



Journal of the TEXAS SUPREME COURT HISTORICAL SOCIETY

Fall 2020 Vol. 10, No. 1 General Editor Lynne Liberato Editor-in-Chief Hon. John G. Browning

Columns

Message from the President

By Cynthia K. Timms

In this edition of the Journal, we bring you stories of people who refused to remain silent. They took chances. They pushed to make changes. [Read more...](#)



Cynthia K. Timms

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This issue of the Journal focuses on the history of the civil rights movement in Texas, on how Texas traveled a rough road one case at a time. [Read more...](#)



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The generosity of the Fellows allows the Society to undertake projects to educate the bar and the public on the third branch of government, and the history of our Supreme Court. [Read more...](#)



David J. Beck

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By Hon. John G. Browning

Society members share an appreciation for George Santayana's famous saying, "Those who do not remember the past are condemned to repeat it." [Read more...](#)



Hon. John G. Browning

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The Attempted Integration of Mansfield, Texas:

Nathaniel Jackson, et al v. O.C. Rawdon, a Necessary Precursor to Little Rock

By Judge Xavier Rodriguez

The Supreme Court clarified in *Brown II* that school districts were to start desegregation with "all deliberate speed." Mansfield, Texas was in no rush to comply. [Read more...](#)



Effigy in Mansfield

When Jim Crow Met Lonnie Smith: *Smith v. Allwright* and the Twenty-Year Struggle to End the Texas White Primary

By Stephen Pate

Before *Smith v. Allwright* was decided, there were three trips to the United States Supreme Court, numerous lower Federal Court rulings, and a Texas Supreme Court decision. [Read more...](#)



Dr. Lonnie Smith

Texas's First Civil Rights Lawyer: John N. Johnson

By Hon. John G. Browning

Austin's first African American attorney was also the first person of color admitted to practice before the Supreme Court of Texas. [Read more...](#)



John N. Johnson

Feature

A Profile in Courage: Gloria Katrina Bradford

By Jasmine S. Wynton

Despite facing racial and gender discrimination, Ms. Bradford graduated from UT in 1954, earned a Texas law license, and went on to become the first African American woman to try a case in Harris County District Court. [Read more...](#)



Gloria Bradford

Lawyer Named To Represent NAACP Here

A woman identifying herself as Gloria Bradford, a Houston attorney, apparently will represent the National Association for the Advancement of Colored People in a lawsuit against the State of Texas. The suit was filed in the District Court of Harris County, Texas, on May 8, 1954.

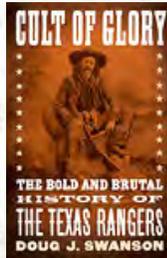


Book Review

[Author Doug Swanson Speaks on Cult Of Glory, His Controversial New Book On The Texas Rangers](#)

Book review by Stephen Pate

Doug Swanson was interviewed about his new book—which reveals the dark side of the Rangers—during the Texas Supreme Court Historical Society Board of Trustees meeting on October 1. [Read more...](#)



News & Announcements

[Trustee Emily Miskel Wins Rehnquist Award](#)

TSCHS Trustee Judge Emily Miskel received the National Center for State Courts' William H. Rehnquist Award for Judicial Excellence, the highest honor bestowed on a state court judge by the Center. [Read more...](#)



Judge Emily Miskel

[Justice Paul W. Green - More Than a Quarter Century of Service](#)

By Hon. Nathan L. Hecht, Chief Justice, Supreme Court of Texas

In his 16 years on the Texas Supreme Court, Justice Green served with 17 other Justices. All of us consider him to be an esteemed colleague and friend. [Read more...](#)

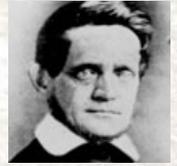


Justice Paul W. Green

[25th Annual and 1st-Ever Hemphill Dinner a Rousing Success](#)

By Dylan O. Drummond

Due to the COVID-19 pandemic, the Society's Executive Committee decided to forgo an in-person dinner for the first time in the thirty-year history of the Society. [Read more...](#)



Chief Justice John Hemphill

[Trustee John G. Browning Elevated to Appellate Bench](#)

On August 15, our TSCHS Trustee and Journal Editor-in-Chief recently added a new title: Justice of the Fifth District Court of Appeals. [Read more...](#)



Justice John G. Browning

[In Memoriam:](#)

[Justice Eugene A. Cook, 1938-2020](#)

By Warren W. Harris

Justice Eugene A. Cook, who served on the Supreme Court of Texas from 1989-1992, passed away at the age of 82.

[Read more...](#)



Justice Eugene A. Cook

Membership & More

[Officers, Trustees & Court Liaison](#)

[2020-21 Membership Upgrades](#)

[2020-21 New Member List](#)

[Join the Society](#)

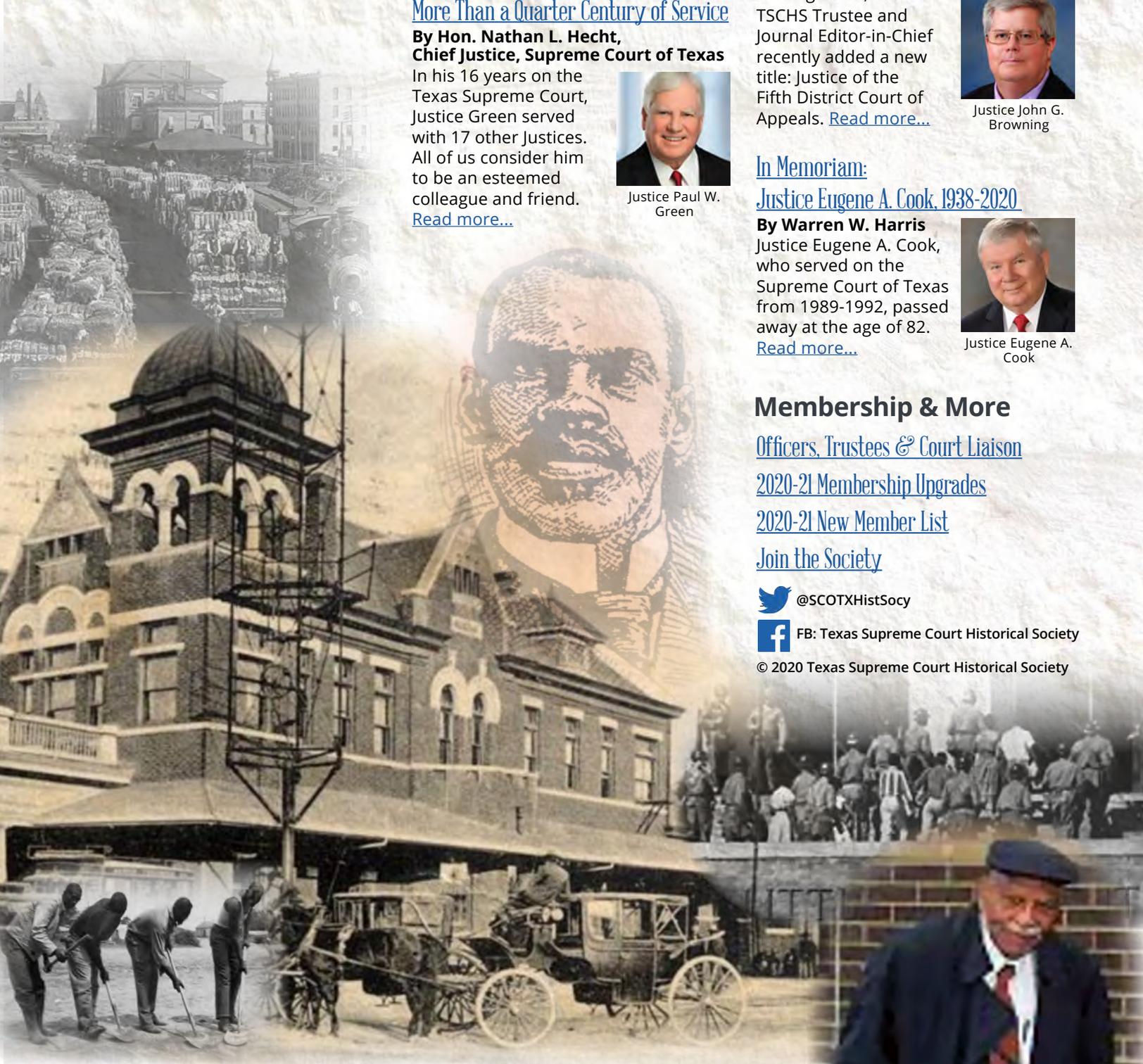


@SCOTXHistSoc



FB: Texas Supreme Court Historical Society

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Cynthia K.
Timms

Message from the *President*

I spent second grade through fifth grade in Charleston, South Carolina. It was the height of the civil rights movement, but I was a child and I was generally oblivious—to that movement and virtually everything else. To me, Charleston was an idyllic wonderland of live oak trees, Spanish moss, antebellum homes, ample fresh seafood, and plenty of space to run and play. I did not see its tragic past; I did not focus on its adherence to racial divides.

I accepted things that have become curious to me over time. The closest elementary school was within walking distance of my house. But each day, my friends and I waited at the bus stop to be bused to a school that was over 4 miles away. Had the city mandated that everyone attend their closest schools, many schools instantly would have been integrated. Charleston used busing to prolong segregation.

Although I paid vastly more attention to the Beatles than I did to civil rights leaders, I will always remember the day the bus stopped to pick up two young black girls about my age. It was a dozen years after *Brown v. Board of Education*, but many Southern schools remained segregated. Those two girls were the first black students to attend my school. As they stepped into the bus, the driver uttered a racial epithet. Those young girls had to make their way past that driver and a long line of children staring at them, some repeating the same words the driver had used. I remember watching them with a mixture of wonder and horror. I felt they were very brave. And I was extremely glad I was not in their shoes. I did not think I could have done what they were doing.

I often think of that time and wonder what it would have been like had I been more aware. Had I been older, would I have said something? Would I have done something? Or would I have gone to my safe space of keeping silent? Silence is so comfortable. Silence is easy.

In this edition of the Journal, the Society is bringing you the stories of people who refused to remain silent. They took chances. They pushed to make changes, involving the Texas legal system to advance their cause. They did it so that, someday, little girls could get on buses and go to school without having to brave a gantlet of fellow students conspicuously shunning them.

I cannot say enough about the hard work that goes into the publication of the Journal. John Browning (Editor-in-Chief); Stephen Pate (Executive Articles Editor); Judge Xavier Rodriguez, and Jasmine Wynton have written fascinating articles about the civil rights movement in Texas and the lawyers who made the movement possible here. The authors have been ably assisted by managing editor, Karen Patton, editor Kevin Carlsen, and production manager and graphic designer, David Kroll. The planning for this Journal began months ago, and it is so nice to see all that work and planning come to fruition.

The work of the Society is progressing on many fronts, including:

- The Society conducted its annual Hemphill dinner via Zoom this year. In conjunction with the dinner, we had Zoom chat room happy hour gatherings prior to the dinner. The dinner speaker was Fifth Circuit Chief Judge Priscilla R. Owen, who was interviewed by Supreme Court Chief Justice Nathan Hecht. They discussed Chief Judge Owen's career and the continuing impact of the coronavirus on both their courts and the trial courts. The dinner was possible only because of the hard work and dedication of the Society's immediate past president, Dylan Drummond; the dinner chair, Rich Phillips; the banquet committee composed of Alia Adkins-Derrick, Justice Elizabeth Lang-Miers, Justice Craig Enoch, Tom Leatherbury, and Marcy Greer; the State Bar of Texas, including Paul Burks, who filled in as director, head camera man, and film editor for the pre-recorded dinner, Hedy Bower, Mary Volk, Tom Wubker, and Jennifer Dunham; our executive director, Sharon Sandle; and our administrative coordinator, Mary Sue Miller.
- The success of the Hemphill Dinner is due to the many sponsors of that dinner: Gray Reed & McGraw; Locke Lord; Vinson & Elkins; Alexander Dubose & Jefferson; Baker Botts; Haynes and Boone; Kelly Hart & Hallman; Thompson & Knight Foundation; Toyota; Wright, Close & Barger; Bracewell; Davis, Gerald & Cremer; Enoch Keever; Gibbs & Brun; Thomas S. Leatherbury; Dorothea L. Leonhardt Foundation; Roach Newton; Scott, Douglass & McConnico; Texas Center for Legal Ethics; Yetter Coleman; Jackson Walker; Stewart Law Group; Thompson Coburn; CenterPoint Energy; Kuhn Hobbs; and Thompson, Coe, Cousins & Irons. The Society is deeply appreciative to these firms and companies for their continued sponsorship during these difficult times.
- At the Hemphill Dinner, the Texas Center for Legal Ethics handed out its annual Justice Jack Pope Professionalism Award to Reagan W. Simpson. In addition to being an all-round good guy, Reagan is an appellate attorney with Yetter Coleman in Houston, who also recently received the 2020 Greg Coleman Outstanding Appellate Lawyer Award from the Texas Bar Foundation.
- Dylan Drummond bestowed the President's Award to two very worthy recipients: the Society's executive director, Sharon Sandle; and our administrative coordinator, Mary Sue Miller. Sharon and Mary Sue have spent countless hours guiding the Society through this new world, where shutdowns and remote working have complicated our daily existence.

- Dylan Drummond also awarded the first-ever Lifetime Achievement Award to Marilyn Duncan, who has assisted the Society for years by, among other things, editing the Journal and three of the books the Society has published, as well as co-authoring the Taming Texas book series. Marilyn is one of the essential building blocks that created the Society we know today.
- The Society is moving forward with its mission. Tom Leatherbury has agreed to head up the membership committee. Rich Phillips is taking charge of the budget and finance committee. Justice Benavides will lead the website committee and David Furlow will begin a social media initiative. Alia Adkins-Derrick will serve as banquet chair for the next Hemphill Dinner.
- The General Land Office is writing a full-color coffee-table book about the map collection of the General Land Office that will be published by UT Press. The Society has contributed \$500 toward that project, which will include some of the maps that relate to important Texas cases.

As you move forward in your lives, remember the words of Chloe Thurlow: "Forget the past, it's gone, but glance back occasionally to remind yourself where you came from and where you are going."

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Sharon Sandle

One Road:

Reflecting on the History of Civil Rights in Texas

When I was starting out as a lawyer, I practiced at a small firm in a small town. I remember one night answering the phone to find one of my clients on the other end of the line. He was angry. Very, very angry. He owned a business on the edge of town, right off the highway, and there was one small access road that led from the highway past his neighbor's property and on to his property. It was the only way to get to his business from the highway, and that night his neighbor had put a locked gate across the road. My client couldn't get his truck out of the parking lot. He and his neighbor had gotten into an argument; they had nearly gotten into a fight. My client had thought about reaching for the gun he kept in his truck, but he decided to call me instead. I listened to his story and let him tell me how angry he was. I also had to explain that there wasn't much I could do that night, but that if he came to my office first thing in the morning, we'd get started on finding a solution.

Years later, I don't remember exactly how the problem was solved. I think we solved the disagreement outside the courtroom. Literally right outside, in the hallway. What I do remember is getting off the phone with my client and realizing something about the law that I hadn't thought about before: the law offers us a better option than violence.

This issue of the Journal focuses on the history of the civil rights movement in Texas, on how Texas traveled a rough road one case at a time. Ibram X. Kendi describes antiracism as an "unlit dirt road,"¹ and the history of civil rights in Texas, as in the rest of the country, follows a rough path. It is a history of disagreement, of conflict, and sometimes of violence. But although frustration drove some people to violence, it also drove others to seek a solution to conflict in the courts. Although it doesn't always provide a satisfying solution, the law offers something more than a winner and a loser, a false choice between only two options. Even when it doesn't live up to our expectations, the law does offer us a way forward, a way down the road together.

The tensions and conflict of the civil rights movement are not matters of the distant past. In this time of social crisis, I'm glad that the Society has embarked on this important topic in an effort

¹ Ibram X. Kendi, *How to Be an Antiracist* (New York: One World, 2019), 11.

to reflect on our history and comment on how that history is relevant today.

The Society is made up of members led by a dedicated leadership that has taken time over the past several months to make sure that the work of the Society continues even as our work and our lives have been upended by the chaos of a pandemic. I want to thank the officers, trustees, members, volunteers, and sponsors who made the 25th annual John Hemphill Dinner, the first ever virtual Hemphill Dinner, a success. The Texas Supreme Court Historical Society has no plans to slow down. The Society will again be sponsoring the Larry McNeill Research Fellowship in Texas Legal History at the 2021 Texas State Historical Association Annual Meeting where the Society will again cosponsor a panel. And plans are already being made for future issues of the Journal and for the 26th annual Hemphill Dinner. I want to express my gratitude to the Society's officers and to our trustees for steering the Society through the past several months with patience for the interruptions and inconveniences we've encountered and with determination to keep the Society moving forward.

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Fellows Column

By David J. Beck, Chair of the Fellows

Photo by Alexander's Fine Portrait Design-Houston



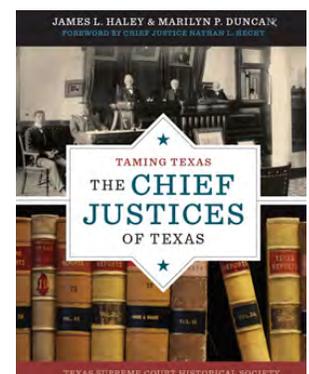
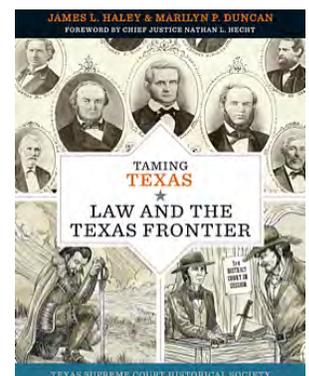
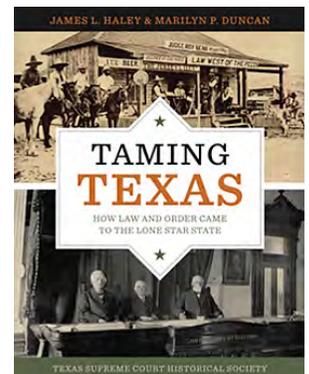
We missed being in person with the Fellows at the Society's recent 25th Annual John Hemphill Dinner on September 11, 2020, which was a virtual event this year, but we nevertheless had a great turnout of Fellows. This is now a good time to provide a recap of the Fellows' activities and update you on activities since the dinner.

The generosity of the Fellows allows the Society to undertake projects to educate the bar and the public on the third branch of government, and the history of our Supreme Court. As you now well know, the major educational project of the Fellows is "Taming Texas," a judicial civics program for seventh-grade Texas History classes that places judges and lawyers in classrooms to teach those students.

The Fellows' support has allowed us to produce a series of books for this project. The first book, *Taming Texas: How Law and Order Came to the Lone Star State*, was published in 2016, and is the centerpiece of the judicial civics and court history curriculum. This book covered the evolution of our state's legal system from the colonial era through the present day. The second Taming Texas book, published in 2018 and entitled *Law and the Texas Frontier*, focuses on how life on the open frontier was shaped by changing laws.

Our third Taming Texas book was released earlier this year and is entitled *The Chief Justices of Texas*. This book contains interesting stories about the twenty-seven Chief Justices of the Supreme Court of Texas. *The Chief Justices of Texas* discusses the era in which each Chief Justice served and shows why their work was so important to the Court. The new book was released in February 2020.

Jim Haley, the author of the Society's fabulous history book on the Court, and Marilyn Duncan have authored these books. Chief Justice Hecht has written the foreword for all three books. We would like to thank them as well as the entire Court for their support of this important project.



Now that we have completed our third Taming Texas book, we have begun work on the fourth book. Jim and Marilyn are working on this next book in the series, which will be entitled *Women in the Law*. This book will feature stories about some of the important women in Texas legal history.

COVID-19 has halted our plans to teach our Taming Texas project in the schools in the Spring of 2021. We are now exploring ways to take Taming Texas *online* to teach seventh graders. Fellow Warren Harris and Justice Brett Busby are coordinating our statewide Taming Texas efforts and are investigating various opportunities.

The Fellows are a critical part of the annual fundraising by the Society and allow the Society to undertake projects—such as Taming Texas—to educate the bar and the public. If you are not currently a Fellow, please consider joining the Fellows and helping us with this important work.

Finally, we are reviewing when it will be feasible to hold the annual Fellows Dinner. Further announcements will be sent directly to all Fellows.

FELLOWS OF THE SOCIETY

Hemphill Fellows

(\$5,000 or more annually)

David J. Beck*

Joseph D. Jamail, Jr.* (deceased)

Richard Warren Mithoff*

Greenhill Fellows

(\$2,500 or more annually)

Stacy and Douglas W. Alexander

Marianne M. Auld

S. Jack Balagia

Robert A. Black

Hon. Jane Bland and Doug Bland

E. Leon Carter

Kimberly H. and Dylan O. Drummond

Michael Easton

Harry L. Gillam, Jr.

Marcy and Sam Greer

William Fred Hagans

Lauren and Warren W. Harris*

Thomas F.A. Hetherington

Jennifer and Richard Hogan, Jr.

Dee J. Kelly, Jr.*

Hon. David E. Keltner*

Thomas S. Leatherbury

Lynne Liberato*

Mike McKool, Jr.*

Ben L. Mesches

Nick C. Nichols

Jeffrey L. Oldham

Hon. Harriet O'Neill and Kerry N. Cammack

Hon. Thomas R. Phillips

Hon. Jack Pope* (deceased)

Shannon H. Ratliff*

Harry M. Reasoner

Robert M. (Randy) Roach, Jr.*

Leslie Robnett

Professor L. Wayne Scott*

Reagan W. Simpson*

Allison Stewart

Kristen Vander-Plas

Peter S. Wahby

Hon. Dale Wainwright

Charles R. Watson, Jr.

R. Paul Yetter*

*Charter Fellow

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Hon. John G.
Browning

Bearing *Witness*

***Not everything that is faced can be changed,
but nothing can be changed until it is faced.***

— James Baldwin

As I write this, our nation has experienced months of protests against systemic racism and the deaths of African American citizens at the hands of police, such as George Floyd in Minnesota and Breonna Taylor in Kentucky. While many of the protests have been peaceful, others have deteriorated into the ugliness of violence and property damage. Sadly, some of the buildings that have been vandalized are courthouses; more than twenty federal courthouses nationwide have been damaged or defaced, along with numerous state court buildings.

The courthouse where I serve as an appellate justice, the George Allen Courts Building in downtown Dallas, is one of them. The plywood-covered broken windows bear mute witness to the destruction born out of the misplaced rage and frustration of the rioters. After all, if our courts stand for anything, it is equal justice under law—the very words engraved above the entrance to the U.S. Supreme Court building. Novelist William Faulkner once described the courthouse in a community as “musing, brooding, symbolic, and ponderable, tall as a cloud, solid as a rock, dominating all: protector of the weak; judiciate and curb of passions and lusts, repository and guardian of the aspirations and the hopes; rising course by brick course during that first summer.”

Members of this Society share an abiding appreciation for the truth behind George Santayana’s famous saying, “Those who do not remember the past are condemned to repeat it.” America’s past, and Texas’ as well, is steeped in racism and the struggle for civil rights. As a means of assisting society as it reckons with the persistent and troubling legacy of past racism, the Journal is proud to offer an issue dedicated to traveling the rough road of civil rights history. Our articles include Stephen Pate’s examination of *Smith v. Allwright* and the struggle to end the white primary; Judge Xavier Rodriguez’ look at *Jackson v. Rawdon* and how the “Mansfield Crisis” of desegregating that community’s schools served as a precursor to Little Rock; Jasmine Wynton’s profile of Gloria Bradford, the first African American woman to graduate from the University of Texas School of Law in the wake of *Sweatt v. Painter*; and my own biography of John N. Johnson, the first African American admitted to practice before the Supreme Court of Texas in 1883 and the architect of Texas’ earliest civil rights lawsuits.

We hope you enjoy this issue.

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The Attempted Integration of Mansfield, Texas

Nathaniel Jackson, et al v. O.C. Rawdon, a Necessary Precursor to Little Rock

By Judge Xavier Rodriguez

An Introduction to 1950s Mansfield, Tarrant County, Texas

In 1954, the Supreme Court of the United States required desegregation of public schools, concluding that “in the field of public education the doctrine of ‘separate but equal’ has no place.”¹ The population of Mansfield, Texas at the time was about 1,450², of which approximately 350 were Black.³ The Supreme Court later clarified in *Brown II* that school districts were to make a “prompt and reasonable start” with desegregation with “all deliberate speed.”⁴ Mansfield, Texas was in no rush to comply.⁵

The city of Mansfield traces its origins to the mid-1850s.⁶ At the time of Texas’s secession from the Union in 1861, the city’s steam-powered cornmeal and flour gristmill was an essential contributor to the Confederacy.⁷

After the Civil War, many of the former enslaved remained in the area as sharecroppers or farm laborers. The caste system in place before the Civil War remained entrenched during and after Reconstruction. Races were segregated in the churches, schools, and social and political life. If Blacks were allowed to enter an eating establishment, they were required to enter the back door and eat in the kitchen. Although children were permitted to play together, that ceased upon the first signs of puberty. Mixed-race dating was prohibited. Only white citizens held public office and white-collar jobs were limited to whites.⁸

¹ *Brown v. Bd. of Ed. of Topeka, Shawnee Cty., Kan.*, 347 U.S. 483, 495 (1954).

² *The Texas Observer*, September 5, 1956; Texas Almanac, *City Population History from 1850–2000*, <https://texasalmanac.com/sites/default/files/images/CityPopHist%20web.pdf> (last visited July 28, 2020) (stating a smaller population of about 1,170).

³ Robyn Duff Ladino, *Desegregating Texas Schools: Eisenhower, Shivers, and the Crisis at Mansfield High*. (Austin, Tex: University of Texas Press, 1996).

⁴ *Brown v. Bd. of Ed. of Topeka, Shawnee Cty., Kan.*, 349 U.S. 294, 301 (1955).

⁵ *The Texas Observer*, September 12, 1956 (reporting that although desegregation violence was taking place in Mansfield and Texarkana, more than 100 other school districts had already undertaken integration efforts). In Texarkana, a mob formed attempting to keep two Black men from registering into the junior college.

⁶ U.S. DEP’T OF THE INTERIOR, NATIONAL REGISTER OF HISTORIC PLACES, *Historic and Architectural Resources of Mansfield, Texas*, <https://npgallery.nps.gov/GetAsset/5a9e19b5-1f15-4244-8768-76f937a5b467> (last visited July 28, 2020). See also LADINO, SUPRA NOTE 3, AT P. 3.

⁷ <https://npgallery.nps.gov/GetAsset/5a9e19b5-1f15-4244-8768-76f937a5b467>

⁸ Ladino, Robyn Duff. *Desegregating Texas Schools*. (Austin, Tex: University of Texas Press, 1996).

