BEVERIDGE'S LIFE OF MARSHALL[1]

A REVIEW

BY THEODORE ROOSEVELT

JOHN MARSHALL is one of the six or eight foremost figures of American statesmanship. He stands among the men who actually did the constructive work of building a coherent National fabric out of the loose jumble of exhausted and squabbling little commonwealths left on the Atlantic coast by the ebb of the Revolutionary War. This was an incredibly difficult work, because it had to be forced on a suspicious, short-sighted, and reluctant people by a small number of really great leaders. Foremost among these great leaders was Washington. Behind him, and serving him and his principles with fervent loyalty, were Hamilton and Marshall. Hamilton's extraordinary career of usefulness was crowded into the half-dozen years following the Constitutional Convention—a short period, but one during which his services were as signal as any ever rendered a nation in time of peace, while in intellect he showed a combination of brilliancy and solidity literally unparalleled in political annals. Marshall's career of greatness and usefulness really began only after Hamilton's had come to an end. It was less showy than Hamilton's, but much more long-continued, and the resulting benefit to the Nation was as substantial.

Mr. Beveridge is peculiarly fitted to write the biography of the great Nationalist Chief Justice. He has himself played a distinguished part in our political life, and during his brilliant service of twelve years in the United States Senate he championed with fidelity all the honorable causes for which Marshall and his fellow-Federalists stood a century before; he emulated their devoted Nationalism, their advocacy of military preparedness, their insistence upon a wide application of the powers of the Government under the National Constitution, and their refusal to worship shams instead of facts; and he followed Abraham Lincoln in refusing to follow the Federalists where they were wrong—that is, in their distrust of and high-spirited impatience with the people.

Only the first two volumes of the "Life" have been published. Their quality is such that, if the remaining volumes (which will deal with the overshadowingly important part of Marshall's career while he was Chief Justice) are as good, Mr. Beveridge will have produced a book which in serious worth will belong among the very few books of American political biography which stand in the first rank and form a class by themselves. Zeal, research, impartiality, acuteness of observation, and the power to write with interest and charm—all these combine to make Beveridge's Life of Marshall almost as interesting to the cultivated general reader as to the man who is by profession a student of politics.

John Marshall came of the ordinary, plain, colonial stock; on his father's side, at least, his ancestors were of the usual successful immigrant type, which did not in colonial days differ essentially from the type of to-day, save as regards some special groups which came over to avoid religious or political persecution. Marshall himself was in the best sense of the term a self-made man. As a very young man he served in the Continental Army under Washington, honorably but without special distinction. He earned his living as a hard-working Virginia lawyer; and Mr. Beveridge gives us interesting glimpses of his home life and of the pleasant, thoroughly provincial social life of the Virginia of his day. As a lawyer he showed marked ability, and Mr. Beveridge points out in striking fashion the boldness with which he relied on his own reasoning and the comparatively scant attention which he paid to precedents. This is an admirable quality in a profession like the law, which always tends to become formalized or fossilized; and it is not merely an admirable, but an indispensable, quality in a great judge of the American type. The American judges who have left their mark deepest on history did so while acting, not really as judges at all, but as lawgivers; for, although nominally they only interpreted, in reality they made the law. In consequence, a judge like Marshall occupies in history a place such as no European judge could possibly have occupied.

Marshall was an entirely democratic man in every sense of the word which makes it a word of praise. He had not a particle of arrogance in dealing with others; was simple, straightforward, and unaffected, being at ease in the court-room or in any public gathering, with any neighbor of no matter what social standing. There was about him none of that starched self-consciousness which men who are more anxious to seem great than to be great are so apt to mistake for dignity. Indeed, it is apparent that in dress and in manner he was rather easy-going; during the years before he became Chief Justice the Jeffersonians complained bitterly that his specious aspect of democracy misled people into believing that he was not at heart an aristocrat. As a matter of fact, it was his democracy which was real and theirs which was spurious. He despised and detested shams. He was a struggling man of moderate means, like his great fellow-Federalist Hamilton; neither had in him one touch of the demagogue or the insincere rhetorician; each regarded with scorn the mob spirit, especially when manifested in ferocious and lawbreaking envy of upright men of means; but each also sincerely endeavored to judge every man on his worth as a man and to shape the institutions and policy of his country with an eye single to the large National interests of the people as a whole.

---

[1] The Life of John Marshall. By Albert J. Beveridge. 2 vols. Houghton Mifflin Company, Boston.

Politically Marshall followed Washington, and steadily and earnestly supported and developed Washington's great policies. This inevitably threw him into sharp opposition to Jefferson, who was the underhanded but malignantly bitter leader of the anti-National forces which gradually rallied against the Washington policies. Virginia was then the leading State of the Union, and its attitude was of vital consequence. It was in a way proud of Washington, and his great character carried immense weight among Virginians as among all other Americans. There were certain Virginian leaders, among whom Marshall and "Lighthorse Harry" Lee were the most important, who were as strongly National in their beliefs and sympathies as Washington himself, and who were his consistent supporters; and there were other Virginian leaders who at one crisis or another supported Washington and the vital cause of National union—Madison at the time of the adoption of the Constitution, which Patrick Henry opposed, and Patrick Henry at the time of the nullification of the Virginia and Kentucky Resolutions, which Madison fathered jointly with Jefferson, showing sheep-like submission to the abler, more crafty, and more unscrupulous man. Mr. Beveridge brings out clearly the way in which, partly owing to the adroit and successful demagogy of Jefferson, Virginia finally became so estranged from Washington that when his Administration was closing the Legislature actually refused to pass a formal resolution approving the wisdom of his course as President.

