

“OUR GREATEST CIVIL LIBERTIES LAWYER”: 1952

Thurgood Marshall and the 14th Amendment

by James Poling

THURGOOD MARSHALL, as special counsel for the National Association for the Advancement of Colored People, spends much of his time expertly pleading civil rights cases before the judges of our higher courts. His secretaries have spent a lot of *their* time pleading with him, in an effort to bring a little order into his life outside the courtroom. It is inevitable that the bench and his secretariat should see him through different eyes.

Lucille Ward, who became Marshall's first secretary when he opened his law practice in 1933, says, "I haven't seen him in a long time, but I bet he still needs a haircut, his pants pressed, and hasn't yet learned how to spell 'separate.' And I bet he still speaks in court like the man who wrote the grammar book and yet commits felonious assault on the king's English in private." She was right on all counts.

And Alice Stovall, his present secretary, says, "There's never a dull or lazy moment, except when I have to travel with him. Then I'm always left alone on the train while he spends his time in the dining car, gossiping with the crew—he was once a dining-car waiter, you know. If we have a layover, changing trains, I sit by myself in the station, by preference, while he goes off to see one of those they-went-that-a-way pictures; any one will do, even singing cowboys."

From the more austere elevation of the bench, Federal Judge William H. Hastie says, "Marshall is unquestionably our greatest civil liberties lawyer. He's been more instrumental than any other man in professionalizing the area of law dealing with civil rights, and certainly no other lawyer and practically no member of the bench has his grasp of the doctrine of civil rights law."

It is said by those who are qualified to speak that Thurgood Marshall's jitterbugging is real gone. Others, equally qualified, say that when he takes his stand before a lectern in the

U.S. Supreme Court, the justices of our highest tribunal lean forward in their seats and the courtroom is jammed with class-cutting law students. His elderly uncle, Fearless Williams, sees no contradiction here. "It's just that Thurgood's fun-lovin' and likes to socialize," he says. "But he can't kick up much. He once told me, 'Isn't it nice no one cares which twenty-three hours of the day I work?'"

Marshall's associates have good reason for letting him choose his own working hours. The National Association for the Advancement of Colored People has achieved goals in recent years which, according to Benjamin Fine, education editor of the *New York Times*, "would have been considered impossible ten years ago." And much of its progress can be attributed to Marshall's successful prosecution of civil rights cases before the highest courts of the land.

The NAACP is conducting a thoughtfully planned, carefully executed campaign against those state laws which support racial discrimination. Contrary to general belief, the association has neither the time, money nor inclination to go to the aid of every Negro in trouble. It is primarily interested in cases involving a violation of a man's constitutional rights which, in terms of the Fourteenth (or Equal Rights) Amendment, look as if they can be carried to a successful conclusion in the U.S. Supreme Court. The NAACP has won 30 of the 33 cases it has carried to that tribunal since 1915, and the ultimate aim of the campaign is a series of Supreme Court rulings that will render null and void all of the discriminatory laws now to be found in the statutes of many states.

Today, Negroes vote with relative ease in every state in the Union except Louisiana, Alabama and Florida—where registration is still made difficult for them, either by physical intimidation or by subjecting them to an intelligence-test question like, "How many windows in the White House?" Over a million Southern Negroes now have the franchise, as against the 250,000 who voted in the 1944 elections. Negro teachers, who have earned as low as \$407.81 a year, now have salaries equal to white teachers in North Carolina, Maryland, West Virginia and Louisiana, with test cases pending in Virginia, Texas and Florida. Segregation in interstate travel has been declared unlawful. Negroes can now purchase and

occupy any piece of property, if they can find a willing seller. Largely as the result of various court decisions, by February of 1952, Negroes were able to attend graduate schools at the universities of Texas, Louisiana, Oklahoma, Missouri, Maryland, North Carolina, Delaware, Virginia, Tennessee and Kentucky. West Virginia and Arkansas had voluntarily admitted Negroes into their graduate schools, and the trustees of the University of Delaware had gone beyond the court order and opened up their undergraduate school to Negroes. Test cases on the university level are now pending in Georgia and South Carolina, and a case is being processed in Florida. Nothing has as yet been done in Alabama or Mississippi, because no Negro has yet offered himself as a plaintiff.

And much of this has been accomplished by a man whose personal philosophy is, "I intend to wear life like a very loose garment, and never worry about nothin'."

