

G. H. Smith

AN

ORATION

ON THE LIFE AND CHARACTER OF

JOHN MARSHALL,

LATE CHIEF JUSTICE OF THE UNITED STATES,

PRONOUNCED BEFORE

The Citizens of Alexandria, D. C., August 12th, 1835

BY

EDGAR SNOWDEN.

[PUBLISHED BY REQUEST OF THE COMMITTEE OF ARRANGEMENTS.]

PRINTED AT THE ALEXANDRIA GAZETTE OFFICE.

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1835.

4-1835

John Marshall

HONORS

TO THE MEMORY OF

CHIEF JUSTICE MARSHALL.

At a meeting of the Citizens of Alexandria to adopt suitable measures in honor of the memory of JOHN MARSHALL, late Chief Justice of the United States, held at the Town Hall on the 11th July, BERNARD HOOE (Mayor) was called to the Chair, and JAMES W. SCOTT appointed Secretary.

On motion of Thomas Semmes that a committee of three persons be appointed to draft resolutions expressive of the sense of this meeting, Thomas Semmes, Christopher Neale, and Cassius F. Lee were named by the Chair, who, after retiring for a short time, reported the following:—

The Citizens of Alexandria having heard with deep regret the announcement of the death of JOHN MARSHALL, late Chief Justice of the United States—entertaining a profound respect for his character, and veneration for his memory, and cherishing a grateful recollection of his services as a patriot soldier of the Revolution—a distinguished public servant in several responsible and elevated civil stations—and an upright, impartial, learned and able Chief Justice of the highest Court known to our laws, do Resolve—

1. That EDGAR SNOWDEN, Esq. be requested to pronounce an Eulogy commemorative of the life, character, and public services of the deceased.

2. That a committee of fourteen be appointed to make all suitable arrangements for the occasion.

3. That the committee of arrangements do give notice to the Citizens, of the time and place appointed for the public ceremonies in honor of the illustrious dead, and of the proceedings proper to be observed in relation to the same.

4. That a copy of these proceedings be communicated by the chairman to the family of the deceased.

These resolutions were unanimously adopted by the meeting.

The following gentlemen were appointed the

COMMITTEE OF ARRANGEMENTS.

Christopher Neale,	Wm. L. Hodgson,
James W. Scott,	James McKenzie,
Thomas Semmes,	Wm. T. Harper,
C. F. Lee,	Wm. H. Thompson,
A. J. Wedderburn,	George Brent,
Robert H. Miller,	Reuben Johnston, Jr.
James Carson,	George S. Hough,

BERNARD HOOE, Chairman.

JAS. W. SCOTT, Secretary.

The Committee appointed to make suitable arrangements in honor of the memory of the late JOHN MARSHALL, adopted the following resolutions:—

1. That Wednesday the 12th of August be the day set apart for the Eulogy to be pronounced on the death of the late distinguished Chief Justice, John Marshall.
2. That the Citizens, the Mayor and Common Council, the Reverend Clergy, the Civil Officers of the United States, the Officers of the Army and Navy, the Members of the Bar and Officers of the Courts of the District of Columbia, the Officers of the Militia, the different Volunteer Companies, the Masonic and other Societies, Ship Masters, Seamen, and Strangers generally, be requested to unite in the Procession which is to move from the Public Square, at 10 o'clock, A. M.
3. That the Bells be tolled at sunrise for one hour, and again while the Procession is moving to the Church, and at sunset.
4. That thirteen Minute Guns be fired at sunrise—that seventy-nine Minute Guns, corresponding with the age of the deceased, be fired at noon, and that thirteen be fired at sun-set—quick time.
5. That the Citizens be requested as far as practicable to suspend business during the day.
6. That Masters of Vessels in port be requested to display their Flags at half-mast during the day; also, the Flag on the Public Square be placed in like manner.
7. That the Judges of the Courts of the District, and the surviving Soldiers of the Revolution, be requested to join in the Procession, and that carriages be provided for their accommodation.
8. That Col. Geo. Brent be requested to act as Marshal of the day, and appoint assistant Marshals.

On Wednesday, the 12th, the Citizens assembled pursuant to arrangement at 11 o'clock, A. M. at the City Hotel, and proceeded in the following order to the Methodist Episcopal Church:

Civic Escort.
Band of Music.
Brigadier General and Staff.

Volunteer Companies, with colors in mourning; consisting of Capt. Semmes' Alexandria Artillerists, Capt. Brockett's Independent Volunteers, Capt. White's Independent Blues, and Capt. Kinsey's Rifle Guards.

Committee of Arrangements.
Clergy.

Orator, accompanied with the Mayor, of Alexandria, Chairman of Committee of Arrangements, Chief Judge and Associate Judges of the District of Columbia.

Members of the Bar of the District of Columbia.
Common Council.

Officers and Soldiers of the Revolution.
Civil Officers.

Officers of the Army and Navy.

Masonic Societies.
Washington Society.
St. Andrew's Society.

