

American Minute with Bill Federer

Chief Justice John Marshall "The American population is entirely Christian, and with us, Christianity and Religion are identified"

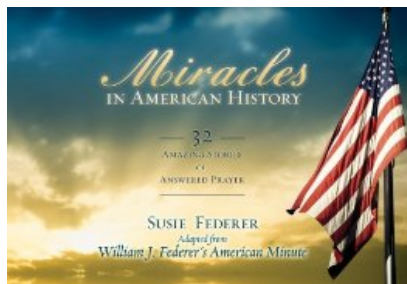
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"The power to tax involves the power to destroy," wrote **Chief Justice John Marshall**, *McCulloch v. Maryland*, 1819.



Perhaps no one had a greater impact on the development of Constitutional Law than **John Marshall** ... [continue reading ...](#)

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He was born September 24, 1755, and was home schooled as a youth.



At the beginning of the Revolutionary War, **John**

Marshall served with the Culpeper Minutemen.

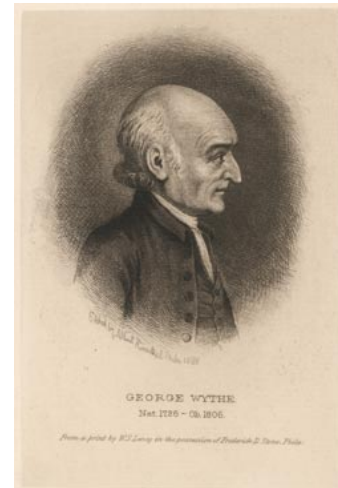


Marshall joined the Continental Army and served as a captain in the Virginia Regiment under **General George Washington**, enduring the freezing winter at Valley Forge.

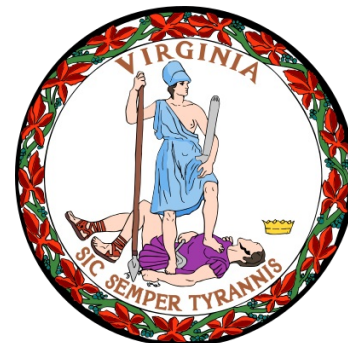
John Marshall later described **George Washington**:

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

John Marshall studied law at the College of William and Mary under **Chancellor George Wythe**, as did also **Thomas Jefferson**, **James Monroe**, **Henry Clay**, and **Supreme Court Justice Bushrod Washington**, the nephew of George Washington.



George Wythe was a prominent opponent of slavery, a **signer of the Declaration of Independence**, a delegate to the Constitutional Convention, and, with **George Mason**, he designed the **Seal of Virginia** with the motto **Sic Semper Tyrannis (Thus Always to Tyrants)**.



Following **George Wythe's** example of public service, **John Marshall** was elected

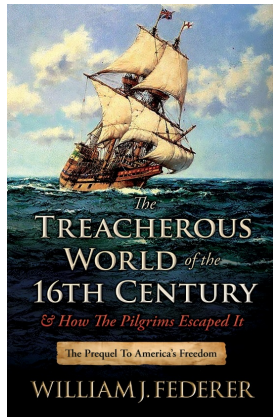
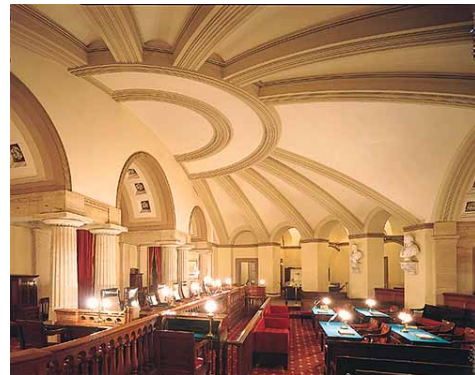
a **U.S. Congressman** from Virginia, and became **Secretary of State** under **President John Adams**.



John Adams nominated **John Marshall** to the **Supreme Court**, where, on February 4, 1801, he swore in as the **fourth Chief Justice**.



Marshall served 34 years on the **Supreme Court**, which met in the basement of the U.S. Capitol Building.