But Marshall, at forty-three, is no dual personality to intrigue the psychiatric-minded. He is a tall, burly, gregarious man, light-skinned and lighthearted, and if he is paradoxical it might almost be said to be deliberate. He has consciously chosen to follow a hedonistic, nonworrying philosophy. And he has, just as consciously, dedicated himself to the extremely worrisome task of fighting racial discrimination.

Apparently, Marshall's determined gaiety in the face of the gravity of the project he has embarked on has never lessened his effectiveness. He is, as a matter of fact, well aware that it throws many people off guard. But Elmer Carter, of the New York State Commission Against Discrimination, says, "It's very important that we Negroes have a man who is at home in the Supreme Court and equally at home with the man on the street. Thurgood can talk on terms of equality with a social scientist like Sweden's Gunnar Myrdal, but he talks the argot of Harlem with the man on the street corner. He creates confidence on all levels of Negro life."

When Marshall took over as special counsel for the NAACP, in 1938, he came into a New York office which he describes as "very tush-tush." Obviously, this was no atmosphere for a man wearing a loose garment. "I changed things," he says, "and I think I've done a pretty good job of busting up that formality. Now I can operate in my natural-born way."

His associates are almost idolatrous in their praise of this method of operation. His work frequently takes him into tense, emotionally torn localities where mob rule is an ever-present threat. Those who work with him are convinced that it is only because he is always his unpretentious, natural-born self that he has been able to escape serious trouble while, at the same time, winning respect and understanding from opponents on all levels of life.

During his first year on the job, he flew to Austin, Texas, to protest the exclusion of a Negro from jury duty. Instead of becoming involved in litigation, he went directly to Governor James Allred. That executive was so impressed with Marshall's forthright presentation of his argument that he not only ordered out the Texas Rangers to defend the rights of Negroes to jury duty, but he voluntarily asked the FBI to study the situation.

In 1941, Marshall appeared in Hugo, Oklahoma, to defend W. D. Lyons, a Negro handy man accused of wiping out three of a family of five and setting fire to their house to conceal the crime. The NAACP undertook Lyons' defense because it had reason to believe he was a framed victim of racial prejudice.

Feeling was running so high in the community that the local Negroes, as sometimes happens when Marshall appears on the scene, organized to protect him; a different sleeping place was arranged for each night and an unofficial guard was established over him. These precautions turned out, however, not to be necessary.

At the beginning of the second day of the trial, the father of the murdered white woman, E. O. Colclasure, came forward and offered himself to Marshall as a defense witness! He testified that he had heard a state trooper say he had beaten a confession out of Lyons with a blackjack. And on the third day the superintendent of schools even declared a half holiday so that his students could go to court "and hear that cullud lawyer."

The case was fought to the Supreme Court, where Lyons' life sentence was allowed to stand—he had made another confession at a time when he was not under duress. It was one of the two cases Marshall has lost in the Supreme Court, of the 12 he has personally argued before that tribunal—a

record that lawyers regard as extraordinary. (In *Taylor vs. Alabama*, after getting Taylor's death sentence for rape commuted to a life sentence by Governor Folsom, Marshall failed in his attempt to win Taylor his freedom in the Supreme Court, when its justices voted 4 to 4 in a split decision, after one member of the tribunal had disqualified himself.)

In the 10 cases in which Marshall has been victorious, in four instances he successfully defended individuals against criminal charges. In the other six cases he won far-reaching, highly significant verdicts against segregation in education, housing, transportation and at the polls. He has also taken part, not as the "lawyer of record," but as a consultant, in 11 other Supreme Court cases, 10 of which were victories.

Many authorities—including men as careful in their choice of words as Morris Ernst, general counsel for the Civil Liberties Union, lawyer Arthur Spingarn, and attorney Earl G. Harrison, former vice-president of the University of Pennsylvania—regard Marshall as one of our finest civil rights constitutional lawyers. He has become recognized as such a formidable courtroom opponent that the state of South Carolina has just paid him an indirect compliment of the highest order. Rather than rely on its own legal staff, the state has retained John W. Davis, onetime Presidential candidate on the Democratic ticket and long recognized as the dean of the American bar, to defend it from the attack Marshall has launched on segregation in the state's high and elementary schools.

