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Marshall

OF SINGAPORE



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Marshall

OF SINGAPORE

— A BIOGRAPHY —

Kevin Y L Tan



INSTITUTE OF SOUTHEAST ASIAN STUDIES

Singapore

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Institute of Southeast Asian Studies
30 Heng Mui Keng Terrace
Pasir Panjang
Singapore 119614

E-mail: publish@iseas.edu.sg

Website: <http://bookshop.iseas.edu.sg>

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Foreword

Chan Sek Keong
Chief Justice of Singapore

David Marshall is one of the most famous sons of Singapore. To those who have known him or of him as a politician and as a lawyer during the turbulent period just before Singapore attained internal self-government and up to the period when Singapore became a state of Malaysia, Marshall needs no introduction.

However, that was half a century ago, and the younger generation of Singaporeans today may not appreciate or remember the significant role he played in Singapore politics during this period, even though he might have failed to achieve his goals. To the present generation of lawyers, however, he remains a legend, as accounts of his impressive forensic feats at the criminal bar continue to be passed on by generations of lawyers.

Marshall was a member of one of the smallest communities in Singapore and yet managed to be chosen in 1955 as the first Chief Minister of Singapore. That office came with the responsibility of advancing the cause of self-rule for the people of Singapore. He has been described as an accidental Chief Minister,¹ as he had not set out to hold that office whose powers were framed within a constitutional structure (the Rendel Constitution) that provided only for a gradual constitutional evolution from colony to internal self-government, and then self-government for Singapore.

1 Edwin Lee, *Singapore: The Unexpected Nation* (Singapore: ISEAS 2008), p. 104 et seq.

Independence was not then on the cards. However, Marshall was temperamentally unsuited to accept limitations of this power structure, and by persisting to pursue an unwinnable fight for what the British were not then prepared to concede, had to resign fourteen months later in June 1956. That was the height of his political career. With the expansion in 1959 of the electorate, the political environment changed irrevocably and made it impossible for him to make a comeback as a contender for political power. However, he was a spent force politically, but he continued to air his political views vociferously from the sidelines but was unable to influence or make a serious mark on the political development of Singapore.

Marshall was endowed with many natural gifts, a great intelligence, eloquence and flair for dramatic actions and gestures. However, these gifts were neutralized by a temperament that did not permit him to wait and see, a seeming lack of political craftiness or guile and, most importantly, an absence of political realism in dealing with his political adversaries.

But when it came to the law, he was matchless in his field. Time has not dimmed my mental portrait of Marshall as a man who could have achieved so much for himself and the people of Singapore. At a personal level, I can still recall the few times I had occasion to witness him in action. During my early years as a law student and as a young lawyer, I met Marshall on three or four occasions, all of which were in the company of Tommy Koh:² (1) a visit to a prison in Johor Baru where Marshall interviewed a client (who had been charged with a capital offence): I came away from it with a valuable lesson learnt on how not to put oneself in a position of conflict of interest;³ (2) a visit to his electoral office in a constituency in which Marshall was standing

2 Tommy was one of Marshall's pupils in 1961–62, but he did not stay on to practise law.

3 At a certain point during the interview, he stopped the client from giving a statement (which Marshall sensed) would be difficult for him to defend the client.

for a by-election and (3) a weekend visit to his home in Tanah Merah.⁴ Being a young lawyer, I could not help but be impressed by his stature as a lawyer, his fame as a politician and his apparent style of living as a bon vivant.

As a criminal lawyer, Marshall was a legend even at the time I started law studies in 1957. His previous political office as Chief Minister merely added to the lustre. His prestige and reputation at the Bar and with the Bench were unrivalled. There were certainly many young lawyers who dreamed of being another Marshall at the Bar. Even in civil work, he could be the best at the Bar, if properly briefed. I was once unsuccessful in the High Court in defending a client who had been sued for selling unmerchantable goods to a German animal feed company. There was a conflict of laws element in the case, i.e., whether German law applied to the contract of sale. My firm briefed Marshall for the appeal, and he had no difficulty in persuading the Federal Court that there was no breach of contract.⁵ In internal security (preventive detention) cases, he was the first port of call for practically all detainees who could pay his fees. Unfortunately he could not provide a safe harbour for them. This was all the more ironical since it was he as Chief Minister who had introduced the predecessor legislation in Singapore.⁶ But if Marshall could not get them off, then no other lawyer could.