In the 1950s, Blacks who had not left Mansfield in search of better lives in Dallas (or other parts of the United States as part of the "Great [Black] Migration")⁹ began to join the NAACP and the rising civil rights movement. Efforts immediately focused on improving educational opportunities for Black children. In 1950, the Mansfield Colored School consisted of two barracks-style buildings. There was no electricity, running water, or plumbing. Two outhouses were available. One teacher taught grades one through eight. Black children in grades 9-12 had no school in town and were required to travel by private bus to Fort Worth, approximately twenty miles away. The bus disembarked at a Fort Worth downtown bus station, and students thereafter walked approximately 20 blocks to the only high school for Black students.¹⁰ By contrast, in 1953, the Mansfield school district opened a new all-white school with seventeen classrooms, and added twelve teachers, including a full-time coach and music teacher.¹¹

The Weather
Dallas and Vicinity. — Fair and cooler Saturday. Partly cloudy and warmer Sunday. Friday's high: 95. Complete weather...Part 2, Page 3

The Dallas Morning News

Oldest Newspaper in Dallas
The Dallas Herald, 1849;
The Dallas News, Oct. 1, 1885;
Combined, Nov. 26, 1885

VOL. 107—NO. 337
DALLAS, TEXAS, SATURDAY, SEPTEMBER 1, 1956—36 PAGES IN 3 PARTS
★★★★
PRICE 5 CENTS



Down to Earth

BY DR. JOHN F. ANDERSON JR.
CARPENTER WAS RE-PROACHED by his employer...
When completed, the house...
ANOTHER CARPENTER was re-proached one day with instructions to make the man's brother...
"Take heed, and beware of all covetousness; for a man's life does not consist in the abundance of his possessions."
(Luke 12:15, R.S.V.)

MANSFIELD SCHOOL TAKES NO NEGROES

High Court Refuses to Stay Order

By JOHN MARBLE
MANSFIELD, TEXAS. — Mansfield High School completed its second day of registration without enrolling a single Negro student Friday as a truly angry mob milled about the school grounds and Rangers were dispatched to maintain peace and order.

A crowd estimated at 200 to 400 persons filled the school grounds of the Tarrant County community, some threatening violence if a Negro tried to register. There were two mob scuffles with a Tarrant County assistant district attorney and a Dallas television cameraman.

Gov. Allan Shivers ordered the Texas Rangers to the scene after the school doors were locked at noon by School Supt. R. L. Huffman.

Ranger Capt. Bob Crowder said

U.S. Scores Red Chinese For Attack

WASHINGTON (AP)—The United States Friday night accused Red China of making an "unjustified" attack on a U.S. navy patrol plane shot down last week off the China coast. It demanded compensation for the loss of the plane and its 28 crewmen.

A joint statement by the State and Defense Departments said available evidence indicates "the attack was made without warning, that it was unjustified, and that the responsibility... lies with the Chinese Communist regime."

The statement said wreckage of the plane recovered during a continuing 40-day search gave evidence "that the actual attack took place over international waters."

But it also noted the wreckage was found at a spot closer to Red China's shore than the craft's last reported position, which said it was 23 miles from the "nearest land held by the Chinese Communists."

This points to the possibility of



—Dallas Times Staff Photo.

TEMPERS SHORT AT MANSFIELD
Faces of these members of the crowd that gathered on the Mansfield High School grounds Friday reflect the tension generated by the crowd's determination not to allow any Negro students to register in the school.

On August 17, 1954, Black citizens presented a petition to the Mansfield school board requesting immediate integration of the public schools. The school board denied the request, asserting it was obliged to comply with state law compelling segregation.

⁹ See generally, Isabel Wilkerson, *The Warmth of Other Suns, The Epic Story of America's Great Migration* (Vintage Books 2011).

¹⁰ *The Texas Observer*, June 9, 1978, Page 6 (recollections of Rev. Floyd Moody on the distance and time involved in getting to and from the Fort Worth school).

¹¹ Ladino, *Desegregating Texas Schools*. (Austin, Tex: University of Texas Press, 1996).

The Legal Foundations Laid for the Challenge to Mansfield

In 1939, the Legal Defense and Educational Fund was established to advance the objectives of the NAACP through litigation. Thurgood Marshall served as its director. It first concentrated its efforts at desegregation of tax-supported colleges and universities.

Sipuel v. Oklahoma State Board of Regents¹²

In order to challenge the segregationist policies at the University of Oklahoma, Ada Lois Sipuel applied to its law school—the only public law school in the state.¹³ She was denied admission “solely because of her color.” She challenged the denial in the District Court of Cleveland County, Oklahoma, arguing that because the state did not provide a comparable law school for Black students under the “separate but equal” doctrine, she was entitled to be admitted. The district court denied her writ of mandamus, and the Oklahoma Supreme Court upheld the decision in *Sipuel v. Bd. of Regents of Univ. of Okl.*, 1947 OK 142, *rev’d and remanded*, 332 U.S. 631 (1948).

The U.S. Supreme Court reversed in a one-page, unanimous per curiam opinion— 332 U.S. at 633. The Court ruled that Oklahoma must provide instruction to Black students equal to that of whites. “The petitioner is entitled to secure legal education afforded by a state institution... The State must provide it for her in conformity with the equal protection clause of the Fourteenth Amendment and provide it as soon as it does for applicants of any other group.”¹⁴ Thurgood Marshall argued on behalf of Sipuel, and it took only four days after oral arguments for the Court to issue its ruling. Although the ruling did not hold segregation to be unconstitutional, it paved the way for *Brown v. Board*.

After the state created a separate law school exclusively for Sipuel to attend, and another round of litigation headed to the same nine justices who had decided against Oklahoma, the Oklahoma Attorney General chose not to argue the case and Sipuel was admitted to the University of Oklahoma Law School in 1949. Sipuel was the first person of color in the law school and the only woman in her law school class. She was assigned a chair in the last row of seats marked with a large sign that read “COLORED.” She was required to study and eat separately from white students.¹⁵ Years later, in 1992, she was appointed to the University of Oklahoma Board of Regents.

Sweatt v. Painter¹⁶

Not long after Ms. Sipuel’s battle in Oklahoma, Heman Marion Sweatt was refused admission to the University of Texas School of Law because he was Black, and state law restricted access to the university to white students only. At that time, there was no law school in Texas that admitted

¹² *Sipuel v. Board of Regents*, 332 U.S. 631 (1948)

¹³ Oklahoma Historical Association, *Ada Louis Sipuel (1924–1995)*, <https://www.okhistory.org/publications/enc/entry.php?entry=FI009> (last visited July 29, 2020).

¹⁴ *Sipuel v. Board of Regents*, 332 U.S. 631 (1948)

¹⁵ *Ibid.*; see also <https://sbmblog.typepad.com/sbm-blog/2013/01/this-day-in-legal-history-us-supreme-court-takes-tentative-step-toward-law-school-desegregation.html>, which is based on Sipuel’s autobiography, *A Matter of Black and White*.

¹⁶ *Sweatt v. Painter*, 339 U.S. 629 (1950)

Black students. Sweatt filed an action for mandamus to compel his admission. The state court in Travis County, rather than granting the mandamus, continued the case for six months so that the state could set up a separate law school for Black students that was “substantially equal.” The school was set up in Houston and known as Texas State University for Negroes. Sweatt refused to register there.

Once again, the NAACP legal team, led by Thurgood Marshall, took the case all the way to the U.S. Supreme Court. In a unanimous opinion, the Court held that the Equal Protection Clause required Sweatt be admitted to UT Law. The Court based its decision on its findings that the new, separate law school for Black students was quantitatively and qualitatively different and not “substantially equal” to UT Law.¹⁷ For example, UT Law had 16 full-time faculty members and three part-time professors, “some of whom are nationally recognized authorities in their field;” 850 students; 65,000 volumes in its library; and offered law review, moot court, scholarship funds, Order of the Coif affiliation, and an extensive alumni network.¹⁸ The law school created for Black students, on the other hand, had 5 full-time professors; a student body of 23; a library of 16,500 volumes; and was “on the road to” accreditation.¹⁹ More importantly to the Court, though, was that:

the University of Texas Law School possesses to a far greater degree those qualities which are incapable of objective measurement, but which make for greatness in a law school. Such qualities, to name but a few, include reputation of the faculty, experience of the administration, position and influence of the alumni, standing in the community, traditions and prestige. It is difficult to believe that one who had a free choice between these law schools would consider the question close.²⁰

Accordingly, the Court concluded that “petitioner may claim his full constitutional right: legal education equivalent to that offered by the State to students of other races. Such education is not available to him in a separate law school as offered by the State.”²¹

Although the opinion expressly did not overrule *Plessy*²², it was one of the final nails in its coffin and laid another important building block towards *Brown*. Sweatt enrolled at UT Law, but dropped out a year later. His family said the case took too much of a toll on his health and marriage.²³

¹⁷ *Ibid.*, 634.

¹⁸ *Ibid.*, 632–33.

¹⁹ *Ibid.*, 633.

²⁰ *Ibid.*, 634

²¹ *Ibid.*, 635.

²² *Plessy v. Ferguson*, 163 U.S. 537 (1896) (upholding the constitutionality of racial segregation laws for public facilities as long as the segregated facilities were equal in quality).

²³ Andrea Hsu, ‘Sweatt v. Painter’: Nearly Forgotten, But Landmark Texas Integration Case, NPR (Oct. 10, 2012), <https://www.npr.org/sections/thetwo-way/2012/10/10/162650487/sweatt-vs-texas-nearly-forgotten-but-landmark-integration-case>.

McLaurin v. Oklahoma State Regents²⁴

George W. McLaurin was denied admission to the University of Oklahoma's graduate program in education on the basis of Oklahoma's segregation statute, which prohibited schools from teaching Black and white students together. McLaurin successfully challenged the denial before a three-judge panel of the U.S. District Court for the Western District of Oklahoma. The district court held "in conformity with the equal protection clause of the Fourteenth Amendment, that the plaintiff is entitled to secure a postgraduate course of study in education leading to a doctor's degree in this State in a State institution, and that he is entitled to secure it as soon as it is afforded to any other applicant." The court, however, denied McLaurin's injunction "on the assumption that the law having been declared, the State will comply." In response, the Oklahoma legislature amended the statute to allow Black and white students to attend the same schools but said such education would be given on a segregated basis. Thus, when McLaurin enrolled, he was required to sit at a designated desk, had to eat meals at a different time than white students, and was not allowed to use the reading room. McLaurin sought to modify the panel's order, but the panel rejected the motion.

Decided on the same day as *Sweatt v. Painter*, the U.S. Supreme Court reversed the district court and held McLaurin was entitled to the "same treatment at the hands of the state as students of other races." The Court found that segregation within the school resulted in McLaurin being "handicapped in his pursuit of effective graduate instruction."²⁵ The Court recognized that "removal of the state restrictions will not necessarily abate" racial prejudices, but "at the very least, the state will not be depriving appellant of the opportunity to secure acceptance by his fellow students on his own merits."²⁶ The Court concluded that the conditions of segregation imposed on McLaurin "deprive him of his personal and present right to the equal protection of the laws," and were unconstitutional.²⁷

This case, combined with *Sweatt v. Painter*, marked the de facto end of the "separate but equal" doctrine of *Plessy* in graduate and professional education.

Brown v. Board of Education²⁸

In the early 1950s, the NAACP began to file class action lawsuits seeing the desegregation of public schools. Four of those cases, from Kansas, South Carolina, Virginia, and Delaware, were before the U.S. Supreme Court in 1954. In each case, Black schoolchildren seeking admission to public schools on a nonsegregated basis were denied admission to all-white schools. The cases squarely challenged *Plessy's* "separate but equal" doctrine, with the plaintiffs contending "that segregated public schools are not 'equal' and cannot be made 'equal,' and that hence they are deprived of the equal protection of the laws."²⁹ Supreme Court unanimously held that the

²⁴ *McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950).

²⁵ *Ibid.*, 641.

²⁶ *Ibid.*, 641-42.

²⁷ *Ibid.*, 642.

²⁸ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)

²⁹ *Ibid.*, 488.

segregation of students in public schools violated the Equal Protection Clause.³⁰ In the opinion, Justice Warren reasoned that regardless of comparable facilities, separation of children “solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.”³¹ As a result, the Court concluded “that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.”³²

The State of Texas Responds to *Brown v. Board of Education*

On May 24, 1954, days after *Brown* was decided, the Texas State Commissioner of Education sent a letter to all Texas school superintendents informing them that segregation should continue, citing to the Texas State Constitution and Texas statutes. In June of 1954, Texas Governor Allan Shivers delivered a speech stating that *Brown v. Board* was “an unwarranted invasion of the constitutional rights of the states.” With regard to segregation, he stated: “We are going to keep the system that we know is best. No law, no court, can wreck what God has made.” Rather than allow “commingling of races in our public schools,” he apparently believed that integration could be avoided by promoting equalization programs.³³

In a brief filed before the United States Supreme Court, Texas Attorney General John Ben Shepperd continued the fight against integration arguing “too-sudden mixture of white and colored pupils ... would be rash, imprudent, and unrealistic.” He pushed for a slow, state-led implementation.³⁴

On May 31, 1955, the Supreme Court issued its *Brown II* decision. Despite opposition from state leaders, a number of school districts in the western and southern portions of the state implemented full or gradual integration programs. In response, however, a Texas chapter of the White Citizens’ Council was formed in the Dallas area. These councils were formed throughout the South to pressure politicians to defend segregation, and silence individuals who promoted integration with unemployment or evictions.

Segregationists received a setback when the Texas Supreme Court refused a Citizens’ Council request for injunctive relief to stop the integration of the Big Spring School District. In *McKinney v. Blankenship*, the Board of Trustees of the Big Spring School District entered an order integrating students in grades one through six. Several residents of Big Spring, Texas, and “McKinney and Bruce as representatives of a group organization of Dallas, Dallas County” sought an injunction to restrain the allocation or expenditure of public free school funds in any manner inconsistent with and contrary to the provisions of Article VII, Section 7 of the Texas Constitution³⁵,

³⁰ *Ibid.*, 495.

³¹ *Ibid.*, 494.

³² *Ibid.*, 495.

³³ Ladino, *Desegregating Texas Schools: Eisenhower, Shivers, and the Crisis at Mansfield High*. (Austin, Tex: University of Texas Press, 1996).

³⁴ Ladino, *Desegregating Texas Schools: Eisenhower, Shivers, and the Crisis at Mansfield High*. (Austin, Tex: University of Texas Press, 1996).

³⁵ Tx. Const. Art. VII section 7. (Repealed Aug. 5, 1969.) (“[S]eparate schools shall be provided for the White and colored children, and impartial provision shall be made for both”).

Tex. Rev. Civ. Stat. Article 2900, and Article 2922-13, Section 1. They also sought a declaratory judgment declaring that the constitutional and statutory provisions were valid and enforceable. The trial court denied the injunction based upon the U.S. Supreme Court's decision in *Brown v. Board of Education*, concluding that Article VII, Section 7 was unconstitutional, but found that Tex. Civ. Stat. Ann. Art. 2922-13 was valid. On appeal, with regard to the constitutional challenge the Texas Supreme Court concluded that the Supremacy Clause of the U.S. Constitution rendered the challenge "utterly without merit."³⁶ With regard to the state statutes providing for the allocation of monies and resources, the Texas Supreme Court concluded that several sentences of those statutes were not inconsistent with the desegregation requirements dictated by *Brown*.

Undeterred, Governor Shivers toyed with the concept of interposition, a theory that claimed that each state had a right to interpose itself between the federal government and the state's citizens when the state identified a federal law or federal court decision that the state deemed contrary to the United States Constitution or harmful to its citizenry.

A Texas Poll conducted on July 28, 1956, found that almost half of Texans favored disobeying or circumventing *Brown v. Board*. The results of the 1956 Democratic primary indicated overwhelming support for exempting any child from compulsory attendance at an integrated school, bans on intermarriage, and the theory of interposition.³⁷

Nathaniel Jackson, et. al v. O.C. Rawdon³⁸

Prior to the *Brown I* decision being issued on May 31, 1955, and prior to filing a lawsuit of their own, the Black community in Mansfield had presented to the school board a variety of demands: improvements to the Black elementary school (a school well, lunch program and teaching materials, a flag pole, a fence to protect children from a busy street), and a school bus to transport the Black high school students to the school in Fort Worth.³⁹ The requests were all effectively denied with no action taken.

Upon release of *Brown I*, on July 26, 1955, representatives of the Black community petitioned the school board to "take immediate steps to end segregation in the Mansfield Public School." The Board rejected the petition and passed a resolution that continued segregation throughout the 1955-56 school year and appointed a committee to study "segregation problems." A token was given to the Black residents by the Board agreeing to provide a school bus to transport children to Fort Worth.

Despite concern by some in the Black community that a lawsuit could potentially exacerbate social conditions and result in retaliatory acts, with the support of the NAACP Legal Defense and Educational Fund, they decided to file suit. On October 7, a class action lawsuit was filed in the United States District Court in Fort Worth. L. Clifford Davis of Fort Worth represented the plaintiffs. J.A. "Tiny" Gooch of Dallas represented the school district. United States District Judge

³⁶ *McKinney v. Blankenship*, 154 Tex. 632, 636, 282 S.W.2d 691, 695 (1955).

³⁷ Ladino, *Desegregating Texas Schools*. (Austin, Tex: University of Texas Press, 1996).

³⁸ *Jackson v. Rawdon*, 135 F. Supp. 936 (N.D. Tex. 1955)

³⁹ Ladino, *Desegregating Texas Schools*. (Austin, Tex: University of Texas Press, 1996).

Joseph E. Estes⁴⁰ presided. Two weeks before trial was scheduled, the newly formed Mansfield Citizens' Council vowed to fight the "National Association for the Agitation of Colored People" stating that "our days as a national race are numbered" if "mixing" would occur and if "we don't organize, it will be our children who will pay the price in the next two generations for our cowardice."⁴¹

Trial began on November 7. The plaintiffs' case was straightforward: they sought injunctive relief ordering integration of the schools, arguing the school board operated under state statutes that were held unconstitutional in *Brown v. Board* and by the Texas Supreme Court in *McKinney v. Blankenship*. The defense asserted that the school board was making efforts to improve conditions in the schools and was making a "reasonable effort" toward integration, that a committee was studying the issue, and otherwise argued that the white community was hostile to integration. The school board members who testified offered no details about any future integration plan.

On November 21, Judge Estes ruled in favor of the defendants, concluding that: a class action was inappropriate given there were only 12 potential plaintiffs, the school board was making efforts, an order of integration mid-year was unjust to the school board and students, and although *Brown v. Board* "does not mean that a long or unreasonable time shall expire before a plan is developed and put into use, it does not necessitate the heedless and hasty use of injunction...."⁴²

The NAACP prepared for a loss and took pains to make a record for appeal. On June 7, 1956, a hearing was set before the Fifth Circuit Court of Appeals. Davis, arguing for the plaintiffs, stated that the school board had "not brought itself within the protection of the 'prompt and reasonable start' requirements of the Supreme Court" and that community animosity was an invalid factor to consider."⁴³

Agreeing with the plaintiffs, the Fifth Circuit reversed the district court stating:

We think it clear that, upon the plainest principles governing cases of this kind, the decision appealed from was wrong in refusing to declare the constitutional rights of plaintiffs to have the school board, acting promptly, and completely uninfluenced by private and public opinion as to the desirability of desegregation in the community,

⁴⁰ Judge Estes was nominated by President Dwight D. Eisenhower and confirmed by the United States Senate on July 28, 1955 and received his commission on August 1, 1955. He served as Chief Judge of the Northern District of Texas from 1959 to 1972. He assumed senior status on July 1, 1972 and remained in senior status until his death on October 24, 1989, his 86th birthday. *Nathaniel Jackson, et. al v. O.C. Rawdon* was likely the first major case he presided over.

⁴¹ *The Texas Observer*, August 1, 1956 (reporting that the White Citizens' Council President, Howard W. Beard stated that the United States Supreme Court used a communist book called the "American Dilemma" as a sourcebook in developing its *Brown* opinion.).

⁴² *Jackson v. Rawdon*, 135 F. Supp. 936, 938 (N.D. Tex. 1955), *rev'd*, 235 F.2d 93 (5th Cir. 1956). See also WBAP-TV (Television station: Fort Worth, Tex.). "[News Script: Mansfield Negroes Lose Court Verdict]." The Portal to Texas History, November 30, 2015. <https://texashistory.unt.edu/ark:/67531/metadc778085/m1/1/?q=negro+%22Mansfield+High+School%22+%22African+american%22+date%3A1955-2020>. (reporting that "Judge Estes announced that the Negroes may come back to court to enforce their rights if the school district acts too slowly in integrating its schools.").

⁴³ *Jackson v. Rawdon*, 235 F.2d 93, 96 (5th Cir. 1956).

proceed with deliberate speed consistent with administration to abolish segregation in Mansfield's only high school and to put into effect desegregation there.

Had the court made such a declaration and retained the cause of further orders necessary to implement it, deferment to a later time of action on the prayer for injunctive relief, if necessary, may well have been within his discretion. The issuance of such a declaration of rights with retention of the case would have given the court the means of effectually dispelling the misapprehension of the school authorities as to the nature of their new and profound obligations and compelling their prompt performance of them. This misapprehension appears from the undisputed evidence of superintendent and board members which plainly shows that the board had not given serious consideration to its paramount duty not to delay but to proceed with integration in respect to the sole high school in Mansfield, but, quite to the contrary, had taken definite action to continue segregation there throughout the coming school year. Indeed it had declined to fix or even give serious consideration to the time when it would cease, and the only reason it gave for not instituting it at once in the case of the plaintiffs and the Mansfield High School was its concession to public opinion.⁴⁴

The court of appeals reversed Judge Estes' ruling, and instructed the "the district court that it declare: that plaintiffs have the right to admission to, and to attend, the Mansfield High School on the same basis as members of the white race; that the refusal of the defendants to admit plaintiffs thereto on account of their race or color is unlawful; that it order the defendants forever restrained from refusing admission thereto to any of the plaintiffs shown to be qualified in all respects for admission...."⁴⁵ The United States Supreme Court denied the defendants' petition for writ of certiorari.⁴⁶

In conformity with the Fifth Circuit's opinion, Judge Estes entered the injunction on August 25, 1956. Crosses burned in Mansfield on August 22 and 23. The local NAACP president, T.M. Moody was advised to leave town and retaliated against. Armed Black residents took shifts guarding the Moody home. On August 28, an effigy hung with a sign stating: "This Negro tried to enter a white school."⁴⁷ On August 30, another effigy was hoisted on the high school flagpole. Numerous spectators gathered, some holding signs with racially derogatory statements. On August 31, the day it was expected that Black students would register to enroll, a large crowd again assembled at the high school.⁴⁸ Clifford Davis sent requests to the Governor and the director of the Texas Department of Public Safety for additional law enforcement to keep the peace. A third effigy was hung at the school and no effort was made to remove the effigy from the flagpole and fly the United States flag.

⁴⁴ *Jackson v. Rawdon*, 235 F.2d 93, 96 (5th Cir. 1956).

⁴⁵ *Ibid.*, 96.

⁴⁶ *Rawdon v. Jackson*, 352 U.S. 925 (1956).

⁴⁷ <https://eji.org/news/history-racial-injustice-resistance-to-school-desegregation/>

⁴⁸ *The Texas Observer*, September 5, 1956 (reporting that "an angry hate-filled crowd of 200 men" assembled at the high school).



When Governor Shivers responded to the request for additional law enforcement, he ordered that the Texas Rangers be sent to preserve peace, and urged that the school board transfer any student out of the district whose attempt to attend the high school would reasonably be calculated to incite violence.⁴⁹ In sum, no efforts were to be made to assist Black students to enroll. Governor Shivers offered “cover” to school board officials claiming he would take responsibility for defying the federal court orders and suggested that the legal battle was not yet over given that a review by the Supreme Court was still viable. The NAACP attempted to enroll its students by telegram given the presence of the mob at the school. The request was denied. On September 4, another crowd gathered at the high school in anticipation that Black students may attempt to enter. An Episcopalian rector from Fort Worth also arrived attempting to pacify the crowd and seeking the removal of the effigies that still remained in place.⁵⁰ The Black high school students returned to the segregated high school in Fort Worth given the safety issues. Although the situation in Mansfield was brought to the attention of President Dwight Eisenhower, he deferred, stating that local safety was a local and state issue. In response, Thurgood Marshall sent President Eisenhower a letter complaining that the President’s remarks that there were “extremists on both sides” incorrectly classified “Negro children involved in each instance trying to get an adequate education” and their lawful peaceful supporters as “extremists.”

Desegregation of the Mansfield School District would be forced to wait for another day.

The State Further Retaliates

Several weeks after events at Mansfield, Governor Shivers and Texas Attorney General Shepperd began investigating the NAACP for alleged barratry and tax fraud for failing to pay a state franchise fee, claiming that the NAACP was a for-profit business. On September 21, 1956, Shepperd requested a temporary restraining order from Texas state district judge Otis T. Dunagan, to force the NAACP to halt their activities. A hearing was held days later in Tyler, Smith County, Texas. Judge Dunagan granted a temporary restraining order. The hearing on the merits of a permanent injunction began on April 29, 1957. After 10 days of testimony, the court issued a permanent injunction; however, the NAACP was permitted to engage in charitable and educational functions.⁵¹ The NAACP was required to file franchise tax reports and returns, open all records to this end for the State’s investigation, and pay the State the accrued franchise tax with interest and penalties.⁵² The judgment against the organization’s activities in Texas remained in effect for several years until court cases in Alabama and Virginia ruled that the NAACP, as well as labor unions, were actually political associations and were thus permitted to represent themselves in collective legal actions where they had a direct interest.

⁴⁹ *The Texas Observer*, September 5, 1956 (reporting that Gov. Shivers was not inclined to provide state law officers at the request of a NAACP lawyer “whose premature and unwise efforts have created this situation at Mansfield.” Gov. Shivers was also quoted at stating that the Supreme Court of the United States should be given the task of enforcing its *Brown* decision.).

⁵⁰ *The Texas Observer*, September 12, 1956 (reporting that the mob threatened and jeered an Episcopalian priest who called for a Christian solution).

⁵¹ Interviewed later in his chambers Judge Dunagan stated that: “I ain’t got nothing against the n - - - er people.” Ladino, *Desegregating Texas Schools: Eisenhower, Shivers, and the Crisis at Mansfield High*. (Austin, Tex: University of Texas Press, 1996).

⁵² <https://legacy.lib.utexas.edu/taro/utcah/03696/cah-03696.html>

PROBE OF NAACP IN DALLAS CONTINUES

LONG, BUILDING

In Dallas, the probe continues into the records of the NAACP's regional office. John Minton and Elbert Morrow, assistants to Attorney General Shepherd, and Warren Muston, a photographer for the Department of Public Safety, are in their second day of looking into and photographing the regional office's entire file. Attorney General Shepherd says his office is exercising its powers to ^{look} into the records of corporations. The regional office administers NAACP activities in five Southwestern states.

