

# REPORT

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# MARYLAND STATE BAR ASSOCIATION

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MARYLAND STATE BAR ASSOCIATION

NINETEEN HUNDRED AND THIRTY-SIX

THE PRESIDENT: Now, gentlemen, we are privileged to have with us this morning the former Attorney-General of Maryland, Alexander Armstrong, who will now address us, his subject being "A Brief Survey of His Life", that is, the life of Roger Brooke Taney. General Armstrong.

### ADDRESS BY ALEXANDER ARMSTRONG

#### A BRIEF SURVEY OF THE LIFE OF ROGER BROOKE TANEY

We turn our thoughts backward this morning over a period of one hundred years to the simple but notable ceremony which made a son of Maryland the Chief Justice of the Supreme Court of the United States. It was an event without parallel or counterpart in Maryland history. If we are to comprehend thoroughly its significance at the time it occurred, then we must endeavor to view it from the standpoint of the relatives, friends and professional brothers of Roger Brooke Taney who on that far distant day had assembled in the old District Court room, in Baltimore, to witness his induction into office with their knowledge of the man who was to be so signally honored, with their ability to appraise the character and attainments of the leaders who were then shaping the national destinies and with their understanding of the governmental problems then pressing for solution. This is the picture which I shall endeavor briefly to present to you today, leaving to others a discussion of the long judicial service which was thereafter rendered.

Forty-seven years had passed since Washington's first inauguration. The country had extended itself from its humble beginnings along the Atlantic Coast far to the westward. New States had been admitted into the Union, some of which bordered on the Mississippi River. Beyond that mighty stream the nation possessed almost limitless land and offered to its people boundless opportunities. Its material growth had been phenomenal. The strength of the National Government had been definitely established. This result so vitally essential in those formative years had been accomplished largely through decisions of the Supreme Court, inspired by the statesman-like vision of John Marshall, its great Chief Justice, and, in most instances, fortified by the remorseless logic of his clear and powerful reasoning. The fundamental principles of constitutional interpretation and the liberal construction of the organic law, adopted by the Court, had gradually extended and strengthened the Federal jurisdiction and

authority and the central Government had already become conscious of its steadily growing power. The Supreme Court had made itself a mighty influence. The days of hostility, bitterness and open criticism had passed. Its decisions were now received with a respect and confidence akin to veneration. The old Federalist party had passed into oblivion. The Democratic party which had vanquished it was now itself divided, the dominant faction being that which followed the leadership of Andrew Jackson, then serving his second term as President. Opposition expressed itself through the medium of the recently developed Whig party. Webster, Crawford, Calhoun and Clay were then nearing the pinnacle of their legal prowess and their political prestige. Baltimore, a thriving commercial city, then had a population of about 90,000 people, but Chicago had been founded only three years before. There was no East and West but already sectional strife between the North and South, principally on questions of tariff and slavery, was manifesting itself. States' rights and secession were being discussed. The doom of the nullification ordinance of South Carolina had been foreshadowed by Jackson's famous toast "The Federal Union—It Must and Shall Be Preserved." The Bank of the United States, as a result of Jackson's unrelenting hostility, supported by Taney's abilities and courage, had passed out of existence—never to return. The people of the country were energetic, vigorous, highly prosperous, assertive of their rights and imbued with a firm faith in their own future. They were politically minded, impetuous and critical, fearlessly outspoken in expressing their views, capable of profound loyalties and bitter resentments. This was the stage upon which the new Chief Justice was now to enter to play an all important role in the drama of the Republic's life.

And what of the man himself now called to a position of such transcendent responsibility? If you had been a member of the group which had assembled a hundred years ago this morning to witness the induction ceremony and, while waiting for it to begin, had talked to a member of the Bar who happened to be present, he would have told you that Taney had studied law in the office of Judge Chase, of Annapolis, one of the three members of the Maryland General Court; that he had been admitted to the Bar in that city in 1799; that shortly thereafter he had returned to Calvert County where he was born and where his family still lived as a part of its landed aristocracy, and that, finding here little legal business to attract him, he had moved to Frederick in March, 1801. Here, for 22 years, he engaged in general practice and soon made himself the outstanding attorney of the western

