



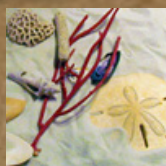
Journal of the TEXAS SUPREME COURT HISTORICAL SOCIETY

Fall 2012 Vol. 2, No. 1 General Editor Lynne Liberato Executive Editor David Furlow

Alexander's Waterloo: The Fight for the Supreme Court and Padre Island Intersect — Part 1, Background

By Judge Mark Davidson

Who in history owned Padre Island? Texas courts searched for honest answers even up to four years ago. [Read more...](#)

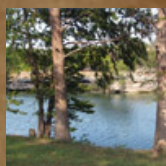


Padre Island riches

The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court, Part III: 1845 to the Present

By David A. Furlow

Castilian legal concepts continue to guide the Supreme Court of Texas in its rulings about legal title, probate procedure, land rights, and water rights. [Read more...](#)



A dividing line: the Blanco River

The Tragic Case of Justice William Pierson

By Will Erwin

Some men are more famous for how they died than for how they lived. Justice Pierson was a good man; even his killer admitted to that.

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Justice Pierson, an untimely end

Texas Historical Foundation to Assist in Preserving Republic and Early Statehood-Era Supreme Court Case Files

By Dylan O. Drummond

The Texas Historical Foundation has given a \$5,000 grant to the Texas State Library and Archives Commission to assist in preserving its earliest Texas Supreme Court case files.

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Dylan O. Drummond

President's Page

By Warren Harris

Without a doubt, this past year was the best in the history of our Society. I am confident we can again make history.

[Read more...](#)



Warren Harris

Executive Director's Page

By Bill Pugsley

For the last four summers, I have conducted weekly tours of the Supreme Court courtroom for bright young kids from around the state.

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Bill Pugsley

Fellows Column: Charter Fellows Recognized at Hemphill Dinner

By David J. Beck

Our 17 Fellows who joined during the Fellows program's first year have been designated as Charter Fellows.

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David J. Beck

Justice Robert A. Gammage, 1938-2012

Retired Justice Bob Gammage, a Charter member of the Society, died at his home in Llano on September 10.

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Justice Bob Gammage

Photo Gallery

View photos from the Society's two most important annual events: the Judicial Portrait Dedication and the John Hemphill Dinner.

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Justice Harriet O'Neill, whose portrait was dedicated

Texas Wins Again—In Reenactment of Historic Case

A panel of judges heard oral argument in a reenactment of *Texas v. White* held at the Harris County 1910 Courthouse.

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Date Set for Hemphill Dinner

The 18th Annual John Hemphill Dinner has been scheduled for June 14, 2013.

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Texas Appellate Hall of Fame

John Hemphill, the first Chief Justice of the State of Texas, was inducted into the Texas Appellate Hall of Fame. Phil McPhail, a cousin of the chief justice, accepted on his behalf. [Read more...](#)



John Hemphill would be pleased (we hope)

New Member List

Welcome, newest members! [Read more...](#)

Membership Upgrades

Some members have moved to a higher membership category. [Read more...](#)

Calendar of Events

Dates to remember. [Read more...](#)

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Alexander's Waterloo: The Fight for the Texas Supreme Court and Padre Island Intersect

Part 1, Background By Judge Mark Davidson

Padre Island is one of the most beautiful parts of Texas.

Starting in Corpus Christi and ending just north of the Mexican Border, the island is a 160-mile stretch of wild seashores occasionally interrupted by extreme development. While ignored by many generations of Texas historians and essayists, the fight for ownership of the island has been a frequent visitor to the judicial system of Texas. The first chapter of litigation, culminating in the 1944-45 opinions in *State of Texas v. Antonio Balli, et al.*, is a wonderful mosaic of legal skill, intrigue and alleged political chicanery not unlike a John Grisham novel. *See Balli*, 144 Tex. 195, 194 S.W.2d 71 (1944).



This much is known for sure: Padre Nicolas Balli¹ claimed ownership of the island, and together with his nephew, Juan Balli, made considerable efforts to perfect title to the claim.² Beyond that, the true facts remain bitterly contested, and Texas courts continued to search for honest answers even up to just four years ago. In 1940, the State of Texas, acting through the Attorney General, made an attempt to claim ownership of the island to the exclusion of Padre Balli's heirs. That case led to a revolt on the Supreme Court of Texas, and left scars that we are only beginning to learn about today, more than seventy years later.

The Balli Inheritance. The origin of the Balli claim is unknown. The first extant document referencing the property is a will by Padre Balli, filed with the notary public of Matamoros, Mexico, in 1827. It contained the following bequest:

I claim as my property the grazing pasture of the Island, while I am not in possession, this is due to the unsettled times, but in fact I had it surveyed and adjudicated and I maintain in there 1000 head of cattle. I command my heirs that as soon as the times quiet down they shall endeavor to perfect it until the testimonio of the ownership (or title) is obtained. I so state so that it may be noted.³

There is—and apparently was in 1940 as well—no extant record of ownership interest by Balli that predates Mexican independence from Spain. In 1827, acting through an attorney, Balli petitioned the Governor

¹ Padre Balli was the priest for whom the island is named. A statue of him stands on the foot of Queen Isabella Bridge in South Padre Island. *See generally* Clotilde P. García, *Balli, Jose Nicholas*, HANDBOOK OF TEXAS ONLINE (Sept. 10, 2012), <http://www.tshaonline.org/handbook/online/articles/fba50>.

² Today, the island is known both as Padre Island (the area north of the Mansfield Cut) and South Padre Island. The cut was installed in 1954 to enable navigation into Port Mansfield

³ This quotation, and the other parts of the saga, come from the agreed facts set out in the briefs filed by the parties, from stipulated facts filed with the trial court, and from the opinions issued in the case. Where a fact was contested, it is either disclosed or was not included in this narrative.

of Tamaulipas for documentary confirmation, a “testimonio,” of the alleged earlier proceedings, or—in the alternative—for a new title to the island. Significantly, the application noted that the land in question consisted of 19½ square leagues.⁴ On review of the petition, the Alcalde of Matamoros indicated that he had been unable to find any record of a conveyance of the property under the Spanish Empire, and ordered an immediate survey of the property. On appeal to the state executive, no record of ownership could be found in Ciudad Victoria, the capital, and the Governor appointed Domingo de la Fuente as the surveyor.

De la Fuente surveyed the island, spending six days there visually inspecting the land, followed by eight days of surveying. He observed that the property was mostly barren, and largely unfit for habitation, farming, or cattle grazing. The “Plan Demonstrativo” stated that eleven square leagues for large stock and six caballerias⁵ were serviceable. The Governor of Tamaulipas was not satisfied, and twice remanded the petition to the Alcalde of Matamoros for additional findings or clarifications. After two additional hearings, the Governor decreed that, upon payment of forty pesos per square league, the Alcalde of Matamoros could convey the property to Padre Balli and his nephew. On December 25th, 1829,⁶ an order by a Tamaulipan court purportedly concluded the proceedings, requiring Balli to file an application for a certificate of ownership, which would be subsequently issued.

This certificate of title was never placed into evidence in the 1942 trial, nor did any witnesses testify that they saw the certificate. Several explanations were offered regarding the absence of the document. First, it was claimed that Texas state commissioners hired to perform a survey in 1850 lost the records in a shipwreck. Additionally, the Ballis explained that the record of the title was destroyed when the French army burned the capitol of Tamaulipas, Ciudad Victoria, in 1864.

By the time of the judicial declaration of entitlement, and the issuance of title, Padre Nicolas Balli had died, leaving his estate to five nieces and nephews, one of whom was Juan Balli, whose name appeared in the title. As time went by, a multitude of assignments and conveyances led to a seemingly incomprehensible fractionalization of ownership interest in the island.

Treaties, Constitutions and Laws. However complicated the chain of title for the Ballis’ property was, it was simple compared to the legal status of ownership of land acquired by Mexicans from the Spanish and Mexican governments in the Rio Grande Valley and along other parts of the border. Because those laws became critical to the case, some discussion of the history of the law is necessary.

The Treaty of Guadalupe Hidalgo. The Republic of Texas had a contested, and possibly bogus, claim to the land between the Rio Grande and Nueces Rivers after the Treaty of Velasco in 1836. No maps dating before 1836 and few maps printed during the Republic show the Rio Grande as the southern boundary of the fledgling nation. The Republic government made no effort to enforce its laws in the area, and it elected none of its residents as senators or representatives to the Republic’s Congress.

After annexation, the American government took as valid the claims by expansionists to the greater amount of land claimed in South Texas. The first shots fired in the Mexican war were at Palo Alto, twenty miles west of

⁴ The term used for league was “sitios, a Spanish term used frequently in Spain’s Texas land grants. *See generally* Donald E. Chipman, *Sitio*, HANDBOOK OF TEXAS ONLINE (Sept. 10, 2012), <http://www.tshaonline.org/handbook/online/articles/pfspr>. Generally, a “league” is a unit of distance, usually measuring about three miles. BLACK’S LAW DICTIONARY 970 (9th i-ed. 2011).