Newston
Smith - 10:00P
Fri - 14 Sept 56
Dallas news
Sec 10

NEGRO MAN AND WOMAN

^{J.}
W.V. Durham, chief counsel for the NAACP in Texas, says the organization was notified of the investigation in a letter from the attorney ~~general~~ general. The letter says the investigation is to determine if the NAACP is complying with tax laws and the laws governing corporate political activities.

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Central High School, Little Rock, Arkansas

In Little Rock, the School Board proposed to the federal court a plan for integration. On May 24, 1955, the Little Rock School District adopted a phased plan of integration called the Blossom Plan. After several changes, the Blossom Plan would develop into a quite limited approach that would begin with integrating only at Central High in 1957, after the construction of two new high schools – one reserved for white-only students and the other an African American-only high school.

On February 6, 1956, twelve African American parents, on behalf of thirty-three African American students, filed suit in federal court (*Aaron v. Cooper*) seeking the immediate desegregation of Little Rock schools. The local white Citizens' Council objected to the Blossom Plan, but the plan was approved by the federal district court.⁵³ Taking a cue from Texas, on February 26, 1957, Arkansas Governor Orval Faubus signed legislation creating a state sovereignty commission, relieving children from compulsory attendance at "mixed schools," and requiring certain organizations to register their activities.

On August 29, 1957, an Arkansas state judge granted a reprieve from school integration that was requested two days prior by the Mother's League, a pro-segregation group endorsed by a local white Citizens' Council, on the grounds that school integration could lead to violence. The next day, U.S. District Judge Ronald Davies nullified the reprieve to school integration and ordered the Little Rock School Board to proceed with its gradual integration plan.

The night before school was to start, Arkansas Governor Orval Faubus went on television and stated that he had evidence indicating there would be impending violence at the high school and activated the state National Guard.⁵⁴ Despite protests by segregationists that began to form, Judge Davies ordered that desegregation should begin on September 4. Meanwhile, Governor Faubus ordered the Arkansas National Guard to remain at Central High. Black students were turned away from the school at gunpoint.⁵⁵

Thereafter, on September 20, Judge Davies enjoined Gov. Faubus from interfering with the integration plan and ordered that the National Guard be withdrawn. On September 23, the National Guard was withdrawn, and Black students were able to enter the high school while a mob was tricked into chasing a handful of Black journalists (who were caught and severely beaten). After several hours, the students were spirited away from the school because of the continuing threat of violence. That same day, President Eisenhower issued a "cease and desist" order to all individuals obstructing the integration in violation of the federal court orders.

Thereafter, President Eisenhower mobilized elements of the 101st Airborne Division and federalized the National Guard.⁵⁶ On September 25, Black students reentered the school building under armed military escort. Violence and unrest ensued for years.

⁵³ *Aaron v. Cooper*, 163 F. Supp. 13, 15 (E.D. Ark. 1958) (referencing the history of the litigation) (subsequent case history omitted).

⁵⁴ The Little Rock Citizens' Council suggested to Gov. Faubus that he employ the same tactics used by Texas Gov. Shivers a year earlier. Ladino, *Desegregating Texas Schools: Eisenhower, Shivers, and the Crisis at Mansfield High*. (Austin, Tex: University of Texas Press, 1996), 127.

⁵⁵ *Cooper v. Aaron*, 358 U.S. 1, 11, 78 S. Ct. 1401, 1406, 3 L. Ed. 2d 5 (1958) (detailing history of events).

⁵⁶ The President relied upon 10 U.S.C. §§ 332-334.

The new Texas Governor, Price Daniel, opined that it was “unfortunate” for President Eisenhower to call out federal troops and that a federal presence at schools would “slow down integration and could destroy the public school system in some states.” He further condemned outside agitators and stated that integration would work best if left to “local people.”⁵⁷ Gov. Daniel subsequently wrote to President Eisenhower asking whether federal troops were going to be used to achieve integration at all schools. The Governor also expressed dismay that such tactics were reminiscent of Reconstruction. The President responded by stating that four principles would be applied. First, local authorities would make plans for integration, but the Department of Justice would participate in the enforcement of any court orders. Second, the federal district courts would judge the reasonableness of any plans and the timetables set forth. Third, federal court orders must be obeyed as the “law of the land.” Finally, state Governors may not employ any measures that are meant to circumvent valid federal court orders.⁵⁸

Texas Retaliation Continues

The State of Texas continued to enact pro-segregation legislation in December 1957. In response to Little Rock, Texas legislators authorized the closure of any public school by the school board or Governor when military troops were presented to maintain the peace. A second law authorized the Attorney General to defend the constitutional grounds of any state law. Lastly, a bill required the NAACP and similar groups to register their membership lists.⁵⁹ A resolution was also adopted directing the U.S. President to “desist and refrain” from sending federal troops into the state and “interfering with the constitutional right of the State of Texas” to operate its schools.

Conclusion

Faced with the denial of federal funds, the Mansfield School Board voted in 1965 to comply with the anti-discrimination provisions of Title VI of the Civil Rights Act of 1964.⁶⁰ The following September, 35 Black students enrolled in the junior high and 35 students enrolled in the high school.⁶¹ In August 1967, more than 13 years after the *Brown* decision, a report by the U.S. Commission on Civil Rights observed that “violence against Negroes continues to be a deterrent to school desegregation.”⁶² As of 2020, the Mansfield School District is fairly diverse. It reports that it has 35,626 students, with 32.6% of its students identifying as white, 29.7% identifying as African American, 25.5% identifying as Hispanic, and 7.2% identifying as Asian.⁶³ The district boasts that more than 100 languages are spoken throughout its schools.⁶⁴

⁵⁷ *The Texas Observer*, October 4, 1957 at p. 5.

⁵⁸ *The Texas Observer*, October 4, 1957 at p. 5.

⁵⁹ Ladino, *Desegregating Texas Schools: Eisenhower, Shivers, and the Crisis at Mansfield High*. (Austin, Tex: University of Texas Press, 1996).

⁶⁰ For an interesting timeline tracing school desegregation in the United States, see <https://www.tolerance.org/magazine/spring-2004/brown-v-board-timeline-of-school-integration-in-the-us>

⁶¹ *The Texas Observer*, June 9, 1978, 7.

⁶² <https://ejournal.org/news/history-racial-injustice-resistance-to-school-desegregation/>

⁶³ <https://www.mansfieldisd.org/about-misd/know-your-district/facts-and-figures>

⁶⁴ <https://resources.finalsite.net/images/v1570735558/mansfieldisd/tnld4ptg2m6z0vtg0ybp/BytheNumbersStatSheet.pdf>

L. Clifford Davis, counsel for the NAACP who represented the Mansfield plaintiffs, became the first African American judge in Tarrant County. He held that position for four years. In 1997, he was elected to the National Bar Association's Hall of Fame. In 2002, an elementary school in Fort Worth was named in his honor. In May 2017, the University of Arkansas Law School awarded him an honorary degree at the age of 92.

It is difficult to understand how the Mansfield controversy has been so overlooked in history and largely overshadowed by events in Little Rock the following year. Perhaps it is because resistance to *Brown* was so commonplace in many parts of the South. Perhaps it is because the image of armed troops in Little Rock escorting students to class was so compelling. Recent events have shown how one image can become so powerful.

Notwithstanding that Mansfield has been largely overlooked, its importance cannot be understated. In all likelihood it influenced President Eisenhower to understand that passive statements would not be enough to defeat the segregationists and prompted him to ultimately take military action to enforce *Brown*. In that sense, Mansfield was a necessary precursor to Little Rock and *Aaron v. Cooper*.

Days before his death, John Lewis wrote an essay for the New York Times.⁶⁵ He recounted that as a youth he heard Dr. Martin Luther King deliver a radio address. He recalled the message that "we are all complicit when we tolerate injustice" and that "it is not enough to say it will get better by and by." With his final words, Representative Lewis called on people to "study and learn the lessons of history because humanity has been involved in this soul-wrenching, existential struggle for a very long time... The truth does not change, and that is why the answers worked out long ago can help



⁶⁵ <https://www.nytimes.com/2020/07/30/opinion/john-lewis-civil-rights-america.html>

you find solutions to the challenges of our time.” Representative Lewis also recalled that Dr. King further admonished that “each of us has a moral obligation to stand up, speak up and speak out. When you see something that is not right, you must say something. You must do something. Democracy is not a state. It is an act, and each generation must do its part to help build what we called the Beloved Community, a nation and world society at peace with itself.”

As we grapple with the social, racial, and economic issues of our age, history is oftentimes overlooked. Rhetorical statements and references to states’ rights are used sometimes without an appreciation of their uglier origins (and sometimes the words are deliberately chosen). Analyses of civil rights statutes are sometimes done without cognizance of the findings and declarations of the legislative body upon enactment. Our country is a work in progress. Despite progress, disparities in educational attainment among races, ethnic groups, and income levels remain. Numerous other issues challenge us still: equitable health care, immigration, voting rights, and climate change and its impact on lower income communities, just to name a few. The legacy of Mansfield is that despite ugly rancor a more harmonious future can ensue.

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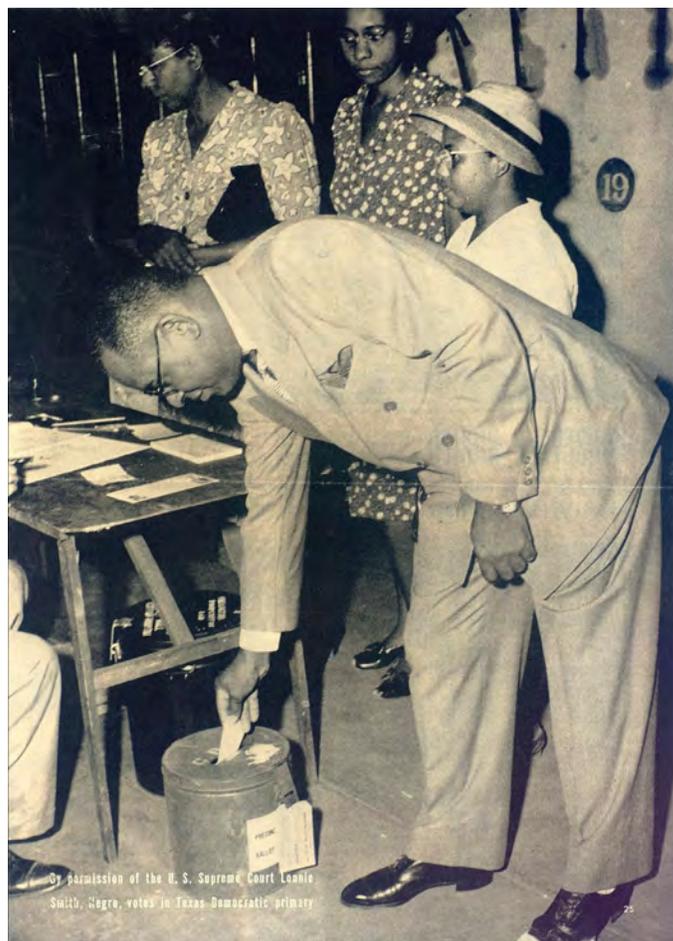
When Jim Crow Met Lonnie Smith: *Smith v. Allwright* and the Twenty-Year Struggle to End the Texas White Primary

By Stephen Pate

On Saturday, July 27th, 1940, a well-respected dentist, civic minded and active in the community, stood in line at a polling place in Houston, waiting to cast his vote in that year's Texas Democratic Primary. That vote would be the important one that year. Texas was a one-party state in the Solid South. Winning the Democratic Primary was tantamount to election. The Republicans would put up candidates for the November ballot, but none could be elected.

Yet that man, Dr. Lonnie E. Smith, was denied a ballot that day by precinct election judge S.S. Allwright. Lonnie Smith was African American. He would not be allowed to vote because the Texas Democratic Primary was, like other primaries in the South, a "White Primary", which excluded people of color. Lonnie Smith, however, was truly a civic leader, active in many organizations. The organization he was most active in was the National Association for the Advancement of Colored People (the NAACP). The NAACP had chosen Dr. Smith as one of the plaintiffs in test cases to challenge the White Primary. It would take four long years, but in 1944 the United States Supreme Court would hold in *Smith v. Allwright*¹ that the Texas White Primary was unconstitutional.

Smith v. Allwright was actually the culmination of a twenty-year struggle to end Texas White Primary. Before it was decided, there were three trips to the United States Supreme Court, numerous lower Federal Court rulings, and a Texas Supreme Court decision. This is the story of those twenty years.



Dr. Lonnie Smith voting in 1944

¹ 321 U.S. 649 (1944).

1903-1923: The Birth of the White Primary

In 1903, during the Progressive era, Texas adopted an election law that provided for political party primary elections. The primary system replaced the nomination of candidates by party conventions and party committees, preventing nominations by “smoke filled rooms” and a small group of elites.² All across the nation, states were adopting the use of primary elections. They were especially welcome in one-party states like Texas, where obtaining the Democratic nomination was in effect the election. Yet while this might have been the Progressive Era, in the South it was also the era of “Jim Crow,” when southern states adopted laws and practices that effectively disenfranchised African Americans.³

The great historian C. Vann Woodward noted “... the fateful paradoxes that seemed to dog the progressive movement in the South,” in writing that while the primary system “ was undoubtedly an improvement over the old convention system,”⁴ it also brought forth state laws and party rules “that excluded the minority race from participation and convert[ed] [the party] into a white man’s club.”⁵ Indeed, Woodward concluded that in the South, the adoption of the primary system was a “perverse reform .”⁶

In Texas, it did not begin as a White Primary. The 1903 Primary law, unlike laws passed in some other southern states, did not explicitly exclude African Americans. In fact, it was not meant to do so. It is a fallacy to think that African Americans were uniformly prevented from voting all across the south. There were exceptions, such as Boss Ed Crump’s Memphis, where his political machine encouraged but controlled the African American vote. ⁷ In Texas, African Americans voted in large numbers in Bexar County, also under the control of a political machine. In other places, such as El Paso, blacks were allowed to vote because they were in such meager numbers that they could not challenge white supremacy.⁸ African American votes were major factors in municipal elections in cities such as San Antonio, Dallas, Galveston and Fort Worth.⁹

Yet it was also recognized that in many places, white people were unalterably opposed to black people voting in the primary.¹⁰ The Texas Legislature’s solution was to allow what some might call a “local option.” It added a provision to the primary law stating that the county executive committee of any party could prescribe “additional qualifications” for participation in the primary.¹¹ Thus, if it wanted, each county committee could add the “additional qualification”

² Robert Hainsworth, *The Negro and the Texas Primaries*, *The Journal of Negro History* 18 no. 4 (Oct. 1933): 426.

³ C. Vann Woodward, *The Strange Career of Jim Crow*, Oxford University Press ed. (2001), 84.

⁴ C. Vann Woodward, *The Strange Career of Jim Crow*, 84.

⁵ C. Vann Woodward, *The Strange Career of Jim Crow*, 85.

⁶ C. Vann Woodward, *The Strange Career of Jim Crow*, 85.

⁷ William D. Miller, *Mr. Crump of Memphis*, (LSU Press 1964).

⁸ Donald S. Strong, *The Rise of Negro Voting in Texas*, *The American Political Science Review* 42 no. 3 (June 1948): 510, 511.

⁹ Donald S. Strong, *The Rise of Negro Voting in Texas*, 511.

¹⁰ Robert Hainsworth, *The Negro and the Texas Primaries*, 426-427.

¹¹ Robert Hainsworth, *The Negro and the Texas Primaries*, 426-427.

that a voter must be white.¹²

The White Primary was not the only method used to disenfranchise blacks. It was the most important one, however. Unlike other southern states, Texas did not have the literacy requirement or “understanding” tests that limited black voter participation.¹³ Texas did adopt a poll tax in 1902, which was designed to be a deterrent, but it could be overcome by the payment of the tax.¹⁴ Still, there was also what one scholar described as “such extra-legal factors as an environment hostile to Negro assertiveness.”¹⁵ The White Primary was successful in its purpose. By 1906, black voters had declined to about 5000 from approximately one hundred thousand in the mid -1890s.¹⁶ Even limited black participation in the primary would change in 1923.

1924-1934: A Chess Game in Black and White

In 1921, the United States Supreme Court decided *Newberry v. U.S.*¹⁷ On the surface, the decision in this case had nothing to do with White Primaries. The issue in *Newberry* was whether the Federal Corrupt Practices Act, which applied a spending limitation to candidates for Congress, applied in parties’ primaries. The Court held that U.S Constitution had no power to regulate a political parties’ primary or nomination process.¹⁸ The nominating process was one thing. The actual general election process was another. In effect, a political party was a private club, and could make its own rules.

Throughout the South, the *Newberry* decision was interpreted to mean that the Supreme Court would not interfere in a primary process, no matter what.¹⁹ Many Texas leaders opposed to African American voting believed it gave them the freedom to completely exclude African Americans from the primary system. A “petty political squabble” over the Bexar County District Attorney’s race was the genesis of change. Two candidates who had both enjoyed African American voter support before ran against each other. The disgruntled losing candidate began a campaign to amend the primary law to explicitly exclude blacks²⁰ Buttressed by *Newberry*, in 1923 the Texas Legislature added the following amendment to the statute, which stated clearly “...in no event shall a negro participate in a Democratic primary in the State of Texas and ballots cast by negroes are void.”²¹ Black voter exclusion was explicitly made the law of Texas.

¹² Donald S. Strong, *The Rise of Negro Voting in Texas*, 511.

¹³ Donald S. Strong, *The Rise of Negro Voting in Texas*, 511.

¹⁴ Arnolde De León and Robert A. Calvert, “Civil Rights,” *Handbook of Texas Online*, accessed September 09, 2020, <https://www.tshaonline.org/handbook/entries/civil-rights>. Published by the Texas State Historical Association.

¹⁵ Donald S. Strong, *The Rise of Negro Voting in Texas*, 511.

¹⁶ Alwyn Barr, “The Impact of Race in Shaping Judicial Districts, 1876-1907”, *The Southwestern Historical Quarterly* 108, no. 4 (April 2005): 423, 429.

¹⁷ 256 U.S. 232 (1921).

¹⁸ *Ibid.*, 258.

¹⁹ “The White Primary in Texas since *Nixon v. Condon*,” *Harvard Law Review* 46 no. 5 (1933): 815.

²⁰ Thurgood Marshall “The Rise and Collapse of the ‘White Democratic Primary’”, *The Journal of Negro Education*, Vol. 26, No. 3 (Summer 1957): 249, 250.

²¹ *The Laws of Texas*, Vol 21, 1921-28, 74.

African Americans did not take the change lying down. In *Chandler v. Neff*,²² blacks filed a suit in United States District Court alleging the new amendment violated their Fourteenth and Fifteenth Amendment rights. Yet they were stymied when the Court held the primary was not an “election.”²³ Relying on *Newberry*, U.S. District Judge Duval West said the issue was a “political” question and therefore not to be resolved by the courts. The Court’s decision garnered national attention, with lawyers calling it “probably the most efficient and boldly daring deprivation of the political rights of negroes.”²⁴

Though a stinging rebuke, *Chandler v. Neff* would not be allowed to be the final word on the subject. Now the NAACP became involved with more resources and organization. In 1924, Dr. L.A. Nixon, an African American, and local NAACP leader, attempted to cast his ballot in El Paso, where blacks had been voting before the new law took effect and where

Nixon himself had voted in previous Democratic primaries.²⁵ When he was denied a ballot, he sued C.C. Herndon, the election judge, for not allowing him to vote. The NAACP had asked Nixon who agreed to serve as the plaintiff in the suit. The NAACP’s National Legal Committee funded and supervised the litigation.²⁶



Dr. Lawrence A. Nixon



The suit was once again filed in the United States District Court for the Western District of Texas, the same court that had decided *Chandler v. Neff*. As expected, Judge West dismissed the case and the Fifth Circuit affirmed. Now, however, the United States Supreme Court agreed to hear the case.²⁷ The NAACP, acting for Nixon, argued before the Supreme Court that the Fifteenth Amendment kept a state from denying a citizen the right based on race including this circumstance, the Texas Democratic Primary, because it was, in truth, the only election. Moreover, Nixon had been deprived of his rights to equal protection under the Fourteenth Amendment, because the Texas statute created an arbitrary voting classification based on race. Not surprisingly, the defendants, including the State of Texas, relied on *Chandler v. Neff*, saying the issue was a political question.²⁸

²² 298 Fed. 515 (W.D. Tex. 1924).

²³ “Constitutional Law, Primary Elections, Voter’s Rights and Congressional Power,” *Columbia Law Review* 41, No.6 (1941): 1101, 1102.

²⁴ Henry Allen Bullock, “The Negro Voter in the South” *The Journal of Negro Education*, (Summer 1957): 369,372, quoting “Constitutional Validity of Statute Barring Negroes from Primary Elections,” *Michigan Law Review* 23:279. (January 1925): 279.

²⁵ Darlene Clark Hine, “The Elusive Ballot: The Black Struggle against the Texas Democratic White Primary, 1932-1945,” *Southwestern Historical Quarterly* 81 no. 4 (April 1978): 371,373.

²⁶ *Ibid.*, 374

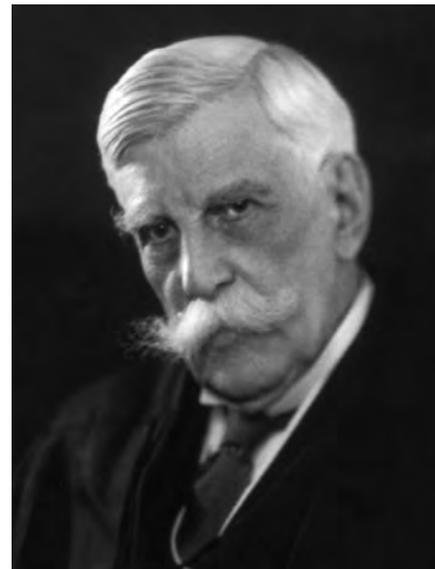
²⁷ Darlene Clark Hine *Black Victory: The Rise and Fall of the White Primary in Texas*, 66-70.

²⁸ Darlene Clark Hine *Black Victory: The Rise and Fall of the White Primary in Texas*, 66-70.

Early in 1927, the Supreme Court, in an opinion by Oliver Wendell Holmes, gave Nixon and the NAACP their victory, though not as complete a victory as they wanted. In *Nixon v. Herndon*, Holmes wrote that the Texas Statute did indeed violate the equal protection provisions of the Fourteenth Amendment.²⁹ Holmes wrote that it would be hard to imagine a more direct infringement of the Amendment, because the Statute explicitly discriminated against blacks on the basis of race alone.³⁰ Holmes and the Court rejected the “political question” argument, saying that it was a “mere play on words.”³¹ Yet since the Court made its decision on Fourteenth Amendment grounds, it did not reach the Fifteenth Amendment issue. This made it a flawed decision. It appeared that blacks could continue to be excluded from a primary if all state laws pertaining to primary elections were repealed and the rules were left to the parties.³²

Almost immediately Texas lawyers sought to exploit the loophole left them by the *Nixon* decision. Sadly, this effort was led by then Governor Dan Moody. Moody is still renowned in Texas history as the District Attorney of Williamson County who brought about the first successful modern-day prosecution of the Ku Klux Klan.³³ However, Moody was a staunch conservative who did not believe in black suffrage. As Texas Attorney General he had written a brief opposing Nixon in the *Nixon v. Herndon* case.³⁴ Years later he would lead the efforts to avoid the effects of the *Smith v. Allwright* decision. Now, in May 1927, as the new Governor, he asked the Legislature to repeal the amendment excluding blacks and to replace it with a statute which would allow the Executive Committee of a political party to determine the qualifications of its members.³⁵ A bill was quickly drafted to accomplish this task as an “emergency” matter, and was passed into law only a few months after the *Nixon v. Herndon* decision came down.³⁶

After that, the State Democratic Party Executive Committee quickly embraced the new Statute, adopting a resolution stating that only “white democrats” could participate in the Democratic Primary.³⁷ At first, it appeared that evasion was working. Two



Justice Oliver Wendell Holmes, Jr.



Governor Dan Moody

²⁹ 273 U.S. 536 (1927).

³⁰ *Ibid.*, 541.

³¹ *Ibid.*, 540.

³² Darlene Clark Hine, *Black Victory*, 69.

³³ See Patricia Bernstein, *Ten Dollars to Hate*, Texas A&M Press (2017).

³⁴ “Texas Primary Law Attacked Before Court,” *Dallas Morning News*, January 5, 1927, 1.

³⁵ Darlene Clark Hine, *Black Victory*, 92.

³⁶ Darlene Clark Hine *Black Victory*, 93-94.

³⁷ Darlene Clark Hine *Black Victory*, 94.

early attempts to challenge the law failed utterly.³⁸

Then, once again, Dr. Nixon and the NAACP went to work. On June 28, 1928 Nixon attempted to vote in the Democratic Primary at his polling place in El Paso. Election Judge James Condon refused to give Nixon a ballot.³⁹ This was the genesis of *Nixon v. Condon*,⁴⁰ the second NAACP challenge to the Texas White Primary to reach the United States Supreme Court.

After losing at the District Court level and the Fifth Circuit, a writ to the Supreme Court was prepared, and granted. It was readily apparent that the new Texas law was sleight of hand to avoid the *Nixon v. Herndon* ruling. This may have offended the Justices. Now, Nixon challenged the State Democratic Parties' resolution on the ground, once again, that his Fourteenth Amendment equal protection rights had been violated. The Democratic Party argued that the Fourteenth Amendment applied only to state actions, not the voluntary actions of a private association.⁴¹ This is where the Supreme Court called the bluff. In a 5-4 decision, the Court held, in an opinion by Benjamin Cardozo, that the new Texas law was nothing more than a delegation of power to the Democratic Party State Executive Committee. This delegation was therefore state action, and violated the Fourteenth Amendment. The four dissenters to the ruling believed that political parties, being akin to private clubs, had every right to set their own primary rules.⁴²

African Americans were jubilant. Yet once again, there was a loophole. The Court's opinion implied that even though the Democratic State Executive Committee could not set qualifications for voting, the full Democratic State Convention could.⁴³

And that was enough. Three weeks after the *Nixon v. Condon* decision, the full Democratic State Convention met and resolved that "white citizens ...shall be eligible for membership in the party and as such eligible for participation in the primaries."⁴⁴ Commentators seized upon this Resolution and said that the Convention's action in fact constituted state action. A note in the *Harvard Law Review* made the point: "...since nomination by the Democratic Primary in Texas is normally equivalent to election, the party primary is the decisive election. To this extent then, the party administers the business of the government."⁴⁵

The issue of black votes hung heavily on Texas politics. Once again, not all Texas candidates did not want blacks to vote. Ex-Governor Miriam A. (Ma) Ferguson and her husband ex -Governor Jim Ferguson were outspoken opponents of the Ku Klux Klan.⁴⁶ In Ma Ferguson's campaigns, she could count on African American votes—if they could vote. In 1932, only a few months after

³⁸ Darlene Clark Hine *Black Victory*, 98-100.

