

"It is not bashfulness, sister," said Underwood, coloring a little. "It is consideration. How could I explain matters to this poor girl? How could I prevail on her to come here without giving her an inkling of the situation, and thus frighten her, perhaps unnecessarily?"

"Perhaps you are right," said Miss Sophie, who, as an experienced spinster, was not always ready to make concessions of this kind. "At any rate I'll go for Miss Bascom, and I think I can manage it without alarming her; but the matter troubles me. I hope the poor old Judge will not be a dangerous guest."

"There is not the slightest fear of that," said

Francis Underwood. "He is too feeble for that. When I placed my hand on his shoulder just now he was all of a tremble. He is no stronger than a little child, and no more dangerous. Besides, the doctor is with him."

"Well," said Miss Sophie with a sigh, "I'll go. Women are compelled to do most of the odd jobs that men are afraid to take up; but I shiver to think of it. I shall surely break down when I see that poor child."

"No," said her brother, "you will not. I know you too well for that. We must humor this old man, and that will be for me to do; his daughter must be left to you."

(To be concluded in the next number.)

Joel Chandler Harris.

SAINT-MÉMIN'S PORTRAIT OF MARSHALL.¹



THE fine engraving of Chief-Justice Marshall's portrait which embellishes the present number of this magazine is made from a crayon by Saint-Mémin taken in March, 1808, when the

Chief-Justice was at the zenith of his powers, in the fifty-third year of his age. It is probably the most exact presentation of his face and bust that was ever made. Saint-Mémin was peculiarly gifted in the art of making accurate likenesses. He was a native of Dijon, the capital of ancient Burgundy, and was the last male descendant of a distinguished and honorable family named Févret, the ordinary surname of Saint-Mémin being undoubtedly taken from some family estate, as was the custom in France. His full name was Charles Balthazar Julien Févret de Saint-Mémin. He was born March

12, 1770, his father being a counselor of the Parliament of Dijon, and his mother a beautiful and wealthy creole of San Domingo. He had a natural genius for design and the finer mechanic arts; and though bred at a military school in Paris and destined for the army, he could not resist the temptation to cultivate his favorite pursuits. His regiment (of the Guards) being re-formed on the breaking out of the Revolution, he with the other officers was discharged from service, and soon after the family was obliged to seek safety by retiring to Switzerland. Saint-Mémin, however, joined the army of the princes, which was hovering on the Rhine, and while there still employed himself in making sketches of its beautiful scenery. After the disbandment of this army, he and his father conceived the project of going to San Domingo in order to look after Madame Saint-Mémin's property, and to avoid the accusation of being emigrants from the territory

¹ The other portraits of Chief-Justice Marshall which have come to my knowledge are the following:

1. A silhouette by Saint-Mémin in possession of Mrs. M. L. Smith, residing near the Alexandria Seminary.

2. An elaborate half-length portrait was taken by Rembrandt Peale in 1825, and was presented to Chief-Justice Chase by the New York Bar Association, and by him bequeathed to the Supreme Court of the United States, and is now in the robing-room of the court at the Capitol. Although a fine painting, this portrait has not been recognized as a good likeness by those who knew the Chief-Justice.

3. A full-length portrait was taken by Hubbard, a French artist, at Richmond, 1830, and is considered by the Marshall family as an excellent likeness. It is now in Washington and Lee University at Lexington, Va.

4. A full-length miniature in a sitting posture by the same artist is at Markham, Va., in possession of the family of the late Edward C. Marshall, and a replica at Leedstown, Va., belongs to the family of James K. Marshall.

5. A portrait taken by Henry Inman at Washington in 1831, from which many copies have been taken and engravings made—among others, the bank-note engraving made by the Bureau of Engraving and Printing. The original is in possession of the Philadelphia Law Association.

6. A very fine portrait by Jarvis, formerly owned by Hon. I. E. Morse of New Orleans, now by Mr. Justice Gray of the United States Supreme Court.