⁵ A “caballeria” is an allotment of land in regions formerly conquered by Spain. BLACK’S LAW DICTIONARY 230 (9th i-ed. 2011). Originally a Spanish feudal tenure held by a soldier, a caballeria eventually came to refer to an area of land, usually measuring 100 by 200 feet—equivalent to about 108 acres—in the United States. *Id.*

⁶ Note that the order was signed on Christmas day. So, if this account is to be believed, the Tamaulipan judiciary was hard at work on one of the most holy days in the calendar for heavily Roman Catholic, nineteenth-century Mexico.

Padre Island and just north of the Rio Grande. The justification for war was that shots had been fired on “American troops on American soil.” After the American victory, the war ended with the signing of the Treaty of Guadalupe Hidalgo, which formalized Anglo-American control over the region. The President signed the Treaty on February 2, 1848, and the Senate confirmed it as amended on March 10th of that same year. *See generally* David M. Pletcher, *Treaty of Guadalupe Hidalgo*, *HANDBOOK OF TEXAS ONLINE*, <http://www.tshaonline.org/handbook/online/articles/nbt01> (accessed Sept. 10, 2012). The amended section dealt with land titles associated with territory of the United States formerly held by the Mexican government. The stricken section said, in part:

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic ... shall be maintained and protected in the enjoyment of their liberty, their property, and the civil rights now vested in them according to the Mexican laws.

Treaty of Guadalupe Hidalgo, Querétero Protocol, Univ. of Dayton Sch. Law, <http://academic.udayton.edu/race/02rights/guadalu.htm#Original%20ARTICLE%20X> (accessed Sept. 14, 2012). Subsequently, the Protocol of Querétaro adopted a new section, which read in pertinent part:

The American Government, by suppressing the 10th article of the Treaty of Guadalupe did not in any way intend to annul the grants of lands made by Mexico in the ceded territories. These grants, notwithstanding the suppression of the article of the Treaty, preserve the legal value, which they may possess; and the grantees may cause their legitimate titles to be acknowledged before the American tribunals.

Querétero Protocol, Univ. of Dayton Sch. Law, <http://academic.udayton.edu/race/02rights/guadalu.htm#Original%20ARTICLE%20X> (accessed Sept. 14, 2012). The United States Senate never confirmed the Querétero Protocol, but it was apparently accepted as the law. Future generations of Texas (and other American) judges would struggle over the extent to which this provision constituted federal preemption of state real estate laws. Both provisions were intended to invalidate Section 8 of the General Provisions of the Constitution of the Republic of Texas, which forfeited rights of citizenship and land ownership by anyone who had either given assistance to the Mexican Government in the 1836 revolution, or who had refused to participate in same.

The 1852 Land Title Act. In 1850, the Texas Legislature enacted a law appointing commissioners to investigate Spanish and Mexican land titles, and in 1852, the Legislature passed a comprehensive act addressing those property interests, probably motivated by an attempt to form the Territory of the Rio Grande independent from the State of Texas.⁷ *See generally* Armando C. Alonzo, *Mexican-American Land Grant Adjudication*, *HANDBOOK OF TEXAS ONLINE*, <http://www.tshaonline.org/handbook/online/articles/pqmck> (accessed Sept. 10, 2012). Another group of border residents insisted that Texas law apply, even to the exclusion of treaty obligations.

The 1852 act set out by name the individuals that the commissioners found had legitimate land titles in Webb, Starr, Cameron, and Nueces Counties.⁸ Among the grants found valid in Cameron County were eleven and a half leagues called “Padre Island,” belonging to Nicolas Balli and Juan Jose Balli, their heirs and legal assigns. All of the conveyances validated in the bill were made subject to two obligations and one significant caveat. The obligations were that each landowner had to: (1) obtain a survey of the grant, and file it with the Texas General

⁷ It is interesting to note that the 1848 war was fought over a claim that the area between the Nueces and Rio Grande Rivers had been a part of the Republic of Texas and had become part of the United States via the 1845 Treaty of Annexation. If the Rio Grande Valley was not part of Texas, the American claim over the land was baseless. The Anglo American real estate speculators who made this claim were apparently not bothered by the inconsistency of their position.

⁸ Willacy, Jim Wells, Hidalgo, Kenedy, Jim Hogg, and Zapata Counties had not yet been created. Land that today is in those counties was included in the act.

Land office; and (2) pay property taxes accordingly. In contrast to the two obligations, the caveat seemed to apply only to the Balli conveyance: “[N]othing in this act shall be so construed so as to relinquish the rights of the State to any of the islands or Salt Lakes situated in the territory embraced in this act.” Act of Feb. 10, 1852 (a/k/a the Relinquishment Act of 1852), Section 5, 3 GAMMEL’S LAWS 949, as quoted in *State v. Balli*, 173 S.W.2d 522, 537 (Tex. Civ. App.—San Antonio, 1943), *aff’d*, 144 Tex. 195, 190 S.W.2d 171 (Tex. 1944), *cert. denied*, 328 U.S. 852 (1946), *rehg. denied*, 328 U.S. 880 (1946).

Shortly after enactment of this act, the General Land Office published a map showing that a survey had been made of the island by a Felix A. Buchler, but apparently not by Balli heirs and assigns. In fact, there was no effort made to file any survey made by the owners. The record is silent as to any excuse given for this failure. It is possible that, even by the 1850s, the fractional interests owned by many heirs and purchasers made it economically unjustifiable for anyone to invest money in a survey.

The 1876 Constitutional Amendment. The costs incident to the property did not decrease, nor did the number of Balli heirs who owned fractional interests. First, the Legislature amended the constitution in 1876 to provide for the status of title acquired from Spanish and Mexican land grants. As enacted, it contained an entire Article XII, with seven sections, that reflects a strong prejudice against recognition of Spanish land grants. Section 4 concerned Padre Island and stated that:

No claim of title or right to land, which issued prior to the thirteenth day of November, 1835, which has not been duly recorded in the county where the land was situated at the time of such record, or which has not been duly archived in the General Land Office, shall ever hereafter be deposited in the General Land Office, or recorded in this State ... or used as evidence in any of the courts of this state, and the same are stale claims....

TEX. CONST. art. XII, § 4.

On its face, this statute would have forfeited to the State all land deeded to any landowner from the Spanish or Mexican government that had not been recorded, even though the Legislature had relinquished its claim to the land in the 1852 statute. A similar provision in Article XII, Section 3 required payment of all taxes to all taxing authorities to avoid a presumption that any land claimed from Spanish or Mexican titles was of no effect.

In 1887, the U.S. Supreme Court declared Section 4 of the Texas Constitution to be unconstitutional under the U.S. Constitution. In *Gonzales v. Ross*, Justice Bradley found the forfeiture to the State of lands validly owned by an individual pursuant to a contract to be a violation of Article 1, Section 10 of the U.S. Constitution. *Ross*, 120 U.S. 605 (1887). Enactment of the Mexican-land grant provisions of the Texas Constitution reflects pervasive prejudice against Mexican Americans in the late nineteenth century.⁹

Enter Gilbert Kerlin. In 1937 a young lawyer named Gilbert Kerlin from New York visited South Texas on a mission to purchase South Texas real estate—almost certainly at the behest of clients of his uncle’s law firm, Sherman and Sterling. The circumstances that led him to investigate land titles in Padre Island are outside the scope of this paper. Gilbert Kerlin is said to have hired a member of the Balli family to prepare a family tree delineating all heirs of Nicolas and Juan Balli. According to later family legend, he then found each of the heirs and offered to buy their interest, if any, in the island for small amounts of money. By 1938, it is thought that Kerlin had purchased the Balli interest in Padre Island for around \$60,000.00.

⁹ The provisions were finally repealed in 1969 in a constitutional amendment that repealed dozens of obsolete provisions in the Constitution of 1876.

The full circumstances of Kerlin's dealings with the Balli family are largely beyond the scope of this paper. The legal battles between them started in the 1950s (see *Fisher v. Kerlin* 279 S.W.2d 637 [Tex. Civ. App.—San Antonio 1955]) and continued well into the 2000s (*Kerlin v. Saucedo*, 263 S.W.3d 920 [Tex. 2008]). The Balli family claimed they were swindled out of their birthright. Kerlin's defense was that the Balli family had no title by the 1930s, and therefore conveyed no valid title to him. Whatever interests they had, Kerlin and the Balli family shared counsel at trial, who was hired and paid exclusively by Kerlin.

Litigation Begins. Gerald Mann was elected Attorney General of Texas in the 1938 election, and took office on January 1, 1939. He was clearly less conservative than his opposition. He had been elected in the Democratic Primary runoff,¹⁰ besting a State Senator from Houston endorsed by the very popular W. Lee “Pappy” O'Daniel, who had been elected Governor the month before.¹¹ Many attributed Mann's victory to his career as a star football player at Southern Methodist University. He worked as an assistant Attorney General under retiring Governor James Allred, and was thought to have benefited from Allred's statewide organization.

