Columns

President’s Page
By Marie Yeates
The Society is sponsoring a number of exciting projects and events this year. I encourage you to participate! Read more...

Fellows Column
By David J. Beck
The Fellows continue to make progress on our educational project, a judicial civics program for middle schools statewide. Read more...

Executive Editor’s Page
By David A. Furlow
You might have thought the Republic was no more in 1846, but in 2014 it lives on — particularly in this edition of the Journal. Read more...

Lead Articles

The Toughest Bar in Texas: The Alamo Bar Association, Est. 1836
By Dylan O. Drummond
You can’t buy a drink in the toughest bar in Texas. It was never built of brick and mortar, but was instead forged by blood, bravery, and sacrifice. Read more...

The Constitution of the Republic of Texas
By William J. Chriss
The reasons that led Texans to want their own government bloomed into full-fledged revolt and a demand for complete independence. Read more...

The Lone Star Republic’s Supreme Court Wove the Fabric of Texas Law from the Threads of Three Competing Legal Traditions—Part 3: The Scotch-Irish, Born Fighting
By David A. Furlow
Scotch-Irish legal traditions blended with other legal traditions to create a unique Texas culture. Read more...

News & Announcements

Bi-Annual Historical Society Course Set for May
By Lynne Liberato
The Society and the State Bar will present a day-long seminar, “History of Texas and Supreme Court Jurisprudence.” Read more...

Calendar of Events

Indexes

Chronological Index of Articles by Issue, Fall 2011—Fall 2014
Index of Articles by Author, Fall 2011—Fall 2014

Membership & More

Officers, Trustees & Court Liaison
2014-2015 Membership Upgrades
2014-2015 New Member List
Join the Society

Visit the Society on Twitter and Facebook!
@SCOTXHistSocy
FB: Texas Supreme Court Historical Society

© 2014 Texas Supreme Court Historical Society
Dear Members,

The fall meeting of the Society’s Board of Trustees was an extremely interesting and productive one. After hearing from Pat Nester that our finances and administrative operations are better than ever, we heard reports on all the exciting projects and events that the Society is sponsoring this year. I want to share a few details about some of these endeavors, both to let you know the extent of the Society’s outreach and to invite you to participate in any or all of them.

One of the Society’s most ambitious undertakings is the history book series. The Hon. Craig Enoch reported that two new book projects are underway, one by former Chief Justice Tom Phillips on the history of judicial elections, and another by former board member Bill Chriss on the six constitutions of Texas. The current plan is to publish the elections book as part of the Society’s self-published series in 2016 to allow Chief Justice Phillips to do additional research and writing. Bill Chriss’s book, which will be based on his doctoral dissertation, is a strong candidate for publication in the cosponsored series with the University of Texas Press. Bill will begin working on the manuscript with editor Marilyn Duncan this spring with the goal of submitting it to UT Press in the fall of 2015.

Warren Harris brought the board up to date on a very different kind of book project sponsored by the Society’s Fellows—a volume on the history of the Texas courts for seventh-grade students. James Haley, author of the Society’s narrative history of the Supreme Court, has written the manuscript, which will be illustrated with colorful graphics to appeal to young readers. Warren is working with Marilyn Duncan and the Law-Related Education staff at the State Bar to produce the book and have it ready for distribution to teachers for the 2015–2016 school year. The aim is to have a copy in every seventh-grade Texas history classroom in Texas, and to have judges and attorneys visit as many classrooms as possible to present cases and stories from the book. This project is a prime example of the kind of educational outreach the Society’s founders envisioned.

A substantial portion of the board meeting was devoted to discussing plans for upcoming programs and events. Among them was the John Hemphill Dinner, which will mark its twentieth anniversary in 2015 as the Society’s major fundraising event. Although the dinner has traditionally been held in June, several strong arguments were raised in favor of moving it to September. While the June date takes advantage of the University of Texas appellate CLE program, holding the event in September in conjunction with the State Bar’s Advanced Civil Appellate Course may be of more interest to dinner attendees. Another consideration is that the September date expands the slate of desirable keynote speakers, including U.S. Supreme Court justices, who are in session in June. For those and other reasons, most board members said they are strongly in favor of moving the dinner to September. We’ll offer full details about the dinner, including the speaker, in the Spring 2015 issue of the Journal.
Several other important events are scheduled for this spring. David Furlow reported that he, Laura Saegert of the Texas State Archives, and Bill Chriss will make presentations at the Society’s joint session on school prayer at the Texas State Historical Association’s Annual Meeting in Corpus Christi in early March. These TSHA sessions spotlight the Society’s scholarship for the wider community of historians in Texas, and our visibility grows each year. I’ll be moderating this year’s session, and I’d like to see a large gathering of Society members in the audience.

Richard Orsinger reported that he and Lynne Liberato are organizing another symposium on the history of jurisprudence, which will follow the template that proved tremendously successful in 2013. As with the previous symposium, the 2015 program will be held in conjunction with the State Bar’s Practice Before the Texas Supreme Court Course, and will feature papers on a variety of legal history topics. Richard noted that several of the papers presented at the first symposium, including his own on the history of contract law, have been published, which is good for both the authors and the Society. He and Lynne are open to suggestions for topics and speakers.

Another event of special interest to Society members is a program to be held in conjunction with our spring board meeting on March 27. David Furlow and Bill Chriss have arranged for historian H. W. Brands to speak at the luncheon following the meeting, which will be held at the AT&T Center on the UT Austin campus. The program will also include a tour of the nearby Harry Ransom Center. All members of the Society are invited to attend the luncheon program and tour. We’ll email an invitation next spring, but I wanted to share the exciting news about H. W. Brands, who is one of my favorite authors.

See the calendar of events in this issue of the Journal for information on all of these events. The TSHA joint session and the symposium are also described in greater detail in the News and Events section. One of the most valuable perks of Society membership is the opportunity to participate in programs that are not available anywhere else. I hope you will take full advantage of them.

Very truly yours,
Marie R. Yeates

MARIE R. YEATES is a partner with Vinson & Elkins LLP in Houston.
**Fellows Column**

**By David J. Beck, Chair of the Fellows**

The Fellows continue to make progress on our educational project. This project is a judicial civics program that will present the history of the Texas Supreme Court to Texas history classes in middle schools statewide. Thanks to the support of the Fellows, the Society has engaged award-winning author James L. Haley to write the book to be used with our project. The Society also has engaged a talented executive editor, Marilyn Duncan, to edit our new book. Since my last column, the first draft of the book has been prepared and is already in the process of being edited. Jim and Marilyn recently presented an overview of our project to teachers at the Exploring Texas Workshop at the Bullock Texas History Museum. Jan Miller and her team at the State Bar’s Law Related Education Department are partnering with us on this project and are providing us with invaluable assistance. We plan to present a sample copy of the fully designed book to a statewide teachers’ conference in January 2015. We will keep you updated on this exciting project.

Please save the date for our Third Annual Fellows Dinner. The dinner is exclusively for the Fellows and will be held in Austin on May 7, 2015. Further details will be sent to all Fellows.

As a benefit to our Fellows, we are offering complimentary admission to the Society’s second biannual History of Texas and Supreme Court Jurisprudence Symposium. The Symposium, a day-long CLE course to be held on May 7 in Austin, is cosponsored with TexasBarCLE. The Fellows are able to attend on a complimentary basis, one of the benefits of being a Fellow. We hope all of you will be able to attend what will be another great program.

On behalf of the Society, I want to express our appreciation to the Fellows for their support. If you would like more information on the Fellows of the Society or are interested in joining the Fellows, please contact me.

**David J. Beck** is a Partner with Beck Redden LLP in Houston.

---

**Fellows of the Society**

**Hemphill Fellows** ($5,000 or more annually)
- David J. Beck*
- Joseph D. Jamail, Jr.*
- Richard Warren Mithoff*

**Greenhill Fellows** ($2,500 or more annually)
- Marianne M. Auld
- S. Jack Balagia
- Bob Black
- E. Leon Carter
- Tom A. Cunningham*
- David A. Furlow and Lisa Pennington
- Harry L. Gillam, Jr.
- William Fred Hagans
- Lauren and Warren Harris*
- Allyson and James C. Ho*
- Jennifer and Richard Hogan, Jr.
- Dee J. Kelly, Jr.*
- David E. Keltner*
- Thomas S. Leatherbury
- Lynne Liberato*
- Mike McKool, Jr.*
- Ben L. Mesches
- Nick C. Nichols
- Hon. Thomas R. Phillips
- Hon. Jack Pope*
- Shannon H. Ratliff*
- Robert M. Roach, Jr.*
- Leslie Robnett
- Prof. L. Wayne Scott*
- Reagan W. Simpson*
- S. Shawn Stephens*
- Hon. Dale Wainwright
- Charles R. Watson, Jr.
- Dick Watt
- R. Paul Yetter*

*Charter Fellow
The Republic of Texas Lives On...

ON A WINTRY FEBRUARY 19, 1846, Dr. Anson Jones, the last President of the Republic of Texas, stood before the weather-beaten flagpole in front of the old capitol in Austin. Surrounded by a throng of Texans, Americans, and Europeans assembled to witness Texas’s entry into the United States, Jones spoke slowly and solemnly:

“The lone star of Texas, which ten years since arose amid clouds over fields of carnage and obscurely shone for a while, has culminated and, following an inscrutable destiny, has passed on and become fixed forever in that glorious constellation which all freemen and lovers of freedom in the world must reverence and adore—the American Union….”

Heads bowed, chests heaved, and tears streamed down weather-worn cheeks. As President Jones lowered the Lone Star Flag, a sudden gust snapped the wooden flagstaff with an unexpected crack. Jones furled the Lone Star and attached the Stars and Stripes to the halyard.

“The final act in this great drama is now performed,” Jones proclaimed to the now-silent crowd. “The Republic of Texas is no more.”

Hold on, Anson. You might have thought that the Republic was no more in 1846, but in 2014, the Republic lives on. Its legacy lives in the jurisprudence of Texas law. It lives in the hearts and minds of Texans. And it lives in this special issue of the Texas Supreme Court Historical Society Journal.

The Alamo Bar Association. We begin in 1836 with Dylan Drummond’s story about the most glorious but shortest-lived bar organization in Texas history: the Alamo Bar Association. In February and March, 1836, six attorneys associated together to defend the Alamo. To join, those six lawyers paid the ultimate dues: their lives. Yet they also showed that lawyers are willing to fight for something other than clients and billable hours. The six Alamo lawyers’ fight to abolish arbitrary government and end tyranny inspires Texas attorneys to this day. Dylan’s story reminds us that these brave men once had families, dreams, and aspirations—as well as courage.

The Constitution of 1836. Next, we present attorney/historian Bill Chriss’s article analyzing the Republic’s Constitution of 1836. Bill reprises one of the most informative parts of the PowerPoint program he presented to the October 28, 2014 Fall Meeting of the Society’s Board of Trustees: The Six Constitutions of Texas. In this article, Bill points out how American filibustering efforts made Mexican leaders suspicious of the Anglo-American Texian colonists settling in their midst. He then explains how these Texians reacted against
Mexican restrictions on their religious, political, and economic (slave-holding) liberties by drafting a Jacksonian constitution intended to protect their newfound freedoms for themselves and their posterity.

Bill, who just earned his Ph.D. in History under the mentorship of University of Texas History Department Professor Bill Brands, offers special insights about the constitution that governed the Republic from its birth in 1836 until its annexation in 1845.

**Three competing, contending legal cultures in the Lone Star Republic.** In this issue of the *Journal*, I contribute the final part of a three-part series about the three distinctive legal cultures that shaped the Texas Supreme Court’s jurisprudence during the Republic. When I began writing this series, I sought to do something that had not been done before: to apply David Hackett Fischer’s cultural folkways analysis, as exemplified in his book *Albion’s Seed: Four British Folkways in America* (1989), to analyze the conflict, competition, and confluence of three cultural traditions that shaped Texas’s legal bedrock during the Republic era: (1) Castilian/Tejano; (2) Tidewater Chesapeake; and (3) Scotch-Irish.

In *Albion’s Seed*, Fischer argued that America’s profound regional differences are best explained by examining the geographical and cultural origins of four groups of British settlers in America: first, the Pilgrims and Puritans, who voyaged from East Anglia and London to Massachusetts; second, the small Cavalier elite who moved from southern England to the Chesapeake; third, the Quakers whose ancestors came from the northern Midlands of England and Wales to the Delaware Valley; and fourth, the Scotch-Irish who brought the cultural norms of the violent borders of northern Britain and Ireland first to the Appalachian Back Country and then to Texas. Fischer argued that each group brought defining “folkways” to America, where they left an indelible impression even on Americans not from Britain.

In this three-part series, I asked what cultural influences shaped the attitudes and jurisprudential choices of the Texas Supreme Court’s chief justices and associate judges during the Republic. I examined the Castilian/Tejano legal tradition as the last bequest of a declining European empire whose Tejano subjects created a flexible, informal frontier justice that judges with Anglo-American backgrounds later embraced. The second part evaluated the traditions of hierarchical liberty and economic slavocracy that Stephen F. Austin’s planter aristocrats brought with them to Texas from the Tidewater Chesapeake. This third part examines the Scotch-Irish culture’s influence on Andrew Jackson and Sam Houston, as well as the way that culture affected Chief Justice Thomas Jefferson Rusk and Chief Justice John Hemphill’s contributions to the jurisprudence of the Texas Supreme Court during the Republic.

**Special theme issues of the Journal ahead.** This issue is the fourth our Editorial Board has devoted to a special aspect of the Texas Supreme Court’s rich lore and legend. After examining the role of chief justices in shaping the jurisprudence of Texas courts in the Winter 2013 issue, investigating Civil War and Reconstruction Texas in the Spring 2014 issue, and focusing on the theme of murder and mayhem on the Texas Supreme Court in the Fall 2014 issue, your Journal’s editors have chosen this issue to examine new aspects of the legal history of the Lone Star Republic.

As Executive Editor, I’d like to join General Editor Lynne Liberato, Consulting Editor Marilyn Duncan, and Deputy Executive Editor Dylan Drummond in asking you to share ideas, photographs old and new, and stories about the Texas judiciary, state appellate courts, and the Texas Supreme Court with like-minded friends and members of the public.

We now plan to offer a special issue about the history of the Texas Constitution in the Spring 2015 issue.
And we plan to dedicate a special issue to the history of oil, gas, and energy law in Texas in the Fall 2015 issue. We are looking for submissions from lawyers, judges and justices, drillers, operators, historians, biographers, political scientists, sociologists, and economists.

If you’d like to join us in preserving, protecting, and sharing the history of Texas courts and Texas law, please email your draft article to dafurlow@gmail.com or call me at 713.202.3931 to discuss how we at the Journal and the Society can work with you.

**DAVID A. FURLOW is a historian, archeologist, and lawyer.**
YOU CAN’T BUY A DRINK in or even visit the toughest bar in Texas. That’s because it was never formally established in brick and mortar but was instead an association forged by blood, bravery, and sacrifice. The toughest bar in Texas was—and still is—the “Alamo Bar Association.”

A total of six lawyers perished at the Alamo in March 1836: (1) Micajah Autry; (2) Peter James Bailey; (3) James Butler Bonham; (4) Daniel William Cloud; (5) Green Berry “Ben” Jameson; and (6) William Barrett Travis.1 They ranged in age from their early twenties to their mid-forties. Only one of their number had formally earned a law degree,2 two had previously been opposite each other in court,3 and another pair may even have been second cousins.4

Each trod a unique path in their journey to the Alamo, but all earned the eternal respect of future Texans and attorneys through their shared valor.

The Lawyers of the Tennessee Mounted Volunteers

The tale of how half of the lawyers who defended and perished at the Alamo came to be in that old, crumbling Spanish mission just outside of San Antonio de Béxar on March 6, 1836 traces back to the former Congressman from Tennessee, the Honorable David Crockett.5

Crockett’s bid for a fourth term in the U.S. House during the summer of 1835 was a difficult one.6 His opponent was a savvy, peg-legged attorney whose candidacy

---

1 “I Go the Whole Hog in the Cause of Texas”: Lawyers at the Alamo, 71 Tex. B.J. 210, 210 (Mar. 2008) [hereinafter Whole Hog].
2 See Whole Hog, 71 Tex. B.J. at 211; see also Amelia W. Williams, A Critical Study of the Siege of the Alamo and of the Personnel of its Defenders, 37 Sw. Hist. Q. 1, 244 (Jul. 1933) [hereinafter Critical Study].
5 See Blood of Heroes, at 162.
6 Id. at 156.
was enthusiastically supported by Crockett’s onetime political mentor and military commander, President Andrew Jackson. By Crockett’s second term in Congress in 1830, he had begun to publically and repeatedly denounce President Jackson for what Crockett believed to be Jackson’s political opportunism. Crockett chiefly blamed Vice President Martin Van Buren for the political faults he saw in President Jackson. Crockett said, “I am still a Jackson man, but General Jackson is not—he has become a Van Buren man.”

It was perhaps little surprising, then, that President Jackson hand-picked Vice President Van Buren as his electoral successor. Such was Crockett’s disdain for Van Buren that he vowed to “leave the [U]nited States” if Van Buren was elected. Crockett’s very public criticism of the President and Vice President infuriated both men. In return, Jacksonians gerrymandered Crockett’s congressional district just prior to the election of 1835, which weakened his electoral base.

Never one for political ambiguity, Crockett famously made clear on the campaign stump that if his constituents elected his Jacksonian-backed rival, “You may all go to hell and I will go to Texas.” On the morning of November 1, 1835, less than three weeks after his defeat by just 252 votes, Crockett made good on his promise and headed to Texas.

