

A Freemason Who Changed Our Country: Thurgood Marshall

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Introduction

How many men have fundamentally changed our country? How many found our society operating a certain way when they were born, and completely changed that during their lifetimes? And how many did this by their own individual actions, and in the most peaceful, legal manner? Isn't that the Masonic way to help society progress?

Georgetown University Law Professor Thomas Krattenmaker said of Thurgood Marshall, "He is certainly the most important lawyer of the twentieth century." Supreme Court Justice Lewis Powell, universally described as a true Southern white gentleman, said of Thurgood Marshall, "He, in my opinion, did more to establish equal justice under the law than Martin Luther King or any other single individual."¹

In 1908, when Willie and Norma Marshall, a railroad porter and a school teacher in Baltimore, had a son they named Thoroughgood (he later shortened his first name), the United States was a democratic and free country, but it cannot be denied that no one had the degree of individual liberties that we have today.

And it cannot be denied that about 10% of our population had almost no liberties or rights. In many places, they could not vote, serve on juries, testify in court, live where they wished, obtain jobs for which they were qualified, or be accepted in good schools even when their grades and achievements were high. If this situation had continued, is there any doubt that eventually there would have been a social explosion that would have resulted in immense harm to all Americans?

In 1993, when Supreme Court Justice Thurgood Marshall died, the United States was a country in which equality of opportunity for people of all classes, races, colors, religions, and national origins had been achieved, at least legally. All Americans had much greater control over their personal liberties. Americans who happened to be black, Jewish or Moslem, immigrants from Latin America, Asia, or Europe, Masons or non-Masons, could look forward to enrolling their children in good schools, living in any neighborhood they could afford, staying in any lodging, eating in any restaurant, and being treated with respect by the law.



It is not a coincidence that these changes occurred during the 84½ years Thurgood Marshall was alive, and it was not inevitable that they would occur. One man more than any other brought this about

¹ Williams, page 400.

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— peacefully, by his talent as a lawyer and his humanity — and we should be very proud that he was Freemason, and that he received substantial support and help from American Freemasons during his career. (In 1958, Bro.: Thurgood Marshall said publicly that he could not have brought, let alone won, many of his most important cases at the United States Supreme Court, without the support of Prince Hall Masonry. “Whenever and wherever I needed money and did not know of any other place to get it, the Prince Hall Masons never let me down,” he said.²)

Should people of certain races be denied admission to a law school regardless of their qualifications?

In January 1930 a man graduated from college with good grades, a good scholastic record, and a great personality. He wanted to become a lawyer, and since he was born and raised in Maryland, he wanted to go to the University of Maryland Law School. It was located just a few blocks from the home where he was living with his new wife, and it had low public tuition rates. He was clearly good enough to be admitted, and if his ancestors had been all white, instead of partly white and partly black, he would have been accepted.

However, that school had not admitted any black person since the 1890s, and they would not change their policy in 1930. So Thurgood Marshall went to another law school, one that was much more difficult for him to attend, and which did not then have nearly as good a reputation. He attended Howard University Law School in Washington, D.C., which only became a good law school during the years Marshall attended, as the result of the efforts of its dean, Charles H. Houston.³

Five years later, in December 1934, Donald G. Murray, another man with good grades from a good college, but who was not all white, wanted to attend the University of Maryland Law School. Just as with Thurgood Marshall, the school officials turned him down and suggested he go to another part of the state university system that was all black but that did not have a law school, or to Howard Law School, which was almost all-black.

Thurgood Marshall, now an attorney for the NAACP in Baltimore, took Murray’s case against the University of Maryland. The 14th Amendment to the United States Constitution says, “No state shall ... deny to any person within its jurisdiction the equal protection of the laws,” and Marshall said Maryland was denying Murray equal protection of the laws by prohibiting him from attending that state’s law school.

² Walkes, *History...United Supreme Council*, page 59.

³ Williams, pages 52-53.