It was traditional in this era for every newly elected Attorney General to bring in a team of Assistant Attorney Generals to represent the State in court. There were few “career” lawyers who worked in the office for more than one elected Attorney General. Gerald Mann was no exception. He brought in a team of young but experienced lawyers. The three attorneys assigned to investigate, and eventually file, litigation on behalf of the State were Glenn Lewis, Gerald Kepke, and Peter Maniscalco. Lewis had been an assistant district attorney in San Angelo, Kepke a solo practitioner in Dallas, and Maniscalco a solo practitioner in Houston.

How and why Mann decided to press the ownership issue surrounding Padre Island cannot now be determined, but the legal theories were sound. He filed the case on February 9, 1940 in the 117th District Court of Nueces County. The case could have been brought in Cameron County, for the bulk of the documents that would be offered into evidence came from real-estate records in Brownsville. The file indicates that the defendants likely knew the suit was coming and had already retained counsel, because answers were filed by attorneys representing several defendants who were never formally served.

Mann brought the case as a trespass to try title, alleging that the Ballis and those claiming under them did not possess legal title to Padre Island. The pleadings cast a wide net of defendants, including individuals whose only land ownership along the coast was well north of Padre Island, and oil companies whose interests were offshore. From the State's point of view, this was logical. In the era before air conditioning, offshore mineral interests were probably seen as much more valuable than the rights to a strip of sand on the coast. Bringing in the oil companies brought additional trial counsel and legal talent to the defendants—as well as the political influence oil companies could bring.

The Principal Players. One attorney who appears to have been involved in pre-suit negotiations on behalf of both Kerlin and many Balli heirs was Francis Seabury. Although a name little known today, Seabury was a powerhouse in Texas politics at the time, having served as a state representative from Cameron, Hidalgo, Starr, and Zapata Counties for ten years, as Speaker of the Texas House of Representatives in 1905, and later as County Attorney of Starr County before beginning a private law practice in Brownsville. For much of the early part of the twentieth century, Francis Seabury's law office was one of the first stops any candidate for statewide office would visit while campaigning in South Texas.

It is quite likely that the choice of venue of Nueces County was an attempt to minimize the effect

¹⁰ Winning the Democratic Primary was considered to be, and was, “tantamount to election.”

¹¹ O'Daniel had endorsed candidates in six runoffs following his victory in the July primary. Four were successful.

Seabury's presence would have on a judge or jury. The majority of the lawyers hired to represent the hundreds of defendants in the lawsuit were from Brownsville, including Reynaldo Garza,¹² Menton Murray,¹³ J. T. Canales, and Herbert Canales. At the same time, Nueces County attorneys were brought into the mix, including Dudley Tarlton, Howell Ward, and the politically powerful firm of Kleberg, Eckhardt and Lowe.¹⁴

The case was assigned to the 117th District Court, whose presiding judge was Cullen W. Briggs. Briggs was a youthful thirty-nine years old at the time the case was filed, and had been serving as a judge since 1937. Before that, he served a term as a justice of the peace. Judge Briggs was known as a political animal, and a hard-working judge. He was also known to be something of an eccentric "character," especially in his later years on the bench and afterwards in retirement, when he earned a place in the *Warren Report*.¹⁵



Judge Cullen W. Briggs

To be continued in the Winter 2012 issue...



JUDGE MARK DAVIDSON, who currently presides over the Multi-District Litigation Court in Harris County, has written numerous legal history articles for the *Texas Bar Journal* and the *Houston Lawyer*. His article on Chief Justice James Alexander and the Balli case is based on a paper presented at the Society's joint session at the 2006 Texas State Historical Association Annual Meeting.

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¹² Garza would serve as a Judge of the Southern District of Texas from 1961 until 1979, and on the Fifth Circuit from 1979 until his death in 2004.

¹³ Murray would serve as a state representative from Cameron County from 1949 until 1975.

¹⁴ Tarlton was very active in politics in South Texas. His biography claims that he was an authority on election law. His daughter, Frances "Sissy" Tarlton Farenthold, was a state representative from Corpus Christi and twice ran for Governor of Texas. The Kleberg in the firm name was Congressman Richard Kleberg, who was the son of Alice Gertrudis (King) of King Ranch fame.

¹⁵ Briggs served as a judge from 1937 until 1962. After retirement, he apparently lived with a stripper from the Carrousel Club in Dallas. Briggs's name appeared in the report of the Warren Commission, since the Carrousel Club was owned by Jack Ruby, the man who killed Lee Harvey Oswald on November 24, 1963. *See, e.g.,* FBI Interview with Roy William Pike" (July 24, 1964), in THE PRESIDENT'S COMMISSION ON THE ASSASSINATION OF PRESIDENT KENNEDY (1964) (located in the National Archives, Record Group 272: Records of the President's Commission on the Assassination of President Kennedy and Vol. XXV, at 283 (Exhibit No. 2322, at 2), available at, http://www.historymatters.com/archive/jfk/wc/wcvols/wh25/pdf/WH25_CE_2322.pdf.

“The Separation of Texas from the Republic of Mexico was the Division of an Empire”:

The Continuing Influence of Castilian Law on Texas and the Texas Supreme Court, Part III: 1845 to the Present—The Castilian Law Heritage Today

By David A. Furlow

Nearly five centuries after Spanish soldiers and sailors first strode the sands of Galveston Island, the crimson Lion of Castile still runs rampant across fields of Texas law. In Part I of this series, we examined the historical origins of medieval Castile’s continuing influence on the jurisprudence of the Texas Supreme Court, focusing on issues of church-state relations, religious toleration, Texas’ first written constitution, and community property rights.

In Part II, we discussed how the Lone Star Republic’s Congress adopted the simple petition-and-answer procedure of Mexican courts, replacing the ossified duality of common law and equity found in all American states and in English-speaking jurisdictions with America’s first unitary judiciary. We examined records of trials conducted in Mexican courts within Stephen F. Austin’s colony. And we charted the origins and course of the Texas Revolution that began, in part, with Lorenzo de Zavala’s call for a Constitutional Convention. Now, in the spirit of the Tejano Monument erected earlier this year on the grounds of the Texas Capitol, we bring Texas’s Castilian heritage into modern times.

Nearly half of all Texas coastal lands derive their origins from Spanish and Mexican land grants that incorporated Spanish and Mexican law. As a result, Castilian legal concepts continue to guide the Supreme Court of Texas in its rulings about legal title, probate procedure, land rights, and water rights.

In 2012, the Texas Supreme Court examined Texas’s Castilian heritage in *Severance v. Patterson*, No. 09-0387, 55 Tex. Sup. Ct. J. 501 (Tex. Apr. 19, 2012) (op. on reh’g), a controversial decision. In that case, the court revisited, *inter alia*, its 1920, 1943, and 1960 decisions holding that the “soil covered by the bays, inlets, and arms of the Gulf of Mexico within tidewater limits belongs to the State, and constitutes public property ... held in trust for the use and benefit of all the people” in *Lorino v. Crawford Packing Co.*, 142 Tex. 51, 175 S.W.2d 410, 413 (1943) and *Landry v. Robison*, 110 Tex. 295, 219 S.W. 819, 820 (1920).

The *Severance* court held the Texas Open Beaches Act was unconstitutional after ruling that Texas law does not recognize a “rolling easement” created by “avulsive events”; that is, hurricanes and other storm surges affecting the dry beach of Galveston’s West Beach. *Severance* emphasized that Spanish-Castilian law embodied in Mexican land grants shaped the framework of public law governing access to Texas beaches:

Current title to realty and corresponding encumbrances on the property may be affected in important ways by the breadth of and limitations on prior grants and titles. We review the original Mexican and Republic of Texas grants and patents to lands abutting the sea in West Galveston Island. The Republic of Texas won her independence from Mexico in 1836. Mexico’s laws prohibited colonization of land within ten leagues of the coast without approval from the president. General Law of Colonization, art. 4 (Mex., Aug. 18, 1824), *reprinted in* 1 H.P.N. GAMMEL, THE LAWS OF TEXAS 1822-1897 [hereinafter “GAMMEL, THE LAWS OF TEXAS”] 97 (Austin, Gammel Book Co.

1898). At the time that Texas became a republic, privately owned West Galveston lands were subject to significant governmental restrictions.

Severance, at *33. The court then noted that Spanish law still determined how far inland the public’s ownership of coastal land continued:

Having established that the State of Texas owned the land under Gulf tidal waters, the question remained how far inland from the low tide line did the public trust—the State’s title—extend. We answered that question in *Luttes v. State*. This Court held that the delineation between State-owned submerged tidal lands (held in trust for the public) and coastal property that could be privately owned was the “mean higher high tide” line under Spanish or Mexican grants and the “mean high tide” line under Anglo-American law. 159 Tex. 500, 324 S.W.2d 167, 191-92 (1958).



Blanco River

Severance, at *38.