7. A full-length portrait by Harding, owned by the Boston Athenæum, a replica of which is in the Harvard Law School.

8. A large painting, representing the Chief-Justice at full length, seated, was made some years since by a Mr. Washington, not from life, but as an eclectic portrait from several others, and is now in the court-house at Warrenton, Va. A copy of it made ten or twelve years since by Mr. Brooke of Washington was purchased by Congress, and is now in the robing-room of the Supreme Court. Of course it cannot have much value as a portrait, whatever may be its merits as a painting.

of France. They went by way of Holland, England, Canada, and the United States, and arrived at New York in 1793. There they found many fugitives from San Domingo, whose reports rendered aid from that quarter very doubtful — although the father finally sailed for the island, but took the fever immediately upon landing and died. Young Saint-Mémin was thus thrown upon his own resources, and for a while boarded with a fellow-countryman who had sought an asylum in America. Struck with the beauty of New York and its harbor and the surrounding scenery, he made a most accurate sketch of it, which was greatly admired, and he was advised to have it engraved and offered to the public. He obtained an introduction to the public library, where by the aid of the encyclopedia he mastered the principles of engraving and made a highly finished copper-plate of his sketch. So successful was this his first effort in that line that he was advised to devote himself to the art of making and engraving portraits. Chrétien, in 1786, had invented an instrument which he denominated the "physionotrace," by which the profile outline of a face could be taken with mathematical precision, both as to figure and dimensions. Saint-Mémin constructed such an instrument for himself and employed it with great success, filling in the outline with crayon, generally black on a pink ground. His portraits were greatly admired for their faithfulness, and became very much in vogue. He executed no less than 818 from 1793 to 1810, visiting for the purpose most of the Atlantic cities from New York to Charleston. For the moderate sum of thirty-three dollars he furnished to each sitter a full-sized portrait of the bust, a copper-plate of the same engraved in miniature (reduced from the portrait by another instrument called a "pantograph"), and twelve proofs.

These miniatures were of medallion size, circular in form and about two inches in diameter, with the face nearly the size of a quarter-dollar. He kept two or three proofs for his own portfolio, and after his return to France in 1814 he made up two complete sets, which after his death (which occurred in 1852) were sent to this country for sale. One of them is in the possession of the Corcoran Art Gallery in Washington; the other was purchased by Mr. Elias Dexter of New York, who photographed the engravings and published them with an introduction containing a memoir of Saint-Mémin and a short biographical sketch of the persons whose portraits are contained in the collection. The memoir is merely a translation of an address before the Academy of Dijon made by M. Guignard after Saint-Mémin's decease. During the latter portion of

his life, from 1817 to 1852, he was Director of the Museum of Dijon, one of the most valuable depositories of works of art in France.

The original portrait of Chief-Justice Marshall of which the accompanying engraving is a copy is owned by Mr. Thomas Marshall Smith of Baltimore, whose mother was a daughter of the Chief-Justice's eldest son, and the portrait has always remained in the family. It is regarded by them as the very best likeness ever taken of their honored ancestor. Mr. Smith has recently allowed a full-sized photograph of it to be taken by Rice of Washington for the Supreme Court, reserving the copyright. The engraving in *THE CENTURY* is made from this excellent photograph, and, with the exception of the dozen miniatures struck off by Saint-Mémin, is the only engraving ever made from the portrait.

John Marshall is one of those purely American characters of whom we may well be proud. Born on the 24th of September, 1755, in Fauquier County, Va., a region then comparatively new, he enjoyed few of the educational facilities which existed in the older portions of the State. This was made up, however, in great degree, by one of the happiest and most intellectual of homes. His father, Colonel Thomas Marshall, was an intimate friend and old schoolmate of Washington, and was associated with him in the surveys of the Fairfax estates, which embraced a large portion of northern and north-western Virginia. His mother was Mary Keith, daughter of the Episcopal clergyman of the parish, and educated in the choicest English literature of that day. The home was a constant and regularly organized school. The best English poets and historians were made as familiar as household words, and the mathematical and other sciences were not neglected. Mr. Justice Story, who probably had it from the Chief-Justice himself, relates that at the age of twelve John, who was the eldest of the children, had transcribed the whole of Pope's "Essay on Man" and some of his "Moral Essays," and had committed to memory many of the most interesting passages of that poet. When he had become sufficiently advanced a private tutor was procured to initiate him into the mysteries of classical lore. Rev. James Thompson, an Episcopal clergyman from Scotland, was employed for this duty. At fourteen John was sent to Westmoreland County to attend the school of Rev. Mr. Campbell, where his father and Washington had been students and where he staid for a year. He then returned home and continued his classical studies under Mr. Thompson. His outdoor recreations were hunting and fishing, of which he was exceedingly fond. At eighteen he began the study of law by reading Blackstone's Com-

