



Journal of the TEXAS SUPREME COURT HISTORICAL SOCIETY

Spring 2026 Vol. 15, No. 3 Editor Emerita Lynne Liberato Editor-in-Chief Hon. John G. Browning

Columns

Message from the President

By Jasmine S. Wynton

This Journal reflects the core mission of the Society: to preserve and examine the stories, institutions, and ideas that shaped Texas law.

[Read more...](#)



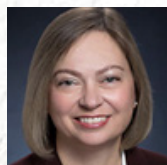
Jasmine S. Wynton

Executive Director's Column

By Sharon Sandle

The deliberate choice to look, to preserve, to bring forward what would otherwise be lost is the work of the Texas Supreme Court Historical Society.

[Read more...](#)



Sharon Sandle

Fellows Column

By Warren W. Harris

Our Fellows Dinner may be the best benefit of being a Fellow. Each year, we gather with the Justices of the Texas Supreme Court.

[Read more...](#)



Warren W. Harris

Editor-in-Chief's Column

By Hon. John G. Browning

When I'm not writing about legal history, I spent considerable time researching and writing about law and technology—particularly artificial intelligence.

[Read more...](#)



Hon. John G. Browning

Leads

Constitutional Moments from the Mayflower Compact to Sam Houston's 1833 Texas Constitution - Part I

Text and Photos by David A. Furlow
Constitutionalism, a way of thought, requires lawyers, judges, scholars, politicians, and citizens to think about the ways that laws structure societies.

[Read more...](#)

The Affinity of Lawyers & History: The Dallas Bar Association's Legal History Discussion Group as a Case in Point

By Josiah M. Daniel, III

The irreducible elements of the subject matter of the field of *legal history* are not only the *law* but also the *lawyer* and the *judge*

[Read more...](#)



Two High Courts: History, Debate, and Reform

By Ben L. Mesches

One feature of the Texas judicial system stands out. The Supreme Court of Texas has final appellate jurisdiction in civil disputes. In criminal matters, the Court of Criminal Appeals does.



[Read more...](#)

William Henry Burges, Pioneering El Paso Lawyer

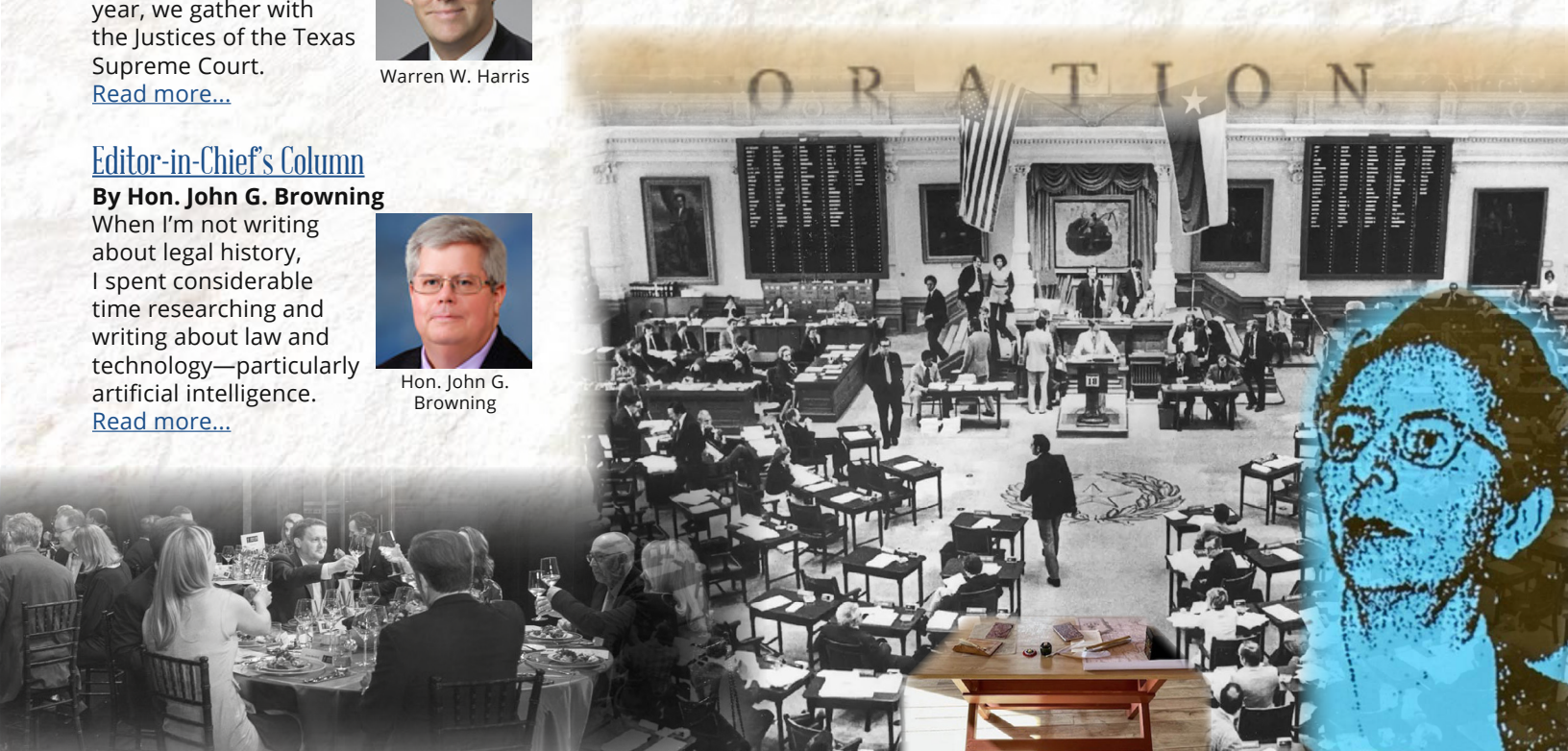
By Hon. John G. Browning

Sometimes, a figure in Texas history comes along who seemingly embodies the place and era from which they hail. Such is the case with attorney William Henry Burges, whose history is largely the history of El Paso between 1889 and 1946.

[Read more...](#)



William Henry Burges



Book Reviews

[Book Review - *The Texas Civil Rights Project: How We Built a Social Justice Movement*](#)

Book Review by Hon. John G. Browning

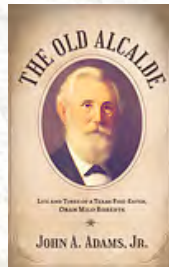
Author Jim Harrington has delivered a first-person account of the legal history of the ongoing struggle for civil and human rights in Texas. [Read more...](#)



[Book Review - *The Old Alcalde: Life and Times of a Texas Fire-Eater, Oran Milo Roberts*](#)

Book Review by Hon. John G. Browning

This new biography by historian John A. Adams merits its spot at the head of the renaissance of interest in Oran Roberts. [Read more...](#)



News & Announcements

[Texas Forever: The Society Covers a Century of Early Texas Law at TSHA's 2026 Annual Meeting](#)

Text and Photos by David A. Furlow

The Society presented *Texas Forever: Law from the Villa de San Felipe 1836 Courthouse through Texas's 1876 Constitution* at TSHA's 130th Annual Meeting. [Read more...](#)



[And the 2026 Larry McNeill Research Fellowship in Texas Legal History goes to... Jody Edward Ginn, Ph.D.](#)

Text and Photos by David A. Furlow

The Texas State Historical Association awarded Texas Rangers historian Jody Edward Ginn, Ph.D. its prestigious 2026 Larry McNeill Fellowship in Legal History. [Read more...](#)



Dr. Jody E. Ginn

[Texas Appellate Hall of Fame Nominations](#)

The Appellate Section is now accepting nominations for the Texas Appellate Hall of Fame. [Read more...](#)

[John Hemphill Dinner](#)

The 31st Annual John Hemphill Dinner will be held Thursday, September 10—rather than Friday, in observance of Rosh Hashanah—in Austin's Four Seasons Hotel. [Read more...](#)

["More than a License on the Wall": Sharon Sandle Celebrated the Life of Mary Joe Carroll at TSHA's Women's History Luncheon](#)

Text and Photos by David A. Furlow

Our society's Executive Director, Sharon Sandle, shared the story of pioneering woman attorney Mary Joe Carroll during the TSHA's Annual Meeting. [Read more...](#)



Mary Joe Carroll

Membership & More


[Officers, Trustees & Court Liaison](#)

[2025-26 Member Upgrades](#)

[2025-26 New Member List](#)

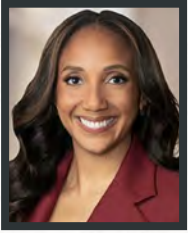
[Join the Society](#)

 @SCOTXHistSoc

 FB: Texas Supreme Court Historical Society

© 2026 Texas Supreme Court Historical Society





Jasmine S.
Wynton

Message from the *President*

This Spring Issue reflects the core mission of the Texas Supreme Court Historical Society: to preserve and examine the stories, institutions, and ideas that shaped Texas law and, in turn, Texas itself. The authors featured here remind us that legal history is not merely about old cases or remote controversies. It is about understanding how lawyers, judges, constitutions, and courts have influenced the civic life of our state across generations.

The contributions in this issue reflect that mission from several perspectives—structural, institutional, and biographical. Ben Mesches begins by examining the origins and continuing debates surrounding Texas’s distinctive bifurcated high-court system, tracing both the practical concerns and constitutional tensions that have accompanied it for nearly 150 years. Josiah Daniel then explores the natural affinity between lawyers and history, while chronicling the remarkable success of the Dallas Bar Association’s Legal History Committee in promoting serious historical inquiry among practicing lawyers and judges.

David Furlow’s richly researched article carries readers from Magna Carta and the Mayflower Compact to the constitutional traditions that ultimately influenced early Texas constitutional thought. His work reminds us that Texas legal history does not stand apart from broader Anglo-American constitutional development, but is deeply connected to it. Judge John Browning’s portrait of William Henry Burges restores to view a complex and consequential lawyer whose career mirrored the growth and contradictions of early El Paso and the Texas borderlands. Through Burges, we see how individual lawyers can leave lasting marks on both local communities and the broader development of the law. The scholarship in this issue demonstrates the enduring value of careful historical research grounded in primary sources, thoughtful analysis, and intellectual curiosity. It also reflects the important role this Journal continues to play in bringing together historians, lawyers, judges, and readers who share an interest in the legal history of Texas.

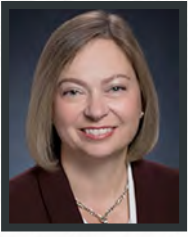
Looking ahead, the Society will commemorate the 150th anniversary of the Texas Constitution at this year’s annual Hemphill Dinner. The 31st annual Hemphill Dinner will be held on Thursday, September 10, 2026—rather than its traditional Friday evening, in light of the Rosh Hashanah holiday—in the Grand Ballroom of the Four Seasons Hotel in Austin. The evening will

feature a toast to the Texas State Constitution by Justice Evan Young, along with a panel discussion with Justice Rhonda Wood of the Supreme Court of Arkansas, Beth Walker, former Chief Justice of the Supreme Court of Appeals of West Virginia, and Eva Guzman, former Justice of the Supreme Court of Texas, moderated by Lynne Liberato. Together, the panelists have explored the role of state high courts and state constitutions on Walker's *Lady Justice* podcast.

As I conclude my service as president of the Society, I am grateful to the editors, contributors, trustees, fellows, and members whose dedication sustains this work. Serving as president has given me a deeper appreciation for the people and shared commitments that make this Society what it is. It has also underscored for me a larger point: at its core, preserving legal history is an act of civic stewardship. That is why the Society's work remains so important: it ensures that the institutions and traditions we inherit are not forgotten or taken for granted. It has been an honor to serve you, and I look forward to seeing you at this year's Hemphill Dinner!

Thank you,
Jasmine Wynton

[Return to Journal Index](#)



Sharon Sandle

Lawyers, History, and the Duty to Remember

This past spring, I had the privilege of speaking at the Texas State Historical Association's Women in Texas History Luncheon. As I prepared my remarks, I felt a particular kind of anxiety that I suspect anyone would recognize: I was going to stand up in front of a room full of historians and tell them something about one of their own. Mary Joe Carroll was known to many in that room as an associate editor of the *Handbook of Texas* and a serious contributor to preserving Texas history. What I hoped to add was a dimension of her story they might not know as well: that Carroll was also a pioneering Texas lawyer whose achievements as a member of the Texas Bar were as remarkable as her contributions to historical scholarship.

What I found as I prepared my remarks was that the two sides of Carroll's story illuminated each other—that understanding her as both lawyer and historian made her a more complete and more remarkable figure. And that experience brought into sharp focus something I have come to believe more firmly as I have worked in legal history: lawyers and historians have more in common than either profession sometimes acknowledges. Both disciplines are, at their core, about looking backward. Lawyers are trained to look over their shoulders—to reach into the past to resolve the present.

But for all that training in looking backward, the official record that lawyers preserve is often a narrow one. The human stories behind the law, the individuals who shaped its development, the communities the law failed or served, often fall outside the formal canon and, without deliberate effort, disappear. This issue of the *Journal* is a reminder of just how much remains to be recovered. Ben Mesches pulls back the curtain on a quirk of Texas judicial structure that most Texans—and many Texas lawyers—have never stopped to examine: our unique bifurcated system of courts of last resort, with its long history of debate and unrealized reform. David Furlow traces an unexpected constitutional thread from the Plymouth Colony to Sam Houston's 1833 Texas Constitution, recovering an influence that the standard account of Texas legal history has largely overlooked. John Browning rescues William Henry Burges—a pioneering El Paso lawyer of genuine consequence—from the obscurity into which he had quietly faded. And Josiah Daniels makes the case that lawyers have both a special affinity for historical inquiry and a special obligation to pursue it. Each of these articles illuminates a corner of Texas legal history that the official record, left to itself, does not capture.

Daniels's article takes its inspiration from the Dallas Bar Association's Legal History Discussion Group, which stands as a model of the kind of deliberate effort that fills the gap between the law's official memory and the full story of its development. That a bar association would commit not just to practicing the law but to understanding its own history is a meaningful act.

Carroll herself embodied that understanding as fully as anyone. She was born before women had the right to vote. She was licensed to practice law before women could sit on Texas juries. She became the first woman named a partner at a major Texas law firm—all of this before women had any meaningful civil rights protections. As the high scorer on the Texas Bar Exam in 1955, she told the State Bar of Texas: "Being a lawyer is a great deal more than having a license to hang on the wall. The practice of law can and should be the exercise of the highest type of good citizenship." As her work on the *Handbook of Texas* makes clear, Carroll understood that preserving the historical record was itself an act of citizenship. The lawyer's backward glance and the historian's are not so different after all. Her story had been largely invisible until the TSHA luncheon brought it into public view, a reminder that even figures of genuine significance can slip from view without someone making the deliberate choice to look.

The deliberate choice to look, to preserve, to bring forward what would otherwise be lost is the work of the Texas Supreme Court Historical Society. The articles in this issue are each, in their own way, an act of recovery. They remind us that looking backward is not enough if we only look at what the official record has already preserved. The fuller history requires the kind of active, intentional effort that this Journal represents, and there are more stories waiting to be found.

[Return to Journal Index](#)

Fellows Column

By Warren W. Harris, Chair of the Fellows



Our exclusive event, the annual Fellows Dinner, may be the best benefit of being a Fellow. At the beginning of each year, the Fellows gather with the Justices of the Texas Supreme Court for a collegial dinner. We always choose a unique Austin venue, and the locations for past dinners have included the Blanton Museum of Art, the Texas Lieutenant Governor's private dining room in the State Capitol, the Bullock Texas State History Museum, the Frank Denius Family University of Texas Athletics Hall of Fame, the Bauer House, the Lyndon Baines Johnson Presidential Library, the Harry Ransom Center at The University of Texas, and most recently the Zach Theater in Austin. The attendees always comment on the dinner's elegance, uniqueness, and fellowship.

The 2026 Fellows Dinner was one of our most special dinners to date. The Justices from the Texas Supreme Court joined the Fellows in February on stage at the Zach Theater for a wonderful evening of history, dinner, and conversation. The reception was held in the Serra Skyline Lounge, which may be the best view in Austin! This intimate lounge is perched high above the tree tops and features a beautiful view of the city skyline. It was a special treat for dinner to be on stage at The Topfer at Zach Theater among the props for Agatha Christie's *Murder on the Orient Express*. I would like to give special thanks to Justice Harriet O'Neill, who arranged the venue for the dinner. Without her this unique event would not have been possible.

This dinner also featured remarks to the group from Chief Justice Blacklock. We were delighted that Chief Justice Hecht was also in attendance because he and Judge Priscilla Richman recently joined as Hemphill Fellows.

At the Fellows Dinner we have a tradition of having the wines for the evening provided by Fellows. I would like to thank Justice Harriet O'Neill and Kerry Cammack, Lauren Harris, and Tom Hetherington for providing the evening's special wines.

We appreciate Justice Bland, a Fellow and the Court's liaison to the Society, for coordinating the dinner scheduling so that the Justices could attend. The photos below will give you some sense of the special evening.

We are pleased to welcome our newest Fellows, Hon. Priscilla Richman, Hon. Nathan L. Hecht, and Hon. Jeffrey S. Boyd who recently joined as Hemphill Fellows and Alex Bell and Richard

Hollenbeck who recently joined as Greenhill Fellows. We are excited to have them as Fellows and appreciate their generous support of our group.

The Fellows are a critical part of the annual fundraising by the Society and allow the Society to undertake projects to educate the bar and the public on the third branch of government and the history our Supreme Court. A major educational project of the Fellows is "Taming Texas," a judicial civics program for seventh-grade Texas History classes.

If you are not currently a Fellow, please consider joining the Fellows and helping us with our important work. If you would like more information, please contact the Society office or me.

TSCHS Fellows Dinner 2026

Photos by Mark Matson



Dinner on the Zach Theatre's Topfer stage



Chief Justice Jimmy Blacklock and Skip Watson



Justice Evan Young



Former Justice Dale Wainwright, Justice Kyle Hawkins,
and Justice Brett Busby



Nubia and Justice
John Phillip Devine



Former Chief Justice Nathan Hecht and
Judge Priscilla Richman



Justice Jane Bland and
Doug Bland



Justice James Sullivan, Justice Debra Lehrmann, and former Justice Dale Wainwright



Former Chief Justice Nathan Hecht, Kerry Cammack, Justice Kyle Hawkins, and Jeff Oldham



Justice Rebeca Huddle and former Chief Justice Nathan Hecht



Warren Harris and Tom Hetherington



Kerry Cammack, Judge Priscilla Richman, and former Chief Justice Nathan Hecht



Warren Harris, Chief Justice Jimmy Blacklock, and Jessica Blacklock

FELLOWS OF THE SOCIETY

Hemphill Fellows

(\$5,000 or more annually)

David J. Beck*
Hon. Jeffrey S. Boyd
David E. Chamberlain
Lauren and Warren Harris*

Hon. Nathan L. Hecht and Hon. Priscilla Richman
Joseph D. Jamail, Jr.* (deceased)
Thomas S. Leatherbury
Richard Warren Mithoff*

Greenhill Fellows

(\$2,500 or more annually)

Stacy and Douglas W. Alexander
Marianne M. Auld
Alex Bell
Hon. Jane Bland and Doug Bland
Hon. Christina Bryan and J. Hoke Peacock III
E. Leon Carter
Hon. John H. Cayce
Joshua and Mindy Davidson
Harry L. Gillam, Jr.
David A. Furlow
Joe Greenhill
Marcy and Sam Greer
William Fred Hagans
Mary T. Henderson
Thomas F. A. Hetherington
Jennifer and Richard Hogan, Jr.
Richard Hollenbeck
Dee J. Kelly, Jr.*
Hon. David E. Keltner*

Lynne Liberato*
Ben L. Mesches
Jeffrey L. Oldham
Hon. Harriet O'Neill and Kerry N. Cammack
Connie H. Pfeiffer
Hon. Thomas R. Phillips
Hon. Jack Pope* (deceased)
Russell S. Post
Shannon H. Ratliff*
Harry M. Reasoner
Robert M. (Randy) Roach, Jr.*
Professor L. Wayne Scott* (deceased)
Macey Reasoner Stokes
Tracy C. Temple
Cynthia K. Timms
Hon. Dale Wainwright
Charles R. Watson, Jr.
R. Paul Yetter*

*Charter Fellow

[Return to Journal Index](#)



Hon. John G.
Browning

AI and Legal History: A Mixed Outlook

When I'm not researching and writing about legal history, I spent a considerable amount of time researching and writing about law and technology—particularly artificial intelligence. Or, as my wife likes to describe it, I have one foot in the past and the other foot in the future (while she'd prefer to have me more in the present). But can AI be put to good use to make legal history more accessible? I've spent enough time digging through musty old archives and obscure library collections to hope so.