Although Castilian law provided the necessary legal framework for examining rights along the Texas coastline, it did not govern the precise issue Petitioner *Severance* presented to the court because:

Severance’s parcel is not subject to Spanish or Mexican law. So, we refer to the mean high tide line throughout this opinion. On January 20, 1840, Texas adopted the common law of England as its rule of decision, to the extent it was not inconsistent with the Constitution of the Republic of Texas or acts of its Congress Because the Jones and Hall Grant was made in November 1840, land granted under that patent is governed by the common law. *See* William Gardner Winters, Jr., *The Shoreline for Spanish and Mexican Grants in Texas*, 38 TEX. L. REV. 523 (1960) (discussing the history of Spanish and Mexican land patents and common law basis for shoreline boundaries).

Severance, at *38, n. 16.

Subsequently, in *Severance v. Patterson*, 682 F.3d 360, 361 (5th Cir. 2012) (*per curiam*), the Fifth Circuit relied on the Texas court’s opinion when it reversed and remanded a federal judgment dismissing under Federal Rules of Civil Procedure 12(b)(1) and (6) plaintiff Carol *Severance*’s claim against the State. *Severance* asserted that she suffered from an unconstitutional taking of beachfront property in violation of the federal Fourth Amendment’s seizure clause. The Fifth Circuit responded to the questions it certified in *Severance v. Patterson*, 566 F.3d 490, 503-04 (5th Cir. 2009), that were later resolved by the Texas Supreme Court, 55 Tex. Sup. Ct. J. 501. Through these cases, Spanish legal traditions that first came to Texas shores with Cabeza da Vaca in the sixteenth century continued to control the *shape* of Texas’s shorelines in the twenty-first century.

Castilian legal norms govern land grants and title to Texas land until January 20, 1840. On that date, Texas’s Fourth Congress enacted a law holding that the rule of decision in this state consists of those portions of the common law of England not inconsistent with the Republic’s Constitution or laws, a statute carried over and codified to become Section 5.001 of the Texas Civil Practices and Remedies Code. Castilian law continues to govern land grants made before that date.

Astride a flat, coastal littoral crossed by conquistadors and skirted by Spanish sailors, common-law land grants may extend farther toward the ocean because of the retention of Spanish systems of measuring coastal boundaries. While Castilian and Anglo-Saxon law reserve to the sovereign coastal shores over which tides ebb and flow, Spanish administrators and map-makers drew their lines of demarcation farther up the shingle. Spaniards used the mean highest tide to delineate the sovereign's land from that of his subject, while Englishmen allocated to private property owners all land measured from the mean high tide. Where the slope of the shore is low, that

is, along much of Texas' Gulf of Mexico coastline, landowners whose property originated in Spanish land grants may own less of the tide-washed beach than those who can trace their land back to grants issued after January 28, 1840.



Spanish Governor's Palace, San Antonio

In cases such as *Galveston v. Menard*, 23 Tex. 349, (1859), the Supreme Court of Texas adjudicated land disputes based on the dates of land grants, contending concepts of civil and common law, and the extent of the sea measured by either the common law's ordinary highwater mark, as opposed to Spanish civil law's rule that "the sea shore included the land, as far as the greatest wave extended in winter; and was said to be public, as far as the place where the highest tide rises." *Id.* at *14-15. "The diversity existing between the common law and the civil law, and the various

codes founded on the latter, being that the rule of the former is more favorable to the grantee of lands on tide waters." *Id.* at *15. The rulings in *Menard* have shaped federal law and decided disputes between contending producers of oil and gas. *See, e.g., Humble Oil & Refining Co. v. Sun Oil Co.*, 191 F.3d 705, 716 (5th Cir. 1951).

Throughout the nineteenth and twentieth centuries, the outcome of cases in the Texas Supreme Court often turned on the application of Castilian law to judicial decisions and decrees of Spanish and Mexican courts. In *Sheldon v. Milmo*, 90 Tex. 1, 36 S.W. 413, 418 (1896), for example, the court focused on a January 4, 1813 decree of Cortes, a *sitio* (land grant), and a February 22, 1816 order issued by the Justice of Palafox, a town lying along the Rio Grande. In *Tex. v. Balli*, 144 Tex. 195, 194 S.W. 2d 71 (1944), the court analyzed another such *sitio* that involved the ownership of Padre Island.

Castilian law governs the rights and profits of individuals and companies who hope to make money by drilling oil and gas wells in or under riverbeds or close to a Texas shoreline. Although the Act of January 28, 1840 that adopted common law did not specifically address water rights, the historical origin of a tract may determine who owns the revenues and royalties that result from hydrocarbon production.

Under Castilian law, a riverine land grant extended only to the *bank* of a navigable stream, rather than its center (as in subsequent common law grants), because the Spanish crown owned the riverbed. The Texas Legislature nevertheless amended the law through the Small Act of 1929 to permit an owner of both sides of a stream or waterway under a Spanish or Mexican land grant to claim the stream bed as well its banks. The old Spanish land grants provide much more limited irrigation rights than common law tracts created after 1840, too, because Castilian grants did not convey irrigation rights unless the grantor specifically included them. In cases such as *In Re Adjudication of the Water Rights in the Medina River Watershed of San Antonio River Basin*, 670 S.W.2d 250, 252-54 (Tex. 1984), the Texas Supreme Court addressed the legal norms and traditions of New Spain,

analyzed the “primary source” of its law, the *Recopilacion de las leyes de Indias* (1680), and consulted “the most comprehensive source of Spanish law,” *Las Siete Partidas* (1286).

Castilian procedural traditions continued long after the birth of Texas in probate proceedings. Castile’s institution of the *albacea universal* survived under the Anglo name “independent executor,” to grant administrators of Texas probate estates greater flexibility in estate administration at less cost than their counterparts in common law courts elsewhere in the nation. A Texan who appoints an “independent executor” in his or her will empowers an executor to take acts without a court order that an executor could only do with a court order in other jurisdictions. Arizona, Washington, and Idaho enacted similar statutes based on Texas’s example. Ten states that adopted the Uniform Probate Code have made this Texas innovation an important part of their probate law, comprising “a significant Texas transmission of her Spanish heritage to other American states,” in the words of historians Donald E. Chipman and Harriett Denise Joseph.

Texas courts have cited and relied upon Spanish law since the court first came together during the period of the Lone Star Republic. In an early Brazoria County fraud case, *Edwards v. Peoples*, Dallam 359, (Tex. Jan. 1840), the Supreme Court of Texas cited Spanish law in support of the principle that “all sales fraudulently made may be set aside.”

The next year in *Hill v. McDermot*, Dallam 419 (Tex. Jan. 1841), the Texas Supreme Court ruled that the substance of foreign laws cannot be presumed but must be proven, based upon common law precedent and Spain’s civil law. That concept survives today in Texas Rule of Evidence 202, governing the determination of the law of other states, and Texas Rule of Evidence 203, which authorizes courts to engage in judicial notice of the laws of foreign countries. *See, e.g., Daughtery v. Southern Pac. Transp.*, 772 S.W.2d 81, 83 (Tex. 1989) (determinations of the law of another state); *Long Distance Int’l v. Telefonos de Mexico, S.A. de C.V.*, 49 S.W.3d 347, 351 (Tex. 2001).

Anticipating the tort reform movement by hundreds of years, Castilian jurists developed a defense-oriented venue practice. It required that a person be sued near his place of residence because of the importance of a defendant’s convenience.

Through oft-cited precedent dating back to *La Sieta Partidas* of medieval Spain, in litigation over land grants and title along creeks and thousands of miles of coastline, through a unified judiciary and the independent executorship that evolved out of the *albaceo universal*, and through the protection of the rights of women and homesteaders that has characterized the constitutions of the state of Texas since 1845, Castile’s remarkably flexible, pragmatic legal heritage lives on to shape the lives of ordinary Texans to this day.

Authorities Consulted

Act approved Jan. 20, 1840, 4th Cong., R.S., § 1, 1840 REPUBLIC OF TEXAS LAWS 156, reprinted in Gammel, Hans Peter Neilsen, LAWS OF TEXAS 1822-1897, vol. 1, 177, 177-178 (Austin: Austin Gammel Book Co., 1898), current version at TEX. CIV. PRAC. & REM. CODE § 5.001 (Vernon 2002).

In re Adjudication of Water Rights in the Medina River Watershed of the San Antonio River Basin, 670 S.W.2d 250, 252-53 (Tex. 1984).

Baade, Hans J., *The Historical Background of Texas Water Law—A Tribute to Jack Pope*, 18 ST. MARY’S L. J. 1, 3, 26, 47 (1986).

Baade, Hans J., STATE BAR OF TEXAS, THE INFLUENCE OF SPAIN ON THE TEXAS LEGAL SYSTEM (1992).

Baade, Hans J., *Traces of Roman and Spanish Law in Texas Land, Water, and Mineral Law*, in STATE BAR OF TEXAS, D3, THE INFLUENCE OF SPAIN ON THE TEXAS LEGAL SYSTEM (1992).

Baker, Rhodes S., *The Bar Association's Legislative Program—Judicial Control of Procedure*, 2 TEX. L. REV. 422, 429-30 (1924).

