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McCANTS STEWART, AN AFRO-AMERICAN
LEGAL PIONEER*

J. Clay Smith, Jr.**

This paper is about McCants Stewart, one of the first Afro-Americans to be graduated from the University of Minnesota Law School, and the first Afro-American to be admitted to the bar, and to practice law in the state of Oregon. He was a trailblazing Afro-American lawyer in the northwestern part of the United States from the early 1900's until his death in 1919. His life as a lawyer was filled with many brave acts that secured the principle of justice for all powerless Afro-Americans, white and Asian peoples in the northwest part of the nation.

The life of McCants Stewart is one of achievement, even though it could have been limited by the racially repressive period during which he lived. McCants Stewart was born in 1877, the year that the Reconstruction period ended.^{1/} He was graduated from Tuskegee Institute in Alabama in 1896, the year that the United States Supreme Court decided Plessy v. Ferguson,^{2/} and the year that William McKinley was elected president of the United States.^{3/} For the rest of his life, Stewart lived in a nation in which the United States Supreme Court legal doctrine of "separate but equal"^{4/} would influence American politics and social customs as relates to Afro-Americans.

Stewart, a second generation lawyer, never sacrificed his principles at the expense of his clients, or in derogation of his beliefs. What Stewart accomplished in his relatively short life is a lifetime of

achievement for most lawyers. McCants Stewart has earned his place in the history of American law as a private practitioner whose legal skills and unrestrained advocacy compelled people in the northwestern portion of the United States to respect his legal acumen.

DAYS AT TUSKEGEE INSTITUTE

McCants Stewart was born on July 11, 1877, in Brooklyn, New York.^{5/} He was the son of Charlotte Harris Stewart and T. McCants Stewart, who was admitted to the South Carolina bar two years before McCants Stewart was born.^{6/} McCants Stewart attended and was graduated from Tuskegee Institute in Tuskegee Institute, Alabama. He attended the Institute under the leadership of Booker T. Washington.

The personality of McCants Stewart as a student is revealed in a series of letters between Booker T. Washington, his wife, Margaret James Washington, and Stewart. In one letter Booker T. Washington scolded Stewart for eating between meals, which was forbidden at the Institute. Stewart, apparently a small-framed lad, wanted to eat his meals at odd times, but Booker T. Washington would have none of it. On May 10, 1894, Booker T. Washington wrote to Stewart on this subject:

McCants Stewart:-

In connection with Dr. Johnson, I have fully considered your request regarding food. She says that the main trouble with you is that you do not obey her orders; that you eat between meals, when if you would confine yourself to the dining room diet, you would very soon grow alright. I see no reason why you should be treated in this respect, different from the other students, and I do not see anything further that I can do in regard to the matter. I have fully considered everything, and am decided that there is nothing else to be done at present.^{7/}

In July, 1894, Stewart was in trouble again for violating some rule of the Institute. The Council of Tuskegee Institute voted to expel him.

Stewart must have written Booker T. Washington a letter which did not set well with him. On July 14, 1894, Washington, who was traveling in Boston, Massachusetts, wrote:

Dear Stewart:-

I have received your letter and have carefully considered it. I am sorry that you have acted in the way that you have. Even if I had no other evidence than your own statement, and the temper you manifest throughout your letter, I would decide that the Council was perfectly and thoroughly justifiable in taking the action it did in regard to your case.

The trouble with you is, and it is a trouble that is going to cause you to regret this propensity in after life, that you are determined to have your own way in regard to everything that does not go to suit you. I had hoped that after your promise to me that you were going to control yourself, at least for the Summer, that you would do so and try to make a man of yourself, but I am sorely disappointed.

In after years, I think you will find that you have made a serious mistake. When I am absent from the school, I never attempt to interfere, in any way, with the decisions of the Council or those in charge.8/

I shall write your father to-day, and ask him to take whatever steps for your future he thinks best.