Hibernian Society.
Teachers of Schools, with their Pupils.
Citizens.

The procession was under the direction of Col. GEORGE BRENT, and the following gentlemen as Assistant Marshals:

Robert Brockett,	Wm. D. Nutt,
James W. Scott,	Dr. A. J. Wedderburn,
W. H. Thompson,	Robert Washington,
Edward Daingerfield,	Wm. Page.

After arriving at the the Church, and Music from the Choir, Prayer was offered by the Rev. Dr. Dorsey, and the Oration pronounced. The Procession returned to the City Hotel, and was dismissed.

At a Meeting of the Committee appointed by the Citizens of Alexandria to arrange the ceremonies in honor of the late Chief Justice Marshall, at the Town Hall, the 13th of August, 1835:—

1. Resolved, That the thanks of the citizens of Alexandria be tendered to Edgar Snowden, Esq. for the very able, eloquent, and appropriate Eulogy upon the character and services of Chief Justice Marshall, pronounced by him yesterday; and that he be requested to furnish the Chairman a copy thereof for publication.

2. Resolved, That the thanks of the Committee be tendered to the Minister and Trustees of the Methodist Episcopal Church for the use of their Meeting House;—to the Chief and Assistant Marshals for their efficient services in conducting the ceremonies of the day; and to the Harmonic Society, and the Choir, for the excellent music furnished by them on the occasion.

3. Resolved, That the Chairman transmit a copy of the Eulogy pronounced by Mr. S. to the family of Judge Marshall.

4. Resolved, That these proceedings be published in the Alexandria Gazette.

CHRISTOPHER NEALE, Chairman.

JAMES W. SCOTT, Secretary.

ORATION.

THE public commemoration of the services and the worth of the great and good, who have lived and died in the midst of a people benefitted by their actions, is a practice consecrated by universal custom and the best feelings of our nature. National gratitude displays itself in this form with a readiness, a sympathy, and an intenseness of interest, which are no less honorable to those who unite in the affectionate tribute than to the characters of the illustrious dead. Nor, can mankind, in this respect, at least, receive the censure of being alone actuated by principles of selfishness or motives of interest. The verdict of posterity is generally just—its award righteous, when applied to friend or enemy. History records in enduring lines the decision, and Time but confirms what is established. When death levels the pride of power, and place, and wealth, the voice of adulation is hushed, the courtier ceases to pay his homage, and sycophancy neglects to "bend the knee that thrift may follow fawning." Human nature, then, released from the thralldom of fear, unseduced by the blandishments of authority, and uninfluenced by favoritism, accident or circumstances, calmly asserts the independence of mind, and passes judgment without partiality. We point to the grave of the tyrant, and invoke vengeance upon those who follow in his footsteps: We weep over the remains of gifted genius and mourn the loss of every bright intellect whose fire has been extinguished in death: We bend over the tomb of the Patriot and "bid Honor deck the turf that wraps his clay:" We linger around the sepulchre of the good man and treasure up the memory of his life as a glorious example for our imitation. Providence, in the progress of events, has permitted the exhibition, in many cases, of retributive justice or merited reward even in the

last hours or the funeral rites of the oppressors as well as the benefactors of mankind—and these lessons have in some instances been awfully instructive, in others beautifully interesting. There is a yearning in the human heart for the esteem of posterity which is natural and praiseworthy, and which is invariably responded to by the immediate survivors of the departed. If the anticipation is soothing to the feelings of those who desire and strive for this distinction, the fulfilment of the wish is equally grateful to the living. Apart from the noble incentive it offers to virtuous actions;—it humanises, it softens, it corrects: It appeals to the purest passions and affections and calls them into exercise. Both in ancient and modern times the most affectionate attachment has always been manifested to the names and memories of those “who had done the state some service.” In Greece and Rome, solemn processions,—funeral games,—universal mourning—orations and eulogiums—the erection of statues and monuments—the inscription of names in the Capitol and the Temples, and a glorious apotheosis, followed the decease of a citizen made illustrious by his deeds. In our own day the *post mortem* honors bestowed upon those whose lives deserved such distinction, are, though less splendid and imposing to the eye, no less striking and touching in their associations and effects; and whatever Reason and Philosophy may teach, Nature has implanted in our hearts those feelings on this subject which cannot be deadened or blunted by their cold and frigid lessons.

We here, this day, my friends, follow the great law of our nature, the custom of our race, and the generous impulses of our hearts.—We have assembled to offer a tribute of our respect for the memory, reverence for the character, and gratitude for the services of a man, acknowledged to be worthy of them, each and all. We, this day, join in that swelling note of praise which is to be caught up by each succeeding generation and echoed and re-echoed throughout this broad land as long as virtue, talents and patriotism shall be regarded as worthy of esteem and admiration.

The occasion on, and the purpose for which we have thus met together, which have drawn to this holy temple, hoary age, ripe manhood, female loveliness, and buoyant youth, are solemn and impressive; and yet is that solemnity mingled with other feelings than those of sadness, and these impressions not altogether of a mournful cast.

