



Journal of the TEXAS SUPREME COURT HISTORICAL SOCIETY

Fall 2025 Vol. 15, No. 1 Editor Emerita Lynne Liberato Editor-in-Chief Hon. John G. Browning

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This Fall issue illuminates important chapters of Black legal history in Texas and honors individuals whose courage and commitment shaped our state. [Read more...](#)



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Allen W. Wilder

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An example of segregation on a city bus

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Text and photos by David A. Furlow

Magna Carta's history is a tale of courage and constitutionalism overcoming cruelty, cowardice, and caprice, of freedom and faith triumphing over tyranny and fear. [Read more...](#)



Maquette of Stephen Langton, a signatory to the Magna Carta

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[Governor Abbott Appoints Hawkins as Justice of the Supreme Court of Texas](#)

Justice Kyle D. Hawkins was appointed to the Supreme Court of Texas by Governor Greg Abbott in October 2025.

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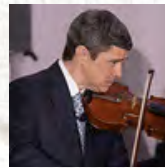
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[The Judiciary and the Arts: the Hemphill Dinner was the Appellate Event of the Year](#)

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As in the past, the event occurred at the Four Seasons Hotel. But this time, the Justices presented a night of arts and entertainment for their friends and colleagues.

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Justice Brett Busby on the violin

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The Society will present its next 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. [Read more...](#)



Membership & More

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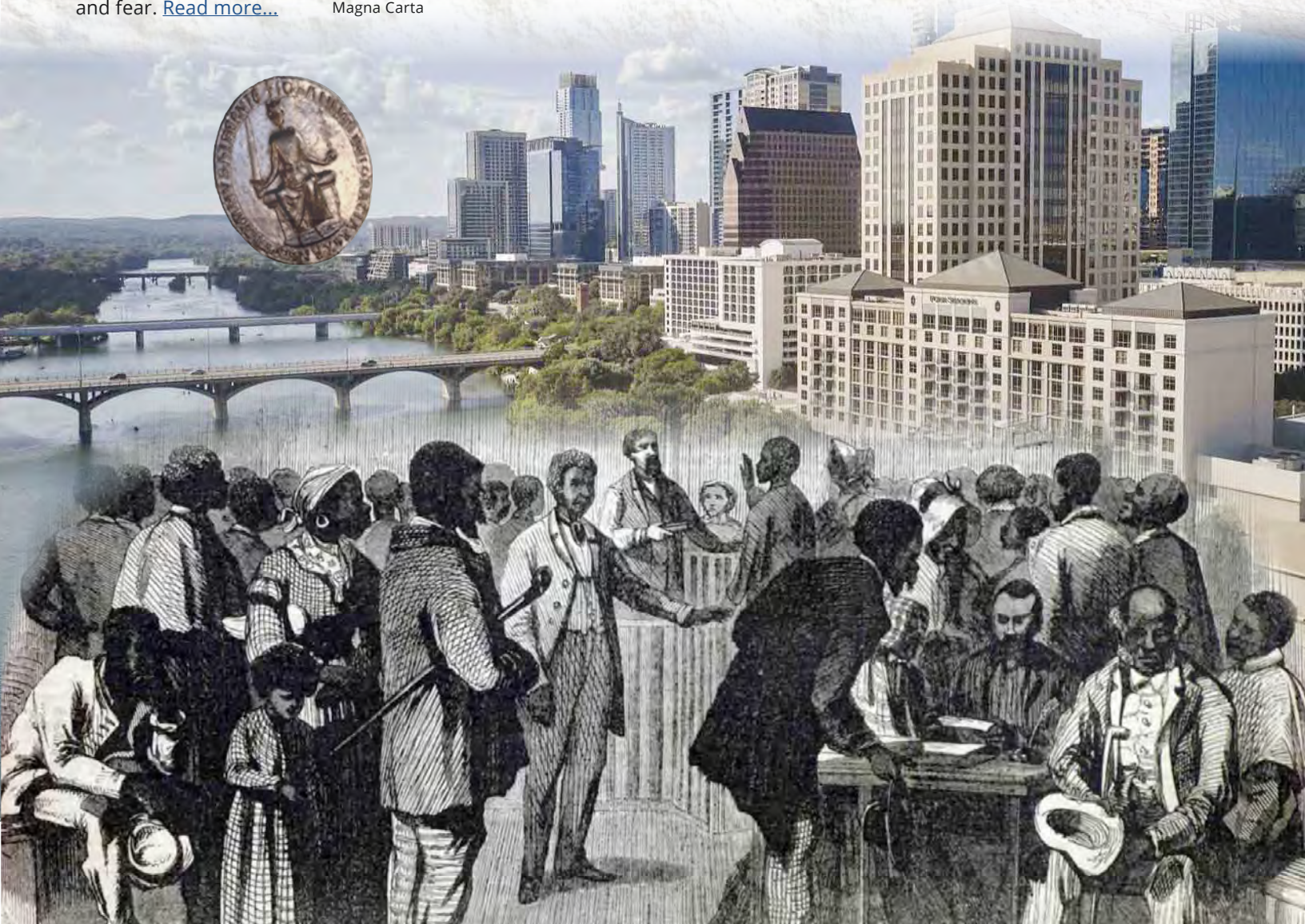
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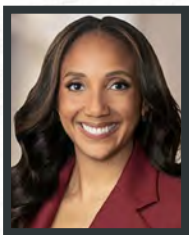
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Jasmine S.
Wynton

Message from the *President*

As we settle into the fall season—a time of transition and reflection—I am delighted to share with you the newest issue of the *Texas Supreme Court Historical Society Journal*. This Fall issue is especially meaningful. It brings together stories that illuminate important chapters of Black legal history in Texas and honors individuals whose courage and commitment shaped our state during the late nineteenth century through the mid-twentieth century that for far too long remained overlooked or ignored. I hope you will find these articles both deeply informative and profoundly moving.

We begin with “Creation of the Texas Black Reconstruction Legislator Historical Marker Program,” as Senator Royce West and Vince Leibovitz recount the long journey toward passing the Black Reconstruction Legislators Recognition Act. It is inspiring to read how community voices, scholars, and public servants came together to ensure that Texas’s earliest Black legislators—and their significant contributions—receive the recognition they deserve.

Justice John G. Browning’s “Remembering Texas’s First Black Legislators” continues this theme with his insightful profile of Allen Wilder—one of Texas’s earliest Black lawyers and lawmakers. Justice Browning also shares an overview of the forty-two Black Texans who served in the Legislature during Reconstruction, including the ten who took part in the constitutional conventions of 1868-69 and 1875. His work restores these remarkable men to their rightful place in our historical memory. His article on the Freedmen’s Bureau “Promises Unfulfilled” equally heightens our historical awareness of the struggle to ensure the rights of citizenship of formerly enslaved people after emancipation.

Next, we have Vince Leibovitz’s “Sadie Patillo, *Patillo v. State*, and Texas’s Separate Coach Laws.” Through the experience of Sadie Patillo—whose courage in the 1930s challenged bus segregation in Texas—we are reminded of the countless individuals whose names rarely appeared in textbooks but whose insistence on dignity influenced our legal history. Vince places her story in the broader context of segregated transportation in Texas, giving voice to a chapter of history too often overlooked.

We are also pleased to feature Editor Emeritus David A. Furlow’s “Magna Carta Year: Tracing the Rule of Law Back to Runnymede.” With his characteristic enthusiasm and storytelling skill,

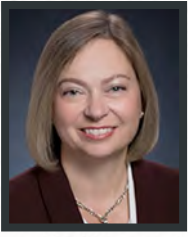
David provides a sweeping yet engaging look at the origins of the rule of law that has had such an enduring impact on our own legal traditions here in Texas.

In a separate piece, David offers vibrant coverage of this past September's 30th Annual Hemphill Dinner, themed "Judiciary and the Arts." This special evening featured a lively panel—emceed by Justice Craig Enoch—with Chief Justice Nathan Hecht, Justice Brett Busby, and Chief Judge Jennifer Walker Elrod, each of whom delighted the crowd by sharing their artistic talents. David's photos and narration beautifully capture the creativity, warmth, and joy that made this year's dinner unforgettable.

Finally, we are proud to announce that the Society will present ***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 on Friday, March 6, 2026 from 3:00 to 4:30 p.m. in Irving, Texas. These panels have become a wonderful opportunity for us to connect with the broader community of Texas historians and to deepen our shared understanding of the state's legal past. I hope you will mark your calendars and join us.

As always, I am grateful for the authors who shared their work, for our editors who give so generously of their time and talent, and for you, our members and readers. Your enthusiasm for Texas legal history—your curiosity, your support, your commitment—makes all our work possible. I hope you enjoy this Fall issue and the important stories it brings forward.

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Sharon Sandle

Markers, Memory, and the Law: Why Public History Matters to Justice

When I was a kid growing up in Texas, my family took a lot of car trips. We traveled from one end of the state to the other, from the beach to the state capital to the panhandle, on the major highways that transect the state and on little back roads. And I remember passing, and often stopping to read, the historical markers that you will find throughout the state. Even my hometown, Friendswood, has no fewer than twelve historical markers. Each historical marker tells a small part of the story, the history, of our state. The story of how a town was founded, or the location of an important event, or the home of a person or a family who contributed to the history of the state. Our understanding of history often depends on what we choose to commemorate. And sometimes the most transformative act is simply the decision to remember publicly what long went unacknowledged.

This issue of the *Journal* focuses attention on one such act of public memory. The Black Reconstruction Legislators Recognition Act—and the historical marker program it creates—represents the culmination of years of work to bring forward the stories of the forty-two Black legislators who served in Texas during and immediately after Reconstruction. Their contributions to Texas law and policy have long been visible in the historical record but invisible in our public spaces. The article in this issue by Senator Royce West and Vince Leibovitz traces the journey from research to legislation to recognition.

Judge John Browning's profile of Allen Wilder—a lawyer, legislator, and one of the earliest Black members of the Texas bar—puts a human face on that recognition. Wilder's story reveals the personal courage required to practice law and serve in public office at a time when both the profession and the political system were openly hostile to the full citizenship of Black Texans.

Markers are powerful not because they tell the whole story, but because they prompt us to ask the next question. They anchor memory in place. They insist that the past was lived in real locations by real people. Just as the portraits that hang in the Supreme Court building remind us that there are real people who inhabit judicial robes, who hear cases and deliberate the law, historical markers root history in the physical world. They remind us that the law is never merely theoretical. It is lived, contested, and shaped by communities.

The Texas Supreme Court Historical Society continues to play a part in this landscape of memory by publishing scholarship that brings forgotten stories back into circulation and by preserving portraits and documents in our archives that will help future generations remember and understand the history of our laws and our courts. And each spring, the Society shares that history publicly through our panel at the Texas State Historical Association Annual Meeting—including the newly announced program for March, which will explore the evolution of Texas law from San Felipe de Austin through the 1876 Constitution. I will also have the privilege of speaking at TSHA's Women in Texas History Luncheon about Mary Joe Durning Carroll, a pioneering Texas attorney whose work similarly deserves broader recognition.

Public memory is not static. It expands as we expand our understanding of who shaped Texas and whose stories belong in the foreground. The Society is proud to be an active part of that process.

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Fellows Column

By Warren W. Harris, Chair of the Fellows



The Fellows Program is celebrating its fourteenth anniversary during the Society's 2025-26 fiscal year. It is a significant milestone, representing nearly a decade and a half of support for projects that have served the Society's educational mission in a variety of important ways. I would like to highlight these projects here.

Taming Texas Book Series: The Fellows have sponsored an illustrated legal history book series as part of the course materials for the judicial civics project. Coauthored by Jim Haley and Marilyn Duncan, the series includes *Taming Texas: How Law and Order Came to the Lone Star State* (2016); *Law on the Texas Frontier* (2018); *The Chief Justices of Texas* (2020); and *Women in Texas Law* (2023). Copies of the hardback books are donated to the classrooms that participate in the judicial civics program. You can download a free copy of the books at www.tamingtexas.org.

Taming Texas Judicial Civics and Court History Classroom Project: In Spring 2016, the Fellows launched an innovative judicial civics program that sent attorneys and judges to seventh-grade classrooms to teach an innovative curriculum on the history and workings of the Texas court system. Since then, the program has reached over 25,000 students, primarily through our partnership with the Houston Bar Association. The San Antonio bar will be joining us in implementing Taming Texas in San Antonio-area schools in the 2025-26 school year, and we are working on an expansion in Austin and Dallas schools.

Landmark Court Case Reenactments: An early project of the Fellows was our reenactments of landmark cases. To make our state's legal history come alive, the Fellows sponsored courtroom reenactments of *Texas v. White*, *Johnson v. Darr*, and *Sweatt v. Painter* with noted advocates including Fellows David Beck, Hon. David Keltner, Lynne Liberato, and Hon. Dale Wainwright. The reenactments were well attended by the bar and videotaped for viewing on the Society's Hemphill YouTube Channel.

Fellows Dinners: One of the benefits of being a Fellow is our exclusive event, the annual Fellows Dinner. Each year since 2013, the Fellows gather with the Justices of the Texas Supreme Court for a collegial dinner. We always try to 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 official home of the Chancellor of the University of Texas System), the Lyndon Baines Johnson Presidential Library, and most recently the Harry Ransom Center on The University of Texas Campus. The attendees always comment on the dinner's elegance, uniqueness, and fellowship.

Archive Support: To supplement the Society's archival holdings, the Fellows purchased an original copy of the seminal *History of the Supreme Court of the State of Texas* (1917) by Harbert Davenport. The historic book was presented to the Court in 2013 at the inaugural Fellows Dinner.

As you see from these projects, the Fellows undertake new projects to educate the bar and the public on the third branch of government, and the history of our Supreme Court. The Fellows are also a critical part of the annual fundraising by the Society. If you are not currently a Fellow, please consider joining the Fellows and helping us with this important work.

If you would like more information or want to join the Fellows, please contact the Society office or me.

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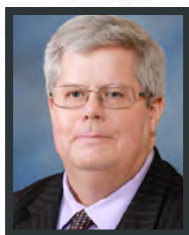
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Hon. John G.
Browning

The Danger of *Erasing History*

There is a complex of buildings in western Jerusalem known as Yad Vashem. It serves as Israel's official memorial institution to the victims of the Shoah, better known to non-Hebrew speakers as the Holocaust. But it is far more than an institution that preserves the memory of the millions of Jews who were murdered and honors those who survived. It also contains research institutes that document, archive, study, and educate about one of the darkest chapters in human history, with the goal of preventing such horrible events from happening again.



Aerial view of Yad Vashem

Every nation has its share of shameful historical chapters, and the United States is no exception. Our history of slavery and racial inequality, the mass removal and near-genocide waged against Native Americans, and the internment of Japanese Americans during World War II stain the legacy of America as the "land of the free and the home of the brave." But, guided by our "better angels," we have recognized the importance of remembering and learning from the sins of the past so as to prevent history from repeating itself. I know—I live in Montgomery, Alabama, a city rich in civil rights history that is home to multiple museums and memorials that echo the painful lessons our nation has learned and the courage of those who helped teach them.

However, our efforts to remember and learn from the worst episodes in our history may be in jeopardy. In September, President Trump signed an Executive Order entitled "Restoring Truth and Sanity to American History," which instructs the Department of the Interior to take action against "descriptions, depictions, or other content that inappropriately disparage Americans past or living." The current administration feels this will crack down on what it calls a "corrosive ideology" in U.S. museums and national parks. The National Parks Conservation Association,

on the other hand, feel this will jeopardize the Parks Service's mission to protect and interpret American history, and says that the "truthful and factual accounting of history should not change, regardless of which political party is in power...[e]very American who cares about our country's history should be worried about what people, places, and themes disappear next."

Already, the executive order has resulted in the removal of exhibits related to slavery at multiple national parks, including the Harpers Ferry National Historic Park in West Virginia. One such removal was that of the famed photograph known as "The Scourged Back." Taken in 1863, it depicts the horribly scarred back of an escaped slave named Peter, the result of repeated and brutal whippings. Prints of the photo are owned by the National Portrait Gallery, the National Gallery of Art, and the National Museum of African American History and Culture (among others), and the image brought home the atrocities of slavery.

In August, President Trump railed against what he characterized as the "OUT OF CONTROL," Smithsonian museums for emphasizing "how hard Slavery was," and for what he called "distorted narrative." Respectfully, however, slavery was as bad as it gets. Seen by many scholars as our nation's "original sin" and as "a stain on the American soul," it deeply contradicted our founding ideals of liberty and equality. Learning from it enables us to move forward toward being a more just society.



"The Scourged Back"

In this issue, we feature articles that provide insight into some of the frequently-overlooked stories of Reconstruction in Texas and the nascent days of the struggle for civil rights. This includes Vince Leibowitz's and Sen. Royce West's article on the Black Reconstruction Legislators Recognition Act; my article on the work done by Freedmen's Bureau courts in Texas during Reconstruction; my profile of Allen W. Wilder, one of Texas' first Black lawyers and first Black legislators; and my piece remembering Texas' first Black legislators; along with Vince Leibowitz's story of Sadie Patillo, a Black woman whose 1930 challenge to Texas' segregated motor coach law reached Texas' highest criminal court two decades before Rosa Parks' much more well-known legal battle. We are also proud to bring you David Furlow's article on the historical events leading up to the Magna Carta as well as his wonderful coverage of the Hemphill Dinner. We also feature our usual columns, reviews, and news. As the Society welcomes its first Black woman president, we hope you enjoy our efforts to keep history alive.

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Creation of the Texas Black Reconstruction Legislator Historical Marker Program

By Vince Liebowitz with Senator Royce West

For many years, people trekking through an old cemetery contained within a Fort Bend County Park in Kendleton might have come across a broken-down tombstone that marked the grave of Benjamin Franklin Williams. Unless they knew the area's history, or Texas legislative history, they'd have no idea who Benjamin Franklin Williams was, or why he was important to Texas history.



Benjamin Franklin Williams

Although volunteers restored Williams' tombstone to an upright position in the early 2020s, his grave and the graves of more than a dozen other Black Reconstruction legislators around the state still bore no official marking indicating these men had served. In fact, little existed to recognize the service of these men. "Nothing special existed on the part of the state to recognize these men in the counties from which they served," said State Senator Royce West of Dallas.

"We have a poster in the Capitol with some of their photos on it, and one of those posters is on the official tour route, but that really is about it," Senator West said.



Sen. Royce West

During the Regular Session of the 88th Texas Legislature in 2023, Senator West introduced and passed legislation to finally give these men public recognition they'd never received. His Senate Bill 667 created the Texas Black Reconstruction Legislator Historical Marker Program. The legislation was



Rep. Harold Dutton

carried in the Texas House by its Sponsor, State Rep. Harold Dutton of Houston. "I was looking for a way to honor or celebrate African American Texas history through legislation, and one of my staff told me about a trip he'd taken to visit the grave of a Reconstruction legislator. There was

no marker, or anything whatsoever that indicated this man had served in the Texas Legislature during this historic time,” recalled Senator West.

Senator West said that made him want to look at ways to recognize and honor the Black men who served in the Reconstruction Legislatures. “We looked at the Texas Historical Commission’s historical marker program, and realized that every one of these legislators really needed one of those markers,” said Senator West. “The reality was that any attempt to go through the regular channels of having people in these counties apply for markers for these men would be cumbersome and costly,” he observed.

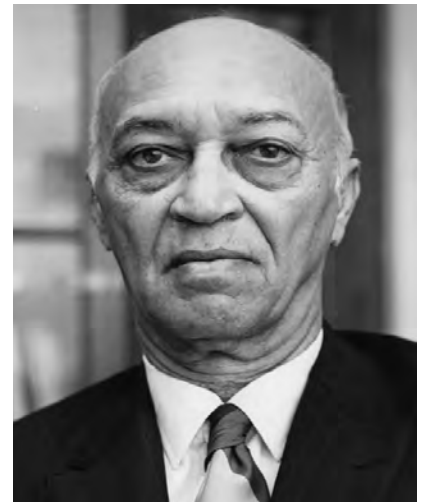
In addition to the fact that applying for markers for the former legislators would take many years due to the Commission’s marker process, there was no family left alive to pay for a marker honoring some of these men. “Every historical marker you see near a building or along the roadside today, someone paid as much as \$2,500 for that marker to be cast by the foundry, and put in that spot” West said. “I felt strongly that we, as a state, needed to pay for these markers to be cast and erected,” Senator West continued.

Senator West said he and his staff tossed around a number of ideas about ways to honor the Reconstruction legislators before settling on the idea of a special historical marker program administered by the Texas Historical Commission. “There was sufficient historical scholarship already on the Reconstruction African



American Legislators, so we knew we did not need to completely start from scratch,” Senator West remarked. Among those resources are the book by legendary Black Texas

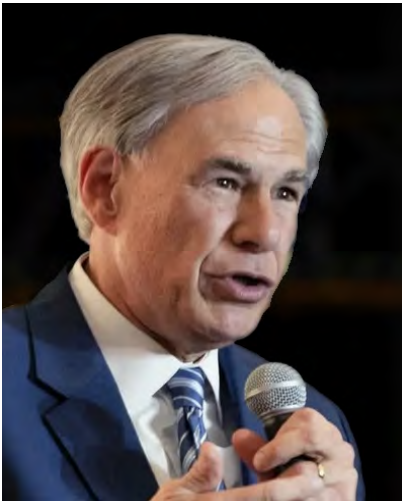
Folklorist, J. Mason Brewer, and other resources contained in the Texas Legislative Reference Library and its archives. “Ultimately, we realized the best option was to simply direct the Historical Commission to create a special marker program and individually mark the eighteen men who served in the Texas House and three men who served in the Texas Senate during Reconstruction,” Senator West said. “The commission also had the resources to do additional research to help fill in gaps where they existed in this history,” Senator West said.



J. Mason Brewer

Getting the bill passed was not without its hurdles, however. “One of our first hurdles was the fact that some of these men had their names spelled three or four different ways across a variety of published scholarship and even in primary sources,” Senator West recalled. Senator West said his staff worked with the Texas Legislative Reference Library, the official repository for the archives of the Texas Legislature, to determine which name spellings should be used. This led to the Legislature ultimately adopting a resolution specifying both a particular spelling of each legislator’s name to be used on the eventual historical markers, and specifying the counties they

represented. “Legislatively, the easiest way to give the direction to the Historical Commission on how these names should be spelled was for the legislature to pass a Concurrent Resolution, which we did,” Senator West continued. “If we had not given them direction on how to spell the names, I believe it would have created confusion and delays for the Commission,” Senator West said.



Gov. Greg Abbott

Once the bill passed and was signed by Governor Greg Abbott, the real work began. The Texas Historical Commission began preparing mock-ups of the markers to show how they would look once they were created by an Indiana foundry under contract to the Historical Commission. They also began contacting chairs of County Historical Commissions across the state where the markers would be placed. They hit a snag, however. “There was no money to actually fund the markers in the Commission’s budget,” Senator West said. “The bill passed very late in the legislative process, and as a result, a contingency rider for SB 667 did not make it into the Conference Committee Report of the General Appropriations Act in 2023,” Senator West recalled. “That essentially meant we had to wait until the next legislature for there to be money appropriated for this purpose,” he continued.

That didn’t stop work. While Senator West worked on securing funding for the markers, the Historical Commission continued its work of preparing the plaque inscriptions and working with local county historical commissions on where the markers would ultimately be placed. The legislation specified that the markers could be placed at the legislator’s gravesite, or another prominent place in the county. This was necessary because some legislators, like J. Goldstein DuPree, who was killed by the Ku Klux Klan while campaigning for Governor E.J. Davis, had no known gravesite. “I did not want one of these men to not have a marker solely because we couldn’t find their grave,” Senator West said.

As the 89th Legislature began to wind down in May of this year, Senator West was again on the hunt for the money to fund the markers. This time, however, the Historical Commission determined they had funds within their budget to have the markers cast at the foundry without an additional appropriation. No contingency rider was needed. “I was very pleased when I learned the Commission did not need additional dollars to make this program happen. We’d had a lot of discussions about this money going back to the fall of 2023,” Senator West recalled.

With markers already ordered and set to arrive in Texas from the foundry in the coming weeks, Senator West said the public should expect to see some of the markers up by early next year. “We’ve been told by the commission that as soon as the markers come in, a number of them have pre-selected sites and are ready to be erected,” Senator West said. Senator West said he planned to be part of at least a few of the dedication ceremonies for the markers. “It is my hope every county will have a special ceremony to dedicate and unveil these markers to the public,” Senator West said. “I intend to make at least a couple of those across the state,” he continued.

"It will be nice to see this project come to a conclusion, and see that the work I've done in Austin has helped preserve these histories for future generations," Senator West said.

EDITOR'S NOTE

*The authors' figure of twenty-one legislators is limited to those Black men who served in the 12th, 13th, and 14th Legislatures between 1871 and the end of federal Reconstruction. It does not include those who served as delegates to the constitutional conventions that were held during this period, or those Black legislators who served later during the Reconstruction Era. Multiple sources, including the Texas Almanac and the Texas State Library, identify fifty-two Black legislators or constitutional convention delegates during the Reconstruction period. Interestingly, there is even disagreement among historians of this figure, with Eric Foner's seminal work, *Freedom's Lawmakers: A Directory of Black Office Holders During Reconstruction*, identifying forty-nine Black Texans as legislators during this timeframe.*

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Promises Unfulfilled: The Freedman's Bureau Courts in Texas

By Hon. John G. Browning



Court in session, Freedmen's Bureau offices, Richmond, Virginia, summer 1866, artist's impression.

As anyone who has ever celebrated Juneteenth is well aware, President Abraham Lincoln's January 1, 1863 Emancipation Proclamation purported to free all slaves, but freedom did not come to enslaved persons in Texas until June 19, 1865. On that day, General Gordon Granger arrived in Texas and placed the proclamation into effect. But words were not enough. Action was needed to assist the roughly four million formerly enslaved men, women, and children. For this reason, Congress established the Bureau of Refugees, Freedmen, and Abandoned Lands (better known as the Freedmen's Bureau) on March 3, 1865.¹

¹ Diane Neal & Thomas W. Kremm, "What Shall we do with the Negro?: The Freedmen's Bureau in Texas," *East Texas Historical Journal*: Vol. 27: Iss. 2, Article 7, <https://scholarworks.sfasu.edu/ethj/vol27/iss2/7>.

The Bureau was intended to expire one year from the end of the Civil War, but it was extended by three additional acts of Congress and lasted until November 1872.² Congress gave the Bureau the tasks of administering all abandoned lands and seeing to it that the newly emancipated Black Americans received the social, economic, and political rewards of citizenship. It also ordered the Bureau to assume judicial control from the former Confederate states in certain broad circumstances, including “places where there is an interruption of civil laws, or in which local courts, by reason of old codes . . . disregard the negro’s right to justice before

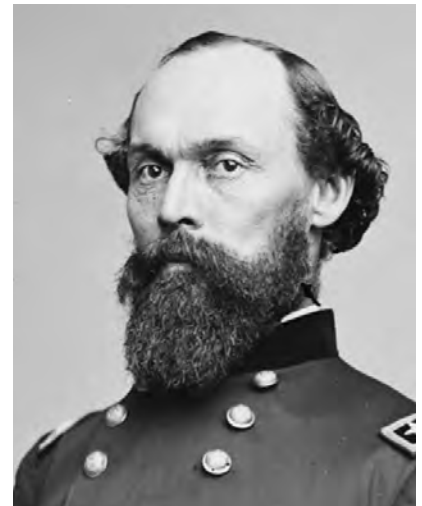


Donald Nieman

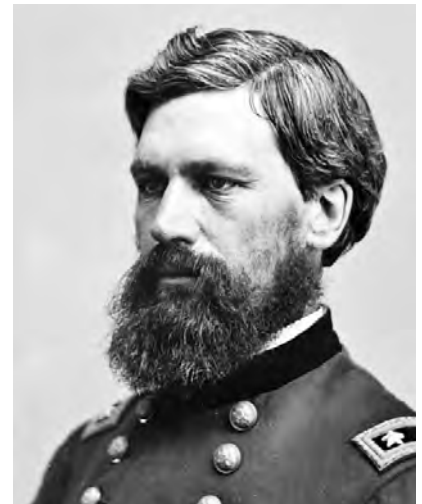
the law . . . in not allowing him to give testimony.”³ However, Bureau jurisdiction was supposed to end when “the ordinary course of judicial proceedings” returned.⁴

The Bureau’s legal empowerment was, as historian Donald Nieman has characterized it, “extremely vague.”⁵ Although it did not explicitly authorize the Bureau to become involved in educating Black people, treating them medically, supervising their labor relations, or affording them legal protection, the Bureau performed all of this and more. The second Freedmen’s Bureau bill mandated

that all citizens “without respect to race or color, or previous condition of slavery” could sue, give evidence in court, enter into contracts, and deal in real estate.”⁶ General Oliver O. Howard was appointed as Commissioner of the Freedmen’s Bureau, and he in turn set about obtaining assistant commissioners and, through them, agents for the former Confederate states. Due to the rapid demobilization of the army throughout 1865, it was difficult to find enough officers to serve as Bureau agents.