section of the State. A recognition of Taney's abilities brought him numerous employments in other counties and before the Court of Appeals to such brilliant members of the Bar as Luther Martin, William Pinkney and William Wirt. Upon the death of Martin and Pinkney, Taney was prevailed upon in 1823 to move to Baltimore and was soon recognized as the leading lawyer of the State. His practice, here, conducted, of course, in a much broader field, soon carried him before the Supreme Court where he appeared on numerous occasions. Justice Story wrote of him in those early days: "Taney, a man of fine talents." For many years he had cherished the professional ambition to become Attorney-General of his own State and this wish was gratified in 1827 when, upon the unanimous recommendation of the members of the Baltimore Bar, he was appointed to that office by Governor Kent, a political opponent. Taney possessed a remarkable memory, acquired and retained an extraordinary knowledge of the law and particularly of its more technical branches. His manner of presenting arguments to both judges and juries was strikingly different from that commonly employed in his day for he seldom used gestures and always talked with simplicity and directness. His earnestness, his evident sincerity and his clear-cut logic and fine common sense made him a most formidable and dangerous advocate. His cases were always tried after the most careful preparation and with the utmost accuracy and, while in Court, he always manifested courtesy, dignity and a deep veneration for the law itself and for every phase of the judicial machinery. Possessing these endowments of mind, manner and experience, Taney was named Attorney-General of the United States by President Jackson in June, 1831, and served in that office until he resigned in the fall of 1833 to become Secretary of the Treasury. When, in 1834, the Senate rejected his nomination for that position, the first rejection of a Cabinet appointment since the founding of the National Government, he returned to Maryland to be greeted with rapturous enthusiasm by his local admirers and quietly pursued the practice of the law until named as Chief Justice of the Supreme Court.

Perhaps if you had entered into conversation with some relative on this March morning a century ago he would have told you something about Taney's private life. You would have learned these facts: Taney was born in Calvert County on March 17, 1777, the second son of a father who belonged to a prominent family long established in that community. As a little fellow he walked each day three miles to a local school, was then sent to a grammar school ten miles away, was tutored for awhile by a

Princeton graduate and, at the age of 15, entered Dickinson College, at Carlisle, Pennsylvania, from which institution he graduated three years later as the valedictorian of his class. While studying law in Annapolis he formed close friendships with three young men who were to have a profound influence upon his life—William Potts and John Hanson Thomas, of Frederick, upon whose advice he established his home and professional office in that city, and Frank Key, later to become famous as Francis Scott Key, the author of the "Star-Spangled Banner," and whose sister, Anne Key, Taney married on January 7, 1806, at Terra Rubra, the beautiful ancestral home of the Key family, located near Taneytown in what is now Carroll County. Seven children were born to the couple, six daughters and a son who died in infancy. The marriage was a particular fortunate one for Taney. His wife's sweetness and consideration shielded him in the discharge of his trying professional labors, softened the tension of his highly strung nervous system and ministered unto the bad health from which he suffered for many years. Taney was born a Catholic and preserved a quiet, unobtrusive loyalty to this religion throughout his life and, although his wife was identified with another church, this difference in faith never affected in the slightest degree the domestic harmony and tranquility which always prevailed in the Taney home.

Perchance you might also have been curious concerning the associations which led the President to select Taney from the entire Bar of the country to become the next Chief Justice. If an old political ally in Frederick had journeyed down that morning by stage to be present at the elevation of his friend he could have added this interesting chapter to the story of Taney's life. Upon Taney's return to Calvert County his father made him a candidate of the Federalist Party for the House of Delegates and at the age of 22 he was elected, but two years later was defeated for the same office. Soon after he settled in Frederick he became aggressive in attacking the new Democratic Party then in power, contributing many articles to the recently established Federalist paper, the "Frederick Town Herald," and participated actively in the campaign of 1803 as a losing candidate for the Legislature. He was named a Presidential elector on the Federalist ticket in 1808 and became that party's candidate for Congress in 1812. It was at this time that the great schism occurred in the Federalist ranks which completed the disintegration of that party. Taney refused to follow the dominant Federalist leaders in their opposition to the war with England, who, he felt, were endeavoring to impair their credit and limit the resources of the general Government. This alleged defection on his part

caused the estrangement of many of his old and influential friends, but in the interest of harmony he was supported in 1816 by all elements opposing Democratic, or as it was sometimes called, the Republican Party as a candidate for the State Senate and elected to that body for a term of five years. Here he successfully blocked an effort to remove all of the Democratic or Republican judges of the State, claiming that he stood for the independence of the judiciary. He also participated in the legislative contests between the banks of Baltimore and those of the counties whose interests were conflicting, and received his earliest initiation into the problems of banking which were later to play such a conspicuous part in his career. Taney became more and more dissatisfied with the arbitrary and arrogant attitudes on public questions taken by the party with which he had formerly been associated, developed a growing interest in the masses and learned to appeal skillfully to the people in building up a following of his own. This gradual change in his political philosophy prepared him, after the election of 1824, to become an ardent adherent of General Jackson, who had dared to defy the precedent of the old Jeffersonian party to which he belonged of making nominations for the Presidency only from the membership of the Cabinet then in power and had become a candidate for that high office in response to a spontaneous demand from the people. Taney organized the Jackson followers in Maryland and was their recognized leader in the campaign of 1828 which resulted in Jackson's triumph. Dissensions in Jackson's first Cabinet caused its reorganization in 1831 and then it was that Taney was made his Attorney-General. The fight of the United States Bank for a renewal of its charter was then impending and becoming increasingly intense and bitter. When a bill favorable to the banking interests was finally passed by Congress, Jackson, whose hostility to the bank had been steadily growing, determined to veto it. Taney alone among his Cabinet advisers urged him to make the veto absolute and submitted a written opinion in support of his views which was substantially incorporated in the veto message with which Jackson returned the measure to Congress. The bank, however, was still functioning and after his re-election in 1832 the President determined that he would no longer recognize it as a depository of Government funds. He directed Duane, his Secretary of the Treasury, to remove Government deposits from the Bank of the United States, and, upon the latter's failure to do so, dismissed him and appointed Taney in his place. Three days later Taney announced that thereafter Government deposits would be made in State institutions. Throughout all of his younger life Taney's active participation in inter-party and fac-