In the fulness of time, after the lapse of many years, in the unerring, certain and regular course of nature, the venerable JOHN MARSHALL has gone down to the tomb. The sear and yellow leaf of life was not shaken rudely by the winter's blast, but fell gently to the earth. He had lived to fight the battles of his country's independence—to see that independence gained—to assist in adopting a free Constitution and republican institutions—to take part in carrying them into practical operation—to fill some of the highest offices known to the laws—to be elevated to the chief judicial station—to secure in the discharge of the duties of that station, not merely the hearty approbation, but the undisguised esteem and love of his country—to be blest with an affectionate family—to meet a friend in every face he saw—to know that his virtues and character of themselves gave him a moral power far beyond that which titles or office could bestow—to have length of days, with that blessing rarely allowed to the aged, the *mens sana in sano corpore*—and to die, at last, in calmness, peace, and Christian hope and resignation—these were the allotted privileges of him, whose memory, we, this day, gratefully honor. In such a life, such a character, and such a death, we can see nothing to lament for on account of the deceased—it is our own loss which we may well deplore.

To record faithfully and pourtray accurately the life and character of JOHN MARSHALL, will be the effort of the Biographer and Historian. A theme so rich and fruitful must attract genius and learning to the task, and excite the emulation of those most competent to its successful completion. Literature may well place a chaplet on the bust of Marshall; and the author of the best Life of the

Father of his Country which has been written, will himself receive hereafter, the honors of a work dedicated to his memory and designed to enumerate his virtues and his talents. It is not my purpose to do more, than rapidly pass over some of the prominent events of his active and useful career, and offer those few reflections which must force themselves upon every mind in the contemplation of so bright an example of excellence: to detail even all the important incidents of a life of four-score years, constantly employed in war and in peace, would occupy more time than could be allowed to this address.

JOHN MARSHALL was born in the neighboring county of Fauquier, in Virginia, in the year 1755. He was one of a large family of children, and fortune did not smile upon his early prospects. What his father could do for him, however, he did, and that with cheerfulness; and young Marshall, finding that he would have to rely upon his own exertions for whatever he might expect or hope to obtain, diligently commenced and afterwards applied himself with ardor to the prosecution of his studies. Manhood had hardly dawned upon his career when the Revolutionary War commenced, and a volunteer at 20, with patriotic fervor the young Virginian quitted his homestead and joined the American Army. Like most of the truly great men of the country, who have justly earned the title of *Patres Conscripti Reipublicæ*, and who are "above all Greek, all Roman praise," he was trained up in the midst of those stirring scenes which preceded the promulgation of the Charter of our liberty, and passed subsequently through the whole of the fiery ordeal which tried the souls of all who underwent its purgation. In addition to the hardships and fatigues of several campaigns, he was present and shared in the honors and dangers of the battles of Brandywine, Germantown and Monmouth. Tradition hands down instances of his exploits in these and other engage-

ments, which prove him to have been as personally courageous as he was morally brave.

The war over, Mr. Marshall, having in the mean time completed his initiatory studies of the law, commenced the practice of his profession in his native state. His talents and acquirements, the urbanity of his manners, and the kindness of his disposition, soon gave him reputation and business, and an exclusive devotion to his duties as a lawyer would have, of itself, brought him fame and wealth. But he was too well known, and his worth too highly appreciated by his friends and neighbors, to allow of his remaining in the walks of private life. From 1782 to 1789, with some slight intervals, he was in the service of Virginia either as a member of the State Legislature, a member of the Executive Council, or a member of the Convention called for the ratification of the Federal Constitution. During all this time, the most important questions connected with our foreign and domestic policy were the subjects of consideration, and Mr. Marshall stood in the front rank of our statesmen, displaying his commanding talents, his powers of reasoning, and his patriotic ardor. The proofs that he had already given of his ability to serve his country, had recommended Mr. Marshall to the particular confidence and esteem of Gen. Washington, and induced him to offer the young soldier, and statesman, and lawyer the office of Attorney General of the United States. This flattering offer, owing to private considerations, was respectfully declined, as was also a subsequent offer, made by Gen. Washington, to send him, as the successor to Mr. Monroe, Minister to France. After this, at the request of President Adams, he consented to be placed, along with Mr. Gerry and Mr. Pinckney, on the mission to that country, with which, at that time, our relations were not amicable. Returning home, he was solicited by Gen. Washington to become a candidate for Congress.—He consented and was elected. The memorable Session of '99, 1800, presented occasions for the display of those consummate abilities which had hitherto shown in every situation in which he had

been placed, and already made him a remarkable man. Nor was the nation disappointed in the expectation it had formed of the strength and vigor of his mind. Some of his speeches then made were reported and have been preserved, and are evidences of his "simplicity and energy of style, and those easy gradations by which he opened his lights on his attentive hearers." He remained in Congress to announce to the Representatives of the People the death of his great friend, the first President of the Republic, and to pronounce in emphatic language that eulogium upon him which was penned by another distinguished Virginian, and which a grateful nation has recorded as the expression of its universal sentiment, that he was First in War, First in Peace, and First in the hearts of his Countrymen. In 1800 Mr Marshall was made Secretary of State, and on the 31st day of January, 1801, was nominated as Chief Justice of the United States—in which high, responsible and dignified station he continued, with the general approbation of the country, and the marked respect of the wise and good of every land, until death closed his labors and his life.