General Gordon Granger



General Oliver O. Howard

Because of this, it was impossible for the understaffed Bureau to provide freedmen with effective legal protection. With the vast majority of Black Americans living on farms and plantations that were geographically dispersed, agents in most states—with jurisdiction over multiple counties—found it difficult to bring to justice those who committed crimes against freedmen. This was a particularly concerning problem in Texas, with the vast areas that needed to be covered.

² Zachary Newkirk, “A Brief Moment in the Sun: The Reconstruction Era Courts of the Freedmen’s Bureau,” 101:4 *Judicature* 49 (2017).

³ *Ibid.*, 51.

⁴ Neal & Kremm, “What Shall we do with the Negro?” 25.

⁵ Donald G. Nieman, *To Set the Law in Motion: The Freedman’s Bureau and the Legal Rights of Blacks, 1865–1868*, (1979) 8.

⁶ Barry A. Crouch, *The Freedmen’s Bureau and Black Texans*, (1992) 3.

After touring the Lone Star State, the Bureau's inspector general, General William Strong, wrote to General Howard about the seriousness of the situation:

In the interior of the state . . . far away from the influence of federal troops and federal bayonets . . . I assure you there is a fearful state of things. The freedmen . . . are frequently beaten unmercifully and shot down like wild beasts, without any provocation, and followed by hounds and maltreated in every possible way.⁷

The manpower shortage was particularly acute in Texas. In September 1865, a member of General Howard's staff observed that General Edgar Gregory (who became the first assistant commissioner in Texas) was "almost entirely alone, having only six or seven officers all stationed in the largest cities."⁸

From September 1865 to December 1868, a total of 239 agents served in Texas.⁹ They held broad powers, essentially functioning as jacks-of-all-trades who examined and approved of labor contracts, heard complaints of all types, and served as judge and jury. Although some served more than two years, turnover was high and more than half served for six months or less.¹⁰ All but one were white, and approximately two-thirds came from non-slaveholding Northern states.¹¹ Many had served in the military, but few had formal legal training; Ira P. Pedigo, a lawyer and lumber businessman, was the exception rather than the rule.¹²

From a constitutional perspective, the Freedmen's Bureau courts operated within a sort of gray area between Article I, Article II, and Article III. While officially authorized by Congress, the courts heard controversies that related to freed people, which were essentially federal questions.¹³ Under the original orders issued by General Howard, Bureau courts would not be necessary as long as freed people were allowed to participate fully in state court proceedings. But with Southern states stubbornly refusing to let Black people testify in court, Bureau courts—backed by the imprimatur of the federal government and U.S. Army troops—emerged throughout the South. As states began to allow Black citizens to testify, Bureau courts began to fold.



General William Strong



General Edgar Gregory

⁷ General William Strong to General Oliver O. Howard (Jan. 1, 1866), in *REPORTS OF ASSISTANT COMMISSIONERS*, Sen. Ex. Docs., No. 27, 39th Cong., 1st Sess., 81–86.

⁸ *Ibid.*

⁹ Christopher B. Bean, *Too Great a Burden to Bear: The Struggle and Failure of the Freedmen's Bureau in Texas*, 6 (2016).

¹⁰ *Ibid.*, 7.

¹¹ *Ibid.*, 9.

¹² *Ibid.*, 32.

¹³ Interestingly, there is no record of a challenge to the constitutionality of Bureau courts.

The justice system in post-war Texas was a confusing one. State civil courts asserted the right to try criminal cases, the Bureau courts claimed jurisdiction in all cases involving Black persons, and the occupying U.S. Army insisted on trying all cases involving soldiers or federal officials. In addition, the operation of federal courts in Texas and throughout the South was hindered by the loyalty oath requirement for practice in federal courts. Because many people would not take the pledge, efficiency in court operations eroded after the war.¹⁴ Those administering and seeking justice in the Bureau courts also faced physical threats. William Heistand, an agent in Hallettsville, Texas, stated that the local white population was “very hostile” toward the Freedmen’s Bureau. He described an incident in which “a number of men all wearing revolvers entered my office [and] . . . cursed and abused me . . . In the evening, an attempt was made to assassinate me . . . I was compelled to hide in my room and to remain there until morning.”¹⁵

Even though they had been authorized by Congress, Freedmen’s Bureau courts experienced a scarcity of resources, a lack of uniform structure or procedures, and a lack of sufficient legal personnel. Consequently, these courts were marked by delays and a lack of accessibility for poor litigants who couldn’t always travel the distance from rural areas to Bureau offices. The courts tended to be informal and were sometimes run by a three-member panel, sometimes by a single appointed “judge,” and sometimes by a Bureau agent. In 1867, one Texas assistant commissioner candidly described the Bureau courts in the state as “irregular” and presided over by individuals who, “having no uniform instructions, variously interpreted their powers and prerogatives, and often acted at variance with each other.”¹⁶ Most agents/judges “heard and decided cases according to their notions of equity and justice.”¹⁷ Punishment was discretionary, resulting in a broad array of outcomes lacking in uniformity. Some agent/judges preferred imposing fines, while others assessed jail sentences or hard labor. As some scholars observed, Bureau courts had “all the different powers of legislature and court . . . in one person, who was also the judge.”¹⁸



General Charles Griffin

Most cases of violent crimes were referred elsewhere, such as to state courts. In fact, by January 1867, Texas’ third Bureau commissioner, General Charles Griffin, ordered “all criminal cases . . . left to civil authorities.”¹⁹ His predecessor, General Joseph Kiddoo (who replaced General Gregory in April 1866) had earlier ordered that all cases dealing with Black citizens should be tried in state courts—except for those involving



General Joseph Kiddoo

¹⁴ See generally Harold Melvin Hyman, *Era of The Oath: Northern Loyalty Tests During the Civil War and Reconstruction* (1978).

¹⁵ Bean, *Too Great a Burden to Bear*, 63.

¹⁶ U.S. Congress, Sen. Ex. Doc., 39th Cong. 2nd Sess., no. 6, at 145 (Jan. 3, 1867).

¹⁷ Nieman, *To Set the Law in Motion*, 9.

¹⁸ Neal & Kremm, “What Shall we do with the Negro?” 25.

¹⁹ *Ibid.*

whippings, beatings, or similar mistreatment.²⁰

One scholar has concluded that the Bureau courts tried 6,794 cases.²¹ Most of these were relatively minor civil disputes. Subdistricts usually handled anywhere from one hundred to five hundred cases, while larger subdistricts like Austin and Houston handled roughly a thousand each.²² The overwhelming majority of cases involved a Black plaintiff against a white defendant. What type of cases were they? Nearly half (49 percent) involved money owed, such as debts or unpaid wages, while another 7 percent involved the violation of or interference with a contract. Another 9.4 percent dealt with the settlement of a contract or crop. Nearly 14 percent involved threats, fighting, shootings, or assaults, and another 9.1 percent featured theft or destruction of property.²³

Although domestic issues accounted for less than 4 percent of the cases tried in the Freedmen's Bureau courts of Texas, one such case in Gonzales between the brother of a deceased woman and her former husband provides a useful lens into the adjudicating process. The brother accused the husband, Primus Dickes, of domestic abuse and engaging in an incestuous relationship with his eldest daughter. The agent/judge, Otto Steinberg, began by summoning Dickes to court to answer the charges. After Dickes' denial, Steinberg ordered a hearing. Dickes and his accusers (who included his late wife's mother) appeared, along with the children, the parties' lawyers, and witnesses. Steinberg allowed witnesses for both sides to testify. Afterwards, he cleared the room and personally interviewed the children and "examine[d] their physical demeanor."²⁴ Steinberg then brought all parties back and rendered his decision in favor of Dickes, reminding the parties that:

this office could not be considered a court of law . . . [and] That judicial cases brought before me would be transacted in such a way as to bring the complaint and accused to mutual and satisfactory understanding between the parties and that I would be guided in any decision principally by plain common sense and impartiality.²⁵

Of course, rendering a judgment is one thing, and enforcing it is another. Although Bureau courts sometimes placed liens on crops or confiscated property to compel payment, the lack of cooperation from local white officials and the lack of troops immediately available contributed to white noncompliance. Nesbit B. Jenkins, a Bureau agent/judge in Wharton, Texas, said that "the apathy of the civil authorities and the want of power to enforce any order or decision I may give constitute my chief difficulty."²⁶ Much of the time, there was a tacit understanding between local authorities and Bureau courts that racially biased treatment by the former would lead to intervention by the latter. Such an uneasy *détente* could even influence local civil court proceedings. Noting his custom of releasing unfairly jailed freedmen, Bureau court judge Samuel L. Sloan in Richmond, Texas observed in one case that:

²⁰ *Ibid.*

²¹ Bean, *Too Great a Burden to Bear*, 69.

²² *Ibid.*

²³ *Ibid.*, 71.

²⁴ *Ibid.*, 70–71.

²⁵ *Ibid.*, 71.

²⁶ *Ibid.*, 75.

The counsel for the defense shrewdly took advantage of [Sloan's practice] as an argument before the jury and the consequence was that no freedman was sentenced to imprisonment. . . . I have every reason to believe that such action on the part of the officers of the Bureau is absolutely necessary to insure the freedmen any justice before the civil authorities.²⁷

Despite their limitations regarding enforcement, the Bureau's agent/judges were still effective enough to be viewed as a threat by lawless local white people. In June 1867 in Cotton Gin, Texas (Freestone County), an unknown assailant shot and severely wounded Bureau judge Major Alfred Manning. Five months later, another ambush in Freestone County claimed the life of another Bureau judge, Captain Charles E. Culver. In April 1868, Captain George T. Eber was shot and killed in Kaufman County. And in January 1869, a group of white men attempted to beat Captain William Rock to death at his home in Richmond; although he survived, he could no longer function as an agent/judge.²⁸

The power of Bureau courts in Texas technically ended on November 29, 1867, when General Winfield Scott Hancock ordered all Bureau courts to cease operations. His General Orders No. 40 declared "the great principles of American liberty are the lawful inheritance of the people, and ever should be. The right of trial by jury . . . must be preserved. Free institutions always furnish the strongest inducement to peace and order."²⁹ The then-commissioner in Texas,

General Joseph Reynolds, formally protested the order, stating that Hancock's action violated the Reconstruction Act of March 2, 1867, but to no avail.



General Joseph Reynolds

Ultimately, what did the Freedmen's Bureau courts accomplish? Were they, as one scholar has described, a "failure of vision" despite how General Oliver O. Howard described "the difficult duties devolving upon them, to secure to the freed people the protection of the laws and the recognition of their legal rights."³⁰ Or were they, in the words of another historian, more like a "benevolent midwife" who demanded "from the southern states legal recognition of the



Captain William Rock



General Winfield Scott Hancock

²⁷ *Ibid.*, 78.

²⁸ Neal & Kremm, "What Shall we do with the Negro?" 25.

²⁹ *Ibid.*, 25-26.

³⁰ James Oakes, "A Failure of Vision: The Collapse of the Freedmen's Bureau," *Civil War History* 25, no. 1 (1979), 66-76, <https://doi.org/10.1353/cwh.1979.0001>. (quoting from General Howard's autobiography).

freedmen's right to be heard in court."?³¹ Still other critics, ignoring the Bureau's lack of clear direction, operational resources, and military enforcement, have lamented the Bureau courts' failure as an inability to win the "hearts and minds" of white Southerners. This last criticism seems unduly harsh, particularly when one considers the strongly held white supremacist beliefs of the time. A Reconstruction-era editorial in the *Marshall Texas Republican* stated that "the negro can never become the political equal of the white man," while the editor of the *Dallas Herald* defiantly proclaimed that white people "should forbid that the negro should ever be entrusted with the exercise of any political rights, or . . . make him politically and socially equal of the whites."³² As one white Unionist in post-war Texas observed, "Slavery is dead, but the tail of the dambled [sic] monster still moves."³³

Yet despite all these obstacles, Bureau courts persevered against all odds. They provided a forum to people with little money and even less knowledge about the law. The agent/judges attempted to use their limited authority to protect Black citizens and force white Southerners to recognize the freedpeople as precisely that—free people. In Texas, the Bureau enhanced the opportunities for Black Americans to experience the full realities of freedom, no matter how harsh the lessons might have been. In short, as one historian has contextualized it, the work of Bureau courts was "neither as dismal as past historians have pictured it nor as successful as it might have been. It did make a difference for the freedpeople."³⁴

³¹ Nieman, *To Set the Law in Motion*, 113–14.

³² Bean, *Too Great a Burden to Bear*, 178.

³³ *Ibid.*, 107.

³⁴ Crouch, *The Freedmen's Bureau*, 130.

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Allen W. Wilder:

Early Black Lawyer and Pioneer Black Legislator

By Hon. John G. Browning

Allen W. Wilder, or “A.W. Wilder” is sometimes incorrectly credited with being the first African American attorney in Texas. Nevertheless, his career marked a remarkable odyssey from being born into slavery to becoming a lawyer and serving in the Texas legislature.



Wilder was born a slave in North Carolina around 1845. Remarkably, the 1870 federal census report identifies the twenty-five-year-old father of five as illiterate and working in a mechanical or engineering trade, yet by the 1880 census, he was identified as a lawyer. Nothing is known about where he received his legal education or precisely when he began practicing law. As with many African Americans in Texas and throughout the South, Reconstruction and the rise of Republican power brought opportunities to Allen Wilder that he would likely never have enjoyed otherwise. One legal historian who chronicled the rise to power of African Americans in Wilder’s community of Washington County, Texas during this period describes the changes in the following way:

[African Americans] eagerly used their rights as free men and women to assert their independence of whites and to build community institutions. They also grasped the rights of citizenship, registering and voting in numbers that shocked and alarmed southern whites. African Americans not only formed the bone and muscle of the Republican coalition; a remarkable group of black political leaders quickly emerged as active players in the political process and shaped the direction of political change in their communities.¹

In Washington County, as in other so-called “Black Belt” counties with African American majority populations, black leaders became increasingly frustrated with white Republicans’ domination of state and county offices; as preacher turned state senator Matt Gaines implored

¹ Donald G. Nieman, African Americans and the Meaning of Freedom: Washington County, Texas as a Case Study, 1865–1886, 70 *Chicago-Kent Law Review*, 541, 543 (1994)

one gathering of 3,000 at Brenham, "Shall we turn the mill forever and let someone else eat the meal?"² In the 1872 election, these African American voters flexed their political muscle and elected Allen Wilder of Chappell Hill as one of Washington County's two state representatives.³ Wilder served on the Committee on Public Lands and Land Office.⁴

Wilder's legislative career was short-lived, although he would remain politically active for some time. He did not serve in the Fourteenth Legislature. After winning a close election to the Fifteenth Legislature in 1876, a House Committee determined that some of Wilder's votes came from illegal voters and gave the election to Wilder's opponent.⁵ Wilder ran for Texas Senate in 1878 but lost.⁶ With Reconstruction over and with Democrats reasserting political control in Texas, political terrorism and violence became increasingly common as African Americans tried to protect their voting rights.⁷ In 1884, Wilder was attacked and shot by white men in blackface at a ballot-counting site; the wound resulted in the amputation of his arm.⁸

In 1886, Wilder was a candidate for county attorney, a fact that angered local Democrats and also some white Republicans.⁹ Fearing interference by the Democrats, African American leaders in Washington County posted an armed guard at the ballot box location for one predominantly black precinct.¹⁰ A group of disguised white men broke into the house after midnight, resulting in one of them being shot and killed—Dewees Bolton, son of the Democratic candidate for county commissioner.¹¹ Outraged whites lynched three African American men they associated with the incident: forty-year-old T.H. Jones, forty-five-year-old Shed Felder, and sixty-year-old Alfred Jones.¹² Typical of the racist "lynch journalism" of the era, the account of the lynching in the *Dallas Morning News* describes the mob of between twenty and sixty men as "quiet, orderly, sober and well behaved."¹³ The *Dallas Morning News* went on to blame the horrific act on the victims themselves and their white Radical Republican colleagues: "The wholesale hanging of the negroes is the culmination of the incendiary speeches made by the Radicals during the recent election and while all good citizens regret the hanging, they cannot but think that tardy justice was done."¹⁴

This lynching was just one of many incidents and politically and racially motivated violence perpetrated against African Americans in Texas at this time, instigated in part by a fear of blacks like Allen Wilder seeking political offices like that of county attorney. Newspapers even spoke of a

² *Ibid.*, 577; see *Brenham Banner*, Aug. 11, 1871.

³ See Merline Pitre, *Through Many Dangers, Toils and Snares: Black Leadership In Texas 1868-1898* (1985).

⁴ Paul M. Lucko, "Wilder, Allen W.," *Handbook of Texas Online*, <https://www.tshaonline.org/handbook/entries/wilder-allen-w>.

⁵ See Pitre, *Through Many Dangers*.

⁶ Lucko, "Wilder, Allen W.," *Handbook of Texas Online*,

⁷ Lawrence D. Rice, *The Negro in Texas, 1874-1900*, (1971), 194-95.

⁸ News by Special, *Dallas Weekly Herald*, Nov. 6, 1884, <https://texashistory.unt.edu/ark:/67531/metapth295111/m1/4/>.

⁹ See *Brenham Weekly Banner*, Oct. 28, 1886, <https://texashistory.unt.edu/ark:/67531/metapth483468/m1/2/>.

¹⁰ Nieman, *African Americans and the Meaning of Freedom*, 562.

¹¹ *Ibid.*

¹² "Three Negros Hanged at Brenham," *Dallas Morning News*, Dec. 3, 1886.

¹³ *Ibid.*

¹⁴ *Ibid.*

"Negro uprising in Brenham."¹⁵ The violence and suppression of the African American vote was so widespread that in 1889, the U.S. Senate investigated and held hearings on the "Alleged Election Outrages in Texas."¹⁶ One witness even testified about the link between the incidents and Wilder's candidacy for county attorney as "a colored man."¹⁷ The exchange went as follows:

Q: Why do you say that you would have considered it a misfortune if Wilder had been elected?

A: Because I did not think he was a competent man for the place.

Q: Competent in what respect?

A: I did not think he was capable in point of intelligence and legal education.

Q: To fill that office?

A: To fill that office; that was my idea about it.

Q: It is an important office in that county, is it?

A: Yes, sir; I think so, somewhat important.

Q: He was a practicing attorney, was he not?

A: Yes, sir; he had been practicing I understand seven or eight years there.¹⁸

Unfortunately, life did not get any better for Wilder after the failed, violence-riddled bid for Washington County attorney. The Brenham lawyer encountered legal difficulties of his own, including charges of illegally signed school vouchers and perjury.¹⁹ He died in Houston on August 29, 1890.²⁰

¹⁵ *Alleged Election Outrages in Texas: Testimony Before the S. Comm. on Privileges & Elections*, 50th Cong., 614 (1889).

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Lucko, "Wilder, Allen W."

²⁰ *Brenham Weekly Banner*, Sept. 4, 1890, <https://texashistory.unt.edu/ark:/67531/metapth115636/m1/5/>.

Remembering Texas' First Black Legislators

By Hon. John G. Browning

Sen. Royce West and Rep. Harold Dutton have done a great service to the State of Texas with their Black Reconstruction Legislators Recognition Act. These pioneering lawmakers not only shaped Texas during a transformative time in its history—their legacies continue to impact our state. But what do we know about them?

To begin with, a total of fifty-two Black men served Texas either in the Legislature or as delegates to the Constitutional Convention during Reconstruction and shortly thereafter. Most of these Black legislators served only two terms at most, and consequently “we associate few major accomplishments with them...they fall between the cracks when history is written.”¹ Prior to Sen. West’s Act, the only major acknowledgment of these trailblazers was the dedication of a monument to them in March 2010 at the Texas State Cemetery in Austin. When newly enfranchised Black Texans exercised their political clout between 1870 and 1900, the most common beneficiaries were holders of lesser offices such as sheriffs, constables, justices of the peace, and inspectors of hides and animals. Some Black leaders achieved higher offices, such as Johnson Reed, the district clerk of Galveston. Texas’ first Black lawyer, William Abram Price, became a justice of the peace in Matagorda before winning the election as Texas’ first county or district attorney in 1876 in Fort Bend County.



A monument to Black legislators in the Texas State Cemetery

¹ Carl Moneyhon, *George T. Ruby, Champion of Equal Rights in Reconstruction Texas* (TCU Press, 2020).

The forty-two Black legislators and the ten who served in the 1868-1869 and 1875 constitutional conventions were from backgrounds much like their constituents. The average Black lawmaker was born enslaved. In terms of education, only one had completed college, while six had attended at least two years of a “normal school” (the nineteenth century equivalent of today’s high school). Three had made their way through elementary grades, while twenty-seven had at least a “rudimentary education.”² Four lacked any education, with only three being reportedly illiterate. All but one of these trailblazing Black politicians were originally from outside Texas (Goldsteen Dupree was the lone native Texan). Most made their living in farming, teaching, the ministry, or mechanical trades, and nearly three-fourths of them were property owners. Surprisingly, only four of them had been elected from areas boasting a Black majority.³ It is important to note that all the first Black politicians in Texas were Republican, and it was the Democratic party that was the party of the Southern segregationists. It is frequently forgotten that Democrats were the party opposed to the equality of Black citizens, and that well into the 20th century blocked Republican-led bills to make lynching a federal crime.

While only one Black Reconstruction legislator was a native Texan, ninety percent of Texas’ first Black lawmakers were originally from the South—compared to the Reconstruction Black legislators of states like South Carolina and Louisiana, of whom roughly thirty percent migrated from the North. And unlike other Southern states with a substantial number of prewar free Black people, the Lone Star State had only 355 free Black persons on the eve of the Civil War.⁴ Also unlike Texas, in Southern states like Alabama, Florida, Georgia, and Mississippi, roughly two-thirds of their Reconstruction Black legislators came from districts with Black majorities.

Texas’ first Black lawmakers focused on key issues such as education, protection from violence for all people, frontier defenses against attacks by Native Americans, and protecting the rights of laborers. They were also fiscally responsible, and their voting records reflected a concern for limiting state government spending.⁵

Some of these pioneering Black legislators stood out among their peers. George Ruby was one such rising star. Born free in New York in 1841, Ruby grew up in Maine and later worked for an abolitionist newspaper. Ruby became a schoolteacher in Louisiana in the waning months of the Civil War but left the state in September 1866 after being viciously beaten by a white mob while trying to establish a school in Jacksboro. Ruby moved to Galveston, where he worked for the Freedmen’s Bureau and taught school. By 1868, he was president of the Union League and became the only Black delegate from Texas to the Republican National Convention. A year later, Ruby was elected to the Texas Senate representing Galveston, Brazoria, and Matagorda counties. Ruby was an influential legislator,



Sen. George Ruby

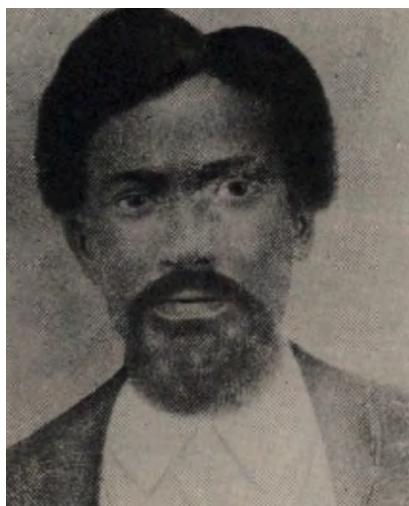
² Crouch, Barry A. (1993) “Hesitant Recognition: Texas Black Politicians, 1865-1900,” *East Texas Historical Journal*: Vol. 31: Issue 1, Article 7. <https://scholarworks.sfasu.edu/ethj/vol31/iss1/7> .

³ Alwyn Barr, “Black Legislators of Reconstruction Texas,” 32 *Civil War History* (Dec. 1986), 342-346.

⁴ *Ibid.*, 350-351.

⁵ Crouch, “Hesitant Recognition,” 49.

introducing successful bills to incorporate railroads and insurance companies as well as to conduct state geological and agricultural surveys. But with Democrats achieving a majority in the Senate, and Republican power declining, Ruby decided not to seek reelection in 1873.



Sen. Matthew Gaines

Matthew Gaines was a contemporary of Ruby, but there was no love lost between the two men (Ruby called him “a bum”). In the Senate, he was a staunch supporter of education; he was a driving force behind Texas’ adoption of the Morrill Land Grant Act, which led to the creation of Texas A&M University in 1876. But he was unpopular with his peers, and both Democrats and Republicans joined to oust Gaines after he was convicted of bigamy. Although Gaines was vindicated by the Texas Supreme Court, the Senate Committee on Election and Privileges removed him from office in March 1874.

Walter Moses Burton stood out for the longevity of his service in the Texas Senate; his four terms ran from 1874 to 1882. Burton entered the political arena in 1869 when he became the first Black man to be elected as a local sheriff in the United States. Four years later, Burton was elected to the Texas Senate representing Austin, Waller, Wharton, and Fort Bend counties. Burton is best remembered for his unwavering support of free public education for all. In 1876, he was instrumental in the passage of the bill that created the “Agricultural and Mechanical College of Texas for Colored Youths”—today known as Prairie View A&M University.



Sen. Walter Moses Burton



Allen W. Wilder

Although Allen W. Wilder (see related article) was the only pioneering Black legislator who worked as a lawyer while serving, the case of another pioneering Black politician serves as a cautionary tale about how dangerous it was to be a Black lawyer in late 19th century Texas. Harriel (Hal) Geiger was born enslaved in South Carolina in 1839 or 1840. After the war, Geiger moved to Texas and worked as a blacksmith. In 1878, representing the Greenback Party, Geiger won election to the Texas House and served from January 1879 to January 1881. While serving, Geiger opposed the convict leasing system and poll taxes. Geiger lost a bid for reelection in 1882 and was also convicted of bribery. Undeterred, after his legislative service Geiger became an attorney. He ran unsuccessfully for Robertson County sheriff in 1884.

Geiger’s law practice—and his life—ended abruptly on June 11, 1886. A white judge, O.D. Cannon, shot Geiger five times at point blank range for being “insolent” and not showing adequate deference to the judge. The shocking act occurred in the courtroom at Hearne, Texas where

Geiger was defending several “lewd women of the town for vagrancy.”⁶ White men who felt Black men—even lawyers like Geiger—did not “know their place” often felt free to act with impunity, and Judge Cannon was no different. On July 8, 1886, a jury deliberated for a mere ten minutes before acquitting Cannon of his crime.⁷

Texas’ first Black legislators paved the way for those who would follow. They did so at grave cost to their safety. Remembering their important legacy is the least we can do.

⁶ Parker, Nakia (2019) ““Bold, Bad, Notorious” Hal Geiger: Politics, Violence, and Defiance in Reconstruction Era East Texas,” *East Texas Historical Journal*: Vol. 57: Iss. 1, Article 4. <https://scholarworks.sfasu.edu/ethj/vol57/iss1/4/>.

⁷ *Ibid.* Apparently, public tolerance for Judge Cannon killing unarmed lawyers did not apply when the lawyer was white. In 1899, Cannon was convicted of murdering another lawyer, W.A. Gray. See *Cannon v. State*, 41 Tex. Crim. 467 (Tex. Crim. App. 1900).

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Sadie Patillo, *Patillo v. State*, and Texas' Separate Coach Laws

By Vince Leibowitz

In 1930, a Black woman from a mixed family who could pass for white was riding in the white section of a Beaumont city bus when she was told to move to the Black section. She refused and was ultimately fined \$10 for her violation of the state's separate coach law.