Barber, M. Diane, *The Legal Dilemma of Groundwater Under the Integrated Environmental Plan for the Mexican-United States Border Area*, 24 ST. MARY'S L. J. 639, 695 (1993).

Chipman, Donald E. and Harriett Denise Joseph, SPANISH TEXAS, 1519-1821 (Austin: Univ. of Tex. Press, rev'd ed., paperback, 2010), 267-75 & 324-25.

Daughtery v. Southern Pac. Transp., 772 S.W.2d 81, 83 (Tex. 1989).

Edwards v. Peoples, Dallam 359 (1840).

Estep, Raymond, *Zavala, Lorenzo de*, HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/ZZ/fza5.html> (last visited Aug. 30, 2012).

Galveston v. Menard, 23 Tex. 349 (1859).

Harding, C.H., THE SPANISH EMPIRE IN AMERICA (New York: Oxford Univ. Press, 1947).

Hill v. McDermot, Dallam 419 (1841).

Humble Oil & Refining Co. v. Sun Oil Co., 191 F.3d 705, 716 (5th Cir. 1951).

Jones, Robert N., *The Adoption of the Common Law in Texas*, 53 TEX. B. J. 452, 454-55 (1990).

Landry v. Robison, 110 Tex. 295, 219 S.W. 819, 820 (Tex. 1920).

Lang, Aldon S. and Long, Christopher, *Land Grants*, HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/mpl01> (last visited Aug. 30, 2012).

de León, Arnoldo, *Mexican Texas*, HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/npm01> (last visited Aug. 30, 2012).

Long Distance Int'l v. Telefonos de Mexico, S.A. de C.V., 49 S.W.3d 347, 351 (Tex. 2001).

Lorino v. Crawford Packing Co., 142 Tex. 51, 175 S.W.2d 410, 413 (1943).

Margadant, Guillermo F., *The General Structure of the Law of New Spain*, STATE BAR OF TEXAS, THE INFLUENCE OF SPAIN ON THE TEXAS LEGAL SYSTEM (1992).

McKnight, Joseph W., *Spanish Concepts in Texas Law of the Family, Succession, and Civil Procedure*, STATE BAR

OF TEXAS, THE INFLUENCE OF SPAIN ON THE TEXAS LEGAL SYSTEM (1992).

McKnight, Joseph W., *Spanish Law*, HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/jss01> (last visited Dec. 16, 2011).

Luttes v. State, 159 Tex. 500, 324 S.W.2d 167, 191-92 (1958).

Paulsen, James W., 'Preserved from the Wreck': *Lingering Traces of Hispanic Law in Texas*, 49(2) HOU. LAWYER 10, 10-13 (Sept./Oct. 2011).

Recopilacion de las leyes de Indias (1680).

Severance v. Patterson, No. 09-0387, 55 Tex. Sup. Ct. J. 501 (Tex. April 19, 2012) (op. on reh'g).

Severance v. Patterson, 566 F.3d 490, 503-04 (5th Cir. 2009).

Severance v. Patterson, 682 F.3d 360, 361 (5th Cir. 2012) (per curiam).

Sheldon v. Milmo, 90 Tex. 1, 36 S.W. 413, 418 (1896).

Las Siete Partidas (1286).

Tex. v. Balli, 144 Tex. 195, 194 S.W. 2d 71 (1944).

Templer, Otis W., *Water Law*, HANDBOOK OF TEXAS ONLINE, <http://www.tshaonline.org/handbook/online/articles/WW/gyw1.html> (last visited June 17, 2010).

Walker, Andrew, *Mexican Law and the Texas Courts*, 55 BAYLOR L. REV. 225, 232 (Winter 2003).

Weber, David J., *THE SPANISH FRONTIER IN NORTH AMERICA* (New Haven: Yale Univ. Press, 1992).

Winters, William Gardner, Jr., *The Shoreline for Spanish and Mexican Grants in Texas*, 38 TEX. L. REV. 523 (1960).



DAVID FURLOW is a partner with the Houston office of Thompson & Knight LLP. His research and writing reflect interests in both U.S. and Texas history. In addition to articles published this past year in this journal, his article titled "Ten Myths and Legends of Texas Law" appeared in the April 2012 issue of the Tarrant County Bar Association Bulletin.

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The Tragic Case of Justice William Pierson

Justices in the State Cemetery, Part 2

By Will Erwin



Justice William Pierson

Some men are more famous for how they died than for how they lived, fair or not. William Pierson, associate justice of the Texas Supreme Court from 1921 to 1935, was a good man by all accounts. He was studious, conscientious, appalled at what he saw as the rising tide of violence in Texas, and a good father. Even the man who killed him admitted to that. Howard Pierson, Lena and William's youngest son, picked a day in late April 1935 to drive his parents out to a remote spot about three miles beyond Bull Creek in Austin.

According to his account, Howard was driving his parents to an experimental pecan grove operated by the University of Texas for a picnic. They were almost there when several "highwaymen" emerged from the woods and tried to rob the trio. According to Howard, the judge offered resistance and was shot several times before the attackers turned on his mother. Howard himself had a bullet wound in the arm, lending some kind of credence to the story.

Newly elected Governor James Allred almost immediately made a statement condemning the attacks. Newspaper reporters started writing their stories and word of the horrible events spread around the state. As arrangements were being made for the slain justice and his wife for a funeral at the University Baptist Church, Austin police started to doubt Howard's word. It sounded more and more farfetched and as they led Howard along, huge holes appeared in the narrative. It didn't help that police dispatched to the scene could tell that only one gun had been used, not the several Howard had described. Also, there were no footprints at the scene other than those of the judge, his wife, their son and a rancher who lived nearby. There was no band of brigands haunting the woods around Austin (at least not that day); the only villain was the youngest son of the dead judge.

By all accounts, Howard was a smart young man, but also a deeply disturbed one. His psychosis was just below the surface, waiting to be plumbed by investigators. After nine hours of intensive questioning, he finally admitted to killing his parents and then shooting himself in the arm to cover the crime. He took the police to the place where he had stashed the gun and the personal effects that had supposedly been stolen.

After the truth came out, the story spread like wildfire across the state and nation. Each day's successive headline was more bizarre and salacious, but the truth—the depths of Howard's madness—was never fully leaked to the public. Many years later, in her book *Murdered Judges of the 20th Century*, Susan P. Baker revealed just how sick Howard really was.

(Howard Pierson)...declared that he was a 'Special Person like Jesus,' destined to save the world by science....His greatest future invention, though, was going to be immortality. He talked about the endocrine glands and replenishing the chemicals secreted by them. If that didn't work, he would transplant the brains of old people into young people....

And the story goes on in that vein, continuing past the point of madness into the realm of science fiction. Howard Pierson killed his parents because he thought they were enemies to his plans, but also because he needed the insurance money to finish his education as a scientist and begin experiments. He wanted the \$17,000 in seed money to finance a scheme for human immortality. That truth never reached the public's ear. Either the insanity hearing was kept quiet, or reporters were much more circumspect back then. In any case, all the newspaper articles mention that he killed his parents, faked an attack by bandits and tried to collect the insurance money. This version was shocking enough, given the position and reputation of his father.

William Pierson was a true Texas success story. Born six years after the end of the Civil War in Gilmer, Texas, to a prominent banker, he followed a path with an upward trajectory all his life. Young Pierson and his family lived in the thick-forested area of East Texas between Mount Pleasant and Longview until his mother died when he was 10. He and his father then moved to Haskell, just northwest of Abilene. He graduated from high school there and matriculated to Baylor University in Waco, where he graduated with a degree in oratory and literature. After graduating from the University of Texas Law School in 1898, he moved to Greenville, where he met and married Lena Haskell. His law practice flourished and he aimed for public office. Once again he was successful, winning election to the Texas Legislature in 1901.

During his two terms in the legislature, Pierson served on the House judiciary and education committees and sponsored a bill to establish the College of Industrial Arts for Women (now Texas Woman's University) at Denton and state normal schools at Denton and San Marcos (now University of North Texas and Texas State University). He then returned to Greenville and was elected judge of the Eighth District Court, where he served for nine years. The Handbook of Texas mentions that his decisions in seven cases during that period influenced the way state lawmakers looked at Prohibition and the regulation of alcohol. Governor Pat M. Neff appointed him to the Texas Supreme Court in 1921, and he served with distinction in that post until his death in 1935.



Pierson headstone

William Pierson's life and judicial career ended abruptly and violently, but his son's strange story continued for several decades. Just three years after murdering his parents, Howard escaped from a locked ward at the Austin State Hospital and went on the run for almost three years before he was caught. He was working as a magazine salesman when he was arrested in Minneapolis. Authorities sent him back to the Austin State Hospital and again put him on a locked ward, but he escaped again in 1952. He was on the run for another two and a half years. In Syracuse, New York, an attorney he consulted figured out who he was and told authorities.