³⁹ Darlene Clark Hine, *Black Victory*, 99.

⁴⁰ 286 U.S. 73 (1932)

⁴¹ Angelyque P. Campbell, "Nixon v. Condon." *Encyclopedia of Civil Rights in America*. Ed. David Bradley and Shelley Fisher Fishkin. 2. Armonk, (NY: Sharpe Reference, 1998): 667- 668.

⁴² *Ibid.*, 667- 668.

⁴³ Darlene Clark Hine, *The Elusive Ballot: The Black Struggle against the Texas Democratic White Primary, 1932-1945*, 375.

⁴⁴ "The White Primary in Texas since Nixon v. Condon," *Harvard Law Review*, 46 no. 5 (1933): 812, 813.

⁴⁵ "The White Primary in Texas since Nixon v. Condon," *Harvard Law Review*, 815.

⁴⁶ Ralph W. Steen, "Governor Miriam A. Ferguson," *East Texas Historical Journal*, 17: Issue 2 (1979): 3, 8.



Governor Miriam A. (Ma) Ferguson

the *Nixon v. Condon* decision and the Democratic Convention's end around of the decision, Ma Ferguson once again ran for Governor in the Democratic Primary, against incumbent Governor Ross Sterling, hobbled by the Great Depression. After an ugly, bitter campaign, Ferguson defeated Sterling in a run-off by about 4,000 votes.⁴⁷

Sterling did not concede defeat. Instead he filed a protest at the State Democratic Convention alleging voter fraud.⁴⁸ Specifically, Sterling alleged such things as transients being rounded up to vote and corrupt election judges filing false ballots for Ma. Of particular note is Section (d) of the protest:

(d) That the instructions of your committee to county and precinct election officials was to the effect that negroes under the law of the State of Texas were not entitled to vote in said primary; that this instruction and provision was violated election officials who allowed negroes to vote in four or more different counties in this state, and that such votes in practically every instance were cast against Ross S. Sterling and constitute part of the illegal tabulation now before your committee...⁴⁹

Sterling supporters claimed that at least 1000 blacks had voted illegally.⁵⁰ After the primary, however, the Convention was firmly in the Ferguson's hands, and Sterling's protest went nowhere. Sterling filed an election contest in state court, which quickly made its way to the Texas Supreme Court. In *Sterling v. Ferguson*⁵¹, the Court, ironically relying in part on *Newberry*, held that the Democratic Party had certified Ferguson as the Democratic candidate and it had no jurisdiction to intervene. What if the Court had decided to hear the merits? Had the Texas Supreme Court upheld the new resolution barring blacks voting in the primary as is probable, would we have seen Ma Ferguson join the NAACP in seeking a writ to the United States Supreme Court?

As it was, African Americans filed several suits to challenge the Democratic Convention's resolution excluding blacks. The initial joy over the *Nixon v. Condon* decision had turned to dust when the decision was blatantly disregarded. Yet most of these efforts were defeated. Courts were regularly ruling that political parties were voluntary association and thus beyond the scope of the Fourteenth Amendment's state action requirement.⁵² In El Paso, Dr Nixon was once again denied a ballot in the 1932 primary. Once again, he sued the election judge who kept him from

⁴⁷ *Ibid.*, 14.

⁴⁸ William M. Thornton, "Committee and Convention Controlled by Fergusons," *Dallas Morning News*, September 13, 1932, 2.

⁴⁹ "Committee and Convention Controlled by Fergusons," *Dallas Morning News*, 1.

⁵⁰ "Say Negroes Voted," *Dallas Morning News*, September 7, 1932, 1.

⁵¹ 53 S.W. 2d 753 (Tex. 1932).

⁵² Darlene Clark Hine, *Elusive Ballot*, 376.

voting. In *Nixon v. McCann*,⁵³ Nixon argued that the action of the Democratic Convention was the action of a semi-public body. Moreover, the election officials were vested with their powers by the state, and their actions were state actions.⁵⁴

Surprisingly, in February 1934, the Federal District Court in El Paso—not Judge West—relied on *Nixon v. Condon* in holding the resolution unconstitutionally deprived Nixon of his right to vote in the primary. This was the first time a lower court in Texas had ruled for the plaintiff in a White Primary case.⁵⁵ Nixon was awarded five dollars in damages. Yet it was a pyrrhic victory. The Democratic Party did not appeal, realizing that an appeal might once again lead to the United States Supreme Court where it had lost twice before. The Democratic Party allowed a few blacks to vote in the primary based on *Nixon v. McCann*, while withholding the ballot to most. In the 1934 El Paso Democratic Primary, Dr Nixon and his business associate were the only two African Americans allowed to vote.⁵⁶

In other places that year, blacks were shut out. One of the reasons they were was because of an opinion issued by the Texas Attorney General that said the 1932 Democratic Convention resolution was constitutional. This Attorney General was James V. Allred, who was running for Governor that year. Today, Allred is remembered as a liberal politician, who fought for a New Deal agenda. He was an opponent of the Klan and had progressive views towards women.⁵⁷ Later, as a federal judge, he was known for his decency and compassion. In 1934, however, he made a politically expedient decision that would brand him as a racist. One of his opponents in the gubernatorial race was expected to garner most black votes.⁵⁸ Allred issued his “Opinion” —which he did not have to do—to forestall those votes and gather white support. Shortly after the opinion was issued, two blacks sought a writ of mandamus to allow them to vote in the primary. Their writ reached the Texas Supreme Court. In *Bell et al v. Hill*,⁵⁹ the Court held the Democratic Party was a voluntary association with the right to choose its own members. The Court noted Allred’s “recent able opinion” with which “we are in accord.”⁶⁰ The Mandamus was denied. Allred went on to win the primary and serve two terms as Governor.



Gov. James V. Allred

Perhaps Allred felt that he could later atone for his expediency by thinking of the good he could do. His policies in office aided the economic status of African Americans. Still, one commentator has described his actions as “Jekyll/ Hyde racism.”⁶¹ Just as Klan-busting Dan Moody

⁵³ Darlene Clark Hine, *Elusive Ballot*, 376.

⁵⁴ Darlene Clark Hine, *Elusive Ballot*, 378.

⁵⁵ Darlene Clark Hine, *Elusive Ballot*, 378.

⁵⁶ Darlene Clark Hine, *Elusive Ballot*, 382.

⁵⁷ Patricia Tidwell, “James V. Allred of Texas: A Judicial Biography,” Master’s Thesis, (Rice University, 1991), 2, 14.

⁵⁸ Darlene Clark Hine, *Elusive Ballot*, 379.

⁵⁹ 74 S.W.2d 113 (Tex 1934).

⁶⁰ *Ibid.*, 122.

⁶¹ Patricia Tidwell, “James V. Allred of Texas: A Judicial Biography,” 14.

will always be besmirched by his efforts to keep the White Primary, Jimmy Allred's "opinion" upholding it will be a black mark against him.

1935-1939: Years of Misteps and Standstills

After many years of effort, and two U.S. Supreme Court cases striking it down, the Texas White Primary was still alive, and well. The NAACP, short of funds and biding its time for the right case, did not mount a challenge to the latest rulings. In 1934, however, against the advice of the NAACP Legal Committee, a Houston barber named R.R. Grovey sued the Harris County District clerk for denying him a ballot for the Democratic Primary. Grovey sued under both the Fourteenth and Fifteenth Amendments. The case quickly reached the U.S. Supreme Court. The result was the Court's 1935 decision in *Grovey v. Townsend*.⁶²

Justice Harlan Stone described the 1935 term of the U.S. Supreme Court as "one of the most disastrous in the Court's History"⁶³ This was the year when the "Four Horsemen"—four reactionary justices—were able to garner enough other votes to strike down much New Deal legislation. This entire Court was known as "the nine Old Men." In sum, it was probably the worst time ever for a civil rights case challenging a white's only primary to be brought before the Court.⁶⁴

The Court ruled on April Fool's day, 1935. Justice Owen Roberts delivered the opinion. He held that the Texas Democratic Party's 1932 resolution made both *Nixon v. Herndon* and *Nixon v. Condon* irrelevant. The Resolution was the action of a private, voluntary association which had the right to choose its own members. Therefore, the denial of the ballot to blacks was not state action under the Fourteenth and Fifteenth Amendments.⁶⁵ The opinion was unanimous.



Justice Owen J. Roberts

The NAACP had been right not to join in *Grovey*. It was brought in the wrong way, to the wrong court, and at the wrong time. *Grovey* said exactly what the NAACP did not want said—a political party was a club that could exclude members. Texas blacks were devastated. In the next two primary cycles, 1936 and 1938, there was no significant White Primary challenge. There was a case brought in Harris County that sought to challenge black's exclusion in municipal primaries. It went nowhere, with a federal judge dismissing it on the grounds of *Bell v. Hill* and *Grovey v. Townsend*.⁶⁶

⁶² 295 U.S. 45 (1935).

⁶³ Edward Lazarus, *Closed Chambers: The Rise, Fall, and Future of the Modern Supreme Court*, (Penguin Books, 1999), 282-284.

⁶⁴ In fairness, on the same day *Grovey* was decided, the Court struck down the conviction of the Scottsboro Boys on equal protection grounds. There is some suggestion there was a trade. See Thurgood Marshall, "The Rise and Collapse of the 'White Democratic Primary,'" 252.

⁶⁵ 295 U.S. 45 at 53-54.

⁶⁶ Darlene Clark Hine, *Black Victory*, 167.



The U.S. Supreme Court in 1935, known as “the nine Old Men.”

The five years after the *Grovey* decision were not good ones for the Texas NAACP. The Houston branch was beset by infighting and a corruption scandal.⁶⁷ There was a severe lack of funds available from the National NAACP to mount a legal challenge.⁶⁸ The Texas and U.S. Supreme Courts had spoken: however wrong they were, what else could be done?

Miguel De Cervantes once wrote “Patience-and shuffle the cards.”⁶⁹ Times and fortunes can change. A new head of the NAACP Legal Committee, a young attorney named Thurgood Marshall, was studying the Texas situation. He was determined to challenge White Primaries again. The NAACP had a project studying election law in the South, which would be finalized in 1939. Thereafter new strategies could be devised. The country—and the courts—were changing. Franklin Roosevelt had won a resounding victory in 1936, in part by running against the “nine old men” of the Supreme Court. His Court Packing plan to increase the size of the Supreme Court, though ill-advised, prompted the famous “switch in time that saved nine,” where the Justices suddenly voted to uphold New Deal legislation. The retirements of some justices led to the appointment of justices who were more favorable to civil rights. There was hope for the future. There would come a time to continue the fight over the White Primary. One black law school Dean predicted “The

⁶⁷ Darlene Clark Hine, *Black Victory*, 167-168.

⁶⁸ Darlene Clark Hine, *Black Victory*, 167.

⁶⁹ <https://quote fancy.com/quote/1127559/Miguel-de-Cervantes-Saavedra-Patience-and-shuffle-the-cards>



Thurgood Marshall with Autherine Lucy and fellow NAACP attorney Arthur Shore outside Birmingham's Federal Court during Lucy's campaign to desegregate the University of Alabama. February, 1956.

Court in 1935 did not ferret out the trickery behind the [White Primary] statutes. Later, it will go behind the law."⁷⁰ Patience—and shuffle the cards.

1940-1944: THE FIGHT RENEWED AND VICTORY

By late 1940, Marshall and the NAACP Legal Committee judged it was the right time to mount another challenge to the White Primary. They chose Texas as the place. Instead of El Paso, this time the battleground would be Houston; instead of Dr. Nixon, the standard bearers would be Houston NAACP leaders. It will surprise many that the first case filed concerning the 1940 Texas primary was not filed on behalf of Lonnie Smith. Instead, the plaintiff in a suit filed by the NAACP in January 1941 was Sidney Hasgett, a black Houstonian denied the ballot. In May 1941, the Federal Court in Houston ruled against Hasgett.⁷¹

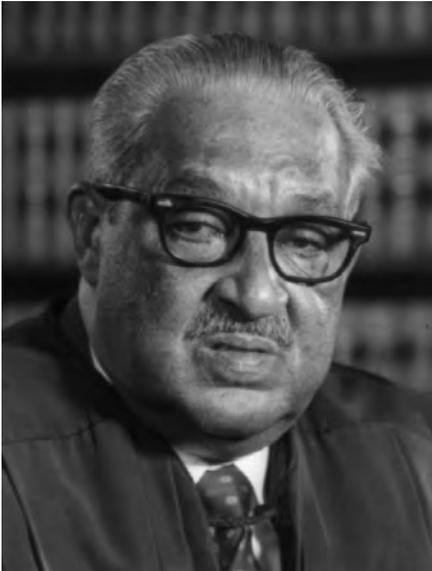
Yet it was that same May when things took a turn for the better. In 1921, *Newberry v. U.S.* had emboldened the Texas Legislature to amend the Primary Act and exclude blacks. On May 26, 1941, a few weeks after the ruling in Hasgett's case, the United States Supreme Court's decided *United States v. Classic*,⁷² effectively overturning *Newberry*. In *Classic*, the Federal Government had filed charges against some Louisiana Election Commissioners for committing election fraud in a primary election. The Commissioners argued that under *Newberry* the Federal Government could

⁷⁰ Thurgood Marshall "The Rise and Collapse of the "'White Democratic Primary,'" 249,252.

⁷¹ Darlene Clark Hine, *Elusive Ballot*, 389.

⁷² 313 U.S.299 (1941).

not regulate what happened in a primary. In a decision that shocked many, the Court held that “the authority of Congress ...includes the authority to regulate primary elections...when they are a step in the exercise by the people of their choice of representative in Congress.”⁷³ While *Classic* was not a White Primary case, it could pave the way for one.⁷⁴ Though the opinion did not mention *Grovey*, Marshall believed it was effectively overruled.⁷⁵



Justice Thurgood Marshall



Judge William H. Hastie

The *Hasgett* case had not been pled to take advantage of *Classic*. Marshall decided to drop the appeal of that case, and filed a new federal suit on behalf of Dr. Lonnie Smith, who had also been denied a ballot in 1940, alleging violations of both the Fourteenth and Fifteenth Amendments. Despite spirited arguments, Smith lost in both the Federal District Court and the Fifth Circuit Court of Appeals. This was expected.⁷⁶ The trial judge was not convinced that *Grovey v. Townsend* had been overruled. The Fifth Circuit agreed, saying once again the primary was a party affair, not an election protected by the Constitution.⁷⁷

The United States Supreme Court granted Certiorari on June 7, 1943. The Court had changed significantly since *Grovey v. Townsend*. Gone were most of the nine old men. In their place were new justices such as Hugo Black, William O. Douglas, Felix Frankfurter and Robert Jackson. There were only two non-Roosevelt appointees left—Chief Justice Harlan Fisk Stone, and Owen Roberts, author of *Grovey*.

The case was argued to the Supreme Court on November 10 and 12, 1943. Both Marshall and William H. Hastie, a stellar appellate attorney and the first black federal judge,⁷⁸ argued. Their well-prepared argument, years in the making, was straightforward. Marshall focused on the nature of the primary as a creature of the state, especially when that primary was tantamount to the general election; thus, excluding blacks meant there was state action that violated their rights to equal protection and to vote.⁷⁹ Hastie then got up and attacked the *Grovey v. Townsend* decision, apparently in the face of grim looks from Justice Roberts.⁸⁰ The Justices asked no questions, but “sat

⁷³ Darlene Clark Hine, *Elusive Ballot*, 390.

⁷⁴ Thurgood Marshall “The Rise and Collapse of the ‘White Democratic Primary,’” 252.

⁷⁵ Thurgood Marshall “The Rise and Collapse of the ‘White Democratic Primary,’” 252.

⁷⁶ Darlene Clark Hine, *Black Victory*, 185.

⁷⁷ Darlene Clark Hine. *Black Victory*, 186.

⁷⁸ Retrieved from <https://www.blackpast.org/African-american-history/hastie-william-henry-1904-197>

⁷⁹ “Before Highest Court,” *Dallas Morning News*, November 11, 1943, 11.

⁸⁰ Darlene Clark Hine, *Black Victory*, 187-188.

on the edge of their seats to listen..."⁸¹

Oddly, it was a one-sided argument. No attorney appeared for the election judges of the Forty Eighth Precinct of Harris County or for the Texas Democratic Party. No brief had been filed on their behalf.⁸² After the argument, the Supreme Court took the unusual step of asking the Texas Attorney General if he wanted to file a brief on behalf of the State. He would, it seemed, and he asked for the case to be re-argued. That request was granted, and the re-argument was set for January 10, 1944.⁸³ In retrospect, could this request by the Supreme Court have been a tacit admission it believed state action was involved?

The January re-argument did not go well for Texas. Marshall and Hastie continued with their argument: there was state action involved in a primary scheme. George W. Barcus, the Texas Assistant Attorney General argued for Texas and did a poor job. He drew stern looks, arguing that if blacks wanted to, they could organize their own party, conduct a primary and exclude whites.⁸⁴ Hastie had mentioned that there were 571,000 African Americans of voting age in Texas. Barcus said if blacks organized "they could whip us any time."⁸⁵ In another counter-productive statement, not realizing he was admitting the power of the Democratic Primary, Barcus made a bizarre statement that the only reason there was a Republican Party in Texas was to receive patronage when the Republicans held the White House.⁸⁶

Then the case was submitted. Regardless of the strong arguments of Marshall and Hastie and the weakness of Barcus, certainly the Court knew the very clear issue before a word was spoken: was there state action in the Texas Democratic Primary scheme, or was the primary the actions of a private club?

The answer came on April 3, 1944. The Court was 8-1 in striking down the exclusion of blacks from the Primary and overruling *Grovey v. Townsend*. Only Roberts dissented. Justice Reed, writing for the majority, said this:

We think that the statutory system for the selection of party nominees for inclusion on the General election ballot makes the party which is required to follow these legislative directions an agency of the state so far as it determines the participant in a primary election. The party takes its character as a state agency from the duties imposed on it by state statutes; the duties do not become matters of private law because they are performed by a political party...⁸⁷

⁸¹ Darlene Clark Hine, *Black Victory*, 187.

⁸² Darlene Clark Hine, *Black Victory*, 187.

⁸³ "Negro Vote Case Reargument Set in Supreme Court," *Dallas Morning News*, December 7, 1944, 14.

⁸⁴ "White Demo Party Defended Before Court," *Dallas Morning News*, January 13, 1944, 2.

⁸⁵ "White Demo Party Defended Before Court," *Dallas Morning News*, January 13, 1944, 2.

⁸⁶ *Ibid.*

⁸⁷ *Smith v. Allwright*, 321 U.S. 657 (1944) 663-64.

The 1932 Democratic Primary Resolution was therefore “state action within the meaning of the Fifteenth Amendment.”⁸⁸ It also violated the Privileges and Immunities Clause of the Fourteenth Amendment. Therefore, it impinged upon black’s voting rights and their rights to equal protection and was unconstitutional.

Marshall himself wrote that *Smith v. Allwright* was “one of the landmarks in constitutional history.”⁸⁹ Nine years after *Grovey*, the Supreme Court “had looked behind the law.” Yet Texas had found ways around two previous Supreme Court decisions. There were already discussions on how to avoid this one. Would Marshall have to “ferret out the trickery” again?

Keeping the Victory

At first it appeared he might. After *Smith v. Allwright*, Marshall wrote “Southern ingenuity was not spent and clever stratagems were conceived in a desperate attempt effort to circumvent” the decision.⁹⁰ Dan Moody filed a lengthy motion for rehearing on behalf of Texas. It was denied with “alacrity.”⁹¹ Moody then called for the Legislature be called into special session to repeal the entire primary law, which would allow the Democrats to return to the convention system for nominations.⁹² Yet Governor Coke Stevenson believed that the Court’s opinion was so far reaching that it would include any procedure in selecting candidates.⁹³ Stevenson opposed returning to the Convention system and would not call a special session.⁹⁴

While efforts occurred in South Carolina and Alabama to circumvent *Smith v. Allwright*, where the decision affected their White Primary, after the initial chagrin, Texas was quiet. The *Dallas Morning News* wrote that “Anger soon cooled...” after the decision “and Negroes were allowed to go to the polls unmolested”⁹⁵ The Civil Rights Division of the Department of Justice believed there was little interference with black voting in Texas in 1944.⁹⁶ By 1948, an African American author could write “The surprising fact seems to be that there have been no serious organized efforts to circumvent the Supreme Court and Negro voting appears on its way to full acceptance.”⁹⁷ That view must be tempered by the reluctance of whites, especially in East Texas, to accept black voting. A lack of interference is not the same as unspoken intimidation to stay away from the polls. Yet this cannot be quantified, and there seemed to be few overt attempts at intimidation.⁹⁸ It was believed that rural blacks knew there was nothing to stop them from being terrorized at the polls and did not make the effort.⁹⁹

⁸⁸ *Ibid.*, 664.

⁸⁹ Thurgood Marshall, “The Rise and Collapse of the ‘White Democratic Primary,’” 253.

⁹⁰ Thurgood Marshall, “The Rise and Collapse of the ‘White Democratic Primary,’” 253.

⁹¹ “Convention to Ponder Negro Votes,” *Dallas Morning News*, May 9, 1944, 2.

⁹² William M. Thornton, “Moody Asks Returns to Conventions.” *Dallas Morning News*, May 2, 1944, 6.

⁹³ William M. Thornton, “Moody Asks Returns to Conventions.” *Dallas Morning News*, May 2, 1944, 6.

⁹⁴ “Convention to Ponder Negro Votes,” *Dallas Morning News*, May 9, 1944, 1.

⁹⁵ “Texas Negro Vote Sought By League,” *Dallas Morning News*, August 13, 1944, 1.

⁹⁶ “Prosecution due soon on Negro Voting,” *Dallas Morning News*, September 24, 1944, 10.

⁹⁷ Donald S. Strong, *The Rise of Negro Voting in Texas*, 512.

⁹⁸ Donald S. Strong, *The Rise of Negro Voting in Texas*, 513.

⁹⁹ Donald S. Strong, *The Rise of Negro Voting in Texas*, 515.

It is remarkable that after two decades of effort to obtain the ballot, few blacks voted in in the July 1944 Democratic Primary.¹⁰⁰ One reason may be that *Smith v. Allwright* came too late to allow blacks to pay the poll tax and qualify.¹⁰¹ It was a year with few significant statewide contests.¹⁰² Probably, many blacks, especially in rural areas, were not yet aware they were entitled to vote. Indeed, by 1946, an estimated 75,000 African Americans voted in the Democratic Primary; only 14 percent of what their electoral strength could be.¹⁰³ Once again, there is that unquantifiable factor of fear.

Slowly, this would change. Black voting was encouraged when it was seen their support could sway a race. By 1948, politicians such as Lyndon Johnson were making campaign stops at black political events.¹⁰⁴ In future years, black turnout would increase, and blacks would become candidates in the Democratic Primary. The struggles of Dr. Nixon, Dr Smith, Thurgood Marshall, William Hastie and many others had not been in vain. Though there was more struggle ahead, they had been successful in having the highest court in the land look behind the law and ferret out the trickery of the Texas White Primary.

¹⁰⁰ Robert M Hayes, "Few Negroes Cast Vote in East Texas," *Dallas Morning News*, August 23, 1944, 2.

¹⁰¹ *The Rise of Negro Voting in Texas*, 512; "Light Voting Anticipated in Democratic Primaries: Few Contests of Interest Develop," *San Antonio Light*, July 20, 1944, 7.

¹⁰² *San Antonio Light*, July 20, 1944, 7.

¹⁰³ Donald S. Strong, *The Rise of Negro Voting in Texas*, 512.

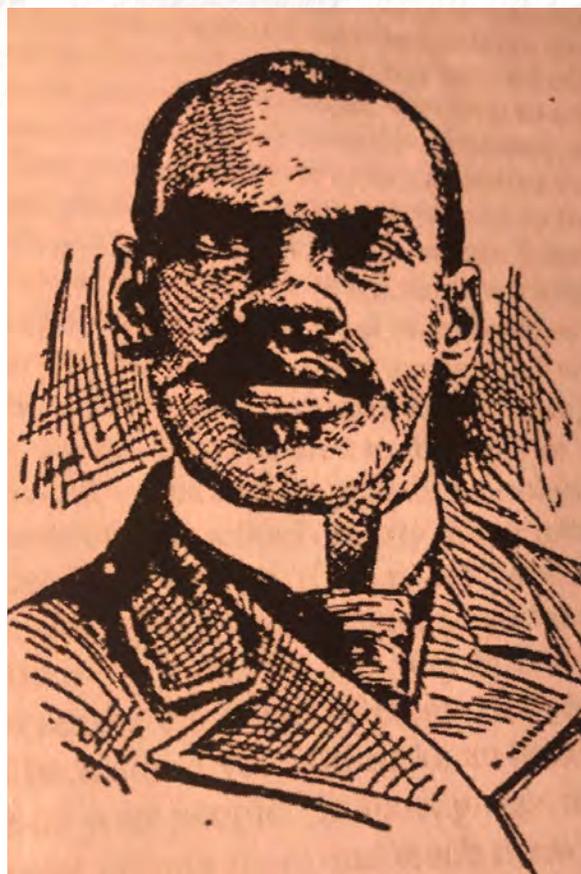
¹⁰⁴ Donald S. Strong, *The Rise of Negro Voting in Texas*, 522.

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Texas's First Civil Rights Lawyer: John N. Johnson

By Hon. John G. Browning

Long before Martin Luther King, Jr. preached, before a young Thurgood Marshall litigated for civil rights, and certainly before Black Lives Matter protesters took to the streets nationwide to bring attention to the deaths of African Americans at the hands of police, a black lawyer in Austin voiced the same sentiments. John N. Johnson railed against unequal educational opportunities for the African American community, disparate treatment of incarcerated black men, and racial violence—and he backed up his words with the filing of Texas' earliest civil rights lawsuits in the early 1880s. He was Austin's first African American attorney, and the first person of color admitted to practice before the Supreme Court of Texas. He became not only a lawyer, but a doctor, an educator, and a newspaper publisher. Yet despite the trails he blazed and the barriers he overcame, there are no monuments or markers commemorating his life, and no streets or buildings bearing his name. Before we can answer the question of why John N. Johnson's life and legacy has been so overlooked, however, let's examine what we do know about him.



I. HUMBLE BEGINNINGS

As other historians have acknowledged, the study of Texas' earliest African American attorneys has been largely overlooked, leading at least one to conclude that "[t]he early history of black lawyers in Texas is uncertain."¹ Like nearly all of Texas' first African American lawyers, John N. Johnson was not originally from Texas. According to an obituary appearing in a Washington, D.C.

