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Eminent Rival Authors

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Professor Handler, in his fine article on N. I. R. A. in the August "Bar Journal," says that: "The emergency created a mist in which the familiar contours of the landmarks of constitutional decision seemed blurred or even lost."

I trust this contribution may not intensify the gloom. It is intended merely to indicate the rationale by which acts of the new dispensation may be upheld.

EMINENT RIVAL AUTHORS

By J. W. KELLEY of the Denver Bar

JOHAN MARSHALL, Chief Justice of the Supreme Court of the United States, in his fiftieth year wrote a *Life of George Washington*, the first president. It is a dull work of five volumes, Marshall not having a knack for biography, yet evidently fancying himself gifted in that respect to the point of vanity. The most entertaining portion of the *Life* is in the Appendix where the author sets out with scrupulous care the original draft of the Declaration of Independence, as penned by Thomas Jefferson, and the changes and improvements afterward made at the suggestion of others.

Marshall was careful to state that John Adams, Benjamin Franklin and R. R. Livingston were on the drafting committee with Jefferson. He proved beyond question that the most brilliant paragraph in the Declaration was lifted bodily from a resolution written by Richard Henry Lee and that other paragraphs (especially the one on slavery), afterward stricken out, were clumsily written. Marshall had no great opinion of the third president of the United States, politically or otherwise, and he evidently sought by this means to prove to posterity that the faultless phrases of the immortal Declaration were not entirely emanations from the brain of Jefferson, and his original draft an inferior grade of literary skill. As evidence that the object of the great Chief Justice was to diminish Jefferson's reputation as a writer it is noted that when Marshall later prepared a one volume *Life of Washington* he abridged everything in his original work except the part of the Appendix reflecting upon Jefferson's literary ability which he set forth in all the meticulous amplitude of his first effort.

Of course, proof of the exact authorship of the Declaration had little place in the life of Washington but the volumes came from the press at the time Jefferson was president and this slap at his literary fame was only one of a number of sly digs taken at him by the eminent jurist.

If Marshall had revealed to us in the biography the foibles and vanities of Washington, in little things, as clearly as he betrayed his own, in the appendix, he would have excelled Boswell.

HAWAIIAN JUSTICE 100 YEARS AGO

By FRANK L. GRANT *of the Denver Bar*

The following account of the method of administering justice in the Hawaiian Islands one hundred years ago may interest some of the readers of DICTA. It is an excerpt from a diary in the possession of Mrs. Grant kept by her maternal grandfather, an English surgeon, who visited the Islands in December, 1831.

"Behind the Queen's house were two or three magnificent large and widespreading trees (called by the natives "Tow" trees). Their branches were covered with carnation-colored flowers and dark green foliage. Beneath the ample shade of these trees, justice often swayed their sceptre. Here all trials were conducted from those of a serious nature to that of petty dispute or minor litigation. Having on several occasions been an eye-witness to a native trial the following remarks may tend in some measure to illustrate the mode of proceedings as adopted by the parties concerned therein. If the trial proved to be one of any particular importance due notice would be given to the people overnight by certain worthies in office termed constables. At sunset, moreover, it was customary for one of these preservers of the peace to station himself on one of the stone wharves in his district and with stentorian voice to bawl out a word or two of advice and caution to the inhabitants of 'Fare,' such as to betake themselves home, to keep a sharp lookout for thieves, with diverse other admonitions. The constable in the next district on hearing the well known sounds of his brother officer took up the tale and in like manner passed the word to his neighbors. The necessary intelligence by these means was speedily conveyed throughout the settlement from one extremity to the other. During the quietude of the evening, we were often