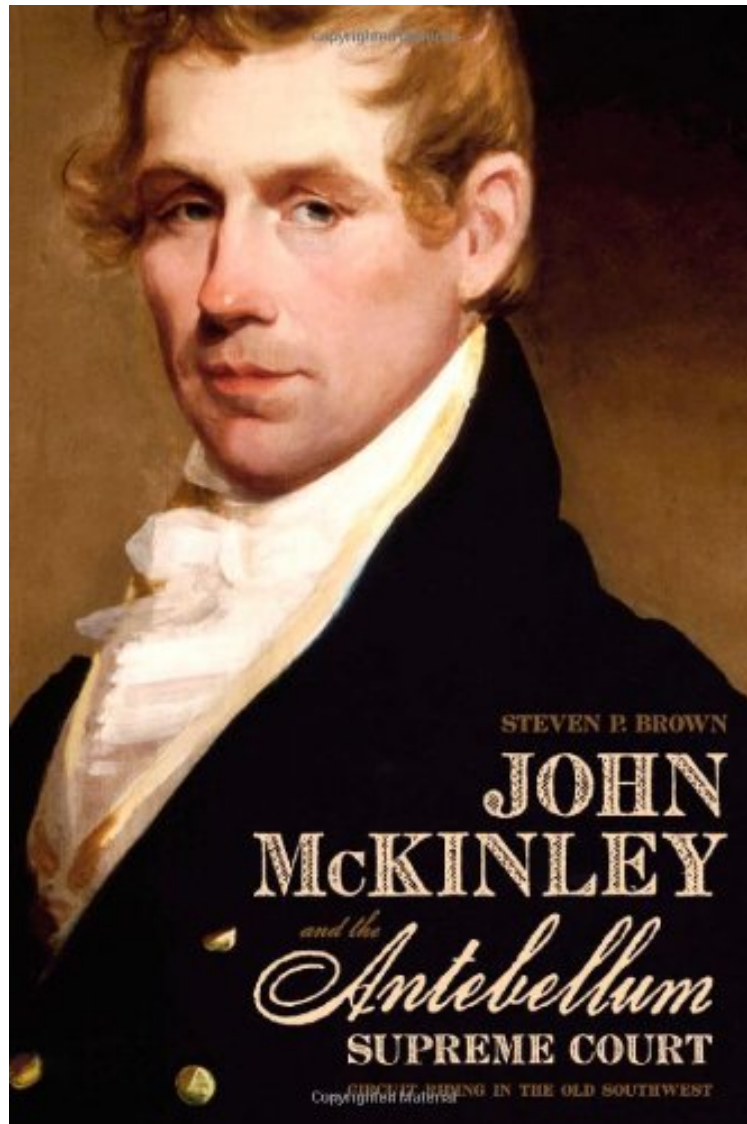


[FREE] John McKinley and the Antebellum Supreme Court: Circuit Riding in the Old Southwest

John McKinley and the Antebellum Supreme Court: Circuit Riding in the Old Southwest

Steven P. Brown

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Steven P. Brown : John McKinley and the Antebellum Supreme Court: Circuit Riding in the Old Southwest before purchasing it in order to gage whether or not it would be worth my time, and all praised John McKinley and the Antebellum Supreme Court: Circuit Riding in the Old Southwest:

0 of 0 people found the following review helpful. John McKinley: Jacksonian Circuit Riding JusticeBy John G. CollingeSteven Brown has written the definitive biography of Justice John McKinley who served from 1837 to his

death in 1852: "John McKinley and the Antebellum Supreme Court: Circuit Riding in the Old Southwest." This is an impressive accomplishment as McKinleys papers are lost. His legacy survives only in his decisions, the legislative record and in the fragmented form of the papers of contemporaries and obscure press accounts. The first half of the book covers McKinleys Kentucky and Alabama pre-Supreme Court years including Senate and House stints representing Alabama in the Jackson Administration. McKinley abandoned Federalist roots and forged ties to Jackson, Van Buren and Polk. Brown judges McKinley a key actor in defeating efforts to force Jackson to drop Van Buren as his running mate in 1832 and reversing the Alabama legislatures endorsement of Senator Hugh White in 1836. Brown notes but could not verify contemporary speculation that Van Buren offered McKinley a Supreme Court seat in return for his 1836 support. That pledge could have gone to naught had William Smith whom Jackson appointed in early 1837 assumed his seat. Smith was 75 and McKinley never took the Senate seat he won in 1836 suggesting the nomination was a bow to an old ally that Jackson and Van Buren did not expect to be honored. In April 1830 then Senator McKinley delivered a toast: The Constitution of the United States: The compact of sovereign and independent States, instituted for national purposes only; limited and specific in its powers but supreme within the prescribed sphere of its action. The powers not delegated belong to the States exclusively (p. 86). This toast captures the essence of his jurisprudence and that of the majority of Justices Presidents Jackson and Van Buren named. Crafted under Chief Justice Taney's leadership, the concurrent sovereignty doctrine dominated the Supreme Court to the appointment of the Lincoln Justices and the adoption of the 14th Amendment. It recognized the States and the Federal government as independently sovereign within their scope of authority. Federal authority comprised only powers expressly granted by the Constitution. It did not encompass how states extended rights to residents or maintained order. Brown is persuasive that within that framework McKinley was among the Justice more willing to recognize Federal authority, especially in the fields of commerce and bankruptcy where he often aligned with Justice Story. John McKinley is rated an ineffective Justice. Brown differs. He does not argue for greatness, McKinleys modest output of Supreme Court opinions renders the argument insupportable. Rather, he uses McKinleys active engagement as a Circuit Justice to assert McKinleys true measure is his performance in that capacity. He notes that two of the five Supreme Court terms McKinley missed reflected the need to attend to circuit duties in direct time conflict. The other missed terms were due to ill health aggravated by the rigors of frontier travel. Brown writes that appreciating the demands of riding circuit and McKinleys accomplishments presiding over courts in frontier Alabama, Mississippi, Arkansas and Louisiana (reduced to Alabama and Louisiana in 1843) could not be adequately captured before the internet enabled researchers to electronically access and aggregate defuse records. He argues that these analytic tools make the Taney Court Justices ripe for reconsideration. That argument has merit and could be expanded to the Chase and Waite Court Justices, especially those presiding over Circuits in the post-Civil War South. The detail devoted to Alabama politics and infighting in Congress and on the Supreme Court over Circuit allocations and duties can get tedious but are essential to Browns brief to rehabilitate McKinley thus justified. The book is marred by a few minor errors. By example on page 152 Charles Sumner is named in 1838 as a Senator. He was first elected in 1850. On page 195 Brown uses correspondence by Justice Daniel to argue for the difficulties riding circuit in Mississippi and Arkansas but then writes Catrons letters are instructive in the way they characterize the difficulty. Brown surely meant Daniel in this context. Quotations from resolutions and tributes to McKinley at times also give the book a padded quality.