In 1955, police put him in a maximum-security facility at Rusk State Hospital, where he stayed for the next eight years. In 1963, his doctor wrote the Travis County Probate Judge to ask him to send the Travis County Sheriff to take Pierson out of his custody. Though not technically determined to be sane (only a jury could do that), Howard was declared by his doctors to be medically fit for trial. If this were a movie script, it would be easy to fill in the rest. Justice long delayed would finally be done, there would be closure for the family, closure for the public and a good man would be laid to rest. Life is rarely so easily wrapped up in a bow, however.

Future Texas Supreme Court Justice Thomas Reavley represented Pierson in court, both during the sanity hearing (he was found to be legally sane) and in the subsequent murder trial. After a week and a half of motions, testimony, deliberations and legal wrangling, a jury found him not guilty by reason of insanity. Were the surviving children beside themselves in anger? No. Dr. William Pierson, Jr., Howard's brother, and Alice Thomas, Howard's

sister, supported their brother throughout the trial, not maintaining his innocence but saying Howard had always been troubled. If we stuck to a movie script, of course, Howard would go to jail and everyone else would live happily ever after. This being no movie, Howard was given access to his inheritance, which (thanks to his brother) had climbed to \$800,000. Reavley recommended Howard leave the state and change his name, which he did. Howard Pierson moved to Seattle and died a few years later in a drowning accident.

Show trials, science fiction nonsense and jail breaks aside, the silent figure of Justice William Pierson looms above it all. A respected lawyer, accomplished politician and Supreme Court justice, William Pierson's death outshone his life for decades. However, if you walk past his grave on Republic Hill at the State Cemetery, all that hoopla is gone—it is as quiet, peaceful and dignified as he would have wanted it.



WILL ERWIN *is the senior historian and photographer for the Texas State Cemetery in Austin. This is his second article spotlighting Supreme Court justices buried in the State Cemetery.*

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Warren Harris

On Making *History*

I would be remiss if I did not first thank our outgoing President, Lynne Liberato.

As she always is, Lynne was wonderful at leading and shaping the Society over the past year. Among the many important things Lynne did during her tenure was initiate this Journal, now in its fifth issue. Our Journal allows us to let our members know of the Society's work and also allows us to publish interesting historical articles. A special thanks goes to the editorial team for giving us this excellent publication.

Lynne certainly went out with a bang at our 17th Annual Hemphill Dinner. A sell-out crowd was on hand to hear our keynote speaker, **Mayor Rudy Giuliani**. After being introduced by **Governor Rick Perry**, Mayor Giuliani gave a captivating speech. We were also honored by **Judge Priscilla Owen** giving a touching memorial to **Judge William L. Garwood**.

This year's Hemphill Dinner was such a great success it broke virtually every record, including largest attendance and most premium tables sold. The success of the dinner was due in large part to **Marie Yeates**, who chaired the dinner committee. Because the Hemphill Dinner is so important to our organization, financially and otherwise, we are especially indebted to Marie for her excellent work.

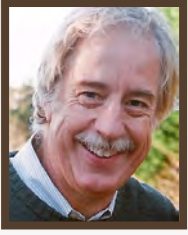
I am excited to be working with a great Board of Trustees this year. **Doug Alexander** is our new President-elect and, in addition to the returning Trustees, **Dylan Drummond**, **Robin Gibbs**, **Harry Reasoner**, and **Paul Yetter** are joining the Board as new Trustees. With a group like this, it is certain to be a productive year.

Of course, none of what the Society does would be possible without the support of the Justices of the Supreme Court of Texas. **Chief Justice Wallace Jefferson** appointed **Justice Paul Green** as the Society's liaison to the Court. Justice Green has been very helpful in strengthening our ties to the Court as we work on new history projects.

Without a doubt, the past year was the best in the history of our Society. With this momentum and great team in place, I am confident this year we can again make history.

— *Warren W. Harris*, Bracewell & Giuliani LLP

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Bill Pugsley

Lessons with an *Appeal*

Every summer for the last four years, I have conducted weekly tours of the Supreme Court courtroom for a group of bright young kids from around the state. They travel to Austin as part of the leadership academy camp organized by Education in Action, headquartered in Dallas. In most cases, this is their first time inside a courtroom, *any* courtroom. Slogging along at the end of the day, the students, ranging in age from 9 to 14, are, nevertheless, impressed with their surroundings and eager to hear what comes next. I have 15 minutes to change everything they know about the Texas Supreme Court and its procedures.

These kids labor under a common misconception of how the judicial system operates. Drawn from a steady diet of courtroom scenes in which the defense attorney shouts over the railing at his convicted client, “Hang in there, Fred. This is not over. *We’ll file an appeal*,” most kids, and a healthy majority of adults, come away from the television believing an appeal is the equivalent of a legal “do-over,” the quintessential second chance. While the similarities are many, the differences are critical.

Instead of tackling their mistaken impression head-on, I like to sneak up from the sidelines and knock them over with — what else? — interior design. I begin with a modified Socratic method.

“Okay, this is the Supreme Court of Texas, highest court in the state. It’s a civil appellate court. We all know what that means? Correct. (Stupefied nodding) It’s a courtroom. *Obviously*. So then, my young friends, where does the jury sit?”

Several students raise their hands. After scanning the room, they offer a variant of the same proposal — the jury sits in the same seats they themselves occupy. I call for objections or amendments to that proposition. A short debate ensues. Every suggestion — front row, second row, the counselors’ chairs, even the justices’ leather seats behind the bench — poses its own conundrum. Unresolved, I move to the next question. “Where do the witnesses sit?”

Again, hands raise (fewer than before). By a wide majority, students point to the clerk’s time-keeping station with its box-like desk adjacent to the marble bench. I ask how many accept that answer as the correct location of the witness stand. When the class settles into a consensus, I nod and summarize their understanding thus far.

“We’re fairly certain the witnesses sit — there (pointing to the clerk’s desk); not so clear where the jury sits, but most likely the first row of seats — here (sweeping arm across the baluster). Now for the final piece of the puzzle: Where does the judge sit?”

The room’s perplexing design has tangled their thinking to such an extent that, by this time, they are hesitant to point out what stands right before them. A bench with nine chairs behind it doesn’t translate as the nine

judges hearing a single case. Not possible. I pretty much have them where they need to be. I stop asking questions and launch into a set of statements that they will not understand until my talk is over. But when they leave the building, they will have a better idea what an appellate court does.

First, I declare: “An appeal is *not* a ‘do-over.’ It is not a second trial. There are no witnesses being called to the stand in an appeal. Therefore, no witness chair. Second, there is no jury during an appeal. A jury is necessary to determine if the witnesses are telling the truth. No witnesses, hence, no need for a jury. Yes, there are attorneys representing two sides of a case. They sit at those tables. But they are arguing about matters of law, not about matters of fact. Matters of fact, that is, who did what to whom, have all been decided at the trial level. And this not a trial, it’s an appeal. And third, all those chairs up there are for the nine justices hearing the case. An appeal heard in this courtroom, in the Texas Supreme Court, is a very big deal, for the entire state, and therefore, requires more than one justice to ensure the court arrives at the correct decision. Because what they decide — here, in this courtroom — becomes the law for all similar cases, in all the other courts in Texas.”

If the students weren’t confused before, they’re totally befuddled now, and teetering on the brink of total attention collapse. That’s when I hit them with the rabbit.

I hold up Exhibit A — a CD with the words Death Star Monkey emblazoned across the disk — while I launch into a metaphor, albeit a slightly whacky metaphor, for a civil dispute involving an 8th grade grunge band. I tell them, “Nothing survives of the Death Star Monkey except for *this* CD. The computer file holding the separate music tracks was ‘accidentally’ and permanently deleted. The band split up, and the dispute spilled over into the rest of the school, yelling in the cafeteria, fights on the playground. It was ugly. The drummer and lead singer complained to the school principal that other guys crashed their computer, swiped their CD, and booked gigs under their band name, when *they* were the ones who formed the band and chose the name. The next day the principal called the other side into his office. They defended themselves by claiming that *they* wrote *all* of the songs on the CD — music and lyrics—therefore the disc and the band’s name rightfully belongs to them. Besides, they had the CD.”

“In a surprise move, the principal announced over the school PA system that the Death Star Monkey dispute would be decided on the soccer field. The drummer and lead singer’s team would be called the Plaintiffs and their opponents, the Defendants.” Then I hold up two pieces of construction paper — the word Plaintiff is written on the red piece, Defendant on the yellow piece. “The drummer and lead singer are the plaintiffs because they first complained to the principal.” I stress the Latin root “plain” which means lament or grieve, as in grievance. “The other side will ‘defend’ themselves on the soccer field against the plaintiff’s accusations. The losing team will surrender the CD and stop using the name Death Star Monkey.”