Thurgood Marshall's style was not to be flamboyant and combative. When the lawyers for Maryland used delaying tactics, he quietly went along. Rather than try to make the case a personal vindication, he had his law school dean, Charles H. Houston, with him at the counsel table. The two lawyers and their client appeared in court in stylish suits, and followed all the rules of conduct. When the Maryland lawyers argued that Murray could go somewhere else, Marshall pointed out that no law school could teach Maryland law as well as the University of Maryland Law School.

The case was so one-sided that the judge ruled almost immediately for Thurgood Marshall's side, and when Maryland's officials appealed they lost. Even some of those who opposed having small children of different races go to school together said they had no problem with law students of different races being together. These students were more mature, and could handle it.⁴

Some might read this and think this was just a victory for an African American, or for black people in general. But it was much more than that. It started to establish the rule that every person had the right to be evaluated on his merits. It started to establish in American law the idea that all men should be evaluated on the same level, for their internal qualities of character and intellect and not their external appearance. How can any Freemason view this case as anything other than a vindication of Masonic principles?

Still, Thurgood Marshall was a man who was not above normal human emotions. For years after this victory he said he was happy to have "gotten even" with the school that a few years earlier would not have him. Each of us can understand how he felt.

Should people of certain races be denied the right to vote?

This question sounds ridiculous now, but only a short time ago it was an accepted fact that in many places African Americans could not vote. If they were allowed to do so, they might have some influence on government, law enforcement, and other civic activities. Therefore, some States used various devices to prevent black people from voting.

One idea was to claim that Blacks could vote in official elections, the ones held in November when Democratic and Republican candidates were on the ballot, but not in primaries to select the party candidates because each political party was a private, not a public group. However, everyone knew that in Southern states in those days only the

⁴ Davis & Clark, page 87.

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Democratic party candidates won. So, if African Americans could not vote in the Democratic primaries, they could not have any effective voice in voting.

Thurgood Marshall took this issue to the Supreme Court, this time working with William Hastie, his former law school professor who was now the dean of Howard Law School. In April 1944 the Supreme Court ruled that white-only primaries were unconstitutional. The state of Texas was enforcing discrimination in violation of the Constitution when it allowed the Texas Democratic party to prevent Blacks from voting in primaries.

This case made national headlines, and even at the end of his life Thurgood Marshall said the victory in the white primary case was the “greatest one” of his career. Supreme Court Justices called just to talk with him, and Thurgood Marshall found himself hailed as a lawyer who made magic and history. He had.

Should people of certain races and religions be prohibited from buying houses they could afford in certain areas?

Until recent times it was an accepted fact of American life that “undesirable” people such as Blacks and Jews, should not be permitted to live in certain neighborhoods where Whites and Christians lived. Cities adopted laws requiring segregated housing (Baltimore, Marshall’s home town, ironically, was the first), but these laws were declared unconstitutional by the Supreme Court as early as 1917.

So, those who supported this policy used restrictive covenants to accomplish the same purpose. A property owner would sell to someone on the condition that the buyer, and all future buyers, would only sell to those who were not Blacks or Jews. This perpetuated segregated housing, which in turn perpetuated segregated schools.

Thurgood Marshall first had to marshal his forces. He ran an NAACP conference in 1945 in Chicago where legal and social experts gathered to share information and strategies. He showed he was a master at building up others’ egos and telling stories and jokes to keep the conference attendees happy and willing to work hard.

Dozens of people objected to restrictive housing covenants, and their cases eventually were coordinated and resolved in *Shelley v. Kraemer*. In some ways this was an even more revolutionary decision than earlier ones for Thurgood Marshall. When a State refused to allow Blacks into a law school, or refused to allow them to vote, that was clearly “state action” in violation of the requirement of the 14th Amendment that “No state shall ... deny to any person within its jurisdiction the equal protection of the laws.” But restrictive covenants in housing contracts were private, not state action.