There are many reasons why Marshall is regarded as such a formidable opponent. Important among them is his objectivity; the clarity of his reasoning is never befogged by his emotions. When he discusses race relations he says, "I think we make our greatest mistakes through oversimplifications. We find it too easy to regard the South as all bad and the North as all good. We've made tremendous inroads in the South in recent years—particularly among the younger white people and the enlightened older ones—but we can't direct all of our efforts at the South. There is still a lot to be accomplished in the North.

"A lawsuit is an educational process in itself. It educates not only the defendant and his lawyers, it also enlightens the general public in the area. When we were fighting to get Heman

Sweatt into the University of Texas, more than 200 white students set up an NAACP branch on the campus. They even built and manned a booth on the campus, to collect funds to help defray our legal expenses. They were a little worried the first day, when they saw a policeman, on the opposite side of the street, eying the booth for a long time . . . until he walked over to the booth, said, 'If you kids want that cullud man in your school so bad, you sure got a right to have him,' and handed them five dollars. It's such suits that bring home to many people the fact that Negroes have rights as Americans which must be respected.

"If we can keep up the educational process, as well as the legal suits, I've no doubt of our eventual victory. Even in the most prejudiced communities, I think the majority of people have some respect for truth and some sense of justice, no matter how deeply hidden it is at times."

Marshall knows, of course, that he is engaged in a hard, sometimes bitter, struggle, but he is equipped for this, too. He comes from a fighting family. His great-great-grandfather, according to family legend, was a captive from the toughest part of the Congo, who made his personal objections to slavery so widely known in Maryland that his master finally told him, "Look, I brought you here, so I guess I can't very well shoot you, as you deserve. And since I can't, with a clear conscience, sell anyone as ornery as you to another slaveholder, I'm going to set you free. Now, get out of this county."

Thurgood's paternal grandmother may have originated the sit-down strike. When a Baltimore court ruled that a utility company had the right to erect an electric pole in front of the Marshall grocery store, she took a kitchen chair, placed it over the spot marked for the pole, and calmly seated herself. After a few days of this the company put the pole elsewhere. And the Baltimore Sun, in its issue of August 6, 1875 (an era when Negroes were more frequently seen than heard in the South), reported that Isaac O. B. Williams—Marshall's maternal grandfather—had risen at a civic mass meeting to protest an unwarranted incident of police brutality that had resulted in a Negro's death.

And Marshall has the intelligence with which to back up his fighting heritage. He graduated with honors from Douglas

High School in Baltimore, where he was born July 2, 1908. His mother, Mrs. Norma Marshall, is now in her twenty-fifth year as a teacher in Baltimore's primary schools; his father, William Marshall, who died in 1950, was a steward at the exclusive Gibson Island Country Club, on Chesapeake Bay.

After high school Marshall attended Lincoln University, in Oxford, Pennsylvania, where he is remembered for the manner in which he prepared for examinations—by devoting the nights prior to them to pinochle. Despite this, he graduated *cum laude*.

During his senior year at Lincoln, he also had the boldness, considering that he was working his way through school—either as a baker, dining-car or country-club waiter—to get married. The bride was Vivien “Buster” Burey, who left the University of Pennsylvania to become his wife.

Marshall then abandoned pinochle to study law at Howard University, Washington, D.C., where he graduated *magna cum laude*. “I’d got the horsin’ around out of my system,” he explains, “and I’d heard lawbooks were to dig in. So I dug, way deep.”

He had civil rights law in mind when he began to practice before the Maryland bar in 1933, although he knew such cases seldom earned a lawyer anything but respect. Some people claim he built up the largest law practice in Baltimore and still couldn’t pay his rent. Lucille Ward and Sue Tilghman, the two secretaries who worked for him at that time, say, “He had a genius for ignoring cases that might earn him any money. Sometimes we’d get our \$7.50 a week, sometimes we’d just get carfare, other times we were out-of-pocket at the end of the week. But we loved that man.”

Marshall hadn’t liked the fact that the laws of his home state had forced him to go out of the state to get a legal education and, during his Howard years, he laid preliminary plans for opening up the University of Maryland Law School to Negroes. In 1934, he met Donald Murray, a young Negro who thought it was just the law school for him. Now that he had a plaintiff, Marshall went to work in earnest. “He turned into a working machine,” Miss Tilghman says. In 1935, he brought suit against the University of Maryland and won the case so convincingly the state didn’t even bother to appeal it

to the Supreme Court. At twenty-seven, Marshall had made the first breach in the wall of segregation which surrounds much of our public school system.