Such is a hurried and imperfect sketch of the life of JOHN MARSHALL. Its full details will be a volume of instruction: it will shed lustre upon our annals, and form one of the brightest pages of the history of our country. Nor need we suffer the fear to obtrude that his memory will be less revered by posterity than by his immediate survivors. The wreath of fame, that we, this day, assist in forming, will flourish in eternal freshness and verdure, never withering from neglect, nor suffering the blighting mildew of public disapprobation.

The study and contemplation of such a character as is displayed in the life of Marshall, must be interesting to every well regulated mind. If the painter delights to adorn the canvass with the most beautiful creations of his art—if the sculptor dwells fondly upon the marble which he has wrought till it almost swells into life, and motion, and loveliness—so does the patriot fondly cherish the

remembrance of the actions that benefitted, the intellect that elevated, the virtue that blessed his country. With this feeling we approach the subject we have in hand, and commence its examination.

In every aspect in which we view the life and actions of John Marshall, we cannot fail to be struck with that rare combination of virtues, qualities and endowments, which united in his person, and seemed "to set their seal upon him, to give the world assurance of a man." In whatever situation of life, also, in which he was placed, he displayed the same requisites for complete success. In youth, in manhood and in old age, he never attempted any thing which he did not carry out with a vigor of design, a determination of purpose, an elasticity of spirit, and an energy of mind, which could not fail to accomplish what he undertook. As a patriot-soldier he was ardent, brave, generous and persevering; as a citizen he was plain, public-spirited, kind and affable; as a professional man, learned, acute and honest; as a Judge, "without fear and without reproach." And between these great divisions into which his life may be classed, and in which his character stood out in such bold relief, the shades, and gradations were preserved in beauty and harmony, so as to form an almost perfect whole. The simple elegance of his mind, especially when contrasted with the splendid intellects with which it may be brought into comparison, may also claim our attention. It was a Doric column of strength, proportion and chastened grace. Though it wanted ornate richness and polished materials, it made up for these deficiencies in solidity without heaviness, and magnificence without vain show. There were no cumbrous additions to, and unmeaning decorations around, its firm foundation—its polished shaft—its plain but beautiful capital. It stood, in its simple but expressive grandeur, challenging admiration.

We have spoken of Marshall, *generally*, in the relations which he bore to society and the public:—let us now look a little more particularly into each of the great divisions of his life.

1. His first appearance on the stage of active duty was in the capacity of an enthusiastic SOLDIER, voluntarily quitting the inglorious shades of retirement, to mingle in the strife in which he saw his country so perilously engaged. The same high and chivalrous spirit which induced him to volunteer his services, he maintained throughout his different campaigns. Gallantly contending for a cause dear to his soul, he fought long and bravely. Too young to make, at that time, one of the counsellors of the Army, he never hesitated to execute what the wisdom of others devised. And thus did he continue ready in heart and hand, prompt in obedience, active in execution, as long as he remained with the Army, giving an illustration to those around him of what materials the mettle and the mind of a patriot-soldier should be composed.

The honor of MARSHALL was ever kept sacred, and his friendships held by the most enduring ties. Long after his sword, which had been drawn alone for Liberty, had been sheathed and was peacefully resting in its scabbard, his thoughts would constantly recur to the events which marked the struggle in which he had been engaged, and to his compatriots in arms, the partners of his toils, his feelings and his fame. Some of the happiest moments of his life were passed in brightening the golden links of that chain of friendship which bound him to the veterans of the Revolution who served with him in the war. For these, when in distress, his heart melted, his hand and purse were opened.

2. He carried the same feelings of honor, and the same attachment to his friends, in his retirement. His private life, like his public one, is unexceptionable; and if he excelled as a soldier, a statesman, a judge, and an author, he was no less pre-eminent as a CITIZEN. So mild, so amiable, so unostentatious was he in his deportment and carriage, that though his presence inspired res-

pect even in those of riper years, yet the young would gladly leave their associates to enjoy his company and conversation. He shared their innocent amusements, directed their manly sports, exulted in their successes, and sympathized with their reverses. No man was too humble for his respectful salutation and cordial greeting. In the society in which he moved and the city where he dwelt, he was looked up to in the light of an affectionate father and friend—kind, forgiving, and charitable. The aged blessed him—the young loved him,—parents would show him to their children, and bid them imitate his virtues.—And all this, too, without lessening his dignity or lowering the elevation of his character. The same profound respect which was entertained for him and which he received in his robes of office, on the seat from whence he dispensed justice, was paid to him in his homely garb whilst he walked the streets or visited the dwellings of his fellow-citizens. Modest and retiring himself, he would almost shrink from the honors which were considered his deserts, and which, whilst others sought to bestow, he diligently avoided. Were it proper to speak of his domestic relations, we could examine his character in a most interesting light,—one in which, as husband and father, no man ever performed his duties with more fidelity and affection. But it may, in this connexion, be allowed us to say, that there was mercy in that dispensation of Providence, which permitted his last hours to be passed in ignorance of that calamity which befel his family in the awful and sudden death of a beloved son, who inherited many of the virtues and talents of his father, and whose untimely end will be long mourned by his friends and country.