So, I was thrilled to read renowned constitutional scholar and law professor Orin Kerr's wonderful recent article on [Reason.com](https://www.reason.com), "How AI Tools Can Help with Legal History Research." In it, he describes how using AI tools like Claude can assist with not only summarizing works by giants like Blackstone, but also tracing the sources that Blackstone relied on as well as locating and translating the medieval Latin and French texts that informed them. Kerr points out that AI can make it easier "for lawyers and law clerks to do research into 18th Century legal understandings that are relevant to originalist approaches to constitutional interpretation." At the same time, however, Professor Kerr also cautions that "AI tools can hallucinate, and they say all sorts of things with supreme confidence that may just be completely wrong."

However, hallucinations are not the only danger manifested by AI to historians. Recent reporting by such media outlets as *The New York Times*, *Inside Higher Ed*, and *Fortune* magazine has described how the Department of Government Efficiency (DOGE) relied extensively on AI, particularly tools like ChatGPT, to identify National Endowment for the Humanities (NEH) grants that supposedly violated Trump administration orders against DEI. According to multiple articles, DOGE employees with no experience in academic research or the humanities used crude ChatGPT prompts like "Does the following relate to DEI?" to make "rushed" and "chaotic" funding termination decisions that led to the termination of 97 percent of the NEH's grants. As a result, by April 8, 2025, more than \$100 million in support was cancelled for mostly previously approved grants. These included a longstanding grant that digitized Black newspapers and added them to a historical database, a 40-volume scholarly series on the history of American music, and an effort to catalog and digitize the papers of British Revolutionary War general Thomas Gage. All of these were, according to DOGE, guilty of "promoting inclusivity and diversity in historical research."

The embattled NEH, since its creation in 1965, has awarded more than \$6.5 billion to support more than 70,000 projects. These range from smaller, more localized history-related efforts to

Ken Burns' milestone documentary *The Civil War*. But thanks to ChatGPT, DOGE cancelled a grant funding a documentary about the 1873 Colfax, La. massacre of dozens of Black men by Ku Klux Klan members ("too D.E.I."), as well as a \$349,000 grant to replace a museum's failing HVAC system (apparently, air conditioning is also "too DEI").

As a result of those cuts that effectively gutted the NEH's budget, at least two lawsuits have been filed against the agency along with DOGE, arguing that the sweeping cuts were driven by a discriminatory policy that violated the First Amendment and equal protection constitutional guarantees of the grant recipients. Plaintiffs in these suits include the American Historical Association, the American Council of Learned Societies, the Authors Guild, and the Modern Language Association. They are seeking not only reinstatement of the grants but also want to expose the motives and acts that they view as a betrayal of the NEH's mandate to respect "the diverse beliefs and values" of all Americans.

Eliminating wasteful government spending is a worthy goal, but one better suited to a scalpel rather than a chainsaw. It certainly demands thoughtful consideration, as opposed to "rushed" and "chaotic" decision making aided by a flawed use of tools like ChatGPT. AI should be used to help use, preserve and understand history, not to erase it.

In this issue, we continue our commitment to Society members to bring you scholarly looks at neglected or overlooked aspects of Texas legal history. Our Spring 2026 edition includes Ben Mesches' fascinating look at Texas' virtually unique bifurcated system of courts of last resort, answering the question "Why is there a Texas Court of Criminal Appeals?" We also bring you Josiah Daniels' illuminating essay on the history of a sister organization, the very active Dallas Bar Association Legal History Section (a group that I'm proud to serve as both a charter member and as a vice chair). The tireless David Furlow provides us with not only his look at this year's TSHA Meeting and the robust presence of our Society at this stellar event (including the presentation of the Larry McNeill Legal History Fellowship), but also his thought-provoking narrative of the Plymouth Colony's influences on the legal history of the Lone Star State. We are also delighted to feature my modest tribute to the life and work of El Paso legal pioneer William Burges, and of course our recurring columns, news coverage, and book reviews. Enjoy!

[Return to Journal Index](#)

Constitutional Moments from the Mayflower Compact to Sam Houston's 1833 Texas Constitution

• Part 1 •

Text and Photos by David A. Furlow

The life of Anglo-American constitutionalism arose in a series of constitutional moments. This article connects those moments together by linking Magna Carta (1215) with the Mayflower Compact (1620), Plymouth Colony's *General Fundamentals of the Jurisdiction of New-Plymouth* (1636), John Adams' Massachusetts Constitution (1780), Massachusetts-born Asa Brigham, and Sam Houston's draft constitution for an independent Mexican state of Texas (1833).

Constitutional Moments Have Long Shaped American Constitutionalism

Constitutionalism, a way of thought, requires lawyers, judges, scholars, politicians, and citizens to think about the ways that laws structure societies. Dr. William J. Chriss, the author of *Six Constitutions over Texas: Texas' Political Identity, 1830-1900* and a trustee in this Society, has addressed the importance of constitutions and constitutionalism in his book:

What is a constitution? Attorneys see it as a law that limits a state's actions. For political scientists beginning with Plato and Aristotle, constitutions, as the literal meaning of the word implies, organize a community. Historians may take this a step further. Constitutions are important artifacts shedding light on the ideologies and thought worlds of those who produce them. Both the artifacts and the ideologies change over time.¹

As historians, we must examine every constitution in the context of its place and time.

When a group of dedicated people devote unusually high levels of sustained attention to rethinking their rights, duties, and relationships with one another, their decisions can give rise to a "constitutional moment" that transforms politics, legal systems, and society at large. Yale University Law School Professor Bruce Ackerman coined that term to describe the drafting of foundational documents during flashpoints of dramatic political and social change.² Between 1865 and 1870, the congressional enactment and states' ratification of the Thirteenth, Fourteenth, and Fifteenth

¹ William J. Chriss, the author of *Six Constitutions over Texas: Texas' Political Identity, 1830-1900* (College Station: Texas A&M University Press, 2024), xiii.

² In *We the People: Foundations* (Cambridge: Belknap Press, 1991), Bruce Ackerman developed the legal concept of "constitutional moments." See Michael J. Klarman, "Constitutional Fact/Constitutional Fiction: A Critique of Bruce Ackerman's Theory of Constitutional Moments," *Stanford Law Review* 44, 3 (Feb. 1992): 759-797; Walter Dean Burnham, "Constitutional Moments and Punctuated Equilibria: A Political Scientist Confronts We the People," *Yale Law Journal* 108, 8 (June 1999): 2237-2277; Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (N.Y.: W.W. Norton & Co., 1983). See also Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge: Harvard Univ. Press, 1967). See also Chriss, *Six Constitutions*, xiii.

Amendments ended slavery, redefined citizenship, protected equal protection and due process, and prohibited race-based voting discrimination. Federal troops occupied southern states, controlled their legislatures, and ensured that they ratified amendments their citizens opposed.³

Constitutional moments do not apply only to events after the 1789 ratification of the U.S. Constitution, however. The idea works equally well when applied to earlier events. Constitutional moments are rare because life usually goes on pretty much as before. Constitutions, statutes, and ordinances remain the same or evolve through minor amendments. But sometimes, the old rules cease to apply. A major military defeat, a rebellion, or a religious upheaval can convince a majority of people in a given place and time to seek new solutions. On rare occasions, visionaries become statesmen. Adoption of a constitution, a mega-contract among interested individuals and institutions, exemplifies a constitutional moment.⁴

The late University of Houston Political Science Professor Donald S. Lutz examined eighteenth century state constitutions that preceded the U.S. Constitution, then identified the foundational elements common to them all. "Put most simply and directly, the early state constitutions all contain the following foundation elements: (1) an explanation of why the document is needed; (2) the creation of a people; (3) the creation of a government; (4) a self-definition of themselves as a people, their common values, rights, and interests; and (5) the specification of a form of government, which includes an outline of its institutions and the fundamental principles underlying them."⁵ Even earlier, seventeenth century colonists drafted charters, compacts, and constitutions based on religious covenant theology understood as arising from the relationship between God and a group of colonists rather than from a state of nature.⁶

New England constitutionalism began with two "constitutional moments": first, the signing of the *Plymouth Combination* (reabeled the *Mayflower Compact*), at the northern tip of Cape Cod on November 11, 1620, Old Style; and second, the enactment of the *General Fundamentals of the Jurisdiction of New-Plimouth* in the colony's meetinghouse and church, in Plymouth, on November 1, 1636.

A Constitutional Moment at Cape Cod in 1620: The Signing of the Mayflower Compact

Before the Pilgrims left Leiden, Holland, to come to America, their congregational minister, Reverend John Robinson, advised them what to do once they reached America: they must "knit [themselves] together as a Body, in most strict and sacred Bond and Covenant of the Lord, of the violation whereof we make great conscience, and by virtue whereof, [to] hold ourselves strictly tied to all care of each other's goods, and of the whole."⁷ Robinson urged them to organize

³ Bruce Ackerman, *We the People: Transformations*, vol. 2 (Cambridge, Mass.: Belknap Press (Harvard Univ. Press), 1998), 19-20, 110-11, 279-382.

⁴ Chriss, *Six Constitutions*, 217.

⁵ Donald S. Lutz, "From Covenant to Constitution in American Political Thought," *Publius* (Autumn 1980): 101-103, 103.

⁶ *Ibid.*, 103; Cushing Strout, *The New Heavens and the New Earth: Political Religion in America* (New York: Harper and Rowe, 1974), chap. 4.

⁷ Jacob Bailey Moore, *Lives of the Governors of New Plymouth, and Massachusetts Bay, from the Landing of the Pilgrims at Plymouth in 1620, to the Union of the Two Colonies in 1692* (Boston: C.D. Strong, Pub., 1851), 24 n.5. See also Nathaniel Philbrick, *Mayflower: A Story of Courage, Community, and War* (New York: Viking/Penguin 2006), 41 ("Written with crystalline brevity, the Compact bears the unmistakable signs of Robinson's influence...").

themselves into a “body politic” by crafting an instrument of civil government akin to the charters that governed England’s boroughs (towns):

Lastly, whereas you are become a body politic, using amongst yourselves civil government, and are not furnished with any persons of special eminence above the rest, to be chosen by you into office of government; let your wisdom and godliness appear, not only in choosing such persons as do entirely love and will promote the common good, but also in yielding unto them all due honour and obedience in their lawful administrations.⁸

When they reached Cape Cod, the *Mayflower* Pilgrims followed Reverend Robinson’s advice.

In Cape Cod Harbor (now known as Provincetown Harbor), at the northern tip and on the lee side of Cape Cod, the *Mayflower* Pilgrims woke before the sun rose on November 11, 1620 to face sandy bluffs and stands of wind-bent trees in a broad, expansive bay. According to *Mourt’s Relation (A Relation or Journall of the beginning and proceedings of the English Plantation settled at Plimoth in New England*, better known as *Mourt’s Relation*), the Pilgrims’ first published chronicle, the *Mayflower* rocked in a “good harbor and pleasant bay, circled round, except in the entrance... about four miles over from land to land...wherein 1,000 sail of ships may safely ride.”⁹ Their future governor, William Bradford, called Cape Cod a “hideous and desolate wilderness, full of wild beasts, and wild men... [with] no friends to welcome them, nor inns to entertain, or refresh their weatherbeaten bodies, no houses, or much less towns to repair to...”¹⁰ A hard voyage marked by severe storms had exhausted everyone aboard. Many passengers had grown weak, while signs of scurvy had become manifest. The Pilgrims had to land and settle before winter set in.¹¹

The *Mayflower* lay at a point “one full degree north of the northern boundary of Virginia,” historian Samuel Eliot Morison observed.¹² Their anchorage lay north of the place where the Pilgrims’ patent authorized them to settle, a situation that resulted in the Mayflower Compact:

This day before we came to harbor, observing some not well affected to unity and concord, but gave some appearance of faction, it was thought good there should be an association and agreement that we should combine together in one body, and to submit to such government and governors as we should by common consent agree to make and choose, and set out hands to this [Compact] that follows word for word.¹³

⁸ David Beale, *The Mayflower Pilgrims, Roots of Puritan, Presbyterian, Congregationalist, and Baptist Heritage* (Greenville, N.C. and Belfast, N. Ireland: Emerald International, 2000), 126–27, quoted in Bangs, *Strangers and Pilgrims*, 620.

⁹ Anonymous [George Mourt, John Robinson, Robert Cushman, William Bradford, and Edward Winslow. and perhaps others including Isaac Allerton], *Mourt’s Relation: A Journal of the Pilgrims at Plymouth*, ed. Dwight B. Heath (Cambridge: Applewood Books, 1986). See also Nathaniel Philbrick, *Mayflower: A Story of Courage, Community, and War* (New York: Viking/Penguin 2006), 43.

¹⁰ Bradford, Minkema, ed., *Of Plymouth Plantation, 400th Anniversary Edition*, 179.

¹¹ *Ibid.*, 190-91; Anonymous, *Mourt’s Relation*, 15-18.

¹² Bradford, Minkema, *Of Plimoth Plantation 400th Anniversary Edition*, Book I, 9th Chap., 177-78; Samuel Eliot Morison, “Plymouth Colony and Virginia,” *Virginia Magazine of History & Biography*, 62 (1954): 147-65 at 157.

¹³ Mourt, *Mourt’s Relation*, 17.

It was the Pilgrims' first constitutional moment—and it was one they seized.

Rather than risk a mutiny among the disaffected or confront a conflict between factions, the Pilgrims' leaders drafted a written agreement, the Mayflower Compact, which the Pilgrims and the first six generations of their descendants called the Plymouth Combination. The Pilgrims signed it within the hold of the *Mayflower*, or atop its deck. The day was November 11, 1620, Old Style, a date modern people refer to as November 21, 1620.



The signing of the Mayflower Compact occurred in Cape Cod Harbor, now known as Provincetown Harbor, on November 11, 1620, Old Style.

Setting aside slight differences of spelling and grammar among the primary sources, the 195-word Compact emerges as a solemn agreement voluntarily entered into before God and king:

In the name of God, Amen. We whose names are underwritten, the loyal subjects of our dread sovereign lord King James, by the grace of God, of Great Britain, France, and Ireland King, Defender of the Faith, etc.

Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid: And by Virtue hereof do enact, constitute, and frame, such just and equal Laws, Ordinances, Acts, Constitutions, and Offices, from time to time, as shall be thought most meet and convenient for the general Good of the Colony; unto which we promise all due Submission and Obedience.

In witness whereof we have here undersubscribed our names at Cape Cod the 11[th] of November, in the year of the reign of our Sovereign Lord King James of England, France & Ireland the eighteen[th], and of Scotland the fifty-fourth. Anno Domini 1620.¹⁴

The Compact was a legal agreement, with a three-part structure that included a preamble, a main body, and a witness-attestation at the end.¹⁵

Its brief verbiage included an explanation of why the document was needed. It helped create a people; it organized a government; and it defined the Pilgrims as a people defined by common values, rights, and interests.¹⁶ It foreshadowed the colonial charters and state constitutions that the late University of Houston Political Science Professor Donald S. Lutz discussed in his *Publius* article "From Covenant to Constitution in American Political Thought."

Forty-one adult men aboard the *Mayflower* signed the Plymouth Combination, nearly every adult male freeman capable of doing so. Those who did not do so were probably too sick with scurvy to do so, although some may have been indentured servants too young to sign. No women or children signed, nor is there any evidence that any Pilgrim man asked them to do so. The late Dr. Jeremy Dupertuis Bangs, the foremost scholar of the Pilgrims' years in Leiden, summarized the Compact's four "elements," *i.e.*, its consequences and effects:

First, it identified the signers as loyal subjects of King James, thus binding all foreigners aboard the ship to follow English law, while the English-born passengers acknowledged their natural duty to show loyalty to their king. Second, it described the purpose of their voyage and planned colony as an undertaking for the glory of God, the advancement of the Christian faith, and the honor of king and country. Third, the signers stated that they "solemnly and mutuallly in ye presence of God, and one of another, covenant and combine our selves together in a civill body politick..." And fourth, the signers agreed "by vertue hereof to enacte lawes, ordinances, acts constitutions, & offices, from time to time, as shall be thought most meet and convenient for ye generall good of ye Colonie..."¹⁷

It provided the constitutional and legal structure of Plymouth Colony from 1620 through 1636.

When the Pilgrims agreed to "plant the first colony in the northern parts of Virginia," they "solemnly and mutually *covenanted* and combined themselves" to create a settlement and society.

¹⁴ Bradford, Minkema, ed., *Of Plymouth Plantation, 400th Anniversary Edition*, Book 2, 190; "Mayflower Compact, 1620," *The Plymouth Colony Archive Project*, University of Illinois Urbana-Champaign, <http://www.histarch.illinois.edu/plymouth/compact.html>, accessed Jan. 17, 2024. See also Bangs, *Strangers and Pilgrims*, 610-611. See also "Mayflower Compact, 1620. Agreement Between the Settlers at New Plymouth, 1620," *Avalon Project*, Yale Law School, in Francis Newton Thorpe, *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America Compiled and Edited Under the Act of Congress of June 30, 1906* (Washington, D.C.: Government Printing Office, 1909).

¹⁵ Bernholz, O'Grady, and Zillig, "The power of names: A Levenshtein analysis," 6 of 35.

¹⁶ Cf. Lutz, "From Covenant to Constitution."

¹⁷ Jeremy Dupertuis Bangs, ed., *New Light on the Old Colony: Plymouth, the Dutch Context of Toleration, and Patterns of Pilgrim Commemoration* (Leiden: Brill, Early American History Series, Volume 10, 2020), 13.

Richard Spice Wheeler's booklet, *A Lawyer's Take on the Mayflower Compact*, views that covenant as "the beating heart of the Mayflower Compact, since this is what gives it life."¹⁸ A covenant was a formal agreement or promise, usually in a contract or deed, to do or not do a particular act..." The ultimate origin of the Compact's covenanting provision was the Hebrew word *berith*, a mutual promise binding *Yahweh*, God, and his prophets and people in a sacred mission to glorify God.¹⁹

The protestation of loyalty echoed King James' assertion of his sovereignty and power in the introductory paragraph in the Virginia Company's first charter of April 10, 1606: "James, by the grace of God [King of England, Scotland, France, and Ireland, Defender of the Faith], etc." That language corresponded to the king's 1609 Second Charter and 1612 Third Charter of the Virginia Company.²⁰ Each authorized a joint-stock company to administer Virginia Company "under the Privie Seale of our realm."²¹ After declaring themselves the king's loyal subjects, the Pilgrims proclaimed their mission as one "[u]ndertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country [in], a Voyage to plant the first Colony in the northern Parts of Virginia..." That provision echoed Virginia Company charters.²²

The Compact established a faith-inspired covenant that combined the Pilgrims into a secular association, an alliance of equals who freely bound themselves to one another, to make their plans a reality. The Pilgrims proclaimed their right to combine together into a "civil Body Politic" and empowered themselves to "enact, constitute and frame such just and equal Laws, Ordinances, Acts, Constitutions and Offices from time to time, as shall be thought most meet and convenient for the general good of the Colony." That enumeration of powers echoed the Virginia Company of London's March 9, 1607 *Ordinance and Constitution*, which granted it "full power and authority from time to time to continue or to alter or change the said officers and to elect and appoint others in their rooms and place, to make and ordain acts and ordinances for their better ordering, disposing, and marshalling of the said several colonies..."²³

John Quincy Adams, the sixth President of the United States, relabeled the *Combination* as the *Compact* in a Forefathers Day speech he presented in Plymouth. Adams published his speech as a 44-page pamphlet, *An oration, delivered at Plymouth, December 22, 1802. At the anniversary commemoration of the first landing of our ancestors, at that place.*²⁴ In his *Oration*, Adams hailed the

¹⁸ Richard Spice Wheeler (ed., William Polk Cheshire, Jr.), *A Lawyer's Take on the Mayflower Compact* (Hanover, Pa.: Sheridan Press, 2012, reprint, Florida Society of Mayflower Descendants, 2022), 19. See also Bradford, Minkema, ed., *Of Plymouth Plantation*, 400th Anniversary Edition, Book 2, 190.