This act of civil disobedience resulted in a ruling from Texas' highest criminal court declaring Section 1659 of Texas' penal statutes—the state's separate coach law—altered and refined since 1889, did not apply to motor buses. Sadie's victory came more than two decades before Rosa Parks refused to leave the seat she occupied on a Montgomery, Alabama city bus. While a monumental ruling for its day, the decision gained little more than newspaper notices when it was issued. Today, the decision has largely been lost to history, having been rendered moot by acts of the Legislature in 1935 and, prior to that, city ordinance and longstanding custom. Although Sadie's case had little impact on the day to day lives of Blacks living in Texas during the mid 1930s, it remains a milestone in the history of public accommodation segregation in Texas which is worthy of examination.

The woman responsible for this all-but-forgotten precedent-shattering decision was a light-skinned, part Black Beaumont school teacher with dark, straight hair named Sadie Patillo.



Segregation on a city bus

The how and why of Sadie's decision to challenge her conviction to the highest possible court are, sadly, lost to history. The Beaumont NAACP, which existed as early as at the 1920s,¹ may have had a hand in assisting Sadie, but no records exist to verify whether or not this is the case. Given that Sadie's attorney for her case, William Russel Blain, had served as Texas Division Commander for the Sons of the Confederacy, it seems an odd choice for representation, if the

¹ Michael L. Gillette, "National Association for the Advancement of Colored People," *Handbook of Texas Online*. <https://www.tshaonline.org/handbook/entries/national-association-for-the-advancement-of-colored-people>

NAACP was indeed involved.² Given that Sadie's father operated a successful barbecue business in Beaumont which still survives today, it is likely her family had more means than most Black families in the area to hire qualified counsel and institute such a challenge.

Both Sadie Patillo and Texas' separate coach laws have a nuanced, interesting, and little explored history. Understanding each individually is key to understanding the impact and importance of both Sadie and her case, *Patillo v. State*.

Who was Sadie Patillo?

While no primary sources illustrate Sadie Patillo's motivation for challenging the Texas' Separate Coach Law, a look at her family history shows Sadie to be descended from people who challenged the establishment when it came to skin color and racial segregation. Sadie's grandfather was a white man named Sterling Boykin. Sterling Boykin came from Alabama, and had wives who were Black or part Black, and Native American during his lifetime. Boykin was born in North Carolina, and lived there and Alabama before coming to Texas. He is described as standing six feet, 11 inches tall, with red hair and blue eyes, weighing in at about 350 pounds. His first wife, who was white, bore him five sons and one daughter before her death. His next wife, an Indigenous woman, bore him one son, Simon, before she died. Boykin packed all his children, white and part-Indigenous, into a wagon and brought them to an area of 3,500 acres in what is now the Angelina National Forest in south eastern Texas. The Boykin family cemetery remains in the national forest, near a lake and recreational area bearing the family's name.



Boykin family cemetery in Angelina National Forest

Sadie's grandmother came to Texas when Boykin made at least one return trip to Alabama after moving to Texas:

² "Sons of Confederate Veterans," *Confederate Veteran*, Vol. XXIV, No. 4, April 1916, p. 186.

When he returned, a young mulatto girl, one-fourth black ancestry, was riding behind him. The girl's name was Lettie Neal, and it is said she was a runaway slave. She was brought to Texas to raise Sterling's children and care for his house, to be paid \$3 per week. Lettie became Boykin's common-law wife and bore him two more children.³

Whether or not Lettie Boykin had much to say in the decision to become Sterling Boykin's common-law wife isn't known; decades ago, scholars would not have given the concept of consent much thought as it related to women like Lettie. Nevertheless, her light skin was passed down to Sadie's mother, Mary Alice Boykin, one of the children Lettie Neal bore Sterling Boykin. Photographs show Mary Alice could easily have passed for white.

The mixed Boykin clan followed its own rules deep in the pine forest, and Sterling Boykin ensured that all of his children—regardless of race—were taught to read and write, “much to the displeasure of some of the area's whites.” The Red Caps, a vigilante group, burned his library to the ground to “make sure that no other blacks would be taught.”⁴



Allison Jackson “Jack” Patillo

Sadie was born to Mary Alice Boykin and her husband, Allison Jackson “Jack” Patillo on November 18, 1897. Jack went on to found regionally famous Patillo's Barbecue in Beaumont, a business which remains in the Patillo family to the present day. By 1930, when Sadie refused to move from the Beaumont bus, she was residing with her family at 492 Avenue F in Precinct 1 of the city of Beaumont. She and her mother were listed as “negro,” in the federal census for that year.⁵ The 1910 census listed the family as residing at 1294 Galveston Street,⁶ but Sadie and her mother were identified as “mulatto” in both that and the 1920 census.⁷ Sadie's father did not live with them; sometime prior to 1907, Jack divorced Mary Alice and married Roxie Ann Simpson.⁸ Jack Patillo would die at age 70 in November, 1932,⁹ just months after Sadie's case was decided by the Texas Court of Criminal Appeals.

Dr. Roland Patillo,¹⁰ one of Sadie's nephews, described his aunt as a “beautiful woman, who could absolutely pass for

³ Donovan, Richard M. *Paddling the Wild Neches* (College Station, Texas: Texas A&M University Press, 2006), pp. 186-188, “Mary ‘Alice’ Boykin Pattillo...” Find a Grave. Accessed July 13, 2023. <https://www.findagrave.com/memorial/85233063/mary-%22alice%22-patillo>.

⁴ *Ibid.*

⁵ U.S. Department of Commerce, Bureau of the Census, *Fifteenth Census of the United States*, Texas, Jefferson County, Beaumont City Ward 3, Enumeration District 123.29, 27th Supervisor's District, Sheet 9A.

⁶ U.S. Department of Commerce, Bureau of the Census. *Thirteenth Census of the United States*, Texas, Jefferson County, Precinct No. 1, Beaumont City, Supervisor District No. 8, Enumeration District No. 81, Sheet No. 7

⁷ U.S. Department of Commerce, Bureau of the Census. *Fourteenth Census of the United States*

⁸ “Allison Jackson ‘Jack’ Pattillo Sr. (1863-1932) -...” Find a Grave. Accessed July 13, 2023. <https://www.findagrave.com/memorial/103592310/allison-jackson-patillo>.

⁹ “Two Widely Known Negroes Here Die,” *Beaumont Journal*, Nov. 22, 1932, 12.

¹⁰ The larger Patillo family includes persons with the surname spelled both “Patillo,” and “Pattillo.”

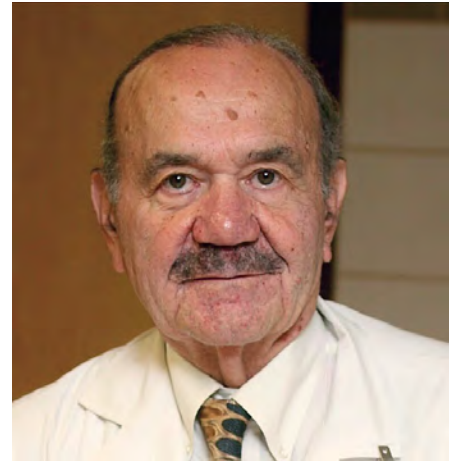
white.”¹¹ Dr. Patillo, also a descendant of Sterling Boykin, is exceedingly light-skinned, such that he could easily pass for white, as evidenced by his photos on the Morehouse College of Medicine website. Dr. Patillo was arrested for the same crime as his aunt in the 1950s.¹² As an adult, as part of his work at Morehouse, Dr. Patillo served as the media and public gatekeeper for the family of Henrietta Lacks, made famous for the medical contribution of her remarkable, “HeLa” cells, and the fact that her family was, for decades, uncompensated for the medical contributions her mother’s cells assisted in bringing forth.

Though Sadie may have been able to pass for white, she was, under Texas law, considered Black. At the time of Sadie’s conviction, the state included in the definition of “negro,” “a person of mixed blood descended from negro ancestry from the third generation inclusive, though one ancestor of each generation may have been a white person.”¹³

By 1931, Sadie was living with her husband, Anthony C. Karrey, at 614 Plum in Beaumont. Anthony was a platform salesman for Beaumont’s Crystal Ice Company. Sadie was teaching at Charlton Pollard High School, Beaumont’s segregated high school, where she taught for most of her career, a span of more than forty years.^{14,15}

Sadie, who held a bachelor of science degree, taught social studies at Charlton Pollard. Sadie was also a published academic writer, contributing the article, “The Development of Character Education in the Junior High School,” to *The Texas Standard*, the quarterly publication of the Colored Teacher’s State Association of Texas in 1935.¹⁶ She was active in the state’s Colored Teacher’s Association, speaking at the annual convention in 1937.¹⁷

Sadie died June 15, 1971 at Baptist Hospital in Beaumont. She is buried in Live Oak Memorial Park Cemetery in Beaumont.¹⁸ Her race was listed on her death certificate as “negro.”¹⁹



Dr. Ronald Patillo



Henrietta Lacks

¹¹ Dr. Roland Pattillo to Vincent Leibowitz, May 12, 2019, interview (notes in possession of the author).

¹² *Ibid.*

¹³ *Complete Texas Statutes 1928* (Kansas City Missouri: Vernon Law Book Company, 1928) Article 492, Title 10, Offenses against the Public Peace, p. 1082.

¹⁴ *Beaumont City Directory 1931*, (Houston: Morrison & Fourmy Directory Co., 1930), 275.

¹⁵ “Mrs. Karrey.” *Beaumont Journal*, June 16, 1971, 4.

¹⁶ Karrey, Sadie Patillo. “The Development of Character Education in the Junior High School,” *The Texas Standard*, Colored State Teachers Association of Texas, Austin, Texas, March 1935, Volume 8, Number 4).

¹⁷ *Beaumont Enterprise*, Nov. 24, 1937, 3.

¹⁸ “Mrs. Karrey.” *Beaumont Journal*, June 16, 1971, 4.

¹⁹ State of Texas, Certificate of Death, Sadie Patillo Karrey, File No. 42769

The Incident, Trial, and Conviction

December 17, 1930 was a fairly normal day in Beaumont. Temperatures were getting cooler, and the low that day was 33 degrees with a high of only 47—the lowest the mercury had been all week.²⁰ One of the more important events happening in the city was the establishment of a new pasteurization plant by local dairymen, upset that they could not earn a “living wage” working with existing creameries.²¹ That day, for reasons that will never likely be known, Sadie Patillo boarded a Beaumont city bus, sat in the white section, and thereafter refused to move to the “negro” section of the bus when asked.²²

One newspaper account, written more than a year following the actual incident, and immediately after her case was decided by the Court of Criminal Appeals, claimed Sadie refused to move from the white section of the bus after other passengers complained.²³ This is not in the facts stipulated to by the State and Sadie’s defense within the appellate case file.²⁴ What the stipulations of fact do make clear, however, is the bus was clearly divided, with a “whites” section in the front, and a “Negro” section in back. It would certainly be difficult to argue, based on the descriptions of the design of the bus included in the appeal, that Sadie’s decision was anything other than deliberate. It remains unclear whether Sadie simply received a citation or was arrested. The transcript of lower court action provided the Court of Criminal Appeals makes no reference to Sadie being arrested. Newspaper articles printed after the decision was announced and more than a year after the actual incident do include the statement Sadie was arrested.²⁵

Whether arrested, detained, or merely cited, Sadie was ultimately fined \$10 after a trial in county court. According to the transcript in the appeals court file, Sadie was formally charged by written information—the equivalent of an indictment for a misdemeanor, but without the use of a grand jury—on April 14, 1931. Given the information was issued the same day as a motion to quash the information was heard, and the trial was conducted, it is likely the case was being appealed from Beaumont’s corporation or municipal court. The \$10 fine assessed to Sadie was the maximum penalty for violating Section 1659 of the penal statutes, the separate coach law.

Buses were not specifically cited in the state separate coach law, which was codified prior to the advent of municipal bus service being widely available in Texas. The bus service in Beaumont at the time was operated by the Texas Electric Railway Company. The Texas Electric Railway Company also operated the street car lines for the city of Beaumont. At the time of Sadie’s conviction, the Texas Electric Railway Company was running some buses in Beaumont along



²⁰ “Beaumont Weather in 1931.” Extreme Weather Watch. Accessed July 13, 2023. <https://www.extremeweatherwatch.com/cities/beaumont/year-1931>.

²¹ *Beaumont Enterprise*, December 18, 1930.

²² Transcript, *Patillo v. State*, Cause No. 14584, Court of Criminal Appeals Files, Box 1993/088-967.

²³ *Beaumont Journal*, March 23, 1932, 6.

²⁴ Agreed Statement of Facts, *Patillo v. State*, Cause No. 14584, Court of Criminal Appeals Files, Box 1993/088-967, Texas State Archives and Library, Austin, Texas.

²⁵ *Beaumont Journal*, March 23, 1932, 6.

street car routes that had been discontinued.²⁶ Some form of street car continued to operate in Beaumont until 1937.²⁷

Sadie's Appeal

Sadie was represented on appeal by the same attorney she was represented by at trial, W.R. Blain. In addition to his service in the Sons of Confederate Veterans, Blain also previously worked as an Assistant County Attorney in Jefferson County.²⁸ He previously handled at least some high-profile criminal matters, including the case of Dr. A.C. Stafford, who was charged with killing his brother-in-law.²⁹

Blain argued before the high court that Sadie's conviction should be voided because buses were not envisioned at the time the statute was crafted, and thus, were not within in the intent of the legislation that created the statute.

After Sadie's trial in April, 1931, it took some time for her case to reach the Court of Criminal Appeals. First, her attorney filed a motion for a new trial; Judge W.S. Nichols denied that motion on April 25. In order to appeal the case, Sadie also had to put up a \$200 surety bond. Her father, Jack Patillo, her brother, A.C. Patillo, and Sadie signed as the guarantors.³⁰ The appeal bond was filed April 27, 1931. A transcript of the proceedings of Sadie's case at the County Court was completed by the Jefferson County Clerk's office on June 3. The transcript was finally received by the Court on June 23, 1931.³¹ It does not appear from the record that oral arguments were heard by the Court, but rather that the case was decided based upon the briefs filed by the State and Sadie's lawyer.

The Court of Criminal Appeals case file clearly illustrates that Sadie's defense strategy throughout the course of the case was that the bus on which she was riding was not covered by Article 1659 of the penal statutes, because the statute was narrowly crafted to apply only to railways, street cars, and interurban railways. In the Motion to Squash [sic] Information found in the transcript of the proceedings, Sadie's attorney W.R. Blain argued the information should be quashed or thrown out because the "said complaint fails to charge the defendant with the violation of any law or any criminal statute of this state."³²

In his motion for new trial, Blain reiterated essentially the same argument he made in his motion to quash, but more clearly articulated why Sadie had violated no law:

²⁶ *Patillo v. State*, Cause No. 14584, Court of Criminal Appeals Files, Box 1993/088-967, Texas State Archives and Library, Austin, Texas.

²⁷ Burns, Adam, "Texas Interurbans and Streetcars: History and Lines." *American Rails*. Accessed July 13, 2023. <https://www.american-rails.com/txsinthsrtty.html>.

²⁸ *Houston Chronicle*, Dec. 22, 1908.

²⁹ *Houston Chronicle*, Sept. 19, 1912.

³⁰ "Allison Criner Pattillo (1885-1950) - Find a..." Find a Grave. Accessed July 13, 2023. <https://www.findagrave.com/memorial/87259030/allison-criner-pattillo>.

³¹ *Patillo v. State*, Cause No. 14584, Court of Criminal Appeals Files, Box 1993/088-967, Texas State Archives and Library, Austin, Texas.

³² *Ibid.*

1.

Because the judgment and conviction herein is contrary to the law and evidence in that information and complaint filed against the defendant in this case charges that the defendant did unlawfully ride as a passenger on a bus operated by the Eastern Texas Electric Company in a compartment of said bus not and then designated for her race, to-wit, the negro race, after having been forbidden to so ride in such compartment of said bus by C.R. Crane, the conductor in charge of said bus for the saie [sic] Eastern Texas Electric Company; because the said complaint charges no offense against the criminal laws of this state.

2.

Because the undisputed evidence in this case shows that the defendant was guilty of no violation of law, in that there is no criminal statute in this State making it an offense for a person of the negro race to ride in a motor bus, or in a compartment therein designated for white passengers, and what is known as the "separate coach law" does not provide for compartments in any vehicle, except railroad coaches, street cards, or interruban [sic] cars, and the vehicle in which the defendant was riding was neither a passenger coach, street car or interruban [sic] car."³³

Blain refined those arguments in his brief to the Court of Criminal Appeals noting that the statute specifically enumerated trains, street cars, and interurban railway cars, and not buses:

The question therefore involved in this case is whether a motor bus operated on the streets of a city is a street car, or whether or not the terms of this statute are sufficiently broad to include within its provisions each public conveyance.

...

The courts cannot extend the provisions of the law to make penal any act which is not included within the language of the statute. The statute only makes it penal for the passengers to ride upon a train, street car, or interurban car to ride in a coach or compartment not designated for their race.³⁴ [emphasis in original]



Lloyd Witten Davidson

Blain's eight-page brief went so far as to include definitions of the word, "car" from *Webster's Dictionary*, and as it was defined or considered in other cases around the country. He contrasted this with Texas civil case law that defined railroads.³⁵

The state was represented by Lloyd Witten Davidson, an East Texas attorney originally from Greenville in Hunt County, who moved to Austin to serve in state government after Gov. Dan Moody appointed him as the state prosecuting attorney before the Court of Criminal Appeals in 1931, the same year he wrote the brief in Sadie's case. Davidson, who was later elected as a judge on the Texas Court of Criminal Appeals, did not make a particularly

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

convincing argument:

As I gather, it is appellant's contention that inasmuch as the statute uses the words, "train, street car or interurban car" that prosecutions are restricted to such vehicles only, and that the provisions of the act do not cover passengers in a motor bus, and that by reason thereof there is no statute prohibiting the doing of the thing charged here, that is, a negro riding on a bus and not in the compartment set aside or designated for that race.³⁶

Davidson hinged his argument on the manner in which the court has previously construed Blue Laws relating to motion pictures:

In the Sunday motion picture law it will be noted that operation of places of public amusement on Sunday was prohibited, and the statute set forth what was meant by the term "public amusement" within the meaning of the statute, and said that it included theaters and variety theaters. It was contended that the statute was not sufficient to cover motion picture theaters or motion picture shows. Without detailing the authorities, the construction was reached that the statute was sufficiently broad to cover motion picture theaters. It will be well to bear in mind that the statute, in connection with the words "theaters" and "variety theaters" used the term "such other amusements", while in this statute there are no such general provisions.

However, it occurs to me that the operation being made of motor buses, as shown by this statement of facts, over a regular established line hauling passengers for hire is, within the meaning of the contemplation of the statute, a street car, and that there is nothing in the statute or otherwise that would show that, within the meaning and terms of this statute, the motor bus on this occasion was other than a street car. The statute does not say "electric street car" or any particular kind of a street car. Therefore, I submit that the statute is perfectly clear and legitimate and covers prosecutions of this kind.³⁷

Ultimately, the Court of Criminal Appeals sided with Sadie and Blain's argument. "The question is, can this court read 'busses' into the statute without doing violence to the statutory construction, or without usurping legislative functions?"³⁸ Associate Justice Frank Lee Hawkins, writing for the court, determined the court could not agree with the state's argument:

In common language a train, street car or interurban car is understood to be one which serves the public in conveying passengers or freight, or both, and which runs upon fixed tracks. "Bus" is a contraction of the word "omnibus," and it is well understood to be a vehicle which serves the passenger public, but which does not operate upon fixed tracks. It certainly is not a "train," nor an "interurban car," and no

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ 120 Tex. Crim 568 | 47 S.W. 2d 847

one would understand in common language that when a street car was mentioned it had reference to a “bus.” In *Ex parte Vance*, 42 Tex. Crim. 619, 62 S.W. 568, a very clear distinction was recognized between an omnibus and a street car, and an ordinance of the city of Fort Worth was held to discriminate in favor of the street car.³⁹

Hawkins, a former state district judge, county judge, and county attorney of Ellis County noted that while it may be “desirable” to segregate passengers on buses, the Legislature did not spell that desire out in statute:

It is clear that in the enactment of the statute under consideration the Legislature intended to segregate the white and negro races when passengers upon trains, street cars, or interurban cars. It may be equally as desirable to segregate them when passengers upon buses, in view of the recent development of the use of such vehicles not only upon the streets of our cities, but also upon the highways of the state. It may be unfortunate that the Legislature did not provide for such a contingency by inserting in the law after trains, street cars and interurbans, the word “buses,” or the words “other public conveyances,” or some similar expression. No such general terms were used. The Legislature might not wish to incorporate them in the statute. It has not done so, although the use of buses on our highways and streets has been increasing rapidly in the past few years.⁴⁰



Justice Frank Lee Hawkins

Sadie’s case is unique in that the holding which invalidated bus segregation in Texas hinged upon whether or not the court could construe the separate coach law, as written, to apply to motorized buses. To fully understand why W.R. Blain’s argument was meaningful and resulted in the decision ultimately rendered by the Texas Court of Criminal Appeals, one must understand the history and evolution of Texas’ separate coach law. Over its many iterations, Texas’ separate coach law has both excluded and included interurban railways or streetcars. Both the inclusion and exclusion were deliberate acts on the part of the Legislature at different times in the 19th century, and neither was without controversy in its time.

The Evolution of Texas’ Separate Coach Law

Prior to Reconstruction, few free Blacks lived in Texas. The 1860 U.S. Census lists only 355 free Blacks living in Texas, although the number was likely higher. Dating to the period immediately following the Texas Revolution, free Blacks could not, in fact, reside in the Texas without approval from the Republic’s congress and later the state Legislature.⁴¹

³⁹ *Patillo v. State*, Cause No. 14584, Court of Criminal Appeals Files, Box 1993/088-967, Texas State Archives and Library, Austin, Texas.

⁴⁰ *Ibid.*

⁴¹ Muir, Andrew Forest, “The Free Negro in Fort Bend County, Texas,” *The Journal of Negro History*, Vol. 33, No. 1 (January, 1948): 79-85.

1866 Separate Coach Law, Federal Civil Rights Laws

Texas had no specific laws regulating the travel of Blacks on railways or other public conveyances until 1866. That year, the Texas Legislature passed the state's first formal separate coach law, requiring all existing and any future established railroads "to attach to each passenger train run by said Company, one car for the special accommodation of Freedmen."⁴² The legislation gained favorable recommendation from the House Judiciary Committee and, with the rules suspended, was read three times, and passed in late October, 1866.⁴³ Final passage was moved by Senator Samuel Newton Braswell, who located to Texas in 1858, settling at Mount Pleasant in Titus County, from which he was elected to the State Senate in 1866, after serving as a Private in the Confederate Army.⁴⁴

The passage of the separate coach law occurred the same session the Legislature passed a bill captioned, "An act to define and declare the rights of persons lately known as slaves and free persons of color." The report accompanying the Committee Substitute from the House Judiciary Committee noted:

The sudden change in the status of the negro race, though accomplished by force, demands at our hands none the less the enactment of such laws as their present condition requires. It is believed to be unwise and impolitic to neglect to provide just and equal laws suited to their present condition. They f[o]rm in many portions of the State a very large proportion of the population, and must be controlled and protected by our laws; and that, too, in order that their labor may be available and profitable. They should be protected in the rights of person and property by wise and just legislation. Their removal, however desirable, cannot be accomplished for many years to come, and while they continue to be part of our population, they should be treated humanely and justly.⁴⁵

The 1866 enactment was repealed in 1871, after Republicans assumed control of state government.⁴⁶ The year 1871 also saw the passage of the Civil Rights Act of 1871, properly known as the Enforcement Act of 1871, and commonly known as the Ku Klux Klan Act. The new law provided for private civil causes of action if someone was deprived of their rights under color of law or official action. This law provided some protections for Blacks in the absence of a state separate coach law.

However, neither the Civil Rights Act of 1871, nor indeed any other law, prevented all incidents of discrimination or violence against the person of Blacks riding on trains. In 1871, the

⁴² 11th Legislature, Regular Session, General Laws, Constitution as Amended.

⁴³ *Southern Intelligencer*, November 1, 1866.

⁴⁴ *Southern Intelligencer*, November 8, 1866; Biographical sketch, Samuel N. Braswell. Lewis Publishing Company. *Memorial and Biographical History of Dallas County, Texas, 1892*, 775; "Judge S.N. Braswell Is Dead: Pioneer Citizen of the State and City, Legal Author and Confederate Veteran Passes Away," *Dallas Morning News*, June 12, 1908, 9.

⁴⁵ Texas House of Representatives. *Journal of the House of Representatives, Eleventh Legislature*. Austin, Texas: State Gazette, 1866, 781.

⁴⁶ Glasurd, Bruce A., "Jim Crow's Emergence in Texas," *American Studies*, Vol. 15, No. 1, (Spring 1974): 47-60; Rice, Lawrence Delbert, "The Negro in Texas 1874-1900," unpublished doctoral dissertation, Texas Technological College, 1968.

wife of Walter Moses Burton, the Sheriff of Fort Bend County and one of the state's most prominent Black leaders who himself later became Texas' last Black Senator before the advent of the White Primaries, was ejected from a first-class car on the Galveston, Harrisburg & San Antonio Railroad. The railroad was "attempting to compel her to take a seat in a car among ruffians and blackguards," prompting the Texas State Convention of the Southern States Convention of Colored Men to pass a resolution, under the gavel of State Senator George T. Ruby, noting that the incident, "calls loudly upon each one of us to come forward and aid," Burton in "prosecuting, before the law, the Galveston, Harrisburg, and San Antonio Railroad company."⁴⁷



Walter Moses Burton

In 1875, the landscape changed for railroads and Blacks with the passage of the Civil Rights Act of 1875, which prohibited discrimination on trains and other public accommodations.

Governor Ireland Seeks Voluntary Adherence to Separate Coaches

The state's next attempt at separate coaches was somewhat informal, with Gov. John Ireland leading the charge, claiming he was supported by Texas' Black citizens. Ireland asked railroads to voluntarily institute separate coach laws. He did so some months after his appearance at the 1883 State Convention of Colored Men.



Sen. George T. Ruby

In July 1883, Ireland spoke at the State Convention of Colored Men of Texas, held in Austin. Ireland, in his address to the participants, advised them to "avoid the discussion of politics and hotel and railroad grievances."⁴⁸ In replying to Ireland's address, A. Grant, President of the convention was magnanimous, but also firm in his resolve to note that his race was not planning to step back from some of its demands for better accommodation and recognition of their rights:

He assured the Governor that nothing would be done with the intention of severing the races, as their interests are one; also, that the convention had no desire whatever to discuss politics. "But as long as the railroads sell us and our wives and daughters first-class tickets and defraud us by compelling us to ride in second-class cars, where there is smoking, chewing, drinking and swearing, so long will colored men continue to



Gov. John Ireland

⁴⁷ *The Representative* (Galveston), August 26, 1871.

⁴⁸ *Proceedings of the State Convention of Colored Men of Texas held at the City of Austin, July 10-12, 1883*, Houston: Smallwood & Gray, Steam Printers, 1883, 5.

agitate the question of railroad grievances."⁴⁹

The convention's report contained a section on "Railways, Inns, and Taverns," in which delegates were cautioned not to press as much with inns and boarding houses, but to take their grievances concerning railroads to court if necessary:

While not encouraging the contention for our rights at hotels when we can make other provision, we recommend our people to invoke the aid of the courts when their rights with reference to railroads are violated, and ask that they assert our rights thereon by such damages are sufficient to assert them.⁵⁰

Still, the Convention was careful not to advocate for full equality for Blacks across the board, and indeed advocated racial separation of some kind, both on railroads and otherwise:

Now, as so very much is said about our status as colored passengers on railroads, we in all fairness admit that we do not object to social separation, but since colored people were regarded citizens, it has never been questioned that colored passengers had equal rights to various accommodations on highways.

