

THE CLARENCE THOMAS I KNOW

by
W. B. Allen *

Appointment to the Supreme Court may cap a lifetime of achievement or it may become the achievement of a lifetime. For Chief Justice William H. Taft, the first possibility was realized when he ascended to the Court in 1921. The second possibility, ascending to the Court becoming the achievement of a lifetime, is the tale of a worthy Southern gentleman, elevated to the Court after only a few years of national political experience.

A classic American account of self-discipline, good fortune, and hard work provide the background for this tale. A young man whose early education, or the lack thereof, would never have suggested his eventual path, awakened late to the profession of the law, entered a law school of the first rank, and proceeded to build a highly meritorious career, working in turns privately, in state government, and finally in the federal government. By the time he finished all of this, he was still in his early forties but then tapped by the President of the United States to serve on the Supreme Court.

The Southerner I have in mind is John Marshall, who in 1801 became the third, and still most famous, Chief Justice of the Supreme Court at forty-five years of age. Marshall had served six months as Secretary of State, been a member of the House of Representatives for one term, and served as a minister to France for two years before his appointment.

That five years was the total of his national public service. Nor had he ever been a judge or even a district attorney. He had displayed singular abilities of reasoning, however, and a profound attachment to the Constitution of the United States—as well as an earnest disposition to seek common ground on which contrary factions could unite for the public good. For these virtues John Adams elevated him to a thirty-five year career that set the enduring direction of American constitutional law. Judge Clarence Thomas is such a Southerner as was John Marshall. Though Thomas was not born to a family of magnates, his course in life was no less fortuitous than was Marshall's. Raised by grandparents and educated in a parochial boarding school, he was prepared to study in a seminary. He left seminary, however, to pursue undergraduate study at Holy Cross, thence to Yale Law School. John Marshall, who had no formal grade school education, took a law degree from William & Mary College after his return from service in the Revolution.

The practice of law turned readily into careers of public service for Marshall and Thomas very shortly after they completed legal training. Both began in forms of state service, Marshall in Virginia and Thomas in Missouri. Thomas went on to cap his experience by heading major federal departments or agencies (EEOC) for nearly eight years before being named to the Circuit Court of Appeals. Like Marshall, Thomas is being elevated to the bench of our highest Court just as his career hits its peak. That's great news for Americans.

Clarence Thomas enjoys a more important resemblance to John Marshall than those I've mentioned heretofore. He is an active intellect with profound attachment to the Constitution. Rather than coasting on what he learned in law school, he is, as I have known him, a voracious reader and serious student of fundamental legal and moral principles. Even as he undertook the ardors of his service as Chairman at EEOC, he always had time for study (a thing I have found most rare among Washington hands). That is the very characteristic that distinguished Marshall and makes his opinions still among the most insightful in Court history. It was Marshall who explained in 1819, "It is a Constitution we are expounding," thus subordinating judicial whim to the restraint of constitutional principles. Judge Clarence Thomas, whose confidence in the Constitution is no less emphatic, follows in the tradition of Marshall to bring great learning to the defense of the heritage of freedom.

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