¹⁹ Bryan A. Garner, ed., *Black's Law Dictionary: Abridged Ninth Edition* (St. Paul, Minn.: West/Thompson Reuters, 2005), 334; "Covenant," *Oxford English Dictionary Online*, www.oed.com/dictionary/covenant_n?tab=factsheet#7889307, ("Covenant"); Onions, *Oxford Dictionary of English Etymology*, 222 ("covenant"); Gordon Wenham, "Covenants and Near Eastern Treaties," 198-199 in David Alexander and Pat Alexander, eds., *Eerdmans' Handbook to the Bible* (Tring, Hertfordshire, Eng.: Lion Publishing, 1973); Goodman, "From the Northern Parts of Virginia," *Early American Literature* at 111-12.

²⁰ Samuel M. Bemiss, *The Three Charters of the Virginia Company of London, with Seven Related Documents* (Jamestown, Va.: Jamestown 350th Anniversary Historical Booklet, 1957; Baltimore, Md.: Clearfield Co., 1993, 2007), 1-12 (First Virginia Company of London Charter, April 10, 1606) at 1; 27-54 at 27 (Second Virginia Company of London Charter); 76-125 at 76 (Third Virginia Company of London Charter).

²¹ *Ibid.*, 5.

²² *Ibid.*, 2.

²³ "Ordinance and Constitution" (March 9, 1607), in Bemiss, *Three Charters*, 23-26, at 25-26.

²⁴ John Quincy Adams, *An oration, delivered at Plymouth, December 22, 1802. At the anniversary commemoration of the first*

Compact as one of Plymouth Colony's greatest accomplishments:

One of these remarkable incidents [of Plymouth's history] is the execution of that instrument of government by which they formed themselves into a body-politic, the day after their arrival upon the coast, and previous to their first landing. This is perhaps the only instance in human history of that positive, original social compact, which speculative philosophers have imagined as the only legitimate source of government. Here was a unanimous and personal assent, by all of the individuals of the community, to the association by which they became a nation.²⁵

Adams proclaimed that "the instrument of voluntary association, executed on board the *Mayflower*, testifies that the parties to it had anticipated the improvement of the nation."²⁶ That was Adams' take on an agreement drafted to respond to an emergency—the *Mayflower's* arrival at a place beyond the geographical scope of the Pilgrims' patent. The Pilgrims were not thinking of creating a nation. They took action to ensure their survival as a frontier community along the western shores of the Atlantic.

The Pilgrims combined their lives, families, and fortunes to create a "civil Body Politic, for our better Ordering and Preservation, and furtherance of the Ends aforesaid..."²⁷ A text-heading on the right-hand side of the first page of the *Book of the General Laws of the Inhabitants of the Jurisdiction of New Plymouth* in 1685 reflects the Pilgrims' understanding of their foundational agreement. It identified "[t]he Combination of the first Associates [in] 1620" as the origin of Plymouth. Published in Boston in 1685, the *Book of the General Laws* reflects that the Pilgrims' descendants understood that they began as a legal *combination* of individuals who chose to work, live, and pray together by entering into a mutual covenant signed before God.²⁸

John Quincy Adams replaced the Pilgrims' concept of a covenanted combination with an anachronistic eighteenth-century term, *compact*, so he could implicitly associate the Pilgrims' "social compact" with the American Revolution, the Declaration of Independence, and the U.S. Constitution. The term *Mayflower Compact* proved to be a people-pleaser in 1802, took hold, and spread throughout America.²⁹

In 2010, former *Financial Times* reporter Nick Bunker offered a British perspective, describing the Compact as a "mingling of the familiar and the very new" in *Making Haste from Babylon*. Bunker called it an enabling document that enabled the Pilgrims to make new law using "phrases from the

landing of our ancestors, at that place (Boston: Russell and Cutler, 1802), 7, 12, 17 (page numbers of Adams' pamphlet), Library of Congress website, <https://www.loc.gov/resource/gdcmassbookdig.orationdelivered00ada/?st=gallery>.

²⁵ Adams, *An oration*, 17-18. Arthur Lord, *Plymouth and the Pilgrims* (Boston: Houghton, Mifflin, 1920), 112-113 (Section 2 "The Pilgrims Before Plymouth"), <https://archive.org/details/cu31924028815005/page/n125/mode/2up112-113>; Bangs, "Plymouth's Creation," in *New Light on the Old Colony*, 16.

²⁶ Adams, *An oration*, 20.

²⁷ Garner, *Black's Law Dictionary*, 334 ("covenant"); Onions, *Oxford Dictionary of English Etymology*, 222 ("covenant").

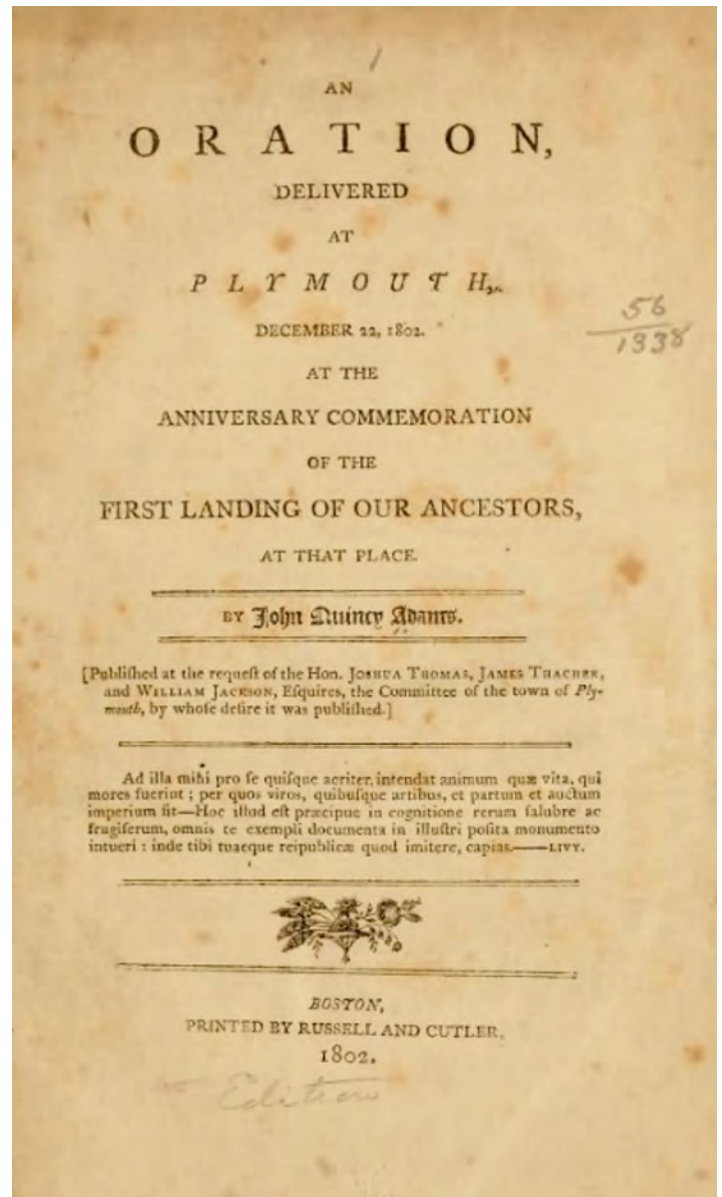
²⁸ Nathaniel Clerk, Secretary, "A Preface Declaring the Warrantable Grounds and Proceedings of the first Associates of the Government of New-Plimouth, In their Laying the First Foundation of this Government, in their making of LAWS, and Disposing of the LANDS within the same," page 1, in *The Book of the General Laws of the Inhabitants of the Jurisdiction of New-Plimouth; Collected out of the Records of the General Court...1685* (Boston: Samuel Green, 1685), published in the second part of the compilation of laws collected by Cushing, *Laws of the Pilgrims*, 1-2.

²⁹ John Seelye, *Memory's Nation: The Place of Plymouth Rock* (Chapel Hill and London: Univ. of N.C. Press, 1998), 23-27, 54-58.

royal charters that gave English boroughs their rights and powers.”³⁰

In *Made in America: The Pilgrim Story and How It Grew*, Plymouth historian James W. Baker noted that the people of Plymouth gave “due recognition” to the “agreement signed aboard the *Mayflower*...”³¹ Although Adams’ Forefathers Day speech led many people to characterize the Compact as a “proto-constitution,” Plymouth historian James W. Baker holds that it was “not a constitution, nor yet a charter; nor yet in a true sense a social compact...” It was, instead, a “complete demonstration that [the Pilgrims] were planting the seeds of the old truths, not attempting to make some new and unknown harvest from untried seed.”³² Baker emphasized the Compact’s transfer of English ideas and institutions to New England. “The agreement was not a revolutionary departure from English precedent but a pragmatic application of it.”³³

The *Mayflower* Pilgrims’ first “constitutional moment” did not result in the drafting or ratification of a “constitution.” That came later. First, the Pilgrims granted themselves the right, power, and reason to draft such a constitution and secure its approval by those who agreed to live under it. That’s the story we’ll cover in Part II of this article, about how the Pilgrims drafted and ratified the first constitution, bill of rights, and law code in America—and how that instrument shaped Texas law two centuries later.



John Quincy Adams’ *An Oration delivered at Plymouth* (December 22, 1802). Public domain. Library of Congress.

³⁰ Nick Bunker, *Making Haste from Babylon: The Mayflower Pilgrims and Their World, A New History* (New York: Alfred A. Knopf, 2010), 282.

³¹ James W. Baker, *Made in America: The Pilgrim Story & How It Grew* (Plymouth: General Society of Mayflower Descendants, 2020), 370, 371.

³² William Campbell Preston Breckinridge, “The Oration,” in *The Proceedings at the Celebration of the Pilgrim Society at Plymouth, August 1st, 1889* (Plymouth: Avery & Doten, 1889), 90.

³³ Baker, *Made in America*, 413.

**Part 2 of this article will appear in the Summer 2026
Texas Supreme Court Historical Society Journal**

[Return to Journal Index](#)

The Affinity of Lawyers & History:

The Dallas Bar Association's Legal History Discussion Group as a Case in Point

By Josiah M. Daniel, III © 2026



The Arts District Mansion, home of the Dallas Bar Association

I. *Historically Minded Lawyers and Judges*

Legal history may be conceived as the story of the evolution of legal doctrines and rules—Joe McKnight's history of Texas homestead law¹ and Bill Dorsaneo's history of Texas civil procedure² are splendid examples of this. Or it may be considered as the story of lawyers—J.F. Hulse's biography *Texas Lawyer: The Life of William H. Burges* remains quite worthy of reading. Or legal history can be seen as the analysis of the effects of law on society and vice versa—Maxwell Bloomfield's book *American Lawyers in a Changing Society*³ is an early and fine illustration of that. In all events, the irreducible elements of the subject matter of the field of *legal history* are not only the *law* but also the *lawyer* and the *judge*.⁴

¹ Joseph W. McKnight, "Protection of the Family Home from Seizure by Creditors: The Sources and Evolution of a Legal Principle," *Southwestern Historical Quarterly* 86, (1983): 369.

² William V. Dorsaneo, III, "The History of Texas Civil Procedure," *Baylor Law Review* 65, (2013): 713.

³ Maxwell Bloomfield, *American Lawyers in a Changing Society* (1976).

⁴ Legal history has acquired a quite broad scope. Robert W. Gordon, *Taming the Past: Essays on Law in History and History in Law* (2017), 354. Catherine L. Fisk & Robert W. Gordon, "Law As...: Theory and Method in Legal History," *UC Irvine Law Review* 1, (2011): 519, 542.

Law and *judge* need no definition or explanation here, but pause to consider that the *lawyer* is certainly the quintessential element of legal history because what *lawyers* “do”⁵ is to invoke and apply the processes of the law, either in resolving disputes or in effectuating transactions, on behalf of a client. Lawyers are the ones who know or learn what the *law* is in order to be able to seek to accomplish—ideally with highest ethics, not merely as an agent⁶—the objectives of a client. Such work is known as “lawyering.”⁷

Moreover, not only have *lawyers and judges* always been the *key actors* within the activities and events that are the subject matter of legal history but today quite a number of them are researchers and authors—scholars—who are knowledgeable of the literature of that history and interested in learning more. As undergraduates, many attorneys and judges majored or minored in history, but even those who studied business administration or accounting in university are often found to take pleasure in reading and discussing legal-historical books and articles. Some even write them.

The organized bar has long encouraged and facilitated this. Almost from its commencement, the *Texas Bar Journal* (the TBJ) has featured historical articles written by lawyers and judges. In 1940, for instance, it published “A Century Ago a New Era Began,” an anonymously written short history marking the centenary of the Texas Supreme Court.⁸ Another, excellent example is the TBJ’s publication four decades later of “What Happened in 1882” by Judge William Ralph Elliott upon the occasion of the centennial of the organized Texas bar.⁹

The scholarly discipline of *history* has been called “the art of reconstructing the past.”¹⁰ The endeavor to do so, known as the historical method, requires, first, finding the sources. Indeed, [i]t is with the sources that any account of the historian’s working methods must begin.¹¹ A “source” is

an object from the past or testimony concerning the past on which historians depend in order to create their own depiction of that past. . . . A *source* provides us evidence about the existence of an event; [in contrast,] a *historical interpretation* is an argument about the event.¹²

⁵ “[M]any lawyers use [*lawyering*] as a neutral term to describe what they *do*.” Bryan A. Garner, *A Dictionary of Modern Legal Usage* (1987): 332 (emphasis added).

⁶ See, generally, William J. Chriss, *The Noble Lawyer* (2011).

⁷ Josiah M. Daniel, III, “A Proposed Definition of the Term ‘Lawyering,’” *Law Library Journal* 101, (2009): 207, 215.

⁸ “A Century Ago a New Era Began,” *Texas Bar Journal* 3, (1940): 6.

⁹ William Ralph Elliott, “What Happened in 1882,” *Texas Bar Journal* 45, (1982): 34. The year 1982 was the 100th anniversary of the founding of the organized Texas Bar (tacking the 1882-1940 existence of the voluntary Texas Bar Association onto the life of the statutory or mandatory State Bar).

¹⁰ John Fea, *Why Study History? Reflecting on the Importance of the Past* (2013), 3.

¹¹ John Tosh, *The Pursuit of History: Aims, Methods and New Directions in the Study of History* (7th ed. 2022), 74. See also Louis Gottschalk, *Understanding History: A Primer of Historical Method* viii, (2d ed. 1969), 28.; Martha Howell & Walter Prevenier, *From Reliable Sources: An Introduction to Historical Methods* (2001), 17-18.

¹² Howell & Prevenier, *Reliable Sources*, 19 (emphasis original). As legal historian—and native Texan—Annette Gordon-Reed has explained: “The discipline of history is, for the most part, wedded to the *documentary record*; how scholars engage with it is one way judgments are made about the quality of their work.” Annette Gordon-Reed, “Rebellious History: How Should Historians Construct a More Complete and Truthful Version of the Past?,” *New York Review of Books* (Oct. 22, 2000).

The *historian* requires *primary* sources, “the evidence that individuals, governments, organizations, and cultures or societies leave behind,” found by researching not only in *libraries* but also in *archives*.¹³ Archival “testimonies of witnesses to the past . . . provide the historian information about *what* happened, *how* and in what circumstances the event occurred, and *why* it occurred.”¹⁴ Lawyers are experienced in fact finding and determining causation, and engaging in historical research is a natural extension.¹⁵

Historically minded Texas lawyers organized the Texas Supreme Court Historical Society upon the sesquicentennial in 1990 of the Supreme Court of the Republic of Texas, with a stated goal of establishing a journal, i.e., this, the *Journal of the Texas Supreme Court Historical Society* which had its first issue in 2011. It has been enormously successful in fostering Texas court and legal history. Readers know that the large number of lawyers and jurists who have published in the *Journal* have, over fifteen years now, applied the historical method in their articles on the diverse subjects of Texas law and legal history.



Front page of the first issue of the Society's Journal

For myself, I acknowledge a long fascination with interesting and meaningful stories in which law and lawyers and judges have played central roles. After majoring in history and then some graduate study in it, I transferred to UT's law school in 1975. There I had to learn a new language, the lingo of law. *Black's Law Dictionary* (4th ed.) was the first book I purchased, and on the first day of classes there was a seminar introducing the case reporters, the statute books, the encyclopedias, treatises, and hornbooks, and the indices and aids that lawyers use to “find the law” relevant to “thinking like a lawyer” and actually solving specific problems.

But soon I could also see the practice of law as an inherently historical enterprise. On one hand, cases are historical documents; something “happened”¹⁶ in every case, and text and context are important to understand the facts and story lines to which the rules are applied. On the other hand, some judicial decisions, particularly constitutional cases, have proved to be watersheds in the saga of American history, such as the Dred Scott case and *Brown v. Board of Education*. And while the vast majority of case law is the determining of mundane disputes, lawyers and judges always want the “history of the case” to assess whether it is good law or precedential, or even (to use two

¹³ The term “primary sources” . . . generally mean[s] evidence contemporary with the event or thought to which it refers.” Tosh, *Pursuit of History*, 77. See also Jenny L. Presnell, *The Information-Literate Historian: A Guide To Research For History Students* 6, (2019): 108-116. See also John B. Nann & Morris L. Cohen, *The Yale Law School Guide to Research in American Legal History* (2018), 1-2. ; Marian Boner, *A Reference Guide to Texas Law and Legal History* (1976), 65.

¹⁴ Howell & Prevenier, *Reliable Sources*, 17 (emphasis original).

¹⁵ Moreover, Texas lawyers have recently innovated in seeking to supplement the conventional historical literature. For example, attorney Talmage Boston has applied witness-interrogation techniques from litigation practice to seek directly from the minds of professional historians their understandings and explanations of historical events.

¹⁶ Irving Younger, “What Happened in Erie,” *Texas Law Review* 56, 1011 (digging very deeply into the historical facts of *Erie RR v. Tompkins*—into what happened).

historically allusive terms) a “white horse case” or a “landmark.” In transactional lawyering, the use of prior contract forms and deal terms as precedents can be seen as a type of historical work.

During law school, I once dashed off a letter to the editor praising that the TBJ “feature[d] historical articles” but pointing to one article and lamenting “[i]t is not a good idea to publish undocumented writings. . . . Lawyers are not necessarily historians, but there is no reason for lawyers to ignore the established standards of scholarship.”¹⁷ Also I wrote for the law-student newspaper a short biography of a lawyer and UT Law alumnus, Dan Moody, Texas Attorney General (1925-1927) and Governor (1927-1931), based on some grad-school research I had done.¹⁸ Then during a summer clerkship, I wrote a memorandum requested by a historically minded lawyer, the 1977 SBoT President-Elect, Cullen Smith, Jr., on the history of the organized Texas bar. The next semester I turned it into a seminar paper for a legal historian, Professor Mike Churgin, and a few years later the TBJ published it.¹⁹

I began to understand that I could be a practicing lawyer, professionally and occupationally, *and* a legal historian, avocationally. And if I could, so could others. There are multiple affinities of lawyers and judges, on one hand, and history, on the other.

