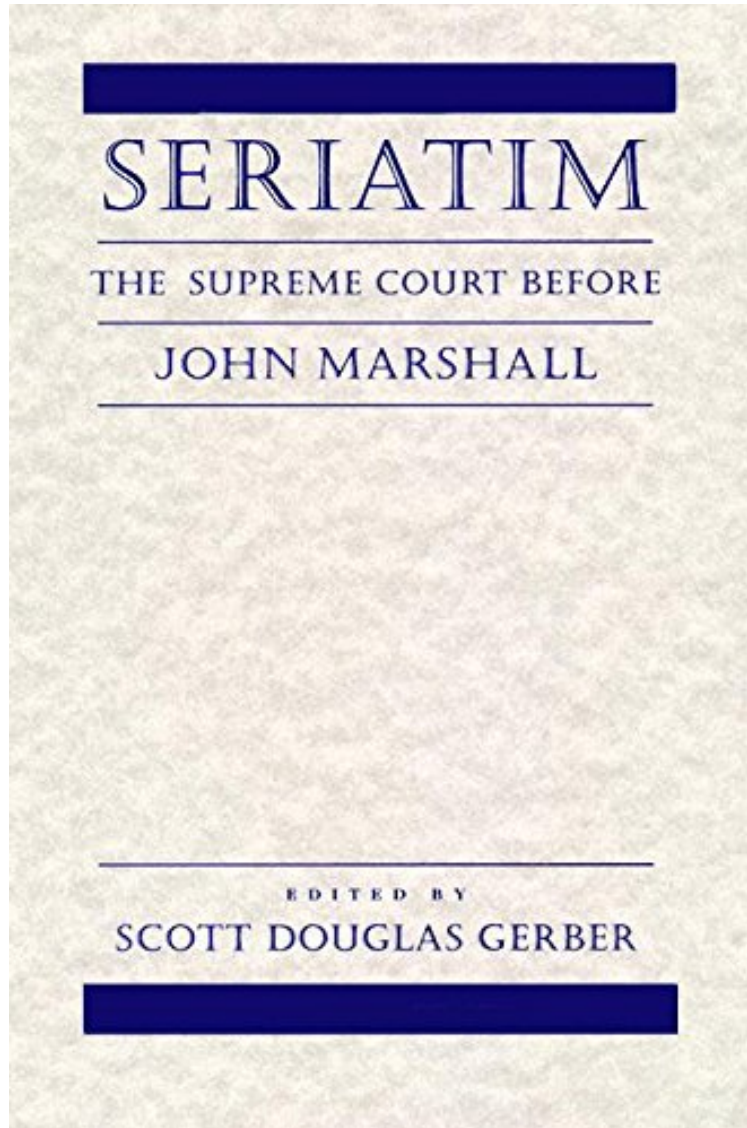


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Seriatim: The Supreme Court Before John Marshall

Scott Douglas Gerber

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Scott Douglas Gerber : Seriatim: The Supreme Court Before John Marshall before purchasing it in order to gauge whether or not it would be worth my time, and all praised Seriatim: The Supreme Court Before John Marshall:

0 of 0 people found the following review helpful. Launching the Supreme Court By John G. Collinge Seriatim: The Supreme Court Before John Marshall, is a useful collection of essays on the major Washington and John Adams appointees to the Supreme Court. (Three Justices, Robert Harrison who shares the distinction with Edwin Stanton of being nominated, confirmed and fatally stricken before taking office and Thomas Johnson and Alfred Moore of negligible influence are omitted.) Editor Scott Gerber has an overview essay summarizing the accomplishments of the