In 1936, the NAACP implemented its campaign against discrimination by retaining its first special counsel, the late Charles Houston. He had been dean of Howard University Law School when Marshall was there, and he brought the young lawyer with him as his assistant, at a yearly salary of \$2,400 (Marshall now earns \$12,000, or about one sixth of what it has been estimated he could earn in private practice).

When Houston retired to private practice in 1938, Marshall not only took over the strategy of the campaign, but also became its leading tactician. Today, over 500 cases a year pass across his desk, and at this writing he is either attorney of record or "of counsel" in 40 cases now in court. To assist him, he has a staff of three assistant counsels, two field-workers, a law-research clerk, and a socioeconomic analyst. A National Legal Committee of 45 volunteer attorneys—men like Morris Ernst, Bartley Crum, Arthur Garfield Hays and Samuel I. Rosenman—is also available to him.

His somewhat oversimplified explanation of his success is, "This is way deep in church—I wouldn't want anyone to find out—but the only reason I ever look good is just 'cause I get expert advice, then follow it."

Since taking office, the cases Marshall has pleaded or supervised have been argued on specific discriminatory points, such as the destruction of Jim Crowism in travel, obtaining the franchise, or opening up the educational system at the university level. While these cases have had individually stated goals, their over-all effect has been far-reaching.

In winning favorable rulings, for example, from the Supreme Court in the cases of *Sweatt vs. University of Texas* and *Sipuel vs. University of Oklahoma*, Marshall did far more than win entrance into the schools of their choice for Ada Sipuel and Heman Sweatt. Those rulings can now be used to pry open the door of any university that attempts to bar Negroes. Thus, the accumulated decisions won in all areas of discrimination by Marshall and his associates have gradually weakened the state laws supporting segregation.

However, in his attack on South Carolina's school system,

now pending before the Supreme Court, Marshall has finally succeeded in reaching a position hitherto denied him because of complicated legal technicalities, where he can ask the courts for a sweeping ruling to the effect that segregation is, in itself, a form of inequality and, therefore, unconstitutional.

When the case was first heard, May 28, 1951, before a three-judge federal court in Charleston, it was lost by a 2-to-1 verdict. Judge J. Waties Waring (Collier's, April 29, 1950), a courageous jurist whose stand on the racial question has won him social ostracism in Charleston, found, in his dissenting opinion, that "segregation is, *per se*, inequality." If the Supreme Court should reverse this 2-to-1 verdict, its ruling could abolish segregation at all educational levels.

A federal judge, who for obvious reasons cannot be named, has said, "It's going to be hard for the Supreme Court to side-step the issue. And it's going to be equally hard for them to face it, with the present-day political situation what it is. The case sort of puts them on the spot, and Thurgood has maneuvered that very cleverly."

The speed and bluntness with which Marshall is attacking discrimination has alarmed some Negroes who fear, if victory in the courts is won too rapidly, that it may lead to physical violence and rioting in areas where prejudice is still deep-rooted. Others feel it is strategically unwise to move too fast at this time. Marjorie McKenzie, columnist of the powerful Negro paper, The Pittsburgh Courier, writes of the South Carolina case:

"This was no ordinary test case. . . . It was a bare-bones challenge to the legality of segregation under the state's police power. . . . (There are those who) look upon the NAACP's moves with honest irritation and alarm . . . they involve risk where none was necessary. . . . The judicial system is part of a political structure and is, accordingly, not unresponsive to political forces. . . . (We are putting) premature pressure on the courts."

However, the great majority of the Negro press is stanchly behind the NAACP-Marshall program.

Even if he loses the decision in the South Carolina case, Marshall will not be left impotent. The U.S. Supreme Court has recently shown that it regards segregation in a public

school system as illegal *unless* Negroes are provided with facilities equal to those provided white students. And Marshall, in a series of cases, has demonstrated it isn't hard to prove that equal facilities are rarely available. Thus, while it would take time, and cases would have to be filed state by state and possibly county by county, the NAACP is now in a position to make it very expensive for taxpayers in those states wishing to maintain segregated schools.