II. Creation of the Legal History Discussion Group of the Dallas Bar Association

In the mid-1990s I read Robert Caro’s *Means of Ascent*, volume 2 of his biographical project *The Years of Lyndon Johnson*, and I was captivated by the sixty pages the author devoted to the three weeks of intense litigation in federal and state courts in the summer of 1948 between LBJ and his Texas Democratic Party senatorial primary election opponent, former Governor Coke Stevenson, each striving—through the efforts of the most eminent lawyers of Texas—to take control of that disputed election.²⁰ I admired Caro for finding the episode, recognizing its significance, and marshalling oral-history sources on it. The author is, however, a journalist by training and a biographer by experience, and *not* a lawyer. I could see that he did not truly understand the legal process he sought to describe.

By 2007 I had—slowly—collected the archival sources for a retelling of that story. In the State Archives I copied the docket sheet, pleadings, and order of the proceeding in the Texas Supreme Court; in the Travis County Courthouse I found the papers of LBJ’s Friday night injunction suit in state district court; and in the National Archives in Fort Worth and Washington, D.C., I obtained, first, the papers of Stevenson’s civil action in federal district court and LBJ’s appeal to the Fifth Circuit, and, then, the emergency docket, quick briefs and papers, and Justice Hugo Black’s order in the U.S. Supreme Court staying the legal proceedings. From those and other sources, I had fashioned a working draft. What I needed was knowledgeable people to critique it and discuss it with me.

That is when I inquired of the leadership of the Dallas Bar Association (the DBA) how to obtain approval to start up a “discussion group” of lawyers who could get together, irregularly or

¹⁷ Josiah M. Daniel, III, “Letter to the Editor,” *Texas Bar Journal* 39, (Dec. 1976): 1117.

¹⁸ Josiah M. Daniel, III, “Even Moody Had Mediocre Grades,” II *The Legal Issue* No. 1, (Oct. 1977): 4.

¹⁹ Josiah M. Daniel, III, “Creating the State Bar of Texas, 1923-1940,” *Texas Bar Journal* 45, (1982): 454.

²⁰ Robert A. Caro, *The Years of Lyndon Johnson: Means of Ascent* (1990), 322-84.

occasionally, at the DBA's headquarters in downtown Dallas, to hear a paper and then to discuss it. I remember the answer from the redoubtable Peter Vogel, a former DBA president: "The Dallas Bar Association is a broad umbrella that enables just about any worthy activity or project Dallas lawyers may dream up, so just do it!" I then "founded" the "Legal History Discussion Group" by reserving a small meeting room in the Dallas Bar's headquarters, the Arts District Mansion, and putting out a notice that I would be presenting a legal-history paper on Oct. 17, 2007.

To an audience of four (4) lawyers, I presented my draft of the article eventually published as "*LBJ v. Coke Stevenson: Lawyering in the Litigation Aftermath of the Texas Democratic Senatorial Primary Election of 1948.*"²¹

III. The DBA's Legal History Group Today

Now it is 2026, and the group has proven to be a success beyond the original imagining, so much so, in fact, that the DBA has elevated its status to a full committee, the Legal History Committee. Over the intervening, almost nineteen, years, it has organized and sponsored a total of ninety-nine presentations. Each program has been free of charge and MCLE accredited by the SBoT. Attendees have earned an aggregate of 4,221 credit hours. In person attendance has ranged from those first four lawyers in 2007 to 142 in person for "The Future of Capital Punishment" by history professor David Oshinsky based on his history of *Furman v. Georgia*.²²

The Covid pandemic was a challenge, but the introduction of Zoom as an electronic substitute for the meeting rooms in the DBA's headquarters enabled the continuation of programs. Afterward, the group tried to resume in person only meetings. But it is impossible to ignore that when presentations have been by Zoom, the attendance numbers have skyrocketed. For example, 245 lawyers electronically attended former Dallas attorney Michael Li's "The Law and History of Gerrymandering." The conclusion is simple: to truly serve all the DBA members who wish to participate in legal history programs, the Committee must make its presentations available by electronic media as well as in person.

Presenters have, by happenstance or good fortune, been evenly split between Dallas lawyers presenting their own papers or projects and academics, both law professors and history professors from universities and colleges in the Dallas area and across the State. The ninety-nine topics have run a wide gamut. The most numerous, fifty-four, have been legal history programs with a national focus, as exemplified by this dozen of the presentations:

- Chad Baruch (Dallas Attorney), "Back to the Beginning: A Fresh Look at *Marbury v. Madison*."
- Emily Beth Zuckerman (then Dallas Attorney), "Rethinking Federal Equal Employment Opportunity Law: The EEOC and President Reagan's Civil Rights Legacy, 1976-1984."
- David Upham (History Professor), "Pro-Slavery and Anti-Slavery Interpretations of the 'Privileges and Immunities of Citizens.'"
- Jacqueline Jones (History Professor), "Saving Savannah: Law and the Struggle for Civil Rights in the South After the Civil War."

²¹ Josiah M. Daniel, III, "*LBJ v. Coke Stevenson: Lawyering for Control of the Disputed Texas Democratic Party Senatorial Primary Election of 1948*" 31, *Review of Litigation* (2012): 1.

²² David Oshinsky, *Capital Punishment on Trial: Furman V. Georgia and the Death Penalty in Modern America* (2010).

- David O. Stewart (Attorney-Author), "Madison's Gift: Five Partnerships that Built America"
- Prof. Jeffrey Abramson (Law Professor), "The Representative Jury in Historical and Contemporary Perspective."
- Mike Farris (Dallas Attorney), "A Death in the Islands: The Unwritten Law and the Last Trial of Clarence Darrow."
- Bryan A. Garner (LawProse, Inc.), "Eight Lessons from Nino" based on his *Nino and Me: My Unusual Friendship with Justice Antonin Scalia*.
- Lackland Bloom (Law Professor), "The Lessons of 1919."
- Deborah Kang (History Professor), "Making Immigration Law on the U.S.-Mexico Border."
- David Hunt Baker (Dallas Attorney), "T Lex: The Legal History of AT&T."
- Alan Tully (History Professor), "Lawyers, Legislators, Justices and the Turn to Slavery in Seventeenth Century Virginia."

Texas-centric presentations, totaling thirty-six, have covered topics such as these ten:

- Diego Pena (Dallas Attorney), presented "Texas' First Federal Judge: John C. Watrous."
- Jason A. Gillmer (Law Professor), "Lawyers and Slaves on Galveston Island."
- Michael S. Ariens (Law Professor), "The History of Texas Law."
- William D. Elliott (Dallas Attorney), "Peter W. Grayson—Lawyer in the Republic of Texas and Implications for Present-Day Law Practice."
- Robert E. Davis (Dallas Attorney), "U.S. District Judge Whitfield Davidson (1876-1974): Reminiscences by His First Law Clerk."
- Hon. Carolyn Wright (Jurist) & John Browning (then Dallas Attorney), "The Overlooked History Behind the Earliest African American Attorneys in Texas."
- Hon. Jason Boatright (then Jurist), "Spanish Sources of Texas Law."
- Chuck Lanehart (Lubbock Attorney), "They Hang Horse Thieves, Don't They? History of the Death Penalty and an Examination of Texas Executions."
- Daina Berry, (History Professor), Paul Stafford (Dallas Attorney), and Josiah M. Daniel, III (Dallas Attorney), "Juneteenth to June 2020: History's Relevance to Today's Reality."
- Jeffrey D. Dunn (Dallas Attorney), "Sidelights on the 1925 All-Woman Texas Supreme Court."

Farther afield but still quite within the wide ambit of legal history have been programs such as:

- Tom Luce, John Howell & David Bryant (all Dallas Attorneys), "On Wings of Legal Eagles: Exiting the Islamic Republic and Collecting from the Ayatollah."
- Howard W. Brill (Law Professor), "The Man in Black: Lessons in the Law from the Life and Music of Johnny Cash."
- Hans Heppe (Dallas Attorney), "Who Were the Traitors? The Legal Perspective of Operation Valkyrie."
- Stephen L. Baskind (then Dallas Attorney), "No Man is Bound to Accuse Himself: Establishing a Right of Silence at the Old Bailey."
- Hon. Barbara M.G. Lynn (Jurist), "The Magna Carta and Due Process in American Law"
- Andrew R. Porwancher (Law Professor), "The Role of Biography in Legal History: The Case of John Henry Wigmore."
- Jack Kinzie (Dallas Attorney), "Law and Literature for Practicing Lawyers: From Aeschylus to Wallace Stevens (Including Anton Chekhov)."

- “A Double Header”: “Dallas Lawyers’ Involvement in the Aftermath of the JFK Assassination”: Part 1 - Kent Hofmeister (Dallas Attorney): “Dallas, November 1963: Eyewitnesses to History and Pre-Miranda Considerations in Representing an Accused Presidential Assassin”; and Part 2 - Jerry Alexander (Dallas Attorney): “How America Got to See the Zapruder Film: Passman & Jones’ Representation of Abraham Zapruder.”
- Martha Newman (History Professor), “‘Killer Rabbits’ in Medieval Manuscripts: The Nature of Law and Legal Education.”
- Joshua Tate (Law Professor), “The King’s Pirates: Magna Carta and the Cinque Ports.”

For the ninety-ninth program, on February 16, 2026, the Committee presented “Petitions and Precedent: Queen Mother Audley Moore’s Moral and Legal Fight for Reparations,” by historian Ashley D. Farmer, a good example of “deeply situating law [here, claims making] in the particularities of a specific time and place.”²³ Six Dallas lawyers attended in person and sixty via Zoom, all of whom picked up one hour of CLE credit over the noon hour. The 100th presentation was on April 7, 2026, presented by me, on a topic taken from the biography I am writing, “Charles Goodnight, the Client, and Hatton Sumners, the Lawyer: A Legal Ethics Issue in 1913 Texas.”

Conclusion

Other local bar associations could easily reproduce this model. The thesis underlying the DBA’s Legal History Committee (formerly, Group) is, once again, that there are significant numbers of lawyers in practice with serious and ongoing interest in history, particularly “legal history,” conceived as, at a minimum, the history of law, lawyers, and courts, and more broadly as the story of the effects of law on society and vice versa, at just about any point in the past. That has proven correct in Dallas. The Group has provided a congenial forum for such lawyers and judges to present their own papers and projects to an audience of appreciative lawyers or else to just watch and listen to a legal-historical program presented by lawyers or by law or history professors, and in either event to earn CLE credit while enjoying the great lunch for which the DBA is well known.

History and law, historians and lawyers and judges—the fit, the complementarity, and the benefit have been demonstrated by the success of the Texas Supreme Court Historical Society and its *Journal*—but also may be seen in the ongoing record of presentations sponsored by the DBA’s Legal History Committee. If you find yourself in Dallas during lunch hour on a date of one of its future programs (just check the DBA’s online calendar²⁴), come to the Arts District Mansion at Noon and join us!

²³ Steven Wilf, “Law/Text/Past” 1, *Uc Irvine Law Review* (2011): 543, 544. See also, Robert W. Gordon, *Taming the Past: Essays on Law in History and History in Law* (2017), 354.

²⁴ DBA CLE & Events, www.dallasbar.org/?pg=events&evAction=viewMonth.



JOSIAH M. DANIEL, III is a Retired Partner of Vinson & Elkins in Dallas and a Life Member of the Society. He chairs the Legal History Committee of the Dallas Bar Association, and he is writing the biography of Congressman Hatton W. Sumners (1875-1962).

[Return to Journal Index](#)

Two High Courts: History, Debate, and Reform

By Ben L. Mesches

Introduction

The Texas judicial system has been described as “complex,” lacking “order or symmetry,” “byzantine,” “Rube Goldberg–designed,” and even an “anachronism.” One feature has stood out for more than a century. The Supreme Court of Texas has final appellate jurisdiction in civil disputes. In criminal matters, the Court of Criminal Appeals does. Texas’s bifurcated appellate review is nearly unique. Only Oklahoma has such a system. This article examines the origins of Texas’s bifurcated appellate system, critiques of this system, and reform efforts.



History

To understand Texas’s current bifurcated appellate-review system, the story begins with Article V of the Texas Constitution of 1876.¹ At the time, “every appeal from a trial court went directly to the state’s Supreme Court.”² But the Supreme Court was overwhelmed by a severe backlog of cases, prompting structural reform.³ Article V removed the Supreme Court’s criminal jurisdiction and created a separate Texas Court of Appeals—today’s Court of Criminal Appeals—to decide criminal cases.⁴ Not all commentators agree that the caseload was the reason for this change; others have posited that Reconstruction-era politics played a role as well.⁵ Whatever the precise drivers, the bifurcated model took root early and remains firmly entrenched.

The 1876 version of the criminal appellate court was a three-judge tribunal with exclusive criminal appellate jurisdiction.⁶ In 1891, Texas voters approved the establishment of intermediate Courts of Civil Appeals while retaining the state Supreme Court and three-judge Court of Criminal Appeals.⁷ Over time, the Court of Criminal Appeals expanded from three to five judges in 1967 and to nine judges in 1978.⁸

¹ Paul M. Lucko, “Overview of the Texas Court of Criminal Appeals,” *Handbook of Texas* (May 14, 2019) <http://www.tshaonline.org/handbook/online/articles/jpt01>).

² *In re Reece*, 341 S.W.3d 360, 379 (Tex. 2011) (orig. proceeding) (Willett, J, dissenting).

³ Lucko, “Overview.”

⁴ *Ibid.*

⁵ Scott Henson, “Caveats to Debate on Merging Texas Supreme Court, Court of Criminal Appeals,” *Grits for Breakfast* (blog), Dec. 13, 2012, <http://gritsforbreakfast.blogspot.com/search?q=Caveats+to+debate>.

⁶ *In re Reece*, 341 S.W.3d at 379.

⁷ *Ibid.*, 380.

⁸ Rachel Palmer Hooper, “Law and Order in Texas,” *Journal of the Texas Supreme Court Historical Society*, Spring 2015, 56.

Under this system, the Court of Criminal Appeals was responsible for *all* criminal appeals. The Court of Criminal Appeals was described at the time as the “busiest appeals court in the nation.”⁹ In 1980, constitutional reforms rebalanced that workload, broadening the intermediate civil courts of appeals’ jurisdiction to include noncapital criminal cases and renamed those courts the Courts of Appeals.¹⁰ Before that change, “all appeals from decisions in criminal cases went directly to the court, and the build-up of appeals grew to the point that its backlog had become both unimaginably and unmanageably immense.”¹¹ After the reform, the Court of Criminal Appeals retained exclusive appellate jurisdiction over capital cases and gained discretionary review over criminal decisions of the Courts of Appeals.¹² The 1980 reforms achieved their goal: the court’s docket fell from roughly 4,000 cases in 1980 to about 550 in 1983.¹³

Oklahoma is the only other state with a bifurcated system, but Oklahoma’s system is different in a couple of important respects. For starters, Oklahoma’s criminal court is subject to legislative power to change or abolish the court.¹⁴ And second, when there is a jurisdictional conflict between the state’s two high courts, the Oklahoma Supreme Court has the power to resolve that conflict.¹⁵

The System Today



The Supreme Court of Texas is a nine-member court with final jurisdiction over civil matters.¹⁶ Under Article V of the Texas Constitution, the court has authority to exercise “the judicial power of the state.”¹⁷ The Supreme Court’s “appellate jurisdiction shall be final except in criminal law matters and as otherwise provided in the Constitution or by law.”¹⁸ The court also has “power to issue writs of habeas corpus, as may be prescribed by law, and under such regulations as may be prescribed by law.”¹⁹ And the court “may issue such writs of mandamus, procedendo, certiorari and such other writs” necessary to enforce its jurisdiction.²⁰



The Court of Criminal Appeals has final jurisdiction over criminal cases.²¹ Like the Supreme Court, the Court of Criminal Appeals has nine justices who

⁹ Lucko, “Overview.”

¹⁰ *Ibid.*

¹¹ Tex. Research League, Report 1, *The Texas Judiciary: A Structural-Functional Overview*, A Report to Thomas R. Phillips, Chief Justice, Supreme Court of Texas (Aug. 1990).

¹² Hooper, “Law and Order in Texas,” 57.

¹³ Tex. Research League, Report 1.

¹⁴ *In re Reece*, 341 S.W.3d at 381.

¹⁵ *Ibid.*

¹⁶ Tex. Const. art. V, § 3.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ Tex. Const. art. V, § 5.

stand for statewide election every six years.²² This court has discretionary review over noncapital criminal cases, but capital cases are automatically reviewed by the court.²³ Capital cases go directly to the Court of Criminal Appeals from the trial court.²⁴

Debate

This bifurcated appellate structure has prompted vigorous debate. Then-Justice Don R. Willett delivered a withering critique in a dissenting opinion in *In re Reece*.²⁵ That case raised the question whether the Supreme Court has power to exercise “mandamus jurisdiction to provide a forum for a civil litigant who is deprived of liberty pursuant to a court’s contempt order, and the Court of Criminal Appeals has declined to exercise its habeas jurisdiction.”²⁶ The Court concluded that it does have such jurisdiction. Justice Willett lamented the state’s bifurcated appellate-review system:



Justice Don R. Willett

Today’s case is a byproduct of that recondite web, sparking a game of jurisdictional hot potato between us and our constitutional twin, the Court of Criminal Appeals. Truth be told—and this particular truth has been told repeatedly—the State’s entire Rube Goldberg-designed judicial “system” is beyond piecemeal repair; it should be scrapped and rebuilt top-to-bottom.²⁷

Justice Willett’s complaints about bifurcated review focused on “inter-court confusion” and “inter-court clashes.”²⁸ He observed that “conflicts between the dual courts have arisen over the conclusivity of the court of appeals’ factual determinations, the constitutionality of the ‘Pool Hall Law,’ and whether journals of the House and Senate can be used to contradict an enrolled bill.”²⁹ He further noted that this constitutional design has even resulted in both courts declining to decide a constitutional question.³⁰

Scholarship has focused on the judicial “hot potato” problem when cases “implicate both civil and criminal issues,” thus requiring courts to send them “back and forth between the criminal and civil divisions of the respective court.”³¹ Numerous such examples exist: “contempt, a civil exercise of a stay of execution, appeals from property forfeiture orders in criminal prosecution, and the exercise of equity jurisdiction to enjoin enforcement of arguably unconstitutional penal

²² Tex. Const. art. V, § 4.

²³ Tex. Research League, Report 1.

²⁴ *Ibid.*

²⁵ *In re Reece*, 341 S.W.3d 360, 379 (Tex. 2011) (orig. proceeding) (Willett, J, dissenting).

²⁶ *Ibid.*, 362-63.

²⁷ *Ibid.*, 378.

²⁸ *Ibid.*, 384.

²⁹ *Ibid.*

³⁰ *Ibid.* (explaining that a challenge to a state law resulted in a non-decision).