To many lawyers, he was a heroic figure in his unsuccessful opposition to the Government's policy to abolish the jury in 1970. It was a battle he could not win and which, I believe, lost him some credibility. I was present at a discussion on the subject organized by

4 Where he used to invite his friends, admirers and acolytes for food, drink and discussions on whatever subjects that fancied him.

5 On the ground that the appellant was not in breach of contract as the flour was merchantable under Singapore law, even though it might not have been so in Germany under German law. See *Seng Hin v. Arathoon Sons Ltd* [1965–1968] SLR 293.

6 The Preservation of Public Security Ordinance, Ordinance No. 25 of 1955.

the Law School in the University of Singapore. Marshall was, of course, the star speaker. When a participant questioned him why he was so sure that abolishing the jury was bad for Singapore, he promptly replied that it was not necessary to break open a bad egg to know that it was a bad egg. His ability for quick repartee did not serve him well on occasions like this.

Marshall was a man of many talents. He had the innate intelligence, ability and drive to achieve great things for Singapore, but many obstacles stood in his way, the chief of which were probably his own character, beliefs and ideals which did not wholly resonate with the electorate of the time. But though he has left no tangible political legacy behind, he is still remembered as a pathfinder and a fierce anti-colonialist who did his best to accelerate the passing of colonialism in Singapore.

Marshall is now an indelible part of the history of Singapore. But time fades memory. To the succeeding generations of Singapore born after 1965, David Marshall might be just a name which appears in the school texts on the modern history of Singapore as he effectively ceased to be in the public consciousness when he left Singapore in 1978 to become Singapore's first Ambassador to France. When he returned to Singapore in 1993 upon his retirement, he was a stranger to the younger generations of Singaporeans.

This publication of this biography is therefore timely not only to remind the young Singaporeans of a gifted Singaporean whose political missteps had a silver lining in paving the way for others to achieve the goals that eluded him, but also to serve as a fitting memorial in the centenary year of his birth. This biography tells the story of an extraordinary Singaporean who lived a full and eventful life in the course of which he attained the highest political office, became the most famous lawyer of his time and excelled as an ambassador to round up his public achievements. It is also worth reading for the many other facets of his personal and family life, all of which the author has documented and recounted with passion, as he has written, worthy of his subject.

Preface

I first met David Marshall when I was a student at the Law Faculty at the National University of Singapore at Kent Ridge on 10 September 1984. He was back from France on a holiday and had been invited to address the Law Club of which all law students were automatically members. Of course, we had all heard of David Marshall long before. For myself, I first learnt his name when I was about 10 or 11 years old when I was given an assignment to find out about Singapore's political history for my Scout Civics Proficiency badge test.

That afternoon, some 200 of us packed the Moot Court to hear this legal legend. Those of us who were there never forgot the occasion. He started out by attacking women, chiding them for their temerity in not speaking out more forcefully against the Graduate Mothers' Scheme. He thought it was barbaric. Where is "the chilli padi in your veins?" he challenged. He then spoke to us about how honourable the law is as a profession, how we should not grow up with "gold dust coursing through" our veins. The women were furious and politely told him that he was wrong, that they were up in arms but that the government was not listening. And then he turned on his charm. "Don't be mistaken," he told us, "I don't have anything against women. I love women." The crowd roared and his point was made. Like so many of the others, I fell under the spell of David Marshall. I felt like I was hit by a cyclone while the volcano I stood on erupted beneath me. Many of my classmates still talk about that memorable occasion. David Marshall so inspired us that we all wanted to go out there and change the world!

While Marshall made a tremendous impact on us that afternoon, I fear we made little impact on him. Indeed, we succeeded in sending

him into a temporary state of depression! That night, he wrote in his diary:

To Legal Club of NUS [*sic*]. Some 200. Addressed them ... impression of measure of fear ... depression ... Unable to sleep for a long time. Decided to close the book on “political” activities. No more public expression on political issues.

I was so impressed with David Marshall that immediately I went up to him after his talk and introduced myself. I was then the Chief Editor of the *Singapore Law Review* and took the opportunity to ask him for an article for our fledgling publication. To my surprise, he readily agreed and gave us a most entertaining and instructive article on legal ethics which we happily published. Over the years, I met him again, on and off, usually at official law functions, but I never really knew the man. Like so many others, I cheered him from the sidelines when he lambasted the press, pleaded for the government to be more humane, and urged young people to smell the roses and learn to appreciate the finer things in life. Like so many others, I mourned when he died.