Forty-nine-year-old Crockett crossed the Sabine River into Texas near the end of December 1835. He was sworn into the Texas Volunteer Auxiliary Corps for a six-month tour on January 12, 1836.

He and his party set out for Washington-on-the-Brazos on the El Camino Real (called the “Old San Antonio Road” by the Anglo-Texians), where they hoped to receive their orders from the newly-appointed general of the Texian Army, Sam Houston. Crockett rode with some sixteen to eighteen companions, most of whom were educated professionals from Tennessee and Kentucky, who called themselves the “Tennessee Mounted Volunteers.” Three of the Tennessee Mounted Volunteers were attorneys who would come to their end with Crockett at the Alamo.

Daniel William Cloud

Daniel William Cloud was a twenty-two-year-old attorney from Logan County, Kentucky. He had traveled westward through several states and territories seeking a suitable place to begin his law practice.
Although he nearly founded his practice in Arkansas, he decided to journey yet further on to Texas upon hearing of the Texians’ plight.23

Cloud showed that, despite his youth, he already possessed the rhetorical skill that would have made him a fine lawyer in practice, and perhaps even suited him for service as a judge in his newfound home. He described the Mexican government’s treatment of the Texian settlers as a “monarchical tyrannical, central despotism.”24 “Ever since Texas has unfurled the banner of freedom and commenced a warfare for liberty or death,” he wrote his brother, “our hearts have been enlisted in her behalf.”25 A little over two months before he would meet his fate at the Alamo, Cloud wrote that, “If we succeed, the Country is ours. It is immense in extent, and fertile in its soil and will amply reward all our toil. If we fail, death in the cause of liberty and humanity is not cause for shuddering.”26

He enlisted as a private in the Volunteer Auxiliary Corps of Texas on January 14, 1836 in Nacogdoches, Texas. He arrived at the Alamo with Crockett around February 11, 1836.27 During the battle, Cloud fought alongside Crockett on the wooden palisade running between the Alamo chapel and the gatehouse,28 and fell on March 6, 1836.29

Peter James Bailey

Peter James Bailey was a friend of Cloud and a fellow native of Logan County, Kentucky.30 He was an 1834 graduate of Transylvania University Law School in Lexington, Kentucky, and was the only lawyer at the Alamo who had earned a law degree.31 Bailey left Kentucky in the fall of 1835 alongside Cloud in search of the site of his future law practice.32

23 See Blood of Heroes, at 162; Whole Hog, 71 Tex. B.J. at 211.
24 Whole Hog, 71 Tex. B.J. at 211.
25 Blood of Heroes, at 162.
26 Whole Hog, 71 Tex. B.J. at 211.
27 See Cloud; see also Critical Study, 37 Sw. Hist. Q. at 165, 167, 251.
28 Blood of Heroes, at 282.
29 See Cloud; Critical Study, 37 Sw. Hist. Q. at 159.
30 Blood of Heroes, at 162; Whole Hog, 71 Tex. B.J. at 211.
31 Whole Hog, 71 Tex. B.J. at 211; see also Critical Study, 37 Sw. Hist. Q. at 244.
32 Whole Hog, 71 Tex. B.J. at 211
At the age of twenty-four, he enlisted as a private on January 14, 1836 in Nacogdoches, Texas, just two days after their leader, Davy Crockett, was sworn into the Texian Volunteer Auxiliary Corps. Bailey perished with his fellow Kentuckian, Cloud, when the Alamo fell on March 6, 1836.

Because of his service to the Republic, Bailey’s heirs received parcels of land in what are now Archer, Baylor, and Hamilton counties. In addition, Bailey County in the Texas Panhandle now memorializes his name.

**Micajah Autry**

The third lawyer in Crockett’s party was also the oldest lawyer at the Alamo. Micajah Autry was forty-three years old, and hailed from Sampson County, North Carolina. He was a veteran of the War of 1812, in which he had fought at the tender age of seventeen.

Autry was admitted to the Tennessee Bar in Nashville around 1828 or 1829. He built a thriving law practice in Jackson, Tennessee with his law partner, Andrew L. Martin, from 1831 to 1835. He lived during this time not far from the Hermitage, the home of President Andrew Jackson. Autry was later forced to sell his house and lands after speculating in a dry-goods venture with Martin, but this indignity paled compared to the loss he was soon to suffer.

While out at a camp meeting one evening, Autry and his wife returned home to find the youngest of their three children, Edward, drowned after having climbed into a bathtub—an accident that occurred despite being left in the care of a nurse. Grief-stricken and near-destitute, Autry heard tales of “Austin’s Colony.” He decided to scout it for himself and his family.

Autry met up with Kentucky attorneys Cloud and Bailey on the road into Texas. He wrote his wife, Martha, that he was “determined to provide for you a home or perish.” In a January 13, 1836 letter, he explained the prospects for his family in Texas and the motivation driving his journey: “I go the whole Hog in the cause of Texas. I expect to help them gain their independence and also to form their civil government, for it is worth risking many lives for. From what I have seen and learned from others there is not so fair a portion of the Earth’s surface warmed by the sun.”

---


34 See Bailey; Critical Study, 37 Sw. Hist. Q. at 159.

35 Bailey.

36 See Whole Hog, 71 Tex. B.J. at 210–11.

37 See id. at 211; Critical Study, 37 Sw. Hist. Q. at 167, 244.


39 Autry.

40 See Autry; Whole Hog, 71 Tex. B.J. at 211; Critical Study, 37 Sw. Hist. Q. at 167, 244.

41 See Blood of Heroes, at 162; Alamo Soldier, 14 Sw. Hist. Q. at 316.

42 See Blood of Heroes, at 163; Alamo Soldier, 14 Sw. Hist. Q. at 317; Autry.

43 Blood of Heroes, at 163.

44 Id.

45 Id. at 163–64.

46 Whole Hog, 71 Tex. B.J. at 211.
Courtesy Rice University Digital Scholarship Archive.
Autry was sworn into the Texas Volunteer Auxiliary Corps as a private on January 14, 1836 in Nacogdoches. Municipal Judge John Forbes recorded the oath Autry and the other members of the Tennessee Mounted Volunteers took after administering it to the men:

Know all men by these presents: That I have this day voluntarily enlisted myself in the Volunteer Auxiliary Corps, for and during the term of six months.

And I do solemnly swear that I will bear true allegiance to the provisional Government of Texas, or any future Government that may be hereafter declared, and that I will serve her honestly and faithfully against all her enemies whatsoever and observe and obey the orders of the Governor of Texas, the orders and decrees of the present and future authorities and the orders of the officers appointed over me according to the rules and regulations for the government of the Armies of Texas.

“So help me God.”

He arrived at the Alamo on or around February 9, 1836. A letter Autry wrote to his wife on February 11, 1836 is still on display there. Autry was reputed to be an able marksman, and it is said that he had only a single clear shot at Santa Anna during the Alamo siege, which he took but missed. Autry was assigned to defend the wooden palisade between the Alamo chapel and gatehouse alongside Cloud, where he fell with several of his fellow Tennessee Mounted Volunteers on March 6, 1836.

Green Berry “Ben” Jameson

Green Berry “Ben” Jameson was another Kentuckian who made his way west to join the Texian fight, arriving in Texas in 1830 before any of his fellow Alamo lawyers. Perhaps inspired to law by his grandfather, who had served as an early Lieutenant Governor of Virginia, Jameson opened his law office in the capital of Austin’s Colony, San Felipe. He later practiced mainly as a sales agent in Brazoria for the Galveston Bay and Texas Land Company. When the Texas Revolution began, Jameson enlisted in the Texas Army at Gonzales in October 1835, saying, “When I left home it was with a determination to See [the] Land free and independent, Sink or Swim[.] die or perish.”

Just before the end of December, after having taken part in the Siege of Bexar, Jameson remained and

---

47 See Blood of Heroes, at 164; Whole Hog, 71 Tex. B.J. at 211; see also Alamo Soldier, 14 Sw. Hist. Q. at 319 (relaying to his wife that, in recompense for his service in the Texian Army, he would “be entitled to 640 acres of land … and 4444 acres upon condition of settling my family here”).


50 Compare Blood of Heroes, at 178, with Autry.

51 Autry.

52 Whole Hog, 71 Tex. B.J. at 211.


54 Blood of Heroes, at 282.


56 Id.

57 Blood of Heroes, at 98.

58 Whole Hog, 71 Tex. B.J. at 210.
was appointed as Chief Engineer to the Alamo. Upon his appointment, Jameson achieved the rank of ensign, although there is no record that he ever had had formal training in engineering. His task of fortifying the Alamo was a challenging one, as it was in dire need of repair after the Texian force’s bombardment during the Siege of Bexar, which had just concluded earlier that month after seven weeks. Jameson met this engineering challenge with ambitious fervor, and soon impressed his commander, Lieutenant Colonel James C. Neill, and later James Bowie and Alamo Commandant William B. Travis.

Although Jameson had more grandiose plans to fortify the Alamo—including the construction of a moat, a drawbridge, and trap doors—his construction efforts were limited by lack of manpower. Instead, he focused the garrison’s efforts towards fortifying the northern wall of the Alamo compound, which had been battered by Neill’s cannon during the Siege of Bexar. He and his crews set about buttressing the limestone and adobe walls of the compound with log braces, digging trenches outside the walls, erecting banquettes, and building an abatis composed of felled trees with the branches sharpened and pointing toward advancing forces. They also constructed a wooden palisade of eight-foot-high cedar timbers to buttress the weakest spot in the Alamo’s perimeter, between the chapel and the main gate. It was on this palisade that Autry and Cloud would later perish.

Jameson kept his crews working in shifts, day and night, throughout the siege of the Alamo. Despite their heroic and determined efforts, the Alamo remained in much the same condition in March 1836 when it fell to Santa Anna as it had been in December 1835 when it fell to Neill, Ben Milam, and Edward Burleson.

On the first day of the siege on February 23, 1836, Jameson was sent by Bowie to carry a message to the Mexican forces regarding a rumored parley by the Mexicans, which defiantly concluded, “God and Texas!” He gave his life on the last day of the siege on March 6, 1836.

James Butler Bonham

Twenty-nine-year-old James Butler Bonham grew up just five miles from William Barret Travis—reputedly his second cousin—in the farm country of Edgefield County, South Carolina. Bonham came from a line of
Revolutionary War veterans, so his embrace of the Texas Revolution was unsurprising. He was also a passionate supporter of the secession and nullification movements, which—in addition to protests of campus regulations requiring prompt attendance at classes even in inclement weather—may have contributed to his expulsion during his senior year from South Carolina College.

He was admitted to the South Carolina bar in 1830. Shortly thereafter, he gained many distaff admirers for caning an opposing counsel who had insulted Bonham’s female client. He was held in contempt of court for refusing to apologize to the lawyer, and was sentenced to ninety days in jail. While imprisoned, it is said that he was routinely brought both food and flowers by his newfound throng of admiring women.

By October 1834, Bonham had moved his law practice to Mobile, Alabama, where he led a rally in support of the Texian cause at the Shakespeare Theater a year later on October 17, 1835. His support of the Texians was no doubt fanned by regular correspondence he maintained with Travis, with whom he had remained fast friends since childhood. After raising a volunteer band dubbed the “Mobile Greys,” Bonham set out for Texas. He arrived in San Felipe in November 1835, and joined Travis in the recruiting office of the Texian Army.

On January 18, 1836, General Sam Houston ordered Bonham and Bowie to the Alamo. There he remained until about February 16, 1836, when Travis sent him to Goliad to obtain reinforcements from Fannin. Around 11 a.m. on March 3, 1836—some sixty-six hours before he was to sacrifice his life—Bonham solitarily bore through the Mexican lines and returned to the Alamo. He had had with him two companions, both of whom refused to enter the Alamo upon seeing it encircled by the Mexican army. It is said that Bonham’s lifelong friendship with Travis drove him to re-enter the fort against such overwhelming odds, perhaps inspiring a subsequent description of Bonham as “as chivalrous a soul as ever fought and died for liberty.”

Bonham brought word from Robert McAlpin Williamson, a future Associate Judge of the Republic of Texas.
Supreme Court better known by his nickname, “Three-Legged Willie.”89 Williamson was in charge of organizing volunteers in Gonzales, and implored Travis to hold out until reinforcements from Goliad and Gonzales arrived, rumored to already be on the march to the Alamo.90

Bonham was a Second Lieutenant in the Texas Cavalry, but Travis referred to him in correspondence as “Colonel”—likely a nod to the rank Bonham previously received from the Governor of South Carolina.91 Bonham’s valor in the desperate waning hours of the fall of the Alamo is regarded equal to that of Travis, Bowie, and Crockett.92 Indeed, the Alamo monument on the grounds of the Texas Capitol lists Bonham’s name atop the names of fallen Alamo defenders, alongside those of only Travis, Bowie, and Crockett.93 He fell on March 6, 1836, either manning one of the cannons inside the Alamo chapel, or after fighting his way to the fort’s magazine in an attempt to ignite it to kill as many Mexican soldiers as he could.94

William Barret Travis

William Barret Travis was reared in Edgefield County, South Carolina, and met his reputed second cousin, Bonham,95 while attending the Red Banks country school there.96 His family moved to Alabama in 1818, where he received a formal elementary education.97 Thereafter, he studied law with one of the most prominent attorneys in Alabama, James Dellet, while teaching during the interim in order to make ends meet.98

During this time, Travis—then nineteen years old—fell in love with one of his students—herself just sixteen—and they soon married.99 Travis gained admission to the Alabama bar before he turned twenty.100 Within a few years, however, both his professional life (he had founded a newspaper, the Claiborne Herald, in addition to his law practice) and his personal fortunes turned for the

89 See Blood of Heroes, at 245; Bonham; see also James L. Haley, The Texas Supreme Court: A Narrative History, 1836–1986, 24, 235 (2013) [hereinafter Narrative History]. Judge Williamson’s nickname originated from a lame leg he suffered from as a result of a bout with juvenile tuberculous arthritis, which he compensated for by using a wooden crutch strapped behind his afflicted leg. Narrative History, at 24, 101. Judge Williamson is also credited with convening the first regular session of a district court in the Republic of Texas. Id. at 101.

90 See Blood of Heroes, at 245; Bonham.


92 Compare Consistent Rebel, 35 Sw. Hist. Q. at 136, with Bonham.


94 Compare Consistent Rebel, 35 Sw. Hist. Q. at 134, with Bonham; see also Critical Study, 37 Sw. Hist. Q. at 159.

95 Bonham.

96 Critical Study, 37 Sw. Hist. Q. at 80; see also Archie P. McDonald, Travis, William Barret, Handbook of Texas Online, https://www.tshaonline.org/handbook/online/articles/frt03 (last visited Nov. 12, 2014) [hereinafter Travis].


98 See Blood of Heroes, at 11; Critical Study, 37 Sw. Hist. Q. at 81; Travis.


100 Id.
worse. He came to believe his bride had been unfaithful to him, so he left her, his young son, and unborn daughter with access to a sizeable bank account and headed for Texas.

He arrived in San Felipe in the spring of 1831, and promptly put $10 down for title to the one league of land (4,428 acres) available to Texas settlers. He established a law practice first in the sparsely populated coastal town of Anahuac, and later in San Felipe, once his local prominence had expanded. His practice consisted mainly of land dealings, slavery transactions, wills, colonization cases, and criminal defense matters.

Travis soon became a leader in the Texas Revolution alongside San Felipe’s alcalde, the Republic’s future Supreme Court Judge “Three-Legged Willie” Williamson. Travis’s fame soon resulted in General Santa Anna’s issuance of arrest warrants for Travis and Williamson—dubbed by Santa Anna as “obnoxious Texans.” By late fall, General Sam Houston appointed Travis the chief recruiter for the Texas Army, and soon promoted Travis to the rank of Major in the artillery corps. Travis preferred the cavalry, however, and accepted yet another promotion to Lieutenant Colonel of the Texas Cavalry on Christmas Eve, 1835.

The following month, Houston ordered Travis to reinforce Colonel James C. Neill at Bexar. Once there, Travis worked with fellow Alamo Bar attorney Ben Jameson to fortify the mission. A few years before they came together to fight at the Alamo, Travis and Jameson were opposing counsel, where Travis bested Jameson and won a $50 judgment for his client.

The oratorical and drafting skills Travis learned as a practicing lawyer in frontier Texas greatly aided him within the walls of the Alamo. He famously exhorted his comrades to stay and defend the Alamo by stepping across a line he drew in the sand with his sword, and sent many letters seeking reinforcements, the most renowned of which he penned on February 24, 1836, promising and underlining three times the phrase, “Victory or Death!” At the age of twenty-seven, on March 6, 1836, Travis kept his promise while defending the north wall of the Alamo.

---

101 Id. at 12; Travis.
102 See Critical Study, 37 Sw. Hist. Q. at 81; Blood of Heroes, at 12; Travis. Travis would later pay off his debts in Alabama after successfully establishing his law practice in Texas. Blood of Heroes, at 17. His wife filed for divorce in 1834, charging Travis with desertion, which was granted by the Alabama legislature in November 1835. Compare id. at 18, with Travis; see Critical Study, 37 Sw. Hist. Q. at 86–87.
104 See id. at 13, 17; Critical Study, 37 Sw. Hist. Q. at 82; Travis.
105 Blood of Heroes, at 17.
106 See id. at 19, 21; Critical Study, 37 Sw. Hist. Q. at 83.
107 See Critical Study, 37 Sw. Hist. Q. at 83–84; Blood of Heroes, at 22; Travis.
108 See Critical Study, 37 Sw. Hist. Q. at 84; Travis.
109 See Blood of Heroes, at 99, 113, 174–75; Travis.
111 Id.
Letter from William B. Travis, Commandant of the Alamo, to The People of Texas and All Americans, Feb. 24, 1836. Courtesy Texas State Library and Archives.
The first bar association in Texas was comprised of ambitious and able lawyers whose legal skills and training enabled each to leave his mark on Texas history apart from his service in the law. Although Texas jurisprudence may not have been directly impacted by the Alamo Bar Association’s legal contributions, its valiant members’ shared sacrifice and courage has inspired and will continue to inspire the Texas bench and bar to fulfill their mandate for centuries to come.

