

6-27-1994

Black Lawyers; in Encyclopedia of African American Culture

J. Clay Smith Jr.

Follow this and additional works at: http://dh.howard.edu/jcs_speeches



Part of the [Legal Commons](#)

Recommended Citation

Smith, J. Clay Jr., "Black Lawyers; in Encyclopedia of African American Culture" (1994). *Selected Speeches*. Paper 162.
http://dh.howard.edu/jcs_speeches/162

This Article is brought to you for free and open access by the J. Clay Smith, Jr. Collection at Digital Howard @ Howard University. It has been accepted for inclusion in Selected Speeches by an authorized administrator of Digital Howard @ Howard University. For more information, please contact lopez.matthews@howard.edu.

6-27-94
Encyclopedia of African American Culture

Black Lawyers

By: J. Clay Smith, Jr.
Professor of Law, Howard University School of Law

Justice Thurgood Marshall is the first black lawyer to served on the Supreme Court of the United States. He is one of the most famous lawyers of modern times. After he was graduated from Howard University School of law in 1933, he returned to his native Baltimore, Maryland, where he practiced law and later joined with his mentor, Charles Hamilton Houston, to plan the systematic, legal attack against Jim Crow laws in the South at the NAACP. Marshall and Houston, and a number of black lawyers help to shape the law that lead to the 1954 landmark U.S. Supreme Court decision of Brown v. Board of Education. The Brown decision held that the separate but equal doctrine was unconstitutional. However, long before Marshall and Houston were born, the black lawyer had sown the seeds of liberty and equality to advance the social and political status of black citizens.

The genesis of the black lawyer began in the New England states. In 1844, the state of Maine admitted the first black lawyer in the nation's history. His name was Macon Bolling Allen, who, like so many lawyers that followed him, studied law under the supervision of a lawyer, or a judge. Allen never practiced law in Maine. In 1845, Allen was admitted to practice law in the Commonwealth of Massachusetts, where he excelled being appointed as justice of the peace by Governor George N. Briggs in 1847. Allen is the first black lawyer to hold a judicial post in the nation's history.

Other black lawyers in the New England states followed Allen to the bar, such as Robert Morris, Sr. who, in 1847, became the nation's second black lawyer. Morris was also admitted to the bar in Massachusetts, and is the first black lawyer to try and to win a law suit in an American courtroom. Morris also was the first black lawyer to filed the first civil rights law suit in the nation, a suit to desegregate the public schools in Boston. In 1865, another Boston lawyer, John Swett Rock, became the first black lawyer admitted to practice before the United States Supreme Court with the support of Senator Charles Sumner. The first argument by a black lawyer occurred twenty-five years later. In 1890, Everett J. Waring, the first black lawyer in the state of Maryland, presented the first oral argument before the Court.

After the Civil War, and during the Reconstruction era, black lawyers played a significant role in Congress. Several black lawyers from South Carolina, Virginia, Mississippi, North Carolina served in the U.S. Congress as representatives and one served in the U.S. Senate. Robert Brown Elliott, and Thomas Ezekiel Miller represented South Carolina in the House of Representatives during the early 1870s and 1880s. John Mercer Langston, who in 1854, was the first black lawyer in the state of Ohio, and, in 1869, the first black lawyer to head a law school (Howard University School of Law), was elected to Congress from Virginia in 1890. James Edward O'Hara and George H. White, Sr., were elected to Congress from North Carolina in the 1880s. Hiram Rhodes Revels, who had been admitted to the bar in the State of Indiana, was elected to the United States Senate from the state of Mississippi in 1870.

Although Blanche Kelso Bruce, who was not a lawyer, served in the U.S. Senate during the Reconstruction era, no other black person would be elected to the Senate until 1966, the year that Edward W. Brooke, a black lawyer, won a seat in the U.S. Senate from the Commonwealth of Massachusetts.

Within ten years after the abolition of slavery, at least two black lawyers had become judges in the South. In 1870, Jonathan Jasper Wright was elected as justice of the Supreme Court of South Carolina, serving in that post until 1877, and in 1873 Mifflin Wistar Gibbs was elected to the Office of City Judge in Little Rock, Arkansas. Wright's election to the Supreme Court of South Carolina was unprecedented in the nation. In 1994, one hundred and twenty four years later, Justice Ernest Finney became the first black elected as chief justice of the Supreme Court of South Carolina.

After the Reconstruction era closed, many black lawyers left the South and joined other black lawyers in the North to practice law, but the struggle to achieve equal rights for black people continued to be the goal of black lawyers throughout the nation.

With a few exceptions, most of the black lawyers were Republicans prior to the election of Franklin D. Roosevelt in 1933. They held important posts in the Republican party. For example Henry Lincoln Johnson, Sr., and Perry W. Howard were powerful Republican committeeman in the Georgia and Mississippi during the early part of the twentieth century and controlled significant political patronage.