0 of 0 people found the following review helpful. John McKinley: The Forgotten Justice By Ronald H. Clark The author of this solid judicial biography claims that not only have historians paid little or no attention to Justice John McKinley (1780-1852). those who have only heaped scorn on him. I, quite frankly, despite studying the Court's history for 45 years, cannot recall ever hearing of McKinley. So this bio is long overdue. I believe the key theme of the book is that McKinley has been unfairly treated by historians, was dutiful in discharging his judicial duties, and was somewhat a better legal scholar than generally admitted by his critics. This mission to rehabilitate McKinley somewhat limits the reach of the book, but the author makes a pretty solid case despite the absence of much historical material upon which to predicate his case. McKinley did not maintain his papers, and as a result donated nothing to archives such as the Library of Congress. To fill this gap, the author has researched computerized newspaper files (he quotes, for example, from the "Newark Advocate" from Ohio) and other limited printed sources. It appears he has reviewed any printed material referencing the Justice. So this is as complete a bio as we likely are to have of the Justice. The first five chapters (including an excellent introductory profile of McKinley) are devoted to a chronological discussion of McKinley's origins, education, and especially his extensive political activities in both Alabama state politics and in the House and Senate on the federal level. His gradual evolution from Federalist to enthusiastic Jacksonian is well traced. Along the way, the author covers the history of the Old Southwestern area of the U.S., including in particular Alabama. For students of the Court, the book picks up with the final four chapters on McKinley's Court career. In chapter 6, "The Burdens of Justice on the Antebellum Supreme Court," the author provides one of the best discussions of the pre-Dred Scott court (1837-1852) I have seen. He covers the individual Justices, the old Supreme Court Chamber, decision-making practices, and some of the Court's most important cases where McKinley played a prominent role. The author wants to demonstrate that McKinley while supportive of state power, nonetheless implemented national authority in his decisions. One of the most important contributions of the book is to discuss in

great detail the awesome burden that circuit riding inflicted upon the Justices (this practice continued until 1911) as they were required to "hit the road" and participate in Circuit Courts throughout the nation. Nobody had a rougher time of this than McKinley who traversed some 10,000 miles a year (at his own expense) fulfilling this obligation. The campaign over many years to revise the circuit riding burden and redesign the circuits becomes a major theme of the book at this point. Year after year, as McKinley's health failed and his finances took a nosedive, the battle continued in Congress to reshape and reallocate the circuits. The author has included McKinley's petition to Congress in 1842 (p. 184) which summarizes the inequities he suffered bearing responsibility for the largest circuit mileage. The author is to be commended for providing us with the definitive account of how circuit riding impacted on the Justices and the prolonged battle to mitigate the situation. At the end, McKinley was just worn out and died in a somewhat financially depressed condition. While the book did not convert me into a McKinley booster, I certainly feel he was a better and more complex Justice than historians have generally given him credit for. The author's research is astounding in its reach and thoroughness; virtually everything written about McKinley is reflected here. He has also included a fine bibliography and extensive notes in support of his narrative. So we should be appreciative of two factors: first the author has saved McKinley from the "ash heap" of history; and second he has written the definitive analysis in this book of circuit riding. Both are notable achievements.

0 of 0 people found the following review helpful. One Star
By John Harding
\$44 for a Kindle book? That's crazy!

John McKinley and the Antebellum Supreme Court presents a portrait of US Supreme Court justice John McKinley (1780-1852) and provides a penetrating analysis of McKinley's time and place, the exigencies of his circuit work, and the contributions he made to both American legal history and Alabama.

"Professor Steven Brown sets out to rehabilitate McKinley's reputation and historical legacy in this engaging and accessible biography. The portrait that emerges is one of a dedicated public servant and thoughtful jurist, a far cry from the surly and unimpressive caricature that has defined McKinley's modern-day perception. . . . [Brown] also provides a rare look into the workings of the antebellum Supreme Court, particularly the travails of circuit riding prior to the development of a robust interstate transportation infrastructure. . . . Brown persuasively argues that McKinley's career and legacy deserve another look." *Harvard Law*