3. A considerable part of Judge Marshall's life was passed in the legislative halls of his native state—in the councils of the nation—and in the discharge of his duties as one of the executive cabinet. When we look, therefore, at his character as a legislator and a PUBLIC MAN, we will find that his politics, though decided, and constantly expressed and acted upon,—and no man in a free, re-

publican country ought to be a neutral, —were liberal; his views moderate; and his motives, as expressed by his sentiments and actions, purely patriotic. So well was this known, that his very name “became a tower of strength” to the measures which he supported, and lent a force to the cause which he espoused.— Though in the party contests of the day he was on the losing side, he never lost his reputation nor his standing; and when the party which claimed and was proud of him, as one of its chief pillars and supporters, fell under the superior numbers of their opponents, he stood erect and self-poised, claiming no adventitious aid for support, and requiring no extraneous influence to sustain him. If, in these early party struggles to which reference is here made, the breath of slander or calumny, either through malice or ignorance, was ever blown upon the bright escutcheon of his character, the beams of truth and justice instantly dried the stain, and left not a soil upon its polished surface. When Judge Marshall is spoken of, however, as a statesman and politician, let it be remembered, that in no sense did he ever “narrow his mind, and to party give up what was meant for *mankind*.” His judgment soared above the petty disputes of the day or the hour—his eye pierced far beyond the limited horizon of present time. It has been said, already, that his views were liberal. To this may be added, that however firm and decided in the expression of his own opinions, and zealous in the enforcement of his conviction of their correctness, he was ever generous and courteous. He believed that others were as patriotic in their purposes as he knew his own to be; and he always respected and maintained that great fundamental doctrine of a republican country, that there should be perfect and entire freedom of opinion—with none to molest or make afraid, either in its formation or expression. In the exercise of this high and courteous spirit, in later years, he went to the polls, and was the

first man to vote openly and honestly against the elevation of the present distinguished Chief Magistrate of the Republic; but when the voice of the People was known, and that elevation determined on, he was the first man, in the same honest, open manner, to greet him joyfully, and wish him fervently success in his administration of the government.

He studiously, as a legislator, avoided angry debates—sharp encounters—keen retorts. The only weapons he used in polemical warfare were fair arguments, sound reason, and logical deductions. He left empty declamation and sounding harrangues to demagogues. To others he yielded the palm of passionate eloquence and finished oratory. He addressed the judgments of men; he spoke to them as sensible, rational beings, capable of acting from higher and nobler motives than mere animal excitement, or from the impulse of roused and animated feelings. His rhetoric was neither the scymetar of Saladin nor the broad-sword of Richard;—but yet it was just such a weapon as he could wield with skill and effect. His own mind had been so purified, as to remove from his mental vision almost every film of prejudice or settled error: it had been so disciplined as to prepare it for the strict investigation of every subject, and the reception alone of truth. He of course was prepared to wrestle with incorrect theories, false imaginations and erroneous principles, not as the gladiator in the arena who strove to show his own skill and dexterity as much as he endeavored to vanquish his enemies, but rather as the valiant knight who went out to do battle for the weak against the strong, and was intent only to gain the victory that wrong might be righted.

4. A few words will suffice to speak of MARSHALL in the profession which he chose as the occupation of his life, and which fitted him for the exalted station which he filled on the bench of the Supreme Court. We have already seen that he early imbibed a taste for judicial studies, and his whole subsequent career showed an aptitude for the acquirement of legal knowledge. It is related, that whilst in the army, on the trial of an officer arraigned be-

fore a Court Martial and in the absence of the Judge Advocate, the talents of Marshall were called into requisition in that capacity, and that confident predictions, based on his management of the case and his effort on the occasion, were then fully expressed. It is known that these predictions were all verified. His success at the bar, the standing he obtained and the high honors he received, are evidences of his accomplishments as a LAWYER. Many of his former clients now live to speak of his zeal and assiduity in their service, and the promptitude with which they were rendered. In the cause of innocence he was overwhelming: when he was forced to make the "worse appear the better reason," he was ingenious and skilful. In the sifting of testimony, the exposition of facts, and the application of principles to evidence, he was not surpassed at the Bar. And the crowning honor of this part of his life was that which distinguished him in every situation—his incorruptible integrity.