Black lawyers were appointed to foreign posts by presidents of

1.

the United States. For example, in 1873, John F. Quarles was appointed by President Ulysses Grant to the U.S. consulate in Port Mahon, Spain. In 1898, James Robert Spurgeon was appointed secretary to the U.S. Legation in Monrovia, Liberia, by President William McKinley; and, in 1901, James Weldon Johnson was appointed as consul to Puerto Cabello, Venezuela and Corinto Nicaragua by President Theodore Roosevelt. In more recent times, several black lawyer have serve as ambassadors, or in high foreign policy positions in the national government. For example, Clarence Clyde Ferguson, Jr., a former dean of the Howard University School of Law, served as Ambassador-at-Large as Special Coordinator for Relief to the Civilian Victims of the Nigerian Civil War during the presidency of Richard M. Nixon.

Black women lawyers also have played vital roles as representatives and political operatives of the U.S. in foreign affairs. For example, in 1947, President Harry S. Truman appointed Edith S. Sampson as an alternate to the United Nations. She is one first black woman to serve at the U.N. She travelled to many countries representing the interest of the U.S. In 1965, President Lyndon B. Johnson appointed Patricia Roberts Harris, a former Howard University law professor, as Ambassador to Luxembourg. She is the first black American woman to hold the rank of ambassador. In 1971, Goler Teal Butcher, became a consultant to the House Foreign Affairs Committee and counsel to the subcommittee on Africa. Butcher is the first black woman counsel to a congressional committee in the nation's history.

In more modern times, black lawyers have carried on the

4

tradition of fighting for the civil rights to enlarge the political and social rights of black Americans. Many of these rights have been won before the U.S. Supreme Court. Charles Hamilton Houston and Thurgood Marshall were involved in many of these legal victories. For example, Charles Hamilton Houston, considered as the architect of the modern civil rights movement, won cases establishing precedents against the exclusion of blacks from juries, prohibiting states from paying black teachers lower wages than white teachers, and with the assistance of Thurgood Marshall and William I. Gosnell, won a major decision before the Maryland Court of Appeals which forced the University of Maryland School of Law to open its doors to black students. Through the prodigious efforts of Marshall and Hastie, the U.S. Supreme Court held that the "white primary" rules of local political parties (which excluded blacks from participating in the primary elections) was unconstitutional. This decision significantly enlarge the power of black citizens to determine who their party candidates would be during primary elections.

It was through the efforts of black lawyers to desegregate the schools in Topeka, Kansas, and in other states, that the issue of whether segregation of public schools ultimately reached the United States Supreme Court in the case of Brown v, Board of Education decided on May 17, 1954. Robert Carter and Thurgood Marshall, James Madison Nabrit, Herbert Ordre Reid, Sr., and several other black lawyers, lead the fight to repudiate statutory segregation. However, it should be remembered that Charles and John Scott, both graduates of Washburn University School of Law, filed the original

law suit in Brown v. Board of Education of Topeka, Kansas.

In 1965, President Lyndon B. Johnson nominated Thurgood Marshall to serve as the first black to sit as a justice on the U.S. Supreme Court, a post that he held with distinction until he retired on June 28, 1991. On July 1, 1991, President George W. Bush announced his nomination of Clarence Thomas, chairman of the U.S. Equal Employment Opportunity Commission, to the Court. Justice Thomas presently serves on the Court.

Three black lawyers have served as Solicitor General of the United States: Thurgood Marshall served from 1965 to 1967, Wade Hampton McCree served from 1977 to 1981, and Drew S. Days III served from 1994 to the present. Each of these appointments are as significant as when William Henry Lewis was appointed as assistant attorney general of the U.S. in 1911. Lewis, an 1895 graduate of Harvard University School of Law, is the first black American lawyer ever nominated and confirmed by the U.S. Senate to a post at the U.S. Department of Justice.

During the 1960s through the 1990s, the number of black lawyers has increased as has their influence both at the national and local levels. While there are over 600,000 white lawyers in the nation, black lawyers represent just over 30,000 of that figure, and black women represent about 10,000 of the total number of black lawyers, but both numbers continue to increase.

Black women have played an important role in the evolution of black lawyers in the U.S. In 1871, Charlotte E. Ray became the first black woman to be graduated from a law school. After she won her degree from Howard University School of Law, she became the

first black woman admitted to its bar and one of the first women admitted to any bar in the nation. She practiced corporate law in the District of Columbia.