¹ Smith, John Clay. *Emancipation: the Making of the Black Lawyer, 1844-1944*. (Philadelphia: University of Pennsylvania Press, 1993).

newspaper in 1906, Johnson was 53 at the time of his death and had been born in Maryland.² This would put his birth sometime in 1852 or 1853. In later writings, Johnson himself would reference having been born and raised in Maryland. The 1880 Census records of Limestone County, Texas confirm this, identifying John N. Johnson as being 27 years of age, born in Maryland in “abt 1853.” The 1870 Census records reflect Johnson’s mother Delia (sometimes referred to as “Delila”) as being 50 years of age, working as a laundress, and living in Washington, D.C.’s First Ward with her teenage son, John. It is unknown whether Johnson was born into slavery, but there is at least one reference in one of his later writings to a childhood marred by the trauma of racial violence. Writing an open letter to Maryland’s Governor Lowndes calling for a reward to be offered for the arrest of those involved in the 1896 lynching of Sidney Randolph in Montgomery County, Johnson shared that “My father, a minister of the gospel, was murdered in the Gaithersburg community in the sixties.”³

Having lost his father to racial violence at a young age and being raised by a single mother who eked out a living doing other people’s laundry, young Johnson faced an uncertain future. Yet he completed his schooling through high school as of 1873. It is unclear where Johnson pursued his education after that, but he clearly attended college—possibly one connected with the African Methodist Episcopal Church (AME), since that denomination and its support of educational efforts in the African American community are repeatedly mentioned in Johnson’s writings. For example, in an 1876 letter to Philadelphia’s *Christian Recorder*, Johnson applauds the fact that “the African Methodist Episcopal Conferences of Texas contemplate building a Normal College in Waco, Texas,” and implores Christians everywhere to “lend a helping hand to these people in the wilderness”:

Help us on, spreading intelligence to her remotest borders and a blessing will return to you. You talk of sending light to Africa, but let the lights burn at home also. Behold here is Africa, (Texas). Help her to build this training school as it is, and the result will be such as I predict without fear of exaggeration, that crime will be diminished, the energies of the people as a race will be quickened, the gloomy cloud of ignorance which with woeful forebodings cast their glimmer over their future, will finally disperse.⁴

Apparently, sometime between completing his high school education in 1873 and writing about the plans for a new Texas teachers college in 1876, Johnson had become “Professor Johnson” and was teaching in the Washington, D.C. area. Changes were afoot not only in his professional life, but his personal life as well. On December 7, 1876, Johnson married twenty-one-year-old Cornelia Coe in Loudoun, Virginia.⁵ Before her marriage to Johnson, Cornelia Coe was listed in the 1870 Census records of Loudoun County, Virginia, as one of five servants in the household of John Janney. Janney, a retired lawyer who died in 1872, was an abolitionist and Quaker, who had tied John Tyler for the vice-presidential candidacy in 1839.⁶

² “Obituary of John N. Johnson,” *Evening Star*, Mar. 15, 1906, 5.

³ Dr. John N. Johnson, “A Colored Man’s Appeal,” *Baltimore Sun*, July 7, 1896, 7.

⁴ Prof. John N. Johnson, “The School in Texas,” *Christian Recorder*, Nov. 30, 1876, 2.

⁵ State of Virginia, *Select Marriages, 1785–1940*, FHL Film No. 32374, Reference ID: book 2, p. 115.

⁶ Janney himself had caused the tie by voting for Tyler instead of himself. The Virginia delegates then voted again, giving Tyler the win and with it the vice-presidential slot. William Henry Harrison of Ohio died in office one month into his administration, vaulting Tyler into the presidency.

By 1879 (if not earlier), Johnson's work as a schoolteacher had brought him to Texas. At various points in the 1879–1881 timeframe, "Professor Johnson" appears in conjunction with teaching positions in Calvert, Mexia (Limestone County), Hearne (Robertson County), and Bryan (Brazos County). While in Hearne in 1879, Johnson became involved with the "Exoduster" movement, a mass migration of African Americans to Kansas from Southern states like Texas, Louisiana, and Mississippi.⁷ What could have motivated a recent arrival in Texas to contemplate leaving? With the end of Reconstruction in 1876 and the departure of federal troops, enfranchised African Americans who had exercised their newfound political clout soon found themselves victimized by racial violence, forcibly removed from their property, and even pressured to leave hard-won political office.⁸ In June 1879, Johnson wrote to Governor St. John of Kansas inquiring about prospects in that state:

Is there much government land still open to homesteading [and/or] preemption . . . We know that in your state the colored men's rights are respected and all citizens are accorded those rights which the laws of the land have guaranteed to him and that any industrious colored man wants and he is willing to go to hard work and acquire property and educate himself and children to a standard that he and they may become good citizens in a state or country where there are not so many intentional obstacles thrown in the way of his progress . . . Please answer immediately if convenient and confer a great favor upon an oppressed people who can barely turn under the heel of the oppressor.⁹

By July, Johnson was one of the organizers and attendees at an "emigration conference" held in Houston.¹⁰ Not long after, he served as chairman of a five-person delegation who made an exploratory trip to Kansas. Upon returning, the committee "gave a favorable report, and say they are in favor of all the colored people going there."¹¹

Ultimately, however, Johnson would not join the thousands of African American "Exodusters." His reasons are unknown, though a number of would-be migrants to Kansas were swindled by unscrupulous "emigration agents" while others were victimized by the terrorism of whites attempting to halt the departures.¹² In January 1880, Johnson was teaching in Mexia in Limestone County. By the fall, he was in Bryan, Texas as one of the two teachers at Bryan's "colored school."¹³ Serving on the front lines of education, Johnson spoke out in favor of funding efforts to combat illiteracy among both blacks and whites. In December 1880, he wrote:

⁷ See, e.g. Nell Irvin Painter, *Exodusters: Black Migration to Kansas After Reconstruction*, (1976).

⁸ Even William A. Price, Texas' first African American lawyer and first elected African American county or district attorney when he became Fort Bend County's county attorney in 1876, would abruptly resign from office less than a year later. Price would go on to lead an Exoduster "colony" in Kansas himself, and found the state's first African American law firm.

⁹ Letter of John N. Johnson to Gov. St. John, June 12, 1879, from Gov. St John's Exoduster Correspondence, Kansas State Historical Society, http://www.kshs.org/research/pdfs/st.john_exoduster_transcription.pdf.

¹⁰ "Colored Conference," *Galveston Daily News*, July 5, 1879, 2.

¹¹ *Galveston Daily News*, Sept. 14, 1879, 1.

¹² Painter, *Exodusters*, 191–94.

¹³ *Galveston Daily News*, Oct. 5, 1880, 1.

Inasmuch as Congress found it necessary to make the people of my race citizens without being possessed of that intelligence which the proper exercise of citizenship in a republican government requires, and from the fact that in the greater part of the South, where this element has a vast influence upon legislation, to the detriment of our own as well as the interest of the more intelligent part of our citizens, thereby creating that unrest so disastrous to the peace of the South for the past fourteen years, it can readily be perceived that Congress should remove this disturbing cause . . . by lending a hand in educating those who have not the means to educate themselves.¹⁴

Johnson felt that education was the key to curing most of society's ills, including crime. He called "this predominant mass of ignorance" the "nursery of crime, furnishing our jails and penitentiaries with inmates, instead of being intelligent citizens, developing the vast resources of the great South."¹⁵

II. "THE COLORED LAWYER OF AUSTIN"

By 1881, John N. Johnson's ambitions expanded beyond the life of a modest schoolteacher. At first, he intended to provide the African American community with a voice in the form of a newspaper. In June, papers across the state were reporting that Johnson would soon be "publishing a general newspaper devoted to the interests of the colored race. Bryan will be the place of publication and the first number will appear some time in September, the colored people should accord him a generous support if his paper is worthy of patronage."¹⁶

For unknown reasons, Johnson's grand plans for a foray into newspaper publishing didn't materialize. Instead, he turned his attentions to becoming a lawyer. It was an ambitious goal. Between 1866 and 1871, every former Confederate state had admitted at least one African American to its bar; Texas would not do so until 1873.¹⁷ As previously noted, Texas' first African American lawyer, William A. Price, would leave the state (despite being elected as Fort Bend county attorney in 1876) by 1877. By 1890, there were only twelve African American lawyers in Texas, a number that did not increase significantly as late as 1930 (when there were twenty black attorneys statewide).¹⁸

The presence of an African American lawyer in a community was significant. That a black man could be admitted to the bar and command the attention of white judges and lawyers sent an important message, even if only a few African Americans were able to do so. Their mere presence made it at least possible for future generations of blacks to aspire to legal careers. However, it was a path fraught with peril. It was not uncommon for African American lawyers to be the

¹⁴ John N. Johnson, "Educate the Illiterate," *Galveston Daily News*, Dec. 10, 1880, 1.

¹⁵ *Ibid.*

¹⁶ *Brenham Daily Banner*, June 11, 1881, 3; see also *Galveston Daily News*, June 14, 1881, 2; *Dallas Weekly Herald*, June 16, 1881, 1; *Austin Daily Statesman*, June 17, 1881, 3.

¹⁷ Joseph Gordon Hylton, "The African American Lawyer, The First Generation: Virginia as a Case Study," *University of Pittsburgh Law Review* 56, no. 1 (Fall 1994): 107.

¹⁸ John G. Browning & Chief Justice Carolyn Wright, "We Stood on Their Shoulders: The First African American Attorneys in Texas," *Howard Law Journal* 59:1 (Fall 2015): 58.

targets of racial violence. In 1895, a white mob in Tuskegee, Alabama attacked Thomas A. Harris, shooting him in the leg, because they “did not want any Negro lawyer” in their community. In 1871, three white men in Arkansas murdered Wyathal G. Wynn, a graduate of Howard University School of Law.¹⁹ Allen Wilder, one of Texas’ first black lawyers and one of its first black legislators as well, was shot and seriously wounded by whites at a ballot-counting site in 1884, resulting in the amputation of his arm.²⁰ Even when racism didn’t manifest in physical violence, it was present in more benign forms. White judges and lawyers frequently referred to black counsel by their first names or as “boy,” and newspapers delighted in racist attempts at humor in their depictions of African American lawyers, ridiculing their diction and alleged ignorance.²¹

Of course, gaining admission to the bar in the first place presented its own difficulties, even in an era of remarkably low standards for entry into the profession. Macon Bolling Allen, the first African American lawyer in U.S. history when he was admitted to practice in Maine in 1844, was initially rejected on the grounds that he was not a “citizen.”²² One of Virginia’s first black attorneys, Thomas Calhoun Walker, was initially rejected when he presented himself for admission to the bar in March 1887 because he lacked a formal certificate from his local county clerk attesting to his age and good moral character—even though he was a lifelong resident of the county. Told to wait until May to try again, Walker’s examination at that second attempt lasted three and a half hours, as the judge was admittedly more rigorous than he “would be with a white boy.”²³ Not surprisingly, in the face of such disparate treatment, one scholar has observed:

It is impossible to know to what extent white judges used their broad discretion in the administration of the oral bar examinations to consciously limit the number of African American attorneys. Similarly, it is impossible to know how many blacks decided against a career in law because they were uncomfortable with the method of examination . . . it seems very likely that there were those African Americans who desired a career in the law, but never attempted to obtain a license because they doubted the fairness of the examination.²⁴

Another historian noted that “If obstacles to entry into the profession were not absolutely insurmountable by African Americans, they were formidable enough that only the smallest fraction of blacks could overcome them. Very few considered the possibility of becoming lawyers even midway into the twentieth century.”²⁵

Issues of race aside, admission to the Texas bar shouldn’t have presented much of a challenge. For most of the nineteenth century, candidates for admission to the bar usually lacked

¹⁹ Smith, *Emancipation*, 322–23.

²⁰ Browning & Wright, “We Stood On Their Shoulders,” 61.

²¹ *Ibid.*, 91–93.

²² D. Brock Hornby, “History Lessons: Instructive Legal Episodes from Maine’s Early Years—Episode I: Becoming a Lawyer,” *Greenbag* 23 2d (Spring 2020):195.

²³ Hylton, “The African American Lawyer,” 135.

²⁴ *Ibid.*

²⁵ Darwin Payne, *Quest for Justice: Louis A. Bedford Jr. and the Struggle for Equal Rights in Texas* (Dallas: Southern Methodist University Press, 2009).

a formal legal education, having instead “read the law” under the tutelage of one or more older attorneys.²⁶ Texas didn’t have a bar exam until 1903.²⁷ The standards for earning a license to practice law had changed little between Texas’ days as a republic in 1839 and the passage of a bar licensing statute in 1891.²⁸ From 1839 onward, a candidate had to be at least 21 years of age and provide “undoubted testimonials of good reputation for moral character and honest and honorable deportment.”²⁹ The candidate also had to be examined in open court by a committee of lawyers (usually three) appointed by the local district judge; at least two of these lawyers had to indicate that they were satisfied with the applicant’s legal qualifications in order for him to obtain his law license. Upon licensure, the newly minted attorney was permitted to practice in any trial court in the state.³⁰ Being admitted to practice in Texas during the nineteenth century has been described as “extraordinarily easy” in spite of attempts at rules detailing formal expectations.³¹

According to Brazos County District Clerk records, John N. Johnson filed an application to practice law on September 9, 1881. The district court judge appointed three local attorneys—T.J. Beall, Luther Clark, and Pinckney Ford—“to examine said applicant and report to this Court upon the qualifications of said applicant for such license.”³² The civil minutes of the court reflect that the very next day, September 10, 1881, the appointed committee “reported adversely to the qualifications of the applicant.” Accordingly, the court ordered “that said applicant be refused and denied, and that license do not issue to said applicant.”³³

Undaunted, Johnson re-applied in the spring court session of 1882. His March application carefully set out how he satisfied all requirements for admission and noted that “he has read the text books on the different branches of the law, as required by the rules of the Supreme Court.”³⁴ On April 3, 1882, a three-lawyer committee consisting of J.D. Thomas, Spencer Ford, and S.P. Hardwicke was appointed. This committee also recommended denial of Johnson’s application, noting that “while the applicant shows some degree of knowledge of the different branches of jurisprudence we have observed many errors and deficiencies in answers to questions upon elementary principles.”³⁵ The committee felt that “the applicant has not shown that accuracy and familiarity in the law as a science.”³⁶

Johnson’s persistence in pursuing a second application was apparently newsworthy, with various papers giving conflicting accounts of his post-license plans. The *Galveston Daily News*

²⁶ Michael Ariens, *Lone Star Law: A Legal History of Texas* (2011), 182.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.* Indeed, even notorious outlaw and convicted murderer John Wesley Hardin was admitted to the Texas bar after one 15-year stay for one of his murders. *Ibid.*, 183.

³² Brazos County District Clerk Records, Book F, pages 505, 529, 533 (Sept. 9, 1881).

³³ *Ibid.*

³⁴ *Ibid.*, (March term 1882).

³⁵ *Ibid.*, 533.

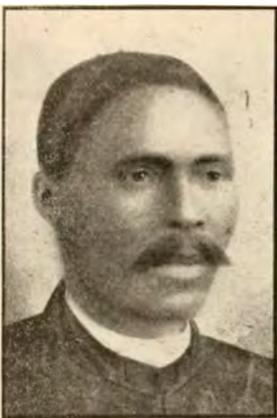
³⁶ *Ibid.*

reported that, if admitted, Johnson “expects to settle in Houston and there astonish the natives.”³⁷ The *Austin Daily Statesman* wrote that Johnson planned “to go to Galveston to practice law, and may in time become a congressional candidate.”³⁸ The Brenham newspaper noted his earlier rejection and said Johnson “wants to carry out the old adage ‘If at first you don’t succeed, try, try again.’”³⁹ Papers were equally eager to report the news of his second failure, with one Dallas newspaper crowing that “the committee reported unfavorably. This is the second refusal.”⁴⁰

Having been rejected twice by local bar committees in Brazos County, Johnson initially appeared to have moved on to other pursuits. He was elected chairman of the Brazos County Republican convention, and he apparently became a nominee for countywide office.⁴¹ However, Johnson apparently decided to relocate to Austin. In August 1882, the Austin paper reported Johnson as one of “the colored teachers” elected to “fill vacancies in the city public schools.”⁴² He also proved that the third time was the charm in seeking his law license. A fleeting mention from an Austin newspaper mentions that Johnson was “admitted to the bar here at the last October term.”⁴³ The article, entitled *A Fair Expression*, went on to describe Johnson:

Mr. John N. Johnson, the first and only colored lawyer ever appearing at this bar is conducting a case to-day in the district court. Johnson is an intelligent looking man, of dark color, and easy, fluent manner . . . He is treated with due consideration by the white members of the bar, and is given every chance to make his mark.⁴⁴

III. “A GREAT ADVOCATE OF JUSTICE AND RIGHT”



W.D.F. Pyle

Once admitted to practice law in the fall of 1882, it didn’t take long for John N. Johnson to indeed make his mark. On February 9, 1883, he became the first African American admitted to practice before the Supreme Court of Texas (at the time, most attorneys didn’t seek such admission unless they had a case pending before that court).⁴⁵ Johnson also returned to the venture of a newspaper for the African American community. The same month as his historic entry into the Supreme Court rolls, the *Galveston Daily News* reported that *The Austin Citizen* was now being published for the black community, with W.D.F. Pyle listed as editor and “Professor John N. Johnson” as the local editor. The newspaper was ambitious in scope, with Johnson promising that “[b]y continued and increased patronage, watchful agents and thrifty writers, the *Citizen* can be made to the Texas colored people what

³⁷ *Galveston Daily News*, Apr. 4, 1882, 1.

³⁸ *Austin Daily Statesman*, Apr. 12, 1882, 2.

³⁹ *Brenham Weekly Independent*, Apr. 6, 1882, 1.

⁴⁰ *Norton’s Daily Union Intelligencer*, June 9, 1882, 3.

⁴¹ *San Antonio Evening Light*, Aug. 7, 1882, 1; *Galveston Daily News*, Oct. 25, 1882, 1.

⁴² *Austin Daily Statesman*, Aug. 31, 1882, 4.

⁴³ *Austin Daily Statesman*, (undated) (mentioned in Arkansas Mansion, June 30, 1883).

⁴⁴ *Ibid.*

⁴⁵ Rolls of Attorneys Admitted to Practice Before the Supreme Court of Texas, Feb. 9, 1883, Supreme Court of Texas Archives, Austin, Texas.

SUPREME COURT, AUSTIN.

NAMES	ENROLLED		
Jenkins, Jesse.	Meridian	May 2	1882
Johnson, Jno. W.	Austin	Feb 9	1883
Johnson, W. B.	Gainesville	Apr 2	1883
Jenkins, J. S.	McKinney	"	7 1884
Johnson, Robt. G.	Ft Worth	Feb 10	1886
Jones Joseph	Del Rio	Mch 8	1887
Jones Jacob W.	" "	" 8	"
Johnson Albert S.	Laredo	Apr 23	"
Jones Ashby S. (James)	Wichita Falls	Apr 2	1888
Jaynes W. B.	Sherman	May 16	1890
John Robt A.	Georgetown	Jan. 28.	1891

Johnson's name (second from top) as listed in a ledger of admissions to the Supreme Court of Texas.

other famous papers are to the people of the North, East, and West."⁴⁶ The fledgling paper had its office at 507 Congress Avenue, but by 1886 was under new ownership, listing African American community leader and former state legislator Jeremiah J. Hamilton as editor and proprietor.⁴⁷

But shortly after his admission to the bar of the Supreme Court of Texas, Johnson leapt at the chance to champion a cause that resonates today—the treatment of incarcerated African Americans, and their deaths in white custody. Sam White, an African American man who had been sentenced in March 1883 by the Brazos County district court to five years in the penitentiary, had been killed while in custody. White had been one of a number of convicts leased as labor to H.K. White, a plantation owner in Burleson County. Shortly after arriving, he was killed by a guard under murky circumstances. The peonage system in Texas featured prison inmates leased by the state to private landowners for labor details—frequently working at sugar cane or cotton plantations that just a few years earlier had been worked by slaves. As other historians have noted, “[b]eginning with the first leases of prisoners to the railroads in the late 1860s, prison officers and

⁴⁶ *Galveston Daily News*, Feb. 1, 1883, 2.

⁴⁷ *Morrison and Fourmy's General Directory of the City of Austin, 1885-86*, 119.



Prisoner inmates working labor detail

the supervisory legislative committees encountered abuses and maladministration within prison operations that persisted throughout the late nineteenth and early twentieth centuries."⁴⁸

In April 1883, Johnson wrote an impassioned letter to the Texas attorney general, decrying the Burleson County district attorney's failure to properly investigate the matter and lamenting white indifference to the deaths of African American men in custody:

I have seen colored convicts beaten to death, and colored citizens who witnessed the scene were afraid to testify, from the fact that the guards are generally desperate men and are feared, and white citizens not being much interested and not often around, do not testify.⁴⁹

Johnson called upon the attorney general to launch an investigation. The attorney general responded by referring Johnson's letter to the county attorney of Burleson County, with instructions

⁴⁸ Donald Roy Walker, *Penology for Profit: a History of the Texas Prison System, 1867-1912* (College Station: Texas A & M University Press, 1988). For another excellent overview of how the use of prisoner labor was rife with abuses and served as another form of enslavement of blacks, see Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (2008).

⁴⁹ *Dallas Weekly Herald*, Apr. 19, 1883, 7.

to investigate the matter.⁵⁰ The Inspector of Prisons, Captain John W. Daniels, was also ordered to investigate. But the investigations, perhaps predictably, went nowhere. Daniels concluded that the killing of White was “unavoidable” and attacked Johnson’s credibility, saying he was “not regarded as a credible authority.”⁵¹ Daniels reported to the governor that the guard was “justified” in killing White and that Johnson was “wholly unworthy of belief.”⁵² The killing of an unarmed Sam White by an armed white guard was not the first and certainly not the last death of an African American inmate under questionable circumstances. The abuses of the convict leasing system would not end until the system itself was abolished in Texas in 1912.⁵³ Johnson did not remain silent on the subject. In November 1884, he published an editorial pleading for reform, saying “Let us have better laws regulating hiring of county convicts, and laws for enforcing observance of penitentiary rules at state convict camps on farms.”⁵⁴

Undaunted, Johnson took on perhaps his greatest challenge—filing the first civil rights suits in Texas state courts in August 1883. African American plaintiffs had already been unsuccessful in challenging “separate and unequal” railroad accommodations in federal court. In June, twenty civil rights lawsuits that had been filed in the United States District Court for the Western District of Texas against the Central Railroad by blacks led by Louisa Evans were dismissed by Judge Ezekiel B. Turner.⁵⁵ Turner’s ruling relegated the matter “to the state courts, for such redress, if any the parties have.”⁵⁶

The historical record is unclear as to whether Johnson was involved as counsel in the federal court cases, but it is doubtful given the recency of his admission to practice and the lack of any reference to him. Similarly, it is unknown whether there was any commonality among the unsuccessful federal court plaintiffs and those who would subsequently file civil rights suits in state court. In any event, in August 1883, Johnson filed six separate lawsuits in state court in Brazos County against the Houston & Texas Central Railway for charging African American passengers full price for accommodations but only permitting them to ride in second class, racially restricted cars.⁵⁷ Among the plaintiffs were Reverend J.R. Bryan, James and Rosie Jefferson, and Johnson himself. In Bryan’s suit, Johnson sought the unheard-of sum of \$50,000 in damages, while the demand in Mr. & Mrs. Jefferson’s lawsuit was a comparatively modest \$4,000.⁵⁸

Media reaction to the lawsuits was mixed at best. Only one newspaper seemed to view the plaintiffs and their counsel as reasonable in their goals. Denison’s *The Sunday Gazetteer* observed that:

⁵⁰ *Ibid.*

⁵¹ *Galveston Daily News*, May 2, 1883, 1.

⁵² *Brenham Daily Banner*, May 3, 1883, 2.

⁵³ Walker, *Penology for Profit*, 194.

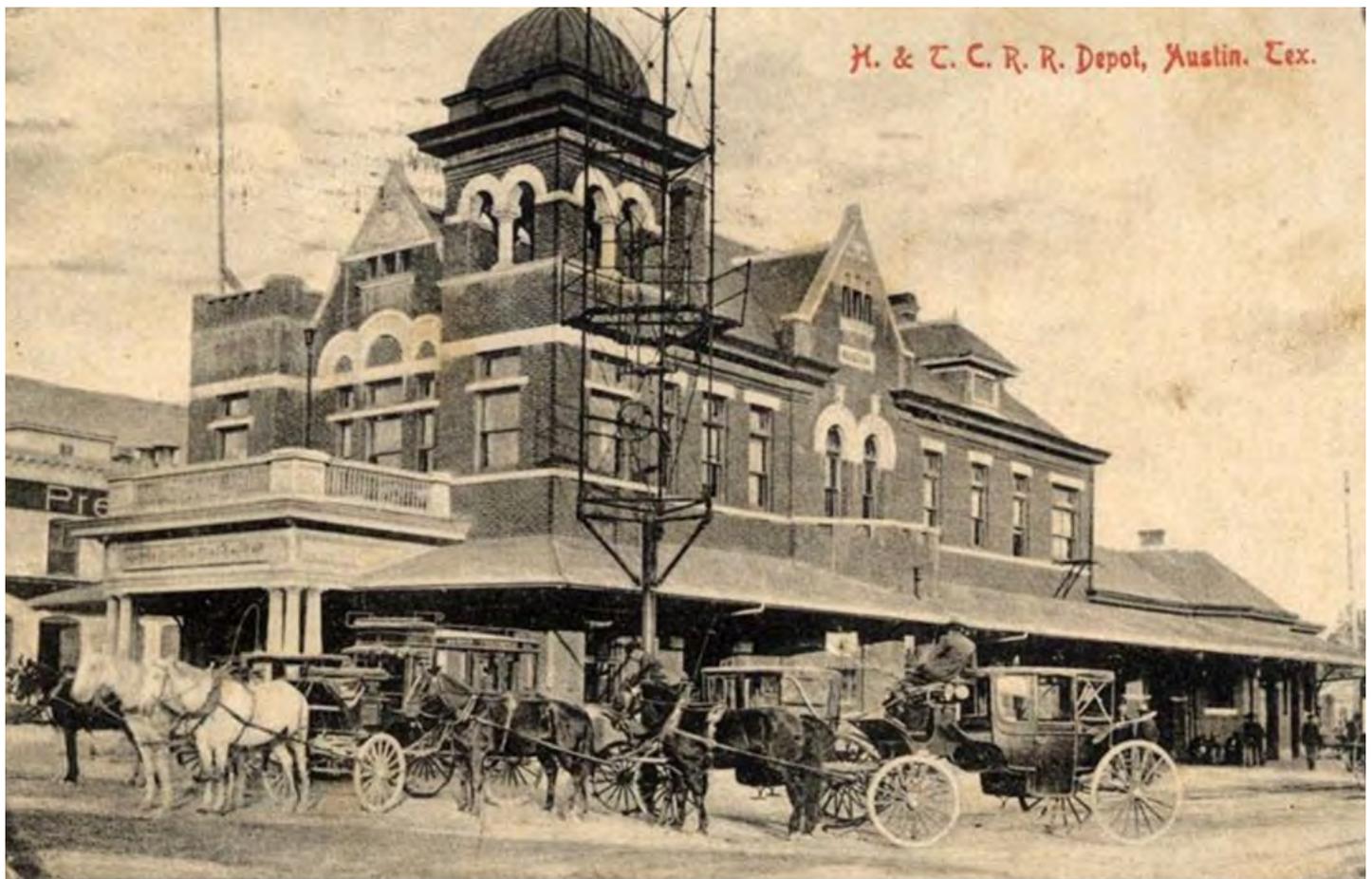
⁵⁴ *Galveston Daily News*, Nov. 30, 1884, 4.