The Alamo Cenotaph, or Spirit of Sacrifice, is a memorial to the Alamo defenders in the Alamo Plaza Historic District in downtown San Antonio. Designed by Pompeo Coppini, 1936. Wikipedia.

Dylan O. Drummond is a civil appellate and commercial litigator practicing in Austin with K&L Gates, LLP. He serves as a Trustee of the Texas Supreme Court Historical Society, a Subcommittee Chair of the Texas Bar Standing Committee on Pattern Jury Charges for the Business, Consumer, Insurance & Employment volume, Council Member of the Texas Bar Appellate Section, and Director of the Texas Bar College. He is also AV Peer-Review™ rated by Martindale Hubbell®, and has been selected as a “Rising Star” in appellate practice by Super Lawyers® the past six years. Prior to entering private practice, Dylan clerked for then-Justice Nathan Hecht during the Texas Supreme Court’s 2003–04 term. Dylan earned his JD and MBA degrees from Texas Tech University in 2003, and graduated summa cum laude from the Wildlife Management program at Texas Tech as well.
OF COURSE, THE FIRST CONSTITUTIONS OR FUNDAMENTAL LAWS governing Texas were those generated by the Spanish and Mexican governments while Texas was a province within those nations. And even the earliest Anglo-Texian constitutions were state constitutions proposed in the event that the Mexican government could be cajoled or threatened into separating Texas from the state of Coahuila-Texas. For example, in 1833, Anglo colonists and their indigenous Tejano compatriots held a convention to petition the central government for separate statehood, and a committee headed by Sam Houston drafted a proposed constitution for that purpose. The attempt was unsuccessful, but the reasons that led Texians to want their own government persisted and soon bloomed into full-fledged revolt and a demand for complete independence.1

Yet this was not the first such project undertaken by Anglo adventurers and disenchanted Tejanos. In 1812, with Mexico roiling in the midst of its own revolt from Spain, José Bernardo Gutiérrez de Lara, a Mexican liberal, and Augustus Magee, an American adventurer, led a combined force from Louisiana all the way to San Antonio, where they captured the town but were ultimately defeated by Spanish loyalists.2 In 1819, James Long, an American filibuster, led another attempt to detach Texas from Spain and Mexico by force of arms. He was joined by Gutiérrez de Lara and by Anglo adventurers that included Ben Milam, and perhaps even James Bowie. This group took Nacogdoches and declared an independent republic. But again, initial success led to ultimate failure when Long was forced to surrender to the new Mexican government.3 And in 1826, an Anglo empresario named Haden Edwards declared yet another independent republic, this one dubbed “Fredonia,” in Northeast Texas, only to be suppressed by Mexican authorities.4

As the 1830s dawned, these incidents caused increasing concern in Mexico City over instability in the frontier province of Coahuila-Texas. Soon the Mexican government was debating immigration policy, and that debate was eerily similar to today’s, but with the polarities reversed. Official after official tasked with solving the “Texas problem” bemoaned the fact that Anglos were flooding into the province, many illegally, and that soon they would constitute a majority of its population, even though the Anglos were unable to speak the official language (Spanish), unfriendly to the official religion and culture (Catholicism), and bent on exploiting the native Tejano population, stealing its land, and usurping its traditions. Mexican attempts to reverse this situation


by strengthening the central government and clamping down on immigration by Anglos (and especially on the African slaves that accompanied them) precipitated the Texas Revolution of 1835–36.\(^5\)

It came naturally to the Anglo-American colonists that they should formally declare their independence in writing, and that—if victorious—they should promptly draft and ratify a national constitution. So they did. The Texas Constitution of 1836 comprised a preamble, seven articles, a schedule for elections, and a Declaration of Rights.\(^6\) Most of the constitution’s provisions were unabashedly modeled on the U.S. Constitution. Thus, the new nation would have an elected president and vice president, Senate, and House of Representatives. An independent judiciary with a supreme court and district courts was established, but with the innovation that the judges were to be elected by Congress to four-year terms, not appointed for life by the president.

But in other respects the 1836 Texas Constitution was uniquely suited to the Texians who founded a frontier republic at the edge of Anglo-American civilization. The sections of the Declaration of Rights dealing with freedom of speech and press, the right to bring lawsuits, and the right to keep and bear arms were significantly broader than their U.S. counterparts and were worded as affirmative rights rather than negative restrictions on governmental


power. For example, freedom of the press was balanced against the right to sue for libel, but in all such cases, the jury was empowered to decide not only the facts, but also the law, an overt nod to jury nullification. The open courts provision, the only portion of the entire constitution to survive unchanged in every subsequent Texas Constitution, guaranteed not only that rights and privileges would not be infringed except by “due course of law” but also that “All courts shall be open, and every man for any injury done him in his lands, goods, person, or reputation, shall have remedy....”

The violent realities of frontier life produced a right to weaponry beyond that found in the Second Amendment. In Texas, irrespective of any militia or joint or communal right of self-defense, “Every citizen shall have the right to bear arms in defense of himself...”

And these Texians were largely from the South, particularly the upper and western South, and they were Jacksonians. The constitution testified to this orientation. First, the article on General Provisions went to extraordinary lengths to protect the institution of slavery. The article provided that:

Congress shall pass no laws to prohibit emigrants from the United States of America from bringing their slaves into the Republic with them, and holding them by the same tenure by which such slaves were held in the United States; nor shall Congress have power to emancipate slaves; nor shall any slave-holder be allowed to emancipate his or her slave or slaves, without the consent of Congress, unless he or she shall send his or her slave or slaves without the limits of the Republic. No free person of African descent, either in whole or in part, shall be permitted to reside permanently in the Republic, without the

---


8 The free-speech provision, which appeared as Article I, Section 4 in the 1836 Constitution’s Bill of Rights, now appears as Article I, Section 8 in the Bill of Rights of the 1876 Texas Constitution.

9 Article I, Section 13 of the current constitution, titled, EXCESSIVE BAIL OR FINES; CRUEL AND UNUSUAL PUNISHMENT; REMEDY BY DUE COURSE OF LAW, protects a citizen’s right to “due course of law,” a traditional term broader than “due process” based on the words of Magna Carta (June 15, 1815) (emphasis supplied). Section 13 states that, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law.” (Emphasis supplied). In contrast, the Fifth Amendment to the U.S. Constitution guarantees that, “No person shall be deprived of life, liberty or property without due process of law.” See David Richards & Chris Riley, Symposium on the Texas Constitution: Developing a Coherent Due Course of Law Doctrine, 68 TEX. L. REV. 1649, 1664-65 (June 1990) (analysis of the “due course of law” language). Because every Texas constitution has contained a separate “due course of law” provision, now Article I, Section 19, and because Section 13 precedes Section 19, the Section 13 “due course of law” provision must provide different and broader rights than the guarantee of due process rights in Section 19. Section 19 is worded slightly differently than Section 13, providing that “No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.

10 For the survival unscathed of the open courts provision, see LeCroy v. Hanlon, 713 S.W.2d 335, 339 (Tex. 1986). This provision, originally Article I, Section 6 of the 1836 Constitution, survives as Article I, Section 13 of the 1876 Texas Constitution.

11 This provision survives now as Article I, Section 23 of the 1876 Texas Constitution.
consent of Congress, and the importation or admission of Africans or negroes into this Republic, excepting from the United States of America, is forever prohibited, and declared to be piracy.\textsuperscript{12}

Second, the Jacksonian suspicion of eastern mercantile interests was also on display. The constitution prohibited, except on two-thirds vote of both houses of Congress, any appropriation of public funds for any “private or local purposes.” There would be no subsidization of industry or banks or corporations in Texas. But the enemy Texians most feared was not the eastern financier or even the Indian raider. It was the recently overthrown Mexican Catholic overlord, and the possibility that it, with Tejano co-religionists, might re-invade, and worse, foment a slave insurrection. And once inspired to revolt, slaves would have even more dangerous allies. The Declaration complained that the Mexican government had, “through its emissaries, incited the merciless savage, with the tomahawk and scalping-knife, the [sic] massacre the inhabitants of our defenseless frontiers.”\textsuperscript{13} For this reason, the 1836 Declaration of Independence condemned Catholic priests as “the eternal enemies of civil liberty, the ever ready minions of power and the usual instruments of tyrants,” and, to re-emphasize for good measure the connection between Catholicism and tyranny, the colonists added that they would never submit to “the most intolerable of all tyranny, the combined despotism of the sword and the priesthood.”\textsuperscript{14} The same sentiments were more blandly reflected in the constitution’s requirement of complete secularity in all government operations. Under Section 1 of Article V, “no minister of the gospel or priest of any denomination whatever shall be eligible to the office of the Executive of the Republic, nor to a seat of either branch of the Congress of the same.”\textsuperscript{15}

Carefully studying the constitution of the Texas Republic can thus yield interesting and unconventional insights. Texas’s national heroes were certainly fighting for their own freedom and for traditional American notions of liberty, but also for the continued enslavement of Africans. While many were devout Christians, their political stance was radically and overtly anti-clerical. And they were suspicious of moneyed interests and careful to preserve the right to seek redress for damages in court and before a jury. This unique combination of ideologies does not tarnish their achievements or their boldness, but the founders of Texas as we now know it should be appreciated for who they were, not who we would like them to have been.


\textsuperscript{14} See William Carey Crane, The Life and Select Literary Remains of Sam Houston of Texas 264–66 (J. B. Lippincott and Co., 1885); see also Tarlton Law Library, Jamail Center for Legal Research, Declaration of Independence (1836), http://tarlton.law.utexas.edu/constitutions/slider/constitution/doi1836/index/2 (last visited Dec. 3, 2014). Crane’s book includes an appendix containing not only some of Houston’s writings, but also a copy of the Texas Declaration of Independence and other primary source material.


\textbf{William J. Chriss} is a full-time practicing trial and appellate lawyer with a statewide practice. He serves on the Texas Pattern Jury Charge Committee and the Appellate Law Section Council and Insurance Law Section Council of the State Bar, serves as editor-in-chief of The Journal of Texas Insurance Law, and was recently elected a member of the American Law Institute, publisher of the Restatement. In 2005, the Texas Bar Foundation named him the recipient of the Dan R. Price Award for service to the legal profession and excellence in teaching and scholarly writing, and he served from 2007 to 2009 as Director and Dean of the Texas Center for Legal Ethics. Chriss graduated from Harvard Law School where he received a Howe fellowship in Civil Liberties and Legal History. He also holds graduate degrees in theology and political science, and graduated in December 2014 with a Ph.D. in History at The University of Texas through an endowed doctoral fellowship under the acclaimed American historian H.W. Brands.
By David A. Furlow

In two previous parts of this article, published in the Fall 2013 and Summer 2014 issues of the Journal, we examined the first two of the three competing legal traditions that shaped Texas law during the Republic—the Castilian influence that came to Texas through Spain and Mexico and the planter-elite culture that Stephen F. Austin and his colonists brought from the Tidewater South.

This final installment analyzes a third influence on the constitution and case law of early Texas—the fiercely independent, frequently violent, and usually clannish Scotch-Irish culture. They introduced ideas of natural liberty, low taxes, severely limited government, and pro-debtor legislation to Texas. We'll examine several men of Scotch-Irish background who wove the contending, competing traditions of Castilian/Tejano, Tidewater Chesapeake, and Southern Back Country culture into the fabric of Texas jurisprudence. The cultural origins of the Republic's lawmakers help explain the mindset, constitutional ideals, and decisions of Sam Houston, Thomas Jefferson Rusk, and John Hemphill.

Scotch-Irish legal traditions blended with other legal traditions to create a unique Texas culture, continued.

America preserves a variety of contending cultures. If you want to see the way cultures shape societies and frame choices, go out for a meal. If you sit down in San Antonio’s Mi Tierra restaurant, you can toss back shots of Monte Alban Agave Mezcal con Gusano, order chiles rellenos and tres leches, gaze on fading photos of Pancho Villa, and hear Feliz Navidad play every Christmas season.

Go to the Williamsburg Inn’s Regency Room in Virginia’s former capital and you’ll breakfast on steak and eggs, snack on stuffed Chesapeake crabs, listen to a spirited rendition of The World Turned Upside Down (the tune Lord Cornwallis’s drum and fife corps played when they surrendered at Yorktown), and drink mint juleps beneath Neoclassical columns.


Stop by the Loveless Café in Nashville and you’ll enjoy a Country Western experience. After a day watching NASCAR races, you may sip Jack Daniel’s No. 7 Tennessee Whiskey on a dog-trot porch, dine on fried catfish, pass the cornbread, and listen to the Grand Ole Opry before retiring to a featherbed.

Transmitted from parent to child, lover to lover, spouse to spouse, and teacher to student over the generations, foodways, music, and architecture are social inheritances as long-lasting as regional accents. As New Yorker staff journalist and author Malcolm Gladwell observed,

Cultural legacies are powerful forces. They have deep roots and long lives. They persist, generation after generation, virtually intact, even as the economic and social and demographic conditions that spawned them have vanished, and they play such a role in directing attitudes and behavior that we cannot make sense of the world without them.\(^4\)

Cultures encompass more than food, drink, music, and architecture, however. They include ways of creating order, attitudes toward authority, and ideas about liberty and restraint. Reproduced through child-rearing, religious institutions, education, work, rules, regulations, and codes, every society creates a legal culture and passes it down the generations.\(^5\)

To understand how cultures shape expectations, foster institutions, and administer justice, Malcolm Gladwell states that “you have to go back into the past—and not just one or two generations…but two or three hundred years, to a country on the other side of the ocean, and look closely at what exactly the people in a very specific geographic area…did for a living.”\(^6\)

**A mass migration of the Scotch-Irish travelled to America in the seventeenth and eighteenth centuries.**

In 1773, Dr. Samuel Johnson noted how emigrants to America retained their traditional folkways:

Whole [Border Country] neighborhoods formed parties for removal; so that departure from their native country is no longer exile. He that goes thus accompanied, sits down in a better climate, surrounded by his kindred and friends; they carry with them their language, their popular songs, and hereditary merriment: they change nothing but the place of their abode.\(^7\)

As they moved their families from the Atlantic seaboard to the Appalachians, the emigrants’ Border Country ways turned into the American South’s Back Country traditions.\(^8\)

\(^4\) Outliers, 175.
\(^5\) Albion’s Seed, 9-10.
\(^6\) Outliers, 170.
\(^7\) Albion’s Seed, 605.
Scotch-Irish traditions of honor, violence, and vengeance infused Britain’s Border Country, America’s Southern Back Country, and Texas.

Where crops grow poorly, people are impoverished, and property is threatened, codes of honor that embrace strength, violence, and vengeance often arise. Malcolm Gladwell offers a valuable insight:

If you live on some rocky mountainside, the explanation goes, you can’t farm. You probably raise goats or sheep, and the kind of culture that grows up around being a herdsman is very different from the culture that grows up around growing crops.

The survival of a farmer depends on the cooperation of others in the community. But a herdsman is off by himself. Farmers also don’t have to worry that their livelihood will be stolen in the night, because crops can’t be easily stolen unless…a thief wants to…harvest[] an entire field on his own. But a herdsman…[is] under constant threat of ruin through the loss of his animals. So he has to be aggressive: he has to…be willing to fight in response to even the slightest challenge to his honor—and that’s what a “culture of honor” means….9

Carrying Border Country cattle-ranching and cattle-reeving folkways with them, Scotch-Irish settlers brought cows from England, Scotland, and Northern Ireland, including “Celtic,” long-horned Kerry cattle, and took them to Appalachia, Alabama, and Arkansas.10 In Texas, they bred their cows with the native Spanish stock to produce Longhorns and to recreate a culture of honor among the vaqueros, cowboys, ranchers, rustlers, and Rangers of the Lone Star Republic.11

How did a culture of honor arise in Texas, as it had in the British Border Country and in America’s Southern Highland (Appalachian) Back Country?