[The Treacherous World of the 16th Century and How the Pilgrims Escaped It](#)

John Marshall was the **longest serving Chief Justice**, being on the Supreme Court during the administrations of:

- **John Adams,**
- **Thomas Jefferson,**
- **James Madison,**



- James Monroe,
- John Quincy Adams, and
- Andrew Jackson.

Every Supreme Court session opens with the invocation:

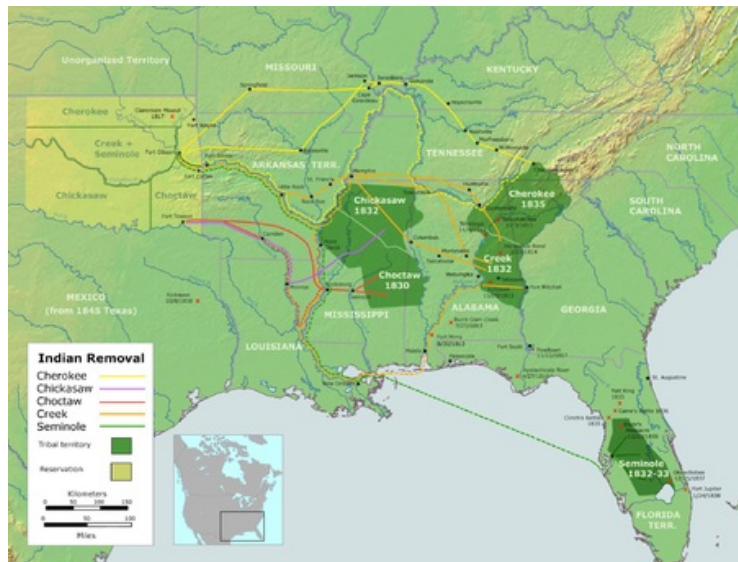
"God save the United States and this Honorable Court."



Image Courtesy U.S. Mint

John Marshall decided in favor of the **Cherokee Indian nation**, stating the **Indian Removal Act** was **unconstitutional** and that Indians should be allowed to stay in Georgia.

The Indian Removal Act had been hurriedly pushed through a **Democrat controlled Congress** in 1830.



Protesting the Indian Removal Act were **Christian missionaries** led by **Jeremiah Evarts**, being joined by **New Jersey Senator Theodore Frelinghuysen** and **Tennessee Congressman Davy Crockett**.

Despite **Marshall's** decision favoring the Indians in *Worcester v. Georgia*, 1832, the Supreme

Court had to rely on the President to enforce its decision.

The Indian Removal Act of 1830



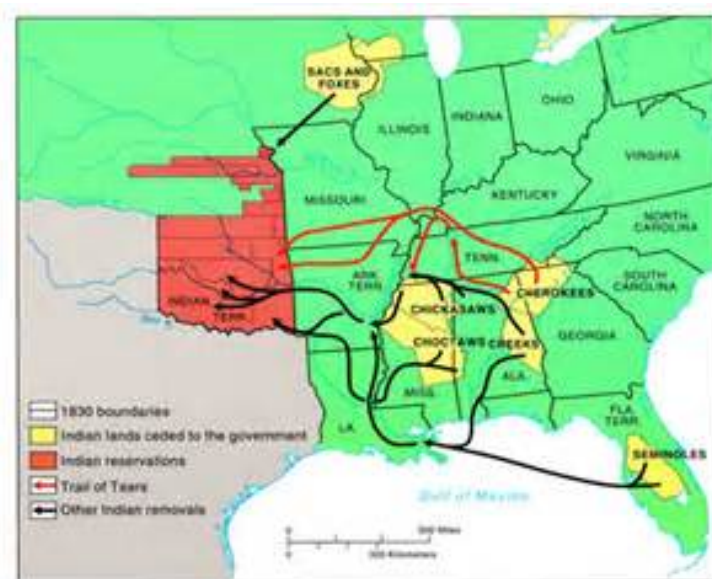
Democrat President Andrew Jackson refused, as the popular apocryphal quote attributed to him was:

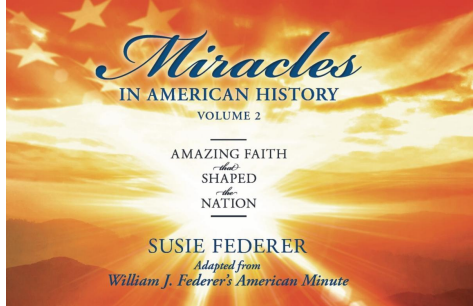
"John Marshall has made his decision; now let him enforce it!"

