

Bell's sweet victory

New top judge overcomes segregation

By C. FRASER SMITH

WHEN he walked into Hooper's Restaurant in 1960, Robert Mack Bell made an eloquent declaration of faith — and of profound disappointment — in America's system of justice.

Even as he challenged segregation by asking to be served, the 16-year-old Dunbar High School student implicitly declared a belief that the law could be changed and applied fairly.

His faith was vindicated — first by a significant and far-reaching victory before the U.S. Supreme Court and now, 36 years later, by the progress of his own life.

Last week, he was named chief judge of the Maryland Court of Appeals, the very court which repeatedly upheld his conviction on trespassing charges lodged after his sit-in at the Baltimore

restaurant. The court stubbornly insisted on its ruling even after the General Assembly passed an open accommodations law.

Little in the nation's attempt to disown the legacy of slavery and segregation has been easy or rapid. The record of Bell vs. Maryland makes that clear.

But progress has been made, usually as a result of some daring and courageous effort. Seldom has the symmetry — from defendant to judge — been so spectacular.

Bell was named to the state's highest judicial position by Gov. Parris N. Glendening one day after the governor and others inaugurated a new memorial to the late U.S. Supreme Court Justice Thurgood Marshall. Marshall's statue was unveiled outside the old Court of Appeals Building on Lawyer's Mall in Annapolis on Tuesday.

Marshall, then a civil rights lawyer, and the late Juanita Jackson Mitchell of Baltimore were among the lawyers who took Bell's case to the Supreme Court. Now Marshall's statue counterbalances that of Roger B. Taney, the Supreme Court's chief justice at the time of the Dred Scott decision, which held that blacks [See Bell, 5F]

C. Fraser Smith is covers politics for The Sun.



1993: SUN STAFF PHOTO
East Baltimore County plant during its heyday.

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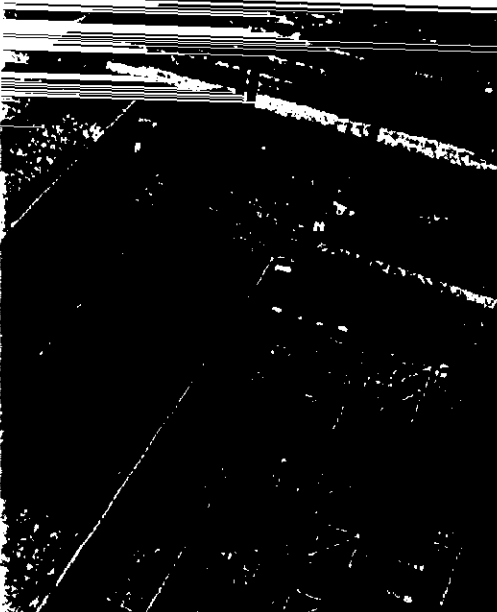
tive."
Ask him how government can make a post-industrial world work better, and he mentions cutting regulations and capital gains taxes, trying to boost the savings rate, even tort reform. Only when asked again does he bring up training programs, college grants and community colleges: "We literally can't afford the government approach."

If you can't find any differences in there, you're not listening.

A good spot for a face-off

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A good spot for a face-off
 It's fitting that the Ehrlich-DeJullis faceoff comes in the 2nd, because the state's most potent symbol of industrial decline is at the district's eastern edge: Dethlehem Steel Corp.'s Sparrows Point Plant, once the biggest steel complex in the world. Of the 100,000 manufacturing jobs Maryland has shed since the 1950s, nearly a quarter came from the Point alone. To people from Dundalk and to a lesser extent Arbutus, the Point is a symbol of a time — and a life — gone by. Both candidates have [See Jobs, 6r]

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JOHN MAKELY: SUN STAFF

Robert Bell
 believed, even as a 16-year-old high school student sitting in at a segregated restaurant, that the nation's laws could be changed or fairly applied.

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— two perspectives

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1996

Bell's appointment beats Jim Crow

(Bell, from Page 1F)

had no rights whites were bound to respect.

Bell's personal symbolism is no doubt more meaningful because he is now in a position to administer the law he and Marshall and Mitchell fought to change.

"This is a man of wit and intelligence who, more than anything, has a good sense of justice," said Michael A. Millemann, a University of Maryland Law School professor and head of the school's legal clinic. "It's one of the most exciting things to happen here in years. He will be a wonderful ambassador of justice."

Millemann remembers his introduction to Bell 27 years ago — and a bit of history that demonstrates Bell's concern for the less fortunate. Bell was then a recent Harvard Law School graduate and Millemann had just arrived to work as a poverty lawyer.