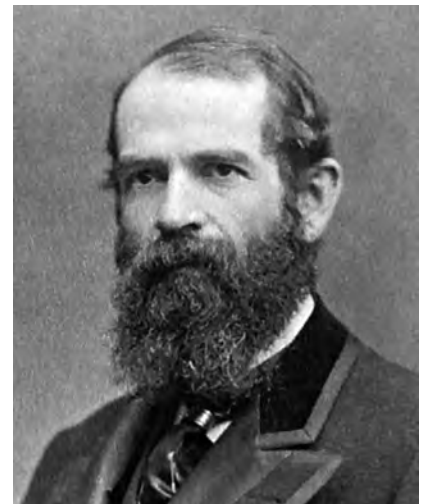
We know if separation is desirable, the corporation should do as the state does towards these two classes of citizens, that is, provide separate, exclusive cars for each, equal in various respects, and the colored people will manifest no more a desire to ride in the famous, "first class or ladies car" than they do to send their children to a white school.



Col. H.M. Hoxie

A committee of convention delegates also pointed out "[s]ome of the railroads were built by money loaned by counties," and that Blacks were taxed to pay interest on the bonds sold to fund the loans and, as a result, "we think we have a right to have what is paid for the same as other citizens."⁵¹

Black agitation for separate accommodations, pending the result of U.S. Supreme Court cases related to public accommodations,



Jay Gould

as well as white agitation for further segregation, resulted in Ireland writing to Col. H.M. Hoxie, who represented those railroads owned by magnate Jay Gould (the Denver Pacific, Central Pacific, Missouri Pacific, Texas and Pacific) in September, 1883.⁵² Ireland was eviscerated by the *Austin*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

Statesman for his interference in railroad business, with the newspaper running a story headlined, "A Governor Gone Insane," and separately publishing the reply of the Gould railroad interests to Ireland, as well as a further reply from Ireland to the railroad interests.⁵³

Col. Hoxie, in his letter to Ireland published in the *Statesman*, noted one of his superintendents advised, "Our business would not justify the running of an extra coach, even if we had the extra equipment to do so." However, he also noted that he was writing a mere one day after the U.S. Supreme Court decided *The Civil Rights Cases*,⁵⁴ but that the railroad planned to abide by those decisions. The decisions overturned the Civil Rights Act of 1875. Ireland, however, persisted, writing back, "I regret you have not been able to see the propriety of adopting the cause I suggested." Ireland also noted the Supreme Court's decision "would still not have precluded the railway management from designating coaches and even seats for white or colored, and to have compelled them to keep those seats and to conduct themselves in a way not to become ... annoying to fellow passengers," Ireland wrote. "This is not done, and order and peace cannot be maintained until they are separated," the governor insisted.⁵⁵

The 1889 Separate Coach Law

Public agitation among whites for separate coaches was high by the time the 21st Texas Legislature convened in January 1889. "We sincerely hope that the present legislature will effect some legislation that will force railway companies to provide separate coaches for whites and negroes," noted the *Wills Point Chronicle* of Van Zandt County. The north east Texas railroad town's newspaper noted that miscegenation and mixed schools were illegal under state law, and that, "for the good of the public," railroads should "be forced to maintain a separation of the races in transit." The *Chronicle* went even further, calling on the Legislature to "[m]ake it as much of an offense for white persons to enter the coach prepared for the negroes as for a negro to enter the one prepared for the whites."⁵⁶

The separate coach law wound its way through the Texas Legislature as Senate Bill 18 by Senator William Henry Pope of Marshall, in Harrison County. Pope, a former Confederate soldier who fought in Terry's Texas Rangers, later described himself as, "The Jim Crow Senator."⁵⁷ Passage of the bill, however, was not without serious complications.



Sen. William Henry Pope

Among points of debate for Black members of the public and legislators was the necessity of railroads furnishing a first-class

⁵² *Austin Daily Statesman*, October 23, 1883; "Jay Gould," *Handbook of Texas Online*, <https://www.tshaonline.org/handbook/entries/gould-jay>.

⁵³ "A Governor Gone Insane," *Austin Daily Statesman*, October 24, 1883; *Austin Daily Statesman*, October 23, 1883.

⁵⁴ 109 U.S. 3 (1883)

⁵⁵ *Austin Daily Statesman*, October 23, 1883.

⁵⁶ *The Chronicle* (Wills Point, Tex.), January 10, 1889.

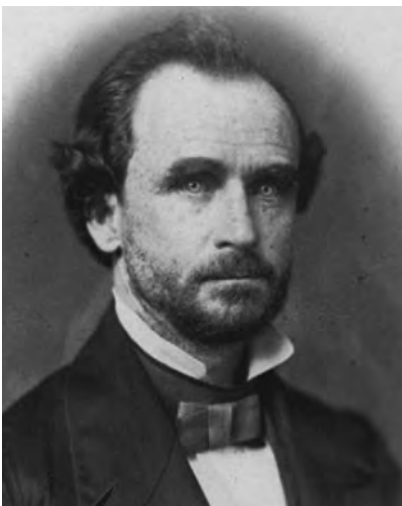
⁵⁷ William Henry Pope, *The Handbook of Texas Online*, <https://www.tshaonline.org/handbook/entries/pope-william-henry>.

women's coach and first-class smoking coach for Blacks on all trains if there was to be a separate coach law. "The better class of colored people objected to separate coaches," without such a proviso, noted a Black Austin resident identified only as, "Dr. McKinley," in committee testimony. Some whites, however, simply preferred that railroads be required to sell first and second-class tickets, with Blacks being the recipients of the second-class tickets. One key aspect of the separate coach debate, however, was the frequent point made by Blacks involved in the debate that "colored people did not ask for social equality, but only justice and decent treatment. When they buy first-class tickets they want first-class accommodations," Dr. McKinley noted.⁵⁸

The Senate took up the Pope measure on January 30 and dispensed with it handily with but few amendments. Senator George Washington Glasscock, Jr., a former Confederate soldier, saw his amendment to the bill, which would have excluded Chinese people from whites only cars, fail. Pope himself offered a friendly amendment, which would mandate the term "coaches," did not apply to sleeping coaches or hotel coaches, and it was adopted. A second Glasscock amendment directing the fines assessed as a result of convictions under the future law to being deposited into the road and bridge fund, instead of the common school fund passed. An amendment excepting nurses and female attendants of white women and children from being segregated out of whites only cars also passed, as did an amendment mandating railroads had the right to control travel in all cars except two coaches or a double coach was also adopted before the bill passed to engrossment.⁵⁹ The issue of Black nurses would feature prominently in separate coach legislation across both the 21st and 22nd Sessions of the Texas Legislature.



Sen. George W. Glasscock, Jr.



Rep. Guy Morrison Bryan

A more lively debate was enjoyed on the bill's first outing in the Texas House. The February 15, 1889 House floor debate on the Pope bill was extensive, and filled with procedural drama. First, a series of House committee amendments were defeated; next, a move was made to adopt a minority report that was against the measure by Representative Guy Morrison Bryan, a Galveston Democrat, and that motion was ruled out of order. The attempt to pass a minority report was followed by a motion by Bryan to postpone consideration of the bill indefinitely. "He argued that the bill would unnecessarily disturb a social question which had better be left for circumstances to adjust. The best elements of the two races will settle the question peaceably, and it can't be settled in any other way."⁶⁰ Representative Seth Phineas Mills of

Speegleville in McLennan County, arguing against indefinite postponement, noted, "the colored people considered him too good a Democrat for them to vote for him," but that he "was opposed

⁵⁸ *Dallas Morning News*, January 25, 1898.

⁵⁹ *Austin Weekly Statesman*, January 31, 1889.

⁶⁰ *Fort Worth Gazette*, February 16, 1889.

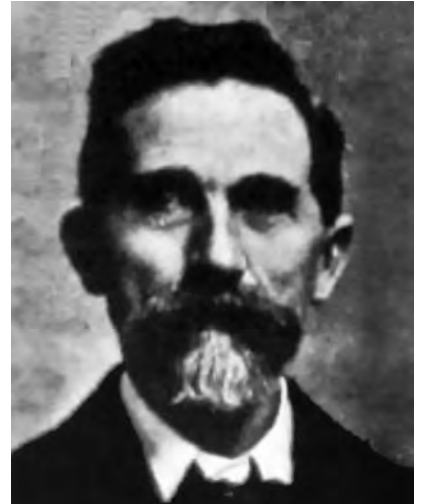
to more jimcrow [sic] legislation.” He then moved to table the motion to postpone and was ruled out of order.⁶¹

The opposition to a separate coach law, in a chamber overflowing with both whites and Democrats, surprised some members, including Representative Myers Martindale Felder from Chappell Hill in Washington County. Felder, a former Confederate soldier who served in Hood’s Texas Brigade, told his colleagues that separate coaches were a positive thing for both races, and at least one Black man who was “accumulating property and educating



Rep. Myers Martindale Felder

his daughters,” who felt he had the right to equal accommodations as white people, so his family would not be forced into smoking cars, had advised Felder of his support for the bill.⁶²



Rep. Seth Phineas Mills

Guy Morrison Bryan delivered a strong rebuttal. “I have received letters from people of every class protesting against such a measure, I sympathize with the colored people on their efforts to elevate themselves, but as the railroads are now conducted good colored men can separate themselves from the bad,” Bryan noted. “It is not derogatory to us to sit down in the cars with a gentlemanly colored man,” he continued.⁶³

Bryan was a Missouri native who came to Texas in 1831, when the territory was still under Mexican control. He fought in both the Texas Revolution and the American Civil War, serving in the Confederate Army and attaining the rank of Major. He later was elected Speaker of the Texas House and went on to serve in the Texas Senate and the United States Congress. He was elected President of the Texas Veteran’s Association in 1892, the year after a mandatory separate coach law passed, and died in 1901.⁶⁴

Alexander J. Pope, brother of the Senate author of the bill and a member of the Texas House from Harrison County who was later shot and killed in a dramatic shootout on the courthouse square in Marshall,⁶⁵ summed up the feelings of many members of his chamber with both a declaration that the bill provided equal accommodations for Blacks, and that God had, in fact, deemed Blacks an inferior race:

It is demanded by the people and should pass to protect the ladies of Texas from insult and outrage. God has placed his own mark of difference in the races, and

⁶¹ *Fort Worth Gazette*, February 16, 1889.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ “Guy Morrison Bryan,” *Handbook of Texas Online*, <https://www.tshaonline.org/handbook/entries/bryan-guy-morrison>.

⁶⁵ *The Galveston Daily News*, December 7, 1889.

the colored people should not complain when they are given the same or equal accommodations...If this bill did not give the colored people proper rights and prohibit white men from going in with them I should oppose it. If colored people oppose it, it must be those who want social equality. I believe, however, that the great majority of the colored people want this bill.⁶⁶

Bryan, holding firm in the debate in the face of Alexander Pope's claim that women were being insulted by Blacks sitting next to them on trains when the women did not want them to be there, invoked the difficulties of Reconstruction, noting, "I have not forgotten the troubles of Reconstruction and want to avoid such troubles in the future in the interest of the whole state."⁶⁷

Representative Robert Byron Rentfro, serving in his only term in the Legislature as a Republican from Brownsville in Cameron County, brought up the idea of simply mandating first- and second-class tickets be sold on all railways, surmising, "the colored people would accept the second-class cars on account of being cheaper." This was met with contradiction from Rep. Isaac Duke Parker of Birdville in Tarrant County, the uncle of Cynthia Ann Parker, who noted "in his county some colored men were as independent in property as the average white man," and that he thought the bill provided due to both races and would vote for the same.⁶⁸



Rep. Isaac Duke Parker

A defense of the railroads came from Rep. Albert Stevenson of Weatherford in Parker County, who noted, "[i]f you compel them to run separate coaches for people they cannot afford to keep up the accommodation trains." He said he was in favor of separation, if it can be done without injustice to the roads and the people.⁶⁹ Representative Elias Mays of Brazos County, one of the Black members of the House during the 21st Legislature, "argued that the white people need not be afraid of the colored people injuring them," and it would be better to let the populous settle the entire matter themselves. Representative Thomas Hays of Paris in Lamar County rebutted the bill was not a departure from current practices, as the state already had segregated schools, with black children and white children separated. "If the people of any section needed such a measure, why not come to their rescue and pass such a law?"⁷⁰



Cynthia Ann Parker

Closing the debate, Representative Alexander Asberry, a Black member from Calvert in

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Houston Daily Post*, October 29, 1902; *Fort Worth Gazette*, February 16, 1889.

⁶⁹ *Fort Worth Gazette*, February 16, 1889.

⁷⁰ *Ibid.*

Robertson County, “said his people were not seeking social equality, but peace between the races.” He noted, “we had a trial of this separate car business during the administration of Governor



Rep. Alexander Asberry

Ireland, one of the grandest men who ever presided over this state. White men who had not proper respect for us came into these cars to smoke and drink their whisky and impose upon us,” Asberry noted. “What is wanted,” he said, “is education for our people and to know that the Southern white man is a friend of the colored people,” Asberry continued, noting the whites in Robertson County treated the blacks well and respected them. However, he also noted, “The colored people will stay in their places if their rights are protected.”⁷¹

The bill was ultimately referred to a special committee of Representatives Rentfro, Pope, Felder, Hays and Samuel Frost of Corsicana in Navarro County—all of whom had played an active role in the day’s debate. On March 26, the special committee returned a committee substitute to the House floor, with Representative Rentfro’s earlier idea concerning first and second class tickets having been substituted for the full language of Senate Bill 18. The House promptly rejected the measure before adjourning their morning session. The same afternoon, the bill was taken up again, and amendments were offered including one striking the provision related to nurses and female attendants the Senate added. Rep. Stevenson proposed a further substitute, to authorize railroad companies to provide separate coaches “on such trains and on such portions of their roads as may be deemed necessary—it being deemed a separate coach within the meaning of the act to divide the coach by a substantial partition to separate white from colored passengers.” The second substitute by Rep. Stevenson was adopted 52-30 and passed to third reading 64-14. The law was now, “discretionary,” at least to some extent, with this version of the bill.⁷²

By April 5, the day before the legislative session adjourned, the *Daily Banner* of Brenham in Washington County was calling the legislative action a defeat, noting, “[t]he defeat of the separate coach bill is already having the effect of encouraging the colored people to intrude themselves into the ladies’ coaches on the trains.”⁷³ The reality, however, was more complicated. The permissive separate coach law did pass the Legislature and become law. It did so, however, without the signature of Governor Lawrence Sullivan Ross.⁷⁴

1891 Separate Coach Law:

“...The Disturbing Elements of Both Races, Have Borne This Fruit”

By the time the 22nd Legislature convened on January 13, 1891, a new governor had been elected, public opinion on the part of whites continued to favor separate coaches, and with that combination, two bills from the 21st Legislature were likely to be revived—this time, with

⁷¹ *Ibid.*

⁷² *Austin Daily Statesman*, March 26, 1889.

⁷³ *The Daily Banner* (Brenham, Tex.), April 5, 1889.

⁷⁴ *Austin Weekly Statesman*, April 25, 1889.

different outcomes: the separate coach bill, and the so-called “Commission bill,” legislation to create a commission with regulatory authority over railroads in Texas. “The separate coach bill will be introduced, but it is possible, so some think, that it will hardly become a law, as such regulation will doubtless be left for the commission,” proclaimed the *Austin Statesman* on January 8, 1891. Although what became the Texas Railroad Commission was ultimately tasked with some responsibility concerning the separate coach law, it was only after the Legislature specifically prescribed such a statute—after much debate.

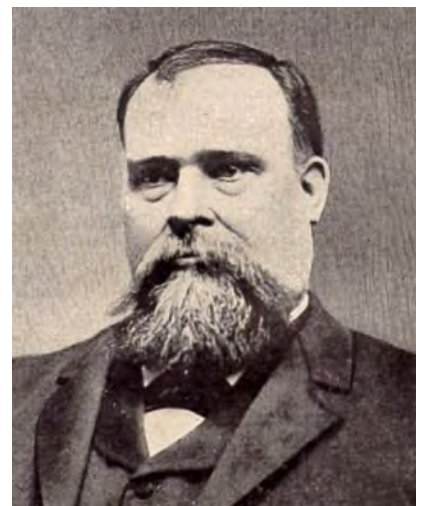
The 22nd Legislature saw a number of legislators introducing their own versions of separate coach laws. Twenty-nine-year-old James Winfield Crayton of Royse City in Rockwall County, representing that county as well as Dallas and Tarrant in his second term in the Legislature, introduced House Bill 47, which would have required railroads to provide separate coaches, and that they be “equal in point of comfort, but shall have notice indicating character of the coach.” The bill also created criminal penalties (a misdemeanor) if a person refused to ride in the coach to which they were assigned, with a fine of between \$5 and \$20. The bill also brought up a point of contention from the 21st Legislature: black nurses. Crayton’s bill exempted nurses. It was referred to the Committee on Internal Improvements on January 17, 1891. It would become the House’s favored separate coach bill. At least seven bills relating to separate coaches were filed in the House, and at least four were filed in the Senate. In the House, Crayton’s House Bill 47 was consolidated with four other separate coach bills.⁷⁵



Rep. James Winfield Crayton

In addition to this flurry of filed legislation, a new Governor, James Stephen Hogg, was in the governor’s chair. From Quitman in Wood County, Hogg, a highly regarded local politician and lawyer who served as the state’s attorney general, ran on a platform of creating the Texas Railroad Commission. Hogg, who previously relied on the Black vote to gain and hold local office in East Texas, addressed the Legislature on the topic of separate coaches, noting the people demanded them. He was, however, careful to not to personally come out for a separate coach law in the two paragraphs of his written address to the legislature on the matter—while taking care to lay the blame for the need for separate coaches at the feet of both white and Black Texans:

Exigencies have arisen and produced a demand by the people that the railway companies of this state be required to provide separate coaches for their white and black passengers. It is regretful that such a measure has ever become necessary in Texas. Insolence on the one side and intolerance on the other, unnecessarily exhibited by the disturbing elements of both races, have born this fruit. Nothing less than wise legislation can now correct the evil. Avoiding all unjust discrimination;



Gov. James Stephen Hogg

⁷⁵ *Austin Statesman*, February 13, 1891; *Austin Statesman*, January 17, 1891; *Austin Statesman*, January 20, 1891; *Austin Statesman*, January 21, 1891; *Austin Statesman*, January 22, 1891, *Austin Statesman*, Feb. 26, 1891

the law should be so framed as to be sufficiently flexible to relieve the companies of unreasonable burdens resulting from its application and enforcement.⁷⁶

Acknowledging the significant power the railroads had, as well as their deep interest in the matter of a separate coach law, due to its potential cost and economic impact on the railroads, Hogg had more measured words concerning the railroads. He was careful to note that the Legislature should not create undue expense for the railroads—a point which came up during debate in the previous session:

The passenger business of some roads will not justify the outlay and expense of providing separate coaches for the two races. Others are differently situated and can do so between points in populous sections on their lines without much inconvenience or unnecessary expense. An arbitrary law without qualifications to vary with the conditions of the railways and the travel over them is not demanded nor could it be expected by a just people. Therefore it would be well to pass one requiring the companies, under penalties to be enforced at the instance of the State, to provide separate coaches as demanded; or in cases where business would not otherwise justify them, to sectionize their cars so as to separate their white and black passengers. It is doubtless best to place the regulating, adjustment, and control of this matter under the law with the railway commission.⁷⁷

As has been the case with many governors and legislatures, the Legislature did not ultimately produce a law that jibed completely with the governor's wishes. The specificity Hogg prescribed to the Legislature also served to create a convenient out for the Governor to allow any legislation that passed and differed from his recommendation to either be vetoed or become law without his signature.

Press reaction to Hogg's address and the separate coach law was mixed after the session got underway. "...Mr. Hogg, in his message, puts the requiring of railway companies or receivers to provide separate coaches for the races. This is a law the people intend to have, and when enacted the people will sustain the authorities in enforcing it," the *Waco News* proclaimed. The *San Antonio Times* noted, "If the legislature passes a law compelling railroads to furnish separate coaches for negroes, it will entail a heavier expense to the roads than the negro patronage will warrant." "It is to be hoped the extremists in the legislature will keep their places and let the country have sensible railway legislation," noted the *Beeville Bee*.⁷⁸

On January 26, the Senate Committee on Internal Improvements reported out Senate Bill 97 favorably, and recommended two other Senate separate coach bills, Senate Bills 11 and 28, be considered at the same time.⁷⁹ Senate Bill 97 got its first reading the same day, with committee amendments,⁸⁰ while the House's separate coach bills remained before the House Committee on

⁷⁶ *Austin Statesman*, January 22, 1891.

⁷⁷ *Ibid.*

⁷⁸ *Austin Statesman*, January 23, 1891.

⁷⁹ Texas Senate. *Journal of the Senate, 11th Legislature*, January 26, 1891, p. 93.

⁸⁰ *Ibid.*

Internal Improvements. On January 29, it was reported in the *Austin Statesman* that the committee was set to meet “at which time the discussion will be renewed.”

The newspaper noted that one of the reasons for the lengthy committee consideration was the issue of Black nurses:

There is an apparent desire in the committee to amend the bill by exempting from the provision women acting as nurses, and such an amendment will probably be adopted before the bill is put to the house.⁸¹

When the Senate took up its separate coach bill, Senate Bill 97, on second reading February 4, it came with two committee amendments. One amendment added a prohibition on passengers riding, or attempting to ride, in cars designated for the opposite race. The amendment gave train conductors, and not the state, the authority to enforce the separate coach act, and “to regulate passenger travel and to provide penalties and punishments for the violations thereof.”⁸²

On February 6, the Senate went into Executive Session and spent time tweaking Senate Bill 97 with amendments. One of the amendments, which failed, would have mandated that, if a railroad commission were created, that the commission would “have the right to exempt any railroad in or subdivision therefrom from the provisions of this act.”⁸³

Senate Bill 97 finally passed the Senate on February 11,⁸⁴ the same day the House Committee on Internal Improvements reported a committee substitute for the multiple separate coach bills the body had consolidated. The committee substitute included language requiring separate coaches for Blacks and whites, “equal in all points of comfort and convenience.” There was no wiggle room in this mandate, but the substitute did allow for a railroad car divided by partition to be deemed a separate coach. Failure of railroad companies to comply could be met with a fine of up to \$1,000, with each trip, and each train without separate coaches counting as a separate offense. The substitute further required the cars be clearly marked as to which race should occupy which railroad cars, and created \$25 to \$200 fines for passengers who knowingly went “into and attempted to ride in any coach not set apart for his race,” or who refused to leave the wrong coach after being instructed to do so. The crime was classified as a misdemeanor by the substitute bill. Finally, the bill excluded Black nurses as well as sleeping cars and hotel cars from the provisions of the proposed separate coach law. The law also clearly defined the difference between Black and white as one drop of Black ancestry: “The term negro includes every person of African descent as the term is commonly understood.”⁸⁵

When the Senate’s version of the separate coach bill reached the House in late February, there was a “lifting of the scalp” of the bill, and insertion of the contents of the consolidated House Committee Substitute replacing the entirety of Senate Bill 97. The *Austin Statesman* reported

⁸¹ *Austin Statesman*, January 19, 1891.

⁸² *Senate Journal*, 11th Legislature, February 4, 1891, p. 147.

⁸³ *Senate Journal*, 11th Legislature, February 6, 1891, p. 191.

⁸⁴ *Austin Statesman*, February 12, 1891.

⁸⁵ *Austin Statesman*, February 13, 1891.

this in six glib paragraphs, noting, “the wedding of the senate head and house bill having been thus accomplished, the house proceeded to pay the happy pair the compliments of the season. Amendatory bouquets were fired at them, and speeches from a few inches to several miles in length were showered upon them, and the bill as amended passed to third reading.”⁸⁶ The House nitpicked their own substitute’s words in a complicated series of amendments, amendments to amendments, and substitute amendments—which ultimately resulted in some of the few documented votes on the Separate Coach Law showing how members of the House voted.

One of the amendments offered would have stricken Section 7 of the substitute, which was the section of the bill with provisions allowing Black nurses to accompany their white mistresses in cars specified for white passengers, and exempted cabooses carrying passengers on freight trains from separate coach laws. The amendment to strike the section was handily defeated, 30-55. Just prior, a vote on an amendment to an amendment which would have removed the portion of Section 7 relating to Black nurses, but maintained the language stipulating the bill did not apply to freight trains failed. A number of other amendments moved through the House second reading process without as much procedural drama. Closing out the dramatic floor debate, Black Republican legislator Edward A. Patton, moved to strike the enacting clause of the bill (a legislative maneuver that would render the bill out of order under the rules), and delivered a stirring speech against a separate coach law. Patton declared the enacting clause to be unnecessary, “since an unwritten law had already drawn a line between whites and blacks that restricted each race to its own place and sphere.”⁸⁷



Rep. Edward A. Patton

The *San Antonio Daily Express*, in condescending rhetoric simultaneously offering feeble praise for Patton—typical of its time with regard to the manner in which Black legislators were written about—noted:

Patton, the colored member from Polk and San Jacinto Counties, in his second oratorical licks this morning after moving to strike on the enacting clause of the bill. The light colored representative of republican ways that are dark is rather verbose, and is certainly less grammatical than eloquent.⁸⁸

Born in 1859, Patton was part of a new generation of Black leaders in Texas who lived the majority of their life under Reconstruction and Jim Crow, as opposed to chattel slavery. Patton’s motion was defeated, the previous question ordered, and the bill passed to Third Reading.

Although the House’s second reading passage produced a bill prescribing mandatory and not permissive separate coach provisions, as had its predecessor in the 21st Legislature, some members remained unhappy. Seven members of the House who had voted both times to strike out any provisions that would have allowed Black nurses to remain with their white employers

⁸⁶ *Austin Statesman*, February 26, 1891.

⁸⁷ *Southern Mercury*, March 5, 1891.

⁸⁸ *San Antonio Daily Express*, February 25, 1891.

in white coaches are recorded as advising the Speaker of the House, "While we believe that this bill as it now stands is a very poor apology for a separate coach bill, we vote for it because it is the best a majority of the House will let us have."⁸⁹ Although the *House Journal* does not record a record vote on Second or Third Reading, the *Galveston Daily News* reported that only two members voted against the Separate Coach Act: Rep. Patton, and Representative Miles Crawley of Galveston,



Rep. Miles Crawley

a Boston-born former longshoreman who was born the same year as Patton. Crawley became Assistant Fire Chief of Galveston, and was admitted to the bar the next year. Crawley went on to serve in the Texas Senate and in the U.S. Congress. He ultimately returned to Galveston and served as prosecuting attorney. He was elected judge of the Galveston County Court at Law in 1920, remaining on the bench until he died at age sixty-two. Crawley traded his 'no' vote for Patton's vote in favor of a bill to build a new home for Confederate Veterans.⁹⁰

Neither the public nor the press was uniformly pleased with the bill. "Mind you, the separate coach bill permits the nurse to ride wheresoever the infant rides, and does not include Mexicans and Indians. It is doubtless expected by the statesmen who spun this law that the conductor of the train in the absence of any railroad regulator, may decide all 'arf and 'arf cases," the *Dallas Morning News* noted.⁹¹ The *McKinney Democrat* stated the clearly obvious after the House debate and passage:

In the passage of the senate separate coach bill through the house yesterday it was insisted upon and not denied that the bill draws the color line and that this legislatures believes it exists and always will exist in Texas.

The *Democrat* also picked up on another undercurrent running through the separate coach debate: that the Democratic Party supported the measure, and had included such in its national platform in 1890. The newspaper noted, "Some members opposed it, declaring against the idea and refusing to be dictated to by the Democratic party."⁹² What, if any, pressure Democratic partisans in Texas may have attempted to exercise on members of the legislature specifically is lost to history. After all the House bluster, the Senate refused to concur in the House's amendments, and a conference committee was appointed.⁹³ House Conferees were Representatives Whatley, Townsend, Clark, Kearry, and Seal. Senate conferees were Senators Connelley, Curry, Truit, Oliver, and Murrell.

The Conference Committee Report specified a Committee Substitute, and recommended adoption of the same. The Committee Substitute mandated that every railroad company (including lessors and receivers of railroads) provide separate coaches for "white and negro" passengers, "which separate coaches shall be equal in all points of comfort and convenience." It defined

⁸⁹ *Austin Statesman*, February 26, 1891.

⁹⁰ *Galveston Daily News*, February 26, 1891.

