



John Marshall: The Man Who Made the Supreme Court

Richard Brookhiser

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John Marshall: The Man Who Made the Supreme Court Richard Brookhiser **The life of John Marshall, Founding Father and America's premier Chief Justice**

In 1801, a genial and brilliant Revolutionary War veteran and politician became the fourth Chief Justice of the United States. He would hold the post for 34 years (still a record), expounding the Constitution he loved. Before he joined the Court, it was the weakling of the federal government, lacking in dignity and clout. After he died, it could never be ignored again. Through three decades of dramatic cases involving businessmen, scoundrels, Native Americans, and slaves, Marshall defended the federal government against unruly states, established the Supreme Court's right to rebuke Congress or the president, and unleashed the power of American commerce. For better and for worse, he made the Supreme Court a pillar of American life.

In *John Marshall*, award-winning biographer Richard Brookhiser vividly chronicles America's greatest judge and the world he made.

John Marshall: The Man Who Made the Supreme Court Details

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From Reader Review John Marshall: The Man Who Made the Supreme Court for online ebook

Robert Muller says

As a biography, this one is a bit lightweight on detail but does give you the strong flavor of the man and his impact on the United States. It's very readable and as far as I can tell well-researched (I'm not a Marshall expert).

Joshua Johnson says

A very witty, engaging read. Brookheiser has compiled a thorough, detailed, and often intimately personal biography; my only real complaint is that I wished he had done a more prolonged, deeper dive of Marshall...but perhaps the source material did not provide such an opportunity. Well worth the read.

Nate says

A biography of the most important Supreme Court Justice in US history is not something you expect to fly through. Nevertheless, once Marshall got onto the Supreme Court, I moved through the book very quickly. Brookheiser sticks to Marshall's professional life most of the time, though of course his personal life is mentioned, so if reading a bunch of summaries of cases and Marshall's opinions on things sounds boring, this is not the book for you. This seemed impeccably researched, primary sourcing as much as possible, with many letters and opinions quoted but not so much as to bog down the book with that. The author's admiration for Marshall is very visible, particularly when describing Jefferson, where Brookheiser definitely showed some disdain (I guess Marshall would have agreed with that). Marshall was very big into contract supremacy over all other law where possible, which was very new to me, and I liked reading about his views on constitutional minutiae. Brookheiser did a really good job of keeping the legalese to minimum, explaining law in understandable terms yet still in depth. To sum up, I fully recommend this book to people interested in American history and government, for while it focuses on Marshall, his core work is what created American government as we know it.

A copy of this book was given to the reviewer through NetGalley in exchange for an honest review.

Bookreporter.com Biography & Memoir says

Earlier this year, I read an engrossing biography of the Wright Brothers by the estimable David McCullough --- engrossing, that is, until about three-quarters through the book, when the Wrights are chiefly trying to build their business and deal with a morass of patent litigation. They learn through trial and error how to build a workable airplane, they show off their creation to skeptical groups in Ohio and adoring crowds in Paris, and then the story kind of sputters out, with Wilbur suffering an early death and Orville pottering around his Dayton research facility, working on the study of aeronautics. The fact that the book trails off isn't McCullough's fault --- that's what happened, and he does his best to chronicle it, but the story just isn't

there.

In reading JOHN MARSHALL: The Man Who Made the Supreme Court, I was concerned that the same thing would happen. The well-known and monumental *Marbury v. Madison* case takes place very early in Marshall's term on the court, which would stretch out to well over 30 years.

Marshall's life, up until he was elevated to the Court, is lively and interesting, and author Richard Brookhiser does a masterful job of showing the forces that shaped his philosophy. Marshall was, all his long life, an acolyte of George Washington, under whom he served in the Revolutionary War. After the war, he lived a public-spirited life as a Virginia lawyer, serving on the state's Constitutional ratification convention and in Congress --- and, not incidentally, engaging in a robust social life.

