



Young Thurgood

THE MAKING OF A SUPREME COURT JUSTICE

Larry S. Gibson

FOREWORD BY THURGOOD MARSHALL JR.

PRAISE FOR *YOUNG THURGOOD*

“Gibson’s thoroughly researched and insightful book about charismatic Thurgood Marshall is a must-read.”

—Elaine R. Jones, former president
and director-counsel,
NAACP Legal Defense and
Educational Fund

“Gibson paints vivid pictures of the people, places, and events that molded the extraordinary lawyer with whom my father and I had the privilege of working.”

—James M. Nabrit III, civil rights lawyer

“The many photographs and other images throughout the book add an energetic dimension to Gibson’s description of Marshall’s world.”

—Ronald M. Shapiro, lawyer,
negotiations expert,
New York Times—bestselling author
of *Dare to Prepare*

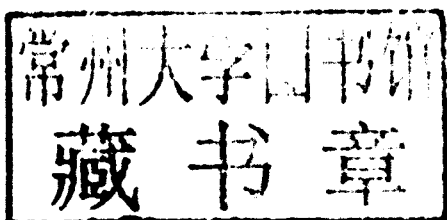
“Gibson’s fascinating account of Marshall’s early years gives us a better understanding of this extraordinary American, who was one of my personal heroes.”

—Vernon E. Jordan Jr., lawyer,
business executive, civil rights leader

“Gibson succeeds where others have failed to help us appreciate the forces that shaped the man whose career helped shape the nation.”

—Kurt L. Schmoke, vice president and
general counsel of Howard University

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Inquiries should be addressed to
Prometheus Books
59 John Glenn Drive
Amherst, New York 14228–2119
VOICE: 716–691–0133
FAX: 716–691–0137
WWW.PROMETHEUSBOOKS.COM

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*To my wife, Diana Gibson,
and Thurgood's wife, Cecilia Marshall.*

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Foreword

Many works about my father have been assembled, ranging from formal works of scholarship to popular biographical profiles to children's books, movies, and documentaries. With this detailed and carefully crafted volume, Professor Larry S. Gibson has crafted a unique and engrossing portrait.

The photograph that graces the cover speaks volumes about the content of this book. The tall, striking, and confident figure is unmistakable, yet it is an image of Thurgood Marshall that is rarely if ever seen, even by those who have studied his life or who knew him well.

The cover photo is just one of countless treasures from my father's early and formative years that Professor Gibson has unearthed. Through the rich collection of childhood anecdotes; the insights into the colorful assemblage of relatives, mentors, and legal clients who shaped my father's development; and the recounting of the challenges and opportunities my father encountered in his local community and throughout our country, this book weaves together the events that formed the foundation for my father's career.

Professor Gibson's attention to detail and thorough research is apparent throughout this book. His sleuthing has led him to courthouses and clerk's offices as well as to professional and personal correspondence in many locales. That trove of information has enabled him to understand the ways in which my father applied his talent and skill and faced his own personal challenges.

Readers will see in this book the origins of my father's penchant for storytelling and his desire to act as an advocate for fairness on behalf of those who are marginalized in American society. Professor Gibson sets the stage with a gritty sense of the tone of the times when my father was born in Baltimore, which at that time was a segregated city not far from communities that often tilted toward vigilante justice instead of the rule of law.

This book brings to life the array of relatives and friends who surrounded my father as he grew up and demonstrates how an early focus on

academics and debate honed his skills and determined his interests for a lifetime. With classmates like Cab Calloway and Langston Hughes, there was little room in his social circle for shrinking violets or backbenchers. And there was plenty of room for creative fun and mischief. Law school brought those experiences together in new ways and gave my father the tools he needed to live a life of consequence.

This book also details the breadth of my father's legal work. By the time my father began arguing cases before the US Supreme Court, he had already handled a diverse array of client interests that included divorces, simple assaults, and capital murder cases. Here, too, are chronicled my father's early involvement with politics, the civil rights movement, and the NAACP, as well as his early efforts to bring equality to education, voting, housing, and the fabric of American society. *Young Thurgood* provides that information in an enjoyable way, even to the point of letting us know about the kind of employment my father found after the workday was over to make ends meet.

Professor Gibson has given us a book that contains many new facts and insights and presents them in compelling prose. The result is as entertaining as it is unique, poignant, and informative.

Thurgood Marshall Jr.