The Office of Education of the Federal Security Agency roughly estimates that it would cost the states with segregated school systems \$1,500,000,000 to bring their Negro school plants up to the present level of their white school plants. Furthermore, an additional annual \$61,000,000 would be required to achieve over-all teacher equality.

In a speech before the Institute on Race Relations, meeting at Fisk University, July, 1950, Marshall said, "We now have the tools with which to destroy all governmentally imposed racial segregation. . . . To hear some people talk, one would get the impression that the majority of Americans are lawless people who will not follow the law as interpreted by the Supreme Court. This is simply not true."

South Carolina has already heeded his words. The state has appropriated \$75,000,000 to be spent in bringing its Negro schools up to the level of its white schools.

Adroit maneuvering is part of his stock in trade. One of his wiliest moves saved a man's life. A few years ago the grapevine reached him late one night, at a poker game in a Washington, D.C., hotel room, with detailed information of a lynching party that was forming in a Southern city, even as his long-distance adviser spoke.

As is his custom, when incidents of racial violence occur, Marshall immediately alerted the FBI, the Department of Justice, and the secretary on duty at the White House—and discovered, to his dismay, that neither the FBI nor the Department of Justice had the authority to move with enough rapidity to save the man. He then performed an instantaneous cerebral tour de force; he put through a long-distance call to an influential Southern lawyer representing strong anti-Negro factions.

When he had the man on the phone, he said, "Look, just

two sets of people can't afford a lynching at this time—us Negroes and you people. You're right in the midst of a Dixiecrat political campaign and a lynching's going to make your people look awful bad." The man's answer was, "Check! Give me the details and get off the phone so I can get moving. Call you back in half an hour." In 20 minutes Marshall's telephone rang and he was told, "The state troopers made it in time. Call this number in a few minutes; your man will be there, unharmed." And he was, although he was still too shaken to talk.

Wiliness and adroitness are not unusual attributes for a lawyer, and Marshall seems to have gained the respect and admiration of the legal fraternity as much for his honesty and high sense of ethics as for his cleverness, eloquence and extreme skill in logic and argumentation.

As Judge Charles D. Breitell, of the New York Supreme Court, puts it, "I've got so much respect for his integrity I'd accept his word on anything."

Morris Ernst once had a disagreement with Marshall. Ernst had devised a clever twist on what were known as "Lower Thirteen" cases. There was a time in some Southern states when a Negro, in quest of railroad sleeping accommodations, was sold a drawing room for the price of a lower berth, so that he could be kept segregated. Ernst wanted to build a case by having an eminent white man—he had a famous writer in mind—stand behind a Negro at a ticket window. After the Negro had been sold a drawing room at a reduced price, the writer would ask for a drawing room to the same destination and, naturally, be charged the full price. He would then protest—and a case could be filed in which the issue was discrimination against a white man.

"The idea amused me to beat hell," Ernst says, "and I thought Thurgood—well, with that belly laugh of his, which is about the first thing most leaders at the bar lose—I naturally thought he'd go for the idea, too. But he flatly rejected it—because it was rigged and because it was a trick. I realize now he was right. He knows we're in a battle to change the nation's folkways and he wants to do it soundly and, if possible, with dignity."

Arthur Spingarn, the white attorney who is president of the

NAACP, says Marshall once refused to employ a means of destroying a witness' credibility that he'd suggested, because, "I wouldn't want anyone to say that about me and I don't want to say it about anyone else." When Spingarn protested that the attack was based on verified fact, Marshall's answer was simply, "I don't care. I just don't like to use that kind of orneriness."

Thurgood is so sentimental that he sends Christmas cards to dogs with whom he is acquainted, and he can be soft even in court—which is surprising, considering the deep emotional involvement he has in all of his cases. In one appellate case, the lawyer making the argument for the opposition had his memory fail him at a critical point. The court fell silent as the judge grimly waited for the man to cite the legal precedent necessary to support his contention. The man grew more and more embarrassed and confused as he pawed futilely at his notes—until Marshall could stand it no longer. Picking up a lawbook, he leafed through it to the case he knew his opponent had in mind, then silently handed the book to him.