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Thurgood Marshall was innovative in his approach at the Supreme Court. For the first time he used sociological evidence to show that restricting certain people to ghetto neighborhoods created crime and endangered public health. He dealt with the “state action” issue by pointing out, logically, that restrictive covenants in house contracts worked only because State governments enforced them. In a low-key manner he told the Supreme Court that State courts became enforcers of discrimination when they upheld these covenants, and that they resulted in public harm.

Interestingly, 3 of the 9 Supreme Court Justices had to remove themselves from consideration of this case because they owned property that were subject to the restrictive covenants against Blacks or Jews that were at issue in this case.

In May 1948 the Supreme Court ruled unanimously that restrictive covenants were unconstitutional. This reached directly into the lives of millions of Americans, changing a way of life and assuring that in the future all people, regardless of their race or religion, would be legally able to buy any house they wished. Thurgood Marshall, almost singly, was changing where Americans could live, as well as their other legal rights.

Should children of certain races be forced to attend different schools from children of other races?

The case of *Brown v. Board of Education*, decided by the Supreme Court in May 1954, has rightly been called one of the most important decisions in the history of our country. Previous actions by Thurgood Marshall and the NAACP were directed at getting African Americans into colleges and graduate schools without challenging the basic legal rule allowing “separate but equal” facilities. Marshall showed that separate facilities either did not exist or were not equal, and thus won his cases. In the *Brown* case, for the first time the challenge was against the basic, underlying rule itself.

Some of Marshall’s allies in the NAACP felt a better strategy would be to fight for equal schools for Black children, with new books, better buildings, and so on. But Thurgood Marshall felt it was time to attack the core issue. He believed that equality of educational opportunities was the key to resolving the problems faced by African Americans.⁵

To win this case, Thurgood Marshall had to be an effective manager, in addition to being a skillful lawyer. He called and presided at conferences, coordinated innovative types of evidence, including sociological evidence, and had to make sure that the 5 cases from different parts of the country that were consolidated together in *Brown* were all handled

⁵ Ball, page 115.

properly.

Another necessity in this, as in any law case, was money to pay for research work, experts, copying documents, typists, hotels and other necessary travel, and many other tasks. Without money, even the best case can fail. Where did Thurgood Marshall and his allies turn for financial support? In 1953 the Prince Hall Grand Lodge of Louisiana presented him with a check for \$1,000 for the needed legal research, followed by another of \$4,000. The total eventually came to \$20,000, and was just one example of the financial support from Prince Hall Masons throughout the United States. The total amounts to support Thurgood Marshall's case were massive. In 1954 Marshall received more than \$12,000 from the Prince Hall Grand Lodges of Louisiana and Georgia, and the NAACP has created a Prince Hall Masons' Legal Research Department.⁶

Sometimes it appears that a larger presence affects the work of men. We now know that the Supreme Court Justices who were on the Court when the *Brown* case was originally argued in 1952 might not have decided in favor of Thurgood Marshall. But the Chief Justice, Fred M. Vinson, soon died and was replaced by Earl Warren, who incidentally was a Past Grand Master of California. Warren almost singlehandedly was responsible for gathering the other Justices in a way that resulted in a unanimous decision in 1954, which was a much more forceful and persuasive result than would have come before.⁷

However, no one should focus exclusively on the role of Chief Justice Warren, or on the merits of the case. There is no doubt that Thurgood Marshall was the central figure in this case, the one who made all major decisions about how it would be presented, and the one who could celebrate when the Court ruled, speaking of African American children: "To separate them from others of similar qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect hearts and minds in a way unlikely ever to be undone....We conclude [unanimously] that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."⁸



⁶ Walkes, *History...Louisiana*, page 229, and Walkes, *History...United Supreme Council*, page 232..

⁷ Ball, pages 126 and 129.

⁸ Ball, page 133.