tional struggles had made him and his character the targets of malignant calumny and bitter personal abuse from both his political foes and the opposing public press. Now additional indignities of the most violent and pernicious nature were heaped upon him throughout the entire land by friends of the bank, who were still sufficiently powerful in the Senate to bring about the rejection by that body of his nomination for Secretary of the Treasury. The same animosity and resentfulness prevented also the confirmation of his nomination a few months later as an Associate Justice of the Supreme Court. Probably no man in all of our history has been so denounced and excoriated by venomous political antagonists as was Taney. Jackson, however, never forgot a friend. He appreciated Taney's remarkable abilities; he was profoundly grateful for his unswerving loyalty and helpfulness in the greatest crisis of his own political career and when the elections of 1834 increased the number of his adherents in the Senate he named Taney for the highest post at his command, as the successor of the great and lamented Marshall, with an assurance that confirmation was certain. Here your accumulation of information would have come to an end. The hour of eleven has arrived. The new Chief Justice who had been escorted from his home on the corner of St. Paul and Lexington streets by United States District Court Judge Glenn, District Attorney Nathan Williams and the United States Marshal and Clerk has entered the crowded courtroom. You behold before you a man 59 years old, with a tall, thin figure, flat chested, but with broad shoulders, slightly drooping and garbed in ill-fitting clothes. He places his hand upon the Bible; Judge Glenn administers the solemn oath and Roger Brooke Taney, of Maryland, has become the fifth Chief Justice of the United States. His activities will no longer be confined to his native State. Henceforth his life and his talents will be dedicated to the Nation.

We have been discussing conditions as they were known and understood a hundred years ago today. If the people who were gathered together on that occasion could have parted the veil which then hid the future and looked ahead, as we can now look back, they would have perceived twenty-five or more years thereafter Taney still serving as Chief Justice. By his profound legal learning, his calm and dignified comportment on the bench and his scholarly opinions he had completely dissipated all of the suspicions and distrusts which had been expressed concerning him at the time of his appointment and had won for himself and the Court the confidence and respect of the entire Nation. All of this veneration had been lost in a single hour by his ill-fated opinion in the Dred Scott case, delivered at a time when men's

bitterest passions were aroused and dealing with a vital phase of the issue which had engulfed the Nation in fratricidal strife. The abuse heaped upon Taney was now more virulent, unrestrained and widespread than any to which he had theretofore been subjected; he was old and physically enfeebled, but his mind was still clear and incisive, his iron will unbroken and his courage undaunted. When Lincoln suspended the writ of habeas corpus, and John Merryman, confined in Fort McHenry, petitioned for such a writ, Taney directed it to issue. Merryman was not produced before him, nor did General Cadwalader, the commanding officer in charge, heed the judge's order holding him in contempt of Court. Taney, then 84 years old, immediately wrote out his opinion, directing that a copy be sent to the President, and this document, prepared in defense of the supremacy of the civil law as against arbitrary military rule, is today regarded as a masterpiece of judicial pronouncement.

The blinding furies of that war-torn era have long since disappeared. History has brought complete vindication to Taney and the reflective judgment of calmer years accords to him, among the distinguished jurists of the Nation, a place second only to that universally conceded to Marshall. His independence of character and resolute determination, his personal incorruptibility, his legal erudition, and his lofty ideals of the judicial function are now everywhere acknowledged and acclaimed. Hence it is with deep pride that we, his fellow-Marylanders and brethren of the Bar, gather here this morning to do honor to his memory.

THE PRESIDENT: I think I am correct in expressing the sentiments of this entire assemblage when I tell General Armstrong how very, very much we appreciate this tribute he has just paid to the Chief Justice.

THE PRESIDENT: I am now going to call upon Mr. Edward S. Delaplaine to speak about the home of the Chief Justice in Frederick County.