It was because of where the original inhabitants of that region came from. The so-called American [B]ack [C]ountry states—from the Pennsylvania border south and west through Virginia and West Virginia, Kentucky and Tennesee, North Carolina and South Carolina, and the northern end of Alabama and Georgia—were settled overwhelmingly by immigrants from one of the world’s most ferocious cultures of honor. They were “Scotch-Irish”…from the lowlands of Scotland, the northern counties of England, and Ulster in Northern Ireland.12

---

9 Outliers, 166–67; Albion’s Seed, 605–42.


11 Albion’s Seed, 741–42; Celtic Origins, 51 J. Sou. Hist. 165–82; see generally Trails to Texas.

The [British Border Country consisted of]...remote and lawless territories ...fought over for hundreds of years. The people of the region were steeped in violence. They were herdsmen, scraping out a living on rocky and infertile land. They were clannish, responding to the harshness and turmoil of their environment by forming tight family bonds and placing loyalty to blood above else. And when they immigrated to North America, they moved into the American interior, to remote, lawless, and marginally fertile places...that allowed them to reproduce in the New World the culture of honor they had created in the Old World.13

Sociological studies show that America’s Scotch-Irish immigrants exulted honor, violence, and vengeance far more than their English, German, Dutch, and Scandinavian neighbors.14

The pugnacious, self-reliant Scotch-Irish settlers who came to Texas recognized an informal system of retributive justice in which each individual acted as an armed guard of his financial, familial, and other interests.15 They continued feuding and seeking retributive justice, *lex talionis*, that started in Britain’s Border Country, and continued in America. The feud between the Hatfields and McCoys, for example, began as a dispute over two razorback hogs but resulted in twenty deaths.16 Similar feuds, including the chaotic Regulator-Moderator War, erupted in east Texas during the Republic.17 Texas’s first appointed chief justice, Scotch-Irish James Collinsworth challenged Anson Jones, the Republic’s last president, to “fight with pistols at ten steps,” but settled the dispute after Jones agreed to battle it out.18
Judges who acted in accord with Scotch-Irish tradition placed more emphasis on punishing crimes against property than crimes of violence. That pattern has persisted for two centuries in Texas, where “the criminal codes of the state of Texas regarded casual killing as a relatively minor crime, drawing two to twenty years,” while “horse theft logically had to be punished by death.” Texas’s Scotch-Irish immigrants shared a shoot-now-and-ask-questions-later veneration of violence with their Border Country forbears and Back Country ancestors. This tradition reflected an Anglo-American culture distinctly different from the Virginia Tidewater ideals of a chivalric, aristocratic “Southern Gentleman” society that arrived in 1820s Texas when Stephen F. Austin settled Texas with Tidewater plantation owners.

Scotch-Irish politicians and judges shaped Texas’s legal culture.

Sometimes disparaged in Britain as “the Scum of the Earth,” “Rednecks,” and—in America—as “Hillbillies,” “White Trash (in modern times, “Trailer Park Trash”) and “Crackers,” a wave of rough and ready Scotch-Irish settlers overflowed into Texas in the 1820s, 1830s, and 1840s. They were the last phase of a decades-spanning migration of a quarter million largely poor farmers and laborers from the British Border Country that began in the seventeenth century and ended in the eighteenth. As Texas historian T. R. Fehrenbach observed, this immigration into Texas was part of the expansion of the South itself; it was not an expansion out of the adjacent states of Louisiana or Arkansas, but by families who leapfrogged from Alabama or Tennessee. One-half the white population came from these two states, Alabama and Tennessee.

These settlers largely came from the hill and forest regions, not from the plantation south; they were “red-necks” or yeoman farmers who went entirely into the prairie and post-oak regions far up the Texas rivers. They wanted to get away from the slave plantations, with which they could not compete; they could most easily acquire land on the far edge of settlement, and there was, noticeably, in these people an urge toward the far frontier …

Lumping together early nineteenth century white settlers as “Anglos” ignores the conflicting cultural traditions that gave rise to two very different legal cultures.
Border Country dialects carried Scotch-Irish culture into Southern Back Country speech and Texas talk.

As Malcolm Gladwell notes, “[w]hatever mechanism passes on speech patterns probably passes on behavioral and emotional patterns as well.” Southern Back Country speech used *whar* for where, *thar* for there, *hard* for hired as in *hard hand*, *critter* for creature, *deef* instead of *deaf* (the name of the San Jacinto Scout is pronounced *Deef* Smith rather than *Deaf* Smith), *pizen* for poison, *nekkid* for naked, *widder* for widow, and *young-uns* for young ones. The Border Country’s cadenced lilt and Appalachia’s rough Back Country accents echo in the Country Western sound of Clint Black and Reba McEntire, the humor of Larry the Cable Guy, the violence in Clint Eastwood’s *The Outlaw Josie Wales*, and the exuberance of Slim Pickens’s character Major “King” Kong in *Dr. Strangelove*.

Hostility toward “foreigners” characterized Border Country, Back Country, and Texas attitudes.

To Border Country immigrants and their Scotch-Irish elite descendants in America (the “Ascendancy” in nineteenth century parlance), “the word foreigner…[was] used …in its Elizabethan sense of someone who is the same nationality as the speaker, but not from the speaker’s immediate area.” The result was a xenophobic outlook hostile to the “Other” throughout American history: first and foremost toward Native Americans; then to Virginia and Massachusetts economic elites; then to Parliament, and King George III; later, to Spaniards, Mexicans, and Tejanos; later still, to Africans, freed slaves, Yankees, Jews, and northern intellectuals—none of whom were cultural “kith and kin” with Scotch-Irish settlers:

The people of the southern highlands would become famous in the nineteenth century for the intensity of their xenophobia, and also for the violence of its expression. In the early nineteenth century, they tended to detest great planters and abolitionists in equal measure. During the Civil war some fought against both sides. In the early twentieth century they would become intensely negrophobic and antisemitic. In our own time they are furiously hostile to both communists and capitalists. The people of the southern highlands have been remarkably even-handed in their antipathies—which they have applied

---

27 Outliers, 175, n.
29 American Southern Back Country dialects played a major role in shaping Texas speech. See Albion’s Seed, 652–54. Verbs included *she done finished*, *they growed up*, *he done did it* and *he don’t have none*. Id., 653. Scotch-Irish phrases that came to Texas include *fixin*, i.e., *getting ready to do something*; *man for husband* (as in Tammy Wynette’s ‘Stand by Your Man’), *sparkin’* for courting; and *honey*, as a mark of “hibernian” (Irish and Scotch Irish) affection. Id., 653, 653 n.6. Cf. E. Bagby Atwood, The Regional Vocabulary of Texas (Austin: Univ. of Tex. Press, 1986), 67, 72 (widoe/widder), 115–16, 121, 241 (Map 11).
30 Albion’s Seed, 642–50. In America, the Ascendancy comprised some of the most important Back Country clans, including the Bankheads, Bells, Calhouns, Grahams, Henrys, Houstons, and Jacksons. See Albion’s Seed, 649.
to all strangers without regard to race, religion or nationality.\textsuperscript{32}

In the Border Country, the Back Country, and Texas, fear of the “Other” was always great.

**Distrust of banks, creditors, and big government characterized Scotch-Irish culture in the Border Country, Back Country, and Texas.**

As a rule, individuals who exemplified the British Border Country, Southern Back Country, and Republic Texas opposed governing authority not when it was close, e.g., inside their clan or a local justice court. But they chafed when governments raised taxes, loomed large, or governed from a distance, whether the capitol was in London, Williamsburg, Washington, D.C., Mexico City, Saltillo, or Austin.\textsuperscript{33} President Andrew Jackson, for example, shut down Nicholas Biddle’s Second Bank of the United States for the same reasons his Border Country ancestors would have shuttered the Bank of England.\textsuperscript{34}

**Scotch-Irish military and political leaders shaped Southern Back Country and the Republic of Texas’s legal culture.**

Like their ancestors in the violent, British Border Country and their forefathers in feud-riven Appalachia, Texas’ Scotch-Irish settlers of the 1820s, 1830s, and 1840s recreated a traditional culture of honor. They zealously defended their honor, punished property crimes more heavily than crimes of passion, waged relentless war on Indians (with a few exceptions such as Sam Houston), prayed fervently in Calvinist churches, viewed “foreigners” with hostility or suspicion (except for John Hemphill), and refused to accept restrictions on the natural liberty their war-chieftain leaders espoused.\textsuperscript{35}

The Scotch-Irish joined with Austin’s planter slavocracy to oppose the entry of “soulless corporations” into Texas, required a two-thirds vote of the House of Representatives to create any corporation, and flatly barred banks from incorporating.\textsuperscript{36} The opposition of poor Scotch-Irish settlers and Austin’s slavocracy to taxes brought the Republic to near bankruptcy.\textsuperscript{37}

When Scotch-Irish, Southern Back Country settlers came to Texas in the nineteenth century, they followed rough-hewn leaders and chose judges eager to fight for their political, economic, and religious interests. Their elected officials and their judges played the same social role as the thanes (war chieftains) in the British Border Country:

The Calhouns, Polks, Jackons, Henrys, Houstons, Bells, Grahams and Bankheads were typical of the [B]ack [C]ountry elite. The founders of these families in America had all been

\textsuperscript{32} Albion’s Seed, 650; Appalachian People, 30 W. Va. Hist., 463–71.

\textsuperscript{33} Albion’s Seed, 650, 747–58. As the citizens of Mecklenberg County, North Carolina publicly declared in 1768, “We shall ever be ready to support the government under which we find the most liberty.” Id., 777; Lone Star, at 287; Norris W. Preyer, Hezekia Alexander and the Revolution in the Backcountry (1987), 66.

\textsuperscript{34} Albion’s Seed, 849.

\textsuperscript{35} Albion’s Seed, at 821–23, 889 (“In 1982, the murder rate in the nation as a whole 9.1 per 100,000…. The southern highlands and the southwestern states had extremely high murder rates—14.7 in the west south central states and 16.1 in Texas.”), 890–98.

\textsuperscript{36} Lone Star Law, 18 24–25.

\textsuperscript{37} Lone Star, 25; Passionate Nation, 97, 102, 113, 191, 151.
people of substance in North Britain …. These elite families firmly established their hegemony in the [B]ack [C]ountry before the American War of Independence ….\textsuperscript{38}

Southern Back Country notions of natural law, \textit{lex taliensis} rough justice, fearlessness in battle, and fanatical commitment to individual liberty dominated Texas during the Republic.

The most prominent national leader of the Scotch-Irish in America, President Andrew Jackson, supported Texas’s drive for independence and annexation to the United States.\textsuperscript{39} Like Andrew Jackson, Sam Houston favored greater constitutional guarantees than those in the U.S. Bill of Rights. Most of the Scotch-Irish settlers who came to Texas seeking free or cheap land were Jacksonian Democrats, who fervently sought to defend their newfound liberties because they had not fully participated in East Coast political institutions.\textsuperscript{40} Houston and

\begin{figure}[h]
\centering
\includegraphics[width=0.4\textwidth]{AndrewJackson_portrait.jpg}
\caption{Andrew Jackson, Official White House portrait by Ralph E.W. Earl (1835), Wikipedia Commons.}
\end{figure}

\begin{figure}[h]
\centering
\includegraphics[width=0.4\textwidth]{SamHouston_photo.jpg}
\caption{Sam Houston as a U.S. Senator, photo by Matthew Brady. Wikipedia Commons.}
\end{figure}

\textsuperscript{38} \textit{Albion’s Seed}, 648.


Jackson remained close personal friends through decades of war, peace, and politics.\(^{41}\)

Houston shaped the Jacksonian nature of the Republic’s 1836 constitution and courts. He led the fifty-nine delegates who issued the Texas Declaration of Independence and promulgated its constitution at the March 1–2, 1836 Convention at Washington-on-the-Brazos.\(^ {42}\) His victory at San Jacinto transformed the dream of Texas independence into reality.\(^ {43}\) He won election as the Republic’s first president in 1836 and won again in 1842, then served the Lone Star State as a U.S. senator and governor.\(^ {44}\)

Born into a wealthy, prominent family in the Valley of Virginia on March 2, 1793, Sam Houston was proud of his Scotch-Irish ancestry.\(^ {45}\) His ancestor John Houston was a border baronet, a Border County chieftain.\(^ {46}\) He left the British Isles in 1730 with his family to sail to America carrying a chest of gold sovereigns.\(^ {47}\) When the ship’s captain tried to steal that gold, John organized a mutiny, seized the ship, and took its passengers to build a new life in America. In Virginia, John Houston served as a judge, purchased vast tracts of fertile farming land in the Valley of Virginia, and won a prominent place for his descendants in North America.\(^ {48}\)

Sam’s family moved him from Virginia’s hilly back country to Tennessee’s mountains in 1807. After nearly losing his life (and winning Andrew Jackson’s life-long respect) in the Creek War, Houston began reading law in Nashville, opened a law firm and, with the support of Andrew Jackson, won appointment as Attorney General and election as Tennessee’s governor.\(^ {49}\)

When his first marriage dissolved, Sam Houston resigned the governorship and exiled himself from Tennessee.\(^ {50}\) He rejoined the Cherokee, and after three years, went to Texas with President Jackson’s support.\(^ {51}\) As a modern-day Scotch-Irish warrior-chieftain who rarely took counsel, his victory at San Jacinto proved his valor and military skill to the largely Back Country soldiers he commanded.\(^ {52}\) Houston exercised a profound influence on Texas and American history as a protégé of Andrew Jackson, another self-made man of Scotch-Irish descent.\(^ {53}\)

\(^{41}\) American Lion, 44, 316, 324, 345; Lone Star, 223–24; 237–39, 247–51; Albion’s Seed, 642–44.

\(^{42}\) Journals of the Convention of the Free, Sovereign, and Independent People of Texas, in General Convention Assembled (March 1, 1836), reprinted in 1 H.P.N. Gammel, The Laws of Texas 1822–1897 (Gammel Book Co. 1898), 1063; Gone to Texas, 141 and 147–48; Lone Star Law, 13–15; Passionate Nation, 148–52.


\(^{44}\) Thomas H. Kreneck, Houston, Samuel, Handbook of Texas Online, http://www.tshaonline.org/handbook/online/articles/fho73 (last visited Nov. 16, 2014) [hereinafter Houston]; Gone to Texas, 159–61; Lone Star, 246–54; Narrative History, 17; Passionate Nation, 206–16.


\(^{46}\) Sam Houston’s ancestor referred to himself as “John Houston, Gent.” to reflect his status as a man of substance. See also Albion’s Seed, 648–49; J Social History, 91.

\(^{47}\) Albion’s Seed, 648–49.

\(^{48}\) Marquis James, The Raven: A Biography of Sam Houston (New York: Bobbs Merrill Co., 1929) [hereinafter Raven]; Albion’s Seed, 648.

\(^{49}\) Houston.

\(^{50}\) Albion’s Seed, 648 (Houston’s Border Country background).

\(^{51}\) Lone Star, 182.

\(^{52}\) Lone Star, 222–24, 229–54.

\(^{53}\) Albion’s Seed, 648.
John Hemphill’s and Sam Houston’s names on the 1840 page of the Roll of Attorneys Licensed to Practice in the Texas Supreme Court, Texas Supreme Court Clerk’s Office, author’s photos (Feb. 2014).

On-site reenactment of Sam Houston’s victory at the Battle of San Jacinto, with re-enactors in Scotch-Irish immigrant dress, author’s photo (April 2014).
Two exemplars of Scotch-Irish, Presbyterian Back Country culture had a profound influence on the Texas Supreme Court’s jurisprudence: Thomas Jefferson Rusk was the first chief justice to convene a session of the court, and John Hemphill became the “John Marshall of Texas”—the court’s most important chief justice.

Born in a family of Scotch-Irish descent in Pendleton District in South Carolina’s Back Country on December 5, 1803, Thomas Jefferson Rusk taught himself law. Rusk’s father, John Rusk, was a Presbyterian born between 1750 and 1760 in Northern Ireland, where Covenanter Scotch-Irish settlers remained in continuous conflict with native Irish Catholics for centuries. Arriving in South Carolina in 1791, John Rusk settled at Fort Hill Plantation in the Old Pendleton District, later home of John C. Calhoun and now of Clemson College. John

---


56 See Thomas Jefferson Rusk; John Cleveland Rusk.
founded the Old Stone Church, a Presbyterian ministry, where he is buried.  

After being admitted to the bar in Georgia in 1825, Rusk moved to Clarkesville, Georgia, where he practiced law. He also invested in a gold mine, hoping to use its profits to take care of his wife and seven children. After the men managing the gold mine absconded with the company’s money in 1834, Rusk pursued them to Nacogdoches, Texas. But he soon learned that the embezzlers had gambled away the gold mine’s money.  

Sam Houston befriended Rusk in Nacogdoches and convinced him that Texas was a land of opportunity. When Rusk became a citizen of Mexico to continue living in Texas, Sam Houston served as a witness to Rusk’s oath of allegiance. Rusk won respect as Secretary of War during the Revolution and the Battle of San Jacinto, where he commanded the army after a musket ball severely wounded Sam Houston.  

Adhering to the Scotch-Irish tradition of aggressive Indian-fighting, Rusk made war on Texas’s Cherokee and Kickapoo Indians after Congress appointed him Secretary of War. Rusk alienated Houston when he joined in President Lamar’s campaign to relocate and remove Cherokees. Rusk viewed Indians with the typical Scotch-Irish xenophobia toward “foreigners.” Houston, in contrast, regarded Native Americans as his own kith and kin because the Cherokees adopted him into their tribe. Great men of Scotch-Irish descent responded to the tradition of kith and kin family loyalty depending on their own life-experiences.  

Rusk was elected Chief Justice of the Republic’s supreme court in December 1838, but did not learn of his election until late January of 1839, after the scheduled session had been cancelled due to lack of a quorum. District Judges Anthony Shelby, W.J. Jones, John T. Mills, and John Hemphill served with Rusk on the first session of the court, which Rusk convened on January 13, 1840 in the home of Major Asa Brigham, the Treasurer of the Republic and, later, Mayor of Austin. Chief Justice Rusk wrote five opinions. In fulfillment of an agreement entered into with President Mirabeau B. Lamar before his appointment, Rusk resigned the chief justiceship in May 1840.  

Rusk presided over the Convention of 1845 to draft Texas’s state constitution, during which he successfully opposed the popular election of judges. Following annexation, Texas voters elected Rusk to the U.S. Senate.