The Federal Government proceeded to send in the military to forcibly remove over 46,000 Native Americans from their homes and relocate them west.



This left 25 million acres vacant in the **Democrat-controlled South** into which **slavery could be expanded**.

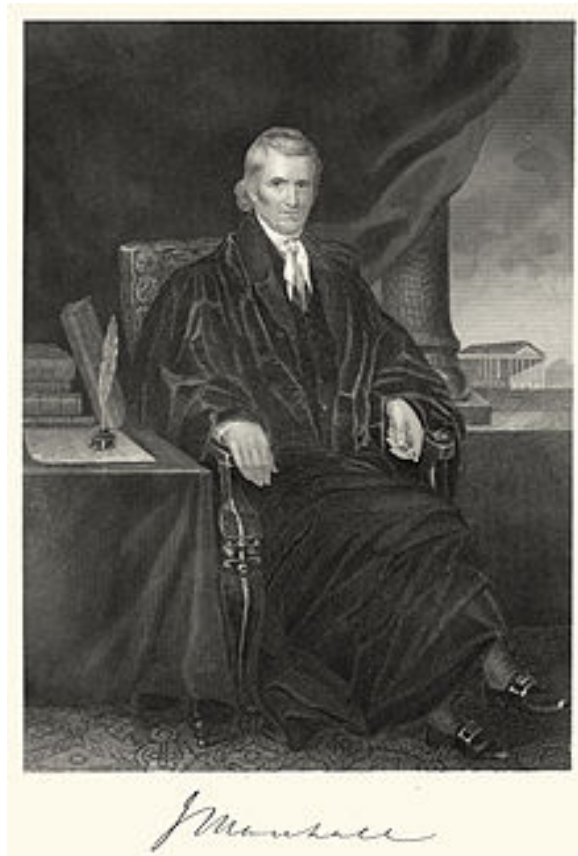




that Shaped the Nation

John Marshall helped write over 1,000 decisions, **advancing the trend of "judicial review."**

A **Federalist**, **John Marshall** was at the fulcrum of balancing the separate powers of government with the need to respond to immediate issues to keep the country united, **often rendering decisions favoring a more powerful Federal Government.**



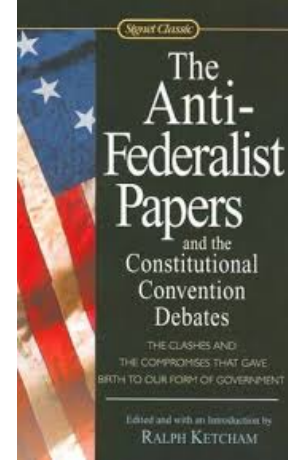
Other famous Federalists were:

- **Alexander Hamilton,**
- **James Madison,**
- **John Jay;**
- **John Adams,**
- **Fisher Ames,**
- **Rufus King**
- **Charles Cotesworth Pinckney**
- **Thomas Pinckney, and,**
- **Noah Webster.**

Opposite of John Marshall on the political spectrum were the **Anti-Federalists** who favored reserving more

power to the State Governments, such as:

- Thomas Jefferson,
- Patrick Henry,
- Sam Adams,
- George Mason,
- Richard Henry Lee,
- James Monroe,
- Mercy Otis Warren,
- George Clinton, and
- Luther Martin.



Anti-Federalists had the foresight to see that giving the Federal Government more power may solve an immediate problem in the short run, but in the long run it would do irreparable harm to the country's representative form of government.