mentaries, then a new book. But soon the Revolution broke out and Thomas Marshall and his son John joined the troops raised by Virginia, the former as colonel of a regiment, the latter as lieutenant in a different regiment, and both served in the field the greater portion of the war, John being promoted to a captaincy in 1777. He was at the battles of Trenton, Germantown, Monmouth, Stony Point, and nearly all the important engagements of the army of Washington's immediate command. Though so young, being only twenty when the war began, he became exceedingly popular with his brother officers, as well as with his men, and his sound common sense and good judgment led to his often being selected to decide disputes between them and also to act as judge-advocate. He was thus brought into personal contact with General Washington and Colonel Hamilton, who afterwards became his warmest friends. At this time he is described as being the picture of health, six feet high, straight, slender, of dark complexion, with a round face and piercing black eye, and a countenance beaming with intelligence and good nature. He had an upright but not high forehead, terminated in a horizontal line by a mass of raven-black hair, and his temples were fully developed, indicating strong memory and great power of combination.

Being sent home at the close of 1779 to aid in raising new recruits, he had an opportunity, of which he availed himself, to attend the law lectures of George Wythe (afterwards Chancellor) and those of Professor (afterwards Bishop) Madison on natural philosophy. This was all the collegiate education he ever enjoyed. When the courts were opened, after the capture of Cornwallis, he began the practice of law, and in January, 1783, married Mary Willis Ambler, with whom he lived in devoted affection for nearly fifty years. He now took up his permanent residence in Richmond, where he continued to reside the remainder of his life. It was not long before he became a leader of the Virginia bar. His wonderful strength of logic and clearness of statement made him almost irresistible in argument, and his industry and faithfulness in the discharge of his duties secured him a very large practice. He was frequently sent to the legislature, which, as he lived at the capital, he could attend without material prejudice to his business; and he was as eminent in debate on important political questions as he was at the bar. In the latter sphere his services were sought in all the important causes of the day, many of which involved public questions growing out of the war and its attendant consequences. Among other clients he was employed by the celebrated Beaumarchais to sue the State of Virginia for

supplies furnished during the war, and obtained a large judgment against the State under a law at that time existing which allowed such suits. He was one of the leading counsel in the great case of the debts due to British subjects which had been paid to the State during the war under a statute authorizing such payments to be made. In the department of public law he became especially proficient, and probably had no superior in the country.

In his political views Marshall was firm and decided. He was always in favor of a Federal Government clothed with adequate power to maintain itself and the national dignity and credit, and when the new Constitution was proposed he was one of its most ardent supporters. Being elected to the State convention which met in 1788 to consider its adoption, his calm and powerful arguments interposed a successful resistance to the fiery eloquence of Patrick Henry, who was opposed to the Constitution. His services in finally securing its ratification were second only to those of Madison himself. After the Federal Government was organized he was ever the powerful champion of Washington's administration, both in the legislature and in popular assemblies. He sustained the financial and other measures of the first Congress, by which the Government was made a reality and set in motion. He defended Jay's treaty, and compelled its opponents to abandon the charge of unconstitutionality. In 1797 General Marshall, as he was then called, was sent by President Adams, with Gerry and Pinckney, to France, and in the diplomatic contest with the corrupt and insolent Directory of that day he defended the dignity of his country in one of the ablest of state papers. On his return, in 1798, he was received with the enthusiastic approbation of all parties. His progress from New York to Richmond was an ovation.

Marshall hoped now to be permitted to devote himself to his profession. But this could not be. He had become too important a personage to be allowed to retire from public life. At the earnest personal entreaty of Washington, who was deeply interested in the success of the Federal or Constitutional party, Marshall consented to run for Congress, and was elected, though his district (Richmond) was anti-Federal in its sympathies. In the session of 1799-1800 he made that memorable speech in which he so ably sustained the action of the Executive in delivering up to the British Government, under the treaty of 1794, Nash (*alias* Robbins), who was charged with piracy and murder committed on a British vessel. It was confessed by the Republican leaders that this speech could not be answered. It is still referred to as a conclusive exposition of the

public law on the subject of international obligations in regard to the extradition of criminals.

