

**EULOGY ON
JOHN MARSHALL**

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Eulogy on John Marshall by Horace Binney

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HORACE BINNEY

**EULOGY ON
JOHN MARSHALL**

IN HONOR OF "JOHN MARSHALL DAY"
FEBRUARY 4, 1901

EULOGY

ON

JOHN MARSHALL

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BY
HORACE BINNEY

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JOHN MARSHALL.

PREFACE.

ON July 9, 1835 (three days after the death of Chief Justice Marshall at Philadelphia), the Select and Common Councils of the City invited Horace Binney, an illustrious member of the Philadelphia Bar, to deliver an "eulogium" upon the life of John Marshall.

Appropriate solemnities took place on September 24, 1835, when the great oration of Horace Binney was delivered on "The Life and Character of John Marshall," and the Councils requested a copy of the oration for publication. Preceding the delivery of Binney's address, the Rt. Rev. William White, D.D., Bishop of the Diocese of Pennsylvania, delivered an eloquent prayer, which accompanied the publication of the "eulogium" in pamphlet form.

The original publishers were J. Crissy and G. Goodman, 4 Miner Street, Philadelphia, Penn.

In view of the rarity of the pamphlet, and in order to give the present generation a wider reading of the great oration of Horace Binney, Messrs. Callaghan & Co., of Chicago, have republished the oration as a slight recognition of the importance of "John Marshall Day" to the American Bench and Bar.

ADOLPH MOSES,
Of The Chicago Bar.

CHICAGO, June, 1900.

Ms. A. 11-11-35

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HORACE BINNEY.

1780-1875.

AMONG the illustrious names prized by the American Bar, during the present century is that of Horace Binney, of whom it was said that there was something about him which "served to gild and color the acts of the whole legal profession."

Born in Philadelphia on January 4, 1780, of English and Scottish descent, he became, in 1793, a freshman of Harvard College, and after a busy law study in the office of the celebrated Jared Ingersoll (1749-1822), he was called to the bar in March, 1800, just as he was nearing his majority. He soon rose to fame, and in 1815, with a practice in the Supreme Court of the United States and that of Pennsylvania, surrounded by a powerful bar, he was in possession of all which the profession can give—reputation and emolument.

Between 1807 and 1814 he published six volumes of the reports of the Supreme Court of Pennsylvania, which were said to be models of perfect reporting and which are known as Binney's Reports.

Steadfastly adhering to his professional duties and refusing to accept judicial honors offered him upon several occasions, he stepped aside but once, when he was elected to the Twenty-third Congress, during the administration of President Jackson, in which position he acquired national fame.

On the death of Chief Justice Tilghman of the Supreme Court of Pennsylvania, he was chosen as the orator, and his oration is a fair specimen of his oratorical ability (16 *Sergeant & Rawle's Reports*, 437).

His intimate acquaintance with the great Chief Justice, to whose bar he came in 1802, and his fame as an orator were the factors in his selection by the Philadelphia Bar as the John Marshall orator, occasioned by the death of Marshall. The oration ranks well with that of Justice Story, delivered at Bos-

ton in the same year, which will be found in his miscellaneous writings.

Owing to failing health, Mr. Binney had almost withdrawn from the profession when he again appeared in 1844, in the case of Girard College—*Vidal v. Girard's Executors*, 2 How. 127—wherein he made the celebrated argument which Justice Strong of the United States Supreme Court has characterized as a great effort "wherein he lifted the law of charities from the depths of the confusion which covered it and clothed his argument with a beauty of language never surpassed." His professional victory over Daniel Webster in that case attested his wide learning and great power as a jurist.

In 1858, he published a sketch of the life and character of Justice Bushrod Washington of the Supreme Court of the United States, the intimate friend of Chief Justice Marshall, in which with surpassing discrimination he delineated the qualities of the true judge.

He was also the author of "An Inquiry into the Nature of Washington's Farewell Address."

Throughout his life he was deeply interested in literary, scientific and artistic works and was a generous contributor to the charitable institutions of this country. He possessed a fine presence and an uncommonly noble face and was gifted with a melodious voice which was powerful for its persuasiveness. He was all in all one of the most accomplished lawyers of the American Bar, "whose nature was truth itself and his life truth unfolded." One of his favorite maxims, which was illustrated in his life, was "work up to power."

Mr. Binney died at the age of ninety-five and a life of honor then ceased which will ever be remembered by his professional brothers of the present and future generations.

AN ADDRESS AND A FORM OF PRAYER,

On the occasion of the Decease of the Hon. John Marshall, Esq., Late Chief Justice of the United States, Delivered on the 24th day of September, and preceding the delivery of an eulogium by Horace Binney, Esq. by the Rt. Rev. William White, Bishop of the Diocese of Pennsylvania.

Brethren:

Forasmuch as it hath pleased Almighty God, in his wise Providence, to take out of this world the Hon. John Marshall, Esq., late Chief Justice of the United States, let us bow in lowly submission under this afflictive dispensation. Let us offer up our thanksgivings, for the good example, and for the signal services of the eminent deceased. And let us pray, that through Divine Grace, we may make a religious improvement of the mournful event commemorated; so that after this transitory life shall be ended, we may rest with the Spirits of just men made perfect; and finally may attain to the resurrection of the righteous, at the second coming of our Lord and Savior, Jesus Christ, in glorious majesty, to judge the world.

Almighty God, with whom do live the Spirits of them who depart hence, in the Lord, and with whom the souls of the faithful, after they are delivered from the burthen of the flesh, are in joy and felicity; we give thee thanks for all those thy servants, who having finished their course in faith, do now rest from their labours. Especially we adore thy name, for the eminent virtues and for the illustrious actions of the late Chief Justice of the United States. While we acknowledge thy undeserved mercies in having given him, in times of difficulty and danger, to the counsels and to the administration of justice in this land, we pray that the present remembrance of him may impress us with due gratitude for the benefits, which through his agency, have been extended to us by thee, the Supreme Author of all good. May his memory be an incentive to all who shall come after him in our Courts of Justice, and in all the employments of the state. And may posterity, while they shall inherit the lustre of his name, enjoy the benefit of