Marshall also served as a diplomat on his one foreign adventure, getting mixed up in the so-called "XYZ Affair," which I had never actually understood until reading Brookhiser's concise and neat explanation of just what it was and why it stirred up anti-French resentment in the young Republic. Marshall then was appointed Secretary of State by John Adams for the last year of his presidency, and as a lame-duck, Adams nominated Marshall to the office of Chief Justice.

Marbury was based on the rush to confirm Federalist appointees in the wake of Adams' defeat by Thomas Jefferson, and so it was one of the first decisions of the Marshall Court. Brookhiser does an able job of deciphering both the odd series of events that led up to the case and Marshall's closely reasoned, nearly impenetrable decision. But this section does more than just shed light on *Marbury*; it sets the pattern for the rest of the book.

What remains is over 30 years of Supreme Court cases, none of them as interesting or as monumental as *Marbury*, all of which are wrapped up in the arcane politics of the era. Brookhiser is a fine prose stylist with impeccable flair, but even he struggles to make the details of some of the cases sparkle. The narrative never quite bogs down, but laden as it is with Marshall's leaden legal prose, it has more than a few rough moments.

Brookhiser is more at home describing Marshall as a political animal --- as the last Federalist in a country that, at least briefly, was all Republican. Unable to direct the Court through political or ideological means, he worked behind the scenes through conviviality and charisma to mold the Court into his own image. Marshall insisted that all the Justices room together while in Washington, discussing cases over wine and darts. Brookhiser argues that his leadership of the Court, resulting in unanimous verdicts, not only led to its momentous decisions but firmly placed the Court as an equal partner in the Constitutional order.

JOHN MARSHALL will please legal scholars more than casual readers, but even the latter will find much to enjoy and savor here.

Reviewed by Curtis Edmonds

Jean says

In March 2018 I read Joel Richard Paul's "Without Precedent Chief Justice John Marshall and His Time". The book wet my appetite to learn more about John Marshall. When I saw this newly released biography of Marshall by Richard Brookhiser, I had to buy it.

John Marshall (1755-1835) was the fourth Chief Justice of the Supreme Court. The first was John Jay, then John Rutledge and then Oliver Ellsworth. None of these men served in the position long. Marshall was sworn in as Chief Justice in 1801 and died in 1835 in a stagecoach accident when travelling for the Court. Marshall laid down the principles of the law and policies of the Court. According to Brookhiser it was Marshall that brought dignity to the Court.

John Richard Paul's book "Without Precedent" was longer and provided more information about Marshall's personal life as well as more in-depth analysis of his various rulings. Brookhiser is more concise and covered primarily his working life and relationship with George Washington. Brookhiser's book was a bit more entertaining. I think that Brookhiser's biography is ideal for the lay reader. Richard Brookhiser is a journalist and biographer. I have read his biographies of Alexander Hamilton and George Washington.

I read this as an audiobook downloaded from Audible. The book is nine hours thirty-one minutes. Robert Fass does an excellent job narrating the book. Fass is a well-known narrator. He has been nominated for the Audie Award eight times and won it twice. He also has won many AudioFile Earphone Awards.

Pamela Okano says

A brief (277 pages) memoir of US Supreme Court Justice John Marshall's career, with special emphasis on selected SCOTUS decisions and his feud with Thomas Jefferson. A good intro to the man who made the Supreme Court.

Bill Newell says

I picked up Richard Bookhiser's John Marshall: The Man Who Made the Supreme Court (New York: Basic Books, 2018), 277+ pp. mostly to find out how one man could make the judicial branch coequal with the legislative and executive branches. Turns out it was only partly because of the force, cogency, and gravitas of his reasoning, though he was indeed an intellectual force to be reckoned with.

