

Opinion • Commentary

Freeport, New York.

AS A PRODUCT of Maryland's Jim Crow public school system, Clarence Mitchell Jr., newly graduated from Lincoln University in Pennsylvania and now a reporter for the *Afro-American*, took a strong interest in the epic desegregation struggle that was being launched in the 1930s by the National Association for the Advancement of Colored People. He eagerly watched as Charles Hamilton Houston, formerly vice dean of the Howard University Law School, and his protege Thurgood Marshall, also a native of Baltimore, made Maryland the successful testing ground for the

By Denton L. Watson

NAACP's assaults on segregation in public education and discrimination in teachers' salaries. As Houston maintained:

"The NAACP recognizes the fact that the discriminations which the Negro suffers in education are merely part of the general pattern of race prejudice in American life, and it knows that no attack on discrimination in education can have any far-reaching effect unless it is bound to a general attack on discrimination and segregation in all phases of American life."

The jump in black college enrollment, from 5,231 in 1922 to 22,609 in 1932, increased pressure from blacks for entry into graduate and professional schools in the border states and the South, where they were barred. Houston, as the NAACP's chief counsel, launched the attack on the South's Jim Crow college system in 1935 by suing the University of Maryland to gain admission for Donald Gaines Murray to that institution's law school. Houston's ultimate goal was the abolition of segregation at all levels of public schools, from nursery to universities.

The case was a *cause celebre* for oppressed minorities and began Houston's practice of using Maryland as the locus for filing lawsuits: he felt that Baltimore's vibrant, courageous NAACP branch and a fighting press were important allies and improved his chances of winning such cases. The case also represented the first of Houston's great achievements in developing a systematic framework for combating pervasive legal segregation in other areas as well, such as housing and labor. Houston's approach was a systematic one, based on selecting cases with clear legal issues, overturning negative precedents, and developing strong community or mass interest in each case. Consequently, the courtroom during trial of the Murray case was packed.

Juanita Mitchell recalls: "He would call Mama, 'Miss Lillie, I'll be over. Get me a crowd. We'll be in so and so court room.'" Then Lillie Carroll Jackson, president of the Baltimore NAACP branch, would get other NAACP activists to begin making telephone calls. Houston also worked variations of this approach. For example, he encouraged Baltimore's NAACP leaders, whom he especially admired, to file other anti-discrimination suits, and the NAACP made its resources available to him.

Mitchell was assigned to cover the trial in the Baltimore City Court, which now bears his name. Learning of the decision of June 18, 1935, he ran a tortuous, uphill 12-block route to the *Afro-American's* office to write that history had been made when Judge Eugene O'Dunne granted a writ of mandamus requiring the regents to admit Murray at once. His page-one story

Victory in Baltimore

Clarence Mitchell Jr. and the Struggle for Civil Rights



Paul R. Miller

gave a clear and detailed account of the courtroom drama and the constitutional issues at stake and revealed Mitchell's joy over the victory.

"From the beginning, in the early hours of the morning, to the close at 5 p.m. — past normal closing time — the case was a sharp interchange of legal argument and court wit." Mitchell brimmed with pride upon witnessing the superior conduct of the three black lawyers handling the case. From the opening of the hearing, it was clear that Charles T. LeViness III, the white assistant attorney general, was no match for them.

Judge O'Dunne asked LeViness, "Does the state of

Maryland establish the reason of race as a cause for barring Mr. Murray from the University?" LeViness responded, "Yes, it is public policy of this state to exclude colored from schools attended by white and to maintain a separate system of education."

Mitchell was astonished to hear LeViness contend that until recently, there had been no demand for higher education by blacks. He personally knew otherwise; demand had long existed. It was just that blacks like himself and Marshall had known it was futile to apply, so most potential students never bothered to try getting into the state-funded university. LeViness told

the court that the legislature had passed the 1935 law creating a Commission on Higher Education for Negroes in response to "growing demand."

In addition to Princess Anne Academy, the other higher-education facility for blacks was Morgan College. Although Raymond A. Pearson, president of the University of Maryland, maintained that Princess Anne provided equal education, he was forced to acknowledge inequalities in the teaching staff, equipment and general administration.

"Finally, under a cross-fire of questioning by Dr. Houston, Dr. Pearson said that he — when denying Mr. Murray entrance — knew that the applicant had little, more than a hope of getting any financial assistance for education from the state." The most damaging admission from university officials, however, was that the state provided no alternative institution for black applicants like Murray who wanted to study law.

Mitchell proudly reported that Marshall during the arguments before Judge O'Dunne had raised the central issue of the *Gong Lum v. Rice* case. There, in denying Martha Lum's plea for admission to a white school, Chief Justice William Howard Taft had taken special pains to point out that the court was bound to assume that there was a school to which a non-white girl might conveniently go. Had her petition mentioned that she had no alternative school in her neighborhood, the outcome would have been different.

Marshall also cited the *Piper v. Pine District* case in which a 15-year-old Indian girl in California won admission to a white state public school because no provision had been made for equal Indian education. Such disparity was ruled to be a violation of the 14th Amendment.

Without leaving the bench, Judge O'Dunne the same day ordered the University of Maryland to admit Murray because his 14th-Amendment rights had been violated. As Marylanders saw it, freedom bells were ringing loudly. Mitchell spoke for many blacks, no doubt the majority, when he said that he previously had thought such a decision impossible. But from that time, he later recalled, "I could see tremendous significance for the law and I could see countless situations where injustice could be corrected by application of the law."

The *Afro-American*, while celebrating the Murray victory, the same day also underscored another prevailing sore point involving unequal teachers' salaries. The editorial revealed publisher Carl Murphy's impatience with blacks who were afraid to challenge discrimination by sharply criticizing the Maryland State Colored Teachers Association. Murray's victory, the editorial said, "should make every thinking citizen boil with concern" that the Colored Teachers Association had not challenged the unequal-salaries system on behalf of its members. "Like the five foolish virgins, the association slumbers and sleeps. The citizens are still interested, the money is still available" for the teachers wishing to make the challenge.

Thurgood Marshall the following year took charge of the NAACP's legal drive for equalization of teachers' salaries. The resulting victories in Maryland and throughout the South further served to strengthen Mitchell's faith in the law: "Inexorably, the blacks of Maryland and many of their friends of other races and religious faiths worked to end these injustices."

Mr. Watson was an editorial writer for *The Sun* from 1979 to 1982. This article is an excerpt from his biography, "Lion in the Lobby, Clarence Mitchell Jr.'s Struggle for the Passage of Civil Rights Laws," published this month by William Morrow.