³¹ Bren Hanson, “Judicial Hot Potato: An Analysis of Bifurcated Courts of Last Resort in Texas and Oklahoma,” 12 *Tennessee Journal of Law & Policy* 2, (Winter 2018): 165.

laws.”³² Establishing uniform and predictable Texas law can also be a challenge. The standards for expert testimony are a prominent example: “[T]here would be a benefit from having the same court interpreting the law [in the expert-witness context] consistently in both the civil and criminal realm.”³³

Defenders of the current system have countered that there are relatively few such conflicts.³⁴ There is something to that point, as the Supreme Court of Texas has been able to resolve many such civil-criminal line-drawing cases without major controversy. One recent example involved whether the Legislature’s power “to compel testimony requires the other branches to yield in the face of a scheduled execution.”³⁵ The Court easily concluded that this question “does not arise under the criminal law” but instead presents a separation-of-powers question. Similar instances abound. The Court has held that a city’s authority to regulate the liquefied natural gas industry is a civil matter even when the relevant ordinances could result in criminal fines.³⁶ The Court resolved whether a county violated a plaintiff’s right to counsel in criminal cases.³⁷ And it has decided whether a court could order prison officials to withdraw funds from an inmate’s trust account.³⁸

Attacks on the current system are practical as well. Critics have called the system inefficient, noting that it requires two sizable court staffs and infrastructures even though most states operate with a single high court.³⁹ It is difficult to judge how these efficiency arguments would cash-out in the real world. Many have noted that a separate criminal body allows for expedited and efficient processing of the state’s vast criminal docket. Advocates of the current system note that a merged system wouldn’t bring administrative efficiencies because “the number of cases would not shrink, a single unified court would simply need to employ roughly the same size of staff as the currently divided courts.”⁴⁰ The judicial system might also be slower because of the combined dockets.⁴¹ The loss of expertise—particularly in the intricate area of capital punishment—could hinder a merged system as well.⁴²

Structural Reform Efforts and Prognosis for the Future

Since the 1970s, attempts to merge the state’s highest courts have been proposed. The Constitutional Convention of 1974 proposed the creation of a single supreme court with final appellate jurisdiction over civil and criminal matters as part of a comprehensive constitutional overhaul.⁴³ That effort stalled when the Convention dissolved, and one year later, the voters

³² *Ibid.*

³³ Henson, “Caveats to Debate.”

³⁴ Maurice Chammah, “Bill Renews Debate on Merging Highest Two Courts,” *Texas Tribute*, Dec. 13, 2012.

³⁵ *In re Tex. House of Representatives*, 702 S.W.3d 330, 334 (2024) (orig. proceeding).

³⁶ *Tex. Propane Gas Ass’n v. City of Houston*, 622 S.W.3d 791, 793 (Tex. 2021).

³⁷ *Heckman v. Williamson County*, 369 S.W.3d 137, 146 (Tex. 2012).

³⁸ *Harrell v. State*, 286 S.W.3d 315, 316 (Tex. 2009).

³⁹ “Will Texas Lawmakers Judge it Time to Merge High Courts?,” *Fort Worth Star-Telegram*, Jan. 3, 2013.

⁴⁰ Chammah, “Bill Renews Debate.”

⁴¹ “Will Texas Lawmakers Judge it Time to Merge High Courts?,” *Fort Worth Star-Telegram*, Jan. 3, 2013.

⁴² *Ibid.*

⁴³ *In re Reece*, 341 S.W.3d at 387.



The Constitutional Convention of 1974

rejected the same proposal when a package of amendments completely failed at the ballot box in 1975.⁴⁴ Since then, numerous high-court merger bills have been filed in the Texas legislature—in 1993, 1999, 2003, 2011, and 2013.⁴⁵ Each time, the bill failed.⁴⁶



Chief Justice
Thomas Phillips

Observers have questioned these reform efforts. For example, a comprehensive report commissioned by Chief Justice Phillips questioned whether a merger was practical without resolving other systemic questions:

[O]ne major question needs to be answered before any serious consideration of a reconstituted appellate court of last resort can be addressed. Historically, neither court has a good track record in keeping up with its caseload. What is to make one believe that one of them can now do the work of two? In short, politics aside, all issues of scope of jurisdiction and use of discretionary review will have to be resolved before any real thought of combining the courts can be contemplated.⁴⁷

⁴⁴ *Ibid.*

⁴⁵ Chammah, "Bill Renews Debate."

⁴⁶ *Ibid.*

⁴⁷ Texas. Research League, Report 1.

The Texas Civil Justice League—while taking no position on the various reform proposals—has expressed similar concerns: “The Court of Criminal Appeals’ docket is so big . . . that if we put them together, the sheer magnitude of the cases would swallow them.”⁴⁸



Practical concerns—and the absence of a signature case demanding legislative action—have likely stymied reform efforts. Our entrenched bifurcated appellate-review system is here to stay. But that doesn’t mean reform is completely off the table. In the 2025 legislative session, a more modest proposal emerged—S.B. 2012. This legislation sponsored by Senator Hughes didn’t call for merger but instead sought to “streamline judicial authority by empowering the Texas Supreme Court to settle constitutional disputes between itself and the Court of Criminal Appeals, ensuring a unified interpretation of state constitutional provisions while preserving the distinct role of each court.”⁴⁹ In other words, a single, truly supreme court would decide certain constitutional questions. This legislation passed the Senate, although it died in committee in the House.



Senator Bryan Hughes

Such legislation, targeted at discrete problems that flow from bifurcated review, represents the best chance for reform. Judges, lawyers, and voters will no doubt watch future legislative sessions with interest to see whether and how policymakers seek to reform our more-than-century-old system of bifurcated appellate review.

⁴⁸ Chammah, “Bill Renews Debate.”

⁴⁹ S.B. 2012 89th R.S., Bill Analysis.



BEN L. MESCHES is a partner in the Haynes Boone Appellate Practice and serves as the firm’s general counsel. Ben was President of the Texas Supreme Court Historical Society in 2015-16 and is currently a Society Fellow.

[Return to Journal Index](#)

William Henry Burges, Pioneering El Paso Lawyer

By Hon. John G. Browning

Sometimes, a figure in Texas history comes along who seemingly embodies the place and era from which they hail. Such is the case with attorney William Henry Burges, whose history is largely the history of El Paso between 1889 and 1946. Burges, born in Seguin, Texas in 1867, was a towering figure in El Paso's colorful history during that time. He was, according to his biographer, "a lawyer of eminent scholarship and practical ability, who was excelled by none and equaled by few."¹ Burges was also a



William Henry Burges



John Selman



John Wesley Hardin

man of contradictions. He served as El Paso's city attorney from 1893 to 1895, and later led a group of civic reformers who sought to rid the city of its rough-and-tumble border identity as a haven for gambling, prostitution, and violence. Yet at the same time, Burges was comfortable representing infamous El Paso madam Tillie Howard in various legal dealings and rubbing elbows with notorious Old West gunmen who frequented El Paso like John Selman and John Wesley Hardin.² Burges was known as a consummate trial lawyer for large corporations and wealthy clients, but was simultaneously a go-to lawyer representing El Paso's Asian immigrant community in Chinese Exclusion Act cases.

A complete portrait of William Burges is beyond the scope of this article. Hopefully, however, a brief discussion of some of the many chapters in his colorful and illustrious career will give readers a sense of Burges, and why he deserves a special place in the legal history of the Lone Star State.

¹ J.F. Hulse, *Texas Lawyer: The Life of William H. Burges* (1982).

² Hardin himself had become a lawyer by then. See John G. Browning, "From Outlaw to Attorney at Law: The Brief Legal Career of John Wesley Hardin," *Journal of the Texas Supreme Court Historical Society* 7, no. 2 (Winter 2018): 43.

I. EARLY YEARS

Burges was born in Seguin on November 12, 1867. His father, William Henry Burges, Sr., was a former Confederate officer who became a distinguished lawyer (serving as the district attorney) and politician (serving as a state senator). Young William sought to follow in his father's footsteps, and received his law degree at the relatively new University of Texas in 1889. Although Burges initially returned to Seguin to begin his law practice, doctors recommended that he find a drier climate to help him cope with the severe asthma he'd been afflicted with since childhood. And so Burges headed out to El Paso to begin his career.

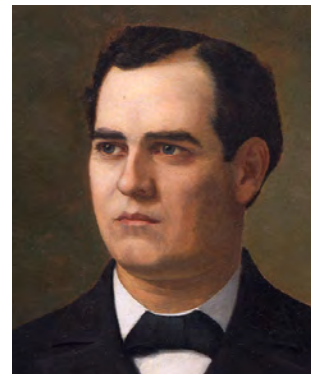
El Paso was then a border boomtown with a population of ten thousand. A major railway hub, the city still had gunmen and gamblers even as banks, an opera house, and a federal customs house (which would soon house the federal court as well) began to crop up. Burges hung out a shingle, and actually became active in local politics. By early 1893, Burges was acting city attorney, and later that year, was promoted officially to city attorney. He held that office until 1894. It was a turbulent time in the city's history, as the El Paso establishment struggled to enforce Texas' anti-gambling laws. Burges, along with the district attorney, urged then-Governor Culbertson to provide enforcement support from the Texas Rangers, saying "Violence is hourly threatened."³

In April 1897, Burges established a law practice with W.W. Turney that would last decades, eventually becoming the El Paso firm now known as Scott Hulse P.C. The firm prospered with clients like First National Bank and Santa Fe Railroad, handling commercial litigation, estate planning, and real estate matters. There were some less staid clients as well—like El Paso madam Tillie Howard. During the time that he was El Paso's city attorney, Burges had advocated for a city ordinance calling for the establishment of a "reservation" for the city's brothels—essentially a municipally-sanctioned red-light district. Burges' proposal "shocked some of the supposedly good people of the city, who apparently wanted to ignore the fact that these women existed in El Paso."⁴ Burges, in private practice, represented Tillie Howard in various mortgage and real estate litigation.

Perhaps the most interesting aspect of Burges' early practice years was his defense of Chinese Americans being prosecuted in federal court for violating the Chinese Exclusion Act. Passed in 1882, the Act was the first significant federal law to restrict immigration in the United States, placing a ten-year ban on Chinese laborers immigrating to America (the law was extended by the Geary Act in 1892). By the 1890s, El Paso had a small but thriving Chinese immigrant community.⁵ Many of them had entered the United States through San Francisco, but some had entered



William Henry Burges, Sr.



Governor Charles A. Culbertson



W.W. Turney

³ Letter from William H. Burges to Gov. C.A. Culbertson (July 31, 1895), in Hulse, *Texas Lawyer*, 36.

⁴ Hulse, *Texas Lawyer*, 78.

through Mexico. For roughly twenty years, Burges represented Chinese immigrants who found themselves facing deportation under the Act's harsh provisions. Burges was friends with Chinese-American businessman Mar Ben Chew, and that relationship sparked Burges' work in this area.

His first case under the Chinese Exclusion Act was apparently in 1890. Burges' client, Mah Mau, was arrested while working as a hotel cook. After federal prosecutors charged Mau with illegally entering the United States and obtained a deportation order from U.S. Immigration Commissioner J.D. McKie in El Paso, Burges filed a habeas petition in federal district court in San Antonio. The government had only called two witnesses, neither of whom had established the necessary elements. Burges' supporting brief traced the history of the various treaties between the United States and the Empire of China. He also called multiple witnesses (at least two of whom were white) to testify to Mau having lived in the United States as early as 1881 in San Francisco and other California locations before relocating to El Paso. Burges won the case.

That victory led to a steady stream of cases in which Burges represented Chinese immigrants, including *United States v. U Pon Lin, Ex Parte Chin Ten*, *United States v. Mar Wing Kee*, and *United States v. Wong Chew*.⁵ In 1899, he argued the case of *United States v. Mah Tuck*, in which Burges successfully maintained that the government must be held to its prior submission of Tuck's valid U.S. citizenship even though they later contended that the statements were false. In 1902, Burges appeared for El Paso merchant Mar Ying Yuen, who had returned to China for a visit only to be denied re-entry. Once again, Burges was victorious. In *United States v. Ching Tung*, he won a habeas order for a client who had been arrested in Marfa after a business trip to San Antonio.

Burges' practice of handling Chinese immigration cases was successful, in part, because he acknowledged some of the unfortunate realities of the day, including the fact that "our Court refuses to rely on Chinese testimony."⁷ To the extent possible, he tried to line up support from white witnesses. Burges was so successful that frustrated federal prosecutors decided to attack what they perceived as illegal entry by Chinese immigrants into El Paso by retaliating against community leader Mar Ben Chew. In 1910, the government obtained an indictment against Chew and several other Chinese Americans for conspiracy to bring Chinese illegally into the United States. Burges successfully defended Chew against efforts to transfer his case from El Paso to federal court in New Mexico, and when his case finally went to a jury in 1912, the verdict was not guilty.

II. "THE LAW OF NECESSITY" IN TOMBSTONE

Burges continued to prosper in the early decades of the twentieth century, and his reputation continued to grow. He was briefly enticed to join a Chicago law firm in 1917, but soon returned to El Paso in 1918. In addition to the usual, "bread and butter" matters for banks, railroad, and real estate moguls, Burges also handled Rio Grande boundary suits, disputes over water rights, high-stakes extradition cases, and lawsuits arising out of the Mexican Revolution. But perhaps his most celebrated case came outside the state, in Tombstone, Arizona in 1920.

⁵ See John G. Browning, "The Battle Over Birthright Citizenship: The Hidden Texas Connection to a Supreme Court Milestone," *Journal of the Texas Supreme Court Historical Society* 14, no. 3 (Spring 2025): 11 (discussing El Paso's overlooked connection to the birthright citizenship doctrine).

⁶ Hulse, *Texas Lawyer*, 85.

⁷ *Ibid.*, 86.

In 1917, shortly after America's entry into World War I, the labor movement was at its most radical period in U.S. history. At the forefront was the radical labor organization known as the "Industrial Workers of the World," or I.W.W. (also known as the "Wobblies"). Having previously organized labor strikes all over the country (a number of which ended in violence), the I.W.W. turned its attention that summer to copper mining camps throughout Arizona, including



one in Bisbee. Purporting to represent thousands of miners (in a district that then accounted for about 10% of global copper production), the I.W.W. made demands for higher wages and shorter hours. When the demands were not accepted by the three largest mining companies, the I.W.W., through the Metal Mine Workers Industrial Union, called a strike. Threats of violence on both sides escalated over the next two weeks. As the strike turned uglier, the local sheriff asked both Arizona's governor and President Woodrow Wilson for help to keep the peace. None was forthcoming.



Arizona Governor
George W. P. Hunt



President Woodrow
Wilson



Sheriff Harry Wheeler

On July 11, 1917, Sheriff Harry Wheeler deputized 1,200 citizens, and published a proclamation in the Bisbee newspaper on July 12th "describing the situation and calling on loyal citizens for support."⁸ Later that day, Sheriff Wheeler and his hastily-assembled posse rounded up more than 1,100 striking copper miners, placed them onto a train of empty freight cars, and transported them to a remote area near Columbus, New Mexico—where they were abandoned. In the chaos, at least two miners died.

The district attorney of Cochise County, New Mexico charged 403 Bisbee residents with kidnapping, and civil suits against the copper companies and the town of Bisbee soon multiplied. One of the largest copper companies hired Burges as lead counsel in the *State of Arizona v. Harry E. Wootton et al.*, which would become known as the "Bisbee I.W.W. Deportation Case."

By the time the case was tried in Tombstone, Arizona in February 1920, Burges and his team had won numerous dismissals, but charges were still pending against more than 200 Bisbee citizens. Burges' main argument at trial focused on what he called "the law of necessity." As his biographer describes it:

The theme of his argument was, just as in the law of self-defense, one who is attacked, or threatened with an attack by a person who has both the will and the power to carry out the threat, is entitled to defend himself to whatever extent necessary, just so a community, under the law of necessity has a right to defend itself against a danger which may threaten it.⁹

⁸ *Ibid.*, 190.

⁹ *Ibid.*, 214.

Just like the law of self-defense, Burges contended, when a community has been made the subject of threats of violence, it has the right to take action since the prevailing belief was “that a disastrous riot was imminent.” Accordingly, Burges argued, just like firefighters preventing the spread of a fire, the sheriff and citizens who seized the miners and took them “to a place where they could be held in safety to themselves and to the community until order could be restored and the ordinary processes of government and of life could be resumed in the community,” were justified in their actions.¹⁰

On April 30, 1920, the jury returned a verdict of “not guilty.”¹¹ By 1921, the civil suits that had sought more than \$14 million were settled for roughly \$100,000. And like the wise counselor that he was, Burges advised the copper companies to permit the miners to unionize along less radical terms.

William H. Burges would go on to successfully represent many other clients over the next two decades before his death in 1946. He was a towering figure in the law and served as president of what is now the State Bar of Texas from 1909–1910. He was also regent of the University of Texas. Active in civic affairs, Burges had a street and a school in El Paso named after him. While his contributions to the legal history of our state have largely faded from memory, his is eminently worthy of remembrance. As his biographer describes him, “He left behind a life full of kindness and good deeds to his fellow man—a life full of accomplishment and success in his chosen field of the law, and a life where he was ever fighting for the liberty and freedom of the individual.”¹²

¹⁰ *Ibid.*, 217.

¹¹ *Ibid.*, 243.

¹² *Ibid.*, 389.

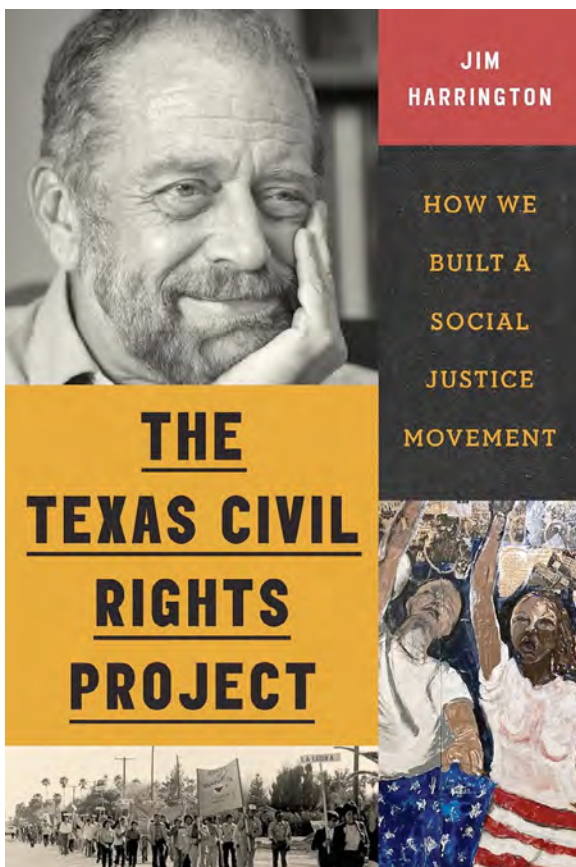
[Return to Journal Index](#)

• Book Review •

The Texas Civil Rights Project: How We Built a Social Justice Movement

Book Review by Hon. John G. Browning

I've never been the biggest fan of the study of recent history; I prefer more distance, timewise, between me and the topics or figures I'm studying. But I made an exception for Jim Harrington's new book, *The Texas Civil Rights Project: How We Built a Social Justice Movement*, and I'm glad I did. Although it can be a bit sobering to read the story of someone you've met and still regard it as "history," that is exactly what Harrington has delivered: a first-person account of the legal history of the ongoing struggle for civil and human rights in Texas.



*The Texas Civil Rights Project:
How We Built a Social Justice Movement*
Author: Jim Harrington
Publisher: University of Texas Press
(2025) (298 pages)

Although it is being marketed as a memoir, there are surprisingly few personal revelations shared by Harrington, a Texas civil rights icon who made a career of being the prototypical "social justice warrior." Instead, Harrington's book is more of a judicial chronicle, sharing the highlights and disappointments of what he estimates as more than 2,600 civil and human rights lawsuits supported or defended by Harrington and his allies across the Lone Star State. Harrington's story begins with his journey from being a Catholic seminarian in Michigan (where studying Spanish eventually led to work with immigrant laborers) to being inspired to go to law school by a Saturday morning episode of the cartoon "Underdog." The author's path eventually led him to the Rio Grande Valley and working with the South Texas Project. That organization was succeeded by the Texas Civil Rights Project. Harrington worked with the United Farm Workers and represented César Chavez for eighteen years (the reader wonders what, if anything, Harrington knew of the recently-revealed revelations about Chavez's personal life).