By October 11, 1894, Stewart, now living in Notasulga, Alabama, had plead his case for readmission to Tuskegee Institute to Mrs. Booker T. Washington. His plea for readmission was communicated to Booker T. Washington, who was in New York. Mr. Washington wrote Stewart the following letter:

Dear Mac:-

Mrs. Washington wrote me a few days ago that she was going to write you. I do not know whether or not she has done so. If you now think that you are in a state of mind that will permit you to obey the rules of the school, and be governed by what we think will be best for you, I think I shall ask the Council as soon as I return to permit you to re-enter the school, but I wish to know what your intentions are in regard to obedience before making an application of this kind....9/

By October 27, 1894, the Council had voted, probably with the endorsement of Mr. Washington to readmit Stewart to Tuskegee Institute. Stewart, still living in Notasulga, received the following letter from Mr. Washington:

Dear Stewart:-

Your case has been put before the Council, and it has been decided to allow you to return to school January 1st. This being true, I think it will be well for you to ask Mr. Roy to let you come down to the school, and we will see if you can be helped in the matter of getting what clothing you may need for the Winter. I wish you would come at once as I shall be going away soon....10/

The relationship of McCants Stewart with Mrs. Washington was very much like a mother and a son. Mrs. Washington concerned herself with students, and was often a buffer between Mr. Washington, the Council and the students. From the Crawford House, Boston, Massachusetts, in July 1895, Mrs. Washington wrote Stewart, as follows:

Dear Mack:-

You can not know how glad I am to get your letter It was sent to me this morning from Aberdeen Miss. It has been a long time on the road but I am just as glad to get it. I know that it was hard for you to give Chris. up but I hope that you will be sure to write to him every week for if you do not you will be sure to grow apart and this I hope will never be. I am now here with Mr. Washington who seems to need me more than any body else just now. I do hope that you are going to come out alright at the close of the summer. Mr. Calloway is not a strict man but you must not take advantage of this goodness. It is often best to be strict with boys of your age but I suppose you think that I ought now to say young men of age. I shall be in Tuskegee before very long. I am very tired. I can not tell what has made me so but I am. Be sure to look out for Mack. I am writing on the Type this summer and I hope to some day get a position at the school.11/

During his student days at Tuskegee Institute, Stewart was enrolled in its Music School specializing in piano and voice, but his main interest was debate.12/ During one competition, Stewart, a skilled debater, and his

debate partner, E.D. Lankford, were paired against J.A. Lankford and John W. Robinson on the resolve that men of thought have done more for the world than men of action. Messrs. Stewart and Whitehead, for the affirmative, prevailed over Messrs. Lankford and Robinson, who argued the negative. The Tuskegee Student newspaper, singled out Stewart's argument, stating that "from the very beginning, it electrified the whole audience."13/

McCants Stewart was graduated from Tuskegee Institute in 1896.14/ In the same year, The Tuskegee Student did an update on the whereabouts and the progress of its graduates. Referring to McCants Stewart, the newspaper reported that he was "now in his father's law office at his home in N.Y."15/ and enrolled as a law student at New York University Law School. Stewart also reported, "the trouble of the whole thing is, it takes education of the head — no hand and heart in it,"16/ a statement that might have been a critical reference to the philosophy of Tuskegee Institute's emphasis on industrial training. Nevertheless, The Tuskegee Student wrote that "despite this fact [McCants Stewart] will succeed."17/

DAYS AT THE UNIVERSITY OF MINNESOTA LAW SCHOOL

While the focus on this paper is on the contributions of McCants Stewart, two other Afro-Americans associated with the University of Minnesota are relevant to Stewart because they were the first to integrate the University of Minnesota and its law school. The first Afro-American to be graduated from the University of Minnesota was Andrew Franklin Hilyer. Hilyer was graduated in 1882 from the College of Science, Literature and the Arts.18/ In 1894 John Frank Wheaton, who first studied law at Howard University School of Law was graduated from the University of Minnesota Law School in 1894.19/ Wheaton holds the distinction of being the first Afro-

American to be graduated from the University of Minnesota Law School. Thus, with the graduation of Hilyer from the undergraduate level and Wheaton from the law school, the stage was set at the University of Minnesota for other Afro-Americans like McCants Stewart to receive an education at the state university.

McCants Stewart was admitted to the New York University School of Law in the Fall of 1896. However, he remained there for only one year, transferring to the University of Minnesota Law School in 1897 then under the leadership of its first dean, William S. Pattee. It is not known why Stewart transferred to the University of Minnesota Law School. It might have been because his father left New York and went to Honolulu, Hawaii, to practice law,^{20/} or to join his classmate and good friend, Jay Moses Griffin, who was admitted in the University of Minnesota Law School after being graduated from Tuskegee Institute in 1896.^{21/} It appears that Jay Moses Griffin was the second Afro-American student admitted to the law school in 1896, followed by McCants Stewart in 1897 and Joseph C. Reid in 1898.^{22/} Hence, two Tuskegee Institute graduates from the class of 1896 helped to integrate the University of Minnesota Law School. Except for an illness requiring Mr. Griffin to withdraw from the law school during his senior year and go to Mexico to convalesce,^{23/} he would have shared the honor held by McCants Stewart as one of the second Afro-American graduates of the University of Minnesota Law School.^{24/} Griffin returned to the law school the following year and received his law degree in 1900.^{25/}

