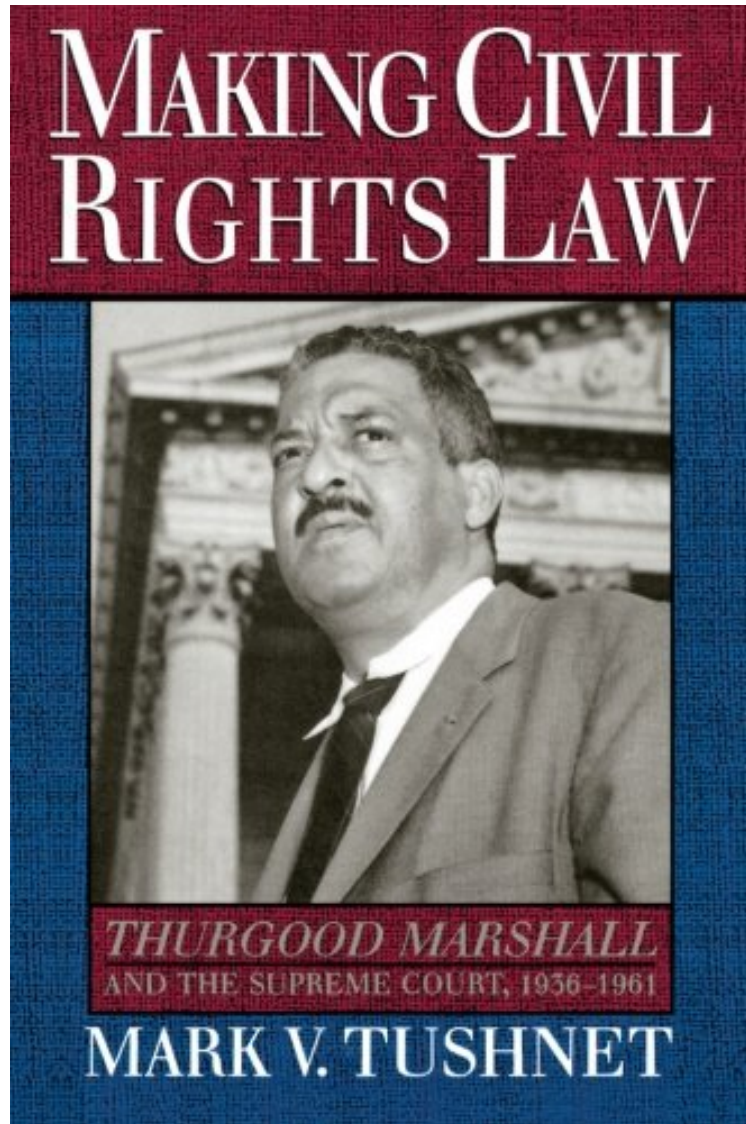


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Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961

Mark V. Tushnet

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Mark V. Tushnet : Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961 before purchasing it in order to gage whether or not it would be worth my time, and all praised Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961:

From the 1930s to the early 1960s civil rights law was made primarily through constitutional litigation. Before Rosa Parks could ignite a Montgomery Bus Boycott, the Supreme Court had to strike down the Alabama law which made segregated bus service required by law; before Martin Luther King could march on Selma to register voters, the Supreme Court had to find unconstitutional the Southern Democratic Party's exclusion of African-Americans; and before the March on Washington and the Civil Rights Act of 1964, the Supreme Court had to strike down the laws allowing for the segregation of public graduate schools, colleges, high schools, and grade schools. Making Civil Rights Law provides a chronological narrative history of the legal struggle, led by Thurgood Marshall and the NAACP Legal Defense Fund, that preceded the political battles for civil rights. Drawing on interviews with Thurgood Marshall and other NAACP lawyers, as well as new information about the private deliberations of the Supreme Court, Tushnet tells the dramatic story of how the NAACP Legal Defense Fund led the Court to use the Constitution as an instrument of liberty and justice for all African-Americans. He also offers new insights into how the justices argued among themselves about the historic changes they were to make in American society. Making Civil Rights Law provides an overall picture of the forces involved in civil rights litigation, bringing clarity to the legal reasoning that animated this "Constitutional revolution", and showing how the slow development of doctrine and precedent reflected the overall legal strategy of Thurgood Marshall and the NAACP.

From Publishers Weekly Though this book covers some of the same ground as more popular histories like Richard Kluger's *Simple Justice*, Tushnet offers a more detailed and nuanced look at the workings of NAACP Legal Defense Fund lawyers and the internal arguments at the Supreme Court. A professor at Georgetown University Law Center, Tushnet draws on a wealth of materials--including newly available documents and interviews with Marshall himself--to provide a substantial, if dry, account for students and scholars. He explains how Marshall and his team at the NAACP moved from voting rights cases to education cases, and how sociological material crucial to *Brown v. Board of Education* was employed in restrictive covenant cases. He also provides a thorough account of the ideas and arguments of the individual justices who heard *Brown*, including the decision to reach the much criticized formulation of desegregation at "all deliberate speed." Marshall, observes Tushnet with judicious admiration, "constructed the job of civil rights lawyer" beginning in 1938, but by the late 1950s, he notes, the growth of a larger movement complete with demonstrations and boycotts made litigation less crucial to the civil rights movement. Copyright 1994 Reed Business Information, Inc. From Kirkus sTushnet (Law Center/Georgetown) offers an absorbing account of the legal struggles, led by Thurgood Marshall, to achieve civil rights for African-Americans. Had Marshall never sat on the US Supreme Court, he would have won an enduring place in American legal history for his work as general counsel to the NAACP Legal Defense Fund, when he helped to create a massive body of civil rights law that at last gave some substance to the Constitution's promises of equality of opportunity and racial justice. Here, Tushnet tells of Marshall's early education under Howard University's Charles Hamilton Houston, who taught Marshall how litigation could be used as a tool for social engineering. Although Marshall tried to carry on a conventional legal practice in Baltimore, he was drawn to the work of the NAACP; by 1936, he was working for the NAACP full-time in New York. Tushnet recounts the NAACP's often unsuccessful struggles in the lower courts, the hostile and sometimes violent resistance met by NAACP plaintiffs and lawyers in the courts of the South, and the long and frustratingly slow processes of developing factual records and arguing appeals. Nonetheless, Marshall and his legal team achieved important results in several areas that were pervaded by racial segregation, in all of which he won victories before the US Supreme Court: desegregating universities; attacking racially restrictive covenants in housing contracts; and challenging rules of parties and private political organizations that allowed only whites to vote in primaries. Yet these victories left intact *Plessy v. Ferguson*, an 1896 Supreme Court precedent that permitted legalized racial segregation. Tushnet devotes most of his account to the long, slow development of the record in *Brown v. Board of Education* (1955), the briefing and argument in that historic case, the Court's decision to overturn *Plessy*, and the stormy, often bloody aftermath. An important and well-told account of the often-neglected legal struggle for civil rights. -- Copyright 1993, Kirkus Associates, LP. All rights reserved. "Dramatic and moving....Replete with new information and insights about Marshall and his times...."--Chicago Tribune