⁵⁵ *Weekly Democratic Statesman* (Austin), Vol. 12, No. 46, Ed. 1, June 21, 1883.

⁵⁶ *Ibid.* Judge Turner would have a brief tenure on the court. Nominated by President Rutherford Hayes in December 1886, Turner died in office on June 2, 1888.

⁵⁷ *The Bastrop Advertiser*, Vol. 26, No. 34, Ed. 1, Aug. 18, 1883.

⁵⁸ *Galveston Daily News*, Sept. 6, 1883, 4.



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Houston and Texas Central Railway Depot in Austin

The most intelligent and influential colored men say it is not the intention or desire to force persons of their race into the same coaches with the whites, but that they do insist that they shall have just as good accommodations for the same money—not to be driven into the smoking cars, where their wives, daughters and children must breathe the foul air, laden with tobacco smoke and the fumes of evaporating tobacco spittle.⁵⁹

Other newspapers denounced both the lawyer and the lawsuits themselves. One accused Johnson of “trying to make a reputation for himself,” and said he was “only wasting his time and talent—if he has any.”⁶⁰ An op-ed entitled “So-Called Race Troubles” alluded to racial unrest in east Texas caused by “agitations” that “show Texas in the light of a depravity not really existing.”⁶¹ The author claimed that “J.N. Johnson, the colored attorney at Austin . . . has done much to keep up this feeling by bringing suits under the civil rights bill against railroads for refusing Negroes of occupying the cars reserved at the end of the train for white people.”⁶²

⁵⁹ *The Sunday Gazetteer* (Denison), Vol. 1, No. 23, Ed. 1, Sept. 30, 1883.

⁶⁰ *Brenham Daily Banner*, Aug. 10, 1883, 2.

⁶¹ “So-Called Race Troubles,” *Austin Daily Statesman*, Sept. 25, 1883, 2.

⁶² *Ibid.*



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Left: Central Railway car. Right: Cotton transports on the railway.

The lawsuits did not end well, at least in the courtroom. George Goldthwaite, a former judge, represented the railroad. The juries in the Bryan and Jefferson cases found in favor of the defendant; adding insult to injury, the losing plaintiffs were ordered to pay court costs.⁶³ After losing, Rev. Bryan was fined and jailed overnight because he had supposedly forced his way into the ladies railway car. The result did not come as a surprise to white newspapers. One observed “White people are not willing to have the races occupy the same car, and no jury could be found in this county that would render a verdict which would in effect permit such intermixture.”⁶⁴ Another newspaper proclaimed that a lesson had been taught to such “agitating” blacks in such “important” cases:

Not long since a test case was made in the United States court at Austin and decided adversely to the colored people; they have met with the same result in state courts, and had now as well make up their minds to accept such accommodations as the railways will give them. The courts have been effectually tried, and about the next thing the colored persons, who try to force themselves in ladies’ cars find out, will be that the railways will turn the tables on them by having them arrested for disturbing the peace.⁶⁵

Yet despite the defeat and the chilling prospects of arrest for seeking to exercise civil rights, John N. Johnson was bloodied but unbowed. Accompanied by African American clergymen Rev. J.R. Bryan and Rev. W.E. Reed, Johnson had a settlement conference with Houston & Texas Central Railroad vice president and superintendent Jedediah Waldo. The meeting resulted in a settlement, with Johnson agreeing to dismiss all of the cases and discourage the filing of new ones. The railroad, in return, agreed to put on “separate and exclusive cars, with equal accommodations, for its colored patrons within three months.”⁶⁶ Johnson published a circular in multiple newspapers

⁶³ The decisions of the juries are recorded in *James and Rosie Jefferson v. H.T.C.R.R* and *J.R. Bryan v. H.T.C.R.R.*, Brazos County District Court Civil Minutes, Book F, at 585–86.

⁶⁴ *Galveston Daily News*, Sept. 24, 1883, 2 (quoting *The Bryan Pilot*).

⁶⁵ *Galveston Daily News*, Sept. 20, 1883, 2 (quoting *The Brenham Banner*).

⁶⁶ *Wilmington Morning Star* (North Carolina), Sept. 23, 1883, 2.

addressed “to the colored people, state of Texas” that went into further details:

You are hereby informed that all suits brought by me against the H. and T.C. Road for demand of equal facilities for colored passengers, etc., are dismissed. Desirous of encouraging the friendliest feeling between the two races, consistent with right, honor and expediency, I hereby discourage the bringing of similar suits on the part of our people, as the Company will in a very short time put on their trains separate, exclusive, equal accommodations for colored patrons, so as to relieve all unjust claims of complaint between white and colored passengers that now engage the attention and passions of the people at large. The colored people will please do the best they can for the present in the cars assigned them, as I am authorized to say that in about three weeks’ time all arrangements for separate accommodations will be completed. Conductors will prohibit smoking in cars where it annoys colored passengers. For the present, therefore, no colored person will attempt to force their way to rear cars. Possibly a partition will be made in the cars for the present, until arrangements are completed.⁶⁷

Johnson’s circular went on to deny that the suits were brought “to force social admixture,” and asked the African American community to abstain from acts or threats of violence, since enemies wanted to egg on such behavior and “bring on a conflict.”⁶⁸ It is significant to note that word of this compromise was reported not just in Texas, but nationally—and that in such national coverage, it was noted that other railroads were expected to follow in the Houston & Texas Central’s footsteps and make similar arrangements for African American passengers.⁶⁹

For his trouble and effort as peacemaker, Johnson was apparently attacked by members of the black community, some of whom saw anything short of full, equal accommodations as a betrayal. One newspaper claimed a majority of blacks surveyed were “highly indignant” that Johnson “compromised his personal suits against the railroad company at a liberal rate and that he threw his influence for peace into the scale.”⁷⁰ The black community, they claimed, “do not intend to stop agitation until equal rights are conceded them and that they will not be stood off with promises. They disown Johnson as a leader and advise the Negroes at large to take no heed of his circular.”⁷¹

Johnson’s action in reaching a settlement may have been viewed by many as a concession that stopped short of the ultimate goal of equal and integrated accommodations, but in the context of the times, it is more fairly characterized as a pragmatic and incremental step toward integration. Johnson asked the public in his circular to be patient. He said, “A just verdict of public opinion and a lawful demand by lawful means will finally in the near future accord unto us each and every right, at the same time maintain the most substantial peace [between] ourselves and

⁶⁷ *Brenham Daily Banner*, Vol. 8, No. 228, Ed. 1, Sept. 23, 1883.

⁶⁸ *Ibid.*

⁶⁹ See, e.g., *Wilmington Morning Star* (North Carolina), Sept. 23, 1883, 2; *The Daily Picayune* (New Orleans), Sept. 21, 1883, 1; *Daily Evening Bulletin* (San Francisco), Oct. 10, 1883, 4.

⁷⁰ *Dallas Daily Herald*, Sept. 23, 1883, 1.

⁷¹ *Ibid.*

other races." After all, this was thirteen years before the U.S. Supreme Court would give its blessing of "separate but equal" public transit accommodations in *Plessy v. Ferguson*. Johnson's civil rights suits, while unsuccessful in the courtroom before all-white juries, applied pressure to the railroads to improve their separate and distinctly unequal arrangements for African American passengers. Because of this, when viewed in historical context, Johnson deserves not the castigation as a "race traitor" that some critics hurled his way, but rather the label of "a great advocate of justice and right" that one obituary would later bestow upon him.⁷²

IV. RACE ON TRIAL: THE CAVITT/MARTIN CASE

Litigating civil rights cases was not the only way in which John N. Johnson used his position as a lawyer to seek equal protection under the law for African Americans. He also did criminal defense work, and just as his civil rights lawsuits against the railroad were resolving, Johnson was called upon to defend a black man, Perry Cavitt, charged with the murder of a white farmer, William Bracknell. The facts of the case, including a recap of the various witness testimony, is set out in the appellate opinion in *Perry Cavitt v. State of Texas*.⁷³ On August 7, 1883, two African American men in Brazos County, Perry Cavitt and Louis Martin, were hauling a wagon load of sugar cane harvested not far from where 55 year-old William Bracknell lived. Instead of hauling it "on the usual road," they drove down a narrow turnrow close by Bracknell's house.⁷⁴ It was around noon, in the August heat in Texas, and Cavitt and Martin stopped to draw water from a well on the property. Bracknell emerged from his house and told the two men to get out of his yard and accused them of driving over his cotton. "Words ensued," and Bracknell went back into the house, retrieved his pistol, came back out, and shot at Cavitt and Martin.⁷⁵ Martin was wounded in the leg.

The pair retreated, leaving the wagon and borrowing guns from friends nearby on the pretext of needing the weapons for hunting. Later that afternoon, Cavitt and Martin returned to Bracknell's house. They "called him out," and Bracknell warily emerged from the house, pistol at the ready.⁷⁶ Before he could shoot, Bracknell was shot at by both, and Cavitt purportedly fired the shot that struck the farmer in the hip, bringing him down. According to testimony from the doctor who treated him, Bracknell's femoral artery was nicked. Although his leg was amputated in an attempt to save him, Bracknell succumbed to his wound nineteen days later on August 26, 1883.⁷⁷ On September 7, a Brazos County grand jury indicted Perry Cavitt and Louis Martin for murder. The trial was held on September 25. On September 26, an all-white jury convicted them both.⁷⁸ Martin was sentenced to 25 years in the penitentiary. Cavitt was given the death penalty. On October 2, Johnson made a motion for new trial on Cavitt's behalf; it was summarily overruled by Judge W.E. Collard, and so Johnson filed an appeal.⁷⁹

⁷² *The Washington Bee*, Mar. 24, 1906.

⁷³ 15 Tex. Ct. App. 190 (Dec. 1, 1883).

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ *Galveston Daily News*, Sept. 27, 1883, 4.

⁷⁹ *Galveston Daily News*, Oct. 3, 1883, 1.

The main ground for appeal was that the selection of jurors had violated Cavitt's rights under the 14th Amendment by denying him equal protection under the law. By empaneling an all-white jury and refusing to select any African Americans for the venire panel, Johnson argued, the state had unjustly discriminated against Cavitt.⁸⁰ More than a century before *Batson v. Kentucky*⁸¹ would hold that excluding jurors based solely on their race violated the Equal Protection Clause of the 14th Amendment, John N. Johnson argued against the exclusion of African Americans from juries—unsuccessfully. Noting that the “defendant is a Negro . . . convicted of the murder of a white man,” the appellate court held that the all-white jury was selected from a special venire “drawn in accordance with law” by “commissioners appointed for that purpose, as provided by law.”⁸² The court observed that “It is nowhere required, in the law, that the commissioners shall consider the question of race or color in their selection of jurors, nor does the law anywhere prohibit them from doing so.”⁸³ Only if Johnson had shown fraud or corruption by the commissioners could his challenge to the jury's composition be sustained, according to the court; “[t]hat the commissioners had not selected any Negroes to serve as jurors would of itself be no valid objection to their action,” the court reasoned.⁸⁴

Johnson also raised the issue that during voir dire, he was not permitted by the trial court to test each juror's impartiality by asking the question “Have you the same neighborly regard for this defendant, though a Negro, and his race generally, as you have for individuals of the white race?”⁸⁵ In other words, Johnson wanted to ask if the jurors could treat Cavitt the same as any white man. The court of appeals affirmed the trial judge's refusal to allow such questioning. It opined that such a question could not be allowed to disqualify any juror, since “no white man has the same neighborly or social regard for a Negro that he has for a white man.”⁸⁶ All in all, the appellate court stated “the defendant has been fairly and impartially tried, and justly convicted. It is conclusively shown by the evidence that he committed a deliberate, cruel and dastardly murder, and it is lawful and right that for this crime his life should be forfeited.”⁸⁷

Perry Cavitt was sentenced to be hanged on May 9, 1884.⁸⁸ But in response to a petition signed by “members of the bar, the jury in the case, and hundreds of citizens throughout the county,” on April 29, 1884, Governor John Ireland commuted Cavitt's sentence to life imprisonment.⁸⁹ Yet even with all appeals exhausted, John N. Johnson was thinking of the next Perry Cavitt. On New Year's Day 1884, returning to the pulpit of an editorial instead of courtroom argument, Johnson advocated for greater civil rights protections to be passed. Acknowledging that “[s]ome may argue that the present laws of the State are adequate for the colored man's protection,” Johnson nevertheless

⁸⁰ *Cavitt*, 15 Tex. Ct. App. at 190.

⁸¹ 476 U.S. 79 (1986).

⁸² *Cavitt*, 15 Tex. Ct. App. at 190.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ *Galveston Daily News*, Apr. 4, 1884, 1.

⁸⁹ *Galveston Daily News*, Apr. 30, 1884, 1.

argued that “in many locations and under certain circumstances individuals find ready means of avoidance” of such laws, particularly with charges “calculated to arouse the prejudices of white juries and judges.”⁹⁰ Johnson wrote that the Fourteenth Amendment was intended to make African Americans “the equal of every other citizen in law.”⁹¹ However, such a guarantee was worthless in the face of commissioners who deny African Americans equal representation on juries. With the miscarriage of justice in Perry Cavitt’s case foremost in mind, Johnson demanded change:

Stop the nefarious, one-sided work of many of the jury commissioners, who consider it their duty to pass by every Negro’s name when found on the list. In some counties, where half or nearly half of the population is colored, and where about nine-tenths of the cases involve the rights, life, or liberty of colored men—not five Negroes have been selected as jurors in eight years. Hundreds of Negroes have languished and are now languishing in prisons, who have been more the victims of prejudice instead of being the fruit of fair and impartial trials. We pray that these wrongs be corrected by our state government.⁹²

V. ANOTHER PATH

High profile cases behind him, Johnson remained politically active and continued to teach to supplement his income as a lawyer. In 1884, he presided as chair of a state Republican convention of African American men.⁹³ In 1886, he won the Republican nomination for district attorney of Brazos County and the surrounding judicial district but was not elected.⁹⁴ He also continued to press the issue of inequality in juror representation. In one editorial, he advocated for changing the jury law to permit the seating of “all qualified jurors, without designating race.”⁹⁵ By identifying jurors by number, Johnson argued, jury duty could be more evenly distributed and would “stop the charge of unfairness in general” and “will obviate employment of the professional juror, who believes he must convict, guilty or not guilty, to draw his pay.”⁹⁶

By 1887, Johnson weighed in on yet another outbreak of racial violence—this time, the “bulldozing” or attempted forced evictions by whites of black settlers in Brazoria and Matagorda counties, known as “the Brazoria troubles.” Johnson wrote to Governor Sul Ross requesting that he appoint a commission to investigate these “troubles.”⁹⁷ While the governor’s office questioned the constitutionality of appointing such a commission, he did take action that indicated Johnson’s plea was favorably received. Contemporary newspaper accounts include an excerpt from the governor’s October 6, 1887 letter to the district judge for both counties, W.H. Burkhardt, directing him to “form a constituent part to incite the officers and especially the grand juries” to use “every

⁹⁰ John N. Johnson, “Will the States Pass a Civil Rights Law?” *Galveston Daily News*, Jan. 1, 1884, 2.

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ *Galveston Daily News*, July 30, 1884, 3.

⁹⁴ *Galveston Daily News*, Oct. 10, 1886, 8.

⁹⁵ John N. Johnson, “The Colored People and the Situation: How to Make the Best of It,” *Galveston Daily News*, Nov. 30, 1884, 4.

⁹⁶ *Ibid.*

⁹⁷ *Fort Worth Daily Gazette*, Oct. 15, 1887, 5.

means in their powers to make such strenuous queries as shall lead to the arrest and conviction of all parties concerned in the late outbreak.”⁹⁸

During the same time period (1887–1888), Johnson was supporting himself with the steady income of a schoolteacher in Brazos County’s “colored school.”⁹⁹ Soon, however, the water he had carried as a loyal Republican Party organizer and leader yielded a reward in the form of a political patronage job. By 1890, Johnson was appointed by President Benjamin Harrison to a civil service position with the Railway Postal Service, and he moved to Washington, D.C.¹⁰⁰ But a change in job and surroundings was not the only alteration in Johnson’s life. Divorced in 1889, in 1890 he married his second wife, Mary, and started a new family.¹⁰¹ Johnson also furthered his education, earning an M.D. by 1895.¹⁰² During his tenure as a civil servant, Johnson eventually moved to the Pension Bureau as a clerk—a position he retained until his death. He was also active civically, founding the National Colored Peoples Cooperative Beneficial Association, a charitable organization providing assistance to the African American community.

Even from far away, Johnson kept an eye on developments in Texas, publishing the occasional editorial in a Texas newspaper and in 1899 rallying for victims of flooding in his home state.¹⁰³ He also frequently wrote letters to the editor or op-eds published in Washington, D.C.-area newspapers highlighting abuses of police power against the African American community, condemning racial violence, and championing civil rights. For example, he wrote in defense of a black woman and her daughter who were prosecuted and jailed on trumped-up charges after complaining against a police officer who had entered her home without a warrant:

[P]oor colored people languish in prison while the false swearer stalks about, in uniform, drawing his pay and asking for more. The Buckner woman and her daughter were beaten in their rooms and dragged into the alley and the officer sworn they were disorderly and resisted and assaulted an officer. The woman served two months in a workhouse that the decision of the higher courts say cannot lawfully hold prisoners except after trial by jury and indictment by grand jury. Her daughter is serving six months.¹⁰⁴

Johnson went on to condemn the repeated violations of African Americans’ civil rights at police hands, angered at law enforcement attempts “to constitutionally declare them outside the pale of the law.”¹⁰⁵ Johnson boldly offered to step up and prosecute the offending officers himself

⁹⁸ *Ibid.*

⁹⁹ Brazos County Schools Financial Report, Sept. 1, 1887–July 1, 1888; original in Texas State Archives, photocopy on file in Bryan Public Library, local history files.

¹⁰⁰ “Look to Your Investments: J.N. Johnson’s Letter of Advice to the Negroes of Texas,” *Bryan Eagle*, Oct. 2, 1890, 8.

¹⁰¹ According to the 1900 District of Columbia Census, the couple had two children, son Frederick Johnson born in January 1893 and daughter Carrie Johnson born in July 1895.

¹⁰² “Prof. J.N. Johnson is Now an M.D. in Washington,” *The Freeman* (Indianapolis), Jan. 12, 1895, 4. It is unknown where Johnson received his medical degree, though Howard University is a distinct possibility.

¹⁰³ John N. Johnson, “Negroes in the Flood District,” *Washington Post*, July 20, 1899, 5.

¹⁰⁴ *Washington Evening Star*, Dec. 1, 1904, 12.

¹⁰⁵ *Ibid.*

in order to reign in the abuse of power. "If the Commissioners will accept my offer for trial of case heretofore pressed," he said, "we will convict of false swearing and show unavenged murder, unjust imprisonment and heavy wrongful fines."¹⁰⁶

Even though he wasn't actively practicing himself, Johnson applauded the African American lawyers who were fighting the good fight in protecting members of the black community in the courts, despite the crippling effects of Jim Crow laws that were disenfranchising them:

[E]ach of one hundred and seventy five thousand [African American] votes was reduced to 4,000 in Mississippi and 9,000 in South Carolina. Being allowed to vote and have the votes counted as cast would give Negroes thousands of offices in precincts, counties, districts and states and would give us twenty Negroes in Congress . . . Hundreds of Negro lawyers now asking appointments would be getting rich in their law practice if Congress would see that Negroes are not excluded from juries, to the end that juries could not be purposely formed against the black man whose interest is on trial and against the black lawyer who, under the present customs of total Negro exclusion from juries in the Southern states, even Virginia and Maryland, is almost barred from the courts.¹⁰⁷

Johnson called for enforcement of the Fourteenth Amendment in order to "untie our hands and give us a white man's chance."¹⁰⁸

In a later editorial, Johnson would single out specific black lawyers who defended members of their community from baseless charges and, in at least one instance, prevented the lynching of a falsely accused man. He criticized newspapers both black and white for being "slow to notice any merit in our colored lawyers anywhere, notwithstanding the obstacles against which they have to contend . . . the colored lawyer in Washington has as good a chance as a white one . . . Give these men the support you should and set the proper example to others elsewhere in the country."¹⁰⁹ Elsewhere, Johnson spoke out against lynchings, particularly the lynchings of black men accused of rapes of white women. In one editorial, he pointed out that:

[t]he census report of 1890 shows that out of 1,387 rapes of that year, white men committed 820 and Negroes 567, but it does not appear that a dozen white men were lynched for these 820 rapes that are officially recorded against them . . . we should not deny the guilt of the party accused of rape, nor should those who defend lynching for such a crime declare that it is a crime peculiar to Negroes.¹¹⁰

One lynching in particular hit home for Johnson, because it occurred in Gaithersburg, Maryland (Montgomery County), where Johnson's own father, preacher Stephen Johnson, was murdered in an act of racial violence. On May 25, 1896, Richard Buxton and his family were

¹⁰⁶ *Ibid.*

¹⁰⁷ John N. Johnson, "Why Should Negroes Bolt?," *Washington Bee*, July 17, 1897, 4.

¹⁰⁸ *Ibid.*

¹⁰⁹ J.N. Johnson, "Compliments to Our Colored Lawyers," *Washington Bee*, Oct. 2, 1897, 4.

¹¹⁰ *Colored American* (Washington, D.C.), May 13, 1899, 6.

attacked in their Gaithersburg home by an axe-wielding intruder.¹¹¹ He and his wife were injured, while their 2-year-old son Carroll hid under a bed and was unscathed. But 16-year-old daughter Maude was critically injured, along with 7 year-old Sadie; Sadie died of her wounds days later, on June 5 1896. 28 year-old Sidney Randolph and 29 year-old George Neale, African American men who did not even know each other, were arrested the day after the attack and taken to Baltimore to prevent a lynching.¹¹² The reason for the arrests were unclear, especially since Randolph had no motive or connection to the Buxtons, and Mrs. Buxton could not identify any attacker. "Blood" found on Randolph's undershirt turned out to be paint. Yet after a coroner's jury concluded on June 12 that Neale was innocent, the focus on Randolph intensified.¹¹³

At approximately 2:30 a.m. on July 4, a mob of 20–30 men stormed the jail and dragged Randolph out. He was lynched from a chestnut tree in Rockville, outside Baltimore. No one was ever arrested for the lynching, which the *Washington Post* called a "shameful affair," and which the *Washington Times* labeled "a crime against the community as a whole," calling Randolph "the vicarious sacrifice for another man's crime."¹¹⁴

Sidney Randolph was one of 78 African Americans lynched in 1896, and his death struck a particular chord in Johnson, who was "born in that very community" and the son of a man murdered there in the 1860s. In one editorial, he railed against the flimsy charges brought against Randolph while the real culprit roamed free, and demanded that Governor Lowndes offer a reward for information leading to the prosecution of the lynchers (the governor later did offer a \$1,000 reward).¹¹⁵ In another editorial, Johnson disagreed with African Americans who felt the lynching was more a visceral reaction to the crime itself than a racial injustice. He wrote:

[c]olored people are about the only people lynched, and therefore it is a race question . . . Murder of suspects accused of crime by persons known as lynchers, while somewhat condoned because of the aggravating circumstances is as much murder as any other murder, and all the people should not only condemn it, but put a stop to it, without the necessity of indignation meetings, but they do not . . .¹¹⁶

While a high-profile lynching was certain to motivate John N. Johnson to take pen in hand, he also spoke out against the deaths of African American men at the hands of white policemen. Almost 125 years before George Floyd would die at the hands of Minnesota police and before Breonna Taylor would be shot in her Louisville home by police, Johnson condemned an all-too-common occurrence: police brutality, including deaths, of African Americans. Johnson, exasperated by a wave of beatings and killings of blacks, wrote that "The unnecessary killing of Negroes here in Washington, occurring so often for no excuse save that the individual has served for a petty offence

¹¹¹ Eugene L. Meyer, "Once Upon a Time in Montgomery County," *Bethesda Magazine* (Sept./Oct. 2011), <https://bethesdamagazine.com/bethesda-magazine/september-october-2011/once-upon-a-time-in-montgomery-county/>.

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ John N. Johnson, "A Colored Man's Appeal," *The Baltimore Sun*, July 7, 1896, 7.

¹¹⁶ John N. Johnson, "Not Responsible as a Race," *Washington Post*, Aug. 3, 1896, 10.

in the workhouse, should be stopped.”¹¹⁷ Johnson blamed police administrators and political authorities, “because they authorize these officers to go beyond the law, even the Constitution, in dealing with [African Americans].”¹¹⁸ Johnson drew particular attention to the death of one black resident at police hands:

London Shears was killed in a fight brought on by a policeman who went into Shears’ kitchen through the backyard in violation of the Constitution of the United States . . . went in there to settle a discussion between Shears and his wife about moving [and] paying rent . . .¹¹⁹

Johnson goes on to describe the incident, in which the officer (Curry) escalated things when he not only refused to apologize for barging in, he threatened Shears with his billy club, only to lose it to Shears in a struggle before shooting him. Officer Curry, Johnson maintained, “brought on this fight by his own wrongful act, and his killing of Shears is manslaughter.”¹²⁰ If police were not curbed, Johnson wondered, “Who will next share this fate?”¹²¹ Johnson called for an end to the killings and what would now be called “excessive force” by law enforcement:

I am, and always have been, a law-abiding citizen, but protest against this system of murder of my race by a class of individuals who hate us worse than any beings we can find anywhere in the far South. I live there and know that our enemies there are not near so violent as those found on the Washington police force.¹²²

VI. “QUICK IN THE DEFENSE OF HIS RACE AND SENSITIVE OF THEIR RIGHTS”

Whether as a lawyer, a teacher, a political organizer, or as a journalist, John N. Johnson devoted himself to advocating for the civil rights of the African American community. He didn’t stop until his death on March 13, 1906. An obituary described him as “a great advocate of justice and right.”¹²³ It also described him as “[q]uick in the defense of his race and sensitive of their rights,” serving as “the embodiment of all that goes to represent racial integrity, consistency and cohesiveness.”¹²⁴ Sadly, Johnson did not live to see, just months after his death, the release of his client, Perry Cavitt, from the penitentiary. Cavitt was pardoned in December 1906 by Governor Samuel Lanham after serving 23 years of his life sentence.¹²⁵ Convicted by an all-white jury, Cavitt had been a model prisoner and according to one article, it was the influence brought to bear by Major W.R. Cavitt (to whose family Perry had once been enslaved) that led to his pardon.¹²⁶

¹¹⁷ John N. Johnson, “Not Self Defense, But Murder; Policeman Not Justified in Taking Life,” *Washington Post*, Dec. 13, 1896, 9.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² *Ibid.*

¹²³ “Died . . . Johnson,” *Washington Bee*, Mar. 24, 1906, 2.