5. We come now to consider Judge Marshall in the most important situation of his life, and in which most of that fame already beginning to shed a lustre upon his memory was acquired. As CHIEF JUSTICE of that elevated tribunal over which he so long presided, it would be difficult to find a defect in his bearing or conduct. He seems to have been peculiarly fitted for the duties of this station. Nature united with and assisted his intellectual training, in preparing him for the impartial dispensation of justice, the disposition of law and right, and the maintenance of public and social order. The elevation, simplicity and dignity of his character, seemed, too, peculiarly appropriate to the high station which he so long filled. While all the other branches of our government have received the separate investigation, the unqualified praise, and the full exposition of politicians and commentators, and each in its turn claims the admiration of statesmen, as necessary and proper to the complete organization of a Republican government, the Supreme Court, alone, does not seem to have received that attention, or been awarded those encomiums which it deserves. From the

first, the incorporation of this Court as a component part of the system of government designed for the regulation of our affairs was met with jealousy by some and distrust by many. It was readily seen that the House of Representatives was designed to be the mirror of public sentiment—reflecting the views of the people and responsible to them for its actions—that the Senate was to be particularly the guardian of the States—preserving the balance of power between the larger and smaller sovereignties—that the Executive was made the servant of the laws enacted by the People and the States in Congress assembled, and liable to be held to strict account by censure or impeachment, or the popular voice—but this Court, "perpetual and irresponsible," as its enemies termed it, was thought to be a strange anomaly in the general plan which had been marked out with so much care and circumspection, and based upon the broad doctrine that all power is derived from the people and ought to return to them, occasionally, for the exercise of their prerogative. This opinion in derogation of the Supreme Court, was met and successfully combatted and overthrown by the authors of the Federalist, Hamilton, Jay and Madison—by Marshall himself in the Virginia Convention—and by all those who supported and contended for the Constitution as it was framed and as we received it. The voice of the nation coincided and agreed with the opinions of these sages. But from that day to this, the prejudiced and the unreflecting have not ceased, when opportunity offered, to openly assault, or covertly attack, this venerable monument of the virtue and the wisdom of our ancestors. Happily the javelins of ignorance, party rancor, and recklessness of purpose, however well directed and with whatever strength hurled, have, thus far, failed to reach the object at which they have been aimed. *Imbelle telum sine ictu.* By those to whom reference is here made, it is forgotten that this Court is shorn of every attribute of political power—that it has not the faculty of bestowing offices or creating vacancies—and that its judges are taken out of the atmosphere of

party. They do not consider that an independent judiciary is as necessary for republican institutions as an independent legislature, and that to secure that independence the judges must be placed above the shifting and variable winds and tides of popular sentiment—which we know to be as “unstable as water”—and beyond the reach of the frowns or the favors of executive power. They do not reflect that a high and impartial tribunal was *necessary* to settle all differences that might arise under the Constitution and Laws, between citizens of one state and those of another, and difficulties, in particular cases, between the states themselves. They do not remember that this Court, selected in fact by the Chief Magistrate, himself the servant of the people and the laws, is in reality most fearfully responsible—responsible, not to the dictates of a President, nor the behests of party spirit as expressed through the votes of a continually fluctuating Legislature—but to conscience, to the country, and to God; and in case of misfeasance, or misconduct, to public trial before a constituent branch of the government, and in the event of conviction, liable to suffer disgrace and ignominy. Of the great Temple of Freedom which the votaries of Liberty have here built up, and in which they may kneel and bless the “Power that has made and preserved them a nation,” this Court is at once a pillar and an ornament. It has not inaptly been termed the sheet anchor of the Constitution—for when popular violence shall rage most—when State pride or jealousy shall be highest—when either the centripetal or centrifugal force of the General Government or the States shall be exerted beyond their proper and legitimate extent, then may we have as a hope, sure and steadfast, that the Supreme Court will, so far as it is permitted, exert a regulating and controlling energy in bringing all things again into harmonious action. It must have been under a consideration of the powers, and duties, and uses of the Supreme Court especially, as we have just spoken of them, that a learned and distinguished writer referred to the Judiciary Department “as worth all others in the State.” I

cannot forego the pleasure of quoting his words. “Whilst,” said he, “politicians expend their zeal on transient interests, which perhaps derive their chief importance from their connexion with a party, it is the province of the Judge to apply those solemn and universal laws of rectitude on which the security and prosperity of the individual and the state essentially depend. From his tribunal, as from a sacred oracle, go forth the responses of justice. There is nothing in public affairs so venerable as the voice of justice speaking through her delegated ministers, reaching and subduing the high as well as the low, setting a defence around the splendid mansion of wealth and the lowly hut of poverty, repressing wrong, vindicating innocence, humbling the oppressor, and publishing the rights of human nature to every human creature. We turn with pain and humiliation from the halls of legislation, where we see the legislator forgetting the majesty of his function, and it comforts us to turn to the court of justice where the dispenser of the law, shutting his ears against all solicitations of friendship or interest, dissolving for a time every private tie, forgetting public opinion, asks only what is RIGHT. Wo, wo, then to the impious hand that would shake this most sacred and precious column of the social edifice.”*