Federalists

- Wrote a collection of essays in support of the new Constitution.
- The purpose of the essays was to show how the new Constitution would solve many of the problems that existed under the Articles of Confederation.
- Three men combined to write 85 of the essays.
- Strong central government.
- (Alexander Hamilton, James Madison, John Jay)

VS



Anti-federalists

- Criticized the adoption of the Constitution of 1787.
- Opposition to slavery – continue to exist under the new Constitution.
- States would lose power under the Constitution.
- Federal Government would be too powerful. People still fear a strong central government.
- #1 opposition – NO BILL of RIGHTS in proposed constitution!
- Anti-Federalists (Patrick Henry, Samuel Adams, John Hancock, Richard Henry Lee, George Mason)

George Washington warned of trend in his **Farewell Address**, September 19, 1796:

"If in the opinion of the People, the distribution or modification of the Constitutional powers be in any way particular wrong, **let it be corrected by an amendment** in the way which the Constitution designates.



But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free

governments are destroyed.

The **precedent (of usurpation)** must always greatly **overbalance** in **permanent evil** any **partial or transient (brief) benefit** which the use can at any time yield."

In other words, if the **Constitution** needed to be **changed**, it should happen through the **Amendment process** -- preserving the majority will of the people -- rather than through the opinion of a few Justices.

Federalists v. Anti-Federalists

- **Federalists** -wanted a strong national government
- **Anti-Federalists** – feared that the Constitution gave the national government too much power.

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

A hundred years after **John Marshall's** death, **Chief Justice William Howard Taft** initiated the Supreme Court moving out of the basement of the Capitol into its own building in 1935.

This coincided with court's increased trend of usurpation of power from Congress by issuing opinions that effectively legislated from the bench.

A statue of John Marshall is in the lower floor of the Supreme Court Building.

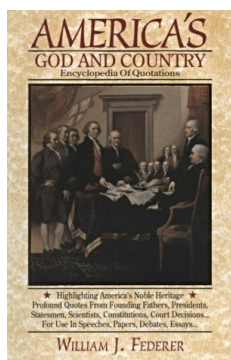
Inside the Supreme Court chamber are Adolph A. Weinman's marble friezes depicting lawgivers throughout history, including **John Marshall**.



Also depicted in the frieze is **Moses holding the Ten Commandments.**



Moses is also in the center above the Supreme Court's east portico holding two stone tablets.



[America's God and Country Encyclopedia of Quotations](#)

A story about **John Marshall** 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 & 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 (carriage) 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?'

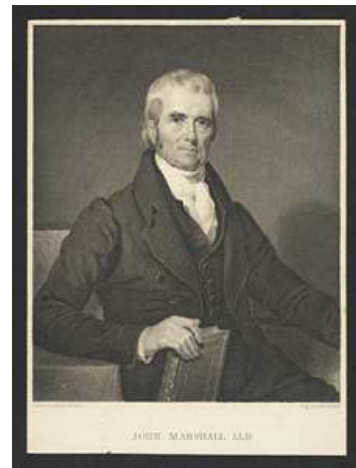
Marshall responded with a 'most eloquent and unanswerable appeal.' He talked for an hour, answering 'every argument urged against the teachings of Jesus.'



'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.**"

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:



"Reverend Sir, I am much indebted to you for the copy of your valuable sermon on the relation of **Christianity to civil government** preached before the convention of the Protestant Episcopal Church in Charleston, on the 13th of February last.

I have read it with great attention and advantage. The documents annexed to the sermon certainly go far in sustaining the proposition which it is your purpose to establish.

One great **object of the colonial charters** was avowedly the **propagation of the Christian faith**. Means have been employed to accomplish this object, and those means have been used by government ..."

John Marshall continued:

"No person, I believe, questions the importance of religion to the happiness of man even during his existence in this world. It has at all times employed his most serious meditation, and had a decided influence on his conduct.



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 exhibit relations with it.

Legislation on the subject is admitted to require great delicacy, because freedom of conscience and respect for our religion both claim our most serious regard.