“With a score of 5 to 3, the Defendants lose. But the creative geniuses behind Death Star Monkey aren’t taking this defeat lying down, no sir. They file an appeal. They send a *petition* to the principal.” I pick up the Defendant’s yellow card, and flip it over, showing a green card with the word Petitioner written across the front, then continue. “And the principal, in turn, asks the winning side in the soccer game to *respond* to that petition.” I flip the red Plaintiff card over, showing a blue card with the word Respondent. To emphasize the distinction, I turn the cards back and forth several times. “At trial-level the parties in dispute are called plaintiffs and defendants, but in an appeal, the parties are petitioners and respondents.”

“Sure, the Petitioners lost the soccer game,” I say, “but they aren’t disputing the score. They’re disputing the officiating. Because throughout the game the lead referee was wearing a full-on rabbit costume . . . including but not limited to a set of fuzzy ears, a cotton-ball tail, and big floppy feet. Turns out that the referee freelanced for kiddy parties as a pink rabbit on weekends. He’d forgotten he’d booked Little Johnny’s birthday across town when he agreed to referee the Saturday soccer game, and thought he might save time if he wore his costume

during the match. Petitioners said it was against the rules for referees to wear a rabbit suit. Respondents said there weren't any rules saying a referee *couldn't* wear one. Petitioners claimed the costume prevented him from clearly seeing all of the players on the field." Then pausing for dramatic effect I say slowly, "As a result, the score . . . would have been . . . different." Then I rush ahead, "But the issue is *not* the score, but the referee in the rabbit suit. The issue is not the facts of the game, but rather the rules of the game. Not matters of fact, but matters of law. The question on appeal is simply — Was the game played fairly?"

Then I drive my point home by describing an actual appellate case that came before the Supreme Court of Texas in 2005, one of the few juvenile criminal cases to reach the court.* A 16-year-old immigrant from Bosnia, who'd been living in the United States for six years, with no prior run-ins with the law, no juvenile record, and no experience with the criminal justice system, was held in custody by the police for four hours in relation to the shooting death of a fellow student. Called before the bench [of Fort Worth municipal judge Gabrielle K. Bendslev], the high school junior specifically asked if he could talk with his mother, saying that he wanted *her* to ask for an attorney. Judge told him that he couldn't talk to his mother just yet, but that he, himself, could ask for an attorney if he wanted one. The boy responded, 'But I'm only sixteen.'"

I lean across the baluster, "Indeed, how would someone his age know how to go about finding an attorney? Could you?" I pause for that to soak in. The kids are silent and fully attentive. "This kid believed his mother would know what to do, and he wanted his mother. He *wanted* his mother. " Another pause, then nonchalantly I continue. "Since he didn't specifically ask for an attorney, he was led away, questioned by police, and eventually, he gave a statement that indicated he knew where a gun was hidden."

"Now ladies and gentlemen, the issue before the court was not about the shooting, it was *not* about the gun, it was not *even* about whether this kid had any involvement in the crime. Those are the facts of the case and they would be decided in a trial court. The question before the appellate court was about a matter of the law. The question on appeal was this: if a juvenile asks for his mother, is that the same as asking for an attorney? Because if it *was* the same, then the law states that all questioning should have stopped the moment he asked for his mother. And as a result, the outcome of the trial *might* have been different. Those are the rules of the game. But the kid didn't ask for an attorney, he asked for his mother. So, the question that was decided in this courtroom, the highest appellate court in the state, was whether, in that situation — was the game played fairly?"

When kids "get" a new concept, you can literally see it on their faces. Their expressions change. The point of my little talk had reached its intended audience. An appeal is very different, but no less important than a trial.

I close my talk with a summary of the case, talk about the judicial portraits, and ask if they have any questions. Clearly you cannot tackle all the appellate issues that come before the court, and the example given was a rare instance of a criminal case, but as the kids leave, more than a few shake my hand in appreciation. That is the biggest reward for me. Helping young minds cast aside an old concept and grasp a new one.

Educational outreach is becoming one of the key functions of the Society. Giving court tours to the Education in Action students each summer is only the beginning. With the publication of the narrative history of the Texas Supreme Court in early 2013, the Society will have the best tool for furthering its objective to educate the public, students and adults alike, on the importance of the Supreme Court of Texas.

— **Bill Pugsley**, Executive Director

*In the Matter of H.V., No. 2-04-029-VC, 2005 Tex.App.Lexis 2088, (Tex.App.— Fort Worth) 3/17/05

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Fellows Column: Charter Fellows Recognized at Hemphill Dinner

By David J. Beck, Chair of the Fellows

Photo by Alexander's Fine Portrait Design-Houston



In recognition of their early commitment to the Fellows' program, our seventeen Fellows who joined during the first year of the program have been designated by the Society as Charter Fellows. These Charter Fellows were given special recognition at this year's Hemphill Dinner. In addition to being recognized as part of the dinner program, each Fellow received a specially designed plaque to commemorate their membership in the special group.

We are pleased to welcome Professor L. Wayne Scott of St. Mary's University School of Law as the newest Fellow. Professor Scott has long been an active member of the Society and is now among our most important contributors.

On behalf of the Society, I want to thank all of our Charter Fellows for their support. Their participation in the Fellows program is certain to have a major impact on the Society.

The Fellows are members of the Society who contribute at the highest levels, with Hemphill Fellows contributing \$5,000 or more annually and Greenhill Fellows contributing \$2,500 or more annually. The Fellows program raises funds for special projects, which will be announced as they are developed. In addition, there will be special events for the Fellows, including dinners, and special recognition at all Society events.

If you are interested in becoming a Fellow of the Society, please contact me or the Society's office.

CHARTER FELLOWS OF THE SOCIETY

HEMPHILL FELLOW

Richard Warren Mithoff

GREENHILL FELLOW

David J. Beck	Mike McKool
Tom A. Cunningham	Chief Justice Jack Pope (Ret.)
Lauren and Warren Harris	Shannon Ratliff
Allyson and James C. Ho	Robert M. Roach, Jr.
Joseph D. Jamail, Jr.	L. Wayne Scott
Dee J. Kelly, Jr.	Reagan W. Simpson
David Keltner	S. Shawn Stephens
Lynne Liberato	R. Paul Yetter

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Texas Historical Foundation to Assist in Preserving Republic and Early Statehood-era Supreme Court Case Files

By Dylan O. Drummond

This past June, the [Texas Historical Foundation](#) presented a \$5,000 preservation grant to the [Texas State Library and Archives Commission](#) to assist the Commission in preserving its earliest Texas Supreme Court case files dating from around 1843 to 1870.

Foundation Chairman Tom Doell noted that, “[t]he Foundation board supports the effort to make the study of history accessible to all. Our [F]oundation is proud to partner with [the Commission] to help save these important documents that offer a glimpse into the legal history of our state.” The Foundation has been generously funding preservation and educational projects around the state since 1954.

The majority of the 19th-century case files stored by the Commission have been folded or rolled for a long period of time, and need to be humidified and flattened before they can be safely processed and made available for research. This folding, combined with the inherent brittleness of the aged paper itself can make these documents extremely fragile. Humidification restores moisture to the paper fibers, which allows them to be gently and gradually flattened without breaking.

Notably, the Commission is charged with preserving Texas Supreme Court historical records, including minutes from 1841 to 1943, indexes and registers from 1840 to 1994, dockets from 1840 to 1980, opinions dating from 1840 to 1949, and case files dating from about 1843 to 1994. In turn, the Court’s Archivist maintains and protects administrative files including fiscal documents and correspondence, Texas judicial rules records, Court orders and resolutions, Court-appointed task forces and advisory council records, attorney licensing and disciplinary records, media including video and audio recordings of special Court events and oral arguments, as well as files on each Justice’s life and achievements.

State Archivist Jelain Chubb, who originally applied for the Foundation grant on behalf of the Commission, hopes to continue this effort for the remaining 19th- and early 20th-century Texas Supreme Court cases files held by the Commission, including preserving its 19th-century docket, opinion, and minutes volumes.

Because the Commission’s budget was drastically reduced during the 82d Legislative Session, its ability to independently fund these efforts is extremely limited and its reliance on the efforts of groups like the Foundation has increased. Private donations in support of the Commission’s preservation work on Texas Supreme Court records are welcome as well, and may be sent to the [Friends of the Library and Archives of Texas](#), but donors should specify that the donation is specifically for preservation of the Court records.



DYLAN O. DRUMMOND is a civil appellate attorney practicing in Austin, Texas. He currently serves as a Trustee of the Texas Supreme Court Historical Society, is rated AVTM by Martindale Hubbell®, and has been selected as a Rising Star in appellate practice the past four years by Thomson Reuters and Texas Monthly.