59 Thomas Jefferson Rusk.
61 Dabney, A Historical Trilogy, 37 Hou. Law., 5; Gone to Texas, 162.
64 Thomas Jefferson Rusk; Lone Star Law, 23–24; Gone to Texas, 162.
After his beloved wife’s death and his discovery that he was suffering from a rapidly growing tumor, Rusk committed suicide in Nacogdoches on June 29, 1857, at the age of fifty-three.67

Chief Justice Hemphill overcame his Scotch-Irish xenophobia to blend Anglo-American common law, Castilian civil jurisprudence, and Tidewater Chesapeake constitutionalism into the Republic’s jurisprudence.

The Texas Supreme Court Historical Society honors its fourth chief justice at its annual banquet because no chief justice before or since has played a greater role in shaping the court’s jurisprudence. Many historians refer to him as the John Marshall of Texas.68

Hemphill was born into a Scotch-Irish family on December 18, 1803 in the hilly South Carolina Back Country near Chester.69 He descended from a long line of Calvinist Presbyterian ministers, and traced his lineage back to Londonderry County in war-torn, Protestant Northern Ireland.70 Hemphill’s father, the Reverend John Hemphill, emigrated from County Tyrone, Ireland to the U.S. after the end of the Revolutionary War.71 Reverend Hemphill married Jane Lind, a woman of Scotch-Irish descent, daughter of a minister of the Associate Reformed Church in Pennsylvania, and accepted the call to the ministry in Hopewell Church in Chester, South Carolina.72 Like most of the Scotch-Irish, the Hemphills were ardent Presbyterian Covenanters.73

Hemphill attended a one-room school in Pennsylvania, enrolled in Monticello Academy, and then entered Jefferson College (now Washington and Jefferson College), a Presbyterian-sponsored, rural college in Pennsylvania.74 After demonstrating “superior scholarship” and a gift for learning languages, Hemphill graduated second in his class.75 He taught school in classical academies in South Carolina for several years, but aspired to become a lawyer.76 In 1829, he began legal studies under David McCord, a prominent attorney in Columbia, South Carolina.77 After graduating, he gained admission to Chancery Court and moved to Sumter, where he began

68 Ten Myths and Legends, 8.
71 First Chief Justice, 1.
72 Id.; Hemphill Facts.
73 First Chief Justice, 1–9.
75 Judicial Tradition, 100; Ten Myths and Legends, 8.
76 John Hemphill.
77 First Chief Justice, 13; Hemphill Facts.

In 1832 and 1833, Hemphill zealously defended slavery’s legitimacy, the right of states to nullify federal law, and a state’s right to secede from the Union.\footnote{FIRST CHIEF JUSTICE, 15–17.} He condemned Southern Whig editor Maynard Davis Richardson as an “apostate traitor, the recreant and faithless sentinel, the cringing parasite, the hollow-hearted, hypocritical advocate of Southern interests … who [ ] scattered firebrands of destruction everywhere in the South,” merely because Richardson printed the record of the Virginia legislature’s 1832 debates about slavery in the Inquirer.\footnote{JUDICIAL TRADITION, 101.} On January 26, 1833, Hemphill swore a solemn oath to “obey, execute and enforce the [South Carolina] Ordinance to Nullify certain Acts of the Congress of the United States ….”\footnote{FIRST CHIEF JUSTICE, 15.}

On August 28, 1833, Hemphill challenged South Carolina merchant Mordechai Levy to a battle of smoothbore pistols.\footnote{Hemphill Facts.} A month later, at 5:30 PM on Friday, September 30, 1833, Hemphill and Levy exchanged shots at Carter’s Upper Mill.\footnote{FIRST CHIEF JUSTICE, 18–19.} Levy’s bullet smacked into Hemphill’s pistol hand, rendered his muzzle-loader inoperable, and left a scar on the hand that later authored Texas Supreme Court opinions.\footnote{Id., 19.} The duel convinced his Hemphill’s Back Country friends that he was an “excellent skull-buster in a street fight” ready to fight to preserve his sacred Scotch-Irish honor.

**A soldier in the Second Seminole War in Florida.**

Consistent with his Jacksonian-era, Scotch-Irish veneration of military service, John Hemphill volunteered to help put down a Seminole Indian uprising in northern Florida in 1836.\footnote{FIRST CHIEF JUSTICE, 20–24, 86; TEXAS STATE CEMETERY, JOHN HEMPHILL, PLOT 59, http://www.cemetery.state.tx.us/pub/user_form.asp?pers_id=59 (last visited October 6, 2014).} He tried to raise a company of militia volunteers in 1835, then joined the U.S. Army in South Carolina and took a steamboat to the front lines at St. Augustine, Florida.\footnote{JUDICIAL TRADITION, 102; Hemphill Facts.} Hemphill served as a lieutenant under Brevet General Abraham Eustis as a second lieutenant in the U.S. Army during the Seminole War of 1836–37 in northern Florida.\footnote{Hemphill Facts.}

In Florida, Hemphill fell victim to malaria or Acute Infectious Hepatitis with Necrosis, leaving him with a severely impaired liver for the rest of his life.\footnote{FIRST CHIEF JUSTICE, 21.} On April 12, 1836, he received an honorable discharge.\footnote{HEMPHILL PAPERS (containing John Hemphill’s Certification of Honorable Discharge).} Yet, while still in Florida or while convalescing in South Carolina, Hemphill also learned how President Andrew
Jackson’s commander in chief, U.S. Army General Thomas Jesup, conducted Indian warfare.\(^90\) On March 6, 1837, General Jesup compelled the leader of the Seminole resistance, Micanopy, to surrender and migrate west to Indian country, *i.e.*, Oklahoma. When seven hundred Seminoles who had received Army food escaped on May 7, 1837, Jesup waited until they were enfeebled by hunger, then invited their leaders to parley, break bread, and drink with him. During the warrior Coacoochee’s parley under a flag of truce, General Jesup’s men seized the young Indian and sent him to Castillo de San Marcos, Spain’s seventeenth century citadel in St. Augustine, Florida.\(^91\)

On October 25, 1837, General Jesup met with the Seminole Indian leader, Osceola, under the Seminoles’ white flag of truce in northern Florida. Jesup and two hundred and fifty of his soldiers then imprisoned Osceola, another seven warriors, six women, and four African-Americans fighting for their freedom.\(^92\) Osceola died in captivity several months later from an aggravated infection of the throat made worse by malaria. General Jesup treated Indian emissaries not as leaders of foreign nations entitled to diplomatic immunity but as outlaws.\(^93\)

Back in South Carolina, John Hemphill learned that Indians who did not surrender could be taken captive by soldiers flying the white flag of a peace parley. In 1836, Hemphill journeyed to St. Augustine, Florida. The Castillo de San Marcos, a massive, star-shaped Spanish fortress built between 1672 and 1682, dominated the city.\(^94\) Since “[n]o visit to St. Augustine was complete without a stroll past the ageless battlements of the impressive guardian of the city and its harbor,” John Hemphill must have visited the Castillo, a reminder of the Spanish Empire’s lost glory, as he waited for a steamboat to South Carolina.

**Gone to Texas.**

Meanwhile, in 1836, tales of two other Spanish fortresses, the Alamo and Goliad, along with a battlefield known as San Jacinto, filled the headlines of newspapers in Florida, Georgia, and Hemphill’s native South Carolina. Hemphill’s thoughts must have turned westward at that time.

The 1836 migration to Texas of the related Scotch-Irish family of William and Lucretia Hemphill and their children may have led John Hemphill toward Texas. William’s accidental death in Mina (now Bastrop) Texas may have enabled John Hemphill to assert a survivor’s land grant under a colonization law of Coahuila y Texas.\(^95\) Meanwhile, the Bank Panic of 1837 led impoverished Southerners, many of Scotch-Irish descent, to leave home in search of richer fields, forests, and pastures in the west. Those settlers often notified the relatives, friends, and creditors they left behind that they had gone to Texas by painting the initials “G.T.T.” on the homes and barns they abandoned.\(^96\)

In 1838, Hemphill left for Texas. Unlike the G.T.T. settlers pouring into Texas, Hemphill first paid his

\(^90\) Id., 19–21.


\(^92\) Seminoles, 93.

\(^93\) New History, 195.


\(^96\) First Chief Justice, 26.
creditors before leaving home. On September 10, 1838, Judge R. M. “Three-Legged Willie” Williamson licensed Hemphill to practice law in Texas. Hemphill opened a law firm in Washington-on-the-Brazos that soon prospered. Family tradition holds that Hemphill secluded himself to study Spanish and master the Castilian law that still governed Texas. John Hemphill then moved to Bastrop, where his relative William Hemphill’s family had settled.

**Congress elects Hemphill to serve as a district judge in San Antonio.**

John Hemphill advanced in public opinion and political influence during the term of Texas’s second president, Mirabeau B. Lamar. On January 21, 1840, Hemphill took the oath of office that made him a district judge of the Fourth Judicial District in San Antonio, qualifying him to act as an *ex officio* associate judge of the Texas Supreme Court.

As detailed in Part II of this three-part series, disaster ensued when District Judge John Hemphill—a South Carolinian who embodied the violent, vengeful, honor-based Southern Back Country culture—served as a mediator in San Antonio on March 19, 1840. Given the longstanding hostility between Scotch-Irish settlers and Native Americans on the East Coast, in the Appalachians, in Alabama, and in Texas, Judge Hemphill was not an ideal mediator to negotiate a lasting peace with Comanches he thought of as ruthless savages.

Familiar with General Jesup’s refusal to recognize the sacred status of Seminole peace negotiators in Florida, Judge Hemphill did not object to Texas Army Colonel Henry Karnes’ refusal to recognize the ambassadorial status of Penateka Comanche war chief Muk-wah-ruh when he mediated the peace parley in San Antonio’s Council House. Conflicting understandings of the role of Comanche war chiefs at the 1840 Council House peace parley resulted in the failure of Judge Hemphill’s mediation and the deaths of many Comanches and Anglo-American settlers.

**Hemphill defends Texas from Indian warriors and Mexican raiders.**

Despite his post-Florida ill health, Chief Justice Hemphill fought in several campaigns against Comanche

---

97 Id., 21.
98 Id., 26.
99 First Chief Justice, 29; Judicial Tradition, 103; Hemphill Facts.
100 Judicial Tradition, 103; First Chief Justice, 27–28.
101 First Chief Justice, 29.
102 Id., 28–30.
103 Myths and Legends, 8; First Chief Justice, 31.
104 Finding Florida, 45; Albion’s Seed, 639.
106 Summer Moon, 85–86.
and other Indian warriors, as well as Mexican raiders, in 1840 and 1841.\textsuperscript{107} San Antonio Mayor Sam Maverick recorded how Hemphill joined with young Captain Jack Hays, who later became one of the most feared and respected of all Texas Rangers, to organize a company of mounted “minute man” volunteers to defend San Antonio while he served there as a district judge.\textsuperscript{108}

John Henry Brown recorded how Hemphill, Hays, and Judge James W. Robinson, who had recently recovered from a wound received at the Council House Fight, returned a five year old girl to the family from whom a Comanche war-band had abducted her. The little girl, who had forgotten the use of English during her captivity and had grown so “wild” that she had to be tied to the return-party’s saddles every night, recognized her brother and sprang to his arms. Brown stated that, “Tears of joy mingled with audible sobs fell from three of the most distinguished men of Texas (Judge Hemphill, Judge Robinson, and John R. Cunningham).”\textsuperscript{109}

After Sam Houston returned to the presidency in December 1841, Hemphill accepted his appointment as Acting Adjutant General.\textsuperscript{110} When General Adrian Woll led a Mexican army to San Antonio in 1842, Hemphill advised Juan Seguín to arrest Bexarenos friendly to Mexico.\textsuperscript{111} Hemphill’s Council House Fight knife-fighting and service as Adjutant General meant he never again had to prove the physical courage and military experience Back Country voters valued.

**Congress elects Hemphill to serve as Chief Justice.**

On December 5, 1840, Hemphill defeated a favored incumbent, James Webb, the former Attorney General of Texas to replace Rusk as Chief Justice of the Texas Supreme Court. Hemphill won by a narrow margin—two votes out of fifty-four cast—in both houses of Congress.\textsuperscript{112} He served as Chief Justice for the remainder of the Republic era, with a brief stint as adjutant general of the Somervell expedition in 1842-43 when the court was not in session.\textsuperscript{113}

Hemphill served Washington County as its delegate to the 1845 Convention charged with turning the Lone Star Republic into the Lone Star State. A strong proponent of Texas statehood, Hemphill chaired the Judiciary Committee.\textsuperscript{114} On July 11, 1845, Hemphill presented the annexation convention with a draft judiciary section for the new constitution, which largely accepted his proposals.\textsuperscript{115} In 1846, Texas Governor J. Pinckney Henderson appointed Hemphill chief justice of the state supreme court, which Texas’s state senate soon approved.\textsuperscript{116}

During the 1850s, growing differences about slaves brought northern and southern states closer and closer to a civil war. While Sam Houston remained a staunch Unionist, Hemphill—the South Carolina Secessionist—

\textsuperscript{107} *Id.*, *FIRST CHIEF JUSTICE*, 35-38, 40-43.

\textsuperscript{108} *FIRST CHIEF JUSTICE*, 35-36.


\textsuperscript{110} *JUDICIAL TRADITION*, 103.


\textsuperscript{112} *FIRST CHIEF JUSTICE*, 39.

\textsuperscript{113} *JUDICIAL TRADITION*, 103.

\textsuperscript{114} *FIRST CHIEF JUSTICE*, 52–55.

\textsuperscript{115} *LONE STAR LAW*, 23.

\textsuperscript{116} *See id.*, 57–58.
vigorously supported the right of Texans and other Southerners to secede.\textsuperscript{117} After eighteen years on the supreme court, first of the Republic and then of the Lone Star State, Hemphill resigned in November 1858 after Texas’s senate elected him to replace Sam Houston as U.S. senator.\textsuperscript{118} Anson Jones, the Republic’s last president, had hoped that the Legislature would choose him as Texas’s new senator but failed to receive a single vote. Embittered by that humiliating defeat, Jones lamented Hemphill’s election victory:

\begin{quote}
I think it is most unfortunate for the country—the South particularly—and for...Texas, as well as for the stability and perpetuity of the Union, that the Legislature of our State should have selected for her Senators in Congress two South Carolina Nullifiers [Hemphill and Louis Wigfall], and thus probably committed us to the extreme Southern fire-eating doctrines of the ultras...leading to...a dissolution of the Union and...an independent Southern confederacy....\textsuperscript{119}
\end{quote}

On February 4, 1861, Texas’s Secession Convention elected Hemphill to the Provisional Confederate Congress.\textsuperscript{120} Hemphill took ill and died of pneumonia in Richmond, Virginia on January 4, 1862.\textsuperscript{121} His body lies in the State Cemetery in Austin.\textsuperscript{122}

**The Hemphill court, influenced by a strong Scotch-Irish legal tradition, blended Texas’s three legal traditions to benefit debtors, women, and people of color.**

The prominence of the Scotch-Irish legal tradition in the Republic’s supreme court helps explain why that court blended Castilian/Tejano customary law and construed Tidewater/Chesapeake statutes and constitutional provisions liberally in ways beneficial to the common man (and woman). For eighteen years, Chief Justice Hemphill led a court whose members acted in accord with the Scotch-Irish legal tradition.

Associate Judge John T. Mills served on the court from 1839 to 1846 as the judge of the Third, Seventh, and Eighth Judicial Districts, respectively. He was born in Scots-Irish County Antrim, Ireland on November 17, 1817. His family moved to Beaufort County, South Carolina, where they settled in that state’s extensive immigrant Scotch-Irish community.\textsuperscript{123} Associate Judge John Hanford, who served on the court from 1840-1842, was born in Glasgow, Kentucky, a town with a name that reflects its Scotch-Irish heritage.\textsuperscript{124} Richardson A. Scurry, who served as an Associate Judge from 1840 to 1841, came from Gallatin, Tennessee, in the heart of the Scotch-Irish belt.\textsuperscript{125} George Whitfield Terrell, an Associate Judge from 1803-1806, came from Nelson County, Kentucky,

\begin{flushright}
\textsuperscript{117} Id., 79–82.
\textsuperscript{118} See id., 73–78.
\textsuperscript{119} Jones Official Correspondence, 643 (containing the letter from Anson Jones to John G. Todd, Nov. 17, 1857; emphasis in original letter).
\textsuperscript{120} Hemphill, John. See also Mary Boykin Chesnut, A Diary from Dixie, as Written by Mary Boykin Chesnut, Wife of James Chesnut, Jr., United States Senator From South Carolina, 1859–1861... http://docsouth.unc.edu/southlit/chesnut/maryches.html (last visited Apr. 12, 2014).
\textsuperscript{121} First Chief Justice, 86.
\textsuperscript{122} Id., 90–91.
\end{flushright}
another Scotch-Irish Appalachian community.126

Associate Justice Abner Lipscomb, who developed the jurisprudence of the Texas court after being appointed as an associate justice in March 1846, generally shared Hemphill’s South Carolina birthplace and view of the world.127 Like Rusk, Lipscomb read law with John C. Calhoun, a Southerner of Scotch-Irish ancestry who, through his theory that states had the right to nullify federal law within their own borders, heavily influenced Hemphill’s and Lipscomb’s jurisprudence.128 Lipscomb served with Rusk and Hemphill in the Constitutional Convention of 1845 and then served on the court from 1846 through 1856.129

The Hemphill court was important for many reasons. First, Chief Justice Hemphill’s scholarly judicial opinions enhanced the court’s reputation as a citadel of frontier justice. He rose above Scotch-Irish provincialism to base his decisions on Texas’s tradition of Castilian law when he found it to be just and persuasive.