Just as important were his outgoing and engaging personality, his bon homme conviviality—he personally wined and dined his associate justices daily while Court was in session during his entire tenure as chief justice—and his eagerness to find common ground with people holding different political views (so most people liked him personally even when they disagreed with his politics). Considering he was the sole Federalist in major public office for two decades after his party disappeared from the national scene, this approach was essential for his political survival. It also made it possible for him to persuade the Court to speak with one voice: Many of the opinions he wrote were unanimous or at least without dissenting opinions. I was also reminded just how dirty the politics were in the early decades of our nation. Mitch McConnell's refusal to even hold hearings on Obama's Supreme Court nominee? Nothing new. Jefferson even tried impeaching every member of the Court just so he could replace them with Republicans.

And I learned that I am more interested in the rules of Nature than in the political rules enshrined in the

Constitution. My mother expected I would become a lawyer. Glad I didn't.

George P. says

The life of John Marshall (1755–1835) spans the first and formative decades of the United States. Born in colonial Virginia, Marshall fought for American independence under George Washington, whom he revered as the beau ideal of a true republican and memorialized in a biography. “For the rest of his life,” Richard Brookhiser writes, “John Marshall saw Washington as his commander and himself as one of his troops.” And so, when Washington personally urged Marshall to run for Congress in 1798, he did successfully, representing Virginia’s 13th District from 1799–1800.

Like Washington, Marshall was a Federalist. John Adams tapped him to be U.S. Secretary of State in 1800. After the momentous 1800 election, in which Adams and the Federalists lost both the White House and Congress to Thomas Jefferson and the Democratic-Republicans, Adams appointed Marshall chief justice of the U.S. Supreme Court the month before Jefferson’s inauguration. Marshall and Jefferson were cousins, and though both were patriots, they were indefatigable political foes. Marshall swore Jefferson into office, then used Supreme Court legal opinions to continue the Federalist battle against the Democrats for the next 34 years. When he died, Andrew Jackson was president. Roger Taney—author of the *Dred v. Scott* infamy—succeeded him as chief justice.

Richard Brookhiser surveys Marshall’s “public career and its effects” in his engaging new study. This is not a comprehensive biography of the great man. In many ways, it is the story of the most significant cases he tried: *Marbury v. Madison*, *United States vs. Burr* (in which Jonathan Edwards’ grandson and Alexander Hamilton’s killer stood trial for treason), *Fletcher v. Peck*, *Trustees of Dartmouth College v. Woodward*, *McCullough v. Maryland*, *Cohens v. Virginia*, *Gibbons v. Ogden*, the *Antelope* case (touching on slavery), *Ogden v. Saunders* (a bankruptcy case, this Ogden being the nephew of the previous Ogden—evidence of a litigious family, no doubt; also, the only case in which Marshall wrote a dissenting opinion), *The Cherokee Nation v. Georgia* and *Worcester v. Georgia* (both cases dealing with Georgia’s abominable treatment of Native Americans), and *Barron v. Baltimore*, among others.

Though not well known today, outside the legal profession at least, these cases were flashpoints of controversy between a broadly Federalist vision of the American republic and a Democratic one. Was the United States a “union” or a “confederacy”? Where was the boundary between federal supremacy and states’ rights? Could Congress establish a Bank of the United States without explicit wording in the Constitution? More broadly, was the law a “debt against the living,” in which generations were obligated by the laws of previous generations? Or did “the land belong in usufruct to the living,” in which each generation passed laws as it saw fit? The words were Madison’s and Jefferson’s, respectively, but the sentiments were Marshall’s and Jefferson’s exactly.

Brookhiser is a political journalist, not a lawyer, so his descriptions of both the facts of these cases and their relevance are easy to follow and enlightening. In a summary chapter on Marshall’s legacy, he notes that Marshall brought “dignity” to the Supreme Court. How it tried cases and how it rendered opinions strengthened the hand of what Hamilton called “the least dangerous branch” of the federal government. If the membership and opinions of the Supreme Court loom large in the minds of Americans today, Marshall should receive credit.