Stewart was an active law student. He participated in the Kent Debate Society, one of several debate societies. One of their most competitive rivals was the Minerva Debating Society, composed of women law students.^{26/}

McCants Stewart was well respected by his classmates, as he was elected secretary of the senior class,27/ and Sheriff of the Moot Court. The Sheriff officiated during all Moot Court sessions at the law school.28/ In his senior year, Stewart was recruited to act as business manager for the Twin-City American, a black newspaper, by his friend, Jay Moses Griffin.29/ He served as business manager and associate editor.

While a student at the law school, McCants Stewart was discriminated against by a local restaurant on Central Avenue, who refused to serve him a meal. The restaurant owner told Stewart that he employed "such as you to clean my backyard."30/ This conduct was observed by several patrons in the restaurant who left their names with Stewart, who filed an administrative complaint with the City Attorney's Office in Minneapolis under a civil rights law passed in 1897 by the state legislature. After an investigation, the Assistant City Attorney filed a lawsuit against the restaurant owner, John Flangstad.31/ He was charged with violating the civil rights of Stewart. Flangstad claimed that his business suffered when he served "colored people." In fact, it was reported that Flangstad's restaurant "used to feed colored men . . . but when the colored people commenced to come in large numbers, his white customers dropped off, and then when he made objections to the colored men, they also quit, and he was left without any patronage."32/ This explanation did not receive a kind reception by a jury of 12 Minneapolis citizens who found Mr. Flangstad guilty of violating McCants Stewart's civil rights.33/

McCants Stewart was not totally isolated from the Afro-American bar in Minnesota. There were at least three lawyers of Afro-American descent in St. Paul or Minneapolis during his law school tenure; namely, Frederick L.

McGhee, John Frank Wheaton and William Richard Morris, all exceptionally fine and respected members of the Minnesota bar. No doubt those lawyers knew or knew of Stewart's father, T. McCants Stewart, who by that time had made a national reputation for himself.^{34/}

History was made again at the University of Minnesota on June 2, 1899, when McCants Stewart became the second Afro-American graduate of the law school, which was established in 1888,^{35/} and the third Afro-American to receive a degree from the University of Minnesota chartered in 1851. Three hundred students were graduated from the various academic departments in June, 1899.^{36/}

The graduation of McCants Stewart from the University of Minnesota School of Law School, indeed from the University itself, was not an event that drew members of his race to the commencement exercises, a point noted by The Colored Citizen. Stewart's historic graduation prompted The Colored Citizen to chide Afro-Americans "to look forward to the power of higher education that the race might stand equal with other races in social environments...."^{37/} The article continued,

Our failure to attend the commencement at our own state university has proved the conceptive opinion of the white American to be correct. The Negro who is looking forward to self-aggrandizement for the purpose of personal gain cannot appreciate people who struggle for higher education. Not until the formidable foe of human obstacles have been conquered by the toiling student, will encouragement come from his own. But to encourage higher education among our own, when the value is of any importance, it must be done in the very inception of the student's inclination, to cultivate the highest talents predominant in the human mind.^{38/}

McCants Stewart remained in Minneapolis for at least three years after being graduated from law school. Admitted to the bar by the Minnesota Supreme Court on June 2, 1899, Stewart practiced law in Minneapolis from 1899

to 1900. Between 1899 and 1901, it is likely that Stewart continued to work as an agent for The Twin-City American, the local Afro-American newspaper to earn money to complete the requirements of the LL.M. degree from the University of Minnesota Law School, which he did in 1901.^{39/} During this period, Stewart was also courting his future wife, Mary Delia Weir, who also attended the University of Minnesota. While the exact departure date of Stewart to Portland, Oregon, or even why he selected Portland as his new residence is unknown, Stewart remained active in the Minneapolis, Minnesota, community until 1903. For example, in 1901 the Bethesda Baptist Church in Minneapolis sponsored a debate on the question: "Resolved, that the industrial and social independence of the American Negro can best be maintained by establishing a Negro Commonwealth within the bounds of the United States."^{40/} Arguing for the affirmative was J. S. Wright, a graduate of Eckstein-Norton University of Kentucky and Harvey Burke, a graduate of Wilberforce University. Arguing for the negative was McCants Stewart and Joseph C. Reid, both recent graduates of the law school. One of the three judges was William R. Morris. When the judges ruled for the affirmative, the audience "dissented, thereby causing the judges to explain that they were deciding on the merits of the debate, not on the right or wrong of the question."^{41/}