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Thurgood Marshall and Freemasonry

By 1948 Thurgood Marshall was well known as an innovative, hard-working, well-prepared lawyer. The ideals he fought for were the same ideals we are taught in Freemasonry, but he was not yet a Mason.

At that time, though, he was deeply involved in a series of cases to insure that all people could be admitted to laws schools in Texas and Oklahoma, and the effort had emptied the treasury of the NAACP, which financed this work. Amos T. Hall, the NAACP lawyer in Oklahoma who worked with Marshall suggested an idea to raise money. Hall was more famous for being the President of the Conference of Prince Hall Grand Masters than he was for being a lawyer. The head of the local NAACP said in an interview, "Amos told Thurgood and me that if we joined the lodge he could get some money for us. And we dearly needed money at that time. So I joined the lodge, and so did Thurgood. From then on we got a substantial contribution from the Masons."⁹

Thurgood Marshall received many awards in Prince Hall Masonry, and he remained loyal and supportive of Freemasonry. He was coronated an active member of the Supreme Council, Southern Jurisdiction, A.A.S.R., in October 1951. The Supreme Council, Northern Jurisdiction, of the Scottish Rite (PHA) presented him with its Gold Medal Award in 1953. He was cited as being a "Crusader for the rights of those weak enough to be oppressed; fearless champion of first class human beings whom caste would make second class citizens; brilliant advocate who has fought valiantly to make law and justice mean the same thing." Marshall responded, "Prince Hall Masonry has meant so much to us."¹⁰

Later, in 1961 when he was first appointed a Federal Judge, Marshall was also elected Grand Minister of State of the United Supreme Council, A.A.S.R., Southern Jurisdiction (PHA), and he was also awarded an active Past Potentate degree for his meritorious service in the field of Civil Rights, and he was later given the title of Past Imperial Potentate.¹¹ Then, in 1965, when Marshall was appointed Solicitor General of the United States, an amazing amount of supportive communication came from George Bushnell, the Sovereign Grand Commander of the white Supreme Council, A.A.S.R., Northern Masonic Jurisdiction.¹²

Interestingly, Thurgood Marshall appeared to have a very high opinion of the political

⁹ Williams, pages 179-180.

¹⁰ Walkes, *History...United Supreme Council*, page 145.

¹¹ Walkes, *History of the Shrine*, pages 268 and 297.

¹² Walkes, *History*, page 178.

power of Freemasons. He said that in 1960 Senator John F. Kennedy invited him to a two-hour lunch in his Senate office, and asked Marshall's opinion whether a northern Catholic could win an election for President in the racially-charged atmosphere the country was then in. Thurgood Marshall was thinking about the Presidential election of 1928, when Al Smith was the Democratic candidate, and Marshall reported telling Kennedy, "The Masons killed Al Smith, and the Masons would kill him off."¹³

Conclusion

This brief description of some of ways in which Thurgood Marshall affected American history only begins to describe what he accomplished. It does not even go into what he did after being appointed, in 1967, to be the first African American Justice of the Supreme Court. But this itself shows his influence: that his career before achieving that distinction was sufficient for him to be included among great Americans.



In Freemasonry we are constantly taught that Masonry accepts men of different races equally, that we are concerned only with men's characters and not their color or religion. Our Senior Wardens wear the level as their jewel, to teach that the blood in each of us is the same, that we are all children of the same almighty parent.

Thurgood Marshall, more than any other Mason in our time, calmly put these Masonic principles into practice in our society. All schools in the United States now legally accept people of different races, religions, and backgrounds, in a spirit of equality. Housing is open to people who are different from each other, in a spirit of tolerance. And people who in the past found restrictions against their civic rights of voting, serving on juries, and being full citizens now are welcomed in their exercise of these rights, just as the ritual of Freemasonry would call for.

The one Freemason who did the most in our lifetime to place Masonic ideals in place in America's civic and legal system was, without question, a Mason (Prince Hall Affiliation) by the name of Thurgood Marshall.

¹³ Williams, page 289.

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