But more than the dignity of the Supreme Court, Marshall's legacy, was "defending the Constitution as the people's supreme act." Brookhiser explains: "The people had made a new government, giving it new powers, and binding it with new prohibitions.... Marshall devoted his decades as chief justice to explicating and upholding the people's government against the attacks of men he deemed demagogues in Congress, in the states (including his own Virginia), and in the White House (including his own cousin)." That defense relied on the Constitution's "words" and—sometimes *or*—"the historical context of its creation." Marshall knew both intimately. He had worked for the document's ratification. He had witnessed the struggles and trials that had brought it into being.

In the last months of his life, as his health deteriorated, Marshall feared for the future of the Constitution he had spent his life laboring to explain and defend. Marshall's opinions "were substantially the policies of Washington and his most trusted aide, Alexander Hamilton"—slavery being the great exception. But by 1835, Jackson was in power, states' rights were on the rise, and Roger B. Taney was in the wings. From then until the Civil War, an anti-Marshall view of the nature of the U.S. government and the meaning of its Constitution prevailed. It was as if the arguments between the cousins—Marshall and Jefferson—had never gone away.

Today, we live in a vastly different era. Both union and emancipation are taken for granted, which they were not in Marshall's era, not even by Marshall himself. But the court Marshall once led continues to fascinate and repel, depending on who wins and who loses before the bench. To that extent, as William Faulkner put it so well, "The past is never dead. It's not even past." We all live in John Marshall's shadow.

Book Reviewed

Richard Brookhiser, *John Marshall: The Man Who Made the Supreme Court* (New York: Basic Books, 2018).

P.S. If you liked my review, please vote "Yes" on my Amazon.com review page.

Chris says

Good short biography, focusing a lot on various cases he was part of. Also, sheds light on our country's beginnings. Strongly recommend.

David Williams says

John Marshall is one of the most consequential figures in the history of the United States, yet too little is known about him. In *John Marshall : The Man Who Made The Supreme Court*, journalist and author Richard Brookhiser seeks to help us know more about this man. In life Marshall was an unimposing character. Early in the book Brookhiser relates a story about Marshall at home in Richmond. He was dressed like any other rustic. A newcomer to town asked him to carry a turkey home from the market, not realizing until afterwards that he had used the Chief Justice of the Supreme Court as a delivery man. Marshall was a man of humor. Brookhiser shares another anecdote in the book. The Justices would board in the same house when the Court was in session and they ate together. They established a custom that they could only have wine if it was raining. "Marshall would ask 'Brother Story' [Justice Joseph Story] to look out the window and say what the weather was. If Story reported that the sun was shining, Marshall would answer, 'our jurisdiction extends

over so large a territory...that it must be raining somewhere.”

These anecdotes help to remind us that Marshall was an approachable and affable man. That did not make him weak. In his Introduction Brookhiser points out that “When Marshall died in 1835, he and the Court he led had rebuked two presidents, Congress, and a dozen states and laid down principles of law and politics that still apply.” That, of course, is why we know Marshall. He was the man who turned the Supreme Court into a powerful part of the United States government. Before Marshall the Supreme Court had little influence on the nation. After Marshall the influence was powerful.

The book is well written and easily approachable by the general reader. Brookhiser is a journalist by training and profession so he does not get into the weeds of trying to explain all of the minutiae behind the laws. Instead he focuses on the political implications of Marshall’s rulings. This is important because when Marshall established the idea of judicial oversight he inserted the Court into the politics of the new nation. Marshall was well aware that he was helping to guide the nation forward. He was a Revolutionary War veteran who had served on Washington’s staff. As a young member of the Virginia Ratifying Convention he fought hard alongside James Madison for the ratification of the Constitution. He was a successful attorney in private practice before moving into the government. He served under John Adams as Secretary of State before he became the third Chief Justice. Brookhiser takes us through his early years without succumbing to that siren call of the historian: the rabbit trail. So many writers feel a need to set up a history by giving huge back stories or going off into minute detail about some side issue. Brookhiser deftly gives us what we need to understand the subject and keeps moving.