For decades, Harrington and the Texas Civil Rights Project enabled farm workers to organize for better pay and improved working conditions; fought against racially discriminatory policing; organized for grand jury reform, and defended privacy rights and the

rights of the disabled. The book includes a chapter on his work on behalf of the Texas Equal Rights Amendment, as well as his environmental crusade against agricultural companies' use of pesticides. Harrington also writes about his suit against the Texas Supreme Court over funding indigent legal representation, a campaign that eventually resulted in the creation of the Texas Access to Justice Foundation and its work funding legal aid programs for the poor.

By the time Harrington retired, the Texas Civil Rights Project had six offices (including two border offices in El Paso and near McAllen) and forty employees. Harrington says he had to be "coaxed" into writing this book, in which the focus is never on him but on the cause. And while he has "retired," Harrington's retirement consisted of a return to his clerical roots. He became an Episcopal priest, and today directs Proyecto Santiago, a Hispanic outreach mission at St. James Episcopal Church.

The Texas Civil Rights Project: How We Built a Social Justice Movement is a celebration of the grassroots organizers and groups in the struggle for human rights in Texas over the last half century. It is less memoir than chronicle of an indefatigable force who pushed the Texas justice system to live up to its ideals. The book not only informs, but inspires.

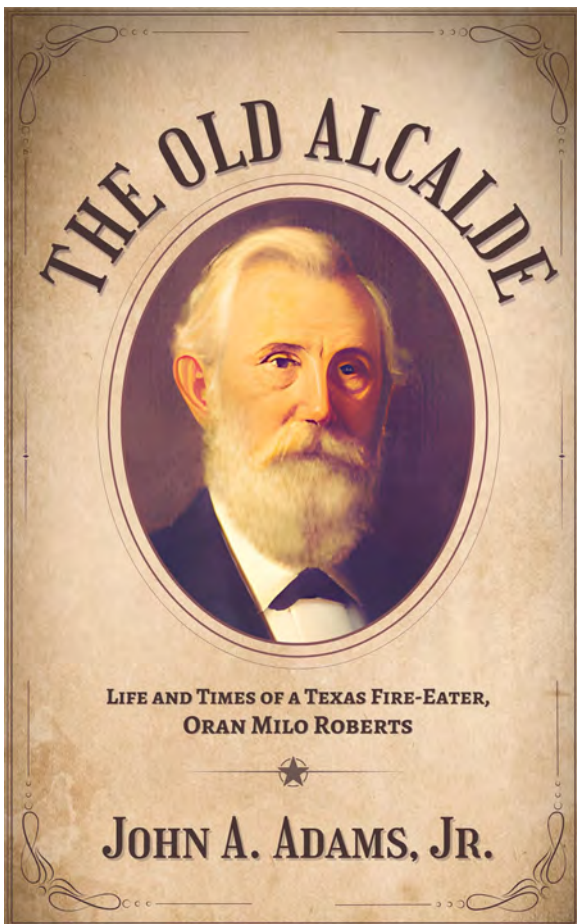
[Return to Journal Index](#)

• Book Review •

The Old Alcalde: Life and Times of a Texas Fire-Eater, Oran Milo Roberts

Book Review by Hon. John G. Browning

Our Journal has recently published certain scholarship about iconic Texas figure Oran Milo Roberts, including a biographical article as well as a look at the role he and his fellow antebellum justices played in a series of decisions involving race. This new biography of “The Old Alcalde” by historian John A. Adams merits its spot at the head of the renaissance of interest in Oran Roberts. While I can’t explain the sudden interest in Roberts (up until recently, the lone scholarly exploration of his remarkable life was an obscure 1932 dissertation),



The Old Alcalde: Life and Times of a Texas Fire-Eater, Oran Milo Roberts
Author: John A. Adams, Jr.
Publisher: Stoney Creek Publishing
(December 2025) (323 pages)

I certainly welcome it. After all, Oran Milo Roberts was one of the most impactful figures in Texas history, and particularly our legal history. Roberts went from serving as a Justice of the Texas Supreme Court to acting as president of the 1861 Texas Secession Convention. His post-war career was equally impressive. Roberts was elected to the U.S. Senate (but not seated), served again on the Texas Supreme Court in 1874 (this time as Chief Justice), and was elected governor in 1878. He helped establish the University of Texas School of Law and served as its first law professor. As a widely-respected legal scholar, Roberts wrote *The Elements of Texas Pleading* (1890) and helped shape much of the Lone Star State’s post-Reconstruction civil law. He also helped establish the Texas State Historical Association. Yet until this recent revival of interest in his extraordinary life, Roberts has been largely overlooked, even by Texas historians.

Adams, an award-winning historian and the author of twenty books (including a biography of Governor Sul Ross), notes this neglect but offers little in the way of explanation for it except to note Roberts' "vehemently pro-secessionist and racist views." Yet Adams' meticulously researched and vividly written biography is adept at introducing us to—if perhaps not explaining—the deep and complex contradictions in Roberts' life. While ardently pro-slavery and an unrepentant secessionist, Roberts nevertheless as a jurist ruled that Black people possessed human rights (before the Civil War). As a post-Civil War governor, Roberts championed public higher education for Black Texans, including at the college level. Adams deftly describes both the brilliance and the shortcomings of Roberts but refrains from reconciling the two.



John A. Adams, Jr.

And although the author (a non-lawyer) is quick to assure readers that he doesn't purport to offer a legal history of Roberts' work, he nevertheless does a wonderful job in tracing Roberts' legal career from a humble district attorney in east Texas (appointed by Sam Houston, no less) to district judge, Supreme Court chief justice, and eventually law professor and U.T. Law School's first dean. Adams recognizes Roberts' lasting impact on Texas jurisprudence, illustrating how "The Old Alcalde" helped navigate Texas' legal system in its transition from a period heavy in Spanish and Mexican influences to a modern, post-frontier system of more organized protocols.

Overall, *The Old Alcalde: Life and Times of a Texas Fire-Eater, Oran Milo Roberts* is a worthy and welcome addition to the library of any student of Texas history. Like the largely-forgotten Texas icon that is its subject, Adams' book may have its failings but is still a complex and compelling narrative that provides a nuanced portrait of Oran Roberts—not an apology.

[Return to Journal Index](#)

Texas Forever: The Society Covers a Century of Early Texas Law at TSHA's 2026 Annual Meeting

Text and Photos by David A. Furlow



The Society presented its most recent panel-program—*Texas Forever: Law from the Villa de San Felipe 1836 Courthouse through Texas's 1876 Constitution*—at the Texas State Historical Association's 130th Annual Meeting in Irving on Friday, March 6, 2026.¹

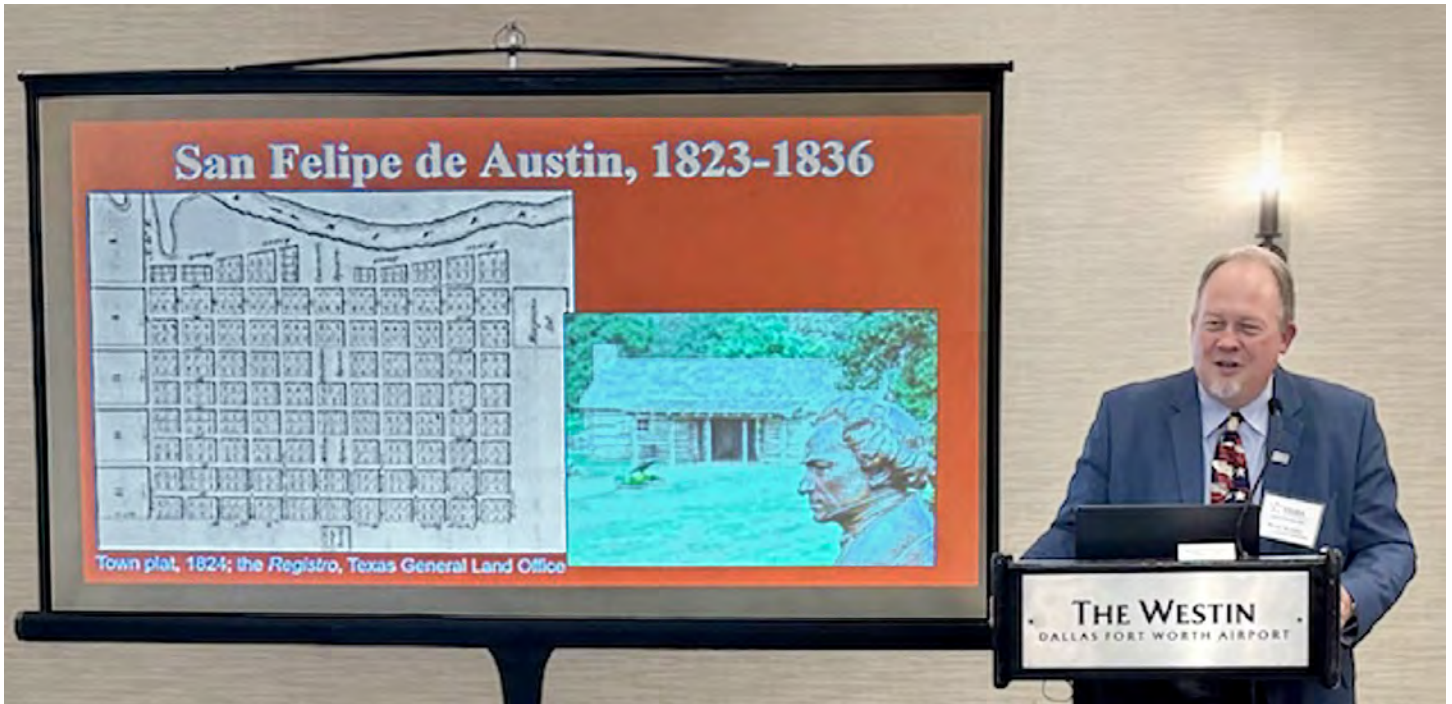
Our President, Ms. Jasmine S. Wynton, began our session by introducing the historians, attorneys, and archivists who attended the Texas Supreme Court Historical Society panel. Ms. Wynton presented the program's first PowerPoint, one that showcased the society's unique role in chronicling and publicizing the history of the Texas Supreme Court, Texas's judiciary, and Texas law. She made audience members aware of our society's history of publishing scholarly works, the fifteen-year story of the *Journal of the Texas Supreme Court Historical Society*, our Fellows' leadership of the *Taming Texas* 7th Grade Texas History project, and other events that make our society a uniquely law-focused member of the Texas historical community.



President Jasmine S. Wynton introduced the Society to the audience at TSHA's 2026 Annual Meeting.

¹ See "Texas Forever: Law from The Villa de San Felipe Courthouse through Texas's 1876 Constitution," *TSHA 2026 Annual Meeting* website, <https://am.tsha.events/sessions/texas-forever-law-from-the-villa-de-san-felipe-courthouse-through-texas-1876-constitution/>, accessed Sept. 25, 2025.

Bryan McAuley, Curator of the Texas Historic Commission's San Felipe de Austin Historic Site, discussed "Law in the Villa de San Felipe de Austin." Bryan McAuley has worked in the public history arena since 2000 and has been part of the San Felipe de Austin project team since 2008. He helped organize and oversaw construction of the modern visitor center at the San Felipe de Austin State Historic Site, which opened in April of 2018, and the Villa de San Felipe de Austin exposition—a depiction of the village that includes a press, a hotel and an alcalde courtroom—which followed in late 2021. Current construction will result in the opening of a public archeology lab at the site during 2026.



Bryan McAuley told stories about how settlers at San Felipe de Austin introduced a unique Anglo-American rule of law to Mexican Texas.



Bryan McAuley discussed how San Felipe de Austin began as a company town, one focused on empresario Stephen F. Austin's sale of land to the *Old 300* colonists and those who came after them. While showing a slide depicting artist Henry McArdle's painting *The Log Cabin*, with its image of Austin holding a musket in one hand and a book of land records in the other, Mr. McAuley offered insights about Mexican colonization laws Austin translated for his settlers.



Bryan McAuley told stories about Anglo-American law in Mexican Texas, including San Felipe de Austin's green-striped red-star flag.

Bryan McAuley examined the alcalde court system at San Felipe de Austin in the 1820s and 1830s when the town was the administrative headquarters of Stephen F. Austin's colony in the Mexican twin-state of Coahuila y Texas. Because San Felipe had a high population of lawyers and a robust civil and criminal court system, Bryan began by offering audience members a choice of collective nouns to describe gatherings of attorneys. Next to the slide entitled "A Quarrel of Attorneys," Mr. McAuley described San Felipe's legal culture during the 1830s. "This guy who has no money sues a guy who has no money. The mayor awards someone a court victory against the guy who has no money from whom you may or may not ever receive compensation. But their efforts kept us civil through the use and application of the law."



The Alcalde Courtroom in the Villa de San Felipe de Austin brings the alcalde courtroom experience to life.

Bryan McAuley's presentation examined some of the most important cases handled in the Villa de San Felipe de Austin's reconstructed alcalde courtroom as well as the larger-than-life nature of the lawyers who practiced there, including William Barrett Travis. Mr. McAuley showed the audience the last advertisement that William Barrett Travis and his law partner Franklin J. Starr published in the *Telegraph & Texas Register*—the “voice of the Texas Revolution”—on January 20, 1836, after William B. Travis left San Felipe to command the garrison at the Alamo.

“If you notice the date on that ad,” Bryan McAuley observed, “it says January 20. And what has happened to prompt it is that Hot-Head, in our Quarrel of Lawyers, Travis, has fired a law partner, Nibbs, in the latter part of 1835. A gentleman named Franklin Jefferson Starr emerges in San Felipe. He literally arrives on Christmas Eve of 1835...What's important for you to know is that Travis has already left the law office. He has reported to San Antonio, to his fate there. He will never practice law there, in San Felipe, again.” You could hear a pin drop.

A Quarrel of Lawyers



William Barret Travis – lawyer, town secretary, diarist, Alamo commander

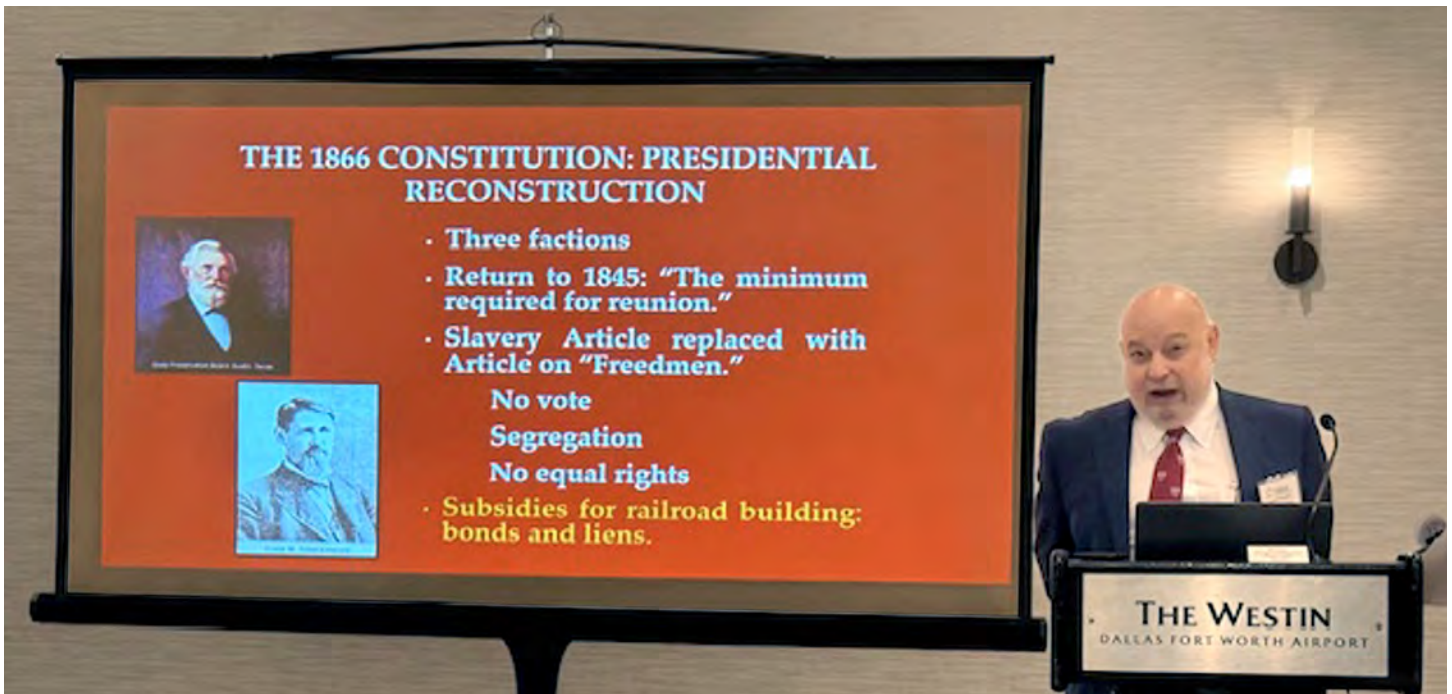
WILLIAM B. TRAVIS,
Attorney & Counsellor at Law,
SAN FELIPE DE AUSTIN.
September 1st, 1832.

LAW NOTICE.
THE PARTNERSHIP heretofore existing between Travis & Nibbs, has been dissolved by limitation. The unfinished business entrusted to them will be attended to by Travis & Starr. W. B. Travis and Franklin J. Starr have associated themselves in the practice of the law, and will attend to business in the courts of San Felipe, Washington, and the adjoining municipalities. One or both of them will be constantly found at their office in San Felipe.
January 20, 1836. tf

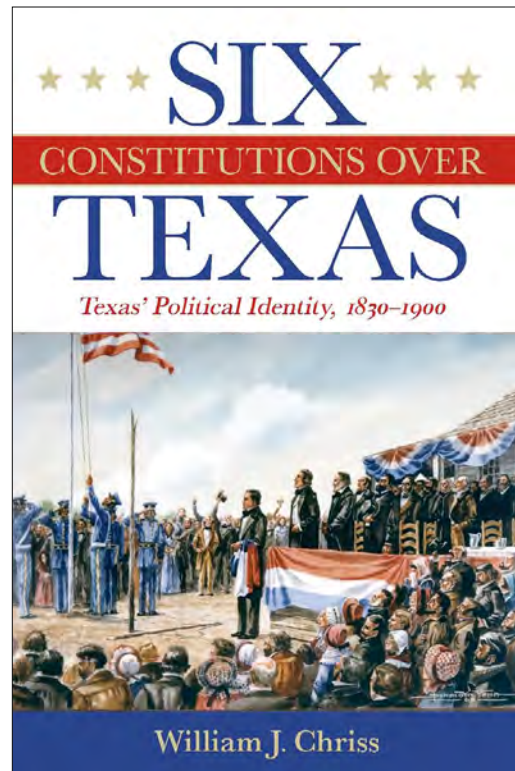
Ads from the
Texas Gazette
(1829-1832) and
Telegraph & Texas Register (1836),
respectively

After Bryan McAuley finished his speech, the Society's second speaker, William J. “Bill” Chriss, J.D., Ph.D., took the podium. An attorney, scholar, and author of *The Noble Lawyer* (Austin: State Bar of Texas, 2011) and *Six Constitutions over Texas* (College Station: Texas A&M University Press, 2025), Bill Chriss came prepared to discuss the constitution that still governs Texans today: “The Constitution of 1876: Its Enduring 150 Year Legacy.” Dr. Chriss, who trained in history under the mentorship of University of Texas History Professor William “Bill” Brands, has long served as one of our society's trustees. He is a member of the American Law Institute (ALI), the publisher of the *Restatements of the Law*, and served as the immediate past Chair of the State Bar's Appellate Law Section.

