

John Marshall

(1755-1835)

As chief justice of the United States from 1801 to 1835, John Marshall established the Supreme Court as the ultimate interpreter of the Constitution. During the Marshall era, the Court reinforced the authority of the judicial branch, determined the distribution of powers between the federal government and the states, and protected individual property and civil rights.

Born in Germantown, Virginia, John Marshall was raised on the frontier. During the Revolutionary War, he rose to the rank of captain and fought in the Battles of Brandywine, Germantown, and Stony Point. At the end of the war, Marshall returned to Virginia, where he studied law and later established a practice in Richmond. Active in Virginia politics, Marshall served in the house of delegates and became a major Federalist leader in his state. He championed the Constitution and favored a centralized government with a strong judiciary. In 1797 President John Adams appointed Marshall to a special diplomatic commission to improve relations with France. However, Marshall and his partners, Charles Pinckney and Elbridge Gerry, were unable to negotiate an audience with the French foreign minister because his agents demanded a bribe from the Americans. The “XYZ Affair,” as it has come to be called, after the anonymous labels given to the French agents, won Marshall popular support at home because he and his fellow commissioners refused to capitulate to the French.

Two years later, Marshall was elected to the U.S. House of Representatives, but he was appointed secretary of state by John Adams in 1800 before he could finish his term. Nominated by Adams as the fourth chief justice of the United States on January 20, 1801, Marshall took his seat on February 4, following confirmation by the U.S. Senate.

In the course of a 34-year tenure, the chief justice heard more than a thousand cases and wrote more than five hundred opinions. Under Marshall, the Supreme

Hiram Powers had been working in Washington, D.C., for less than a year when John Marshall, who had been chief justice of the United States for over three decades, died at the age of 80. It was a momentous event for the capital and the country, because politicians and the public alike generally revered Marshall and his seminal contributions to American constitutional law.

Not surprisingly, Powers used the opportunity presented by the mood of national mourning to offer portraits of Marshall to the public. Powers was favorably positioned to produce such sculptures because, as he later recounted, several months before Marshall’s death the chief justice had granted him eight sittings of half an hour each for the modeling of his bust in clay. This model must have been completed before March 20, when Powers left for Cincinnati; Marshall died on July 6.

The life portrait was a coup for Powers—with Marshall’s death, it became substantially more valuable. Preparing to make plaster casts of the portrait bust available for sale, Powers solicited testimonials to its accuracy. One of these letters was from President Andrew Jackson, to whom he had given a cast. Powers paid to have Jackson’s testimonial engraved to accompany an advertisement offering the casts for sale to the public at \$10 apiece. Powers also lobbied Congress for a commission to carve a marble bust of Marshall for the Capitol. (A series of sculptures of chief justices had already been authorized.)

Powers’s effort toward a federal commission succeeded. By resolution of the U.S. House of Representatives on February 12, 1836, the Joint Committee on the Library was instructed to “cause a marble bust of the late Chief Justice Marshall to be prepared by an artist of merit and reputation, and to be placed in the chamber of the Supreme Court of the United States, in a position corresponding with that of the bust of the late Chief Justice Jay.”¹ The committee agreed to give Powers the assignment and later appropriated \$500 for the work.

Apparently because Powers did not yet have the technical ability to sculpt in marble, he decided not to attempt to fulfill the commission before his intended departure for Italy. Instead, he modeled other portraits in clay. When he sailed for Europe late in 1837, he had completed 13 busts, which followed him in a ship that reached Italy on May 28, 1838. Of these, at least two were translated into marble by Powers himself: a

John Marshall

Hiram Powers (1805-1873)

Marble, 1839

26 ½ x 21 ½ x 13 ½ inches (67.3 x 54.6 x 34.3 cm)