Days as a Lawyer in Portland, Oregon

McCants Stewart, about 25 years old, arrived in Portland, Oregon, in 1903 and made application to be admitted to the bar in Oregon. The Oregon Daily Journal, apparently unaware that Stewart was the second graduate of the University of Minnesota Law School, wrote that "Stewart is the only colored law graduate of the University of Minnesota . . . There has never

been a colored man admitted in [Oregon], although one application was made a few years ago."42/ Stewart was admitted to the Supreme Court of Oregon on March 1, 1904.43/

McCants Stewart must have been admitted to the local courts in Portland or allowed to practice prior to his admission to the Oregon Supreme Court in 1904. In 1903, Stewart was appointed by the Court to represent Charles Shanley in a larceny case. Stewart having little to work with to defend his client asked the court's mercy for a man unable to find employment. The court would hear none of this plea. Convicted, Shanley was sentenced to 9 months "on the rockpile."44/

Stewart also represented Japanese clients. In 1903, he represented W. Irvane, a Japanese male charged with larceny. Irvane's case was hopeless, but McCants waged a spirited defense on his behalf.45/ In 1904, Stewart represented Viola Reese who was charged with assault with a dangerous weapon. The victim claimed that Ms. Reese "tried to cut her heart out with a pocketknife because she 'cussed' her for making free with a man and a bucket of beer."46/ Stewart's pre-trial efforts to subpoena the physician of the alleged victim were ignored. At trial, he renewed this request. The sheriff testified that the papers had been served on the doctor at the instance of the prosecuting attorney. The prosecution was no doubt aware that no injury had been sustained by the alleged victim. The court ordered the doctor to court. Stewart's client was acquitted.47/

In August, 1905, McCants Stewart slowed down his practice of law long enough to return to Minnesota to wed Mary Delia Weir,48/ and to return to Oregon to argue his first case before the Oregon Supreme Court.

The first case ever to reach the Oregon Supreme Court at the hands of an Afro-American lawyer was State v. Browning, 49/ a criminal case appealed to that court in 1905 by McCants Stewart. It involved a charge of embezzlement and a challenge by Stewart to the jurisdiction of the Portland Municipal Police Court to try the matter under state law. Stewart's claim was rejected by the Oregon Supreme Court, even though the court faced some difficulty reaching its conclusion. Though Stewart's artful advocacy failed, he had succeeded in getting the attention of white people in the state who became aware that an Afro-American lawyer had arrived, prepared to do battle.

The racial climate in Portland brought McCants Stewart before the Oregon Supreme Court in 1906. In August 1904, Oliver Taylor purchased a ticket to see a vaudeville show at the Star Theater in Portland. The ticket was one for general admission, however, he was refused a seat on the first floor of the theater and was told that he had to sit in the balcony. Claiming that his civil rights had been violated, Taylor sued the owner of the theater claiming, among other things, a breach of contract. The trial judge dismissed the claim as groundless. His lawyer, McCants Stewart, appealed the case to the Oregon Supreme Court, and won a reversal.50/

The public respect won by Stewart for his excellent trial and appellate advocacy and his family's close association with the Republican Party were no doubt reasons that George Erie Chamberlain, Governor of Oregon, appointed him as Chief Commissioner to the Natural Emancipation Commemorative Society organized by the President of the United States, William Howard Taft in 1908.

In 1907, one of the interesting cases that made the headlines in Portland was a case involving a white woman and an Afro-American man named, G.L. Joell. The white woman, Edna Hauz, claimed that Joell had made a pass at her on the streets of Portland. Refusing at first to cooperate with the police,^{51/} Ms. Hauz later accused Joell of verbal insults. McCants Stewart was retained by Joell to represent him. When Ms. Hauz left town prior to the hearing, some whites inferred that McCants Stewart had something to do with her departure,^{52/} and Joell was called a "coon" and a "baboon" by the press.^{53/} When the matter came to trial, McCants Stewart was not permitted to offer any evidence regarding the general character of Joell. The press was unkind to Stewart claiming that in his cross-examination of Ms. Hauz, she "was subjected to the humiliating questions of a black lawyer who defended the black act of his black client in a black way, viz, by again insulting the girl."^{54/} Joell was convicted and fined \$40.00.^{55/}

In 1907, McCants Stewart also represented the administrator in a hotly contested probate case involving the decedent, an Afro-American hotel porter and a white woman, contesting the claim of the decedent's father. During the hearing, Stewart declared that the white woman was entitled to a portion of the estate allegedly because she had given money to her "Negro friend" to deposit in the bank.^{56/} The outcome of this case is unknown.