Preface

“**T**his had better be a criminal matter,” Thurgood Marshall said as he opened the door to find my fellow attorney, Charles Curtis Lee, and me standing outside his Falls Church, Virginia, home around 11:00 p.m. on July 1, 1975. “No, Mr. Justice, it is not. It’s about Baltimore,” I replied. The justice, still in his bathrobe, invited us in.

After following Marshall into his study, we did not leave until 2:00 a.m. We had come to seek an emergency order in the case of our client—Dr. Roland N. Patterson, the superintendent of the Baltimore public schools—who was being fired from his job. I wanted the courts to block his removal until he received proper notice of the reasons for his dismissal and an adequate hearing.

Marshall was not the justice assigned to emergency matters from Maryland, yet he agreed to help us. He had adeptly managed the media throughout his career, and he realized that we wanted him to grant our motion so that we could buy a little time and obtain press coverage of the Patterson case. We talked about Patterson for less than twenty minutes; after that, Marshall asked us a little about our backgrounds and where we lived in Baltimore and then spent most of the next two and a half hours entertaining us with stories about our city. Marshall signed the temporary stay, but in the end—as expected—Dr. Patterson lost his job.

Until that summer night in 1975, I’d had no special knowledge of Thurgood Marshall. I had simply been proud of him, a fellow black Baltimorean, whose extraordinary legal career had led all the way to his becoming a US Supreme Court justice. My first meeting with Marshall destroyed some preconceived notions I had acquired over the years. Many had reported that he had turned into a curmudgeon. Yet, from the cheer and wit he displayed despite our having awakened him, I saw a different person. Also, according to popular belief, Marshall hated Baltimore.

However, while Marshall did have some bad memories of Baltimore's stifling racial segregation, he still spoke mainly with affection for the city where he was born and raised.

My next involvement with Marshall came three years later, in 1978. I was the faculty adviser to the Black American Law Students Association (BLSA; today the Black Law Student Association) at the University of Maryland School of Law, and the students wanted to name the school's new law library in honor of Justice Marshall. The administration did not welcome this proposal; they had planned to sell the name to a well-heeled donor. Yet BLSA pressed on and gained the support of a member of the university's board of regents.

A year after the naming initiative began, the university president wrote to Marshall asking for the justice's permission to name "a university building" in his honor. However, the president did not specify which campus or which building. Having recently read about some racial problems at the university's flagship campus in College Park, Marshall initially declined to give permission. Clarence M. Mitchell Jr., the NAACP lobbyist, intervened and explained to Marshall that it was the law students who wanted to name the new law library after him. Marshall consented and authorized Justice William Brennan to attend the ceremony on his behalf. Despite his acquiescence, the press gave the misleading impression that Marshall had rebuffed the efforts of the students and the school to honor him.

Thereafter, I began to notice that the media were continuing to perpetuate the myth that Marshall had applied for admission to the University of Maryland School of Law and been rejected. If Marshall had applied in 1930, he most certainly would have been rejected because the school had been racially segregated since 1891. But the fact was that Marshall, realizing that he would be rejected, did not apply.

This and other misimpressions that I encountered, as well the fact that Marshall had seemed so different from the man I had expected to meet during my late-night visit to his home, made me want to learn the truth about him. Researching his life in Baltimore was an obvious place to start. Marshall had been born and raised in my hometown, and many of his contemporaries were still living here. Between 1981 and 1985, I interviewed Marshall's Baltimore relatives, his classmates from elementary school and high school, his college roommate, who was also best man at his wedding,

his neighbors, and two of his high school teachers. These interviews gave me insight into Marshall from people who knew him, and an image of Marshall as a person began to emerge. After a while, I felt that I had gathered sufficient information about Marshall's youth to satisfy my curiosity, and I turned my attention to other matters.

From time to time, I read books and articles about Marshall, such as Richard Kluger's prodigious work *Simple Justice*, published in 1976, and Bob Woodward's behind-the-scenes look at the Supreme Court, *The Brethren*, published in 1979.¹ Although I found this literature informative, I repeatedly encountered in it what I knew to be inaccuracies about Marshall. Nevertheless, I also understood that authors, who must rely heavily on interviews, can fall victim to their sources' imperfect memories.

My own inquiries had decisively dispelled in my mind some often-repeated notions about Marshall. Some writers understated Marshall's high intellect and energy while he was growing up and suggested that he was lazy at worst and an average student at best. Several writers depicted Marshall as something of a "late bloomer," whose intellectual prowess did not become evident until he was in law school. I knew that both of those notions were incorrect. Marshall's contemporaries described a bright boy who had been a top student in one of the best of Baltimore's segregated schools. He had skipped a grade in elementary school and had graduated, with academic honors, from high school at age 16—finishing almost two years ahead of his peers.