Charles Thompson, dean of the graduate school of Howard University, says he has only seen Marshall discomfited in court once—when, in *Sweatt vs. University of Texas*, he had to cross-examine the white librarian of the university's law school. She was nervous when she took the stand, on the verge of tears when she took the oath, and she grew more and more confused as the questioning proceeded—even though Marshall's cross-examination was fumbling and inept, compared to his usual relentless attack on an opposition witness. But he has an alibi. He says, "That poor woman like to tore her handkerchief to shreds on the stand. She was a good woman and you could tell she didn't want to lie. Give me the mean ones that want to lie—then I romp."

Not that he is always sweetness and light. Opposing counsel occasionally shows signs of being outraged at the very fact of having to argue against a Negro lawyer. Then Marshall, with a straight face, abandons such conventional phrases as, "My esteemed opponent . . . the learned counsel for the state," and falls back on the now obsolete court formality, "My brother in law . . . my brother before the bar . . .", with sardonic emphasis on the noun.

He has had considerable experience with various forms of unpleasantness. The following telegram addressed to then Attorney General Tom Clark in 1946 tells its own story of the tactics he sometimes encounters:

LAST NIGHT AFTER LEAVING COLUMBIA, TENNESSEE, WHERE WE SECURED ACQUITTAL OF ONE OF TWO NEGROES CHARGED WITH CRIMES GROWING OUT OF FEBRUARY DISTURBANCES THREE LAWYERS, INCLUDING MYSELF, WERE STOPPED OUTSIDE OF COLUMBIA IN THE NIGHT BY THREE CARLOADS OF OFFICERS INCLUDING DEPUTY SHERIFF, CONSTABLES AND HIGHWAY PATROLMEN. ALLEGED PURPOSE WAS TO SEARCH CAR FOR WHISKY. WHEN NO WHISKY FOUND WE WERE STOPPED BY SAME OFFICIALS TWO MORE TIMES AND ON LAST OCCASION I WAS PLACED UNDER ARREST FOR DRIVING WHILE DRUNK AND RETURNED TO COLUMBIA. MAGISTRATE REFUSED TO PLACE ME IN JAIL AFTER EXAMINING ME AND FINDING I WAS EXTREMELY SOBER. THIS TYPE OF INTIMIDATION OF DEFENSE LAWYERS CHARGED WITH DUTY OF DEFENDING PERSONS CHARGED WITH CRIME CANNOT GO UNNOTICED. THEREFORE, DEMAND IMMEDIATE INVESTIGATION ALL CRIMINAL CHARGES AGAINST OFFICERS PARTICIPATING IN LAST NIGHT'S OUTRAGE.

Although the federal investigation was hamstrung, locally, from the outset, and nothing could be done about the situation, Marshall returned to Columbia the following week and procured the acquittal of the second Negro.

A few years earlier there had been an outbreak of police brutality in Hempstead, New York. Ted Poston, who covered the story for the New York Post, said four cars of men were searching for Marshall. "I was riding with Marshall," said Poston, "and it didn't faze him in the slightest. Three times that caravan of cars passed right by houses we were in. I wanted to get away from there, fast. But all that guy did was make more and more outlandish jokes about what that mob would do to us if it caught us. Not that he was foolhardy. Once he got statements from the witnesses, and had them safely hidden in a spare tire, he drove out of there without honoring the speed

laws.” And with the aid of those statements, the state’s attorney general quickly restored order in Hempstead.

Of these and similar incidents Marshall says, “I can testify there’s times when you’re scared to death. But you can’t admit it: you just have to lie like hell to yourself. Otherwise, you’ll start looking under the bed at night.”

In 1949, Marshall’s own behavior—variously described by his friends as “his integrity,” “his idealism” and “his damned stubbornness”—stirred up some unpleasantness that resulted in his being deprived of his greatest ambition. He would like to be a federal judge and, in August, 1949, it looked as if his ambition was about to be realized.

On August 4, 1949, Ted Poston said in the *New York Post* that he had learned from authoritative sources that Thurgood Marshall was about to become the first Negro appointed to a federal judgeship in the continental United States. This was news to the Tammany leader in the 13th Manhattan Assembly District, although some other Democratic leaders knew that Marshall’s name had been suggested to the White House.

The Tammany leader let it be known that he wanted to see Marshall. Thurgood bluntly refused to see the man. As one politician says, “The guy’s unrealistic on this politics business. Hell, he’s got to at least shake hands with someone. You got to have clearance. We begged him to at least spend three bucks, or whatever it is, and join the Carver Democratic Club. But he wouldn’t.”