¹²⁴ *Ibid.*

¹²⁵ *Bryan Morning Eagle*, Dec. 23, 1906, 7.

¹²⁶ *Brazos Pilot*, Dec. 27, 1906, 1.

There are other developments that John N. Johnson never got to witness. He would have rejoiced at the election of an African American president, but likely would have been frustrated that representation of African Americans on juries, mass incarceration of black men, and the deaths of people of color at the hands of police are problems that persist well into the 21st century. And while statues of Confederate figures remain in many Texas cities, there is no monument to John N. Johnson—but that may be changing. Today, the building that once housed the “colored school” in Bryan where Johnson taught is now home to the Brazos Valley African American Museum. And recently, the author was contacted by the City of Bryan city manager, who had read one of the author’s previous articles about Johnson. A historic marker honoring Johnson is in the works, and according to this city manager, the plan is to place this marker outside the Brazos County Courthouse.

Imagine—a historic marker honoring the first African American admitted to practice before the Supreme Court of Texas, and the lawyer behind Texas’ first civil rights lawsuits, placed outside the courthouse where his application to practice law was twice denied, and where his legal battles for clients against discriminatory practices ended in defeat. Karma is an amazing thing.

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A Profile in Courage: Gloria Katrina Bradford

By Jasmine S. Wynton

Before the U.S. Supreme Court's 1954 landmark decision in *Brown v. Board of Education*,¹ which declared racial segregation in public schools unconstitutional, there was the Court's lesser-known ruling in *Sweatt v. Painter*,² just four years earlier, that delivered a crucial blow to legal segregation. In *Sweatt v. Painter*, the Court ruled that the Equal Protection Clause of the Fourteenth Amendment required the admission of a black man, Heman Marion Sweatt, to the University of Texas Law School, because the State of Texas could not provide black students with a legal education equivalent to that offered by the State to white students.³ Following the Supreme Court's decision in June of 1950, Sweatt enrolled at the University of Texas Law School that fall, along with five other black male students—Jacob Carruthers, Elwin Jarmon, Virgil Lott, Dudley Redd, and George Washington, Jr.—the first six black students to attend the law school.⁴



Gloria Bradford in her 1954 Senior Law Composite. Courtesy of the Tarlton Law Library, The University of Texas at Austin.

History has paid much attention to Mr. Sweatt for paving the way for other African Americans to receive a legal education in Texas, and to his classmate, Mr. Lott, who ultimately became the first African American to graduate from the University of Texas Law School.⁵ Less known is the story of Gloria Bradford, a courageous young woman who would later enroll at UT Law School in fall of 1951—just a year after Mr. Sweatt's historic victory—and in 1954, become the first African American woman to graduate from the law school.⁶ This article seeks to shed a

¹ *Brown v. Board of Education*, 347 U.S. 483 (1954).

² *Sweatt v. Painter*, 339 U.S. 629 (1950).

³ *Ibid.*

⁴ <https://tarlton.law.utexas.edu/african-american-graduates/1950>.

⁵ <https://tarlton.law.utexas.edu/african-american-graduates/virgil-lott>.

⁶ <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>.

much-deserved spotlight on the story of Ms. Bradford, an African American woman who dared to enroll in law school in the Jim Crow South, in an era in which women were being denied the most basic rights on the basis of their sex, such as the right to serve on a jury.⁷ Despite facing double discrimination based on race and gender, Ms. Bradford successfully graduated from UT in 1954, earned a Texas law license, and went on to become the first African American woman to try a case in Harris County District Court.

Early Life

Gloria Katrina Bradford was born on February 19, 1930, to James K. Bradford and Olivia Sweeney Bradford.⁸ She was the oldest of three girls.⁹ She grew up mostly in Houston, Texas, but briefly lived in Massachusetts for two years, where she went to school for seventh and eighth grades in Cambridge, before returning back to Houston.¹⁰ Her father was a doorman at what was then known as Rice Hotel in downtown Houston, Texas.¹¹ Her parents divorced when she was 12 and her father obtained custody over Gloria and her sisters, and she lived with her father's mother throughout high school.¹² She attended public, segregated schools in Houston.¹³ Her first exposure to attending an integrated school, however, was when she attended middle school at Henry Wadsworth Longfellow school in Cambridge, Massachusetts.¹⁴ Bradford would later recall that she enjoyed attending an integrated school in Cambridge, and felt that she was treated like an equal, despite being one of perhaps twenty black students out of 800 total students.¹⁵ Further, it was at school in Cambridge that she was first exposed to the arts and music, where students would have the opportunity to win tickets to the symphony.¹⁶ Bradford would later return to Houston for high school. In 1946, she graduated from Booker T. Washington High School, which, at the time was located at its original location on West Dallas Street in downtown Houston.¹⁷

⁷ Indeed, women were kept off of juries in Texas until 1954, when the state Constitution was amended to require women to serve on juries—an amendment that passed with only 57% of the vote. HJR 16, 53rd R.S., <https://lrl.texas.gov/legis/billsearch/amendmentDetails.cfm?amendmentID=200&legSession=53-0&billTypedetail=HJR&billNumberDetail=16>; <https://www.chron.com/neighborhood/kingwood/opinion/article/DANIEL-Women-were-kept-off-Texas-juries-until-9705922.php#:~:text=The%20amendment%20passed%20with%2057,on%20a%20jury%20on%20Texas>.

⁸ <https://www.legacy.com/obituaries/houstonchronicle/obituary.aspx?n=gloria-bradford&pid=163213635>.

⁹ *Ibid.*

¹⁰ William J. Chriss, *Gloria K. Bradford An Oral History Interview*, Jamail Center for Legal Research, The University of Texas at Austin (2011), 1, https://tarltonapps.law.utexas.edu/rare/documents/bradford_oral_history.pdf.

¹¹ William J. Chriss, *Gloria K. Bradford An Oral History Interview*, Jamail Center for Legal Research, The University of Texas at Austin (2011), 8, https://tarltonapps.law.utexas.edu/rare/documents/bradford_oral_history.pdf.

¹² *Ibid.*

¹³ *Ibid.*, 1-2.

¹⁴ William J. Chriss, *Gloria K. Bradford An Oral History Interview*, Jamail Center for Legal Research, The University of Texas at Austin (2011), 1-2, https://tarltonapps.law.utexas.edu/rare/documents/bradford_oral_history.pdf.

¹⁵ *Ibid.*, 2.

¹⁶ *Ibid.*

¹⁷ *Ibid.*, 1; see also <https://www.houstonisd.org/Page/32485>.

Pre-Law School

Bradford graduated from Prairie View A&M College (now Prairie View A&M University) in 1949, while it was also segregated.¹⁸ Initially, Bradford was a chemistry major at Prairie View, but then later changed her major to political science and history.¹⁹ Bradford was interested in current events and public affairs, which she attributes to her paternal grandmother, an elementary school teacher, who instructed Bradford and her sisters to better themselves by being aware of current events and staying engaged.²⁰ Even though she was interested in political science, Bradford had not seriously considered going to law school while she was in college.²¹

As an undergraduate student at Prairie View, Bradford was involved in the student Christian movement during college, particularly the Young Women's Christian Association (YWCA), and the Young Men's Christian Association (YMCA).²² Indeed, during her senior year, Bradford served as the fourth vice president of the national YWCA, which would have her travel to places from the Hill Country to Wisconsin with students from across the nation—an experience that Bradford would later describe as her “first formative experience with integrated settings in school.”²³ Furthermore, Bradford was also involved in photography as a college student, describing herself as a photographer and as one that was “always out in the lime-light.”²⁴

After graduating from Prairie View, Bradford moved to Washington, D.C., where she interned during the summer of 1949 for the Library of Congress.²⁵ Following her internship with the Library of Congress, Bradford worked briefly as a saleswoman for a plastics company called the House of Plastics before working as a cash accounting clerk for the Department of Treasury Bureau of the Public Debt in 1950.²⁶ That same year, Bradford also began post-graduate work at American University.²⁷ She also served as a member of the Friends Committee on National Legislation.²⁸

It was during her time working in Washington that Bradford would be inspired to attend law school by her roommate at the time, Charlye O. Farris, a law student at Howard University law school.²⁹ Farris, a fellow Texan and a former classmate of Bradford's, also graduated from Booker T. Washington High School and Prairie View with a degree in Political Science.³⁰ It is

¹⁸ William J. Chriss, *Gloria K. Bradford An Oral History Interview*, Jamail Center for Legal Research, The University of Texas at Austin (2011), 3, https://tarltonapps.law.utexas.edu/rare/documents/bradford_oral_history.pdf.

¹⁹ *Ibid.*

²⁰ *Ibid*, 7.

²¹ *Ibid*, 4.

²² *Ibid*, 7, 9.

²³ *Ibid*, 7.

²⁴ *Ibid*, 8.

²⁵ *Ibid*, 4.

²⁶ *Ibid*, 4-5.

²⁷ <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>.

²⁸ *Ibid.*

²⁹ William J. Chriss, *Gloria K. Bradford An Oral History Interview*, Jamail Center for Legal Research, The University of Texas at Austin (2011), 5.

³⁰ <https://www.wichitacountyhistoricalcommission.org/charlye-ola-farris.html>.

telling that Bradford and Farris were roommates, as Farris would later become the first African American woman to be admitted to practice law in Texas in 1953, and the first African American to serve as a judge in any capacity in the South since Reconstruction.³¹



Charlye O. Farris. Courtesy of the State Bar of Texas Archives.

In law school, Farris would have her Howard Law classmates over to their apartment for law school bull sessions. Bradford participated in these sessions with Farris and her classmates. Because Bradford often knew the answers to their questions, especially those regarding bills and notes (due to her Treasury Department experience), they encouraged her to go to law school.³² Shortly thereafter, just a year after the *Sweatt* decision, 21-year-old Bradford applied to UT law school. She chose UT because she continued to maintain her Texas residency, even paying a poll tax of \$1.50, which entitled her to vote in Texas.³³ Initially, the administration at UT Law questioned Bradford's residency, arguing that she was a Mississippi resident because her mother lived there, but she overcame it with proof that she had always been in the custody of her father, who lived in Texas, until his death, and that since his death she had bought a poll tax and was a registered voter in Texas.³⁴

Law School

UT Law finally admitted Bradford, and she moved to Austin to begin law school in 1951.³⁵ Bradford felt she already had "some rapport" at UT before she arrived because she was friends with Block Smith, who had been the executive secretary of the UT chapter of the YMCA.³⁶ Heman Sweatt was repeating his first year at the time she began.³⁷ There were several other black students enrolled at the time including George Washington, Jr., Virgil Lott (who would become the first African American to graduate from the school), Ollis Malloy, and another woman name Vivian Brooks, who would later drop out of school after the first year.³⁸ There was no formal or informal association of Black students, law or otherwise, while Bradford attended UT Law.³⁹ But Bradford noted that she was familiar with some of the first African Americans to be admitted to the University as a whole, and would see them in the cafeteria and other similar places, and would catch rides home with them, among other things.⁴⁰

³¹ *Ibid*; see also <https://www.county.org/County-Magazine/January-February-2018/My-Friend-Charlye-Farris>.

³² William J. Chriss, *Gloria K. Bradford An Oral History Interview*, Jamail Center for Legal Research, The University of Texas at Austin (2011), 5-6, https://tarltonapps.law.utexas.edu/rare/documents/bradford_oral_history.pdf.

³³ *Ibid*, 8.

³⁴ *Ibid*, 6, 8.

³⁵ *Ibid*.

³⁶ *Ibid*, 9.

³⁷ *Ibid*.

³⁸ *Ibid*, 9.

³⁹ Chriss, *Oral History Interview*, 10.

⁴⁰ *Ibid*, 10.

Bradford was impressed with the law school and enjoyed it, describing it as a “tough program” where “they didn’t take any nonsense.”⁴¹ She did not know how highly ranked the program was until she actually enrolled in the law school.⁴² She learned by word of mouth which professors to avoid, including those professors that would be harder on her because she was a woman or because she was African American, and she was able to avoid taking classes with those professors.⁴³ Property was one of Bradford’s favorite classes, which she took with Professor Gus Hodges, and she performed well in that class.⁴⁴

Bradford believed that the professors graded her harder than her non-black counterparts, which ensured that she, along with the African American students were excluded from the law school fraternity Phi Alpha Delta.⁴⁵ Bradford, like other African American students, was excluded from fraternities and sororities, and there were no African American fraternities at the time. Nonetheless, according to Bradford, the white and Hispanic students at UT law treated her well.⁴⁶ There was a “camaraderie” which “went past the segregation problem.”⁴⁷ In contrast, Bradford’s predecessors might not have quite said the same. Indeed, upon leaving the library late one night, Sweatt found a large crowd brandishing a burning cross waiting across the street from his parked vehicle, whose tires were slashed.⁴⁸

During law school, Bradford met Thurgood Marshall, who was attending a state convention in Austin. Sweatt had dropped out of the law school program due to health issues, but Marshall told Bradford, “You’re going to make it.”⁴⁹ Bradford said that this was encouraging. Bradford said that this was the first time she met Justice Marshall and that he had nothing to do with getting her to apply to law school.⁵⁰

Bradford was nominated for the fifth Portia of the law school in 1953.⁵¹ The Portia was the “private sweetheart” of the law school—it was essentially a beauty and popularity contest like the University Sweetheart at the undergraduate level. The qualifications included justice, virtue, beauty, and brains. To be nominated, a female student required 20 signatures. Nominated along with Bradford was Edna Cisneros, who would later become the first female Hispanic lawyer and district attorney in Texas. One of Bradford’s classmates, Gordon R. Pate, an attorney based in Beaumont, Texas, recalls Bradford, who was perhaps one of less than ten women in the law school at the time, as being “neatly dressed and quiet,” but confident.⁵²

⁴¹ *Ibid*, 11.

⁴² *Ibid*, 21.

⁴³ *Ibid*, 11.

⁴⁴ *Ibid*, 13.

⁴⁵ *Ibid*, 12.

⁴⁶ *Ibid*, 11.

⁴⁷ *Ibid*, 21.

⁴⁸ <https://www.texasbar.com/AM/PrinterTemplate.cfm?Section=Search&Template=/CM/HTMLDisplay.cfm&ContentID=14892>.

⁴⁹ Chriss, *Oral History Interview*, 16; <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>.

⁵⁰ *Ibid*, 16.

⁵¹ “Nominees Named for Fifth Portia of School of Law,” *The Daily Texan*, Feb. 1, 1953, 5.

⁵² Gordon R. Pate in telephone interview with the author, August 8, 2020.

While attending law school, Bradford spent most of the spare time she had shining shoes at a pool hall in East Austin.⁵³ Bradford recalled that it was at that pool hall where she learned how to play pool.⁵⁴ Housing in Austin at the time was still segregated, so she lived in the black neighborhood in East Austin. Her roommates attended Huston-Tillotson University.⁵⁵ Despite the challenges of segregation, Bradford enjoyed her time in Austin. Bradford was the only Black member of the Young Democrats in Austin.⁵⁶



Gloria Bradford in the 1954 *Peregrinus*, the yearbook of the University of Texas School of Law. Courtesy of the Tarlton Law Library, The University of Texas at Austin.

Legal Career

Bradford graduated from UT law in May 1954, becoming the first African American woman to graduate from the law school.⁵⁷ She passed the Texas bar exam that same summer, with a passing score of 77 out of 80.⁵⁸ She was one of 138 new Texas lawyers (45 from UT Law).⁵⁹ Bradford practiced general civil and criminal law in Houston at the now-defunct firm of Dent, Ford, King & Witcliff, which was made up of Black attorneys.⁶⁰ After practicing with Dent, Ford, King & Witcliff, Bradford and two other attorneys opened up their own firm.⁶¹ Bradford was a member of the American Southwest Regional Bar Association, State Bar of Texas, Houston Lawyers Association, and the Houston Association for Better Schools.⁶²

Major Cases

Unsurprisingly, Bradford garnered attention from the press during the early years of her legal career. Sometimes she was the subject of the article featured in a local newspaper, because she was the first of her kind—a Negro woman attorney—to appear in courthouses in those towns. Other times, the focus of the article was on the high-profile case that she was working on at the time, but even so, her status as a Negro woman attorney and graduate of UT Law were discussed.

Bradford did not shy away from working on controversial cases. Indeed, in September 1954, less than two months after earning her law license, she appeared in federal court, seeking a temporary restraining order (“TRO”) against her alma mater, on behalf of John Winfred Walker, an

⁵³ Chriss, *Oral History Interview*, 13.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ Chriss, *Oral History Interview*, 18.

⁵⁷ <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>.

⁵⁸ *Austin Daily Texan*, Aug. 10, 1954, 54 (19): 1.; Chriss, *Oral History*, 23.

⁵⁹ “138 Pass Bar Exam; High Scorers Told,” *The Daily Texan*, Aug. 10, 1954, 1.

⁶⁰ Chriss, *Oral History Interview*, 14.

⁶¹ <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>.

⁶² <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>; *Who's Who of American Women*, 2d ed. 1961-62, Wilmette, IL, 1961, 119, column 3.

African American seeking admission into the undergraduate program at the University of Texas.⁶³ Walker was initially accepted to the University, becoming the first Black undergraduate student to be admitted to the school following the Supreme Court's *Brown* ruling issued earlier that year in May.⁶⁴ On September 2, however, shortly before Walker was to start classes, the University notified Walker and several other black students who were also admitted, that it had "canceled" their undergraduate admissions.⁶⁵ According to officials at the University, admitting Walker to the school would violate a policy set by the Board of Regents following the *Sweatt* decision, and the University did not offer blacks undergraduate courses that were not available at Prairie View and Texas Southern.⁶⁶ Thus, despite being one of the first state schools in the south to accept blacks as graduate students, UT "continued to hold the line against allowing Negroes in undergraduate classes."⁶⁷



John W. Walker, circa 1970s. Courtesy of the Arkansas State Archives.

Appearing before Judge Ben H. Rice, Jr. in the U.S. District Court for the Western District of Texas, Bradford argued in support of Walker's request for a TRO against the University.⁶⁸ Bradford argued that the Supreme Court's decisions in *Sweatt* and its companion case, *McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950), were controlling and under the doctrine established by those cases, Walker should be admitted to UT.⁶⁹ According to news accounts, Bradford "outlined in detail differences in first-year engineering curricula at the University and at Prairie View," explaining "[s]ince Prairie View does not even offer a course in petroleum engineering (Walker's chosen field of study), it would be presumptuous [sic] to say that he will derive equal benefits by attending that school."⁷⁰ The University's counsel argued that the issuance of a TRO would only maintain the status quo of Walker's status as a non-student, and that cases like Walker's should be deferred until the Supreme Court decided how to implement its ruling in *Brown*.⁷¹ According to the University's counsel, admitting Negro students would create new and unique problems for the school and that long-term planning was required before Negroes and whites could be integrated at UT.⁷² Bradford responded that since Negro students were already enrolled at the University, admitting Walker would not create any new problems.⁷³

⁶³ "Federal Court Denies Order Asking Walker's Admission," *The Daily Texan*, Sept. 26. 1954, 54 (32).

⁶⁴ <https://www.naacpldf.org/press-release/ldf-mourns-the-loss-of-john-w-walker-esteemed-board-member-and-cooperating-attorney/>; see also "Federal Court Denies Order Asking Walker's Admission," *The Daily Texan*, Sept. 26. 1954, 54 (32).

⁶⁵ "Federal Court Denies Order Asking Walker's Admission," *The Daily Texan*, Sept. 26. 1954, 54 (32).

⁶⁶ *Ibid*; see also "Texas Suit Tests TU Color Barrier," *Jackson Advocate*, Oct. 30, 1954.

⁶⁷ "Texas Suit Tests TU Color Barrier," *Jackson Advocate*, Oct. 30, 1954.

⁶⁸ "Federal Court Denies Order Asking Walker's Admission," *The Daily Texan*, Sept. 26. 1954, 54 (32).

⁶⁹ *Ibid*.

⁷⁰ *Ibid*.

⁷¹ *Ibid*.

⁷² *Ibid*.

⁷³ *Ibid*.

Judge Rice denied the request for a TRO without providing a reason and the case did not progress.⁷⁴ Walker went on to become a prominent civil rights attorney. He attended Arkansas A&M College, earned a master's degree at NYU, and graduated from Yale Law. He was the third intern of the NAACP Legal Defense Fund before opening a civil rights litigation firm in Little Rock, often partnering with the NAACP LDF.⁷⁵

In October 1954, Bradford made headlines when she was appointed to represent a black man who wanted to plead guilty to a theft charge and became the first black woman attorney to try a case in the Harris County criminal district court.⁷⁶ Several years later in July 1957, Bradford made headlines again when she represented Southern Standard Life, an insurance firm in a contempt of court hearing in the 98th District Court in Travis County. Indeed, the Austin Statesman newspaper ran an article titled, "Negro Woman Attorney Appears in Court Here," regarding Bradford's appearance in the case.⁷⁷ Bradford—described as a "tall, soft-spoken graduate of the University of Texas Law School,"—was the first African American woman lawyer that then-Deputy District Clerk George Bickler reported seeing in his 37 years at the courthouse.⁷⁸

One of the more notable cases in which Bradford would appear was the appeal of a lawsuit in which the State of Texas sought to permanently bar the National Association for the Advancement of Colored People (NAACP) from operating in Texas.⁷⁹ In 1956, the Texas Attorney General John Ben Shepperd, seeking to handicap the NAACP, accused the New York nonprofit organization of practicing law in Texas without a license, committing barratry (illegal solicitation of potential clients for the purpose of harassment or profit) and champerty (illegal financing of litigation by third party that had no prior interest in the litigation in exchange for consideration contingent on the outcome of the litigation), and engaging in political activity.⁸⁰ The lawsuits that the State questioned, were almost all filed against institutions of higher education or school districts for violations of integration rulings.⁸¹ Judge Otis T. Dunagan of the Seventh Judicial District Court of Smith County, Texas, granted the State's request for a temporary restraining order (TRO) and a permanent injunction, preventing the NAACP from soliciting and financing lawsuits in which it had no direct interest and from engaging in political activities in Texas.⁸² The NAACP, however, was allowed to continue operating in Texas if it restricted its activities solely

⁷⁴ *Ibid.*

⁷⁵ <https://www.naacpldf.org/press-release/ldf-mourns-the-loss-of-john-w-walker-esteemed-board-member-and-cooperating-attorney/>.

⁷⁶ <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>; see also "Negro Woman Lawyer to Try Case Here," *Houston Chronicle*, Oct. 15, 1954.

⁷⁷ "Negro Woman Attorney Appears in Court Here," *The Austin Statesman*, July 24, 1957.

⁷⁸ "Negro Woman Attorney Appears in Court Here," *The Austin Statesman*, July 24, 1957; see also "Insurance Firm Found in Contempt," *The Austin Statesman*, Jul. 23, 1957.

⁷⁹ "Both Sides Rest Cases in Tyler Row," *The Austin Statesman*, May 8, 1957; Chriss, *Oral History Interview*, 16.

⁸⁰ Chriss, *Oral History Interview*, 17; see also <https://legacy.lib.utexas.edu/taro/utcah/03696/03696-P.html>; https://tylerpaper.com/news/local/texas-vs-naacp-records-found/article_f99ab164-3d11-5071-840f-3cef29b16127.html; BLACK'S LAW DICTIONARY 973 (8th ed. 2004).

⁸¹ https://tylerpaper.com/news/local/texas-vs-naacp-records-found/article_f99ab164-3d11-5071-840f-3cef29b16127.html.

⁸² "Both Sides Rest Cases in Tyler Row," *The Austin Statesman*, May 8, 1957; see also "Woman Lawyer to Represent NAACP," *The Kilgore News Herald*, Jun. 30, 1957.

to charitable and educational functions.⁸³ The NAACP appealed the permanent injunction.⁸⁴ According to news reports, the NAACP initially had difficulty finding a Texas attorney to represent it in the appeal after its two Dallas attorneys, C.B. Bunkley and W.J. Durham, withdrew from the case.⁸⁵ NAACP lawyers Thurgood Marshall and Robert L. Carter requested an 30-day extension of time to file exceptions to Judge Dunagan's ruling as it continued its search for an attorney.⁸⁶ Bradford made headlines shortly thereafter when she informed Judge Dunagan she would be representing the NAACP in the appeal of his injunction.⁸⁷

Bradford worked on the case for about three months, before the appeal was ultimately dismissed. Bradford would later explain that she concurred in the regional counsel's decision that the injunction should not be appealed, and the appeal was later dismissed.⁸⁸ This would be the only time that she would work with Justice Marshall or the NAACP.⁸⁹

After 6 years in private practice, Bradford moved to New York to work as a sales representative for Law Research, Inc., the first computerized research firm in the country.⁹⁰ Later, she moved to northern California, to work as a sales manager for Encyclopaedia Americana in the military division for about 15 years before retiring.⁹¹ Bradford died in Oakland, California on January 20, 2013, leaving behind her two sisters, nieces and her cousin.⁹²

Legacy

In 2004, UT Law created the Society Program, which seeks to foster a sense of community among law students by breaking them out into smaller groups called "societies," each of which contains a faculty advisor, a student program coordinator, and two student mentors to help advise and get students acclimated to the law school community.⁹³ Each law student is assigned to one of eight societies in their first year and remain in the same society throughout the remainder of time at the law school.⁹⁴ Each society is named after an individual that made a significant impact on the law school.⁹⁵ Recognizing the significant legacy of Gloria Bradford, the law school named one of its eight societies in her honor.⁹⁶

⁸³ <https://legacy.lib.utexas.edu/taro/utcah/03696/03696-P.html>.

⁸⁴ "Lawyer Named to Represent the NAACP Here," *Tyler Morning Telegraph*, Jun. 27, 1957.

⁸⁵ "Woman Lawyer to Represent NAACP," *The Kilgore News Herald*, Jun. 30, 1957.

⁸⁶ "Lawyer Named to Represent the NAACP Here," *Tyler Morning Telegraph*, Jun. 27, 1957; *see also* "Woman Lawyer to Represent NAACP," *The Kilgore News Herald*, Jun. 30, 1957.

⁸⁷ *Ibid*; *see also* "Woman Lawyer Defends NAACP," *Denton Record-Chronicle*, Jun. 30, 1957.

⁸⁸ Chriss, *Oral History Interview*, 16.

⁸⁹ *Ibid*, 17.

⁹⁰ Chriss, *Oral History Interview*, 14; <https://tarlton.law.utexas.edu/first-year-societies/gloria-bradford>.

⁹¹ Chriss, *Oral History Interview*, 15.

⁹² <https://www.legacy.com/obituaries/houstonchronicle/obituary.aspx?n=gloria-bradford&pid=163213635>.