You have allowed their full influence to both. With very great respect, I am Sir, your Obedt., **J. Marshall.**"

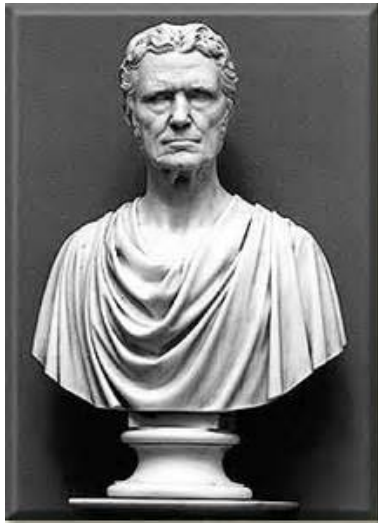
(The Papers of John Marshall, ed. Charles Hobson, Chapel Hill: Univ. of North Carolina Press, 2006, p, 278).

John Marshall's daughter said her father read Alexander Keith's *Evidence of the Truth of the Christian Religion derived from the Literal Fulfillment of Prophecy* (Edinburgh: Waugh & Innes, 1826,

2nd ed.).

Evidence Of The Truth
Of The Christian Religion
Derived From The Literal
Fulfillment Of Prophecy

Alexander Keith



The Life of John Marshall by
Albert J. Beveridge (Boston & New
York: Houghton Mifflin Company,
1919, Vol. IV, p. 70), stated:

"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.'

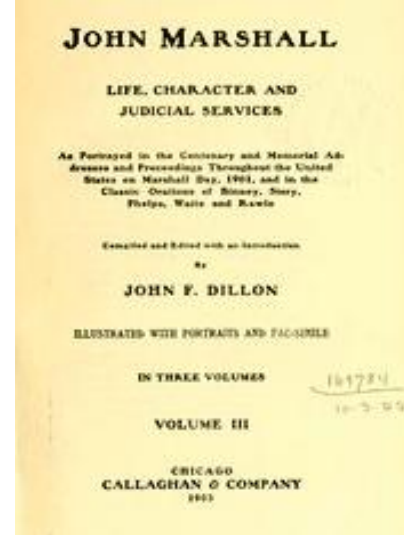
When in Richmond, **John Marshall** attended the
Monumental Church where, says Bishop Meade,

'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 Melville Fuller** made introductory remarks for **John Marshall Day, February 4, 1901:**



"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 on **John Marshall Day, February 4, 1901:**

"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."

U.S. Supreme Court Justice Horace Gray gave an address on **John Marshall Day**, February 4, 1901, 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 ..."

Justice Horace Gray continued his **John Marshall Day** remarks:



"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

stated on **John Marshall Day**,
February 4, 1901:

"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 Elliott 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 spoke of **John Marshall**

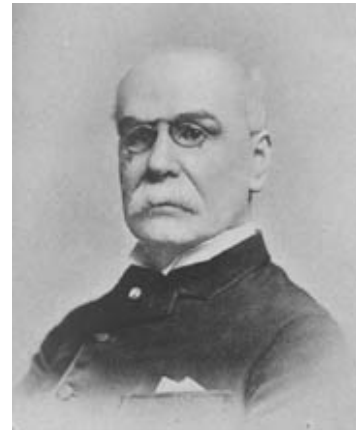
to the Erie County Bar Association in Buffalo, New York:

"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** said of **John Marshall**:



"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).

Commissioner of Customs **Nathan Sargent** wrote in *Public Men and Events from 1817 to 1853* (Philadelphia, 1875, Vol. 1, p. 299), that:



"**(John Marshall's)** name has become a household word with the American people implying greatness, purity, honesty, and **all the Christian virtues.**"

U.S. Rep. Horace Binney of Pennsylvania (Dillon, Vol. 3, p. 325), stated that:



"**(John Marshall)** ... was a **Christian**, believed in **the Gospel**, and practiced its tenets."

U.S. Attorney General Wayne MacVeagh concluded his remarks on **John Marshall Day**, February 4, 1901:

"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' ..."

MacVeagh concluded:

"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.**

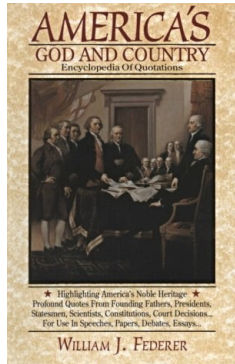
In cherishing these aspirations ... we are wholly in the spirit of **the great Chief Justice**; and ... so effectually honor his memory." (Dillon, Vol. 1, p. 7-42)."

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