As a result of his determination not to play ball with them, Harlem’s Tammany leader opposed Marshall’s appointment so vigorously that nothing more was ever heard of it.

He says, “Look, I had the three bucks to join the Carver Club. But in my book a federal judge is a different animal—he shouldn’t have to play patty-cake with the clubhouse boys.”

If Marshall did have a spare three bucks with which to join the Carver Club, it was surprising. To his friends’ charge that he is as foolish as a man can be with money, he enters the strong denial, “If I had more money I could be more foolish.” But he has learned to turn his checks over to his wife, and this works pretty much to his satisfaction. “I’m supposed to have my allowance,” he explains, “but I always manage to

borrow a little extra and I never, never pay it back. Only thing is, Buster won't give me any money to buy electric trains and we don't have any children to buy them for. Course, she has a point; she asks me when I'd have the time to fool with 'em."

When he registered this complaint he didn't know that his relatives were presenting him with an elaborate Diesel-drawn electric train set for Christmas. His family had never been able to afford electric trains in his youth and he has always dreamed of someday acquiring one for himself. But now that he has one, he hasn't, as Mrs. Marshall predicted, much leisure to devote to it.

Marshall makes a great show of despising work or physical exertion, and contends, "There's no call for a man to ever lift anything much heavier than a poker chip." But he's been working steadily since he took his first job as an errand boy at Hale's Grocery Store, in Baltimore, at the age of seven.

Today, he travels over 50,000 miles a year and, according to Arthur Spingarn, "He's making a damn' fool of himself, the way he works. He argues five times as many cases as the ordinary lawyer. He got off a plane from Kansas City at 3:00 A.M. yesterday; at 6:30 A.M. he was on a train headed for New Hampshire. When you urge him to slow down, you always get the same answer, 'Man, there's a job to get done.'" He has had two temporary fillings in his teeth for the past seven years because he hasn't had time to get back to the dentist to have the job finished.

On June 28, 1947, Marshall was so ill he barely managed to get through his speech of acceptance of the Spingarn Medal (annually awarded for the highest achievement by an American Negro during the preceding year). It was given to Marshall primarily for his work in winning the franchise for the Negroes of the South. After the award presentation he was flown from Cincinnati to New York where it was discovered at Harlem Hospital that he'd had a breakdown from overwork, with a resultant virus pneumonia of the worst type.

In the midst of his convalescence he received two gifts that deeply moved him: a piggy-bank geranium from Mrs. Eleanor Roosevelt, and a huge ham, sent by the Negro citizens of Columbia, Tennessee.

A man who works his schedule inevitably has a limited home life and but little time for play. His infrequent evenings spent in his New York apartment are usually dedicated to small dinner parties, or endless hours of arm-waving argument and discussion with his close friends, or solitary musical binges, during which he loads his record player with a catholic assortment of recordings ranging from Rachmaninoff to Louis Armstrong.

Where play is concerned Marshall is, like Barkis, always willing. His outside diversissements are simple—poker, a trip to the race track, or a baseball, hockey or football game. He hates night clubs and is intolerant of pretentious formal social functions. His greatest pleasure is derived from the Pokino Gang, a group of six couples, friends of long standing, who get together on Saturday nights. They generally start out playing penny-ante Pokino, a game which seems to be a combination of bingo and stud, and end up “just woofing and having general fun.”

Marshall's favorite aunt, Mrs. Media Dodson, says, “Thurgood's wonderful to behold when he comes back from a hard case and gets together with the Pokinos. There he is, singing—though he can't turn a tune any more than an alligator—dancing, telling funny jokes and things.

“Everyone just says, ‘This is Thurgood's night; look at him go.’”

It is probably just as well he can go on an occasional night. Mrs. Marshall says, “He's aged so in the past five years; his disposition's changed, he's nervous where he used to be calm—this work is taking its toll of him. You know, it's a discouraging job he's set himself.”

However, Thurgood's discouragement doesn't show through the very loose garment he wears in public. “Mama taught me a lot,” he says, “and I remember how she used to say, ‘Boy, you may be tall but if you get mean I can always reach you with a chair.’ Well, there's a lot of tall, mean people still around but the Fourteenth Amendment to the Constitution of the United States is a mighty big chair and I figure I can still reach a lot of 'em.”

Collier's, February 23, 1952