⁹¹ *Dallas Morning News*, March 2, 1891.

⁹² *McKinney Democrat*, March 5, 1891.

⁹³ *Austin Statesman*, March 6, 1891.

“negro” as a “person of African descent, as defined by the statutes of this state.” Texas’ statutes at the time noted that a “negro” included, “a person of mixed blood descended from negro ancestry from the third generation inclusive, though one ancestor of each generation may have been a white person.”⁹⁴

The substitute further mandated that rail cars divided by a “good and substantial” wooden partition, “with a door therein,” would be deemed a separate coach for the purpose of the law. The bill also prescribed placing the “appropriate word in plain letters, indicating the race for which it is set apart.” For violations, a penalty of not less than \$100 nor more than \$1,000 was allowed to be recovered by suit in the name of the state. “[E]ach run of any such train without such separate coaches,” was to be deemed a separate offense. The substitute included the same prohibition as had other versions of the bill, that a person of either race riding in the car for the incorrect color would result in a misdemeanor offense with a fine of between \$5 and \$25.

The protection for nurses riding in white cars with the child in their care, the exclusions for freight trains and a new provision noting that the act didn’t prohibit sleeping cars, so long as sleeping cars were offered in separate accommodation to whites and blacks, were also included in the bill. Fines obtained under the act would go to the Available Common School Fund of the county where the conviction was obtained. Prosecutions were allowed in any court of competent jurisdiction. The bill also included a provision declaring an emergency, as, “an imperative public necessity exists” for suspending the rules requiring the bill to be read on three separate days.⁹⁵

The House passed Senate Bill 97 for the final time on March 19, 1891, and presented it to the governor that morning at 9:45 a.m. for his signature. Governor Hogg, however, did not immediately sign the bill. Like his predecessor, he ultimately declined to sign the bill, but did not veto it; it became law without his signature. The substitute bill disregarded one of the Governor Hogg’s recommendations made at the outset of the session: that the future railroad commission be given some regulatory authority in the area of separate coaches.⁹⁶ The Committee Substitute, however, had one critical omission: it failed to empower conductors to act to enforce the law. Senate Bill 365 was introduced to correct that action, and was passed by the Senate 21-2 on March 27, with only senators Johnson and McKinney dissenting.⁹⁷

Urban areas with street railways or suburban railroads felt further change was needed to protect them from being forced to provide separate coaches.⁹⁸ In his thesis and later book, *The Negro In Texas, 1874-1891* Lawrence Delbert Rice, states his research indicated that most cities running streetcars did not bother with segregation or separate coach accommodations until after the turn of the 20th century.⁹⁹ However, legislation addressing such was introduced after the passage of Senate Bill 97 to address the same. It was ultimately combined with Senate Bill 365

⁹⁴ Art. 492, Title 10, Penal Statutes, 1928 *Complete Texas Statutes*.

⁹⁵ *House Journal*, March 14, 1891, 600-601.

⁹⁶ *Dallas Morning News*, March 15, 1891.

⁹⁷ *Austin Statesman*, March, 28, 1891.

⁹⁸ *Wise County (Decatur, Tex.) Messenger*, April 4, 1891; *House Journal*, April 11, 1891.

⁹⁹ Rice, Lawrence Delbert, “*The Negro in Texas 1874-1900*,” unpublished doctoral dissertation, Texas Technological College, 1968, p. 242, Texas Tech University dissertation.

and passed, thus exempting both “freight trains and suburban railways from the operation of the law.”¹⁰⁰ This was the first iteration in Texas statute of the law that Sadie Patillo would ultimately have declared by Texas’ highest criminal court as not applying to motor buses.

Exempting suburban railways was not without heavy criticism from the press, a fact the *Dallas Morning News* noted would come, proclaiming, “[t]he exemption of suburban railways will lead to criticism.” Criticizing the legislature’s passage of the law, the *News* continued:

It is assumed that they cannot well afford two cars, yet in no branch of service is there more need of separate seats for clean and well dressed people. And why can they not afford separate coaches and compartments? Have not the electric roads an abundant power? Unfortunately, the color line does not mark the decency line. There are foul smelling white men, and our civil authorities have not yet reached the point of having conductors properly placed in charges of transportation of persons.”¹⁰¹

The exemption of street and suburban railways was not all that was criticized about the new law. The *Dallas Morning News* also found fault with the exemption of Black nurses from the law’s provisions, stoking fears of a flood of Black women impersonating nurses to gain passage on first class, white railway cars:

There is a little inconsistency in the separate coach bill, which exempts suburban railways and allows colored nurses to travel in the same coach with their mistresses. It is not suggested that the bill should have failed to this, but the white nurses may think so, and others too. As a general rule, the colored nurses are clean persons, and yet they are not the only clean persons of their race. There is no certainty that the exemption will not operate in some cases to cause a deterioration in the average of presentable colored persons who will enter first class cars under the classification of nurses. Could not the legislature have managed in some way to fix a term and provide for certificates to issue from some public officer, giving the traveling public assurance that alleged nurses have held their engagements in that character during a reasonable length of time—that they are not nurses for one trip only? It is also a grave question whether the bill is not defective in requiring a mistress with a nurse. How about the cases where there is no mistress?”¹⁰²

The law was also denounced nationally by Blacks and the Black press. The *Austin Globe*, a Black newspaper in the state capital, noted, “The colored editors in their recent convention at Cincinnati denounced the ‘jim crow’ [sic] separate coach law which has lately been enacted in some of the southern states, including Texas.”¹⁰³ Nonetheless, railroads soon announced their intent to comply with the law. Railroad officials conducted a special meeting to address the separate coach law and the new railroad commission act:

¹⁰⁰ *Fort Worth Gazette*, April 11, 1891.

¹⁰¹ *Dallas Morning News*, April 13, 1891.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

The matter of providing separate coaches or apartments in each car for white and colored people was thoroughly discussed, and finally the matter was referred to the master car builders of each road to make such changes in the cars as would fully comply with the law in this respect and to provide them with appropriate signs, to be placed conspicuously in each apartment.¹⁰⁴ The I. & G. N. Railroad had begun altering their coaches to comply with the law by late April. "[A] number of coaches have already been portioned and labelled 'For White Passengers,' 'For Negro Passengers.' The partitions are composed of four pieces and are so arranged that partitions may be put in place every third seat, thus giving the greatest portion of the car to that class needing the most room."¹⁰⁵

In spite of compliance, railroads still were not happy with the law as written.

"The truth of the matter is," said a well-known railroad official, "the next legislature should give the commission authority to suspend the law where it would involve heavy expense to the roads. On the Fort Worth and Denver, the Texas and Pacific west of Weatherford, the Southern Pacific west of Weatherford, the Southern Pacific west of San Antonio, and the Western Division of the Santa Fe negro travel is almost nothing and it is unjust to the compel the companies to haul coaches for hundreds of miles just for the accommodation of, perhaps, one or two negro passengers."¹⁰⁶

The press further promulgated what could have been either a miscalculation of the number of days upon which the separate coach bill would become effective, or a deliberate falsehood, claiming that June 19 was the effective date of the legislation. June 19, of course, marked the anniversary of General Gordon Granger's reading of General Order No. 3 at Galveston which emancipated slaves in Texas and was celebrated by Texas Blacks as Emancipation Day. "The Separate Coach Bill Goes into Effect June 19," the *Brenham Banner* reported on May 7, with other papers soon following.¹⁰⁷ "It seems the irony of fate," the *Brenham Banner* noted on June 18:

that the separate coach law should go into effect on the very day that they are celebrating the anniversary of their emancipation, and that it should happen on Friday must confirm their superstition, which is shared by many of their white brothers, that Friday is an unlucky day, as the man said who was going to be hung."

On June 20, the *Weimar Mercury* proclaimed the law had gone into effect the prior day. (*Weimar Mercury* June 20, 1891). The *Colorado Citizen* reported a correction on June 25, noting:

The *Victoria Advocate* says the separate coach law will go into effect July 12, instead of June 19, as erroneously reported by many Texas papers. The cars should be plainly marked, so as to prevent mistakes.¹⁰⁸

¹⁰⁴ *Austin Statesman*, April 25, 1891.

¹⁰⁵ *San Antonio Daily Light*, April 27, 1891.

¹⁰⁶ *Dallas Morning News*, April 30, 1891.

¹⁰⁷ *Brenham Banner*, May 7, 1891; *Galveston Daily News*, June 13, 1891.

¹⁰⁸ *Colorado Citizen* (Columbus, Tex.), June 25, 1891.

The significant uptick in Black rail travel on Emancipation Day raises the question of whether or not the misreporting of the June 19 date was deliberate, and where responsibility lay for what was either a deliberate action or very irresponsible error. The Texas press attempted to get to the bottom of the confusion. The *Galveston Daily News* placed the blame for the rumor squarely on the *Brenham Banner*, which frequently republished the rumor after its initial publication on May 7.¹⁰⁹ Washington County, of which Brenham was and remains the county seat, reported a Black population of over 15,000 in the 1890 U.S. Census, out of 29,161 total people in the county, making Washington County 52 percent Black.¹¹⁰ Because “the colored people did not doubt” that the *Banner’s* proclamation was correct, an interesting incident occurred on Emancipation Day at Chappell Hill in Washington County. As told by the *Galveston Daily News*:

The Central Railway, in order to accommodate increased travel, had ordered an additional coach put on the regular train. When Chappell Hill was reached, west bound, the train was nearly filled with excursionists. It also had a large number of white passengers. As soon as the train stopped many colored women headed for the white people’s car. The brakeman politely told them that they now had a separate coach all to themselves and to walk right in and enjoy the ride. Not one objected. A white man was passing into this coach and was informed that the colored people had possession of the car. He was very indignant and wanted to know if he was not as good as a negro, etc., and swore he would ride where he pleased. “All right,” was the reply. After seating, the brethren and sisters looked indignant, and a person asserted that he would tell Judge Kirk all about it when he got to Brenham. “an’ would hab de white man persented [sic].” “Dar’s right,” exclaimed several of the sisters. After riding a few miles the man beat a hasty retreat from the car, remarking to the breakman that “I need fresh air badly.”

“The trainmen do not apprehend that the colored people will give them trouble, as the separate coach law is now on the statute books of Texas and they would be fools to fight it,” the *Daily News* concluded.¹¹¹ The *Fort Worth Gazette* remarked of the incident, “The separate coach law is all right. The incident at Chapel Hill on the Central railroad the other day shows the temper of the negro with respect to that innovation,” the *Gazette* noted, continuing:

The negroes who went uncomplainingly into the coach set apart for them showed far more sense than the white man who insisted on entering the same coach because he was “as good as a negro.” If that incident be taken as a criterion, the railway officials are apt to have more trouble with a certain class of whites than with negroes. But so far from having any trouble with them, it is quite likely that the negroes will not only be satisfied with the separate coach, but jealous of the privileges which it confers. Not only will they prefer it to the old custom of riding in the same coach with whites, but will resent indignantly any effort of a white person to share with them the honor of a ride in their car. They will soon come to look upon the separate coach as a mark of favor, a distinction rather than a discrimination. The freedom from restraint which

¹⁰⁹ *Galveston Daily News*, June 25, 1891.

¹¹⁰ (*Eleventh Census of the United States*, population tables for county populations and racial population breakdowns).

¹¹¹ *Galveston Daily News*, June 25, 1891.

the negro enjoys in his own car will soon conquer what ever feelings of wounded pride he may have felt at the beginning.¹¹²

Black Texans were not uniformly pleased with the Separate Coach Law. In mid May, Black Houston residents assembled at Trinity Hall “to take preliminary steps to the calling of a colored people’s state convention, where a definite plan of action may be adopted to meet any unjust discrimination that may arise from the enforcement of the law, as they are inclined to believe will surely be done.” Even this meeting, however, saw a differing of opinion among Blacks.¹¹³

Texas Courts and the Separate Coach Law Prior to *Patillo v. State*

The Separate Coach Act was almost immediately challenged, and its history across the district and appellate courts is lengthy and diverse, spanning legal matters from personal injury to whether damages could be recovered in civil court if separate coaches were not required in some instances. For decades prior to Sadie Patillo’s claim that the state’s separate coach law did not apply to buses because they were not addressed in the law’s statutory construction, Texas high and intermediate appellate courts addressed a variety of issues relating to and stemming from the existence of the Separate Coach Law.

The Texas Court of Civil Appeals addressed the 1891 Separate Coach Act in a case concerning the Southern Kansas Railway Company of Texas with regard to whether or not a railroad had to provide separate coaches even if there were no Black passengers on the train. The court held that, “the plain requirement of the statute is that railroad companies doing business in this state as common carriers of passengers for hire, must provide separate coaches, whether or not the particular train is actually carrying at the time both white and negro passengers or not,” the Court held. “The company should be deemed to know,” the opinion continues, “that negro passengers may at any time demand carriage thereon, and is required to anticipate such a contingency by making preparations therefor.” The court noted that the “object of the Legislature was to undoubtedly to provide for the segregation of the races,” on passenger trains in the state.¹¹⁴

A few months before *Plessy v. Ferguson*¹¹⁵ was decided by the U.S. Supreme Court, the Court of Civil Appeals at San Antonio addressed whether or not a Black passenger could bring suit and recover damages if a railroad company failed to provide separate but equal coaches pursuant to the Separate Coach Act, on an appeal from Gonzales County. Robert L. Norwood, a Black passenger who had paid thirty-five cents for a coach ticket on the Galveston, Harrisburg, and San Antonio Railway Company, alleged that the Black compartment of the train lacked a water closet, drinking water, or stove. The court held the Norwood’s “right to sue cannot be based upon a mere infraction of the law, unless there should be some damage resulting to him from such infraction.” The court decided not only that Norwood did not suffer damages, but that the right of enforcement rested not in the ability of a citizen to bring a private cause of action for enforcement, but “[t]he enforcement of the law is left solely in the hands of the State, and an adequate penalty

¹¹² *Fort Worth Gazette*, June 29, 1891.

¹¹³ *Galveston Daily News*, May 13, 1891.

¹¹⁴ *S. K. R. Co. v. State*, 44 Tex. Civ. App. 218, 99 S.W. 166 (1906, no writ)

¹¹⁵ 163 U.S. 537 (1896)

is prescribed that can be invoked by and through the state alone.”¹¹⁶

In 1916, the Court of Civil Appeals of Texas addressed the legal requirement placed upon railroads operating in Texas to provide separate accommodations for Black and white passengers. The court addressed the 1907 recodification of the original 1891 Separate Coach Law—the law under which Sadie Patillo was eventually convicted for riding in the white section of a Beaumont city bus. However, in the 1916 case, the holding was limited to whether or not the state, in prosecuting a case against the Galveston, Harrisburg & San Antonio Railway Company, had met its burden of proof. The Court ruled that the state had not met the appropriate burden of proof to show that the railway company failed to provide separate coaches, “equal in all points of comfort and convenience.”¹¹⁷

Also in 1916, the San Antonio Court of Civil Appeals upheld a Travis County jury’s verdict that the Missouri, Kansas & Texas Railway Company was not liable for damages to a white passenger for mental distress because the passenger was forced to ride in a car partially filled with Black passengers. The case’s holding was partially procedural, however. A white couple sought a combined \$3,000 in damages because they purchased first-class tickets for a train trip and the railroad “compelled plaintiffs to enter a coach partially filled with negroes and to ride in said coach.” The court’s opinion, while ruling on the technical aspects of the case, also addressed whether the verdict and judgment were “contrary to the great preponderance of the testimony.” In doing so, the court noted, “it is a matter of common knowledge that white citizens of the South are daily thrown in contact with members of the negro race in almost every walk of life, and negroes are permitted by law to ride on street cars with whites, with only a sign to indicate the place where they are to sit, it seems clear whether or not proximity to negroes in a coach or train causes mental anguish or humiliation depends to some extent upon the circumstances under which such proximity is brought about and maintained...” The court further noted the conductor had placed signs in the first-class coach to indicate white and Black seating, and that no other cars were available “owing to flood conditions.”¹¹⁸

Three years later, the Commission of Appeals of Texas, Section A, ruled in favor of the Texas and Pacific Railway Company, opining that the railroad was not responsible for the injuries sustained to a Black woman when she was injured by a white passenger who was riding in a Black’s only railroad car. The woman’s husband sued claiming the railroad was negligent in allowing the white man to ride in the Black coach, because it constituted a violation of the Separate Coach Act. The Commission ruled that the company would have had to have knowledge of the “existence of danger or facts or circumstances from which danger could reasonably have been anticipated,” in order for the claim of the assaulted Black woman to prevail.¹¹⁹

By 1928, the Texas Court of Appeals found itself determining whether a railroad company had a responsibility to provide Black passengers with separate but equal toilet facilities in first-class train cars. The trial court in El Paso County found for a Black man who claimed the Tedford

¹¹⁶ *Norwood v. Galveston, H. & S. A. R. Co.*, 12 Tex. Civ. App. 560, 34 S.W. 180 (1896, no writ)

¹¹⁷ *State v. Galveston, H. & S. A. R. Co.*, 184 S.W. 227 (Tex. Civ. App.—Austin 1916, writ ref’d)

¹¹⁸ *Weller v. Mo., K. & T. R. Co.*, 187 S.W. 374 (Tex. Civ. App.—San Antonio 1916, no writ)

¹¹⁹ *Tex. & P. R. Co. v. Baker*, 215 S.W. 556 (Tex. Comm’n App. 1919)

P&R Railway Company failed to provide adequate toilet facilities for Black passengers. The intermediate appellate court reversed the trial court verdict on grounds the evidence did not support the verdict, as there were thirteen Black passengers and workers who could access one toilet, and fifty-one white passengers sharing three toilets. The court found this a sufficient number of toilets. The Court of Appeals concurred. “We think one toilet is sufficient to accommodate the needs of 13 people in ordinary state of health, and that a very cautious and prudent person who was providing toilet facilities for 13 people of ordinary health would provide no more,” it noted, holding the railroad company was not liable to Wallace because it did not know he had medical conditions requiring special accommodations. Wallace had “taken a laxative or purgative on the 10th of August, and that he was required to go to the toilet frequently, and did not go to the toilet from about midnight on the 11th, say about three or four times, that he evacuated and passed urine.” The conditions caused Wallace an irritated bladder, cystitis, and an irritated prostate and kidneys. Wallace’s attorney was prominent El Paso lawyer Fred C. Knollenberg, who challenged the state’s Terrell Election Law, which allowed political parties to exclude Blacks from primaries on behalf of the NAACP and Dr. L.A. Nixon in 1924 (*Nixon v. Condon*).¹²⁰

These are but a few among at least two dozen Texas court cases addressing the separate coach law in various aspects of tort and criminal practice prior to *Patillo v. State*. Over the years, the courts also held that county attorneys could not sue to enforce separate coach laws, because that duty was not vested upon the county attorney;¹²¹ and that a county sheriff was not entitled to recover damages for being humiliated by being forced to ride in a coach containing Black passengers because his prisoner was Black.¹²²

Legislative Response to *Patillo v. State*

The day after the Court of Criminal Appeals handed down its decision in Sadie’s case, W.R. Cousins, the State Senator representing Beaumont, insisted that the Legislature would change the law in the next regular session. “I favor the Jim Crow law, and if somebody does not take steps to broaden the application of the law to included buses, I will,” Cousins told the *Beaumont Enterprise*.¹²³ “It is certain that it is best that negroes be compelled to ride in a separate section of a common carrier in this part of the country and the legislature intended the law to included buses,” Cousins told the *Beaumont Journal*.¹²⁴ Cousins failed to note, however, that buses were not even in common use when the law was previously codified, going so far to call their exclusion from the statute an “oversight.” “It was an oversight that the law was passed finally just to include trains, street cars and interurbans and it will have to be amended,” Cousins noted.¹²⁵

The Legislature moved to act in the very next session. House Bill 692 by Gaston Palmer, a member from Normangee in Leon County serving in his first term in the House, proposed to amend Article 1659 of the Penal Code to read that, “every railway company, street car company and

¹²⁰ *Tex. & P. R. Co. v. Wallace*, 2 S.W.2d 874 (Tex. Civ. App. 1928, writ diss’d)

¹²¹ *State v. Tex. C. R. Co.*, 62 Tex. Civ. App. 166, 130 S.W. 663 (1910, no writ)

¹²² *Gulf, C. & S. F. R. Co. v. Sharman*, 158 S.W. 1045 (Tex. Civ. App.—Austin 1913, no writ).

¹²³ *Beaumont Enterprise*, March 24, 1932, 6.

¹²⁴ *Beaumont Journal*, March 23, 1932, 6.

¹²⁵ *Ibid.*

interurban railway company, or any person or agent of any person, firm, or corporation who operates an interurban, commercial motor vehicle in carrying passengers for hire between any cities, towns, or villages of this state," would be subject to separate coach rules. "Interurban, commercial motor vehicle, refers to city bus services, public and private," was language included in the bill. City bus service in Beaumont, where Sadie was convicted, was privatized.



Rep. John Vernard Ash

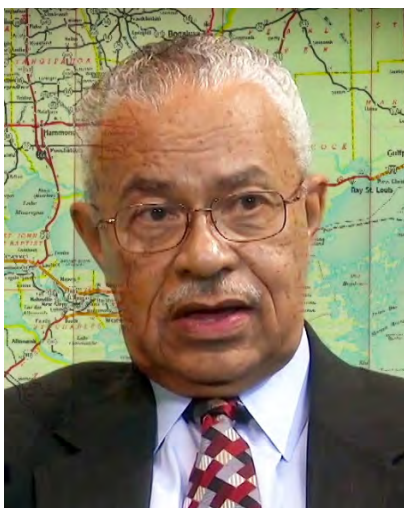
The bill sailed through the house and died in the Senate after not being considered before the clock ran out on the session on June 1, 1935, when the 43rd Legislature adjourned sine die. It had languished there since favorable referral from committee on May 13.



Lt. Gov. Edgar W. Witt

World War I veteran and Lt. Governor Edgar W. Witt, a progressive Democrat in his first session as Lieutenant Governor, never called up the bill. It is unclear why. Little is published about his views on race. Witt later ran for governor against James Allred in 1934 and lost. In 1935, he was appointed chair of the Special Mexican Claims Commission. He was ultimately appointed chief commissioner of the Indian Claims Division. He died in Austin in 1965.¹²⁶

The next session, the 44th Texas Legislature, saw unanimous passage of House Bill 270, authored again by Palmer and joined by Reps. Earl Huddleston from Coryell County and John Vernard Ash, a Bastrop County Democrat serving his only term in the House, using similar wording to legislation proposed in the 43rd Legislature in both houses. The bill passed, and was ultimately signed by Governor Miriam Amanda "Ma" Ferguson.



Rep. Curtis M. Graves

Neither the 1933 nor the 1935 legislation attracted much interest. The 1933 bill garnered a few mentions in the press. The 1935 bill, far less.

In 1969, the Texas House passed House Bill 253, by David Evans, joined by Curtis M. Graves, Carlos Truan, and Joe Salem, which repealed laws allowing cities to enact ordinances allowing for segregated public transportation,



Rep. Carlos Truan

¹²⁶ *Presiding Officers of the Texas Legislature, 1846-2016, 2016.*

and basically anything else.¹²⁷ House Bill 253 was part of a package of bills removing segregation related statutes passed by the House, but not the Senate, in the 61st Legislature.

Conclusion

Texas' separate coach law and other Jim Crow laws no longer exist today, and few people know of the Black woman from Beaumont who challenged bus segregation—decades before Rosa Parks became a household name. Nevertheless, the law under which Sadie Patillo was convicted, and her case itself, provide a fascinating look back at the minutiae of Jim Crow laws and segregation in Texas.



Rep. Joe Salem

¹²⁷ *House Bill 253 Bill File*, 61st Regular Session, Texas Legislature, Texas Legislative Reference Library, Austin, Texas.



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Magna Carta Year: Tracing the Rule of Law Back to Runnymede

Text and photos by David A. Furlow

Magna Carta's history is a tale of courage and constitutionalism overcoming cruelty, cowardice, and caprice, of freedom and faith triumphing over tyranny and fear. It is the narrative of tax-revolt against a failed forever war in France and arbitrary exactions of money and property. This year marks the 810th anniversary of King John's certification, by sealing, of *Magna Carta Libertatum* at Runnymede, a long meadow between Windsor Castle and the Thames-side town of Staines, on June 15, 1215. This is also the 800th anniversary of the year King John's young son Henry III reissued an amended version of Magna Carta, which became the first statute in England's law books and the realm's written constitution. Finally, this is the 250th anniversary of the American Revolution that Magna Carta helped inspire. Is there anything worth learning by returning to England in 2025 to re-examine *Magna Carta*? There is much to learn. And that's one reason my wife and I went to Runnymede on Magna Carta Day—June 15, 2025.

Magna Carta's story begins with an Angevin monarch, King John of England

Between 1199 and 1216, King John's actions created a series of constitutional moments that culminated in the creation of Magna Carta, England's first written constitution and bill of rights. Understanding Magna Carta requires an examination of the Angevin Dynasty, the dynasty of Norman English kings whose lineage began in Anjou, France, the origin of the term *Angevin*. King Henry II's Angevin family was as rich, powerful, and dysfunctional as the one portrayed in the 1968 Academy Award winning film *The Lion in Winter*.

Born on Christmas Eve in 1166 in Nottinghamshire, John was the youngest of King Henry II's five sons—and the only one that Henry did not name after a monarch. During John's first years, Henry II gave him the derogatory nickname, *Jean sans Terre*, "John-Lack-Land." Neither his father Henry nor his mother Eleanor of Aquitaine nor any of his brothers expected John's inheritance to include the Angevin lands and castles. John's subsequent conduct did not inspire confidence, either. While his older brother *Richard Cœur de Lion*, "Richard the Lion-Hearted," sailed away to the Holy Land to fight Saladin in the Crusades, Prince John joined in a conspiracy with the King of France, Philip II, to seize Richard's throne from the absent Crusader.¹

¹ Danny Danziger and John Gillingham, *1215: The Year of Magna Carta* (New York: Touchstone, 2003), 86; "Jean sans Terre. c.1700-50," RCIN 600275, *Royal Collection Trust* (Buckingham Palace), <https://www.rct.uk/collection/600275/jean-sans-terre>; Nicholas Vincent, "The Tyranny of King John," 50-55 in Nicholas Vincent, ed., *Magna Carta: The Foundation of Freedom 1215-2015* (London: Third Millennium Pub., 2014), 53; Caroline Burt and Richard Partington, *Arise England: Six Kings and the Making of the English State* (London: Faber & Faber, 2024), 27-29.

The Holy Roman Emperor Henry VI captured Richard on his way back to England from the Middle East. Henry VI released Richard only after a cash-strapped England paid the princely ransom of 150,000 marks—billions of dollars today.² Hubert Walter—Richard’s savvy, hard-working Bishop of Salisbury, later Archbishop of Canterbury, and later still Richard’s Chancellor of England—stymied John’s efforts to stir up trouble. Archbishop Walter reformed English finances, imposed uniform weights and measures, and crushed dissent with force. Magna Carta historians Danny Danziger and John Gillingham deemed Archbishop Walter to be “the supreme embodiment of the civil servant-prelate and...one of the ablest royal ministers of all time.”³

Meanwhile, during Richard’s March 1199 siege of the castle at Châlus-Chabrol, a French boy squeezed a crossbow trigger and slammed a bolt into Richard’s shoulder. Dirty, sweat-streaked cloth and shattered chainmail entered the king’s flesh with that bolt. The wound seemed minor at first, but then it festered. Gangrene set in; fever followed; and Richard died on April 6, 1199.⁴



A medieval miniature of King John conducting a stag-hunt on horse-back. *Statutes of England* (14th century), Folio 116 - BL Cotton MS Claudius D II, British Library Images Online.

Richard’s younger brother John ascended to a realm of hodgepodge territories splayed out on both sides of the English Channel and on both shores of the Irish Sea. John styled himself the Count of Mortain, in Normandy, but also ruled as Duke of Normandy, Aquitaine, and Gascony; Lord of Cyprus; Count of Poitiers, Anjou, Maine, and Nantes; and Overlord of Brittany. England was the western part of Richard’s Angevin Empire, but the wealthiest and most important parts were in Normandy, Anjou, and Aquitaine, all in France. His native-born wife, Isabella, heiress to the Earldom of Gloucester, endeared King John to his English subjects.⁵

Richard’s death left Angevin Normandy exposed to invasion. As soon as King Philip learned that England’s Crusader

² Vincent, “Tyranny of King John,” in Vincent, *Magna Carta*, 52-53; Burt and Partington, *Arise England*, 32-34.