Bill gained an in-depth understanding of the 1876 Constitution by researching its origins and writing about its jurisprudence in *Six Constitutions over Texas*. Bill opened his presentation by discussing the era of whipsawing Texas constitutions as the Lone Star State transitioned from statehood in 1845 to 1861, when voters approved the Confederate State Constitution, and then ran through a rapid-fire series of state constitutions in 1866, 1869, and 1876.



Bill Chris analyzed the origins of Texas's 1876 Constitution and told engaging stories about how courts have interpreted or invalidated its many provisions and amendments. He autographed copies of his book for those who purchased it.



“The 1869 Constitution eliminated race-based restrictions on voting,” Bill Chriss remarked. “It enacted a constitution that said that all people, or at least men, were equal before the law, regardless of race. And in that same election, in 1869, Edmund J. Davis, the Radical who fought and raised a cavalry regiment for the Union Army, became the Governor of Texas. So for this brief period of time, there was this brief interlude, beginning in 1869 and lasting roughly through 1873 or 1874, when there was equality under the law regardless of race.”

Bill Chriss then described the advances that Democrats made during the legislative election of 1872, and how that elections and the next one in 1874 paved the way for the 1876 Constitution that governs the Lone Star State to this day.

Sharon Sandle, the Society’s Executive Director, served as the Commentator who fields questions from the audience. As the Director of Texas Bar Books and the Director of the Law Practice Resources Division of the State Bar of Texas, she brought a wealth of deep research and practical knowledge to her speech. A veteran of three previous TSHA Annual Meeting panels, she summarized our two historians’ presentations, questioned panelists one-on-one, and kept the program moving at a fast pace. She discussed how our society conducted a board meeting at San Felipe de Austin in 2019. The visit enabled our trustees and officers to visit the site of the William B. Travis Law Office in the field.



Sharon Sandle’s presentation as commentator concluded the society’s TSHA session.

“In 2019, we had the opportunity to have our board meeting at San Felipe,” Sharon Sandle explained. “And some of our board members wanted to go out into the field where Travis’s law office once existed. It doesn’t exist anymore, because that law office burned down long ago. But it was important to this group of lawyers and judges to stand in a place where some of this history happened. And that’s the thread that connects what we’ve heard here today. The law is not just ideas. It’s not just ideas captured on a page. It’s also places where history occurred. And this

society includes people who are really invested in the outcome of these cases, whether it's lofty principles or the taxation of coffee beans."

Historians, lawyers, judges, and historically-minded members of the public came early, heard the presentations, and remained afterwards to ask questions of our speakers. The session was a success. Members of TSHA have learned that this society's speakers tell great stories about the history of Texas law without reading speeches or glancing down at notes.

The Texas State Historical Association will hold its 131st Annual Meeting on March 3 – March 7, 2027 in Abilene. Registering for a TSHA annual meeting is quick, easy, and affordable. It always occurs at a beautiful conference center and it's always a great meeting. Please accept our invitation to see the Society fulfill its educational mission of sharing the history of the Texas Supreme Court, the Texas judiciary, and Texas law.

[Return to Journal Index](#)

“More than a License on the Wall”:

Sharon Sandle Celebrated the Life of Mary Joe Carroll at TSHA’s Women’s History Luncheon

Text and Photos by David A. Furlow



More than a License on the Wall

The Life and Legacy of Mary Joe Carroll

Our society's Executive Director, Sharon Sandle, elevated the society's profile by sharing the story of pioneering woman attorney Mary Joe Carroll during the 130th Annual Meeting of the Texas State Historical Association in March. Sharon presented her speech, "More than a License on the Wall: The Life and Legacy of Mary Joe Carroll" during TSHA's Women in Texas History Luncheon in Irving. It was the first time that anyone from our society has served as the luncheon speaker in this annual program. That annual luncheon celebrates the achievements of women in Texas history. It includes presentations of TSHA's Liz Carpenter Award, Kay Bailey Hutchison Award, and Lynna Kay Shuffield Memorial Award. It is an important event.

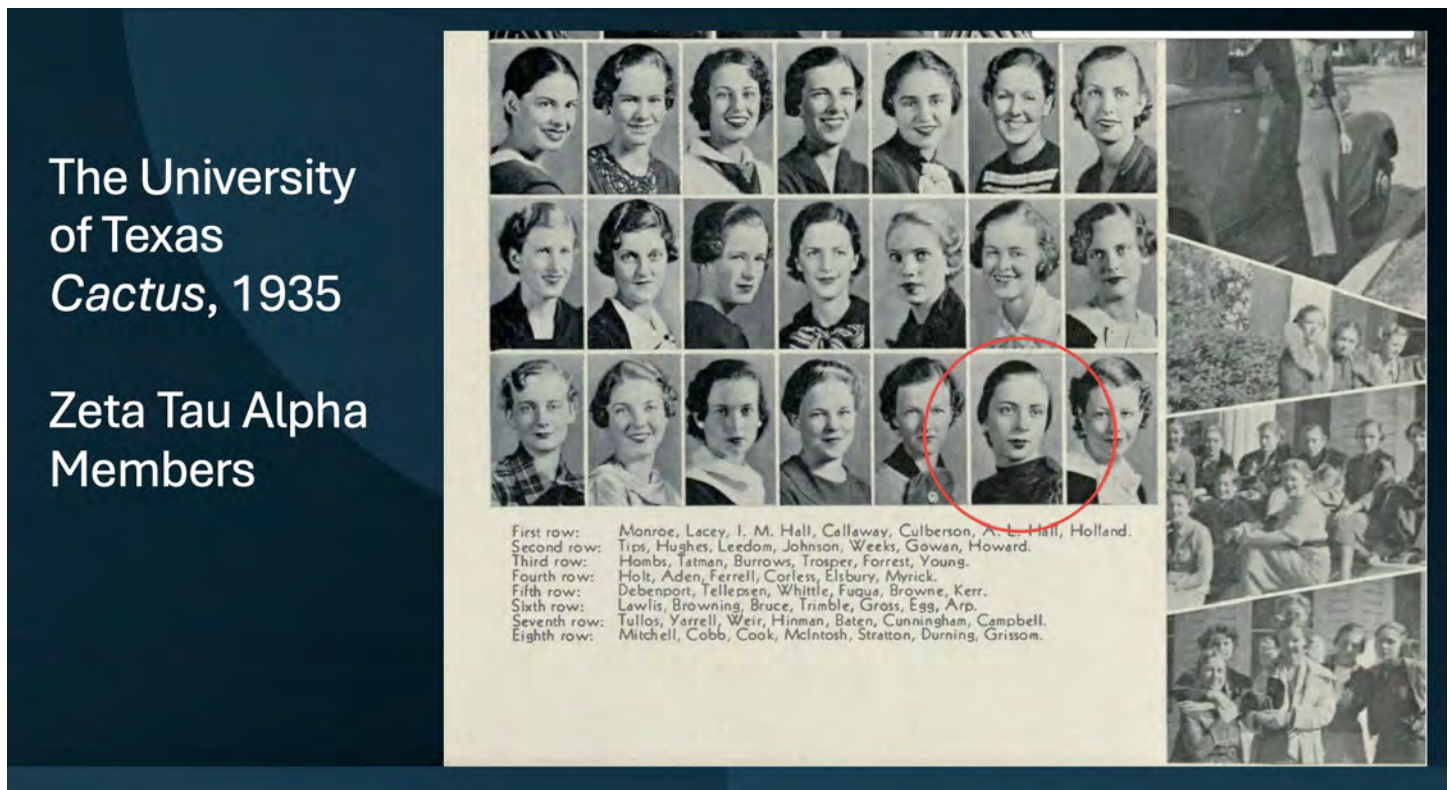


Sharon Sandle

In October 2025, Angel Baldree, the Chair of TSHA's Annual Meeting, asked Sharon Sandle to speak at the Women in Texas History Luncheon. Angel needed someone with a track record of presenting legal history programs. It was natural that she turned to this society's executive director. Angel asked Sharon to present a program about an important but overlooked attorney, Mary Joe (Durning) Carroll (1914–1995). She opened doors for women to join the legal profession. Mrs. Carroll once observed that she “was born before women could vote; held a license to practice law before women could sit on a state jury in Texas; and was a partner in a major law firm before women had any civil rights.” Mrs. Carroll chose not to call herself a woman attorney but, instead, an attorney who was a woman.

Sharon accepted TSHA's challenge. She set out to find unpublished State Bar of Texas records and photos that shed new light on Mrs. Carroll's life. On March 5, 2026, Sharon told an attentive audience how Mrs. Carroll overcame personal and professional hurdles to practice law.

Born on June 25, 1914 in Wichita Falls to Joseph Harlan and Mary (Douglas) Durning, Mary Joe Durning first made a name for herself as a star on her high school debate team. She did so well in high school that she attended the University of Texas on a high school University Interscholastic League debate championship. She graduated from the University of Texas with honors in 1934. A photo from the University of Texas *Cactus*, in 1935, shows Mary Joe Durning as a member of the Zeta Tau Alpha sorority. She earned her M.A. on June 3, 1935.



The next day, Mary Joe married Horace Bailey Carroll (1903-1966), a history instructor and graduate student at the university. The couple launched a partnership in historical research and writing that also produced two sons. During and after college Mary Joe Carroll conducted research for Texas Rangers historian Walter Prescott Webb. In the late 1930s she worked as an associate editor of the *Handbook of Texas* while her husband served as its managing editor. Mary Joe's

husband taught at Texas Wesleyan, Lamar State, Hillsboro, West Texas State, Eastern New Mexico, and Arlington State colleges before returning to his alma mater, the University of Texas, in 1942.

He joined U.T.'s History Department. By 1946 he was the editor of TSHA's *Southwestern Historical Quarterly*.



H. Bailey Carroll with
Walter Prescott
Webb

Sharon Sandle then described how Mary Joe Carroll began her legal career. Despite a years-long interest in becoming a lawyer that began when she read a biography of Clarence Darrow, Mrs. Carroll did not study law until 1944. She was raising two children at that time, so she balanced family and work responsibilities by taking only

one or two classes per semester. She graduated with honors in 1955. Her persistence attracted attention, leading the editor of the *Texas Law Review* to invite her to join.

When the State Bar released bar-examination results in June 1955, Mary Joe Carroll ranked first. She was the first woman to place first on the bar—and she did so at a time when only 30 of the 121 applicants who passed the bar were women. Newspapers across the Lone Star State covered the story. The news encouraged women and girls to dream of legal careers. The newly admitted lawyers were sworn in at a licensing ceremony held in the historic courtroom in the state capitol on September 16, 1955.

life and the useful life which we all desire.”

“While your training thus far has given you the basic tools of your profession and some proficiency in their use, there remains a great deal to be learned about the

practical use of these tools.

“Most members of the bar will welcome any opportunity to assist a young lawyer who is trying to establish his own law practice. Those who enter practice for
(Continued on page 595)

121 New Lawyers

Mrs. Mary Joe Carroll, University of Texas law graduate, makes highest grade among 121 applicants who passed June bar examination

Mrs. Mary Joe Carroll (Mrs. H. Bailey Carroll) of Austin made the highest average among the 121 applicants who passed the June bar examination. She is

a graduate of the University of Texas Law School.

A total of 158 examinees took the examination. Those who passed are listed.

John Q. Adams, Grand Prairie
Charles L. Ballman, Austin
Joseph Weldon Beasley, Austin
Morris E. Belilove, Houston
Henry Beltran, San Antonio
Henry A. Bennett, Waco
Mrs. Sarah W. Biedenharn,
Houston

Millard A. Gillham, Austin
Thomas N. Griffith, Duncanville
Arnulfo Guerra, Austin
Lemuel S. Guest, Daingerfield
Arthur J. Haffey, Lancaster
Albert Garland Hamilton,
Austin
Everett W. Hargrave, Jr.

Ted W. Myatt, Burleson
Hyman Joseph Ettlinger
Newton, Austin
Robert Ray Pearson, Austin
Carl H. Pfeiffer, San Antonio
Howard Wallace Pollock,
Houston

State Bar President Maurice Bullock and Texas Supreme Court Chief Justice John Hickman welcomed the new lawyers to the profession. As the high scorer, Mary Joe Carroll gave the response. "Being a lawyer is a great deal more than having a license to hang on the wall," she stated. "The practice of law can and should be the exercise of the highest type of good citizenship."


Supreme Court Chief Justice John E. Hickman hands her license to practice law to Mrs. Mary Joe (H. Bailey) Carroll of Austin, who made the highest grade on the June bar examination. Onlookers are State Bar President Maurice R. Bullock of Fort Stockton, left, and Associate Justice Ruel C. Walker of the Supreme Court, right. All four participated in the Supreme Court's licensing ceremony on September 16 for 121 new lawyers. Mrs. Carroll is the first woman to make the high grade on a bar exam.



Mary Joe Carroll was forty-one when she earned her license to practice law. Her son Speed Carroll was at that time a sophomore at the University of Texas.

After graduation, Carroll went to work at Looney, Clark & Moorehead, which later became Clark, Thomas & Winters. She began as personal assistant to senior partner Everett L. Looney—a former judge and the firm's top appellate specialist.

It was as assistant to Looney that Carroll worked on one of her most notable cases. She began by working for senior partner Judge Everett L. Looney, the firm's foremost trial lawyer and appellate advocate. Mrs. Carroll soon earned a reputation as a zealous defense attorney capable of winning, or at least preserving appealable error, in high-profile cases, including the 1956 felony trial of land-speculator B.R. Sheffield, a defendant in the Veterans' Land Board scandal of the late

STATE BAR OF TEXAS		REGISTRATION CARD		#11552 82		AUSTIN, TEXAS	
Name	MARY JOE CARROLL	Race	White	Sex	Female		
<small>(Please Print Full Name)</small>							
Office Address	1020 Brown Bldg.	City	Austin, Texas				
Residence	2100 Sharon Lane	City	Austin, Texas				
Date of Birth	June 25, 1914	Place	Wichita Falls, Texas				
Schools Attended	University of Texas	Degrees		BA., MA., LL.B.			
Date Admitted to Practice in Texas	Sept	(Month)	16	(Day)	1955	(Year)	
Year Admitted in Other States							
Places and Dates of Practice Since Admission							
Date	Sept 16, 1955	 <small>Exact Signature</small> <small>(Use Reverse Side If Necessary)</small>					

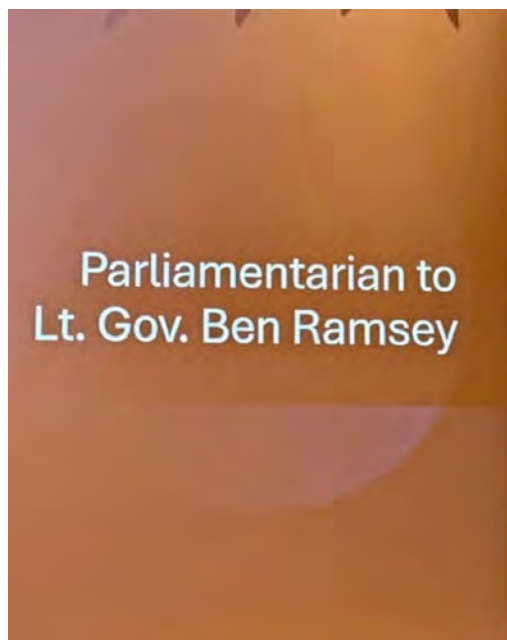
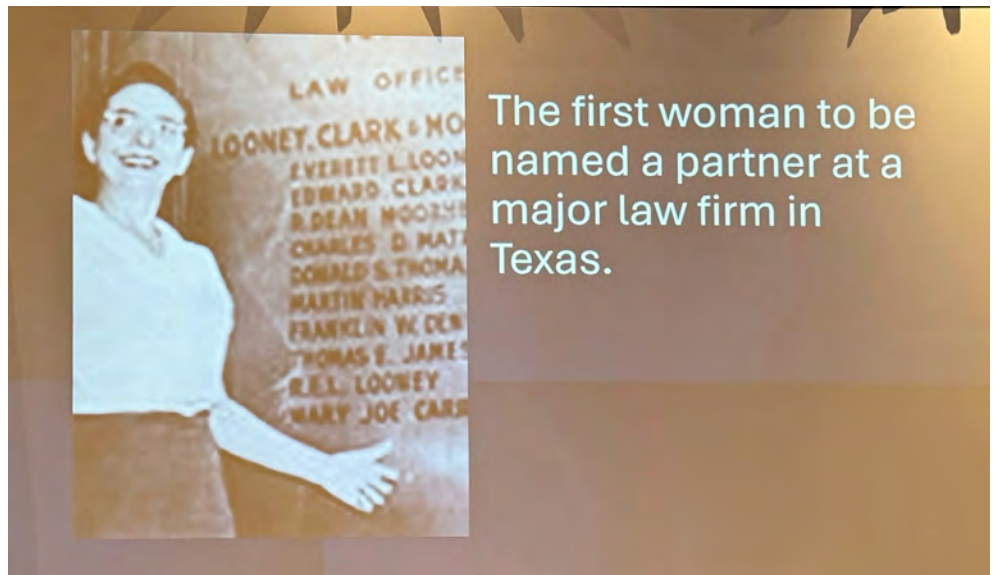
1950s. Mr. Sheffield lost his case at trial, resulting in a conviction. Mary Joe Carroll prepared an appellate brief and record so voluminous that it filled two volumes, some 3,800 pages. Her appeal succeeded, and she reversed Mr. Sheffield's conviction on appeal.

Sharon told the audience that Mary Joe Carroll's diligence and intellect convinced her law firm to make her a partner—the first one in Texas. Mrs. Carroll gained a reputation for perseverance. She earned the respect of the legal community and practiced law for decades.

Mary Joe Carroll represented a wide variety of businesses and industry groups, including the Licensed Beverage Distributors Association, the Texas Restaurant Association, the Wholesale Beer Distributors of Texas, and the Texas Brewers Institute. She served as advisory counsel to the Texas Farm Bureau, the National Armory Board, the Texas Press Association, and the Texas Daily Newspaper Association.

Mrs. Carroll's advocacy for the last two media groups resulted in her drafting two statutes that have since protected the public's right to gain access to information about governmental operations—the Open Meetings Act of 1967 and the Open Records Act of 1973. She participated in early recodification efforts beginning with the Texas Education Code. Her law firm—renamed Clark, Thomas, and Winters—made her a partner in 1968, after which she devoted most of her time to appellate work. She litigated cases in the Supreme Court of Texas.