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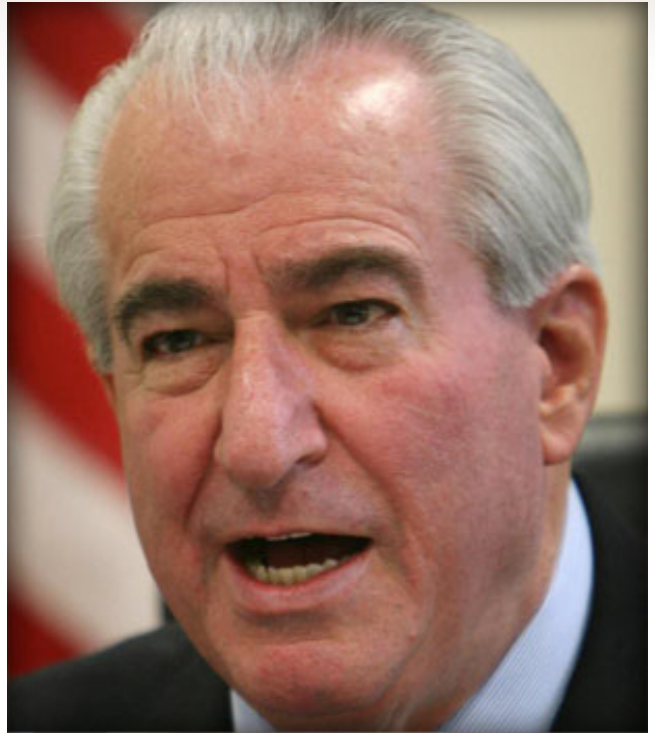
Justice Robert A. Gammage, 1938-2012

Retired Justice Bob Gammage died at his home in Llano on September 10. Justice Gammage served on the Texas Supreme Court from 1991 to 1995, culminating a distinguished career that included service in Congress as well as both houses of the Texas Legislature and the Texas Court of Appeals.

Retired Chief Justice Tom Phillips, who led the Court during Gammage's tenure, called him "a dedicated jurist who discharged his duties without fear or favor."

"He was a collegial and generous colleague and his passing is a true loss for the entire Texas legal community," said Phillips.

Justice Gammage joined the Texas Supreme Court Historical Society in 1992 as a Charter member. His portrait, painted by Kenneth Wyatt, was donated to the Court in 2002 and hangs in the courtroom.



Press advisory from the Texas Supreme Court: http://www.supreme.courts.state.tx.us/advisories/pdf/BobGammage_091012.pdf

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Photo Gallery: Images from the Portrait Dedication Ceremony and 17th Annual John Hemphill Dinner, June 1, 2012

Photos by Mark Matson

The two most important events on the Society's calendar each year are the Judicial Portrait Dedication Ceremony and the Annual John Hemphill Dinner. These events were particularly memorable this year, bringing record numbers of attendees, among whom were several prominent national and state officials.



In presenting Justice Harriet O'Neill's portrait to the Court, former Chief Justice Tom Phillips described Justice O'Neill's judicial philosophy and record of service.



U.S. Senator John Cornyn, a former Justice of the Texas Supreme Court and friend of the family, paid tribute to Justice O'Neill's personal attributes and character.



Hon. Harriet O'Neill thanked her friends and colleagues.



Outgoing Society President Lynne Liberato posed with this year's Hemphill Dinner speaker, former New York Mayor Rudy Giuliani, after the reception in his honor.

Mayor Giuliani described the sequence of events on 9/11 and their impact.





After taking the podium to introduce Mayor Giuliani, Gov. Rick Perry joined the audience to listen to the address.

Former Chief Justice Jack Pope talked about the TCLE Professionalism Award that carries his name.



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Texas Wins Again—In Reenactment of Historic Case

Led by Texas Supreme Court Chief Justice Wallace Jefferson, a panel of judges heard argument in *Texas v. White* from David Beck, representing the State of Texas, and Lynne Liberato, representing individuals challenging Texas' status as a state. Following the spirited hearing, former Chief Justice Tom Phillips, as "Reporter for the Court," announced that Texas had again won the case and should be considered a state in the Union following the Civil War.

The Harris County 1910 Courthouse provided a beautiful setting for the reenactment, which was presented in June as part of the State Bar Annual Meeting. Fifth Circuit Judge Jennifer Elrod, Southern District Judge Nancy Atlas, and Texas Supreme Court Justices Dale Wainwright and Paul Green joined Chief Justice Jefferson on the panel to hear the case originally decided by Chief Justice Salmon P. Chase and the members of the 1868 U.S. Supreme Court.

Society President Warren Harris, who along with Justice Jane Bland organized the event, introduced the program. Judge Phillips set the stage by giving the historical context for the case. Assisting the advocates were Bryon Rice of Beck, Redden & Secrest and Polly Graham of Haynes and Boone.

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Date Set for 18th Annual John Hemphill Dinner

The 18th Annual John Hemphill dinner has been scheduled for June 14, 2013.

In a change from the usual pattern, the dinner will be held on the second Friday in June, which in 2013 means the dinner occurs in mid-month. At the request of the University of Texas School of Law CLE department, the Society agreed to the later date to avoid the Republic of Texas motorbike rally taking place the week before. Likewise, the Law School CLE department acceded to the Society by setting a date in June, which begins the fiscal year.

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CJ John Hemphill Inducted into Texas Appellate Hall of Fame

John Hemphill, the first Chief Justice of the State of Texas, was inducted into the Texas Appellate Hall of Fame in a ceremony that took place on September 6 in conjunction with the State Bar Appellate Section annual meeting. Outgoing Appellate Section Chair Scott Rothenberg called upon Chief Justice Wallace B. Jefferson to introduce the newest inductee. Chief Justice Jefferson compared John Hemphill to U.S. Chief Justice John Marshall, noting their comparable lengths of service and their leadership in establishing the highest standards in their respective courts.



Accepting the award certificate on behalf of CJ Hemphill was Phil McPhail, a sixth cousin once removed, who lives in Madisonville, Louisiana, with his wife. The couple braved high winds and rain from departing Hurricane Isaac in their drive to Austin for the presentation.

The Society, which cosponsors the Texas Appellate Hall of Fame, is having the certificate framed at Davis Galleries and will have it shipped to the McPhail residence later this fall.

Scott Rothenberg, Phil McPhail, and Chief Justice Wallace Jefferson

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To profit from the past, we must first preserve it.

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Calendar of Events

Fall 2012

October 4

Fall Board of Trustees meeting

10:15 a.m., Conference Room, San Jacinto Center, Austin

Spring 2013

February

Publication of *Texas Supreme Court: A Narrative History, 1836-1986*

March 1

Joint Session, Texas State Historical Association Annual Meeting
Ft. Worth

TBA

Spring Board of Trustees meeting
Houston

April 11-12

History of Texas Supreme Court Jurisprudence seminar
to be held in conjunction with the State Bar of Texas'
Practice Before the Supreme Court course
Mansion at Judges' Hill, Austin

June 14

Portrait Dedication Ceremony
Supreme Court of Texas courtroom

18th Annual John Hemphill Dinner
Four Seasons Hotel, Austin

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2012 Membership Upgrades

The following Society members moved to a higher dues category since June 1, 2012.

GREENHILL FELLOW

L. Wayne Scott

TRUSTEE

Harry M. Reasoner

CONTRIBUTING

Marialyn Barnard

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2012 New Member List

The Society added 37 new members since June 1, 2012.

Among the new members are eighteen incoming Law Clerks for the Court (*), who received a complimentary one-year membership. The new members are as follows:

GREENHILL FELLOW

Shannon H. Ratliff

TRUSTEE

Robin C. Gibbs

CONTRIBUTING

Jenny and Brent Bailey

Gina Fulkerson

Rachel Palmer Hooper

William W. Ogden

Jason M. Ryan

REGULAR

David Armendariz*

Stephanie Beckett*

Justin Lewis Bernstein*

James D. Blacklock

Judge Bill Boyce

Maria Boyce

Ellen Burkholder*

Kristina Campbell*

William Christian

Morgan Craven*

Texanna Davis

Daniel Durell*

Joe Greenhill*

Sharon Hemphill

Kyle Highful*

Yvonne Y. Ho

Alex W. Horton

Kathy and Jimmy Kull

Jaclyn Lynch*

Danielle Mirabal*

Jason Muriby*

Charlotte Nall*

Melanie Kemp Okon

Kinchen C. Pier

Casey Potter*

Scott P. Stolley

Katherine Tsai*

Nathan White*

Jennifer Wu*

Andrew Wynans*

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Membership Benefits & Application

Hemphill Fellow - \$5,000

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

Greenhill Fellow - \$2,500

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

Trustee Membership - \$1,000

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

Patron Membership - \$500

- Historic Court-related Photograph
- Discount on Society Books and Publications
- Complimentary Copy of *The Laws of Slavery in Texas* (paperback)
- Personalized Certificate of Society Membership
- All Benefits of Regular Membership

Contributing Membership - \$100

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

Regular Membership - \$50

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

eJrnl appl 9/12

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Membership Application

The Texas Supreme Court Historical Society conserves the work and lives of the appellate courts of Texas through research, publication, preservation and education.

Your membership dues support activities such as maintaining the judicial portrait collection, the ethics symposia, educational outreach programs, the Judicial Oral History Project and the Texas Legal Studies Series.

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

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Please select an annual membership level:

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

- | | |
|---|---------|
| <input type="checkbox"/> Hemphill Fellow | \$5,000 |
| <input type="checkbox"/> Greenhill Fellow | \$2,500 |

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