expressed a desire to do so publicly, and was ready and willing to do so when opportunity should be had. The circumstances of his death only forbade it...

He was never professedly Unitarian, and he had no place in his heart for either an ancient or a modern agnosticism." (Dillon, Vol. 2, p. 2-3)

U.S. Rep. Horace Binney of Pennsylvania stated that Marshall:

"...was a Christian, believed in the gospel, and practiced its tenets." (Dillon, Vol. 3,

p. 325)

Nathan Sargent, former Commissioner of Customs, wrote in *Public Men and Events from 1817 to 1853* (Philadelphia, 1875, Vol. 1, p. 299), that Marshall's "name has become a household word with the American people implying greatness, purity, honesty, and all the Christian virtues."