McCants Stewart's professional relationship with the white bar of Oregon appears to have been high. In 1908, the Portland law firm of Snow and McCamant sent Stewart a brief to review involving a similar matter that he had previously argued before the Oregon Supreme Court.^{57/} Stewart's response to McCamant's letter indicates that he was a technical lawyer with an eye toward detail. Stewart wrote:

You will never realize how very much I appreciate and thank you for your brief, which you were filing in the [Oregon] Supreme Court in the case of State—vs—Ross, a copy of which you sent to me a few days ago. I have carefully examined it and mean to go over it again. It is exceptionally strong. The analytical thought, in particular, as shown in all of the arguments display a depth of mind unusually rich bringing great credit to the Oregon Bar.58/

Among the heartaches faced by McCants Stewart was the destruction of his office by fire in July, 1908. Fortunately, The Advocate, an Afro-American newspaper in Portland, allowed Stewart to use their offices until his was restored.59/ This unfortunate and devastating occurrence did not trammel the determination of Stewart to keep his practice going.

McCants Stewart was a master of pleading and procedure. In 1908, he represented a man charged with beating his wife, an act denied by his client who was an Afro-American. His client was found guilty by a judge authorized to adjudge fines up to \$50.00. Nevertheless, the judge sentenced Stewart's client to six months in jail.60/ Stewart filed a writ of habeas corpus in the Circuit Court. That court held that the sentence imposed by the lower court was illegal.61/

In 1908 George Erie Chamberlain, the Governor of Oregon, appointed McCants Stewart to represent Oregon in Mobile, Alabama, at the National Negro Fair. Twenty-four governors of the various states appointed "commissioners" to attend this meeting. According to the Mobile press, the purpose "of the meeting is to arouse race interest in the . . . fair" and common issues concerning black people.62/ McCants Stewart was one of the principle speakers at the Fair.63/

In 1909 McCants Stewart was faced with yet another personal setback when a streetcar struck him necessitating amputation of his left leg.64/

Life slowed down for Stewart after his accident. It was during his period of convalescence that another Afro-American lawyer, L. H. Dawley, began to practice law in Portland. Their appearance in court on opposite sides of cases drew public attention.^{65/}

McCants Stewart continued to have perplexing moments in Portland. In September 1911, Stewart, while walking home from a banquet, stopped at the door of a restaurant in which he greeted friends who were having a banquet inside. While standing in the doorway, B.G. Marsh, a member of the Portland Police Department, ordered McCants to move on and threatened arrest if he did not. Stewart objected because he did not believe that he was violating any law. Officer Marsh, not to have his authority questioned by an Afro-American, arrested Stewart who was made to walk on a cork leg one mile to the police station. He was booked for drunkenness.^{66/} However, the authorities refused to charge McCants Stewart with any misconduct. The next day, Stewart filed a formal complaint of assault and battery with the District Attorney, who issued a warrant against Officer Marsh. Marsh held to his story that Stewart "was much under the influence of alcohol."^{67/}

At the hearing on the complaint, McCants Stewart "brought numerous witnesses to prove that he had been at a banquet . . . where nothing more arduous than an infusion of leaves of cathay was served to wash down the noodles and chop suey."^{68/} Nevertheless, the complaint against Officer Marsh was dismissed. McCants Stewart, then took his case to the Mayor of Portland, Mayor Rushlight, and asked him to have the Executive Board of the city look into the matter. Stewart publicized the issue by writing an account of the incident and how he was treated. The Portland Oregon Daily Journal printed a letter from Stewart alleging that Officer Marsh had a

"quarrelsome disposition" and had "committed a wanton, willful assault and battery upon me, without cause."69/ There is no known record on whether Mayor Rushlight or the Executive Board ever got involved in this matter. It may be that McCants Stewart won his case in the eyes of the public because even the white press ultimately conceded that Officer Marsh "would take no 'lip' from a colored lawyer"70/