Mary Joe Carroll's legal work significantly changed established Texas law. In *Myers v. Martinez*, 326 S.W.2d 171 (Tex. 1959) (*per curiam*), her advocacy helped secure a ruling that a “wet” city could exist within a “dry” county, a decision that reshaped

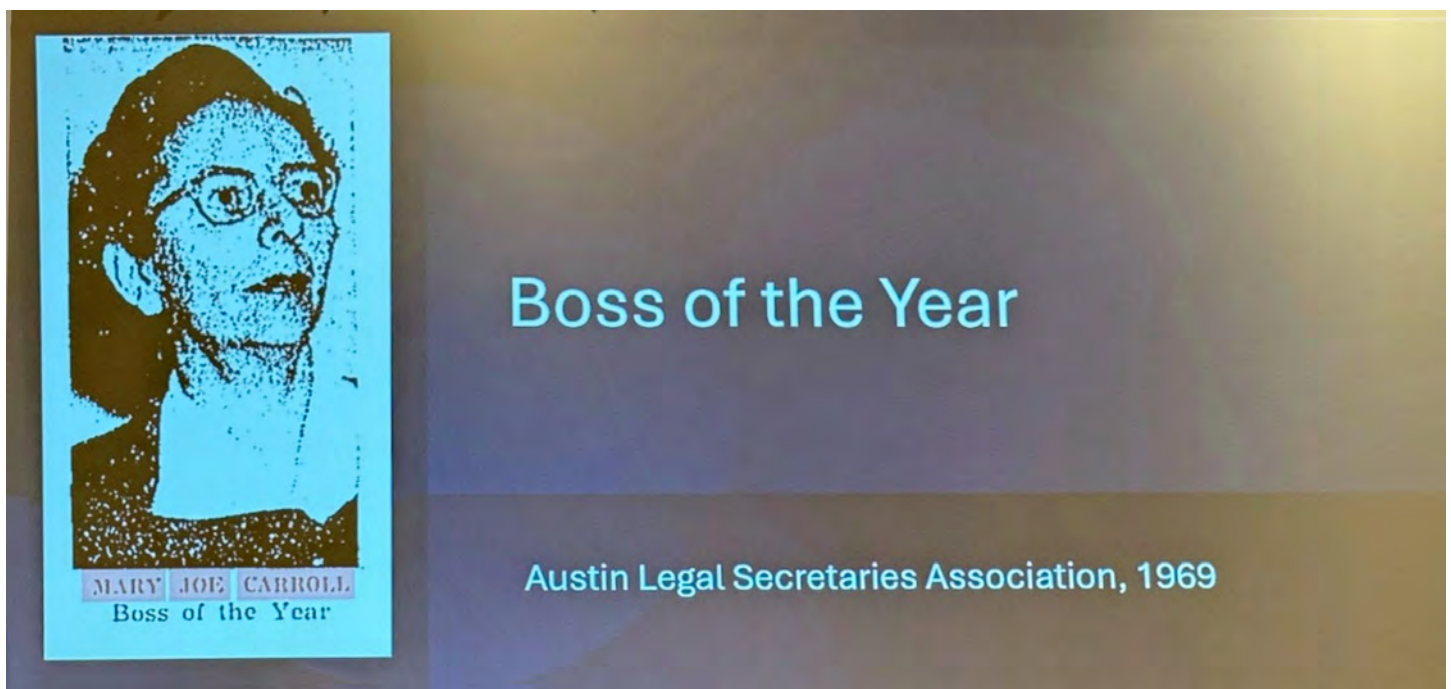


Texas alcoholic beverage regulation. *Amex Warehouse Company v. Archer*, 381 S.W.2d 478 (Tex. 1964), Mrs. Carroll's victory in the Supreme Court of Texas established that the state's notice of appeal operates as a supersedeas.

Sharon Sandle then discussed how Mrs. Carroll took a brief hiatus from the legal practice in 1961 to serve as the Texas Senate's Parliamentarian under Lieutenant Governor Ben Ramsey. Through her service to the Senate, she learned how to draft legislation, a skill she put to good use at her firm. Carroll had a lengthy list of clients, including the Texas Press Association and the Texas Daily Newspaper Association, for which she drafted the open government legislation. The Texas Legislature enacted into law the first version of the Open Meetings Act in 1967 and passed the Open Records Act in 1973.

Although she worked hard, Mary Joe Carroll did not work her staff to desperation. Sharon Sandle pointed out that the Austin Legal Secretaries Association awarded Mrs. Carroll their Boss of the Year award in 1969. Sharon acclaimed Mrs. Carroll as an influential attorney who made a difference. Mrs. Carroll worked until close to the end of her life, Sharon noted, and made her final appearances in the Texas Supreme Court soon after her 80th birthday in 1994. She died in 1995 at the age of 80.¹

An appreciative audience applauded Sharon Sandle's presentation.



¹ "Mary Joe Durning Carroll (1914–1995)," *State Bar of Texas* website, <https://www.texasbar.com/AM/PrinterTemplate.cfm?Section=Search&template=/CM/HTMLDisplay.cfm&ContentID=14972>; Tracé Etienne-Gray, "Carroll, Mary Joe Durning," *Handbook of Texas Online*, (Aug. 1, 1995, updated Oct. 7, 2017) <https://www.tshaonline.org/handbook/entries/carroll-mary-joe-durning>

[Return to Journal Index](#)

And the 2026 Larry McNeill Research Fellowship in Texas Legal History goes to . . . Jody Edward Ginn, Ph.D.

Text and Photos by David A. Furlow

The Texas State Historical Association awarded Texas Rangers historian Jody Edward Ginn, Ph.D. its prestigious 2026 Larry McNeill Fellowship in Legal History during TSHA's March 6, 2026 Fellows and Awards Luncheon. This is the latest fellowship TSHA has awarded since our society first sponsored the Larry McNeill Research Fellowship in Texas Legal History eight years ago. TSHA awards the fellowship annually to a scholar in recognition of the submission of the best research proposal on some aspect of Texas legal history.



Jody Edward Ginn, Ph.D.



Texas State Historian Rick McCaslin presented the Larry McNeill Fellowship to Dr. Jody Edward Ginn.

Richard B. McCaslin, Ph.D., in his role as Texas State Historian (since 2025) and as TSHA's Director of Publications since 2023, presented the award. Dr. McCaslin joined the TSHA Staff as the Director of Publications in September 2023. It was one of more than ten fellowships and other awards that he presented at the luncheon. TSHA scholars made the award based on Dr. Ginn's submission, "The Legal History Surrounding the Sherman Race Riot/Lynching of George Hughes." The submission reflects Dr. Ginn's initiatives in Texas Rangers scholarship.

Jody Edward Ginn is the former Director of Development for the Texas Ranger Hall of Fame & Museum. A former law enforcement investigator/administrator and U.S. Army veteran, he has worked for nearly two decades as a public historian, including as a curatorial/multi-media consultant to museums, educational institutions/non-profits, and as an adjunct professor of history at Austin Community College.

Dr. Ginn first published a refereed book in 2018: *Palmito Ranch: From Civil War Battlefield to National Historic Landmark* (College Station: Texas A&M University Press, 2018). Dr. Ginn collaborated with former Texas Historical Commission Military Sites Coordinator William McWhorter in writing that book. Dr. Ginn's most recent book is *East Texas Troubles: The Allred Rangers Cleanup of San Augustine* (Norman, OK: Oklahoma University Press, 2019). His scholarly works include "Texas

Rangers in Myth and Memory,” in the anthology *Texan Identities: Moving Beyond Myth, Memory, and Fallacy in Texas History* (Dallas: UNT Press, 2016). Ginn’s second refereed publication was also an anthology chapter, titled “American Indians in the Republic of Texas: A Case Study for Moving Beyond Traditional Perspectives,” in *Single Star of the West: The Republic of Texas, 1836-1845* (Denton: University of North Texas Press, 2017).

As a museum consultant and executive, Dr. Ginn has raised funds for historical projects—from traveling museum exhibits to educational films to full museum development projects—for over twenty years. Dr. Ginn organized a network of development partners, contributor contacts, and consultants while creating a comprehensive strategic institutional plan for the Texas Rangers Heritage Center in Fredericksburg. He also served as an expert consultant/commentator for filmmakers and publicity agents, online podcasts, and for national and international print media outlets.



Dr. Ginn holds the award certificate in between Society President Jasmine S. Wynton (left) and Society Executive Director Sharon Sandle.

Dr. Ginn is a Life Member of the TSHA and two-time winner of the Fred White Jr. Research Fellowship. He has served on numerous awards and planning committees. He also regularly presents his ongoing research and moderates panels at TSHA annual meetings and at regional historical conferences. Dr. Ginn has authored numerous refereed publications on Texas history topics. Dr. Ginn intends to use the Fellowship money to fund a trip to conduct research in the Library of Congress and at the National Archives.

Congratulations to Jody Edward Ginn!

TSHA is now accepting applications for the 2027 Larry McNeill Fellowship

Applications are now being accepted for the Texas State Historical Association's 2027 Larry McNeill Research Fellowship in Texas Legal History. Eight years ago, our society began working with TSHA to establish the Larry McNeill Research Fellowship in Texas Legal History to honor Larry McNeill, a past president of the Society and TSHA. The \$2,500 award recognizes an applicant's commitment to fostering academic and grassroots research in Texas legal history. TSHA awards the annual fellowship to an applicant who submits the best research proposal on an aspect of Texas legal history. Judges may withhold the award at their discretion.

Competition for the next Larry McNeill Fellowship is open to any applicant pursuing a legal history topic, including judges, lawyers, college students, and academic and grass-roots historians. The deadline for submission will expire in mid-November, 2026. An application should be no longer than two pages, specify the purpose of the research and provide a description of the end product (article or book). An applicant should include a complete vita with the application. Judges may withhold the award at their discretion. TSHA will announce the next award at the Friday Awards Luncheon during TSHA's 2027 annual meeting. Only electronic copies submitted through TSHA's link and received by the deadline will be considered. Anyone who has trouble submitting the form electronically should email TSHA at angel.baldree@tshaonline.org or call TSHA Annual Meeting Coordinator Angel Baldree at 512-471-2600.

[Return to Journal Index](#)

Texas Appellate Hall of Fame Nominations

The Appellate Section of the State Bar of Texas is now accepting nominations for the Texas Appellate Hall of Fame. The Hall of Fame posthumously honors advocates and judges who made a lasting mark on appellate practice in the State of Texas.

Nominations should be submitted in writing to jennie.knapp@uwlaw.com no later than May 30, 2026. Nominations should include the nominator's contact information, the nominee's bio or CV, the nominee's photo if available, and all the reasons for the nomination (including the nominee's unique contributions to the practice of appellate law in the State). The more comprehensive the nomination materials, the better. All material included with any nomination will be forwarded to the voting trustees for their consideration in deciding whom to induct as part of this year's Hall of Fame class.

Nominations will be considered based upon some or all of the following criteria, among others: written and oral advocacy, professionalism, faithful service to the citizens of the State of Texas, mentorship of newer appellate attorneys, pro bono service, participation in appellate continuing legal education, and other indicia of excellence in the practice of appellate law in the State of Texas. A person is eligible for consideration as a nominee to the Hall of Fame if they have been deceased for at least one year prior to May 30, 2026.

Please note that an individual's nomination in a prior year will not necessarily carry over to this year. As a result, if you nominated someone previously and would like to ensure his/her consideration for induction this year, you should resubmit the nomination and nomination materials.

The Section will honor Hall of Fame inductees at a presentation and ceremony at a date and time to be announced.

[Return to Journal Index](#)

John Hemphill Dinner

The 31st Annual John Hemphill Dinner will be held on Thursday, September 10, 2026—rather than its traditional Friday evening, in observance of the Rosh Hashanah holiday—in the Grand Ballroom of the Four Seasons Hotel in Austin.

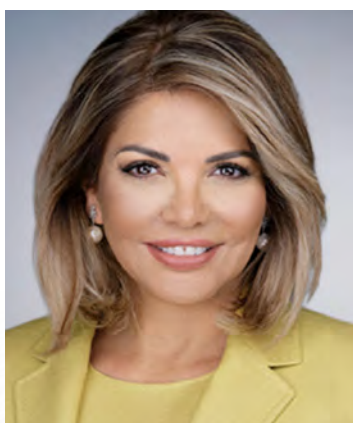
This year's dinner will commemorate the 150th anniversary of the Texas Constitution, which coincides with the 250th anniversary of the Declaration of Independence, and will feature a program honoring



Lynne Liberato



Justice Rhonda Wood



Former Justice
Eva Guzman



Former Chief Justice
Beth Walker



Justice Evan Young

ing the enduring role of state constitutions and the critical work of the courts that interpret them. The evening will include a toast to the Texas Constitution, to be delivered by Justice Evan Young of the Supreme Court of Texas, followed by a panel discussion moderated by Lynne Liberato.

The panel will include Eva Guzman, former Justice of the Supreme Court of Texas; Justice Rhonda Wood of the Supreme Court of Arkansas; and Beth Walker, former Chief Justice of the Supreme Court of Appeals of West Virginia. Together, the panelists have explored the work of state high courts through their *Lady Justice* podcast.

Call Mary Sue Miller at (512) 481-1840 for availability.

[Return to Journal Index](#)



THE TEXAS SUPREME COURT HISTORICAL SOCIETY



2025-2026 OFFICERS

PRESIDENT
Ms. Jasmine S. Wynton

PRESIDENT-ELECT
Ms. Alia Adkins-Derrick

VICE-PRESIDENT
Mr. Mark Trachtenberg

TREASURER
Ms. Rachel H. Stinson

SECRETARY
Mr. Matthew Kolodoski

IMMEDIATE PAST PRESIDENT
Ms. Lisa Bowlin Hobbs

TEXAS SUPREME COURT
HISTORICAL SOCIETY
P.O. Box 12673
Austin, Texas 78711-2673

Phone: 512-481-1840
Email: tschs@sbcglobal.net
Web: www.texascourthistory.org

Executive Director
Sharon Sandle

Administrative Coordinator
Mary Sue Miller

BOARD OF TRUSTEES

Mr. Anthony Arguijo
Ms. Marianne Auld
Mr. Chad Baruch
Ms. Alison Battiste Clement
Hon. Gina M. Benavides
Hon. Jerry D. Bullard
Mr. David J. Campbell
Ms. Kirsten M. Castañeda
Hon. John H. Cayce
Dr. Frank de la Teja
Hon. Lawrence M. Doss
Hon. April Farris
Ms. Fermeen Fazal
Ms. Jennifer Freel
Mr. David A. Furlow
Ms. Kendyl Hanks
Mr. Warren W. Harris
Mr. Michael Heidler
Ms. Allyson Ho
Mr. Lamont Jefferson
Mrs. Jennie C. Knapp
Mr. Christopher D. Kratovil
Mr. Heriberto "Eddie" Morales, Jr.
Hon. Xavier Rodriguez, Justice (Ret.)
Mr. Kent Rutter
Mr. Tyler Talbert
Ms. Amanda G. Taylor
Hon. Michael J. Truncale
Mr. J. Joseph Vale
Ms. Audrey Mullert Vicknair
Ms. Brandy Wingate Voss
Hon. Don R. Willett, Justice (Ret.)

COURT LIAISON

Hon. Jane Bland, Justice
Supreme Court of Texas

JOURNAL STAFF

Editor-in-Chief
Hon. John G. Browning
jbrowning@faulkner.edu

Executive Articles Editor
Stephen P. Pate
spate@cozen.com

Managing Editor
Karen Patton
karenpatton133@gmail.com

Production Manager
David C. Kroll
dckroll@gmail.com

Editor Emerita
Lynne Liberato
lynne.liberato@haynesboone.com

Editor Emeritus
David A. Furlow
dafurlow@gmail.com

DISCLAIMER

The Texas Supreme Court Historical Society (the "Society") is a nonprofit, nonpartisan, charitable, and educational corporation. The Society chronicles the history of the Texas Supreme Court, the Texas judiciary, and Texas law, while preserving and protecting judicial records and significant artifacts that reflect that history.

The *Journal of the Texas Supreme Court Historical Society* welcomes submissions, but the Editorial Board reserves the right to determine what will be published in every issue. The Board does not discriminate based on viewpoint, but does require that an article be scholarly and interesting to the *Journal's* readership. The *Journal* includes content concerning activities of public figures, including elected judges and justices, but that chronicling should never be construed as an endorsement of a candidate, a party to whom a candidate belongs, or an election initiative. Publication of an article or other item is neither the Society's nor the *Journal's* endorsement of the views expressed therein.

[Return to Journal Index](#)

2025-26 Membership Upgrades

The following Society members have moved to a higher Membership category since June 1, 2025.

HEMPHILL FELLOW

Hon. Nathan L. Hecht

TRUSTEE

Hon. Jeffrey V. Brown

Hon. Lawrence Doss

[Return to Journal Index](#)

2025-26 New Member List

The Society has added 31 new members since June 1, 2025. Among them are 21 Law Clerks for the Court (*) who will receive a complimentary one-year membership during their clerkship.

HEMPHILL FELLOW

Priscilla Richman

GREENHILL FELLOW

Alex Bell

Richard Hollenbeck

TRUSTEE

Nadeen Adou-Hossa

Alison Battiste Clement

Brandy Manning

David Campbell

Audrey Vicknair

CONTRIBUTING

Laura Beth Bienhoff

Jason Bramow

REGULAR

Eric Ables*

Hunter Heck*

Christian Shaffer*

Brandon Charnow*

Ashley Little*

Kavid Singh

Meagan Corser*

Eliza Martin*

Max Varela*

Alesondra Cruz*

Rebecca Moseley

Martha Vazques*

Emmalyn Decker*

Jackson Nichols*

Kali Venable*

Wes Dodson*

Ben Prengler*

Kirk Vonkreiser*

Temi Fayiga*

Veronica Rivas

Alison Welch*

Brendan Fugere*

Abigail Schultz*

Hannah Young*

[Return to Journal Index](#)

Membership Benefits & Application

Hemphill Fellow \$5,000

- Autographed Complimentary Hardback Copy of Society Publications
- Complimentary Preferred Individual Seating & Recognition in Program at Annual Hemphill Dinner
- All Benefits of Greenhill Fellow

Greenhill Fellow \$2,500

- Complimentary Admission to Annual Fellows Reception
- Complimentary Hardback Copy of All Society Publications
- Preferred Individual Seating and Recognition in Program at Annual Hemphill Dinner
- Recognition in All Issues of Quarterly *Journal of the Texas Supreme Court Historical Society*
- All Benefits of Trustee Membership

Trustee Membership \$1,000

- Historic Court-related Photograph
- All Benefits of Patron Membership

Patron Membership \$500

- Discount on Society Books and Publications
- All Benefits of Contributing Membership

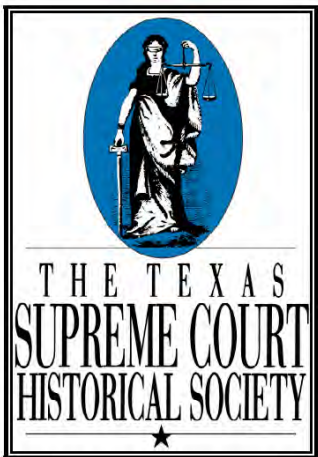
Contributing Membership \$100

- Complimentary Copy of *The Laws of Slavery in Texas* (paperback)
- Personalized Certificate of Society Membership
- All Benefits of Regular Membership

Regular Membership \$50

- Receive Quarterly *Journal of the Texas Supreme Court Historical Society*
- Complimentary Commemorative Tasseled Bookmark
- Invitation to Annual Hemphill Dinner and Recognition as Society Member
- Invitation to Society Events and Notice of Society Programs

eJnl appl 5/26



Membership Application

The Texas Supreme Court Historical Society conserves the work and lives of the appellate courts of Texas through research, publication, preservation and education. Your membership dues support activities such as maintaining the judicial portrait collection, the ethics symposia, education outreach programs, the Judicial Oral History Project and the Texas Legal Studies Series.

Member benefits increase with each membership level. Annual dues are tax deductible to the fullest extent allowed by law.

Join online at <http://www.texascourthistory.org/Membership/>.

Name _____

Firm/Court _____

Building _____

Address _____ Suite _____

City _____ State _____ Zip _____

Phone (_____) _____

Email (required for eJournal delivery) _____

Please select an annual membership level:

- | | |
|---|---|
| <input type="checkbox"/> Trustee \$1,000 | <input type="checkbox"/> Hemphill Fellow \$5,000 |
| <input type="checkbox"/> Patron \$500 | <input type="checkbox"/> Greenhill Fellow \$2,500 |
| <input type="checkbox"/> Contributing \$100 | |
| <input type="checkbox"/> Regular \$50 | |

Payment options:

- Check enclosed, payable to **Texas Supreme Court Historical Society**
- Credit card (see below)
- Bill me

Amount: \$ _____

Credit Card Type: Visa MasterCard American Express Discover

Credit Card No. _____ Expiration Date _____ CSV code _____

Cardholder Signature _____

Please return this form with your check or credit card information to:

Texas Supreme Court Historical Society
P. O. Box 12673
Austin, Tx 78711-2673

eJnl appl 5/26