In Garrett v. Nash, for example, he cited El Diccionario do Legislai to analyze the effect of remarriage on a widow’s inheritance from her previous husband’s estate.130 In Smith v. Townsend, he cited “such Spanish works as are within the reach of the Court....”131 And in Thouvenin v. Rodriguez, Hemphill analyzed Articles 96 and 98 of Decreto 277 of the Laws of Coahuila and Texas, and Elements of Spanish Law, Titles XI and XII, De la Contestacion and De la Citation.132

The Hemphill court’s support of the Castilian tradition of using independent executors (the albaceo universal) to efficiently conduct probate cases and Castilian law’s recognition of adoptions, neither of which were part of Anglo-American common law, became part of Texas law.133 The court retained the Castilian/Tejano idea that a defendant ought to enjoy the right to be sued where he or she lives, which has become the bedrock of Texas venue law.134 And the court’s respect for Spanish and Mexican land grants and Castilian water law, state ownership of riverine and subsea resources, and tidal boundaries provided Texas with a secure source of real property law. After Congress provided specific exceptions to Spanish civil law, Texas land law hybridized Castilian and Anglo-American legal traditions.135

Second, by transcending a traditional Scotch-Irish hostility toward “foreigners” while carrying out the Scotch-Irish tradition of protecting debtors from abusive creditors, Hemphill blended debtor-friendly Castilian traditions with Border Country/Southern Back Country distrust of arbitrary authority to safeguard a family’s home, land, and personal property.136


127 Narrative History, 54-62, 237.


130 Dallam 497, 498–501 (Tex. 1843).

131 Dallam 569 (Tex. 1844).

132 24 Tex. 468 (1859).

133 See id., 1-2.

134 Spanish Law.


Lipscomb presented Section 22, the homestead exemption, to the 1845 Convention with Hemphill’s ardent support. As co-drafters of the Constitution of 1845, Chief Justice Hemphill and, after joining the bench in 1846, Associate Justice Lipscomb advanced Scotch-Irish notions of natural justice and enshrined them in the Constitution of 1845, through the drafting of written constitutional protections in the Tidewater Chesapeake legal tradition. In Sampson & Keene v. Williamson, Wood v. Wheeler, Cobbs v. Coleman, Shepherd v. Cassady, and Pryor v. Stone, the Hemphill court expanded homestead rights and limited foreclosure to protect the property rights of immigrants living on the verge of bankruptcy on a violent frontier.

Third, the Hemphill court repeatedly encouraged adoption of the informal, unified pleadings that evolved in Tejano frontier society. The common man, whether Tejano, Scotch-Irish or otherwise, could understand simple pleadings. Simple pleadings limited the power of elites and eliminated archaic Anglo-American distinctions between common law and equity.

In Pridgin v. Strickland, Abner Lipscomb held that “neither the action of trover nor detinue is known to our forum, and that our petition…is more analogous to a bill in chancery or to a special action on the case than to any other forms known in other systems of jurisprudence.” As Chief Justice Hemphill explained, “the unmeaning fictions of the common law are abrogated, and facts only are to be alleged in the pleadings.” Texas’s adoption of simple, unitary pleadings inspired other states and the federal judiciary to do the same.

Fourth, the Hemphill court’s expansion of Castilian/Tejano community property marital rights offered women greater protection than contemporary Anglo-American common law. By 1848, community property was so well established that Chief Justice John Hemphill ruled that a wife could seek “the delivery to her of her separate property and the one-half of the common property of the conjugal partnership” in Wright v. Wright. In

---

137 First Chief Justice, 55.
139 6 Tex. 102 (1851); see also Lone Star Law, 26, 290 n.5; Narrative History, 56; Paul Goodman, The Emergence of Homestead Exemption in the United States: Accommodation and Resistance to the Market Revolution, 1840 to 1880, 80 J. Am. Hist. 470, 470, 496 (1993).
140 7 Tex. 19 (1851). See also Lone Star Law, 26, 290 n.5.
141 14 Tex. 594 (1855).
142 20 Tex. 24, 29–30 (1857).
143 19 Tex. 371 (1857); Lone Star Law, 26, 290 n.5.
144 Narrative History, 1–3; First Chief Justice, 55, 58, 64, 66-67. The provisions Judge Hemphill preserved remain in the Texas constitution, including Article XVI, Sections 15 (community property) and 50 (homestead exemption).
145 Smith v. Dunlavy, 31 Tex. 693 (Tex. 1869).
146 8 Tex. 427, *6 (Tex. 1852).
149 3 Tex. 168, 172 (Tex. 1848).
Edward v. James, the Hemphill court recognized that a frontierswoman enjoyed the same rights as a frontiersman:

Again, can it be supposed that the government intended to reward only the male inhabitants of the frontier towns? Do not the women sustain the frontier with their toils, if not with their arms? Are they not subjected to the same, and to infinitely worse horrors from the hostilities of the savage foe? Because of Hemphill’s rulings and the 1845 Constitution he helped draft, a spouse’s community interest in marital property received constitutional and statutory protection.

Fifth, Chief Justice Hemphill moderated slavery’s inhumanity to grant standing to slaves wishing to win or defend their freedom. In Guess v. Lubbock, the court ignored evidentiary deficiencies to substantively address an African-American’s suit to prove her freedom. In Chandler v. State, the court rejected a master’s argument that slave-killing was outside judicial jurisdiction because a master owned a slave. And in Moore v. Minerva, the court reaffirmed the freedom of a slave who traveled to Texas after being freed in Ohio. Judge Hemphill’s liberality may reflect his little-appreciated familial relationship with an enslaved woman he bought, Sabina, and his love for their daughters, Theodora and Henrietta.

During the 1883 hanging of Hemphill’s portrait, Chief Justice Asa Willie recounted how Chief Justice Hemphill shaped Texas law:

His ability as a judge was most fully developed when he found himself without precedent or authority for the questions under consideration. It was then that his capacity for profound and lucid reasoning was most fully displayed, and from his own luminous mind light was shed upon the subject of discussion which made the most abstruse points seem clearly elucidated to any mind.

His rulings and contributions to the 1845 Constitution reshaped Texas law in a way W.W. Boyce of South Carolina attributed to Hemphill’s Scotch-Irish background:

His ancestors were … from Scotland, and of a [Presbyterian] sect distinguished in Scottish history for their vehement devotion to duty, daring the anger of a bigoted king, and the dangers of the battlefield, rather than compromise, even in matters of form, that religious belief which they

150 7 Tex. 372, 380 (Tex. 1851).
151 Id., 382.
154 2 Tex. 305, 309 (1847). See also NIX v. STATE, 13 Tex. 575 (1855).
155 17 Tex. 539 (1856). See also LONE STAR LAW., 31, 290–91 n.64.
156 NARRATIVE HISTORY, 59–60 (citing the Deposition of Richard Rust (July 1, 1871) in Theodora Hemphill v. James Hemphill, Cause No. 3074, Travis Cnty., Tex. (June 1871).
157 59 Texas Reports.
held dearer than property or life itself …

Ultimately, Chief Justice Hemphill’s greatest legacy is the unique and abiding jurisprudence he and his court wove together from the Castilian/Tejano tradition, Tidewater Virginia’s constitutional rule of law, and the Scotch-Irish Jacksonian debtor-oriented, natural justice intended to protect one’s liberty and safeguard one’s kith and kin from oppression by creditors and the government alike.

Conclusion.

The political philosopher Georg Wilhelm Friedrich Hegel theorized that real change results when a social group’s long experience with status quo ideas for addressing the challenges of life, the thesis, encourages opponents to negate that thesis with an antithesis. When thesis proponents negotiate successfully with antithesis advocates, their compromises create a synthesis better adapted to the world than either the original thesis or its opposing antithesis.

In the Republic, that political process resulted in a synthesis of pro-debtor Castilian law tempered by Tejano frontier experience; Tidewater Chesapeake concepts of hierarchical liberties enshrined in written constitutional guarantees; and Scotch-Irish sympathies for pioneers living violent, economically uncertain lives. That jurisprudential synthesis has transformed Texas and American law, order, and justice for the better.

158 CURTISS, FIRST CHIEF JUSTICE, 87; RICHMOND ENQUIRER (Jan. 10, 1862), 1.

DAVID A. FURLOW is a trial lawyer, appellate specialist, historian, and archaeologist.
For the second time, the Society and the State Bar will present a day-long seminar on Texas Judicial History. Titled “History of Texas and Supreme Court Jurisprudence,” this all-new program will be held on Thursday, May 7, 2015, at the Radisson Hotel at 111 East Cesar Chavez Street in Austin.

When first offered in 2013, eighty-one lawyers attended the program. According to State Bar CLE director Pat Nester, that is a large number for a new course. This year, the State Bar expects even more attendees as word about the symposium spreads. The evaluations for the last course were excellent. (The only recurrent complaint was about the uncomfortable condition of the room, but that has already been taken care of by moving the course to a different hotel.)

The topics are designed to be both interesting and educational — a way to enjoy learning information that is not available anywhere else. It also has the side benefit of contributing long-term to the historical record.

The course will cover not only Supreme Court history but other topics relating to our judicial system. None of the topics are repeats from the first course.

For example, David Furlow will speak about “Free Speech and the Court.” He says that one of the things he loves about this topic is the way Sam Houston, Thomas Jefferson Rusk, and Lorenzo de Zavala created one of the most broadly worded protections for free speech in the nation’s history with the predecessor to our current Article I, Section 8 of the Texas Constitution. He promises colorful slides of the Alamo, Washington on the Brazos, and the Battle of San Jacinto.

Richard Orsinger will speak on a different aspect of the paper he prepared for the last course: “Contract Law from Before the Civil War to Railroads.” His paper for the program won the State Bar’s award for best CLE paper in the state presented in 2013.

The Alamo Bar Association—the original one with members William Travis, James Butler Bonham, and others— will be discussed by Dylan Drummond. More good pictures are in the offing. Judge Mark Davidson and Sarah Duckers will use real court documents to tell compelling stories.

Former Supreme Court Justice Scott Brister will moderate a panel on Pennzoil v. Texaco, the case with the largest judgment in Texas history. The panel, which will be comprised of participants in the case, will offer lessons for lawyers, judges, clients and the legislature. The panel will also discuss changes in the law and procedure that grew out of the case and its appeal.

The author of the Supreme Court narrative history book, Jim Haley, will tell new stories about Texas judicial history. There will also be a judicial panel and much more. These are just a sample of the speakers and
topics. Others are being confirmed at press time.

The course directors for the program are Warren Harris, Richard Orsinger, and Lynne Liberato.

To sign up for the course, go to the State Bar CLE website (http://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=EV&IID=13792). Early-bird registrants who are members of the Society will get a $75 discount. Late registrants (i.e., within two weeks of the course) will get a $25 discount if they are members of the Society. Fellows of the Society are entitled to complimentary admission.

* * * * *

German sculptress Elizabet Ney’s marble rendering of Sam Houston on display at the San Jacinto Museum of History. Photo by David A. Furlow.
Calendar of Events

Society-sponsored events and other events of interest

Spring 2015

Friday, March 6

**TSCHS Joint Session**
Texas State Historical Association Annual Meeting
Nueces A Conference Room
Omni Bayfront Hotel, 900 North Shoreline Blvd.
Corpus Christi, TX 78401
10:30 a.m.–12:00 noon, Session 27
https://tshasecurepay.com/annual-meeting/

**Session:** The King James Bible, the Courts, and the Preservation of Records: A Historical Tie-in with a Twist
**Session Chair:** Marie Yeates, President, TSCHS
**Presenter 1:** Laura K. Saegert, Assistant Director for Archives, Texas State Library and Archives Commission
**Presenter 2:** David A. Furlow, Executive Editor of The Texas Supreme Court Historical Society Journal
**Commentator:** William J. (Bill) Chriss, Gravely & Pearson, LLP

Friday, March 27

**Spring Meeting, TSCHS Board of Trustees**
Harry Ransom Center
The University of Texas at Austin
300 West 21st Street
Austin, Texas 78712
The Board of Trustee’s Meeting will begin at 10 AM sharp at a location, TBD, close to the Harry Ransom Center. The Society will announce the precise time and location of the Board Meeting in the Spring 2015 Journal.

**Luncheon speaker:** H.W. Brands, Jack S. Blanton Sr. Chair in History, University of Texas at Austin; author of twenty-five books, including Lone Star Nation, American Colossus, and The Age of Gold.

1:00-3:00 p.m. Society members are invited to attend a post-luncheon tour of the Harry Ransom Center and an HRC curator’s presentation about the archival records, historic photographs, and rare books available there.
Saturday, April 18

2015 Symposium of the San Jacinto Battleground Conservancy: A Clash of Cultures—American Indians in Spanish, Mexican, and Anglo Texas History
United Way Community Resource Center
50 Waugh Drive, Houston, Texas 77007
9:00 a.m.–5:00 p.m.
https://www.friendsofsanjacinto.com/San%20Jacinto%20Battleground%20Symposiums

Thursday, May 7

The Second Biannual History of Supreme Court Jurisprudence Symposium
8:30 a.m to 4:00 p.m.
Radisson Hotel Austin
111 E. Cesar Chavez St.
Austin, TX 78701
(See full story on pp. 45-46.)

Summer 2015

Thursday, June 18

2015 Annual Meeting, State Bar of Texas
Henry B. Gonzalez Convention Center
200 E. Market St.
San Antonio, Texas 78205
http://www.texasbar.com/AM/Template.cfm?Section=Registration&Template=/CM/HTMLDisplay.cfm&ContentID=27106

Session: The 800-Year Legacy of MAGNA CARTA (1 hour C.L.E.)
Session Chair: David A. Furlow, TSCHS Journal Executive Editor

Presenter 1: The Hon. Terry Jennings,
MAGNA CARTA’s Impact on Legal and Judicial Ethics
Senior Justice, First Court of Appeals

Presenter 2: David A. Furlow
From Medieval to Modern,
MAGNA CARTA’s History in England and Early America

Presenter 3: The Hon. Murry Cohen
MAGNA CARTA’s Role in Shaping the U.S. and Texas Constitutions
Former Justice, First Court of Appeals (retired)

Presenter 4: The Hon. Charles “Kin” Spain
MAGNA CARTA’s Effect on the Administration of Justice
Municipal Judge, City of Houston
Chronological Index of Articles by Issue, Fall 2011-Fall 2014

Fall 2011, Vol. 1, No. 1

The Legendary Life and Tumultuous Times of Chief Justice John Hemphill
by David A. Furlow
pp. 1–4

President’s Page: On Making History
by Lynne Liberato
p. 5

The Mission of the Texas Supreme Court Historical Society, Part 1
by Bill Pugsley, Executive Director
p. 6

Winter 2011, Vol. 1, No. 2

“The Separation of Texas from the Republic of Mexico Was the Division of an Empire”: The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court; Part I: Spanish Texas, 1541–1821
by David A. Furlow
pp. 1–18

President’s Page: On Making History
by Lynne Liberato
p. 19

Executive Director’s Page: Looking Forward: The Mission of the Texas Supreme Court Historical Society, Part 2
by Bill Pugsley
pp. 20–21

Society Honors Judge Greenhill at 2012 TSHA Session
p. 22

TCLE Makes Donation to Pope Book Project
p. 23

Judge Jack Pope Pens Book [My Little United Nations]
p. 24

Texas Supreme Court History Book Approved for Publication
p. 25

Twitter Image Has History
p. 26

Board Welcomes Justice Green at Fall Meeting: Numerous Items on Its Agenda
p. 27

Group photo of TSCHS Board and Staff
p. 28

Spring 2012, Vol. 1, No. 3

“The Separation of Texas from the Republic of Mexico Was the Division of an Empire”: The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court; Part II: 1821–1836, Out of Many, One
by David A. Furlow
pp. 1–18

Before Brown: Heman Marion Sweatt, Thurgood Marshall, and the Long Road to Justice
by Gary M. Lavergne
pp. 19–20

President’s Page: Telling History by Telling Stories
by Lynne Liberato
pp. 21–22
Hubert W.: The Beginning of a Green Family Tradition
by Lynne Liberato
p. 23

Mayor Rudy Giuliani to Speak at 2012 Hemphill Dinner
p. 24

South Western Reporter Factoids
by Dylan O. Drummond
p. 27

Society and State Bar Cosponsor Texas v. White Reenactment
p. 28

David J. Beck Appointed Chair of Fellows
p. 29

Trustees to Meet in Houston’s Historic 1910 Courthouse
p. 31

History Book Publication Process Underway
p. 32

Annual Meeting of Society Members to be Held March 2 in Houston
p. 33

March 2 TSHA Joint Session Looks at CJ Greenhill’s Houston Legacies
p. 34

Summer/Annual Dinner Issue 2012, Vol. 1, No. 4

Methods for Common Law Judges
by the Hon. Jack Pope
pp. 1–6

The Best People in Texas Are Dying to Get In: Justices in the Texas State Cemetery, Part I
by Will Erwin
pp. 7–8