Bell worked then for Piper & Marbury, an establishment firm that had opened a satellite office for poor clients.

"He wore the Piper & Marbury suits, but he was deeply committed to the poor," Millemann found.

Last week, Glendening said he had chosen Bell for the state's highest judgeship because he was the best qualified of several contenders. Alone among the candidates, Bell had served for four years at every level of the Maryland judiciary.

In political circles, Glendening's choice was regarded as almost inevitable, though the governor appears to have struggled with it, delaying his announcement for several weeks after the long-expected retirement of Judge Robert C. Murphy.

Inevitably, the Bell appointment was met with criticism from Glendening's likely 1998 opponent in the gubernatorial race, Ellen R. Sauerbrey.

"He has the reputation of being a bleeding-heart liberal. He never runs out of reasons to oppose the death penalty," she said, adding, "Judge Bell is frequently the lone dissenter who votes to return violent criminals to their communities."

As a matter of judicial practice, Bell never discusses his opinions on the death penalty or any other issue that comes before him. Sauerbrey's comments may be simply par for the political course. Bell's credentials are impeccable and his life experience helpful to a tribunal charged with applying the law in more than a fastidiously legalistic



1991: SUN PHOTO

What work can do: At Dunbar High School, Judge Robert M. Bell enacts his swearing-in as the first black judge on the Maryland Court of Appeals. He said he wanted to show what hard work could accomplish.

way.

Every appointment to such a position is political in its own way. This one represents another "first" in Maryland, a state whose residents could recall many similar firsts involving Jews and women as well as blacks. Downtown Baltimore's restaurants, department stores and bars have been opened to all citizens for little more than a generation, usually as the result of some individual's protest — a resignation, a refusal to provide financial support or a sit-in.

If politics — Glendening's desire to please his black supporters — was part of the Bell appointment, that fact would not be shocking unless Bell was thoroughly unqualified for the job. And not even Bell's detractors are saying that. Now whether they feel that way is another question.

And if politics propelled Bell into the position, that's not shocking either. The use of political power to overcome discrimination was one of the goals of the civil rights movement. Perhaps, Bell's appointment symbolizes the willingness to use that power.

Bell has his own industry and acumen to thank for the fact that he was there for the Hooper's protest, there at Harvard Law, there at Piper & Marbury and there on the court when a chief judge was needed.

His protest in Bell vs. Maryland now stands as testimony to the tortured journey toward equal justice here and in the nation. Accused of trespassing, he said his unwanted visit was a statement, an exercise of

free speech — which the state of Maryland should honor.

Instead, he was prosecuted, convicted and rebuffed by the appeals courts, including the U.S. Supreme Court, which maddeningly refused to address the free-speech claim he made and instead, returned the matter to Maryland's Court of Appeals, which again upheld his conviction.

To some extent, this was the outcome Bell and the NAACP wanted — a test case that would help to topple the edifice of Jim Crow, then resting on a flimsy economic premise: Blacks could not be admitted to eat and drink with whites —

or whites would stay away and businesses would suffer. Eventually Millemann pointed out, the Supreme Court produced opinion: which made it very obvious that unless Congress enacted civil rights laws, the court would intervene.

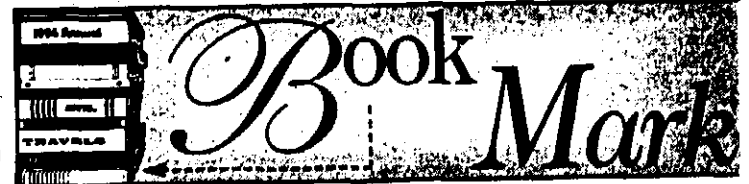
Although Bell's name is attached to an important Supreme Court decision, he was only one of hundreds who stood to challenge institutional injustice and racism.

Just as police dogs, lynching and Klan rallies became symbols of white supremacy, the humiliating denial of public accommodations to African Americans was nothing less than "a relic of slavery," to quote Justice Stephen O. Douglas.

"When the state police, the state prosecutor and the state court unite to convict Negroes for renouncing that relic of slavery, the state violates the Fourteenth Amendment," he said.

The high court, which had been ducking issues raised by sit-ins, did not subscribe to the blunt assertions of Douglas. But it did order the Maryland court to review, yet again, the Supreme Court's belief that Bell should not be punished for his "trespass" — because, by then the state had passed an open accommodations law.

The determination of the Court of Appeals to apply what sounds to day like a highly technical, if not blind eye to the case, is another testament to the difficulty encountered by Robert Mack Bell, Thurgood Marshall, Juanita Jackson Mitchell and hundreds of others whose names we do not know.



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