³ Danziger and Gillingham, 1215, 131-32.

⁴ Vincent, “Tyranny of King John,” in Vincent, *Magna Carta*, 53; Danziger and Gillingham, 1215, xx and 248-51.

⁵ Burt and Partington, *Arise England*, 34-35; Vincent, “Tyranny of King John,” in Vincent, *Magna Carta*, 57.

king, Richard, had died, the French king invaded Evreux. The townspeople of Evreux felt little loyalty to John, who had massacred French knights there a few years earlier. John responded by convening fifteen French counts to pledge their fealty to him in Rouen, the capital of Normandy, in August of 1199. John's nephew the Holy Roman Emperor Otto IV of Brunswick swore to support John against their mutual enemy, King Philip.⁶

King Philip was an ambitious and aggressive opponent determined to expand the size, power, and glory of France at the expense of King John's kingdom. Phillip made himself popular by assuming the title *Rex Francie*, the "King of France," in 1190, rather than use the medieval term *Rex Francorum*, "King of the Franks." At first, Philip waged war against his vassals to consolidate his kingdom, but then, afterwards, made it his life's mission to expand the borders of France by seizing provinces in the west that belonged to John's Angevin empire.⁷

Back in England, Hubert Walter's financial reforms made it possible for King John to raise the funds he needed to defend his realm. Then things began to go awry. John asserted his divine right to rule without any checks, balances, or limits. His *ira et malevolentia*—his anger and ill-will—soon made enemies among England's powerful barons. So did his greed and his lust. He raised taxes on *scutage*, the shield-fees nobles paid in lieu of military service. He stole entire forests from their owners. He murdered hostages. He sold maidens and widows into slavery, often after abusing them. He fathered five children through adultery, not just with the usual prostitutes, but with his nobles' wives and daughters. A king educated by the nuns of Fonterraud openly joked about the Resurrection. Extraordinary inflation—when prices doubled and trebled—characterized his reign. John's barons and knights blamed the price-rise on his taxes and scutage fees.⁸

John struck first at his fifteen-year-old nephew Arthur of Brittany, the son of John's deceased older brother Geoffrey. With the assistance of two loyal barons of Anjou—Aimeri Viscount of Thouars and William des Roches—John launched a surprise raid on his nephew Arthur's camp. Along with his close friend William de Braoses and a few other knights and barons, John launched a lightning raid and captured Arthur and two hundred enemy barons and knights at Mirabeau, France, including the most prominent nobles of Poitou.⁹

John then snatched defeat from victory by depriving his two Anjou allies of any say in deciding his prisoners' fate—or collecting their ransoms. Worse, he kept "his prisoners so vilely and in such evil distress that it seemed shameful and ugly to all those who were with him and witnessed this cruelty." Twenty-two prisoners died in John's captivity. Repelled by John's dishonorable actions, Aimeri of Thouars and William des Roches switched sides. They captured Angers, Anjou's most important city, while Poitou's nobles turned their backs on John. John then made things worse. His young nephew Arthur of Brittany, the most important of the prisoners, disappeared while

⁶ Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 54-55; Danziger and Gillingham, 1215, 143-44.

⁷ Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 54-55; Danziger and Gillingham, 1215, 143-44

⁸ Will Durant, *The Age of Faith: A History of Medieval Civilization—Christian, Islamic, and Judaic—from Constantine to Dante, A.D. 325-1300* (New York: Simon & Schuster, 1950), 688-90.

⁹ Ralph V. Turner, *King John: England's Evil King?* (Stroud, UK: History Press, 2009), 100; Burt and Partington, *Arise England*, 22, 37-38.

in John's custody in 1203. Nobles on both sides of the English Channel assumed that John had murdered Arthur. John did not deny the rumors of a vicious crime.¹⁰

John alienated his nobles by dissolving his marriage with his wife Isabel of Gloucester to wed a beautiful French princess, Isabella of Angoulême, who was either twelve or fourteen years old at the time. The marriage to young Isabella disgusted his English subjects while making Isabella's fiancée Hugh de Lusignan John's sworn enemy. Philip set a trap for his English rival by summoning John to appear before his Court of the Twelve Peers, in his subordinate roles as Duke of Normandy and Aquitaine, to answer Hugh de Lusignan's pleas for justice—and respond to Philip's charge of murdering his nephew Arthur of Brittany. John dithered, but ultimately refused to attend the court, grant justice to Hugh de Lusignan, or answer Philip's charges. Philip declared a default judgment and confiscated the title to John's lands in April 1202.¹¹

When Philip of France invaded Normandy, John's support there collapsed. Brittany rose in revolt against its English overlord. Rather than confront the French king, John remained safely behind the lines, sending costly foreign mercenaries because he no longer trusted his English barons. When John sailed back to England in December 1203, Philip pressed his advantage, compelling John's soldiers to surrender the strategic castle Château Gaillard in March 1204 and to abandon the Angevin capital of Rouen in March 1204.¹² Later that year, a troubadour began singing a ballad that grew increasingly popular in every passing month:

*No one may ever trust him
For his heart is soft and cowardly.*

The barons gave John a vicious new nickname: *Soft-Sword*. The lords of Poitou abandoned John and pledged loyalty to Philip, who seized most of Normandy.¹³

When the time called for action, King John called for a time-out. An unfavorable truce left John's Norman, Anjou, and Loire River Valley domains under Philip's control. By 1205, many of John's barons, knights, and other English contemporaries believed that their king's cowardly retreats and disastrous defeats had revealed that God had abandoned John.¹⁴

During the next five years, John repeatedly raised new taxes and imposed new fees to generate the revenue he needed to conduct a campaign of reconquest. He imposed high "scutage" taxes on barons and knights, as well as unprecedented fees on inheritances and marriages that burdened England's most powerful lords and ladies. Through these efforts, King John accumulated 200,000 marks, or £133,333—a huge sum at the time—to fund another invasion of France.¹⁵

¹⁰ Turner, *King John*, 100-101; Danziger and Gillingham, *1215*, 147-48.

¹¹ Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 54-55; Danziger and Gillingham, *1215*, 145-46; Burt and Partington, *Arise England*, 34-38.

¹² Burt and Partington, *Arise England*, 38-40.

¹³ Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56; Danziger and Gillingham, *1215*, 145-49; Burt and Partington, *Arise England*, 22, 34-36.

¹⁴ Danziger and Gillingham, *1215*, 149-51; Burt and Partington, *Arise England*, 40-46.

¹⁵ Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56-57; Danziger and Gillingham, *1215*, 130-37, 153-4.

Men of the Church: Stephen Langton, Archbishop of Canterbury, and Pope Innocent III

Meanwhile, Stephen Langton, the son of a manorial lord, was rising to prominence as an extraordinary English scholar and churchman. Born around 1150, Langton mastered Latin at an early age. He accepted a stipend and appointment as a prebendary, an ecclesiastical administrative assistant, at a church in York. Stephen moved to France to attend King Philip's embryonic University of Paris, where nearly a third of those who attended came from England. After graduating, Stephen served his faith as a teacher, preacher, and theologian. He introduced the modern practice of organizing biblical scripture into books and chapters.¹⁶

Stephen Langton's piety, enthusiasm, and intellect soon earned the friendship of an ambitious Italian scholar and lawyer, Lothario de Segni, who was then advancing up the ladder of the Roman Catholic hierarchy to become Pope Innocent III. Both men venerated Thomas a Becket, the Archbishop of Canterbury murdered by King Henry II's knights. Both men viewed kings as curses to their peoples if they overtaxed their subjects, refused to produce a written law code, or challenged too many privileges of the church.¹⁷

When Archbishop of Canterbury and Chancellor of England Hubert Walter passed away, John proclaimed "I can now be king at last!" An ecclesiastical succession-crisis ensued when two rival claimants, the monks of Canterbury and the bishops of Canterbury, both claimed the right to elect the next archbishop. The monks secretly elected their superior, Reginald, to fill the vacant post. While Reginald went to Rome to seek papal support, the remaining monks elected John de Gray, Bishop of Norwich—King John's preferred candidate. Pope Innocent III invalidated the election and elevated Stephen Langton to serve as the next Archbishop of Canterbury.¹⁸ Pope Innocent consecrated Langton at Viterbo, fifty miles north of Rome, in 1207.¹⁹

But John refused to permit a man educated in Paris—and presumably friendly towards France's King Philip—to govern the English Church. He used the succession-dispute as an excuse to seize the Archbishop's assets at Canterbury.²⁰ Innocent imposed a Bull of Interdiction on England in 1208, then banned church services on Sundays, feast days, and burials in consecrated ground. John expressed indifference. Innocent responded by excommunicating him. John laughed it off, then pressed on to wrest control of wealth-generating churches and abbeys.²¹

¹⁶ Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56-57; Burt and Partington, *Arise England*, 47-49.

¹⁷ Sophie Ambler, "Stephen Langton," *Magna Carta Trust* website, <https://magnacarta800th.com/schools/biographies/magna-carda-bishops/stephen-langton/>; Christopher Holdsworth, "Langton, Stephen (c. 1150–1228)," *Oxford Dictionary of National Biography* (23 September 2004), <https://doi.org/10.1093/ref:odnb/16044>; "Stephen Langton," in Adrian Gray, *Restless Souls: Pilgrim Roots: The Turbulent History of Christianity in Nottinghamshire and Lincolnshire* (Retford, Nottinghamshire: Bookworm of Retford, 2020), 46; Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56-57; Danziger and Gillingham, *1215*, 130-37, 153-4.

¹⁸ Danziger and Gillingham, *1215*, 132-33.

¹⁹ "Stephen Langton," in Gray, *Restless Souls*, 46; Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56-57; Danziger and Gillingham, *1215*, 68-69.

²⁰ Danziger and Gillingham, *1215*, 132-33.

²¹ Editors of *Encyclopedia Britannica*, "Stephen Langton, archbishop of Canterbury," *Encyclopedia Britannica Online*, <https://www.britannica.com/biography/Stephen-Langton>; "Stephen Langton," in Gray, *Restless Souls*, 46; Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56-57; Danziger and Gillingham, *1215*, 130-37, 153-4.



Plaster maquette of Stephen Langton by John Thomas (sculptor), at the Canterbury Heritage Museum. It is one of 17 maquettes commemorating signatories of the Magna Carta. Image courtesy of Linda Spashett, *Storye* book, Wikimedia Commons.

Humiliated by his losses of land and prestige to his rival Philip, John devoted unstinting efforts to raising the funds needed to build ships, hire mercenaries, and rebuild his Angevin empire in France. His rapacity grew so strong that he turned against his own supporters if they had money or property that could enrich the royal coffers. One supporter of King John, William de Braose, 4th Lord of Bramber, was a baron who controlled vast estates in Ireland and Wales with his wife Matilda. William had earned what should have been the king's gratitude by capturing John's rival Arthur of Brittany during the surprise raid at Mirabeau. John turned against de Braose after Arthur's disappearance—which occurred almost certainly at John's hands. William de Braose fell behind in payments for Limerick, Ireland. John declared that de Braose was insufficiently loyal, then insisted that William and Matilda de Braose hand over two of their sons as royal hostages. Roger of Wendover recorded Matilda's response: "I will not deliver my sons to your lord, King John, for he foully murdered his nephew Arthur, whom he should have cared for honorably." An accusation of royal murder was not a wise thing to share while John was king.²²

William de Braose admonished Matilda for speaking dishonorably of their king, but by then it was too late. Although William and Matilda sent John a herd of cattle and gave his queen Isabella a prize white bull, the king seized William de Braose's castles and issued a warrant for his arrest. William escaped to Ireland, but John's men captured Matilda and her oldest son William in Carrick and returned them to England in chains. John offered to free Matilda and pardon her husband William de Braose in return for the astronomical sum of 40,000 marks.²³

Unfortunately, William de Braose lacked the money to pay. John therefore declared William de Braose, Sr. an outlaw. John imprisoned Matilda and their oldest son in Corfe Castle. The humiliation of imprisoning his self-proclaimed enemy's wife and son in a dungeon was insufficient to satisfy John's sadism, however. So John starved them to death. The chronicler of Bethune

²² Caroline Burt and Richard Partington, *Arise England: Six Kings and the Making of the English State* (London: Faber & Faber, 2024), 52-54; Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56-57.

²³ J.E.A. Joliffe, *Angevin Kingship* (London: Adam and Charles Black, 1955), 67-68; Vincent, "Tyranny of King John," in Vincent, *Magna Carta*, 56-57.

recorded that, “On the eleventh day the mother was found dead between her son’s legs, still upright but leaning back against her son’s chest as a dead woman. The son, who was also dead, sat upright, leaning against the wall as a dead man. So desperate was the mother that she had eaten her son’s cheeks. When William de Braose, who was in Paris, heard the news of his wife and son’s deaths, he died soon afterwards, many asserting that was through grief.” No one was safe in John’s realm—not even John’s closest friends and allies.²⁴ King John’s biographer Sidney Painter described the persecution of the de Braose family as “the greatest mistake John made during his reign, as the King revealed to his Barons once and for all his capacity for cruelty.”²⁵

John continued his efforts to raise money to reconquer Normandy. He assembled a vast fleet and organized an invasion-army at Portsmouth, England, but an unexpected revolt in Wales in July of 1212 delayed his attack. When he learned of a plot against his life, John panicked, then disbanded his army. Two powerful barons, Robert FitzWalter and Eustace de Vesci, fled abroad—something that suggested they had participated in the plot. John postponed his invasion of Normandy until 1213. Then Philip raised the stakes by announcing his intent to invade England. French warships filled the Channel. John sent his army into Kent to protect it from invasion. To win over his enemies, he allowed Robert FitzWalter and Eustace de Vesci to return to England.²⁶

Fearful for his throne, King John promised Pope Innocent to participate in a crusade against the Muslims. Few believed that John would follow his brother Richard into a crusading life. To shore up his support at home and abroad, John then agreed to pay Rome an annual tribute of 1,000 marks from the sums he collected from his barons. In the presence of a vast assembly of his barons at Ewell, near Dover, a desperate king submitted to Innocent’s papal authority on May 15, 1213. “Being in great need of God’s mercy and having nothing but ourselves and our kingdoms that we can worthily offer to God and the Church,” King John proclaimed, “we offer and freely yield to God, to his holy apostles Peter and Paul, to the Holy Roman Church our mother, and to the lord Innocent and his Catholic successors, both the whole kingdom of England and the whole kingdom of Ireland.” Many barons rejected the submission as a betrayal.²⁷

In 1214, John drove a series of hard bargains with his barons. He began by charging Geoffrey de Mandeville, Earl of Essex, twenty-thousand marks for the privilege of marrying the former wife John had abandoned, Isabel the Countess of Gloucester. Isabel was a beautiful woman, but she also owned vast lands, tenements, and knight’s fees. The sum John demanded was staggering. When de Mandeville could not secure this the king seized the baron’s lands and assigned them to his young son Henry III. That land-seizure led the Earl of Essex to join his fellow barons in a full-scale rebellion a year later.²⁸

²⁴ Sharon Bennett Connolly, “History...The Interesting Bits!,” *historytheinterestingbits* website, historytheinterestingbits.com (2013); Vincent, “The Tyranny of King John,” in Vincent, *Magna Carta*, 62. See generally Maurice Percy Ashley, *The Life and Times of King John* (London: Book Club Associates, 1972).

²⁵ Sidney Painter, *The Reign of King John* (New York: Arno Press, 1979), 249–250.

²⁶ James Holt, “King John,” *Encyclopedia Britannica* (Oct. 1, 2025), <https://www.britannica.com/biography/John-king-of-England>; Danziger and Gillingham, *1215*, 153–4.

²⁷ Danziger and Gillingham, *1215*, 136–39, 154.

²⁸ “Marriage tax, 1214,” in the “Magna Carta, 1215 and beyond: A medieval revolution” webpage, *National Archives* (UK), <https://www.nationalarchives.gov.uk/education/resources/magna-carda/marriage-tax/>, accessed Jan. 20, 2024 (accounts of the sheriff of Herefordshire, National Archives, E 372/60); “John seizes rebel lands, 1214,” *ibid.*,

A Catastrophe: The Battle at Bouvines

Since he could no longer rely on the support of his English barons, King John crafted a ring of alliances with foreign princes to encircle Philip Augustus and restrict the French realm to the area around Paris. John's allies included Emperor Otto IV, whose army was strong in Germany, as well as aristocratic allies in Flanders, Boulogne, Brabant, Holland, Lorraine, and Limburg. John proudly proclaimed that his alliance army would dictate peace in Paris.²⁹

In February of 1214, John dispatched an invasion fleet from Portsmouth, England to La Rochelle, on the western coast of France, to begin the reconquest of his ancestral lands. Then things soon started to go wrong. A determined King Philip organized an army of eleven thousand battle-tested heavy cavalry and twenty-five thousand veteran foot-soldiers to defend France. He quickly outmaneuvered John's German ally Otto, who gathered a larger but less experienced force of eleven thousand heavy cavalry and sixty-thousand foot-sloggers.³⁰

Difficulties in mustering his German soldiers and a decision to attend the wedding of his daughter to his powerful ally, Henry of Brabant, delayed the Emperor Otto's advance toward Paris. When John bribed his enemies in the Lusignan family to submit to his authority by granting them the Saintonge coastline and the Isle of Oléron, John falsely claimed that he had bested them to encourage his English subjects to join him in France. John entered Angers in Anjou and appeared to surge forward against Philip's forces—until Philip's son, Prince Louis, hastened toward John's army with a strong French army.³¹

Contemptuous of their sovereign, and unwilling to risk their lives for a tyrant renowned for abandoning his men abroad, many English barons refused to join their king in France—or send knights to serve in his army. By July, John was cajoling, then threatening, barons who remained abed in England. A battle loomed, throwing a shadow over Soft-Sword's strategy. In the early summer, most of the barons from Poitou deserted John's cause. Prince Louis blocked John's pathway to Flanders, compelling the English army to fall back to the safety of La Rochelle.³²

John sought to divert the French by besieging a French fortress near Angers in June 1214. Philip Augustus did not take the bait, but, instead, sent Prince Louis and his army to lift the siege. Although John and his allies had more men, John did not trust his French soldiers from Poitou to fight. After destroying the siege-engines, John withdrew toward La Rochelle on July 3, 1214. Prince Louis hit John's rearguard hard, then pursued John's men as far as Thouars, stopped, and returned

<https://www.nationalarchives.gov.uk/education/resources/magna-carta/civil-war/>, accessed Jan. 21, 2024 (King John's May 14, 1214 letter to the Sheriff of Devon ordering him to seize William of Mandeville's lands). See also Danziger and Gillingham, *1215*, 168-69.

²⁹ Vincent, "Tyranny of King John," 50-65, in Vincent, *Magna Carta*, 64; Danziger and Gillingham, *1215*, 102-103.

³⁰ R. Ernest Dupuy and Trevor N. Dupuy, *The Encyclopedia of Military History: From 3500 B.C. to the Present* (New York: Harper & Row, 1970), 368; Sir Charles William Chadwick Oman, *A History of the Art of War: The Middle Ages from the Fourth to the Fourteenth Century* (London: Methuen, 1898), 458-59; "Timeline of key events," in the "Magna Carta, 1215 and beyond: A medieval revolution" webpage, National Archives (UK), <https://www.nationalarchives.gov.uk/education/resources/magna-carta/timeline-of-key-events-2/>; Danziger and Gillingham, *1215*, 155-56.

³¹ Oman, *Art of War*, 460-61.

³² Dupuy and Dupuy, *Encyclopedia of Military History*, 368; Danziger and Gillingham, *1215*, 155-56; "Timeline of key events," in the National Archives (UK), "Magna Carta, 1215 and beyond" website.

to Anjou to consolidate the French gains in the countryside.³³ On July 9, 1214, a fearful King John sent a letter to the English barons who had refused to accompany him to France:

We send many thanks to those amongst you who have sent your knights to us in our service and for the protection and winning of our rights. And we ask most attentively, just as you value our honour, that those of you who have not crossed over with us, come to us without delay to the aid of our land which needs to be won over...³⁴

Some English men-at-arms answered the call to action. But many did not.

John's hasty retreat to La Rochelle enabled his French rival, Philip, to concentrate his forces in the north. He rallied the legions of France against John's German coalition-partner Otto, the Flemish, Dutch, and German allies John's silver had subsidized, and William Longsword, the Earl of Salisbury's, men-at-arms. While awaiting reinforcements, Otto sought to break Philip's lines of communication from Paris to Tournai. Feigning panic in the face of a German assault, Philip lured Otto's troops into an attack east of Bouvines, in northern France, between Tournai and Lille. The flat ground at Bouvines gave an advantage to Philip's experienced cavalry.³⁵

On Sunday, July 27, 1214, Philip drew up his heavily armored chevaliers into a line of battle. The infantry he had mobilized from the commune militias or civic militia of many French towns came with the *oriflamme*, the sacred, blood-red banner of St. Denis that signified battle to the death. Philip's royal fleur-de-lis, blue and decorated with golden lilies, rose above central command-point, held aloft by a gallant knight. Philip's initial aggressiveness surprised Emperor Otto, who extended his own line in response. Otto raised the Imperial banner, a silk dragon sat atop a pole that loomed out over a four-horse battle-wagon.³⁶

Philip threw his infantry against John's allies, but the sturdy Flemish, Dutch, and German pikemen stopped the French advance. Otto's soldiers came within feet of the French king but failed to kill him. Meanwhile, Philip's cavalry dispersed Otto's imperial cavalry, enabling the French to deploy two thousand elite chevaliers. The tide of battle turned in favor of Philip and against Otto.³⁷

Philip's well-disciplined knights charged the center of Emperor Otto's line of battle. Otto stood his ground, laying into the French with a battle-axe. A French knight grabbed the bridle of Otto's horse while another struck twice at Otto, missing the Emperor but mortally wounding his charger. William des Barres' French knights kept coming. But Otto's Saxon bodyguard rallied around him. In the melee, Bernard of Horstmar gave Otto his own war-horse. Shocked by his brush with death, Otto rode Bernard's steed off the field of battle while his Saxon and Westphalian war-

³³ Oman, *Art of War*, 459-60.

³⁴ "War propaganda, 1214," in the "Magna Carta, 1215 and beyond: A medieval revolution" webpage, *National Archives* (UK), <https://www.nationalarchives.gov.uk/education/resources/magna-carda/war-propaganda/>, (referencing the king's correspondence, C 66/12).

³⁵ Charles Philipps, "Battle of Bouvines, European history [1214]," *Encyclopedia Britannica*, <https://www.britannica.com/event/Battle-of-Bouvines-1214>; Oman, *Art of War*, 466-67; Danziger and Gillingham, 1215, 102-103.

³⁶ Oman, *Art of War*, 469-70; Danziger and Gillingham, 1215, 102, 105.

³⁷ Oman, *Art of War*, 472-73; Dupuy and Dupuy, *Encyclopedia of Military History*, 368-69.

band fought a brave rearguard action. Imperial soldiers and horsemen streamed off the field.³⁸

Philip won a decisive victory over a distant King John, a disgraced Emperor Otto, and England's continental allies at Bouvines. King Philip's knights took the Earl of Salisbury prisoner. While their plate armor saved all but two French knights, some one hundred and fifty Imperial knights died in the battle. The French captured two counts and more than one hundred knights and slaughtered vast numbers of German, Flemish, and Netherlandish foot-soldiers.³⁹

King John's hopes of recovering his lost territories in Normandy and regaining his prestige died at the Battle of Bouvines. Otto's battlefield failure led Pope Innocent III to depose him as emperor and replace him with a new emperor, Frederick II Barbarossa. Philip compelled John to surrender Anjou, the ancient patrimony of the Angevin kings. "From Bouvines, the road to Runnymede was both direct and speedy," University of East Anglia Magna Carta scholar Nicholas Vincent declared. Deprived of his northern alliance and with his treasure now exhausted, John once again fled defeated from France. In England, tensions had begun to build. Baronial and ecclesiastical malcontents made common cause."⁴⁰

For King John, the consequences were swift, decisive, and disastrous. King Philip swept John out of France. Humiliated by defeats, King John paid 60,000 marks to buy a dishonorable truce from the French king in September. The next month, John went back to England. Instead of returning in triumph to punish his recalcitrant barons, John slunk home in disgrace.⁴¹

The Barons' Revolt

Fearful of King John's greed and contemptuous of his caprice and cruelty, England's powerful barons decided to restrain his unbridled prerogative. Men of the church, including Archbishop Stephen Langton, began searching for precedent, something that reflected a previous restriction on a king's decision-making power. They began circulating copies of King Henry I's century-old *Coronation Charter of Henry I* (1100) as an example of how a king could reign without tyrannizing his subjects. In that charter, King Henry sought to win the support of his nobles by repudiating the abuses of power associated with the oppressive reign of his older brother, King William Rufus.⁴²

A group of reform-minded nobles, the "Northerners," gathered in the name of reform—thus becoming England's first political party. Most did not come but from the "North" but, instead, from East Anglia and London. Churchmen and chroniclers began noting secret meetings among barons, earls, and other leaders in Bury St. Edmunds, Suffolk, at St. Albans in Hertfordshire, London, and at many other places to discuss the rapidly escalating political crisis. Robert FitzWalter assumed

³⁸ Philipps, "Battle of Bouvines, European history [1214]," *Encyclopedia Britannica*; Oman, *Art of War*, 478-79; Vincent, "Tyranny of King John," 50-65, in Vincent, *Magna Carta*, 64; Danziger and Gillingham, 1215, 102-104.

³⁹ Oman, *Art of War*, 476-77; Vincent, "Tyranny of King John," 50-65, in Vincent, *Magna Carta*, 64; "Timeline of key events," in the National Archives (UK), "Magna Carta, 1215 and beyond" website.

⁴⁰ Oman, *Art of War*, 476-77; Vincent, "Tyranny of King John," 50-65, in Vincent, *Magna Carta*, 65.

⁴¹ Vincent, "Tyranny of King John," 50-65, in Vincent, *Magna Carta*, 65; Danziger and Gillingham, 1215, 104-105; "Timeline of key events," in the National Archives (UK), "Magna Carta, 1215 and beyond" website.

⁴² Cerdic, "The Charter of Liberties of Henry I (1100)," *The History of England* website, <https://thehistoryofengland.co.uk/resource/the-charter-of-liberties-of-henry-i/>.

command of them under the title “Marshall of the Army of God and the Holy Church” to lead a holy crusade against John.⁴³

The Northerners kept up the pressure by threatening to engage in an armed rebellion against their anointed king. During a meeting in January of 1215, King John’s opponents swore that they would “stand fast together for the liberty of the church and the realm.” They threatened to renounce their fealty, their loyalty, unless John immediately swore to adhere to the terms of Henry I’s Coronation Oath. Seeking to buy time, John agreed to reply to the barons’ demands at a conference in Northampton on April 26, 1215. When the barons learned that John had sent an envoy to the Pope, they sent a counter-delegation to seek a papal audience. John raised the ante by demanding a new oath of fealty. The barons must not only swear loyalty to their king but also stand “against the Charter,” an early draft of Magna Carta, he commanded. By then, the proposed charter had come to symbolize reform, dividing royalists against reformers.⁴⁴

John responded by renewing his offer to lead a crusade to the Holy Land. His zeal soon secured the Pope’s support against his rebellious barons. But John failed to convince anyone at home that his heart held a crusading spirit. He made concessions to bishops, then to barons, then to the men and merchants of London—all to avoid the rebellion that had already begun. John began negotiating a charter of liberties. On May 5, 1215, John’s nobles renounced their loyalty to King John and named Robert FitzWalter as their leader. Two weeks later, the people of London welcomed the barons as liberators. Archbishop Langton joined England’s barons in seeking a written confirmation of John’s voluntary restriction on his own exercise of power, then began drafting the great charter meant to restrain John’s tyranny.⁴⁵

The two sides parlayed on June 10, 1215 on neutral ground in the meadow at Runnymede south of the Thames. That place was midway between Staines, the town along the Thames where the barons encamped their army, and King John’s palace at Windsor. Archbishop Langton probably brought the draft *Articles of the Barons* with him. A reluctant king accepted the final version on June 15, 1215. He reluctantly set his royal seal to the instrument known as the Charter of Liberties, then as the *Charter*, then as *Magna Carta*, the *Great Charter*, to distinguish it from the lesser *Charter of the Forest* that protected the legal and property interests of those barons who governed sylvan realms.⁴⁶

Archbishop Langton took the Runnymede-sealed Magna Carta back to his London headquarters at Lambeth Palace. On June 19, 1215, England’s rebellious barons and Archbishop Langton’s men of the church formalized Magna Carta as a contractual peace-treaty with a king

⁴³ Nicholas Vincent, “Law before Magna Carta: The Anglo-Saxon Law Codes and their Successors before 1215,” 18-35 in Vincent, *Magna Carta*, 32-34 (Henry I and the Coronation Charter); Vincent, “Tyranny of King John,” in Vincent, *Magna Carta*, 6 (the beginning of the post-Battle-of-Bouvines resistance to King John); Danziger and Gillingham, 1215, 249 (Marshall of the Army of God and the Holy Church).

