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The John Marshall Bicentennial Year

1755-1955

John Marshall is properly called the "Father of American Constitutional Law." He was born on September 24, 1755, on the Virginia frontier, served under General George Washington, fought in several of the crucial battles of the Revolution, and suffered the hardships of Valley Forge. He attended Wythe's law lectures at the College of William and Mary, and later practiced law in Richmond. He was appointed by President John Adams to the office of Secretary of State; shortly thereafter, Adams appointed him the fourth Chief Justice of the United States. His death in 1835 brought to a close a long term as Chief Justice—a term marked by decisions which have molded the judicial and constitutional history of the nation.

The College of William and Mary appropriately is honoring the memory of one of her greatest sons. While Marshall was a student under George Wythe, the first occupant of a chair of law in America, for hardly more than six weeks, the notebook containing his notes taken from Wythe's lectures¹ demonstrates that he absorbed the basic principles of the law during this period. When Marshall became Chief Justice, the Supreme Court was weak, its jurisdiction uncertain; when he died, the Court was firmly established as an impregnable part of American democratic government. Since Marshall's day, its authority as the interpreter of the Constitution has never been seriously questioned. Consequently, the Bicentennial Program was planned to emphasize the place of a sound and free Judiciary in a democratic society and adopted as its theme:

The Rededication of the Anglo-American Bench and Bar to its Traditions of Representative Constitutional Government.

With this theme as the guiding text, the College planned and is carrying out a year-long program in observance of the anniversary of the great Chief Justice. The opening event on this program was held last September 25 when busts of Marshall,

¹ Beveridge, *The Life of John Marshall* 174ff. (1916). This notebook is in the possession of Dr. H. Norton Mason of Richmond.

Wythe, and Blackstone were unveiled at a formal convocation which brought to the same platform the Chief Justice of the United States and the Lord Chief Justice of England, together with a score of distinguished jurists, publicmen, and representatives of the American Bar. On that occasion, Chief Justice Earl Warren in the main address of the convocation said about Marshall's work:

But perhaps the greatest contribution he made to our system of jurisprudence was the establishment of an independent judiciary through the principle of judicial review. In a case instituted the first year of his incumbency, he rooted this fundamental principle in American constitutional law as our original contribution to the science of law.

This and many other of his decisions aroused a storm of protest as being beyond the words and intent of the Constitution, but for thirty-four years in accordance with his belief, stone by stone, he built the foundation of our constitutional structure, and he constructed it sufficiently strong to support everything we have since built upon it.

A series of addresses given at the College by eminent men from the Bench, faculties of law, and the practicing Bar have developed the several aspects of the general theme. On Charter Day, February 8, 1955, Judge Bolitha J. Laws, Chief Judge of the United States District Court for the District of Columbia addressed a formal convocation on "The Function of a Judiciary in a Free World." The anniversary of Marshall's most famous and far-reaching decision, *Marbury v. Madison*, resulting in the establishment of the principle of judicial review, was marked last February 24 by an address by Thomas Reed Powell, Story Professor of Law, Emeritus, Harvard University: "The Great Chief Justice: His Leadership in Judicial Review." (The text of this address is printed in this number of the *Review*.) On April 26, Walton Hamilton, Professor of Law, Emeritus, Yale University, delivered an address on "The Politics of Industry." One of the major addresses on the Bicentennial Program was given by General Carlos Romulo at the June Commencement Exercises. This part of the observance will be brought to a close next September 22 when another address will commemorate the two-hundredth anniversary of Marshall's birth. At this convocation

a plaque to accompany the busts of Marshall, Wythe, and Blackstone will be unveiled.

One of the most significant—and perhaps the most far-reaching—phases of the Bicentennial Program has been the conferences which have brought to the College and the Marshall-Wythe School of Law some of the most distinguished representatives of their several fields. The first of these was a Symposium on *The History and Philosophy of Taxation* held on April 15. At the two sessions of this conference papers were read by Randolph Paul, author of *Taxation in the United States*; Roy Blough, Director of Economic Affairs, United Nations; Judge Bolon B. Turner, Tax Court of the United States; Joel Barlow, Washington attorney and eminent tax authority; Mark Richardson, tax accountant, and C. Lowell Harris, Professor of Economics at Columbia University. The formal conference address was delivered by Judge E. Barrett Prettyman, United States Court of Appeals for the District of Columbia. The publication of these papers in a separate volume will make a definite contribution to the scholarly literature on taxation.

The two-day conference on the general theme *John Marshall—Two Hundred Years Later* held on May 12-13 brought to the campus more than thirty distinguished scholars in the fields of Political Science and Government, American History, Constitutional Law, and Legal History. Each of the three sessions devoted itself to the discussion of a subject under the general theme. Session I had for its subject: *Marshall and His Times*. Participating in this session were Benjamin F. Wright, President of Smith College; David J. Mays, author of *Edmund Pendleton*; Arthur N. Holcombe, Professor of Government, Harvard University; and Irving Brant, author of *James Madison*. At the second session devoted to the theme *The Power of Judicial Review* with Edward S. Corwin, Princeton University, as its chairman, papers were read by F. D. G. Ribble, Dean of the University of Virginia Law School, and Charles Fairman, Professor of Law, Washington University, St. Louis. The third session with its theme *Some Special Contributions of Marshall to the Law* was addressed by T. V. Smith, Professor of Citizenship and Philosophy, Syracuse University; Julius Goebel, Jr., Professor of Law, Columbia University; Joseph Dorfman, Professor of Economics, Columbia Uni-

versity; George L. Haskins, Professor of Law, University of Pennsylvania; and Donald G. Morgan, Professor of Political Science, Mount Holyoke College. The conference address was delivered by Max Lerner, noted writer and columnist. Twenty distinguished scholars from a number of universities and colleges were present to participate in the discussions. The volume containing the proceedings of this conference will serve as a reevaluation of the place of John Marshall in American constitutional and judicial history.

In planning the Bicentennial Program the Committee believed that one of its most important activities should be the sponsoring of research and publication projects devoted to Marshall and closely related subjects concerning colonial legal history and constitutional law. Three such projects are in progress with the support of the Bicentennial Program: in cooperation with the Institute of Early American History and Culture and under the supervision of its director, Lester Cappon, the compilation of a bibliography of Early American Law is in preparation which will be published as a supplement to Professor Mark Howe's essay on needs and opportunities for study in this field. A *Bibliography of John Marshall* is being compiled by Mr. James Servies, Reference Librarian of the College of William and Mary Library, for publication during the late summer or early fall. Professor Morton J. Frisch, of the Department of Government, is writing a treatise on *The Political Philosophy of John Marshall* to be published later in the year. The Committee is also considering the publication of Marshall's Notebook containing his notes taken from George Wythe's lectures while he was a law student at the College.

Such is an outline of the program which the College and the Marshall-Wythe School of Law have dedicated to the memory of Chief Justice John Marshall on the two-hundredth anniversary of his birth. In this way the College has chosen to honor the man about whom his long-time friend and close associate, Joseph Story, wrote:

Chief Justice Marshall was the growth of a century. Providence grants such men to the human family only on great

occasions to accomplish its own great end. Such men are found only when our need is the greatest. His proudest epitaph may be written in a line—"Here lies the expounder of the Constitution."

W. Melville Jones, Director
Marshall Bicentennial Program