My interest in Marshall was heightened by a brief, humorous encounter in 1985, at the dedication of the Clarence M. Mitchell Jr. Courthouse in downtown Baltimore. During the luncheon, Marshall was chatting with Mitchell's widow, the civil rights firebrand Juanita Jackson Mitchell. I asked a bystander to take a photograph of me with the justice. As I stood next to Marshall while the photographer seemed to take forever to snap the photograph, Marshall turned to me and quipped, "So, what am I supposed to do, kiss you?"

Several years passed after that amusing encounter with Marshall before his retirement from the Supreme Court in 1991 triggered another wave of public interest and writing. Months later, commentaries compared Marshall's life and judicial philosophy with that of his replacement, Clarence Thomas.

Thurgood Marshall died two years later, and four major biographies of

him appeared shortly thereafter. In 1993, journalist Carl T. Rowan published *Dream Makers, Dream Breakers: The World of Justice Thurgood Marshall*. In 1994, Michael Davis and Hunter Clark published an updated and revised edition of their 1992 work, *Thurgood Marshall: Warrior at the Bar, Rebel on the Bench*. Then in 1998, Howard Ball wrote *A Defiant Life: Thurgood Marshall and the Persistence of Racism in America* and Juan Williams published the most thorough and definitive biography of Marshall to date, and an invaluable resource for understanding Marshall's full career, *Thurgood Marshall: American Revolutionary*.² Although I differ from these writers on some details about Marshall's early years, I have benefited from studying their works, and several additional years of research since the publication of those volumes have understandably borne some new fruit.



"So, what am I supposed to do, kiss you?"

My early investigations convinced me that a clear understanding of Marshall required a close examination of his formative years before he joined the NAACP staff in New York. This early period of Marshall's life had shaped his personality, attitudes, priorities, and work habits. Even so, I was uncertain about what to do with this insight. Finally, at the urging of Karen Rothenberg, who was then dean of the University of Maryland School of Law, and my law partner, Paul Mark Sandler, I decided to write a book about the first thirty years of Marshall's life.

I have been well positioned (perhaps uniquely so) to write this book. Having taught law since 1971, with an emphasis on racial matters, has provided me with historical perspective. Other courses I have taught—on evidence, civil procedure, and election law—have helped me interpret Marshall’s law practice. As a lifelong Baltimorean, I know the city and its history. Before beginning work on this book, I had already spent several years researching the lives and careers of Maryland’s first one hundred black lawyers, of whom Marshall was one. Maryland State Archivist Dr. Edward Papenfuse, with whom I have, for more than a decade, taught a law school seminar called “Race and the Law: The Maryland Experience,” gave me access to and assistance with voluminous state records. My friend John Oliver, publisher of the newspaper the *Afro-American*, made available to me the paper’s morgue files containing materials about Marshall and his relatives, classmates, neighbors, and friends.

As my research continued, the year 2004 marked the fiftieth anniversary of *Brown v. Board of Education*, reigniting national interest in Marshall. During 2004, I joined many others in giving speeches about Marshall, answering questions from newspapers and television stations, and participating in symposia and presentations on Marshall’s role in *Brown*.

I then embarked on another round of interviews. This process included a trip to Philadelphia to visit Howard Pindell, Marshall’s earliest potential plaintiff in the teacher pay equalization campaign. Pindell possessed documents from Marshall that no one else had seen for decades. I also interviewed Philip and Rachel Brown at their home in Anne Arundel County, Maryland. The Browns, married for more than seventy years, had worked closely with Marshall while organizing the Anne Arundel County chapter of the NAACP. William H. Murphy Sr., one of the first blacks to graduate from the University of Maryland School of Law following *Murray v. Pearson*, the case that opened the doors of the University of Maryland School of Law to blacks and signaled the beginning of the end for de jure racial segregation in the United States, gave me much-needed information about the neighborhood where Marshall lived.

I interviewed Harold Arthur Seaborne, a man somewhat forgotten by history, whose application to the University of Maryland School of Law in 1933 helped pave the way for Donald Gaines Murray’s lawsuit two years later. One of the most pleasant interviews took place in my office with the vibrant, seventy-three-year-old Esther McCready, who had gained admis-