The importance, then, of this tribunal, well demands that those who compose it should be worthy of the elevation, and especially that the Chief Justice should be a man of consummate abilities—of nobleness and independence of character—of energy and decision of mind, and of equable temper and disposition. That Chief Justice Marshall was such a man no one will deny. To support the respectability of the Bench he constantly exhibited a quiet dignity of manner and deportment—to preserve its authority, he conducted its deliberations and gave its decisions with a calm determination which allayed passion and silenced objection. As to the wisdom, judgment and research, which he displayed in

*Dr. Channing.

the examination of subjects brought before the Court, let his recorded opinions answer. One of the most gifted and eloquent of our countrymen—now, alas! no more,—who had every opportunity of knowing the Chief Justice, said of him: “He possessed the original and almost supernatural faculty of developing the subject by a single glance of his mind, and detecting at once the very point on which the controversy depended. No matter what the question, though ten times more knotty than the gnarled oak, the lightning of heaven was not more resistless than his astonishing penetration. Nor did the exercise of it seem to cost him an effort. His eye did not fly over a landscape, and take in its various objects with more promptitude and facility than his mind embraced and analyzed the most complex subjects.† Another American writer says: “In the mixed and voluminous state of our jurisprudence, every portion of which came under his review, and in the novelties of our political state, often did it happen that questions were brought before him where the path was untraced, where neither the book case nor the record existed to guide, and where the elementary writers glimmered dimly, it was upon such occasions that he pierced what was dark, examined what was remote, separated what was entangled, and drew down analogies from first principles. Upon these occasions, and upon all others, his reported adjudications will best make known to the world, the penetration of his views, the extent of his knowledge, and the solidity of his judgment. They are a national treasure. They will be a stream of light to after times.—Posterity will read in them as well the rule of conduct as the monuments of a genius that would have done honor to any age or nation.”‡ Such is the eloquent testimony borne to the great powers of this great man, in reference to his decisions upon general principles of law. But it is particularly on points of Constitutional

†Wm. Wirt.

‡Richard Rush.

Law that his opinions are inestimably valuable. Without ascribing too much merit to any one man, we may yet say with truth, that to him as Chief Justice of the Supreme Court, the “Constitution since its adoption owes more than to any other man for its true interpretation and vindication.” Many instances might be cited where with a firmness, an intelligence, and a depth of knowledge entitled to our highest admiration, he settled principles on the firm foundations of reason and justice, which were sought to be used contrary to both. With the Constitution in his hand and pointing to its provisions, he often rebuked the angry waves of popular violence, and as frequently resisted the silent encroachments of power. It was his aim to secure the supremacy of the laws—to preserve the liberty of the citizen—to make stable the tenure of property—and settle definitely the true metes and bounds of the different divisions into which our admirable system of government is laid off. He expounded the laws faithfully, never stretching them beyond their true intent and meaning, nor contracting their spirit by a forced explanation. With all the virtues of a Hale, and all the learning and talents of a Mansfield, he was mercifully just and inexorably honest. He so moved in his exalted sphere, as to be worthy of all praise, and to leave nothing for his successors, but the honorable emulation of the fame which he acquired by a course so bright, so regular, and so beneficial in all its results and influences. And let, hereafter, “no half effeminate Paris put on the gigantic judicial armor of the departed Telamonian Ajax.”

Because Judge Marshall is thus spoken of in his judicial character;—because his principal studies were in the line of his profession, and a greater portion of his life devoted to its practice, or an application of its principles to the business concerns of individuals, or the more important difficulties between communities and states;—because he was chiefly remarkable for his logical mind—close connexion of thoughts—the faculty of elucidating difficult subjects;

in short, all those qualifications which eminently fitted him for a sound and able lawyer, and a learned and impartial judge,—let it not for one moment be supposed that his intellect was narrowed, his views contracted, or his patriotism dampened thereby. No! They who thus imagine do injustice to that science—if science it can properly be called—“whose voice is the harmony of the spheres, and whose seat is the bosom of God.” There is nothing in the study and acquirements of the first principles of the law—the examination of charters, constitutions, codes and statutes—the investigation of the dicta of sages and jurists—the knowledge of the decisions of wise and learned men on questions affecting private rights and public interests,—calculated to curb the aspirations of the mind, weaken one of its faculties, or diminish its attachment to freedom and liberty. Let the past and let all his tory answer to the calumnious charge that is sometimes made against a profession which has numbered amongst its followers so many of the worthiest men that ever lived. Who have been the champions of constitutional liberty in England and France? Who have ever defended and do now defend, in those countries, the rights of the subject against the power of the crown and the pride of the nobility? Who there, in their Parliaments and legislative halls, are every day battling manfully for popular rights—for a judicious reform of abuses—for extension of education, and for the true interests and happiness of the people? Who here, with us, from the days of Colonial vassalage down to the present time, have ever shown themselves the truest friends of the rights of man, and the sternest opponents of lawless tyranny and stubborn oppression? I need not give the response.—Marshall, in this respect as in others, was at the head of his profession. That he was no brawler, no demagogue—that he held fast to the profession of his ancient faith without wavering—that he was no lover of innovations for