On the disruption of Mr. Adams's Cabinet, in May, 1800, General Marshall was nominated, first as Secretary of War, and then as Secretary of State. He served in the latter office during the remainder of Adams's administration, and his state papers are characterized by all his wonted clearness and power of argument. In November, 1800, Chief-Justice Ellsworth, then in Europe, resigned, and Marshall, though still holding the office of Secretary of State, was appointed in his place. It was to him an unsolicited and unexpected honor. The President first offered the place to Mr. Jay, its former occupant, but then near the close of his term as governor of New York. Mr. Jay declined the offer, desiring to retire from public life. The President meeting Marshall, who had suggested some name for the office, announced his determination to appoint a plain Virginia lawyer named John Marshall. The latter was so surprised and confused by this announcement that for a moment he could not utter a word.

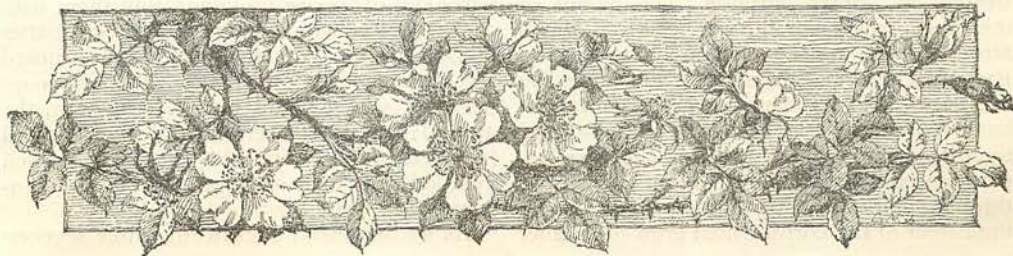
The great office to which Marshall was now elevated was held until his death, which occurred on the sixth day of July, 1835, in the eightieth year of his age. He believed himself to be better fitted for the judicial function than for any other vocation. It was the great object of his ambition. He told his son that when President Adams told him that he had decided to nominate him as Chief-Justice it was the happiest moment of his life. He felt his power. He was conscious of the spirit that was in him. And yet he was one of the most modest of men. A consciousness of power is not inconsistent with true modesty. "Let me repeat it," says Lavater, "he only is great who has the habits of greatness; who, after performing what none in ten thousand could accomplish, passes on, like Samson, and *'tells neither father nor mother of it.'*" Quiet, simple, and unassuming, Marshall was inherently great; and though conscious of his power, he did not regard it as exceptional, but as all in the ordinary course.