During the dozen years subsequent to the meeting of the Convention which produced the Constitution that made us a Nation Marshall practiced law at intervals, and between times served in the State Legislature, went as one of a commission on the famous "X. Y. Z." mission to the Republic of France, served a term in Congress, served a few months in President John Adams's Cabinet, and was appointed Chief Justice by Adams just before the latter left the Presidency. He was a strong Federalist, but, unlike the dominant men of the party after they lost their leader, Washington, he never lost his head, and declined to go with his party when it unwisely defied popular feeling (in the case of the Alien and Sedition Laws) by enacting legislation which the people *ought* to have approved, but which, as a matter of fact, they did not. No man was more ready to defy popular feeling when the crisis was so vital as to demand such defiance; but he was far too wise to treat this defiance as being normally desirable, or, indeed, as being desirable at all unless the case really was exceptional. Moreover, from the very fact that he lived in Virginia, which was rapidly becoming anti-National, he was himself far more truly National, with a far broader understanding of the National feelings and needs, than the New England and New York Federalists.

One of the grimly amusing features of his experience was the way in which the Jeffersonian or anti-National opponents of the adoption of the Constitution soon after turned round and simulated excessive zeal for the letter of the Constitution in order to destroy its spirit. Marshall, the champion of the Constitution when its adoption was in question and its greatest expounder after its adoption, was, of course, the leader in giving it a broad construction, in reading into it whatever was necessary in order to make it fulfill its purpose of securing justice for the people as a whole, in their National capacity. He was utterly incapable of treating it as a fetish or as a strait-jacket. The very men, however, who had opposed the adoption of the Constitution, immediately after it was adopted began, in the name of the Constitution, to oppose as "unconstitutional" the measures most necessary in order to make it effective as an instrument of National growth and defense. Jefferson and his followers took precisely the attitude adopted by the disciples of Calhoun during Jackson's Presidency and by the Vallandighams and Seymours during Lincoln's Presidency. Substantially the same attitude has been taken in our own time by the beneficiaries of abuses of a different kind, who likewise invoked the name of the Constitution in order to nullify efforts made to secure efficiency and justice for the plain, every-day citizens as a whole, through and under a broad construction of the Constitution.

Marshall had a rather bitter experience of popular folly in connection with the French Revolutionary craze which swept over the country. The Federalists did badly enough; their antagonism to the un-American and indeed quasi-treasonable championship of France against America by their opponents finally led them into an equally un-American and quasi-treasonable championship of England; but during the last decade of the eighteenth century it was these opponents, the Jeffersonians, who were wholly in the wrong.

The majority of the men who had done the real fighting in our own Revolutionary War became stanch Nationalists, and saw so much of the evil that springs from weak government and from lawlessness and disorder that they were among the strongest upholders of a strong government and of the efficient military forces without which there can be no strength. But the mass of those people who had shirked fighting were loud in mere talk against Great Britain and against monarchy, and in favor, not merely of a republican France, but even of the French Government when it had sunk under the control of groups of corrupt and blood-stained bandits to whom both liberty and honesty were in practice terms of derision. Marshall found on his mission to France that the highest French officials, including Talleyrand, expected to be bribed to perform even their ordinary official duties, and were as callously indifferent to all right and decency as the most obscurantist despot. Yet on his return he found Jefferson and his followers utterly indifferent both to the character of the French rulers and to the outrages committed by France against America, and anxious only to use the international situation as a means of humiliating their party antagonists, at no matter what cost to their country. Moreover, they combined with exquisite nicety two separate kinds of folly: the folly that blusteringly invites war, and the folly that rejects all preparation for war—like those present-day anti-Japanese agitators who have demanded or condoned action offensive to the Japanese while they have also screamed in favor of applied pacifism.

At the end of the eighteenth century the voters of this type were so numerous that Washington found himself wholly without the means of supporting the National honor and interest by war, or the serious threat of war, against the two powerful nations, France and England, which rivaled one another in outrages against the United States. The only course open to him under such conditions was a strict neutrality and the negotiation of treaties which saved as much of our credit as was possible, but which were humiliating, indeed, compared to what they would have been if Washington had possessed the ships and the army to warrant his taking a bold stand. And the very men who refused all his demands to build up the military strength of the country were also the very men who denounced him for following the only policy which the lack of military strength left open to him.

It is small wonder that strong, self-respecting, fearless men like John Marshall and Lighthorse Harry Lee grew to regard such men with scornful aversion. And their feeling of mingled bitterness and contempt was rendered only more intense by the triumph of their adversaries. The Federalists upheld the honor and the interest of the country, and, on the whole, represented what was highest and best in the American character. But their leading statesmen were riven by jealousies, and they developed very little of the not very high, but in popularly governed communities absolutely necessary, ability for political manipulation. Their opponents on the other side developed two past-masters of adroit partisan politics in Thomas Jefferson, of Virginia, and Aaron Burr, of New York; and when New York joined Virginia (Jefferson and Burr being their party's candidates for President and Vice-President respectively) the election went against Adams. With his defeat the Federalist party vanished forever from the field of National influence, save for one vital exception. Just before Adams left office he appointed as Chief Justice the man who for the next thirty years was to be the one great force for American Nationalism—John Marshall.