⁹³ <https://tarlton.law.utexas.edu/first-year-societies/intro>.

⁹⁴ *Ibid*; *see also* <https://law.utexas.edu/student-affairs/societies/>.

⁹⁵ *Ibid*.

⁹⁶ *Ibid*.

There is still so much that we do not know about Bradford. What we do know, however, is that she clearly belonged to a legacy of courageous black students and attorneys that paved the way for African American men and women to attend institutions of higher education and practice law in the State of Texas. Following in the footsteps of Heman Sweatt, Virgil Lott, Charlye Farris, and others, Bradford broke both the color and gender barriers in the legal profession, blazing a trail for African American women attorneys like me to follow. It is not simply African Americans that have benefitted from her courage and efforts—all Americans have. Texas, like the rest of the country, has been blessed by its rich diversity. We owe a debt of gratitude to remarkable but perhaps underappreciated trailblazers like Bradford, who challenged America to live up to the highest of its founding ideals, that “all men are created equal.”

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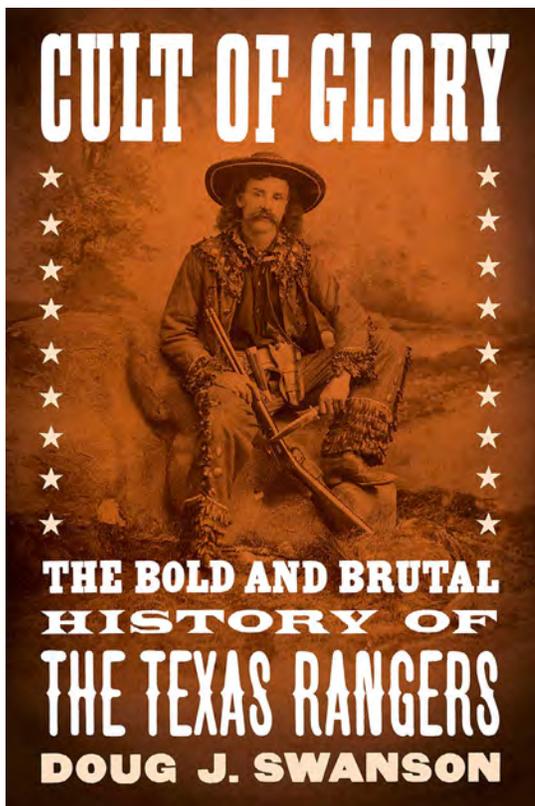
Author Doug Swanson Speaks on *Cult Of Glory*, His Controversial New Book On The Texas Rangers

By Stephen Pate

On October 1, Author Doug Swanson was interviewed about his new book, *Cult of Glory: The Bold and Brutal History of the Texas Rangers*, during the Texas Supreme Court Historical Society Board of Trustees meeting. Swanson is a former reporter for the Dallas Morning News. He is now an English professor at the University of Pittsburgh. He is well known to members of the Texas Supreme Court Historical Society, as he is a personal friend of TSCHS President Cynthia Timms, who arranged for him to speak, and Tom Leatherbury, TSCHS President-elect, who has represented Swanson in the past. He was interviewed by Trustee Stephen Pate, himself the descendant of a Ranger.



Cult of Glory has caused quite a stir. It takes on some 200 years of reverence for the Texas Rangers in what the New York Times calls a “smashup of Texas law enforcement legends.” The book reveals the dark side of the Rangers—their involvement in politics at the behest of certain Governors, their massacres of Hispanics, their maltreatment of Native Americans, and their efforts at union busting and preventing desegregation.



Swanson discussed this dark side in the interview, while noting his purpose was not to expose the Rangers for their misdeeds, but to give a full history of the Rangers. Some of their actions against Hispanics on the border were truly murderous. For example, Swanson discussed the Rangers’ role in the 1918 El Porvenir massacre, where Rangers executed 15 unarmed Hispanic men and boys simply on suspicion of these men and boys having participated in a raid on an Anglo’s ranch. The murders caused an international incident; the Ranger Company involved was disbanded, but no Ranger was ever charged for the crime. For many years what happened at El Porvenir was swept under the rug. Though Swanson is not the first recent historian to resurrect the massacre’s memory, his book’s description of the incident is probably the one that has now brought the massacre into wider focus.

Swanson also described other portions of his book that discuss the Rangers' animus against Mexican Americans. In 1966, Texas Rangers were called by South Texas ranch owners to break a strike by Mexican American farm workers protesting low pay and brutal conditions. Their violent methods led to a lawsuit against them, which eventually led to the U.S. Supreme Court's ruling in *Allee v. Medrano*, condemning the Rangers' actions.

African Americans were also victims of the Rangers. On several occasions, Rangers stood by when blacks were lynched. During the Mansfield School Desegregation Crisis in 1956, Rangers would not help black children to attend school, and turned a blind eye to a Court's efforts to enforce desegregation. *Cult of Glory* features a photograph of famed Ranger Ray Banks leaning on a tree outside Mansfield High School. Clearly visible in the background is the effigy of a black man with a noose around his neck hanging from the top of the school entrance. Though not in the book, Swanson spoke of the recent discovery of a tape of Colonel Homer Garrison, longtime leader of the Rangers, famous for his reforms, appearing in 1963 at a Ranger function. At the function Garrison appears in blackface and speaks in dialect. There was not a black Ranger until 1988.

This is not a pleasant history, and it is at odds with the cult-like adoration of the Rangers sponsored by Hollywood, Television and Radio for the past 100 years. More importantly, Swanson's image of the Rangers is in sharp contrast with the image presented by Walter Prescott Webb, iconic Texas historian, and author of 1935's *The Texas Rangers*. Webb idolized the Rangers. While Webb did not completely ignore incidents such as El Porvenir, he did downplay them, and he attributed such actions to "rogue" Rangers. Swanson will have none of this. He believes from reviewing Webb's papers that Webb failed to write on many troubling incidents, and that matters were too widespread to be pawned off on individual "rogues." Swanson also notes at the time of Webb's death, all indications were that Webb was planning a new edition of his book, which would have included a franker discussion of the bad aspects of Ranger history.

One of the more interesting parts of the interview was Swanson's conversation about the reactions to his book. For many years, a statue of Ray Banks stood in the terminal of Dallas' Love Field. After members of the Dallas City Council read excerpts of the book, the statue was removed—an act that Swanson condemns. In response to the book, the Ranger Museum in Waco is redoing its exhibits to add a more balanced history. Yet Swanson has yet to hear from the Texas Rangers themselves.

When asked how he would change his book if he had to write it again, Swanson said he would add more about the good Rangers, and would make his book more balanced. Indeed, his book talks about the rectitude of many Rangers. Yet *Cult of Glory* is perhaps now the counterbalance to Webb's book; it tells a side of history that needs to be told.

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Trustee Emily Miskel Wins Rehnquist Award

TSCHS Trustee Judge Emily Miskel is the recipient of the National Center for State Courts' William H. Rehnquist Award for Judicial Excellence, the highest honor bestowed on a state court judge by the Center. This award is presented annually to a state court judge "who demonstrates the outstanding qualities of judicial excellence, including integrity, fairness, open-mindedness, knowledge of the law, professional ethics, creativity, sound judgment, intellectual courage, and decisiveness." The award will be presented to Judge Miskel by Chief Justice John Roberts of the U.S. Supreme Court.



In a nomination letter, Chief Justice Nathan Hecht of the Supreme Court of Texas and David Slayton of the Office of Court Administration praised Judge Miskel's "outstanding qualities of judicial excellence demonstrated most powerfully over the past three months but also over her legal and judicial career." Miskel, who presides over the 470th District Court in Collin County, has been a leader in bringing technology to the courts. In March, she held the state's first fully remote hearing and the first fully virtual bench trial. NSNC President Mary McQueen called Judge Miskel a trailblazer "who met the challenge of using technology to make jury trials a reality during the pandemic."

Judge Miskel, who received a mechanical engineering degree from Stanford before earning her law degree from Harvard, serves on the Computer and Technology Section Council of the State Bar of Texas. She also serves on the Texas Judicial Council and is board certified in family law. Judge Miskel is also a frequent speaker and author on a wide range of topics at the intersection of technology and the law, including digital evidence and e-discovery. Congratulations, Judge Miskel!

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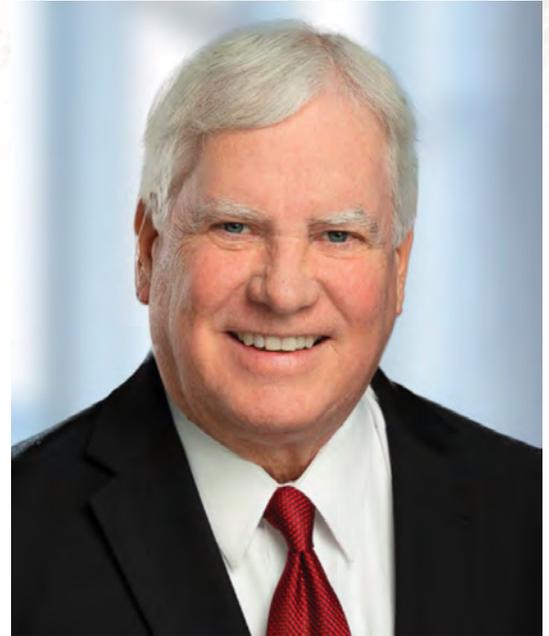
Justice Paul W. Green

More Than a Quarter Century of Service

By Hon. Nathan L. Hecht, Chief Justice, Supreme Court of Texas

The best thing that happened to me October 1, 2013, my first day in office as Chief Justice of the Supreme Court of Texas, was that Justice Paul W. Green succeeded me as Senior Justice. Senior Justice is not an official title; it's one the Court uses internally for the Justice who is senior in time served on the Court to everyone but the Chief Justice. But it's an important position.

In the 75 years since the Court's membership was increased from three Justices to nine, the Court has had nine Chief Justices. It has had a few more Senior Justices, fifteen, but still relatively few. The Court's many responsibilities for overseeing the administration of the justice system are divided among the Justices assigned by the Chief Justice as liaisons between the Court and outside bodies, including the Judicial Council, the Courts of Appeals, the State Bar, the Access to Justice Commission, the Advisory Committee, the Historical Society, and many others. The Senior Justice takes the lead, with the Chief Justice, in helping guide the Court's administrative work.



Justice Paul W. Green

The Senior Justice's role can be critical. When I came to the Court in 1989, Tom Phillips had been appointed Chief Justice a year earlier, and Franklin Spears had become Senior Justice the year before that. Tom and Franklin had both been district judges, elected from different political parties. Franklin was much older, had practiced in a smaller law office in San Antonio, and had served ten years in the Legislature. Tom had practiced at Baker Botts in Houston and had little

¹ Article V, § 2(a) of the Texas Constitution was amended to that effect at a special election on August 25, 1945, set by legislative resolution proposing the amendment, Act of May 3, 1945, 40th Leg., R.S., SJR 8, 1945 Tex. Gen. Laws 1043, by 53.7% of the vote, see Tex. Legis. Council, Amendments to the Constitution Since 1876 at 60 (Feb. 2020) (available at <https://tlc.texas.gov/docs/amendments/constamend1876.pdf>). The six new Justices, formerly the members of the Commission of Appeals, all took office September 21.

² James P. Alexander (1945–1948); J. E. Hickman (1948–1961); Robert W. Calvert (1961–1972); Joe R. Greenhill (1972–1982); Jack Pope (1982–1985); John L. Hill (1985–1988); Thomas R. Phillips (1988–2004); Wallace B. Jefferson (2004–2013); Nathan L. Hecht (2013–present).

³ John H. Sharp (1945–1952); Graham B. Smedley (1953–1954); Few Brewster (1954–1957); W. St. John Garwood (1957–1959); Meade F. Griffin (1959–1968); Clyde E. Smith (1969–1970); Ruel C. Walker (1971–1975); Zollie Steakley (1975–1980); Jack Pope (1981–1982); Sears McGee (1982–1986); Franklin Spears (1987–1990); Raul Gonzalez (1991–1998); Nathan L. Hecht (1999–2013); Paul W. Green (2013–2020); Eva M. Guzman (2020–present).

experience with the Legislature. The Court was undergoing some upheaval. Four Justices were brand new, and Tom had been there only a year. Franklin was determined to help Tom succeed as Chief Justice, and both did just that.

For nearly seven years, Paul Green served as Senior Justice in the great tradition of his fellow San Antonian, Franklin Spears. Paul had the experience the Court needed. He was elected to the Supreme Court in 2004, after serving ten years on the Fourth District Court of Appeals in San Antonio. He had earned his undergraduate degree from the University of Texas and his law degree from St. Mary's, and practiced with his father. Paul had long been a leader in the San Antonio bar and served as president of the San Antonio Bar Association.

When Justice Green came to the Supreme Court in 2005, the Court was planning on making extensive renovations to its building. The building was completed in 1959, and while its interior had been completely rebuilt in the early 1990s, the courtroom was showing wear, and the Court's third-floor conference room was barely serviceable. With good judgment, determination, and the ability to work with the Facilities Commission, Paul undertook to plan and supervise the work, start to finish. The result was a more fitting courtroom and a beautiful conference room that is inspiring to all of us who work in it. Paul's directions were so tasteful and appropriate that we constrained him to keep his assignment as liaison for Building and Grounds throughout his sixteen years on the Court.

Another assignment we insisted Paul keep was as a member of the Personnel Committee. The Court consists of the nine Justices, 31 lawyers, 19 staff members, and a nine-person Clerk's Office. When issues occasionally arise, Paul has been a wise voice and steady hand in managing the organization. The Court considers itself a family, supportive of all who serve her, and Paul Green has been a sustaining force.

Besides his involvement in the Court's administrative work, Justice Green has made an enormous and lasting contribution to the law of Texas. In his nearly 26 years on the appellate bench, he wrote 1,561 opinions. Recently, in *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*,¹ his opinion for the Court resolved inconsistencies in the law regarding proof of attorney fees and laid out the complete procedure for doing so. All but a fraction of Justice Green's opinions over more than a quarter century were speaking for the court, as Justice Green was never anxious to dissent or write separately. Justice Green's opinions were always thoughtful, thorough, articulate, and importantly, measured. He always avoided offensive rhetoric and discouraged it in his colleagues' opinions. His voice was ever a reminder that strong writing can and should be respectful.

In his 16 years on the Texas Supreme Court, Justice Green served with 17 other Justices. All of us consider him to be an esteemed colleague and friend. We, like the people of Texas, are indebted to him for his service to the Court. We will miss him.

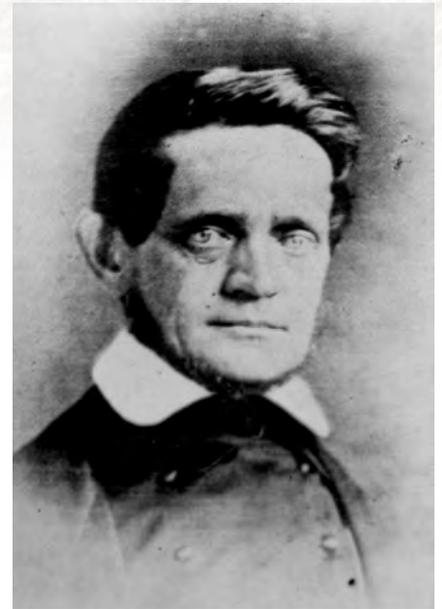
⁴ 578 S.W.2d 469 (Tex. 2019).

25th Annual and 1st-Ever Hemphill Dinner a Rousing Success

By Dylan O. Drummond

In early September, the Society was both pleased and thankful to host its first-ever virtual Hemphill Dinner. Due to the COVID-19 pandemic, the Society's Executive Committee made the decision this past spring to forgo an in-person dinner for the first time in the thirty-year history of the Society.

This year's Hemphill Dinner was headlined by keynote speaker and former Texas Supreme Court Justice, current Fifth Circuit Court of Appeals Chief Judge Priscilla Owen. Chief Judge Owen sat down to discuss her career and incredible accomplishments with her former colleague on the Supreme Court, Chief Justice Nathan Hecht. Chief Judge succeeded to the seat on the Fifth Circuit held by another former Texas Supreme Court Justice, Judge William Garwood. While she is the fifth former Supreme Court Justice to serve on the Fifth Circuit, she is the first and only former Supreme Court Justice to serve as Chief Judge of a federal circuit court.



John Hemphill,
Chief Justice of the Supreme
Court of the Republic of Texas
from 1841 to 1846

The Hemphill Dinner program also featured a stirring rendition of the national anthem by Fifth Circuit Judge and Society Trustee Jennifer Elrod. Chief Justice Hecht introduced the Supreme Court's newest member, Justice Jane Bland. And alongside Texas Center for Legal Ethics Director Jonathan Smaby, Chief Justice Hecht also introduced the Center's 2020 recipient of the Chief Justice Jack Pope Professionalism Award, Reagan Simpson. Retired Chief Justice Tom Phillips also gave a moving eulogy for the late Justice Eugene Cook, who passed away just two weeks before the Hemphill Dinner. Immediate Past-President Dylan Drummond emceed the evening, giving his own remarks as outgoing president, presenting the Trustees' report, and bestowing the President's Award to Society Executive Director Sharon Sandle and Administrative Coordinator Mary Sue Miller. Drummond also presented the Society's first-ever Distinguished Service Award to longtime Society liaison, retired Justice Paul Green, and Lifetime Achievement Award to the former Managing Editor of the Society's *Journal*, co-author of the *Taming Texas* textbook series, and editor of the Society's 2014 compilation of Chief Justice Jack Pope's writings—Marilyn Duncan. To close out the dinner, Justice Paul Green administered the oath of office to Society President Cynthia Timms, who gave her own remarks regarding the Society's upcoming year.

Incredibly, this year's Hemphill Dinner—which was viewed by nearly two hundred guests—was as successful at supporting the Society's mission as previous years' dinners have been. Credit

for this outstanding achievement goes entirely to the monumental efforts of Dinner Chair and Society Treasurer, Rich Phillips, along with his tireless committee members: former Supreme Court Justice Craig Enoch and Dallas Court of Appeals Justice Liz Lang-Miers, Society President Cynthia Timms, Society President-Elect Tom Leatherbury, and Society Trustee Alia Adkins-Derrick.

John Hemphill (December 18, 1803 – January 4, 1862) was an American politician and jurist who served as Chief Justice of the Supreme Court of the Republic of Texas from 1841 to 1846. Lastly, the Society is deeply grateful to the Texas appellate bench and bar who purchased tickets and sponsored virtual tables for this year's unprecedented event. Without their unfailing support, the Hemphill Dinner could not have been held at all and the Society would be facing a very dire outlook in the coming year. The Society hopes to return to its longtime home at the Four Seasons in Austin, Texas to host next year's Hemphill Dinner, and looks forward to hosting its members and friends in person again.

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Trustee John G. Browning Elevated to Appellate Bench

TSCHS Trustee and Journal Editor-in-Chief recently added a new title: Justice of the Fifth District Court of Appeals. On August 15, 2020, Browning won a special election to replace the late Justice David Bridges on the November ballot for Place 6 on the Fifth Court of Appeals. Bridges, the longest-serving justice on that court at the time of his death, was killed in a motor vehicle accident on July 25, 2020 by an allegedly drunk driver. On August 24, Governor Abbott appointed Browning to serve Justice Bridges' unexpired term. Browning was sworn in on August 31 by retired Chief Justice Carolyn Wright. Justice Browning stated, "I am grateful to Governor Abbott for this appointment, and I will do my best to honor Justice Bridges' memory through my service on this very important court."



The Fifth District Court of Appeals is the biggest and busiest intermediate appellate court in the state. Its jurisdiction encompasses an area with over four million people, comprised of six counties—Dallas, Collin, Grayson, Hunt, Kaufman, and Rockwall counties. Prior to his appointment, Justice Browning was a partner at Spencer Fane LLP, where he handled civil trials and appeals throughout Texas and Oklahoma. A graduate of Rutgers University and the University of Texas School of Law, Justice Browning is the author of four law books, forty law review articles, and hundreds of other articles in legal publications. His scholarly work has been cited by courts in Texas, California, New York, Florida, Illinois, Tennessee, Washington, D.C., and Puerto Rico. A nationally recognized authority on law and technology, Justice Browning is the immediate past Chair of the Computer and Technology Section of the State Bar of Texas. He also serves on the Professional Ethics Committee and is a frequent writer and speaker on legal ethics-related topics. Justice Browning is also an award-winning legal historian.

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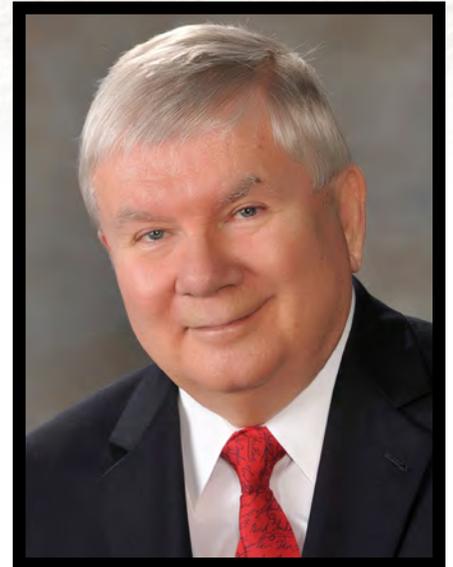
In Memoriam

Justice Eugene A. Cook, 1938-2020

By Warren W. Harris

Justice Eugene A. Cook, who served on the Supreme Court of Texas from 1989-1992, passed away at the age of 82.

Eugene Augustus Cook, III was a native of Houston, Texas. He attended Milby High School and served as captain of the debate teams. He received an accounting degree from the University of Houston, where he was vice president of the student body and president of many campus organizations. Cook attended law school at the University of Houston Law Center and served on the Houston Law Review. He was later named a distinguished alumnus of the law school. Cook was always proud of the quality education he received at the University of Houston. In 1992, he earned a master's degree in judicial process from the University of Virginia School of Law.



After law school, Cook joined Butler & Binion in Houston. He was named a partner in the firm and practiced civil litigation and matrimonial law, becoming board certified in civil trial law and family law. He later formed Cook, Davis & McFall. While in the prime of his successful law practice, he answered the calling to public service.

Cook was appointed to the Supreme Court of Texas by Governor William P. Clements, Jr. and was sworn into office on September 1, 1988, replacing Justice James P. Wallace. Cook won statewide election in November 1988, one of four candidates who were the first to win a statewide down-ballot race as a Republican in over 100 years.

While on the Court, Cook authored many important opinions including *Caller-Times Publishing Co. v. Triad Communications*, *Keetch v. Kroger Co.*, *Rose v. Doctors Hospital*, and *Houston Lighting & Power Co. v. Reynolds*. While these and other opinions by Cook are still important to the state's jurisprudence, his most enduring legacy is in the area of professionalism.

While serving on the Court in 1989, Cook had the idea for a lawyer's creed to promote attorney professionalism. He requested the Court to appoint the Supreme Court Advisory Committee on Professionalism, which he chaired. Cook was the principal architect of the Texas Lawyer's Creed that was issued by the committee. The Texas Lawyer's Creed was adopted by the Texas Supreme Court and the Texas Court of Criminal Appeals, making Texas the first state to adopt a creed to govern the conduct of all of its lawyers. As Chief Justice Nathan L. Hecht has said, "The Creed was autobiographical in that it described Gene as a lawyer and justice."

He promoted ethics and professionalism throughout the state. Cook also worked with courts, bar associations, and law schools in numerous other states to promote professionalism and the value of mentoring programs.

Cook has been recognized nationally for his work in professionalism. He received the Lewis F. Powell, Jr. Award for Professionalism and Ethics from the American Inns of Court, which is the preeminent national award for professionalism (the prior recipient was Judge John Minor Wisdom and the subsequent recipient was Justice William J. Brennan, Jr.). Cook has also received the Lola Wright Foundation Award from the Texas Bar Foundation for advancing legal ethics and professionalism in Texas and the Distinguished Professionalism Award from the Texas Center for Legal Ethics and Professionalism.

In 2018, the Houston Bar Association created the Justice Eugene A. Cook Professionalism Award to honor Cook's work in professionalism. The award is presented annually to a lawyer or judge who exemplifies the highest level of professionalism and legal ethics. The award focuses on a lifetime of professionalism and is the highest honor awarded by the HBA for professionalism. The recipient must have demonstrated "a longstanding commitment to professionalism and a record of exemplary service in the areas of professionalism, legal ethics, and legal excellence." It is appropriate that Cook received the inaugural award.

Cook was also active in bar and community organizations. He served as chair of the State Bar Litigation and Consumer Law Sections. He was President of the Houston Bar Association and served as chair of its Professionalism Committee. Cook was the first president of the Robert W. Calvert Inn of Court. He was a fellow of the American College of Trial Lawyers and was chair of its Committee on Professionalism. Cook was also passionate about supporting Special Olympics Texas, serving as chair of the board and working as a volunteer for 29 years.

When Justice Cook left the Texas Supreme Court, he joined the Bracewell law firm where he headed the appellate group until he retired in 2002.

Cook was always proud to be a lawyer and worked his entire career to bolster the public's perception of the legal profession. Cook also enjoyed mentoring young lawyers, and he was always willing to give advice and help young lawyers in any way he could. All Texas lawyers are indebted to Cook for his work in improving the image of our profession and promoting professionalism.

Cook passed away on August 23, 2020 after a long illness. He was laid to rest at the Texas State Cemetery in Austin, Texas. Cook is survived by his wife of over fifty years, Sondra, and their children, Laurie Ann and Gene.

WARREN W. HARRIS *is a partner at Bracewell LLP in Houston and heads the firm's appellate group. He is a past president of the Texas Supreme Court Historical Society and a former briefing attorney for Justice Eugene A. Cook.*

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

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2020-21 Membership Upgrades

The following Society member has moved to a higher dues category since June 1, 2020, the beginning of the membership year.

CONTRIBUTING

Misty Hataway-Coné

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2020-21 New Member List

The Society has added 27 new members since June 1, 2020. Among them are 19 Law Clerks for the Court (*) who receive a complimentary one-year membership during their clerkship.

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- Autographed Complimentary Hardback Copy of Society Publications
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- Recognition in All Issues of Quarterly *Journal of the Texas Supreme Court Historical Society*
- All Benefits of Trustee Membership

Trustee Membership \$1,000

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

Patron Membership \$500

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

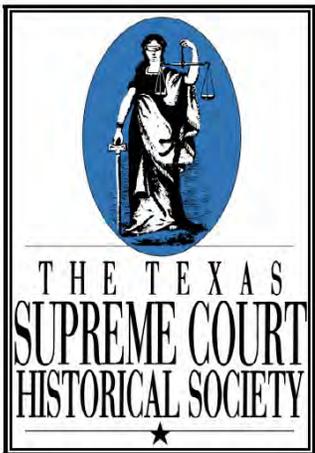
Contributing Membership \$100

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

Regular Membership \$50

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

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

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