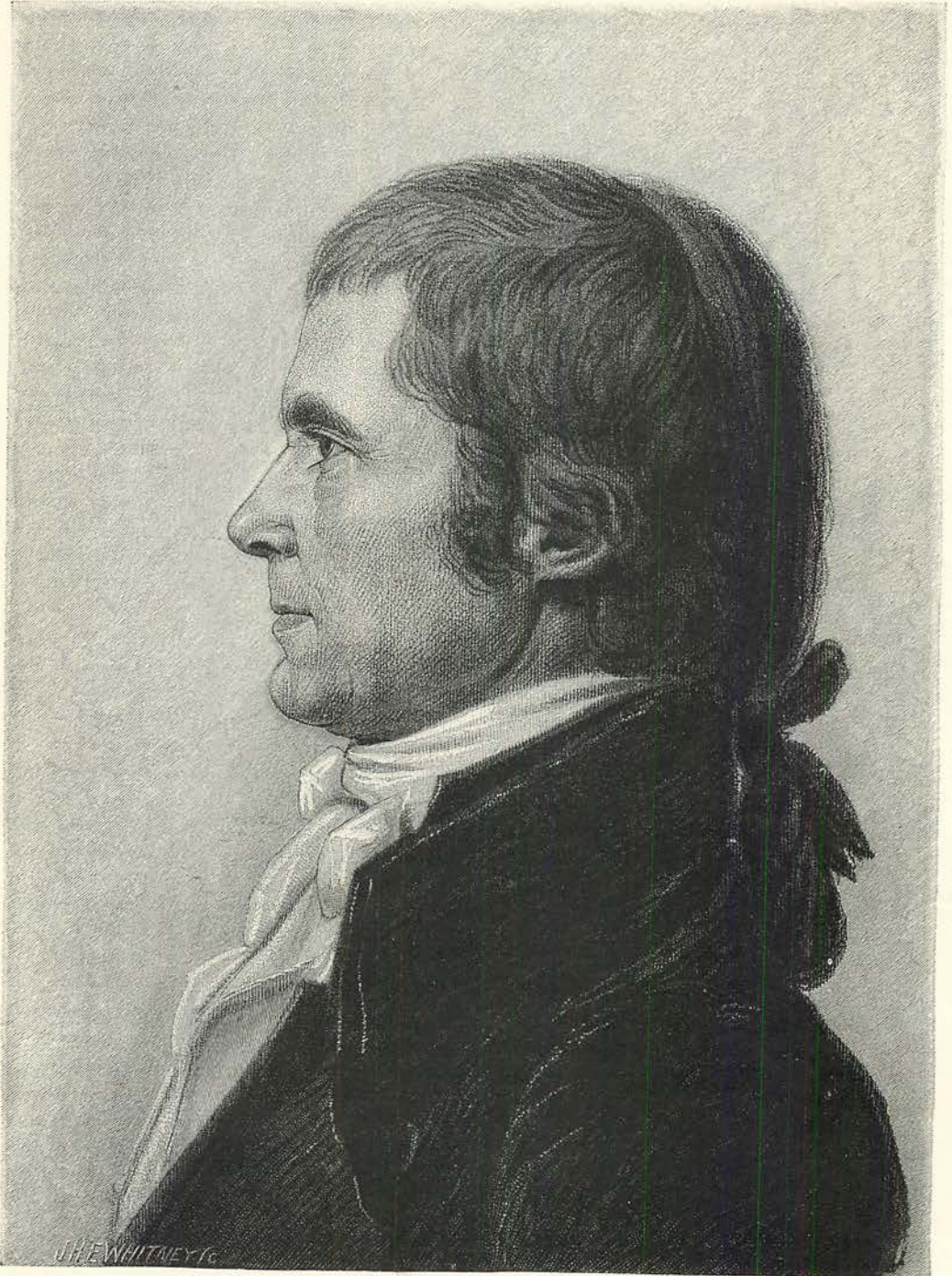
It is needless to say that Marshall's reputation as a great constitutional judge is peerless. The character of his mind and his previous

training were such as to enable him to handle the momentous questions to which the conflicting views upon the Constitution gave rise with the soundest logic, the greatest breadth of view, and the most far-seeing statesmanship. He came to the bench with a reputation already established — the reputation not only of a great lawyer, but of an eminent statesman and publicist; and under his lead the Supreme Court lost none of the prestige which it had enjoyed under Jay and Ellsworth. This was a matter of consequence at a period when so much depended upon the public confidence in the decisions of this tribunal upon the questions of constitutional construction which agitated the public mind. The result answered the requirements of the situation. It may truly be said that the Constitution received its final and permanent form from the judgments rendered by the Supreme Court during the period in which Marshall was at its head.

With a few modifications, superinduced by the somewhat differing views on two or three points of his great successor, and aside from the new questions growing out of the late civil war and the recent constitutional amendments, the decisions made since Marshall's time have been little more than the application of the principles established by him and his venerated associates. It must be confessed that the business of the Supreme Court at that period allowed more time for elaborate argument and judicial deliberation than at present. It has increased since Marshall's time more than sevenfold. Against forty-two cases reported in January term, 1835, more than three hundred were reported in October term, 1887. Another advantage enjoyed by the old court was the selectness and distinguished ability of its bar. Dexter, Webster, Pinckney, Ogden, Wood, Binney, Sergeant, Ingersoll, Taney, Livingston, and many others of almost equal fame are frequently named as counsel. The system of railroads and the consequent ease of communication with all parts of the country now enable the local counsel to argue their own cases, and have had the effect of lessening the elevated and eclectic character of the arguments made before the Supreme Court of the United States.

Joseph P. Bradley.





ENGRAVED BY J. H. E. WHITNEY AFTER A CRAYON DRAWING BY SAINT MEMIN.

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J. Marshall