Unsigned

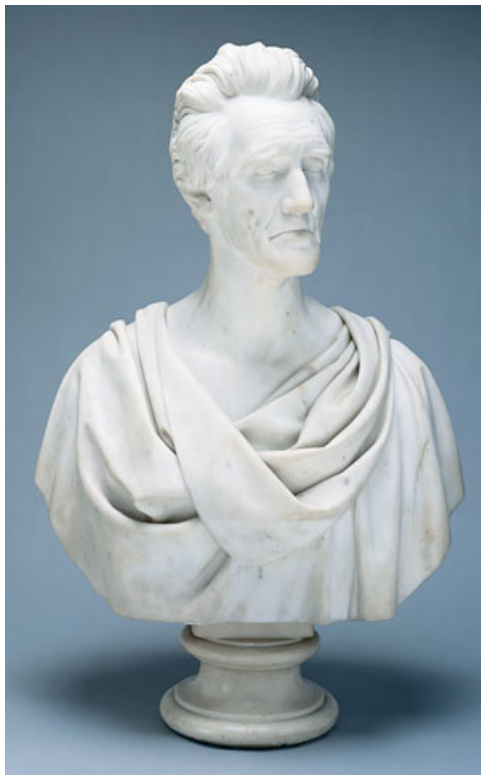
Commissioned by the Joint Committee on the Library, 1836

Accepted by the Joint Committee on the Library, 1840

Cat. no. 21.00014



Court emerged as a prestigious, powerful, and equal third branch of the government. By defining the role of the Court in a number of pioneering decisions, Marshall set forth the principles by which the Constitution is still interpreted today. He emphasized national supremacy over the interests of the individual states, as well as the protection of property rights. These opinions were defined in such landmark decisions as *Marbury v. Madison* (1803), in which the Court established the principle of judicial review; *McCulloch v. Maryland* (1819), which established the doctrine of implied powers; and *Dartmouth College v. Woodward* (1819), which held that the contract clause of the Constitution protects private corporate charters. Marshall believed that the Constitution existed for future generations and that any narrow interpretations must therefore be avoided. The Constitution, he wrote in 1819, is “intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.”¹



bust of Andrew Jackson and the Senate’s John Marshall portrait. Powers acquired a remarkable skill in marble carving in a very short time, and the bust of Marshall was finished by early December 1839. Because producing the marble sculptures from the clay models was customarily done by the talented Italian carvers in Powers’s studio (a practice almost universally adopted), these two busts are among the very few marbles carved entirely or largely by Powers.

The Marshall sculpture is most notable for the strong naturalism of the head, a characteristic it shares with Powers’s bust of Andrew Jackson. In depicting Marshall, Powers balanced a vulnerable, aged body with an unshakable moral spirit. The viewer sees an 80-year-old man, while also seeing—or sensing—the intellect, the self-control, the absolute impartiality, and the perfect sense of justice that made the man. His level eyes seem to emanate dignity, despite the fact that the eyeballs are blank (this treatment was a neoclassical idealism based on a misconception about ancient sculpture). The original clay life model seems to have been simply a head with an undraped body, for in a letter about the marble, Powers wrote, “I have added drapery to it & it is regarded by my visitors as one of the best works in my collection.”² The additions of the Roman toga and blank eyes to the marble version are the only departures from the prevailing naturalism of the piece.

The Marshall bust was formally accepted by the Joint Committee on the Library in 1840 and was subsequently presented to Congress and placed on view in the Supreme Court Chamber in the Capitol. Librarian of Congress John S. Meehan recorded in June of 1840, “The work has been most elegantly and satisfactorily performed by Mr. Powers.” Hiram Powers, on the other hand, believed that he had been underpaid and always regretted pressing for the commission, which he felt cost him the opportunity of making a full-length statue of the great chief justice.

A full-length marble statue of Benjamin Franklin by Powers (p. 152) is also located in the U.S. Senate, and Powers’s full-length statue of Thomas Jefferson is located in the House wing of the Capitol.

Executed from life in 1839, this bust of Andrew Jackson and the 1840 likeness of John Marshall—both by Hiram Powers—have similar neoclassical characteristics.

(The Metropolitan Museum of Art, Gift of Mrs. Frances V. Nash, 1894)



Marble busts of the first four chief justices are displayed in the Old Supreme Court Chamber. Left to right: John Marshall, John Rutledge, John Jay, and Oliver Ellsworth.
(2000 photograph)