



SUNDAY

December 23, 2007

InRich.com

Commentary

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The Greatest Virginians

They hailed from this commonwealth and they helped to change the world. Many towering figures have called this state home, but who are the greatest Virginians? The Library of Virginia and The Times-Dispatch decided to find out. In a survey, we asked historians and prominent citizens to make their suggestions. During December we are announcing the results.

19TH CENTURY: TITAN OF THE LAW

The Greatest: John Marshall

BY BRENT TARTER

John Marshall received more nominations in the survey than any other person for greatest or most influential 19th-century Virginian. He deserved the attention. Marshall, a Central Virginian, is an everlasting titan of American law who stirred in a necessary ingredient to the national constitutional experiment: judicial review.

As chief justice of the United States from 1801 until his death in 1835, Marshall almost single-handedly created American constitutional law. He was and still is almost universally referred to, and regarded as, the great chief justice.

As a member of the Virginia Convention of 1788, Marshall played a small but important role in helping ratify the Constitution of the United States. As chief justice, he took the lead in explaining its meaning and applying its provisions to a nation that was developing and changing.

Historian James Sweeney ably summarized Marshall's achievements. "By the force of his personality and his intellect," Marshall gave the Supreme Court a unified voice with which to interpret and explain the meaning of the Constitution and how it was to operate.

In its first great opinion interpreting constitutional law, *Marbury v. Madison*, Marshall and the Supreme Court undertook to review the constitutionality of an act of Congress — and to claim for the judiciary the right to settle questions of basic constitutionality. "While not universally accepted at the time," Sweeney wrote, "this principle has survived and is at the foundation of the Court's powers today."

In *Dartmouth College v. Woodward*, Marshall upheld the sanctity of contracts in the face of a state legislature's attempt to amend the charter of the college. That decision, Sweeney wrote, and most other students of law and history will certainly agree, was "essential to the functioning of a capitalist economy."

In *McCulloch v. Maryland* and other cases Marshall also upheld the supremacy of the federal government, as Sweeney explained it, "when the states wished to maximize their powers at the expense of federal authority. Marshall was not

afraid to go against the grain of the dominant political philosophy of his time, especially in his home state. Through his influence he established the Supreme Court as a co-equal branch of the national government."

Historian John Deal singled out two essential achievements of Marshall's long tenure on the Supreme Court: "making the judiciary a full partner in the national government and establishing the supremacy of federal law." THE TIMES-DISPATCH'S A. Barton Hinkle agreed. The doctrine of judicial review, he wrote, "has had such profound influence on the governance of America that it scarcely can be overstated; the same must be said of the federal supremacy."

Another historian, Jennifer Loux, noted that Marshall's great constitutional decisions and doctrines are still powerfully influential. "He interpreted the Constitution broadly," she wrote, "and asserted that the federal government had the authority to promote national economic growth. In the 20th century, many Americans gained access to civil rights through decisions made by courts acting on the model that Marshall developed."

Historian and archivist Trenton Hizer, who nominated James Madison as the most influential Virginian of the 18th century because of the originality of his important and influential political writings, nominated Marshall for the most influential Virginian of the 19th century for the same reason. Marshall, he wrote, was "the second foremost constitutional thinker in U.S. history. Once all other theorists have grappled with Madison, they often must grapple with Marshall and his legacy as chief justice."

In his day Marshall won the title "great chief justice" with legal brilliance two centuries of American lawyers have proven unable to match. Today we offer him another: greatest Virginian of the 19th century.

■ Brent Tarter is a historian and editor at the Library of Virginia. He served on the committee that chose the greatest Virginians with The Times-Dispatch's Todd Culbertson, Cynthia Paris, and Cordel Faulk.

