Supreme Court Vacancies

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On June 27, 1991, Justice Thurgood Marshall, the first African American ever appointed to the U.S. Supreme Court, sent a short letter to President George H.W. Bush announcing his retirement from the Court. The announcement gave rise to one of the increasingly rare events in modern politics: a vacancy on the Supreme Court.

In his letter, Marshall stated that “The strenuous demands of Court work and its related duties expected of a justice appear at this time to be incompatible with my advancing age and medical condition.” He added that he would retire “as soon as a successor is qualified.” Retirement announcements are highly infrequent events in the Supreme Court. They are made by justices reluctantly and only after very careful and personal reflection. Marshall’s announcement was no exception and it came just four days before his 83rd birthday. Asked by a newspaper reporter why he was retiring and if he could share some medical facts, Marshall responded: “I am old. I’m getting older and coming apart.” The announcement signaled the culmination of an illustrious career in which the boisterous defender of the Constitution and former civil rights activist served as leader and chief legal strategist for the Legal Defense Fund of the National Association for the Advancement of Colored People (NAACP), judge on the Court of Appeals for the Second Circuit, solicitor general of the United States, and associate justice of the Supreme Court.

Marshall received rapid professional advancement in two Democratic administrations in the 1960s. In September 1961, President John F. Kennedy appointed him to a seat on the Court of Appeals for the Second Circuit over the objection of his brother Attorney General Robert Kennedy who was concerned about the political cost of getting Marshall confirmed in the Senate. Located in New York City with jurisdiction over New York, Connecticut, and Vermont, the Court decides a large number of highly important business and tax cases, so an appointment there is considered a high honor.

Despite fierce opposition from Southern senators who decried Marshall’s activism on civil rights, the Senate confirmed Marshall by a vote of 54 to 16. All 16 nay votes were cast by Southern Democratic senators led by James
Eastland of Mississippi, who suggested that Marshall was unfit to be a federal judge because he was linked to “radical elements” in society. Four years later in 1965, acting upon the suggestion of his attorney general, Nicholas Katzenbach, President Lyndon B. Johnson convinced Marshall to give up his judgeship, along with the security of lifetime employment, and take a pay cut to serve as solicitor general in his administration. There Marshall would represent the U.S. government in the Supreme Court. “I want folks to walk down the hall at the Justice Department and see a [black man] sitting there,” Johnson reportedly said. Marshall was known internationally as “Mr. Civil