the sake of change—that he believed with Madame Roland that thousands of crimes had been committed in the *name* of Liberty—that he was no Jacobin, no leveller, no disorganizer,—is most true; and the same may be said generally, to their honor, of the profession of which he was a distinguished member. But he was nevertheless for all this, a pure Republican; a zealous defender of the people's rights and privileges; an ardent friend of rational liberty; a devoted adherent to the cause of constitutional freedom.—The difference between the unlimited and licentious indulgence of men's desires, and wholesome and legal restraints upon their vices and follies, was well understood and approved of by him. He loved public liberty; but he did not think it incompatible with public order, public virtue, and public intelligence.

In concluding this most imperfect sketch of the character of the great man whose memory we now honor, a laudable curiosity may be gratified in having a description of his personal appearance. This we are enabled to do in the words of the eloquent writer quoted in another part of this address. “The late Chief Justice of the United States was in his person tall, meagre, emaciated, his muscles relaxed, and his joints so loosely connected as not only to disqualify him, apparently, for any vigorous exertions of the body, but to destroy every thing like elegance and harmony in his air and movements. Indeed in his whole appearance and demeanor, dress, attitude, and gestures—sitting, standing or walking, he was as far removed from the idolizing graces of Lord Chesterfield as any other gentleman on earth. His head and face were small in proportion to his height, his complexion swarthy. His countenance had a faithful expression of great good humor and hilarity; whilst his black eyes possessed an irradiating spirit which proclaimed the imperial power of the mind that sat enthroned within.”

And now with what pride and pleasure can we, can every

American, reflect upon the life and character which I have thus so feebly attempted in brief terms to pourtray! How bright is the halo of glory which surrounds the memory of such a man! How brilliant is the effulgence of his posthumous fame! To have lived in his day—to have been familiar with his person—to have heard the words of wisdom as they came from his lips—has been our privilege. Those who are to succeed us will have only the record of what we saw, and knew, and felt.

But the "good" of MARSHALL is not interred with his bones. It lives after him, and will live after him in all time to come. The incense of virtue which he burned upon his country's altar will continue to rise to heaven, and diffuse itself throughout the land for all following generations. When our children shall read the story of his life, they will find it one which, in its purity and beauty, cannot be surpassed by the history of any other man of our age. And who can calculate the extent of the influence of such a character upon the hearts and minds of this people, and even upon the future destinies of this country in regulating the dispositions of those who aspire and those who are called to the high places of the nation? Who can say that it will not pervade the moral atmosphere, so as to correct many of those evil tendencies which we now see constantly developing themselves. We want such men as MARSHALL to rise up in our midst and shed around the chastened light of their influence. The glare of military fame, and the glittering trappings of power, dazzle but too often to delude those who gaze at them with admiration. But upon the mellow radiance of his virtues we can all look with unclouded eyes—we can all dwell with unmingled satisfaction. Is it any wonder, then, that upon the mournful intelligence that the lustre of this orb of our national firmament had been paled in death—that upon its being announced that JOHN MARSHALL was no more, you should have seen your public journals instantly placed in mourning;

the habiliments of grief voluntarily assumed by different associations of citizens:—that you should have seen in every city throughout the country public honors decreed to his memory;—that monuments should be ordered to be erected to bear the inscription of his virtues and his country's gratitude: —that, in short, this whole people, from Maine to Florida, from the Atlantic to the farthest West, should rise up spontaneously to testify their sense of the national loss sustained in his death. No! cold indeed must have been their hearts, and dead their finer feelings had it been otherwise. Of whom had they greater reason to be proud than of JOHN MARSHALL? Who deserved a larger share of their affectionate esteem? They knew that the virtuous, honorable, peaceful career of one such man is worth more of solid advantage and happiness, and productive of more true glory than the victorious march of twenty conquering warriors moving in desolation and slaughter. Peace has her trophies as well as war. It is not alone from the bloody battle field that laurels are to be acquired. In that retired chamber in the Capitol once dignified by his presence, JOHN MARSHALL reaped a richer harvest of renown than Bonaparte gathered on the plains of Austerlitz, or Wellington from the field of Waterloo.

Fellow Citizens:—I have thus brought to a close the performance of the task you imposed upon me. No one is more fully sensible than I am of my utter inability to do justice to the subject. I have felt, I do now feel the entire incapacity of any powers I possess properly to speak of the great man whose eulogy I have been called upon to pronounce. On the same kindness which, however, honored me with the duty of attempting to represent you on this occasion, I must rely for indulgence and excuse. It is not the feeble tribute of my praise which is thought of or will be important, in relation to the public ceremonies of this day, but it is your patriotic spirit in ordering and conducting them, which will be considered and remembered hereafter.

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