This is an excellent book and does justice to the subject. It also delivers the reader a well written, informative, and enjoyable experience.

David Dunlap says

Fairly straightforward biography of the noted Chief Justice of the United States, appointed by an outgoing John Adams and serving the longest (to date) in that position, until the second Andrew Jackson administration. -- Brookhiser is among the best American historians of the day. I especially appreciate the manageable length of this volume (recent biographies so often seem to suffer from literary elephantiasis). Brookhiser's style is clear-cut and easy to follow; he is quite good at explaining the issues involved in the major cases that appeared in the Marshall Court and how the Chief managed to achieve consensus and even unanimity, even as Republican presidents began to make court appointments to fill vacancies caused by death or resignation. The author highlights the lifelong struggle (enmity might not be too strong a word!) between Marshall and his cousin Thomas Jefferson. -- There are, of course, numerous ways to approach a biographical subject. Brookhiser makes it clear at the outset that his book will not be chockablock with gossipy tittle-tattle. Perhaps it should have been: when he does share this sort of detail, he is quite good at it - and his subject springs to life. More insights of this kind might have enlivened his book and helped the reader understand Marshall as a person. Also, the author's treatment of the Marshall Court decisions makes for awkward chronology. -- On the whole, then, this is a good, reliable biography of an important American, especially for those who might be in a hurry or unwilling to commit to a larger, more sprawling canvas that might reveal its subject more vividly.

Scott Pomfret says

As Brookhiser admits early in this unremarkable biography, John Marshall left only limited writings relative to some of his more famous founding father peers. The result is a biography that is swift, but doesn't really bring the man to life. Rather than revealing many personal details, Brookhiser focuses instead on the court cases, Marshall's ability to command majorities despite his many Republican co-justices, and his ability to write opinions that deliver his view of the law even when the outcome on the substance seems like an offering to those who disagree with him on the law. Accordingly, at times, this biography reads like a simplified first year law school con law class. Also, Brookhiser spends most of the concluding summary chapter discussing Dred Scott and its implications/reception--a decision made after Marshall died and in which he did not participate (which therefore has the feel of padding to give this biography weight).

Jerry Smith says

2.75-3

I received this as a gift, even though I love History early American isn't really my area so I honestly had never heard of him. Having said that he was a pretty interesting guy and certainly formed the court to what it is today (for better or worse now...)

However he was a lifelong slave owner and even in context of history I can't get down with that.

The book was pretty fluffy at times and got muddy during some of the cases.
Skip it unless you really want to know the history.

Brion says

Richard Brookhiser's new biography on Supreme Court Chief Justice John Marshall is an excellent, clean, straight forward biography of one of the Court's most important justices. Brookhiser follows Marshall from birth to death and spends most of the book focusing on about 20 important Supreme Court cases, including Marbury v Madison and cases on commerce, slave holding, contracts, banking, Native Americans and other topics where the decisions then still impact our lives today. Brookhiser also tells us about Federalists v Republicans, his dislike of Thomas Jefferson and his adoration of George Washington. During his 34 years as Chief Justice, Marshall established a culture and process of how the Court would act. Brookhiser tells a good story and provides lots of readable detail about jurisprudence in post-Constitution America. But most of all he tells us that Marshall always interpreted the Constitution as a document of the people, not a compact among states.

Kevin says

Another classic Brookhiser biography. This one takes a highly influential member of the founding era and helps walk the reader through how his life and jurisprudence not only impacted but grew out of the political and historical challenges the young nation faced. A great way to better understand constitutional questions, the role of the court and the men who made it the force it became.

I own the hard copy but listened to this one on Audible and enjoyed it. Great for longer trips so you get an opportunity to get into the flow and details.