Supreme Court in the 1790s followed by individual portraits in the order of the Justices appointments concluding with James Stoners appraisal of Justice Bushrod Washington as a bridge to the Marshall Era as a colleague for 28 years with his close friend and fellow Virginian. The thrust of the essays is a convincing argument that these pioneering Justices accomplishments were not insignificant and that they provided Chief Justice Marshall a firm foundation. Although the Justices decided few cases as a Supreme Court they succeeded in establishing the credibility of a Federal judiciary and legitimated the concept that Federal judges could derived authority under the new United States Constitution to review legislative and judicial actions by the states. In so doing the early Supreme Court Justices arguably played a role second only to President Washington and his Cabinet in successfully implementing the Constitution. The Justices only significant misstep *Chisholm v. Georgia* (1793) resulted in the Eleventh Amendment affirming the sovereign immunity of the states against suits in federal court but caused neither the Court nor the United States lasting damage. Early Supreme Court Justices also road circuit exercising a dual role hearing cases at the initial and the appellate levels. They may have exerted more influence shaping public perceptions of the new Federal structure in this role than when sitting as the Supreme Court. The Justices made particular use of jury instructions to explicate the Constitution especially in the areas of the Supremacy Clause, the Treaty Clause (principally enforcing the debt recovery clauses of 1783 Treaty of Paris which ended the Revolutionary War), admiralty and bankruptcy. The essays are valuable also in treating the pre-Supreme Court and extra-judicial role of several of the Justices in laying the foundations of the United States in the 1780s and 90s. Future Justices James Wilson and William Paterson were key drafters of the Constitution. James Iredall played a critical role in securing North Carolinas ratification. Paterson and future Chief Justice Oliver Ellsworth as U.S. Senators wrote most of the Judiciary Act of 1789. Chief Justices Jay and Ellsworth also acted as envoys for President Washington and Adams, Jay negotiating the Jay Treaty with Great Britain and Ellsworth the end of the Quasi-War with France. Both also saw no conflict in serving as informal Presidential advisors. Indeed, although Jay came under furious attack after negotiating the Jay Treaty the attacks went to the merits of the treaty not the propriety of his role in making foreign policy. 1 of 2 people found the following review helpful. Complete Review of the Authority on the Subject By Ryan Adair Gerber's collection is a complete review on the subject, challenging notions that the Court was inconsequential and irrelevant prior to John Marshall's appointment as Chief Justice of the United States in 1801. The compiled works illustrate effectively the Court's prohibition on advisory opinions and the Constitutional importance of the decision in *Chisholm v. Georgia*.

Seldom has American law seen a more towering figure than Chief Justice John Marshall. Indeed, Marshall is almost universally regarded as the "father of the Supreme Court" and "the jurist who started it all." Yet even while acknowledging the indelible stamp Marshall put on the Supreme Court, it is possible--in fact necessary--to examine the pre-Marshall Court, and its justices, to gain a true understanding of the origins of American constitutionalism. The ten essays in this tightly edited volume were especially commissioned for the book, each by the leading authority on his or her particular subject. They examine such influential justices as John Jay, John Rutledge, William Cushing, James Wilson, John Blair, James Iredell, William Paterson, Samuel Chase, Oliver Ellsworth, and Bushrod Washington. The result is a fascinating window onto the origins of the most powerful court in the world, and on American constitutionalism itself.

"This absorbing collection of essays . . . goes far toward filling a void in the literature on the early justices of the world's most significant tribunal." -Law and Politics Book "This useful collection of biographical essays, bracketed by splendid treatments of John Jay and Oliver Elsworth, goes a long way toward establishing that the first justices of the Supreme Court were an impressive collection of political and constitutional thinkers who did much, before and during their service on the Court, to construct the constitutional order." -Mark Tushnet, Georgetown University Law Center "Professor Gerber's *Seriatim* is a genuinely welcome work, an imaginative one, and a distinctly needed one. The pre-Marshall period had all-too-long been neglected and when addressed at all, it was usually done in cursory, brief compass. Gerber has done a splendid job in securing experts to analyze the labors and persona of the ten pre-Marshall jurists on our highest bench, and his introduction to the essays is a model of synthesis and clarity." -Henry J. Abraham, James Hart Professor of Government and Foreign Affairs, Emeritus, University of Virginia "A wonderful book that challenges the idea that the Court did nothing of importance prior to Marshall's appointment; . . . it seems destined to become a staple source for the Court's first decade." -Supreme Court Historical Society Quarterly "This creative and imaginative analysis of America's first national jurists is recommended for all students of Supreme Court history." -Choice About the Author Scott Douglas Gerber, Ph.D., J.D., is author of *To Secure These Rights: The Declaration of Independence and Constitutional Interpretation* and editor of *Seriatim: The Supreme Court before John Marshall*, both available from New York University Press. He teaches at Ohio Northern University College of Law.