The Mystery of the Sam Houston Bible
by Tiffany Shropshire
pp. 9–10

Justice Guzman Speaks at Tejano Monument Dedication
by Bill Pugsley
p. 11

President’s Message: Taking Stock
by Lynne Liberato
pp. 12–13

Executive Director’s Page: An Uncommon Judge
by Bill Pugsley
pp. 14-16

Fellows Column: A Successful First Year of the Fellows
by David J. Beck
p. 17

2012 Hemphill Dinner Highlights Include Mayor Giuliani Keynote, Judge Garwood Memorial, Pope Awards
p. 19

Board Elects Officers for 2012–13
p. 20

Four New Members Elected to the Board of Trustees
p. 21

History of Supreme Court Now in Press
p. 22

Portrait Ceremony Will Honor Justice Harriet O’Neill
p. 23

Fall 2012, Vol. 2, No. 1

Alexander’s Waterloo: The Fight for Padre Island and the Texas Supreme Court Intersects, Part I—Background
by Judge Mark Davidson
pp. 1–6
The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court, Part III: 1845 to the Present—The Castilian Law Heritage Today
by David A. Furlow
pp. 7–12

The Tragic Case of Justice William Pierson: Justices in the State Cemetery, Part 2
by Will Erwin
pp. 13–15

President’s Page: On Making History
by Warren W. Harris
p. 16

Executive Director’s Page: Lessons with an Appeal
by Bill Pugsley
pp. 17–19

Fellows Column: Charter Fellows Recognized at Hemphill Dinner
by David J. Beck
p. 20

Texas Historical Foundation to Assist in Preserving Republic and Early Statehood-Era Supreme Court Case Files
by Dylan O. Drummond
p. 21

Justice Robert A. Gammage, 1938–2012
p. 22

Photo Gallery: Images from the Judicial Portrait Dedication and 17th Annual Hemphill Dinner, June 1, 2012
photos by Mark Matson
pp. 23–26

Texas Wins Again—In Reenactment of Historic Case
p. 27

Date Set for 18th Annual John Hemphill Dinner
p. 28

CJ John Hemphill Inducted into Texas Appellate Hall of Fame
p. 29

Winter 2012, Vol. 2, No. 2

Governor Dan Moody and Judicial Reform in Texas During the Late 1920s
by Josiah M. Daniel, III
pp. 1–9

Alexander’s Waterloo: The Fight for Padre Island and the Texas Supreme Court Intersects, Part 2—The Case Unfolds
by Judge Mark Davidson
pp. 10–15

President’s Message: Another Hemphill Dinner You Won’t Want to Miss
by Warren W. Harris
p. 16

Executive Director’s Page: History Is a Living Thing
by Bill Pugsley
pp. 17–18

Fellows Column
by David J. Beck
p. 20

An Interview with the Fifth Joe Greenhill
by Bill Pugsley
pp. 21–22

Justice J. Dale Wainwright Resigns from Court
p. 23

In Memoriam: Justice William W. Kilgarlin, 1932–2012
by Judge Mark Davidson
p. 24

Ramsey Clark Tours Court Building
p. 25
Fall Board Meeting Welcomes New Trustees, Enjoys Pope Tribute  
18th Annual John Hemphill Dinner: Justice Sandra Day O’Connor is Keynote Speaker  
p. 26  
P. 27

2013 TSHA Session to Highlight History of the Supreme Court  
Investiture for Incoming Justices Jeff Boyd and John Devine (Photo Essay)  
p. 27  
P. 30

Society to Cosponsor Symposium in April 2013  
Meet Justice Jeff Boyd  
p. 28  
pp. 31–32

Former U.S. Supreme Court Justice Sandra Day O’Connor Will be 2013 Hemphill Dinner Speaker  
An Interview with Former Justice Dale Wainwright: Insights on His Service on the Texas Supreme Court  
p. 29  
by Amy Saberian  
pp. 33–34

Spring 2013, Vol. 2, No. 3  
Abel Acosta Appointed Clerk of Texas Court of Criminal Appeals  
p. 35

Arbitration Comes to Texas—and Flourishes  
Carol Vance Speaks at March Board Meeting  
by Tasha Lea Willis  
p. 36  
pp. 3–4

by Dylan O. Drummond  
Society Acquires 300 Copies of Hemphill Biography  
pp. 8–14  
pp. 37

President’s Page: On Making History by the Book  
Haley and Phillips Headed Society Session at 2013 TSHA Conference  
by Warren W. Harris  
pp. 15–16  
pp. 38

pp. 1–7

Dallam’s Digest and the Unofficial First Reporter of the Supreme Court of Texas  
Abel Acosta Appointed Clerk of Texas Court of Criminal Appeals  
by Dylan O. Drummond  
pp. 8–14

President’s Page: On Making History by the Book  
by Warren W. Harris  
pp. 1–2

pp. 3–4

Fellows Column  
Fellows Column  
by David J. Beck  
by David A. Furlow  
p. 17  
pp. 31–32

Long-Awaited History of the Texas Supreme Court Published in February  
An Interview with Former Justice Dale Wainwright: Insights on His Service on the Texas Supreme Court  
p. 18  
by Amy Saberian  
pp. 33–34

Court Holds Book Presentation Ceremony in Historic Courtroom (Photo Essay)  
Executive Director’s Page: That Time of Year  
pp. 21–24  
pp. 3–4

April 11 Symposium Features All-Star Cast of Speakers, Outstanding Program, CLE Credit  
Fellows Column  
by David J. Beck  
pp. 25–26  
pp. 5–6
George W. Paschal: Justice, Court Reporter, and Iconoclast
by Dylan O. Drummond
pp. 7–17

Preservation of the Texas Supreme Court’s History Requires Preservation of Its Files
by Laura K. Saegert
pp. 18–21

The Texas Supreme Court: A History of First Impression
by James L. Haley
pp. 22–24

18th Annual John Hemphill Dinner: Justice Sandra Day O’Connor is Keynote Speaker
p. 26

2013 History Symposium a Success (Photo Essay)
pp. 27–30

New Texas Judicial History Series Will Open with a Collection of Writings by Chief Justice Jack Pope
pp. 31–33

Retired Chief Justice Jack Pope is Honored by the State of Texas on His 100th Birthday
p. 34

An Interview with Justice John Devine
by Will Feldman
pp. 35–36

Fall 2013, Vol. 3, No. 1

President’s Page: A New Year and a New Era for the Society
by Douglas W. Alexander
pp. 1–2

Immediate Past President’s Page
by Warren W. Harris
pp. 3–4

Executive Director’s Page: First Impressions
by Pat Nester
pp. 5–6

Fellows Column
by David J. Beck
p. 7

The Lone Star Republic’s Supreme Court Wove the Fabric of Texas Law from the Threads of Three Competing Traditions—Part 1: Material Differences in Legal Culture
by David A. Furlow
pp. 8–21

170 Years of Texas Contract Law—Part 1
by Richard R. Orsinger
abridged for the Journal by Dylan O. Drummond
pp. 22–31

In Memoriam: Justice Jack E. Hightower, 1926–2013
by Justice Jeff Brown
pp. 32–34

Book Review: Lone Star Law: A Legal History of Texas by Michael Ariens
by S. Shawn Stephens
pp. 35–36

Chief Justice Jefferson Leaves the Court: Justice Hecht is Appointed Chief Justice
p. 37

Justice Jeff Brown Appointed to the Texas Supreme Court
p. 38
Pope Common Law Judge Book Now in Press
pp. 39–40

Texas Appellate Hall of Fame Inducts Hon. John R. Brown
by Thomas Allen
p. 41

Winter 2013, Vol. 3, No. 2

President’s Page: Celebrating Our Common Law Judge
by Douglas W. Alexander
pp. 1–2

Fellows Column
By David J. Beck
p. 3

170 Years of Texas Contract Law—Part 2: The Texas Experience
by Richard R. Orsinger
abridged for the Journal by Dylan O. Drummond
pp. 4–11

Interview with Former Texas Supreme Court Chief Justice Wallace B. Jefferson—Part 1
By William J. Chriss
pp. 12–17

A Brief History of the Journal of the Texas Supreme Court Historical Society
By Lynne Liberato
pp. 18–20

Journal of the Texas Supreme Court Historical Society, Index of Articles by Issue
Compiled by Marilyn P. Duncan
pp. 21–25

Journal of the Texas Supreme Court Historical Society, Index of Articles by Author
Compiled by Marilyn P. Duncan
pp. 26–30

Significant Dates in the History of the Supreme Court of the Republic of Texas
pp. 31–32

Hecht, Brown Take Oath of Office During Ceremonial Investiture
pp. 33–34

Chief Justice Jack Pope Shares Advance Copies of New Book with Friends and Colleagues
by Marilyn P. Duncan; photos by Hannah Kiddoo
pp. 35–37

The Society Takes Over Maintenance of the Texas Supreme Court’s Alumni Directory
by Dylan O. Drummond
p. 38

Supreme Court History Book Ends Its First Year with a Holiday Sales Push
by Marilyn P. Duncan
p. 39

Society’s TSHA Joint Session Goes to the Dark Side of Court History
by Marilyn P. Duncan
p. 40

Chief Justice Pope Donates Law Books to New UNT-Dallas Law Library
by Marilyn P. Duncan
p. 41

Calendar of Events
p. 42

Spring 2014, Vol. 3, No. 3

President’s Page: Springing Forward
by Douglas W. Alexander
pp. 1–2

Fellows Column
by David J. Beck, Chair of the Fellows
p. 3
The Enduring Legacies of Judge R.E.B. Baylor, Part 1  
by Thomas R. Phillips and James W. Paulsen  
pp. 4–12

Letters from Exile, 1864–1865: A Family View of Judge Wesley Ogden  
by William W. Ogden  
pp. 13–20

Setting the Record Straight: Colbert Coldwell’s Quest for Justice  
by Colbert N. Coldwell  
pp. 21–26

Interview with Former Texas Supreme Court Chief Justice Wallace B. Jefferson—Part 2  
by William J. Chriss  
pp. 27–33

Non-Trivial Pursuits: Little-Known Facts about the Texas Supreme Court  
p. 34

Special Book Announcement: Common Law Judge  
by Marilyn P. Duncan  
p. 35

Ambassador Ron Kirk Will Speak at This Year’s Hemphill Dinner  
p. 36

Murder and Mayhem on the Texas Supreme Court: TSHA Session Announced  
p. 37

Chief Justice Hecht: A Record for Texas  
p. 38

Benson Wins Southwestern Historical Quarterly Award for Best Article  
by Dylan O. Drummond  
p. 39

Calendar of Events  
pp. 40–41

Summer 2014, Vol. 3, No. 4

President’s Page: Thanks for a Great Year!  
by Douglas W. Alexander  
pp. 1–2

Executive Director’s Page: Why You Should Go to a Texas State Historical Association Conference  
by Pat Nester  
pp. 3–4

Fellows Column: Annual Fellows Dinner, An Evening to Remember (with photo gallery)  
by David J. Beck  
pp. 5–11

The Enduring Legacies of Judge R. E. B. Baylor, Part 2  
by Thomas R. Phillips and James W. Paulsen  
pp. 12–26

The Lone Star Republic’s Supreme Court Wove the Fabric of Texas Law from the Threads of Three Competing Traditions, Part 2  
by David A. Furlow  
pp. 27–34

An Interview with Texas Supreme Court Chief Justice Nathan Hecht  
by Jacqueline M. Furlow  
pp. 35–43

Appellate Oddities  
by Charles G. “Chip” Orr  
pp. 44–53

Significant Summer Dates in the History of the Texas Supreme Court, 1837–1982  
by Marilyn P. Duncan  
pp. 54–55

19th Annual John Hemphill Dinner Will Feature Keynote by Ambassador Ron Kirk, Memorial to Justice Jack Hightower, Pope Awards  
pp. 56–57
“Murder and Mayhem” Program Earns High Marks at the Texas State Historical Association’s 2014 Annual Meeting
Story and photos by David A. Furlow
pp. 58–60

Former Chief Justice Wallace Jefferson is Named 2014 Pope Professionalism Award Recipient
pp. 61

Richard Orsinger Doubly Honored: State Bar College Franklin Jones Best CLE Article Award and Texas Bar Foundation Price Memorial Award
pp. 62–63

Warren Harris Will Receive State Bar’s 2014 Gene Cavin Award
p. 64

by Marilyn P. Duncan
pp. 65–67

The Court Takes a Historic Trip to Hillsboro
by Dylan O. Drummond
p. 68

SCOTX Takes SXSW!
by Dylan O. Drummond
p. 69

Society President Sports Gnarly Board
by Dylan O. Drummond
p. 70

Chief Justice Jack Pope Celebrates His 101st Birthday
pp. 71–72

Calendar of Events
p. 73
Hard Times: A Short List of Violent Episodes in the Life of the Texas Supreme Court
by Marilyn P. Duncan
pp. 48–49

For the Record: Significant Autumn Dates in the History of the Nineteenth Century Texas Supreme Court
p. 50

Historian James Haley Speaks at State Bar Annual Meeting
by Marilyn P. Duncan
p. 51

Phillips Elected to Texas State Historical Association Board
by Marilyn P. Duncan
p. 52

Former Chief Justice Wallace Jefferson Will Receive Texas Appleseed’s Good Apple Award
by Marilyn P. Duncan
p. 53

The Hon. James A. Baker and the Hon. William L. Garwood Are Inducted into the Texas Appellate Hall of Fame
by Marilyn P. Duncan
p. 54

Calendar of Events
pp. 55–56
Index of Articles by Author, Fall 2011-Fall 2014

Douglas W. Alexander

President’s Page: A New Year and a New Era for the Society
Fall 2013, Vol. 3, No. 1, pp. 1–2

President’s Page: Celebrating Our Common Law Judge
Winter 2013, Vol. 3, No. 2, pp. 1–2

President’s Page: Springing Forward
Spring 2014, Vol. 3, No. 3, pp. 1–2

President’s Page: Thanks for a Great Year!
Summer 2014, Vol. 3, No. 4, pp. 1–2

Thomas Allen

Texas Appellate Hall of Fame Inducts Hon. John R. Brown
Fall 2013, Vol. 3, No. 1, p. 41

David J. Beck

Fellows Column: A Successful First Year of the Fellows
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, p. 17

Fellows Column

Fellows Column
Spring 2013, Vol. 2, No. 3, p. 17

Fellows Column
Summer 2013, Vol. 2, No. 4, pp. 5–6

Fellows Column
Fall 2013, Vol. 3, No. 1, p. 7

Fellows Column
Winter 2013, Vol. 3, No. 2, p. 3

Fellows Column
Spring 2014, Vol. 3, No. 3, p. 3

Fellows Column: Annual Fellows Dinner, An Evening to Remember (with photo gallery)
Summer 2014, Vol. 3, No. 4, pp. 5–11

Fellows Column: Highlights from the Reenactment of Sweatt v. Painter, June 27, 2014 (photo gallery)
Fall 2014, Vol. 4, No. 1, pp. 4–6

Justice Jeff Brown

In Memoriam: Justice Jack E. Hightower, 1926–2013
Fall 2013, Vol. 3, No. 1, pp. 32–34

William J. Chriss

Interview with Former Texas Supreme Court Chief Justice Wallace B. Jefferson—Part 1

Interview with Former Texas Supreme Court Chief Justice Wallace B. Jefferson—Part 2
Spring 2014, Vol. 3, No. 3, pp. 27–33
Colbert N. Coldwell

Setting the Record Straight: Colbert Coldwell’s Quest for Justice  

Josiah M. Daniel, III

Governor Dan Moody and Judicial Reform in Texas During the Late 1920s  
Winter 2012, Vol. 2, No. 2, pp. 1–9

Judge Mark Davidson

Alexander’s Waterloo: The Fight for Padre Island and the Texas Supreme Court  
Intersects, Part 1—Background  
Fall 2012, Vol. 2, No. 1, pp. 1–6

Alexander’s Waterloo: The Fight for Padre Island and the Texas Supreme Court  
Intersects, Part 2–The Case Unfolds  

In Memoriam: Justice William W. Kilgarlin, 1932–2012  

Election Hustle: The Flimflam, Fraud, and Flight of Justice Yarbrough  
Fall 2014, Vol. 4, No. 1, pp. 9–19

Dylan O. Drummond

South Western Reporter Factoids  
Spring 2012, Vol. 1, No. 3, p. 27

Texas Historical Foundation to Assist in Preserving Republic and Early Statehood-Era Supreme Court Case Files  
Fall 2012, Vol. 2, No. 1, p. 21

Dallam’s Digest and the Unofficial First Reporter of the Supreme Court of Texas  
Spring 2013, Vol. 2, No. 3, pp. 8–14

George W. Paschal: Justice, Court Reporter, and Iconoclast  
Summer 2013, Vol. 2, No. 4, pp. 7–17

The Society Takes Over Maintenance of the Texas Supreme Court’s Alumni Directory  

Benson Wins Southwestern Historical Quarterly Award for Best Article  

The Court Takes a Historic Trip to Hillsboro  
Summer 2014, Vol. 3, No. 4, p. 68

SCOTX Takes SXSW!  
Summer 2014, Vol. 3, No. 4, p. 69

Society President Sports Gnarly Board  
Summer 2014, Vol. 3, No. 4, p. 70

Marilyn P. Duncan

Journal of the Texas Supreme Court Historical Society, Index of Articles by Author; and Index of Articles by Issue  

Chief Justice Jack Pope Shares Advance Copies of New Book with Friends and Colleagues (photos by Hannah Kiddoo)  
Winter 2013, Vol. 3, No. 2, pp. 35–37

Supreme Court History Book Ends Its First Year with a Holiday Sales Push  

Society’s TSHA Joint Session Goes to the Dark Side of Court History  

Chief Justice Pope Donates Law Books to New UNT-Dallas Law Library  
Winter 2013, Vol. 3, No. 2, p. 41

Special Book Announcement: Common Law Judge  
Significant Summer Dates in the History of the Texas Supreme Court, 1837–1982
Summer 2014, Vol. 3, No. 4, pp. 54–55