⁴⁴ Danziger and Gillingham, 1215, 248.

⁴⁵ Nicholas Vincent, “Magna Carta: Defeat into Victory,” 66-85 in Vincent, *Magna Carta*, 68-69; Danziger and Gillingham, 1215, 249-251; “Timeline of key events,” in the National Archives (UK), “Magna Carta, 1215 and beyond” website. See generally Faith Thompson, *The First Century of Magna Carta: Why It Persisted as a Document* (Minneapolis: Univ. of Minnesota, 1925).

⁴⁶ Vincent, “Magna Carta: Defeat into Victory,” 66-85 in Vincent, *Magna Carta*, 70.

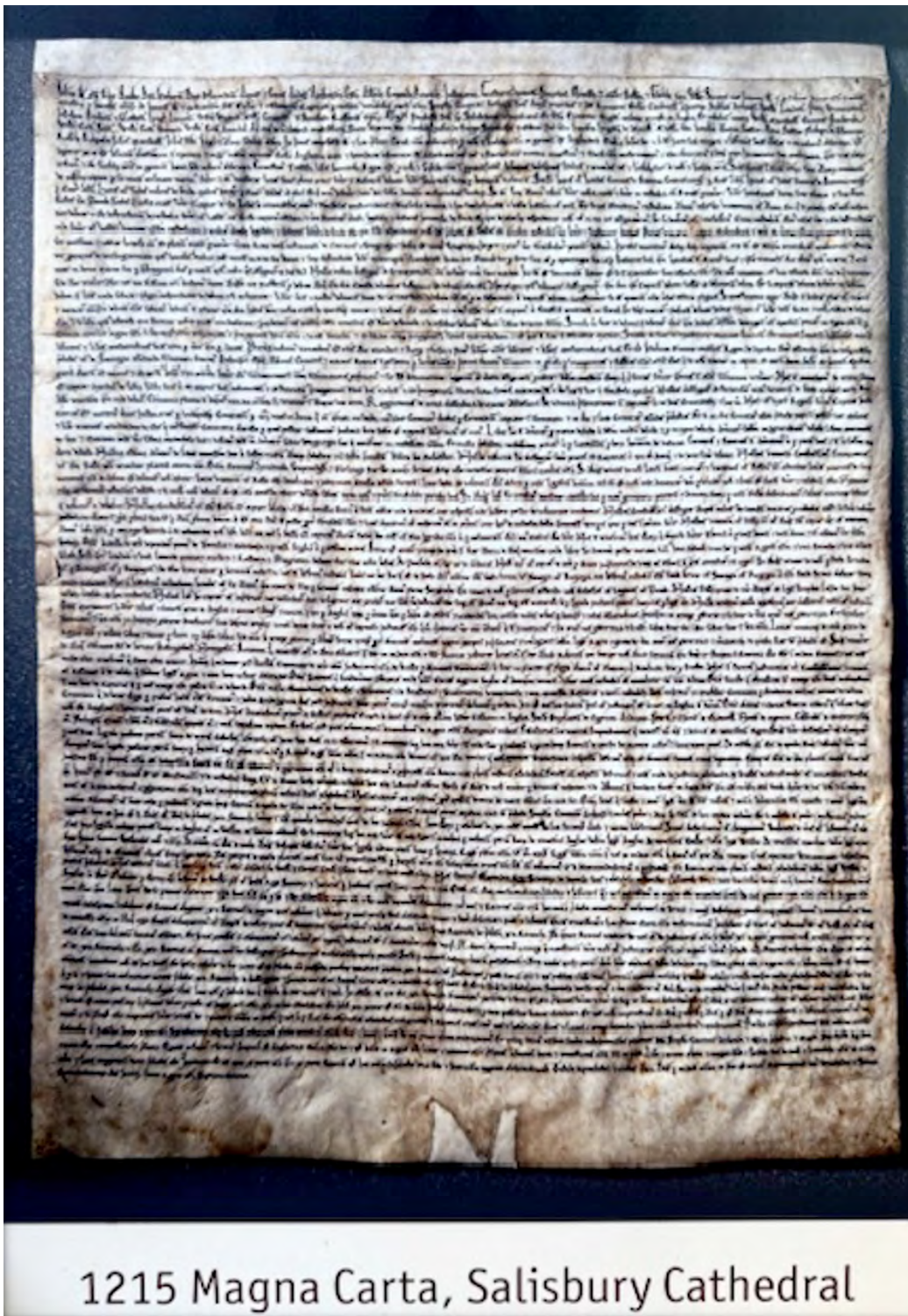


Photo by David A. Furlow of the signboard presenting a photographable copy of the original, 1215 copy of Magna Carta on display in the Magna Carta Center at Salisbury Cathedral.

they feared, loathed, and hated. Both the barons and the men of the church risked their lives, their honor, and their souls, for Pope Innocent III had condemned them as traitors and heretics. The contractual peace treaty they negotiated with England's tyrant-king elevated English law over the absolute, divine-right privilege, power, and pomp of an anointed English king.⁴⁷

⁴⁷ J.C. Holt, *Magna Carta* (Cambridge: Cambridge Univ. Press, 3rd ed., 2015), 196-98; Danziger and Gillingham, 1215, 156-57, 247-50; Nicholas Vincent, "Magna Carta: Defeat into Victory," 66-85, in Vincent, *Magna Carta*, 69-70; "Timeline of key events," National Archives (UK), *Magna Carta, 1215 and beyond* website. See generally J.C. Holt, *The Northerners*

Magna Carta's most important provision to Englishmen at the time—its protection of the Church's independence—read as follows: "IN PRIMIS CONCESSIMUS DEO ET HAC PRESENTI CARTA NOSTRA CONFIRMAVIMUS PRO NOBIS ET HEREDIBUS NOSTRIS IN PERPETUUM QUOD ANGLICANA ECCLESIA LIBERA SIT..."⁴⁸ Translated from Latin into English, it read

FIRST, THAT WE HAVE GRANTED TO GOD, and by this present charter have confirmed for us and our heirs in perpetuity, that the English Church shall be free, and shall have its rights undiminished, and its liberties unimpaired....TO ALL FREE MEN OF OUR KINGDOM we have also granted, for us and our heirs forever, all the liberties written out below, to have and to keep for them and their heirs, of us and our heirs...

Magna Carta resolved the controversies that first arose when John interfered with Stephen Langton's election as Archbishop. All "free men of England" and the Church benefited from the protection of religious liberties—the Canterbury elite; the men and women of the monasteries, nunneries, and abbeys; and the parishioners who prayed, paid, and obeyed the Church.⁴⁹

Repenting his seizures of borough and municipal revenues, John promised to respect the rights of chartered cities and boroughs, CIVITAS LONDONIE HABEAT OMNES ANTIQUAS LIBERTATES ET LIBERAS: "The city of London shall enjoy all its ancient liberties and free customs, both by land and by water. We also will and grant that all other cities, boroughs, towns, and ports shall enjoy all their liberties and free customs." Magna Carta preserved the limited self-government kings had given to London, Cambridge, Norwich, Ipswich, Colchester, and other chartered boroughs, as well as the right of the citizens there to govern themselves by organizing guilds, conducting their own courts, and electing local judges, bailiffs, coroners, and other leaders.⁵⁰

Magna Carta responded to complaints about injustice, too. Rather than force his subjects to travel to distant courts to file or respond to lawsuits, John promised to make courts convenient: "Ordinary lawsuits shall not follow the royal court around, but shall be held in a fixed place."⁵¹ Most importantly, John granted his earls and barons due course of law, jury trials, and other procedural protections from royal injustice in Chapters 38, 39, and 40 of the Charter:

(38) Henceforth, no bailiff will put anyone on trial by his own unsupported allegation, without bringing credible witnesses to the charge.⁵²

(Oxford: Oxford Univ. Press, 2nd ed., 1992).

⁴⁸ "1215: Magna Carta (Latin and English)," *Online Library of Liberty* website, <https://oll.libertyfund.org/pages/1215-magna-carta-latin-and-english>, accessed March 16, 2024, based on Ellis Sandoz, comp./ed., *The Roots of Liberty: Magna Carta, Ancient Constitution, and the Anglo-American Tradition of Rule of Law* (Indianapolis: Liberty Fund, 2008), Appendix: Text and Translation of Magna Carta; Nicholas Vincent, *Magna Carta: The Foundation of Freedom, 1215-2015* (London: Third Millennium Pub./Magna Carta 800th, 2nd ed., 2015), 183-187, Appendix One: Magna Carta: The 1215 Text.

⁴⁹ "Stephen Langton," in Gray, *Restless Souls: Pilgrim Roots*, 46; Vincent, "Magna Carta: Defeat into Victory," in Vincent, *Magna Carta*, 74-76.

⁵⁰ "1215: Magna Carta (Latin and English)," *Online Library of Liberty*; Vincent, *Magna Carta*, 183. The drafters of Henry III's revised version of Magna Carta renumbered the 1215 Magna Carta's Chapter 13 as the 1225 Magna Carta's Chapter 9.

⁵¹ "1215: Magna Carta (Latin and English)," *Online Library of Liberty*; Vincent, *Magna Carta*, 183. The drafters of Henry III's revised version of Magna Carta renumbered Magna Carta 1215's Chapter 17 as the 1225 Magna Carta's Chapter 11.

⁵² "1215: Magna Carta (Latin and English)," *Online Library of Liberty*; Vincent, *Magna Carta*, 183 (Chapter 38: "NULLUS

(39) No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.⁵³

(40) To no one shall we sell, to no one shall we deny or delay the right to justice.⁵⁴

After the Charter was read aloud, John affixed the royal seal: "Given by our hand in the meadow that is called Runnymede...on the fifteenth day of June in the seventeenth year of our reign..."⁵⁵

Through armed rebellion, King John's barons had compelled their sovereign to accept an extraordinary enforcement mechanism: Chapter 61's creation of an order of peace-sureties. Chapter 61 granted the barons the right to enforce the peace treaty they had imposed on their king. "The barons shall elect twenty-five of their number to keep, and cause to be observed with all their might, the peace and liberties granted and confirmed to them by this charter."

The barons and the king proclaimed their peace on June 19, 1215, and renewed their oaths of allegiance and fealty. John sent a formal declaration to every sheriff, forester, and bailiff in every English country to announce that "durable peace has been restored through the grace of God between us and the barons and the freemen of our realm, just as you will have been able to hear and see through our charter..." John ordered his men to "follow the form of the aforementioned charter" and "make everyone from your bailiwick swear to the 25 barons...lest...the peace of our realm should (God, forbid!) be again disturbed."⁵⁶

Although King John declared that "[b]oth we and the barons have sworn that all this shall be observed in good faith and without deceit," he asked Pope Innocent III to repudiate Magna Carta one month later, in July, 1215. John wanted the Pope to damn the souls of the barons and churchmen with whom he had just made peace. That peace lasted less than three months. On

BALLIVUS PONAT DECETERO ALIQUEM AD LEGEM MANIFESTAM VEL AD JURAMENTUM SIMPLICI LOQUELA SUA, SINE TESTIBUS FIDELIBUS AD HOC INDUCTIS."). The drafters of Henry III's revised version of Magna Carta renumbered Magna Carta 1215's Chapter 38 as the 1225 Magna Carta's Chapter 28.

⁵³ "1215: Magna Carta (Latin and English)," *Online Library of Liberty*; Vincent, *Magna Carta*, 183 (Chapter 39: "NULLUS LIBER HOMO DECETERO CAPIATUR VEL IMPRISONETUR AUT DISSEISIATUR DE ALIQUO LIBERO TENEMENTO SUO VEL LIBERTATIBUS VEL LIBERIS CONSUETUDINIBUS SUIS, AUT UTLAGETUR, AUT EXULETUR AUT ALIQUO ALIO MODO DESTRUATUR, NEC SUPER EUM IBIMUS, NEC SUPER EUM MITTEMUS, NISI PER LEGALE JUDICIUM PARIUM SUORUM, VEL PER LEGEM TERRE."). The drafters of Henry III's revised version of Magna Carta renumbered Magna Carta 1215's Chapter 39 as the 1225 Magna Carta's Chapter 29.

⁵⁴ "1215: Magna Carta (Latin and English)," *Online Library of Liberty*; Vincent, *Magna Carta*, 183 (Chapter 40: "NULLI VENDEMUS, NULLI NEGABIMUS AUT DIFFEREMUS RECTUM VEL JUSTICIAM."). The drafters of Henry III's revised version of Magna Carta renumbered Magna Carta 1215's Chapter 40 remained as the 1225 Magna Carta's Chapter 40.

⁵⁵ "Magna Carta, 1215," in the "Magna Carta, 1215 and beyond: A medieval revolution" webpage, *National Archives* (UK), <https://www.nationalarchives.gov.uk/education/resources/magna-carda/british-library-magna-carda-1215-runnymede/>, (text of Magna Carta); "Timeline of key events," in the National Archives (UK), "Magna Carta, 1215 and beyond" website.

⁵⁶ "Peace announced, 1215," in the National Archives (UK), "Magna Carta, 1215 and beyond" website (King John's June 19, 1215 announcement of the end of the civil war, C 66/14), <https://www.nationalarchives.gov.uk/education/resources/magna-carda/peace-announced/>, accessed Jan. 26, 2024; "Timeline of key events," in the National Archives (UK), "Magna Carta, 1215 and beyond" website.



An unpaved road crossed the broad meadow at Runnymede on June 15, 2025.



The Magna Carta Center at Salisbury Cathedral has recreated the Great Seal King John used to certify his assent on June 15, 1215. Photos by David A. Furlow.

King John's Great Seal

In medieval times, documents were confirmed as genuine not with a signature but with a wax seal attached at the bottom. The monarch's seal is called a Great Seal. In 1215, King John's Great Seal was attached to Salisbury's Magna Carta, but it has since been lost.

These two seals are copies. One side shows King John on horseback to symbolise his skill in battle, and the other side shows him sitting on a throne as ruler of the country. The Great Seal of the UK monarch has similar images today.



Framlingham Castle, home of the Bigod family of Magna Carta sureties. Photo by David A. Furlow.

July 7, the pope excommunicated all earls and barons in revolt. Then, on August 24-25, the pope declared that Magna Carta was “not only shameful and base but also illegal and unjust...null and void...” because it undermined the rights to rule of a king anointed by God. At Framlingham Castle, Roger Bigod, Second Earl of Norfolk, and his son Hugh Bigod, prepared for war—as did the other twenty-five sureties. Two thirds of England’s barons joined together in renewing the revolt—this time, against the pope as well as the king. Rebellion spread across the British Isles.⁵⁷

In September 1215, the earls and barons drove King John and his supporters out of London a second time. Pursuing an *Anyone-but-John* agenda, the barons offered England’s crown to King Louis of France. During the year of hard fighting that ensued, John’s supporters captured Rochester Castle and Colchester Castle. King Louis of France invaded England on May 22, 1216. Alexander II of Scotland invaded, too. And Welsh prince Llywelyn ap Iorwerth seized seven castles along the border. John’s kingdom disintegrated in violent chaos.⁵⁸

John suffered disaster along the Wash, the shallow bay where Norfolk and Lincoln meet the

⁵⁷ “Timeline of key events,” in the National Archives (UK) *Magna Carta, 1215 and beyond* website.

⁵⁸ Danziger and Gillingham, 1215, 219-220, 254-57; Nicholas Vincent, “Magna Carta: Defeat into Victory,” 66-85, in Vincent, *Magna Carta*, 81.

North Sea, on a bleak autumn day in early October 1216. In a desperate flight from his enemies, he hurried into the tidal zone. According to chronicler Ralph of Coggeshall, “[s]ome packhorses and several members of [John’s] household were sucked into the quicksand...His household effects, his relics, and other contents of his chapel were lost.” John despaired. He grew sick, then suffered a mortifying attack of dysentery at Newark on October 9, 1216. He died the next day. John’s bodyguard looted his possessions, then took his corpse to a cathedral at Worcester. “The king is dead,” they proclaimed. “Long live the king.”⁵⁹

Henry III voluntarily reissued an amended Magna Carta in 1225

William Marshall, a loyal supporter of King John hailed by contemporaries as the greatest knight of his age, joined with other royalists to crown John’s nine-year-old son as King Henry III at Gloucester on October 28, 1216. William Marshall and the young king’s other counselors convinced him to re-issue an amended version of Magna Carta to make peace with the barons on November 12, 1216. The death of the tyrant-king enabled the barons to rally around a young king who voluntarily agreed to restrain his exercise of power. English support for King Louis’s French invasion dissipated like the morning mist before a rising sun. William Marshall’s battlefield victory against French soldiers near Lincoln in May of 1217, followed by a victory over a French fleet off Kent, demoralized King Louis, who withdrew from a too-sceptered isle. Henry III reissued a third version of Magna Carta in November of 1217 that removed the Chapter 61 sanctions clause. Peace returned to a devastated England.⁶⁰

Magna Carta, as amended, precluded England’s kings from limiting the freedom of England’s church, that is, the realm’s abbots and abbeys, its monks and monasteries. The charter barred imprisonment without trial by jury. It created the writ of *habeas corpus*, the “you have the body” remedy to arbitrary orders of imprisonment that remains the law to this day in England, America, and Texas. That remedy precludes a monarch, or an executive officer, from sending anyone to jail without good reason. It stopped the king from raising taxes before consulting with nobles. It compelled the king to choose competent officials who understood the law. Magna Carta required everyone—sheriffs, ministers, and even the king—to obey and enforce the law.⁶¹

Eight years later, in 1224, the French invaded Henry III’s French territories in Poitou and Gascony. Henry’s counselors in turn asked England’s barons to defend their king’s lands in France. Archbishop Stephen Langton contributed his diplomatic experience. On February 11, 1225, King Henry III’s royal counselors issued a modified version of Magna Carta. The new version eliminated previous provisions calling up a council of barons to defend the barons’ rights under Magna Carta. It consolidated rights and renumbered the chapters accordingly. It broke out those provisions dealing with royal control over forests into a separate Charter of Forests. Henry III’s counselors “confirmed” the new, 1225 version of Magna Carta and reaffirmed Henry’s willingness to abide by its terms in return for peace and the voluntary payment of taxes owed to the king.⁶²

⁵⁹ Danziger and Gillingham, 1215, 260; Vincent, “Magna Carta: Defeat into Victory,” in Vincent, *Magna Carta*, 81; Burt and Partington, *England Arise*, 76-77.

⁶⁰ “Timeline of key events” web-page in the National Archives (UK) *Magna Carta, 1215 and beyond* website; Danziger and Gillingham, 1215, 260-62.

⁶¹ Nicholas Vincent, “Magna Carta: Defeat into Victory,” in Vincent, *Magna Carta*, 67-85; “Timeline of key events” web-page in the National Archives (UK) *Magna Carta, 1215 and beyond* website.

Henry III's modified, 1225 version of Magna Carta, rather than King John's 1215 Runnymede version, entered England's statute-books as the first law in England's books of statutory law. Other kings followed Henry's example by reissuing revised versions of Magna Carta in succeeding reigns and centuries. Early councils of nobles—parliaments—evolved into England's legislative body, Parliament, which met and enacted statutes at Westminster.⁶³

In 1297, King Edward I confirmed the continuing vitality of the 1225 version of Magna Carta and the Charter of Forests his father Henry III had granted, then entered them in England's roll of statutes. Three years later, Edward I reaffirmed those charters' validity, convinced Parliament to enact additional statutes enforcing them, then entered Magna Carta and those "Articles upon the Charters" in England's Roll of Charters. In 1354, King Edward III's parliament enacted the Statute of Westminster of the Liberties of London, the "Liberty of Subject" law, that declared that, "No man of what Estate or Condition that he be, shall be put out of Land or Tenement, nor taken, nor imprisoned, nor disinherited, nor put to Death, without being brought in Answer by due Process of the Law."⁶⁴

English kings confirmed the validity of Magna Carta and the Articles upon the Charters at least fifty times from 1307, beginning at the accession of King Edward II, to 1422, and ending with the death of the warrior-king Henry V.⁶⁵ The last Plantagenet kings, as well as the Tudors and Stuarts, challenged Magna Carta in various ways, yet it survived those assaults to remain the most important law in England statute-books until 1863.⁶⁶

"[H]ere is a law which is above the King and which even he must not break," Winston Churchill declared in the first volume of his *History of the English-Speaking Peoples*. "This reaffirmation of a supreme law ... alone justifies the respect in which men have held it."⁶⁷ During its 750th anniversary in 1965, Lord Denning, Master of the Rolls in Great Britain, described Magna Carta as "the greatest constitutional document of all times—the foundation of the freedom of the individual against the arbitrary authority of the despot."⁶⁸

Yet, as important as it was in England, Magna Carta's most significant contributions to the rule of law occurred in America. The English colonists who settled Virginia and Plymouth Colony revered it as the font of their fundamental freedoms. To protect and preserve their rights and freedoms, their descendants launched the American Revolution in 1775—some 250 years ago.

⁶² "Timeline of key events" web-page in the National Archives (UK) *Magna Carta, 1215 and beyond* website <https://www.nationalarchives.gov.uk/education/resources/magna-carda/timeline-of-key-events-2/>.

⁶³ Vincent, "Magna Carta: Defeat into Victory," in Vincent, *Magna Carta*, 84-85.

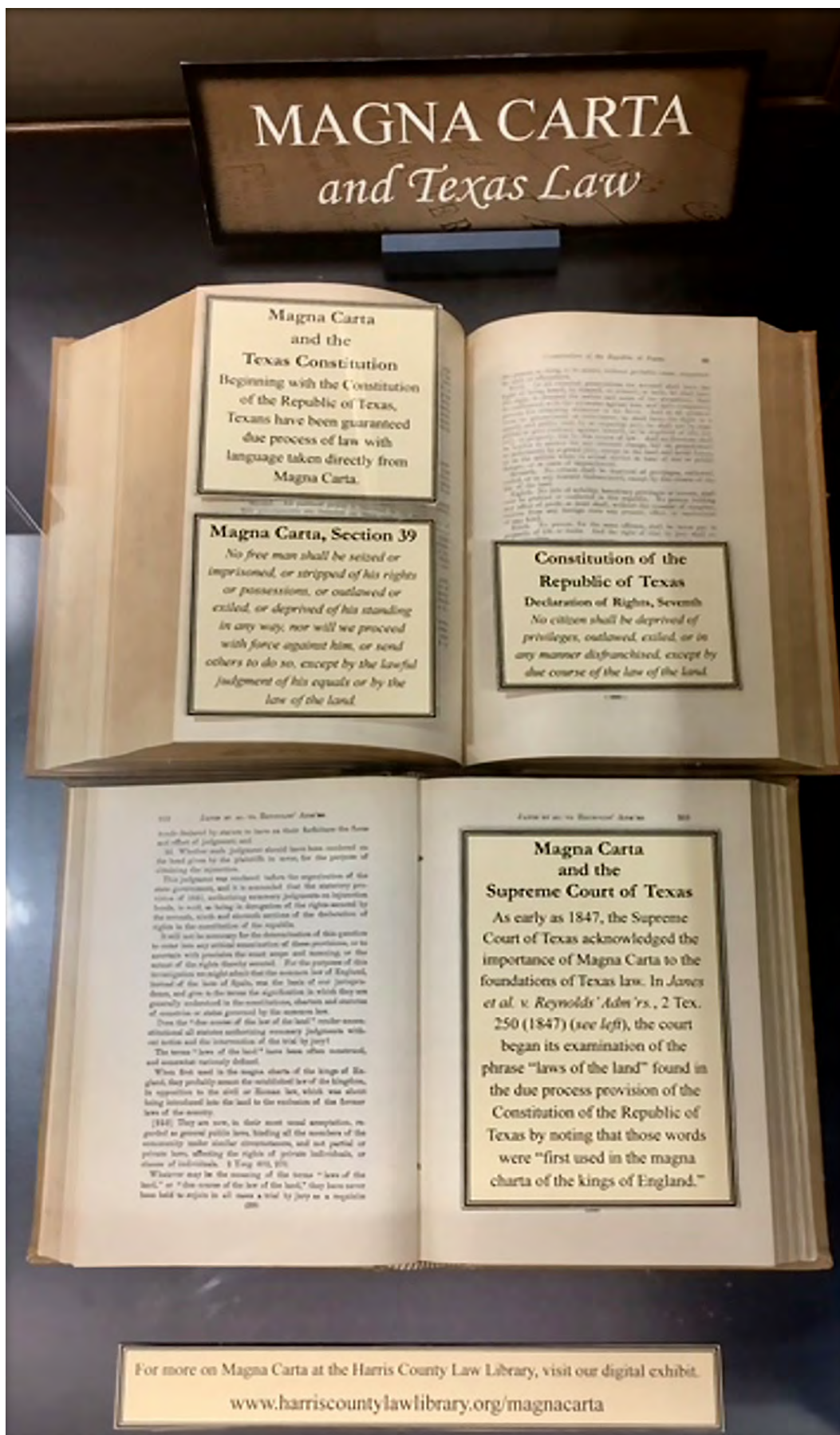
⁶⁴ 28 Edward III, c. 3 (1354); Vincent, "Magna Carta: Defeat into Victory," in Vincent, *Magna Carta*, 84-85.

⁶⁵ Charles Donahue, Jr., "Magna Carta in the Fourteenth Century: From Law to Symbol? Reflections on the 'Six Statutes,'" 25 *William & Mary Bill of Rights Journal* 591 (Dec. 2016): 591-628, 591, <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1801&context=wmborj>; Faith Thompson, *MAGNA CARTA: Its Role in the Making of the English Constitution 1300-1629* (Minneapolis: Univ. of Minnesota Press, 1948.)

⁶⁶ Danziger and Gillingham, 1215, 268.

⁶⁷ Winston S. Churchill, *History of the English-Speaking Peoples*, vol. 1, *The Birth of Britain* (London: Cassell, 1956), 256-57.

⁶⁸ Lord Denning, quoted by successors as Master of the Rolls, Lord Bingham and Lord Dyson, in Robert Griffith-Jones and Mark Hill, eds., *Magna Carta, Religion and the Rule of Law* (Cambridge: Cambridge Univ. Press, 2015); J.C. Holt, *Magna Carta* 6 (2d ed. 1992), 277-78; Danziger and Gillingham, 1215, 268.



Magna Carta display at the Harris County Law Library 2015. Photo by David A. Furlow.

The Revolution was an “appeal to Heaven,” a resort to armed force that responded to King George III and Parliament’s resort to armed force against American institutions of self-government. The Revolution resulted in the Americanization of Magna Carta rights and safeguards through the U.S. Constitution and its Bill of Rights. In 1835, many Texians rose in revolution against the Centralist Mexican dictator Santa Ana because they traced their own rights and freedoms back through Virginia and New England to Runnymede in 1215. Those laws inspired other settlers to write their own constitutions, bills of rights, and laws, which inspired the United States Constitution, in America’s state and territorial constitutions, and in constitutions around the world drafted in the nineteenth, twentieth, and twenty-first centuries.



David A. Furlow and his wife Lisa Pennington in the meadow at Runnymede on Magna Carta Day, June 15, 2025. Selfie by David A. Furlow.