Given this experience, I readily agreed when the Director of ISEAS, Ambassador K Kesavapany, approached me towards the end of 2006 to write Marshall’s biography. After all, David Marshall was one of my greatest inspirations, and I have long felt that a thorough treatment of his fascinating life was long overdue. Do we really need another book about David Marshall? After all, he has already been the subject of at least two book-length treatments, and numerous articles and interviews. As a scholar, my first instinct was to dash down to the library and do a quick search of the prevailing literature. I had to be sure that I would not simply end up rehashing work already done by others.

Biographically, Marshall has been especially well-served. Indeed, one of the best biographies to be published in Singapore is Dr Chan Heng Chee’s *A Sensation of Independence: A Political*

Biography of David Marshall (Singapore: Oxford University Press, 1984). However, these biographies cover only a part of Marshall's long life and career. Chan's book for example, focuses on Marshall's political career (mainly between 1950 and 1963), as does a slightly earlier work, Alex Josey's *David Marshall's Political Interlude* (Singapore: Eastern Universities Press, 1982). Alex Josey also wrote a journalistic book, *David Marshall's Trials* (Singapore: Times Books International, 1981) containing quite a few but featuring four of Marshall's more interesting and sensational criminal cases. None of these studies offer a comprehensive study of Marshall's life from the time he was born till his death in 1995. Chan's biographical sketch in the opening chapters of her book is perhaps the best to date, but she devotes only 50 pages to his early life and since her focus was primarily on his political career, spilled little ink on his post-political life.

I was most privileged to have had full access to the David Marshall Papers which the Marshall family donated to ISEAS. Going through each document in the 500-odd folios took me many months, not to mention some forensic detective work, especially when it came to reading Marshall's beautifully flamboyant but infuriatingly illegible handwriting.

This is not an official or authorized biography even though Mrs Jean Marshall gave me almost unfettered access to Marshall's diaries and his papers. Fascinating as the diaries were, I have used them judiciously, mindful of the great diarist James Lees-Milne's admonition that the diarist is but "an irrational being, a weathercock, a piece of chaff drifting on every wind of circumstance". Beyond this incredible archive of papers — much of which his previous biographers were not privileged to consult — I interviewed many people who knew him, and who worked with him. Then there are his numerous speeches — inside and outside the Legislative Assembly — and the many delightful interviews he gave in the course of his long years.

Did I discover any myth-shattering, mind-blowing material that will change how we see this great man? No, not really. What I have found does not fundamentally change the man as we know and remember him. But the devil, as they say, is in the details. I managed to catch a glimpse of his thought processes, of the way he ran his practice, his philosophy about life, the law and a whole host of other things, and above all, his spirit of service. We are not just talking about the public service we have come to know, but small things we often don't hear about, like helping the liftman in the Bank of China Building to find his brother a job, or writing to friends in the UK and elsewhere to get them to take care of his friends from Singapore who were visiting. These little acts of kindness demonstrate the sincerity and genuineness of Marshall's entire make-up. He loved people, believed everyone to be of equal worth and treated them accordingly. Many have asked me if my view of David Marshall has changed in the course of my working on this volume. After all, it is terribly difficult to write about a legend one admires. My answer is this: "The more I know about him, the more human he becomes. He was no saint or angel, but despite his shortcomings, he transcended so much, to bring such joy to so many."

What would Marshall have thought about what I'm writing? I don't know, but I shudder just thinking about it. When asked, some years ago, whether he would write an autobiography, he was at his most acerbic. "No," he said, "most autobiographers are hypocrites seeking to justify their actions. They cannot confront and handle the truth because it is painful." And what about biographers? Well, in his own words: "I think in respect to the late Alex Josey, he was flat-footed. Heng Chee is as cold as a surgical instrument. There isn't anybody who has caught the fire in my belly, the passion, the intense excitement, the capacity within me to throw myself into the turmoil willy-nilly and to risk surviving."

I hope I have done justice to the enormity of the responsibility placed upon me by this biography. I hope that I shall be able to

capture that “chilli padi” in his veins, that “fire in the belly” and the intensity with which he lived life to the fullest. At any rate, I have, as Marshall would have liked, thrown myself willy-nilly into this project with all the passion I could muster.

Kevin Y L Tan
September 2008