An Evening in Pictures: Scenes from the Nineteenth Annual John Hemphill Dinner
Fall 2014, Vol. 4, No. 1, pp. 42–47

Hard Times: A Short List of Violent Episodes in the Life of the Texas Supreme Court
Fall 2014, Vol. 4, No. 1, pp. 48–49

For the Record: Significant Autumn Dates in the History of the Nineteenth Century Texas Supreme Court
Fall 2014, Vol. 4, No. 1, p. 50

Historian James Haley Speaks at State Bar Annual Meeting
Fall 2014, Vol. 4, No. 1, p. 51

Phillips Elected to Texas State Historical Association Board
Fall 2014, Vol. 4, No. 1, p. 52

Former Chief Justice Wallace Jefferson Will Receive Texas Appleseed’s Good Apple Award
Fall 2014, Vol. 4, No. 1, p. 53

The Hon. James A. Baker and the Hon. William L. Garwood Are Inducted into the Texas Appellate Hall of Fame
Fall 2014, Vol. 4, No. 1, p. 54

The Tragic Case of Justice William Pierson: Justices in the State Cemetery, Part 2

Will Feldman

An Interview with Justice John Devine
Summer 2013, Vol. 2, No. 4, pp. 35–36

David A. Furlow

The Legendary Life and Tumultuous Times of Chief Justice John Hemphill
Fall 2011, Vol. 1, No. 1, pp. 1–4

“The Separation of Texas from the Republic of Mexico Was the Division of an Empire”: The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court; Part I: Spanish Texas, 1541–1821
Winter 2011, Vol. 1, No. 2, pp. 1–18

“The Separation of Texas from the Republic of Mexico Was the Division of an Empire”: The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court; Part II: 1821–1836, Out of Many, One
Spring 2012, Vol. 1, No. 3, pp. 1–18

The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court, Part III: 1845 to the Present—The Castilian Law Heritage Today
Fall 2012, Vol. 2, No. 1, pp. 7–12

Meet Justice Jeff Boyd

Executive Editor’s Page: We’d Like to Print Your Stories of the Texas Supreme Court Dinner Issue 2013, Vol. 2, Special Edition, p. 1

Will Erwin

The Best People in Texas Are Dying to Get In: Justices in the Texas State Cemetery, Part I
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, pp. 7–8

The Lone Star Republic’s Supreme Court Wove the Fabric of Texas Law from the Threads of Three Competing Traditions—Part I: Material Differences in Legal Culture
Fall 2013, Vol. 3, No. 1, pp. 8–21
The Lone Star Republic’s Supreme Court Wove the Fabric of Texas Law from the Threads of Three Competing Traditions, Part 2
Summer 2014, Vol. 3, No. 4, pp. 27–34

“Murder and Mayhem” Program Earns High Marks at the Texas State Historical Association’s 2014 Annual Meeting
Summer 2014, Vol. 3, No. 4, pp. 58–60

Executive Director’s Page: Help Us Save and Share History
Fall 2014, Vol. 4, No. 1, pp. 7–8

The Making of a Hemphill Dinner
Fall 2014, Vol. 4, No. 1, pp. 38–41

Jacqueline M. Furlow
An Interview with Texas Supreme Court Chief Justice Nathan Hecht
Summer 2014, Vol. 3, No. 4, pp. 35–43

James L. Haley
The Texas Supreme Court: A History of First Impression
Summer 2013, Vol. 2, No. 4, pp. 22–24

Warren W. Harris
President’s Page: On Making History
Fall 2012, Vol. 2, No. 1, p. 16

President’s Message: Another Hemphill Dinner You Won’t Want to Miss

President’s Page: On Making History by the Book
Spring 2013, Vol. 2, No. 3, pp. 15–16

President’s Page: On Making History by the Book
Summer 2013, Vol. 2, No. 4, pp. 1–2

Rachel Palmer Hooper
On Trial: Reasonable Doubt and the Rights of the Juvenile Offender
Fall 2014, Vol. 4, No. 1, pp. 30–37

Gary M. Lavergne
Before Brown: Heman Marion Sweatt, Thurgood Marshall, and the Long Road to Justice

Murder and Mayhem on the Texas Supreme Court: The Shocking Death of Justice William Pierson and the Evolution of the Insanity Defense in Texas
Fall 2014, Vol. 4, No. 1, pp. 20-29

Lynne Liberato
President’s Page: On Making History
Fall 2011, Vol. 1, No. 1, p. 5

President’s Page: On Making History

President’s Page: Telling History by Telling Stories

Hubert W.: The Beginning of a Green Family Tradition
Spring 2012, Vol. 1, No. 3, p. 23

President’s Message: Taking Stock
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, pp. 12–13

A Brief History of the Journal of the Texas Supreme Court Historical Society
Winter 2013, Vol. 3, No. 2, pp. 18–20

Pat Nester
Executive Director’s Page: First Impressions
Fall 2013, Vol. 3, No. 1, pp. 5–6
Executive Director’s Page: Why You Should Go to a Texas State Historical Association Conference
Summer 2014, Vol. 3, No. 4, pp. 3–4

Executive Director’s Page: State Bar’s 75th Is Cause for Celebration
Fall 2014, Vol. 4, No. 1, pp. 2–3

William W. Ogden

Letters from Exile, 1864–1865: A Family View of Judge Wesley Ogden

Charles G. “Chip” Orr

Appellate Oddities
Summer 2014, Vol. 3, No. 4, pp. 44–53

Richard R. Orsinger

170 Years of Texas Contract Law—Part 1
Fall 2013, Vol. 3, No. 1, pp. 22–31

170 Years of Texas Contract Law—Part 2: The Texas Experience
Winter 2013, Vol. 3, No. 2, pp. 4–11

James W. Paulsen (with Thomas R. Phillips)

The Enduring Legacies of Judge R.E.B. Baylor, Part 1

The Enduring Legacies of Judge R. E. B. Baylor, Part 2
Summer 2014, Vol. 3, No. 4, pp. 12–26

Thomas R. Phillips (with James W. Paulsen)

The Enduring Legacies of Judge R.E.B. Baylor, Part 1

The Enduring Legacies of Judge R. E. B. Baylor, Part 2
Summer 2014, Vol. 3, No. 4, pp. 12–26

Hon. Jack Pope

Methods for Common Law Judges
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, pp. 1–6

Bill Pugsley

The Mission of the Texas Supreme Court Historical Society
Fall 2011, Vol. 1, No. 1, p. 6

Executive Director’s Page: Looking Forward: The Mission of the Texas Supreme Court Historical Society, Part 2
Winter 2011, Vol. 1, No. 2, pp. 20–21

Justice Guzman Speaks at Tejano Monument Dedication
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, p. 1

Executive Director’s Page: An Uncommon Judge
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, pp. 14–16

Executive Director’s Page: Lessons with an Appeal
Fall 2012, Vol. 2, No. 1, pp. 17–19

Executive Director’s Page: History Is a Living Thing

An Interview with the Fifth Joe Greenhill

Executive Director’s Page: That Time of Year
Summer 2013, Vol. 2, No. 4, pp. 3–4
Amy Saberian

An Interview with Former Justice Dale Wainwright: Insights on His Service on the Texas Supreme Court

Laura K. Saegert

Preservation of the Texas Supreme Court’s History Requires Preservation of Its Files
Summer 2013, Vol. 2, No. 4, pp. 18–21

Tiffany Shropshire

The Mystery of the Sam Houston Bible
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, pp. 9–10

S. Shawn Stephens

Book Review: Lone Star Law: A Legal History of Texas by Michael Ariens
Fall 2013, Vol. 3, No. 1, pp. 35–36

Tasha Lea Willis

Arbitration Comes to Texas—and Flourishes

Marie R. Yeates

President’s Page
Fall 2014, Vol. 4, No. 1, p. 1

Unattributed News and Features, TSCHS Editorial Staff

Society Honors Judge Greenhill at 2012 TSHA Session

TCLE Makes Donation to Pope Book Project
Winter 2011, Vol. 1, No. 2, p. 23

Judge Jack Pope Pens Book [My Little United Nations]

Texas Supreme Court History Book Approved for Publication
Winter 2011, Vol. 1, No. 2, p. 25

Twitter Image Has History

Board Welcomes Justice Green at Fall Meeting: Numerous Items on Its Agenda
Winter 2011, Vol. 1, No. 2, p. 27

Mayor Rudy Giuliani to Speak at 2012 Hemphill Dinner

Society and State Bar Cosponsor Texas v. White Reenactment
Spring 2012, Vol. 1, No. 3, p. 28

David J. Beck Appointed Chair of Fellows
Spring 2012, Vol. 1, No. 3, p. 29

 Trustees to Meet in Houston’s Historic 1910 Courthouse
Spring 2012, Vol. 1, No. 3, p. 31

History Book Publication Process Underway
Spring 2012, Vol. 1, No. 3, p. 32

Annual Meeting of Society Members to be Held March 2 in Houston
Spring 2012, Vol. 1, No. 3, p. 33

March 2 TSHA Joint Session Looks at CJ Greenhill’s Houston Legacies
Spring 2012, Vol. 1, No. 3, p. 34

2012 Hemphill Dinner Highlights Include Mayor Giuliani Keynote, Judge Garwood Memorial, Pope Awards
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, p. 19
Board Elects Officers for 2012–13
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, p. 20

Four New Members Elected to the Board of Trustees
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, p. 21

History of Supreme Court Now in Press
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, p. 22

Portrait Ceremony Will Honor Justice Harriet O’Neill
Summer/Annual Dinner Issue 2012, Vol. 1, No. 4, p. 23

Justice Robert A. Gammage, 1938–2012
Fall 2012, Vol. 2, No. 1, p. 22

Photo Gallery: Images from the Judicial Portrait Dedication and 17th Annual Hemphill Dinner, June 1, 2012
photos by Mark Matson
Fall 2012, Vol. 2, No. 1, pp. 23–26

Texas Wins Again—In Reenactment of Historic Case
Fall 2012, Vol. 2, No. 1, p. 27

Date Set for 18th Annual John Hemphill Dinner
Fall 2012, Vol. 2, No. 1, p. 28

CJ John Hemphill Inducted into Texas Appellate Hall of Fame
Fall 2012, Vol. 2, No. 1, p. 29

Justice J. Dale Wainwright Resigns from Court

Ramsey Clark Tours Court Building

Fall Board Meeting Welcomes New Trustees, Enjoys Pope Tribute

2013 TSHA Session to Highlight History of the Supreme Court
Winter 2012, Vol. 2, No. 2, p. 27

Society to Cosponsor Symposium in April 2013
Winter 2012, Vol. 2, No. 2, p. 28

Former U.S. Supreme Court Justice Sandra Day O’Connor Will be 2013 Hemphill Dinner Speaker

Long-Awaited History of the Texas Supreme Court Published in February
Spring 2013, Vol. 2, No. 3, p. 18

Court Holds Book Presentation Ceremony in Historic Courtroom (Photo Essay)

April 11 Symposium Features All-Star Cast of Speakers, Outstanding Program, CLE Credit

18th Annual John Hemphill Dinner: Justice Sandra Day O’Connor is Keynote Speaker
Spring 2013, Vol. 2, No. 3, p. 27

Investiture for Incoming Justices Jeff Boyd and John Devine (Photo Essay)

Abel Acosta Appointed Clerk of Texas Court of Criminal Appeals
Spring 2013, Vol. 2, No. 3, p. 35

Carol Vance Speaks at March Board Meeting
Spring 2013, Vol. 2, No. 3, p. 36

Society Acquires 300 Copies of Hemphill Biography

Haley and Phillips Headed Society Session at 2013 TSHA Conference
Spring 2013, Vol. 2, No. 3, p. 38
18th Annual John Hemphill Dinner: Justice Sandra Day O’Connor is Keynote Speaker
Summer 2013, Vol. 2, No. 4, p. 26

2013 History Symposium a Success (Photo Essay)
Summer 2013, Vol. 2, No. 4, pp. 27–30

New Texas Judicial History Series Will Open with a Collection of Writings by Chief Justice Jack Pope
Summer 2013, Vol. 2, No. 4, pp. 31–33

Retired Chief Justice Jack Pope is Honored by the State of Texas on His 100th Birthday
Summer 2013, Vol. 2, No. 4, p. 34

18th Annual John Hemphill Dinner Draws Record Attendance: Justice Sandra Day O’Connor Was Keynote Speaker (Photo Essay)
Photos by Mark Matson

Chief Justice Jefferson Leaves the Court: Justice Hecht is Appointed Chief Justice
Fall 2013, Vol. 3, No. 1, p. 37

Justice Jeff Brown Appointed to the Texas Supreme Court
Fall 2013, Vol. 3, No. 1, p. 38

Pope Common Law Judge Book Now in Press
Fall 2013, Vol. 3, No. 1, pp. 39–40

Significant Dates in the History of the Supreme Court of the Republic of Texas
Winter 2013, Vol. 3, No. 2, pp. 31–32

Hecht, Brown Take Oath of Office During Ceremonial Investiture

Non-Trivial Pursuits: Little-Known Facts about the Texas Supreme Court
Spring 2014, Vol. 3, No. 3, p. 34

Ambassador Ron Kirk Will Speak at This Year’s Hemphill Dinner

Murder and Mayhem on the Texas Supreme Court: TSHA Session Announced

Chief Justice Hecht: A Record for Texas

19th Annual John Hemphill Dinner Will Feature Keynote by Ambassador Ron Kirk, Memorial to Justice Jack Hightower, Pope Awards
Summer 2014, Vol. 3, No. 4, pp. 56–57

Former Chief Justice Wallace Jefferson is Named 2014 Pope Professionalism Award Recipient
Summer 2014, Vol. 3, No. 4, p. 61

Richard Orsinger Doubly Honored: State Bar College Franklin Jones Best CLE Article Award and Texas Bar Foundation Price Memorial Award

Warren Harris Will Receive State Bar’s 2014 Gene Cavin Award
Summer 2014, Vol. 3, No. 4, p. 64

Chief Justice Jack Pope Celebrates His 101st Birthday
Summer 2014, Vol. 3, No. 4, pp. 71–72

For the Record: Significant Autumn Dates in the History of the Nineteenth Century Texas Supreme Court
Fall 2014, Vol. 4, No. 1, p. 50

Return to Journal Index
The following Society members moved to a higher dues category since June 1, 2014.

**GREENHILL FELLOW**
Charles R. “Skip” Watson

**PATRON**
Hon. Jeff Brown
Hon. Grant Dorfman

**CONTRIBUTING**
Thomas M. Michel
Jason F. Muriby
Justice Greg Perkes
The Society has added 28 new members since June 1, 2014. Among them are nine Law Clerks for the Court (*) who received a complimentary membership.

**GREENHILL FELLOW**

Marianne Auld  
Leslie Robnett

**TRUSTEE**

Hon. Rick Strange

**PATRON**

James W. McCartney  
Prof. Ernest E. Smith

**CONTRIBUTING**

Austin Barsalou  
Gilbert J. Bernal, Jr.  
Barbara Bintliff  
Stephanie Cagniart  
John Grace  
Mary Jo Graham Holloway  
Elizabeth Kozlow Marcum

**REGULAR**

Whitney Blazek*  
Marcella C. Burke*  
Andrew Buttaro*  
Lee Czocher*  
Hon. John Donovan  
Kayla J. Frank*  
John Gunter*  
Nina Hess Hsu  
Austin Kinghorn  
Ryan Rieger*  
Krystal Elaine Garcia Riley  
Maitreya Tomlinson  
Kendall Valenti*  
Ryan Vassar  
Amy Wills*  
William A. Worthington
Membership Benefits & Application

Hemphill Fellow - $5,000
- Autographed Complimentary Hardback Copy of Society Publications
- Complimentary Preferred Individual Seating and 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 Supreme Court Historical Society
- All Benefits of Trustee Membership

Trustee Membership - $1,000
- Historic Court-related Photograph
- Discount on Society Books and Publications
- Complimentary Copy of The Laws of Slavery in Texas (paperback)
- Personalized Certificate of Society Membership
- Complimentary Admission to Society's Symposium
- All Benefits of Regular Membership

Patron Membership - $500
- Historic Court-related Photograph
- Discount on Society Books and Publications
- Complimentary Copy of The Laws of Slavery in Texas (paperback)
- Personalized Certificate of Society Membership
- All Benefits of Regular 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 Supreme Court Historical Society
- Complimentary Commemorative Tasseled Bookmark
- Invitation to Annual Hemphill Dinner and Recognition as Society Member
- Invitation to Society Events and Notice of Society Programs

eJnl app1 12/14
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, educational outreach programs, the Judicial Oral History Project and the Texas Legal Studies Series.

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

Join online at: http://www.texascourthistory.org/tschs/membership

Name: ___________________________________________________________
Firm/Court: _________________________________________________________
Building: ___________________________________________________________
Address: ___________________________________________________________
City: _________________________ State: _________ ZIP: __________
Telephone: _________________________
Email (required for eJournal delivery): ______________________________________

Please select an annual membership level:

- [ ] Trustee $1,000
- [ ] Patron $500
- [ ] Contributing $100
- [ ] Regular $50
- [ ] Hemphill Fellow $5,000
- [ ] Greenhill Fellow $2,500

Payment options:

- [ ] Check enclosed -- payable to the Texas Supreme Court Historical Society
- [ ] Credit card
- [ ] Bill me

Amount: $__________

Card Type (Circle): Visa MasterCard American Express Discover

Credit Card No: ______________________________ CSV code: ___________

Expiration Date: ______________________________

Cardholder Signature: ______________________________

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

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