DAVID FURLOW is the former Executive Editor of this Journal and now serves as its Emeritus Editor. David studies Magna Carta in his capacities as a trustee of Pilgrim Hall: the Museum of America’s Pilgrim Possessions, as a trustee of the Jamestowne Society, and as a life-member of the Colonial Society of Massachusetts. On February 6, 2025, the Baronial Order of Magna Charta conferred membership on David after he proved his descent from Magna Carta (1215) surety William Malet of Curry Mallet in England. More recently, David has been appointed as a BOMC surety (a trustee on its board of trustees). David presented the program “Magna Carta Comes to America” at BOMC’s annual meeting in Richmond, Va. on October 18.

Magna Carta Comes to America



David A. Furlow, Baronial Order of Magna Charta
Richmond, October 18, 2025

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Governor Abbott Appoints Hawkins as Justice of the Supreme Court of Texas



Justice Kyle D. Hawkins was appointed to the Supreme Court of Texas by Governor Greg Abbott in October 2025.

Justice Hawkins previously served in the U.S. Department of Justice as Counselor to the Solicitor General, where he represented the United States before the U.S. Supreme Court. Previously, he served as the Texas Solicitor General, the state's chief appellate advocate charged with representing the state, its agencies, and its officers in state and federal appellate courts. Earlier in his career, he served as a law clerk for U.S. Supreme Court Justice Samuel A. Alito, Jr., and for Judge Edith H. Jones of the U.S. Court of Appeals for the Fifth Circuit. As an appellate practitioner, Justice Hawkins argued five cases in the U.S. Supreme Court, nine in the Texas Supreme Court, and dozens more in other federal and state appellate courts.

In addition to his government service, Justice Hawkins served as a partner in the Dallas and Houston offices of Gibson, Dunn & Crutcher LLP, and he chaired the Texas appellate practice of Lehotsky Keller Cohn LLP, a national litigation boutique. Justice Hawkins has served as an Adjunct Professor of Law at the University of Texas School of Law.

Justice Hawkins lives in Austin, Texas, with his wife and four children.

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The Judiciary and the Arts: the Hemphill Dinner was the Appellate Event of the Year

By David A. Furlow

The 30th Annual Chief Justice John Hemphill Dinner was the appellate event of 2025. As in the past, that event occurred at the Four Seasons Hotel on September 8. But this time, things were a little different. This time, the Justices presented a night of arts and entertainment for their friends and colleagues. *And oh, what a night it was.*



Photo from Four Seasons Hotel website

Precedent and tradition matter during the Society's annual Hemphill Dinner. This year, as in the past, the Bedichek Middle School Marine Corps Color Guard opened the ceremony by posting the colors. Former Supreme Court of Texas Chief Justice Nathan Hecht and Texas Supreme Court Justice Brett Busby played the piano and violin, respectively, while Fifth Circuit Court of Appeals Chief Justice Jennifer Walker Elrod presented a rousing rendition of the *Star-Spangled Banner*. The Society's Immediate Past President, Lisa Bowlin Hobbs, led attendees in recitations of the *Pledge of Allegiance* and the *Texas Pledge*.

Every year, the Texas Center for Legal Ethics presents the Chief Justice Jack Pope Award at the Hemphill Dinner to a judge or attorney who personifies the highest standards of professionalism and integrity in appellate law. Founded in 1989 by Chief Justice Pope and two other retired Texas Supreme Court chief justices, the Texas Center for Legal Ethics, a nonprofit organization, promotes the highest standards of ethics and professionalism. Through educational programs, publications, and other resources, the Center supports lawyers in navigating ethical issues and encourages a culture of integrity and professionalism across the legal community.

At this year's dinner, the Center's Executive Director, Brad Johnson, accompanied by Chair Patrice Childress and Immediate Past Chair Judge Audrey Moorehead, announced that the Jack Pope Award would go to acclaimed appellate practitioner Mike Hatchell. Mr. Hatchell, a partner at Haynes & Boone in Austin, is considered one of the leading figures of the Texas appellate bar. He has argued forty-seven appeals or original proceedings in the Supreme Court of Texas, has argued *en banc* to the federal Fifth Circuit Court of Appeals twice, and has appeared in all fourteen courts of appeal in Texas. Long recognized in *Texas Lawyer's "Go-To Guide"* as one of the top five appellate lawyers in Texas, Mr. Hatchell served as lead counsel in over 400 appeals. Mike Hatchell, a member of the Texas Supreme Court Advisory Committee, is no stranger to awards. He received

the Texas Bar Foundation's 2015 Gregory S. Coleman Outstanding Appellate Lawyer Award. Chief Justice Jimmy Blacklock presented the award.

During his acceptance speech, Mike Hatchell described "the most impactful thing that Chief Justice Calvert said on the first hour of the first day" of his job as a briefing attorney working for Chief Justice Robert W. Calvert. "When you are here working for this Court, you are a representative of the Court. And by the way, when you leave the Court, I consider you to be a representative of the Court. And I want you to behave that way, always. That was a daunting task. And that was a daunting task because of the 49 cases I argued in the Court. And most of those cases, the stern portrait of Chief Justice Calvert was gazing down on me, in a very stern-looking portrait, so I always had that guidance...."



Jimmy Blacklock, Chief Justice of the Supreme Court of Texas (right) presents the Chief Justice Jack Pope Award to Mike Hatchell (left). Texas Center for Legal Ethics Executive Director Brad Johnson stands in the background. Photo by Mark Matson.



The Jack Pope Award.
Photo by
Mark Matson.

Immediate Past President Lisa Bowlin Hobbs then called Fellows Chair Warren Harris to discuss the Fellows of the Texas Supreme Court Historical Society and honor the Fellows Immediate Past Chair David Beck. The Society instituted the Fellows program in 2012. The Fellows comprise members of the Society who donate at the highest levels to support special Society projects like the biennial *History of Texas & Supreme Court Jurisprudence CLE* course, Society-sponsored books such as Texas historian James L. Haley and former *Journal* Editor Marilyn Duncan's *The Texas Supreme Court: A Narrative History, 1836-1986*, the Society's *Taming Texas* books, and educational curriculum for middle-school students. Warren Harris thanked former Chair David Beck for his extraordinary service to the Society, the Supreme Court of Texas, and the Texas judiciary. Mr. Harris then described the most recent Fellows Dinner, which the Fellows celebrated at the Harry Ransom Archives Center in early 2025.



Former Texas Supreme Court Historical Society President Warren Harris (left), Supreme Court of Texas Chief Justice Jimmy Blacklock, and former Supreme Court of Texas Chief Justice Nathan Hecht gathered together at the Hemphill Dinner. Photo by Mark Matson.

Chief Justice Jimmy Blacklock then introduced the most recent member of the Texas Supreme Court, Justice James P. Sullivan, who replaced Justice Jeff Boyd.

Lisa Hobbs talked about some of the things she loved best in her year as President. “A highlight of the year” was returning home to Nacogdoches for the Spring Meeting of the Board was high on the list. She hailed Kyle Ainsworth, the Special Collections Librarian at the East Texas Research Center on the Stephen F. Austin State University Campus, who brought a collection of photos and archival records that illuminated scenes from the life of Texas Supreme Court Justice and 41-year Fifth Circuit Judge Thomas Reavley, including a transcript of his year at Harvard Law School and an article Judge Reavley published while still in college. She then offered highlights from her role introducing the Society and its speakers at the Texas State Historical Association’s annual meeting.

Lisa Hobbs presented the Society’s Presidents Award to President-Elect Alia Adkins-Derrick. Ms. Hobbs recognized Ms. Adkin-Derrick’s outstanding scholarship in her article “Trouble & Justice: How Trouble in Texas Led to the Court Martial Trial of America’s Beloved Jackie Robinson,” in the *Journal of the Texas Supreme Court Historical Society*, 13, 1 (Fall 2023): 35-52. Alia Adkin-Derrick shared her Jackie Robinson scholarship before a live audience of historians, judges, and attorneys while serving on the Society’s “The Thrill of Victory, The Agony of Defeat, and the History of Texas Sports Law” panel program at the Texas State Historical Association’s 129th Annual Meeting in Houston on Friday, February 28, 2025. Lisa Hobbs referred the winner of the President’s Award as “the Society’s future.”



The presentation of the President's Award is an important moment in every Hemphill Dinner. Texas Supreme Court Historical Society Executive Director Sharon Sandle (left), TSCHS President's 2025 Award winner Alia Adkins-Derrick, President-elect (center), and TSCHS Immediate Past President Lisa Bowlin Hobbs (right). Photo by Mark Matson.

Lisa Hobbs then turned over the podium to the Hemphill Dinner's "amazing Master of Ceremonies," former Texas Supreme Court Justice Craig Enoch, who served on the Texas Fifth Court of Appeals, and then on the State's highest court from 1993 until his retirement in 2003. "And now for something completely different," Justice Enoch announced. Texas Supreme Court Justice Brett Busby, holding a violin, then joined former Chief Justice Nathan Hecht, at the piano, to serenade attendees during the dinner part of the Hemphill Dinner with a rendition of Austrian-born American violinist and composer Fritz Kreisler's *Liebeslied* (Love's Sorrow in English).



Supreme Court of Texas Justice Brett Busby played the violin while former Chief Justice Nathan Hecht played piano during the Hemphill Dinner. Photo by Mark Matson.



Justice Busby and former Chief Justice Hecht.
Photo by Mark Matson.



Fifth Circuit Judge Jennifer Walker Elrod sang. Photo by Mark Matson.

Justice Enoch introduced Fifth Circuit Judge Elrod as an outstanding judge: “I want to talk about Chief Judge Elrod for a minute...She’s considered a sterling judge.” He hailed her as a multi-talented musician. “Chief Judge Elrod is a singer. She plays instruments. But what you don’t know about Judge Elrod is that she had her first solo at age four.”

Judge Elrod began an extraordinary evening of entertainment by singing a tribute to civility focusing on the *Texas Lawyer’s Creed*:

“I’ve heard it said // *The Lawyer Creed*
Came into our lives // For a reason...
“Bringing something we must learn // And we are led
“By rules that help attorneys grow...”

“OK, gang, let’s have a conversation about your musical backgrounds,” Justice Enoch declared. “How did music begin for you? Nathan, you describe your early years in music development as nearly miraculous. How did that happen?”

“You know I grew up on a small farm, a wheat farm, in eastern New Mexico next to the Panhandle,” Chief Justice Hecht answered. We were poor wheat farmers. And I don’t know where I got this in my head, listening to the radio, I told my dad, I said, I want to play the piano. And, so, my father, wanting all good things to happen to his kids, whatever they thought that was, scratched together enough money to buy a piano. Back then, music lessons cost \$2.50 per hour, which was a lot of money, twice a month. And so, after I got started, I thought this was great, but I just didn’t like practicing. And my mother said, ‘Your father paid \$2.50 a lesson, you get in there and practice!’ ‘Yes, ma’am.’ And, I did tell you ‘miraculous,’ Craig, because I had a great music teacher. How in the world



Former Justice Craig Enoch interviewed Fifth Circuit Chief Judge Jennifer Elrod, Justice Brett Busby, and former Chief Justice Nathan Hecht. Photo by Mark Matson.

do you think you'll get a great piano teacher in a town of 22,000 people in eastern New Mexico back in those days? But I did. And she really got me started in learning music and loving music. And then a couple of years later, just a couple, I wanted to play the organ. And one of our neighbors, who was a farmer, his wife, had studied at Juilliard. This was in eastern New Mexico. And she had studied organ at Juilliard, and she took me on as a student. You really couldn't expect that. It was a wonderful thing."

Justice Enoch then turned to Justice Busby: "Brett, you were surrounded by music in your Amarillo and Austin days. What piqued your interest in the violin and pursuing that?"

"Well, I wish I could remember, but I was very young when I started," Justice Busby replied. "My parents, we lived in Amarillo until I was about eight, and my parents took me to the Sunday afternoon symphony that the Amarillo symphony put on for kids, so that kids could come and listen, starting when I was two. I'm not sure why they thought that I might have any particular interest in that but I'm sure grateful that they did. And so I one day pointed up to the stage, according to my mother, I pointed up to the stage, but I don't have any independent recollection of this, at almost three years old, but I said, 'I want to play that,' pointing up to the violin. And she said 'We think you're a little young, but we'll look around,' and really very similar to what Nathan said, it was almost miraculous that there was in Amarillo back in those days a lady who had been to Japan to study with Shinichi Suzuki who was one of the first people that started teaching kids to play by ear at very young ages before they could read music. And so my parents found this person and got me to start when I was three years old."

Justice Enoch then turned to Judge Elrod: "You started singing, solo, at four years old...What got you interested in music?"

"*Away in a Manger...*" Judge Elrod responded, "There was always music going on in my grandparents' house, and I just liked to sing along, and people were singing. I loved it. I spent a lot of time at church. And I joined the adult choir because it was a small, tiny church, and I sang along with the grownups when I was in elementary school, in the choir, and I used to check out records from the library in town, with Beverly Sills singing opera, and my parents were not into that at all. But I would check these out. And my mother died when I was in the second grade. And she told my dad, before she died, she said, she said, I want her to get a piano and take piano lessons. And so he came home and said 'you're going to take piano lessons' and he bought us a piano. So I started playing the piano and doing a fair amount of singing..."

Justice Enoch then led his colleagues in a discussion of how they continued their dedication to music in school, law school, and throughout their lives until they became judges. Justice Boyd then joined Judge Elrod in singing *Texas, Our Texas* while Justice Busby played the violin and Chief Justice Hecht accompanied them on the piano.



(Clockwise from top left:) Justice Jeff Boyd, who joined Fifth Circuit Judge Elrod onstage in singing *Texas, Our Texas*; Chief Justice Tom Phillips and Society Trustee Kendyl Hanks; The Society's Executive Director Sharon Sandle; The Society's Secretary, Matthew Kolodoski; The *Journal's* Production Manager, David Kroll; State Bar of Texas video director Paul Burks recorded the event. Photos by David Furlow.



Texas Supreme Court Justice Jane Bland administered the Oath of Office to the Society's in-coming President Jasmine S. Wynton. Photo by Mark Matson.

Lisa Hobbs then invited Justice Jane Bland, the Society's Liaison with the Supreme Court of Texas, to swear in Ms. Hobb's successor as Society President, Jasmine S. Wynton. Ms. Wynton described the ways that history mattered to her.

For me, history is not just an interest, it's deeply personal. I'm the daughter of two orphans. So growing up I didn't have a long family history to turn to, or stories passed down through the generations. That absence, however, made me fall in love with history itself. History became my way of connecting, of understanding where we come from, and how stories shape who we are. In college, I studied history, along with theater, which might seem like an odd pairing until you realize that both, like the law, are really about story-telling. They help us make sense of the human experience, who we are and why it matters.

Which brings me to the theme of tonight's dinner: the judiciary and the arts... It's the arts that sharpen our empathy, restore our imagination, and keep us human... And in a society that feels more divided every day, the arts, like the law, give us something to experience together.

President Wynton then reminded everyone of one last thing to remember. "Before we adjourn, please mark your calendars now: the next Hemphill Dinner will occur on Thursday, September 10, 2026."

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Texas Forever:

An Invitation to TSHA's 2026 Annual Meeting

By David A. Furlow

The Society will present its next 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 at 3:00 p.m. on Friday, March 6, 2026 from 3:00 to 4:30 p.m. TSHA's annual meeting will begin on the morning of Wednesday, March 4 and continue through Saturday afternoon on March 7, 2026. It will take place at the Westin Irving DFW Hotel and Conference Center. Please save the date and consider joining the society there.¹



The Society's President, Jasmine S. Wynton, at the Hemphill Dinner. Photo by Mark Matson.

Our Society's President, Ms. Jasmine S. Wynton, will begin our session. Ms. Wynton, a partner at the Thompson Coburn law firm, handles high-stakes business litigation involving civil claims based on breach of contract, fraud, negligence, breach of fiduciary duty, and tortious interference with prospective business relations. A graduate of the Duke University School of Law, Ms. Wynton's experience includes criminal prosecutions while she was seconded to the Dallas District Attorney's Office, as well as service as a law clerk with the U.S. District Court for the Northern District of Texas and the Supreme Court of Texas.

Ms. Wynton will discuss our society's unique role in chronicling and publicizing the history of the Texas Supreme Court, Texas's judiciary, and Texas law. Her PowerPoint will highlight our publication of scholarly books, the 14-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 activities that make the Texas Supreme Court Historical Society a unique member of the Texas historical community.

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/>.



R. Bryan McAuley,
image courtesy of the
Texas State Historical
Association.

Bryan McAuley has made San Felipe de Austin into a go-to destination for Texas history. He has focused attention on Stephen F. Austin's flag for the colony and other emblems of the community's self-governing status.

Bryan McAuley, Curator of the Texas Historic Commission's San Felipe de Austin Historic Site, will discuss "Law in the Villa de San Felipe de Austin." Bryan McAuley has worked in the public history arena since 2000. He has been part of the San Felipe de Austin project team since 2008. He helped organize and oversee 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 Austin exposition, which followed in late 2021. Current construction will result in the opening of a public archeology lab at the site in 2026.



The San Felipe de Austin Visitors' Center transports guests back to Texas prior to the Texas Revolution.

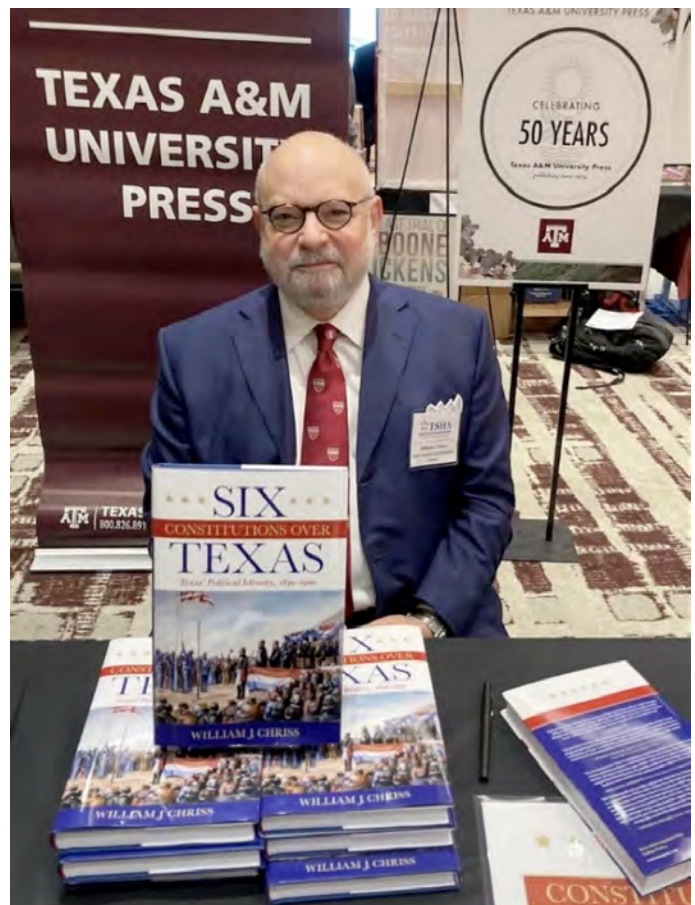
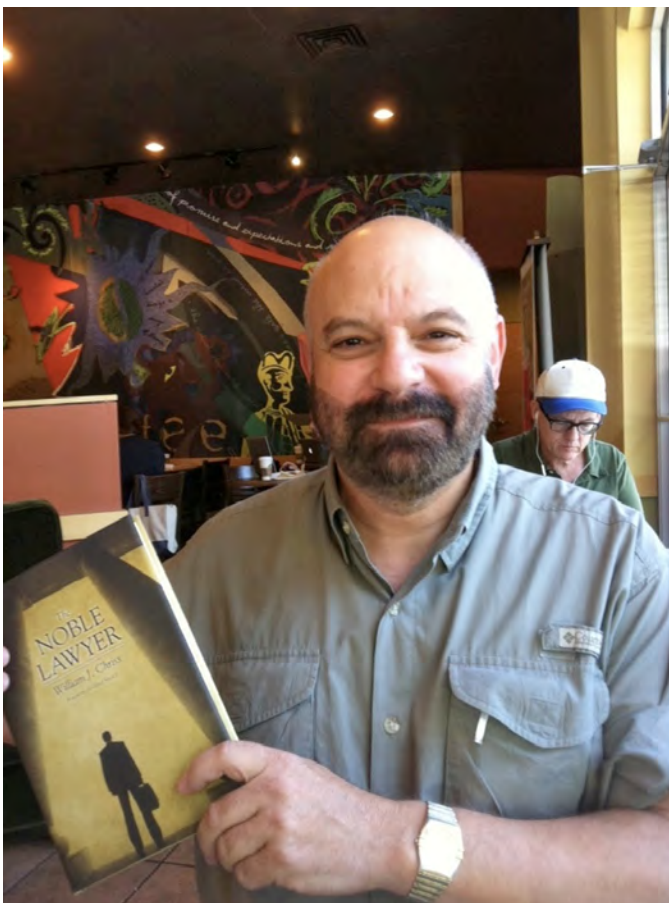
The Alcalde Courtroom in the Villa de San Felipe de Austin brings the alcalde courtroom experience to life.
Photos by David A. Furlow.

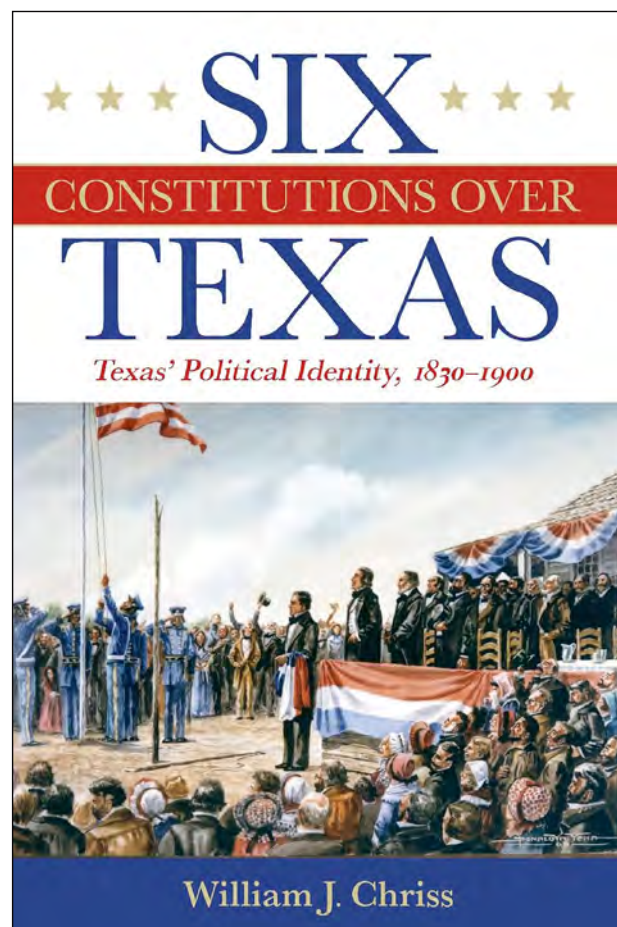
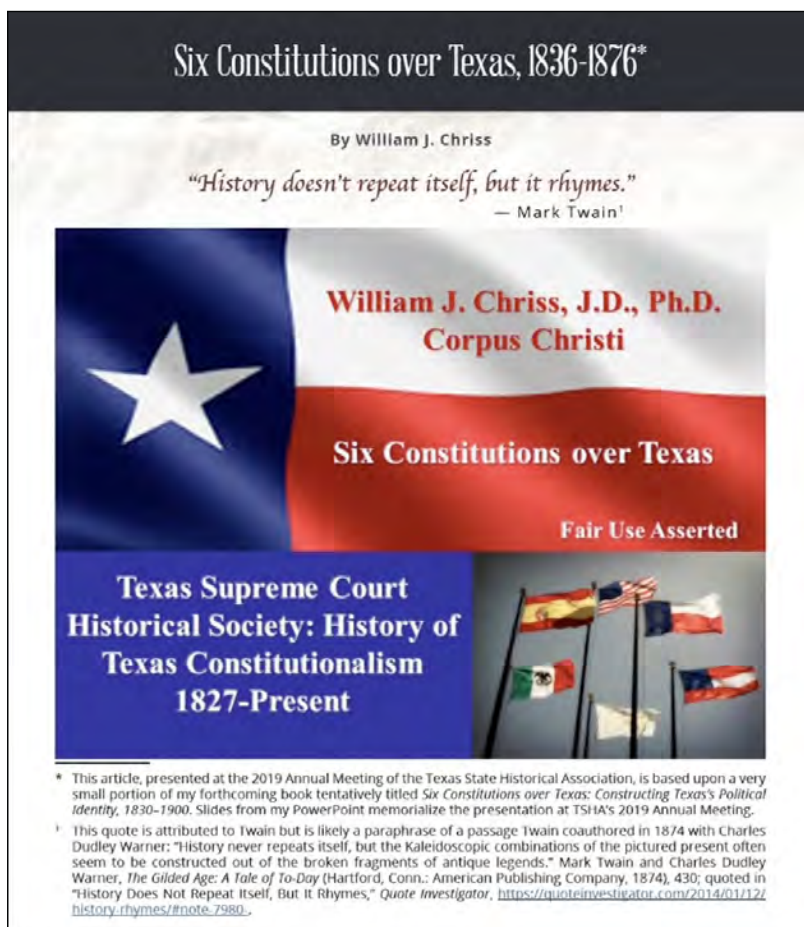


Bryan McAuley's presentation will examine the operations of the alcalde court system at San Felipe de Austin in the 1820s and 30s. San Felipe was at that time the administrative headquarters of Stephen F. Austin's colony in the Mexican twin-state of Coahuila y Texas. San Felipe had a high population of lawyers and a robust court system that encompassed both civil and criminal cases. Its jurisprudence included a few rare, early examples of trial by jury in the runup to the Texas Revolution.

This brief presentation will touch on some of the unique cases handled by the court, as well as the uniquely mundane nature of most litigation in Stephen F. Austin's colony. It will also connect many of the prominent attorneys of the era to the town, including William Barrett Travis, and Austin's alcalde court. The session will end with reflections on the preservation issues connected to a recreated court building as part of the San Felipe de Austin's outdoor exhibit, the Villa de Austin.

William J. Chriss, an attorney, scholar, and author of both *The Noble Lawyer* (Austin: State Bar of Texas, 2011) and *Six Constitutions over Texas* (College Station: Texas A&M University Press, 2025) will present "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 a Trustee of the Texas Supreme Court Historical Society. He is a member of the American Law Institute (ALI), the publisher of the *Restatements of the Law*. He is also the immediate past Chair of the Appellate Law Section of the State Bar of Texas. William J. Chriss, J.D., Ph.D. will discuss the adoption and unique characteristics of the Texas Constitution of 1876, the Texas constitution that still governs the Lone Star State today. The origins and importance of the 1876 Constitution is one of the most important subjects of Dr. Chriss's recent book, *Six Constitutions over Texas*.





Sharon Sandle, the Society's Executive Director, will serve as the Commentator who fields questions from the audience. As the Director of Texas Bar Books and the Director of the Executive Committee of the Association for Continuing Legal Education, she brings a wealth of experience to her task. A veteran of three previous TSHA Annual Meeting panels, she knows how to summarize historians' presentations, question panelists one-on-one and collectively, and keep a program moving at a fast pace. In addition her involvement with the Society's panel-program, she will also present at the TSHA's Women in Texas History Luncheon. Her talk will be about pioneering Texas attorney Mary Joe Durning Carroll.

Registering for a TSHA annual meeting is quick, easy, and affordable.² It's a beautiful conference center and it's always a great meeting. Please accept your Society's invitation to see the Society fulfill its educational mission of sharing the history of the Texas Supreme Court, the Texas judiciary, and Texas law with the public.

² See "TSHA's 130th Annual Meeting," TSHA 130th Annual Meeting website, <https://am.tsha.events>, accessed Sept. 25, 2025.

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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.

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2025-26 Membership Upgrades

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

TRUSTEE

Hon. Lawrence Doss

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2025-26 New Member List

The Society has added 29 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.

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David Campbell

Alison Battiste Clement

Audrey Vicknair

CONTRIBUTING

Laura Beth Bienhoff

Jason Bramow

REGULAR

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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

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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.

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