



Maeva Marcus, ed. *The Documentary History of the Supreme Court of the United States, 1789-1800; Volume 7: Cases, 1796-1797*. New York: Columbia University Press, 2003. xxxviii + 983 pp. \$150.00 (cloth), ISBN 978-0-231-12646-5.

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The Supreme Court Comes of Age

This work constitutes the penultimate volume in the series, *The Documentary History of the Supreme Court of the United States, 1789-1800*, a massive and wide-ranging collection of documents chronicling the Court's first decade. The series project is funded by the National Historical Publications and Records Commission with assistance from numerous institutions and individuals, including the Supreme Court Historical Society. Like its predecessors, volume 7 brings together a large body of materials, including court records, notes from justices and attorneys, public commentary, and private correspondence, to illuminate and contextualize the cases considered by the Court in its 1796-1797 term.

A fine introduction gives flesh and blood to the Supreme Court in its pre-Marshall era, a period that often appears as a mere skeleton in standard histories of the Court. The year 1796 proved tumultuous, as personal illness and heavy circuit riding duties plagued the justices, and political wrangling surrounded appointments to the federal judiciary. The Supreme Court was still in the process of defining itself as an independent and equal branch of the federal government and, as the material here illustrates, the justices labored at such pragmatic tasks as standardizing the Court's practices and procedures, including how opinions would be delivered, as well as defining rules for litigants and lawyers who would come before it. (Both Alexander Hamilton and John Marshall make appearances as lawyers in this volume.) On a broader scale, the federal judiciary created on paper by Congress in the Judiciary Act of 1789 and other measures

were only just coming to life in the real world, and cases brought before the Court often required the justices to construe exactly where appropriate lines of jurisdiction and authority were to be drawn. The landmark *Hylton v. United States* raised the critical issue of the relationship between evolving state and federal courts, establishing the foundation for the Court's power of judicial review. What is more, the docket of 1796-1797 included a substantial number of cases concerning treaty interpretation (while the Senate had ratified the Jay Treaty, the treaty was still very controversial and the House had yet to provide funding) as well as prize cases resulting from incidents at sea, all at a time when the country endeavored to retain its neutrality among belligerent European powers. Thus, decisions rendered during that term helped to establish the young nation's position in the world beyond its own borders. The high stakes the Court faced in its 1796-1797 term, usually overshadowed by Chief Justice Marshall's subsequent entrance onto the stage in 1801, will come into sharp focus for the researcher who sifts through the diligently collected and skillfully annotated primary materials collected in this volume.

The Documentary History of the Supreme Court of the United States, 1789-1800, is of course a key resource for scholarship on the Court as well as the history of the early republic, and libraries serving scholars in these fields will find this series indispensable. In addition, instructors of U.S. legal and constitutional history will no doubt find value in dispatching students to the library to peruse these books that so graphically demonstrate

the *process* of history. Students can read the personal correspondence of historical actors, view reproductions of copyedited drafts that reveal thoughts and disagreements among the agents of history, and scrutinize facsimile reproductions of various eighteenth-century documents with all their peculiarities of spelling and syntax. Even more, in an age when undergraduates seem

quite adept at capturing diverse materials (including primary documents) that fly through cyberspace but not particularly skilled at making sense of what they gather, the careful, sequential, and logical arrangement of documents that constitute these handsome volumes will provide them with a worthy model of the historical method.

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