A number of black women lawyers have distinguished themselves in the legal professions. In 1896, Lutie A. Lytle became the first woman law professor in the nation at Central Tennessee Law School, a black law school. In 1987, Marilyn V. Yarbrough, became the first black woman law dean at the University of Tennessee, and in 1992, Emma Coleman Jordan, became the first black professor to head the Association of American Law Schools.

In 1926, Violette Neatly Anderson became the first black woman admitted to practice before the U.S. Supreme Court, and H. Elsie Austin, who in 1937, became the first black woman appointed as an assistant attorney general in the nation (Ohio). In 1992, Pamela F. Carter, became the first black woman lawyer elected to the post of attorney general in the state of Indiana and in the nation.

In addition, Lucia Theodosia Thomas is likely the first woman law graduate to earn two masters of laws degrees in 1942 and 1943 from The John Marshall Law School. In 1927, Sadie T.M. Alexander became the first black woman graduate of the University of Pennsylvania Law School and in 1945 Pauli Murray, published the first law review article by a black woman lawyer.

In more recent times, Mahalia A. Dickerson, is the first black woman admitted to the bar in the state of Alaska and the first black woman to head the National Association of Women Lawyers. Constance Baker Motley, a lieutenant of Thurgood Marshall in many successful civil rights cases, is the first black woman to try a

case in the State of Mississippi. Motley was appointed to the U.S. District Court of the Southern District of New York in 1966, becoming the nation's first black woman federal judge. Jane M. Bolin, who, in 1931, became Yale law school's first black woman graduate, was the nation's first black woman judge. On July 22, 1939, she was appointed to the Domestic Relations Court in New York City by Mayor Fiorello H. LaGuardia. In the field of civil rights, in 1993, Elaine Ruth Jones, the first black woman law graduate of the University of Virginia (1970) became the first woman counsel-director of the NAACP Legal Defense Fund, Inc., first headed by Thurgood Marshall.

Presently, black women lawyers serve the nation in Congress: Eleanor Holmes Norton, delegate from the District of Columbia and Senator Carol Moseley Braun, from the state of Illinois, the first black woman elected to the U.S. Senate. Delegate Norton is a graduate of Yale Law School; Senator Braun is a graduate of the University of Chicago Law School.

The progress that black lawyers have made in America has been an uphill struggle aided by the historically black law schools, like Howard University School of Law founded in 1869, and approximately twenty-five other black law schools that produced them between 1869 to the present. Howard University's law school is the only one of the several original black law schools that remains open. Three other black law schools founded in the late 1940s, continue to produce several black lawyers; namely, The Thurgood Marshall Law School, at the Southern University in Houston, Texas, North Carolina Central University School of Law, in

Durham, North Carolina, and Southern University School of Law, in Baton Rouge, Louisiana.

Black bar groups also have played a vital role in the development of the Black lawyer. The development of Black bar groups emanated at the state level and influenced the formation of national bar groups. Black lawyer associations were founded because black lawyers were barred from joining white bar groups, including the American Bar Association, which were considered to private social clubs. The ABA barred black lawyers from membership until 1943.

Around 1890, the black lawyers in the state of Mississippi formed the first Colored Bar Association in the city of Greenville. Others were formed in the South, North, East, the Pacific, and the Midwest regions of the U.S. It was probably that Josiah Thomas Settle, the first president of the Mississippi Colored Bar Association, persuaded Booker T. Washington to support the formation of a national bar group under the umbrella of the National Negro Business League founded by Washington in 1900. Founded in 1909, the bar group was called the National Negro Bar Association.

Many of the state colored bar association members were members of the National Negro Business League, and therefore, it was convenient for them to meet during the annual meeting to exchange ideas, and formulate strategies to fight Jim Crow laws, which they did until 1922, when the black lawyers broke away from the National Negro Business League to form the National Bar Association in 1925. The National Bar Association, a group that remains a powerful

organization among black lawyers today, has grown from a handful of members to over 20,000 members.

Like its predecessor, the NBA support comes from it several local affiliates constituted in states across the nation. For seventy years, the NBA has been the center of black lawyer meetings to develop theories of law, continuing legal education programs, and cooperative efforts to fight against all forms of discrimination, for the appointment of judges on the local and national levels, and other federal posts.

Black women, though few in number, have made great strides in the black bar associations and the NBA. For example, in 1921, Gertrude E.D. Rush was elected as president of the Iowa Colored Bar Association, and in 1931, Louise J. Pridgeon was a founder and was elected President of the Harlan Law Club in Ohio. At the national level, Georgia Jones Ellis, of Illinois, became the first woman elected as a national officer (secretary) in 1928, and was elected vice president in 1929. In 1981, Arnette R. Hubbard became the first woman president of the NBA, and other women have been elected as president since then.

There are many more distinguished black women and male lawyers who have excelled in the law, and their are many more on the rise.