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INTRODUCTION

Warren E. Burger*

Few judges have influenced the development of Constitutional law in the United States to the extent that Thurgood Marshall has. His work as head of the Legal Defense Fund for the National Association for the Advancement of Colored People, a Judge of the United States Court of Appeals for the Second Circuit, Solicitor General, and Associate Justice of the Supreme Court is a matter of record. Thurgood Marshall has made for himself a splendid career characterized by courage, intellectual stamina, and a profound belief in the great cause he advocated and the Constitution he reveres.

In an interview with *U.S. News & World Report* in May of 1969, Mr. Justice Marshall characterized himself as "a man of the law." No one could fairly take issue with this. He has lived and worked with the law, and worked within the law to lead a veritable revolution. His advocacy of equal justice on principle, in the face of hostility and adversity, is now part of the annals of our profession. He espoused governmental processes—legislative, executive and judicial. He has always been a passionate believer in the American Constitutional system and the ultimate justice of the means it provided.

When Thurgood Marshall was asked to serve as Assistant to Charles H. Houston, Chief Counsel of the National Association for the Advancement of Colored People, in 1936, the prospects of altering attitudes and apathy on racial relations in the foreseeable future were not promising. He became a chief architect and executor of the long-range, carefully planned campaign of litigation and public education which brought to an end the separation of the races in this country under color of law. He argued and won such cases as *Smith v. Allwright*,¹ *Shelley v. Kraemer*,² *Brown v. Board of Education*,³ and *Cooper v. Aaron*.⁴ Winning 29 of 32 major civil rights cases, he has one of the finest records of any advocate before the Supreme Court. It was, therefore, no surprise that his performance as Solicitor General was no less outstanding and ranged over a far wider field.

When President Johnson announced the nomination of Thurgood Marshall to the Supreme Court, he said that the selection was "the right thing, the right time, the right man, and the right place." President Johnson's assessment was accurate. Thurgood Marshall brought to the Court a breadth of experience equalled by few. To his working knowledge of legal craftsmanship he adds a practical, common sense understanding of the law in relation to its ultimate objectives. He chooses a reasoned approach to Constitutional problem-solving, examining all the issues

* Chief Justice of the United States Supreme Court.

1. 321 U.S. 649 (1944).

2. 334 U.S. 1 (1948).

3. 347 U.S. 483 (1954); 349 U.S. 294 (1955).

4. 358 U.S. 1 (1958).

before him. When confronted with potentially emotional issues, he maintains objectivity in such a way as not to jeopardize either the personal warmth or sense of humor for which he is so well known and admired.

On one occasion, I expressed my feelings about the courage that Thurgood Marshall has shown throughout his career when I compared his career with the courageous defense by John Adams of the British officer involved in what has come to be known as the "Boston Massacre."

There are countless modern examples of the independence and courage of our lawyers, none more notable than that of my distinguished colleague, Justice Thurgood Marshall, who as a lawyer, devoted much of his life advocating the Constitutional rights of one of America's largest minority groups.⁵

With the passage of time and daily contact, I have only come to appreciate more the man, the jurist, and the friend of whom I spoke. I, therefore, welcome the opportunity to join those who dedicate this issue of the *Journal* to Justice Thurgood Marshall, in recognition of the rich contributions that he has made to our system of justice and to our country.

5. "The Interdependence of our Freedoms". Salt Lake City, Utah, September 6, 1975.