In the face of public adversity, McCants Stewart was willing to take the lead in criticizing the Federal government for failing to protect Afro-Americans from physical brutality in southern states. In 1914, Mr. Stewart publicly criticized President Woodrow Wilson's failure to use his influence to stop the lynching of Afro-Americans in the South. In December 1914, Mr. Stewart assisted in the drafting of a resolution "censuring President Wilson for not interfering when five Negroes [were] lynched in the parish of Shreveport, Louisiana, within 10 days."71/ During 1914 Stewart reported that "53 colored men and women have been lynched in this country, and no attention has been given to the matter by National authorities."72/ Even in a far northwestern city like Portland, Oregon, such words, spoken by an Afro-American were fraught with risks.

However, Stewart though far removed from his southern brothers and sisters, never isolated himself from their plight and their quest for liberty and decent treatment. Stewart was constantly seeking speakers, who were sympathetic to his people, to come to Portland, Oregon. For example, in 1915 Mayor William Hale Thompson of Chicago was invited to Portland by McCants Stewart. Mayor Thompson was "considered one of the best friends [of] the colored race . . . in the United States."73/ Stewart telegraphed Mayor Thompson and informed him of the plan of the Afro-American population to honor him and asked "him for 15 minutes of his time. . . ."74/

McCants Stewart was loyal to the Republican Party, and its rank and file respected him, but not enough to provide him with legal work or a public position. However, he always supported Republican candidates for state offices. For example, in 1916 the Secretary of the State of Oregon, Ben W. Olcott, then seeking reelection to another term, wrote to Stewart seeking his "support and influence in [his] candidacy for reelection."75/

In 1916 McCants Stewart was urged to run for the Oregon House of Representatives, but by then he decided to leave Portland. One of the reasons Stewart considered leaving Portland was because it was too difficult for an Afro-American lawyer to survive, even with his demonstrated competency. The white people did nothing to help him, considering him a lawyer of the "colored people," and his own people were not in a position or would not pay him his fees. For example, in 1917, Stewart sued the A.M.E. Zion Church for \$264 for legal service rendered some time ago in a condemnation proceeding against the church property by the white residents in the vicinity of the proposed church."76/ According to The Advocate, "the decision of Mr. Stewart to locate elsewhere is not a hasty one, for he has had such a move under advisement for some time."77/ Katherine Stewart Flippin, McCants Stewart's daughter reports that her father left Portland because "he simply tired of the great difficulty he faced as an Afro-American lawyer in Portland trying to make a living."78/ The departure of Stewart for San Francisco, California, reduced the number of Afro-American lawyers in Portland to zero.79/

Whatever the real reason for the departure of McCants Stewart from Portland, both the Afro-American and white communities were saddened by his departure. As Stewart prepared to leave Oregon, numerous personal letters

of praise and commendation poured in. Several letters of reference were sent to various people in California on his behalf. For example, James Whitecombe, the Governor of Oregon, sent a letter of introduction to William D. Stephens, the Governor of California, introducing Stewart which stated, "I am very glad to give him this letter of introduction . . . and shall appreciate as a personal favor any courtesies you may be able to extend to him."^{80/} Other letters of introduction were provided from the judicial community by George Tazwell, County Judge for Multnomah County, George Rossman, Municipal Judge, Portland, John P. Kavannah, Presiding Judge, Fourth Judicial Circuit, Joseph H. Jones, District Judge, Multnomah County and from two of the members of the Oregon Supreme Court, Associate Justices Lawrence T. Harris and Henry L. Benson. A letter sent to McCants Stewart from former Portland Municipal Judge John H. Stevenson was printed in the Pacific Coast Appeal, a San Francisco newspaper.^{81/} Each letter praised McCants Stewart for his "reliability and trustworthiness",^{82/} "considerable degree of ability",^{83/} "reliability in his practice, and in his relations with the Court," as "a leader of his people . . . man of worth, and a credit to this community . . . fearless,"^{84/} as "a gentleman"^{85/} and as having "an exceptional record for industry and ability as a lawyer"^{86/}

In addition, members of the bar, some against whom McCants Stewart had appeared as opposing counsel, wrote glowing letters vouching for his legal acumen. Samuel White, the President of the Oregon State Bar Association praised Stewart for his "high standards of integrity and right living."^{87/} The law firm of Bernstein and Cohen, opposing counsel in Taylor v. Cohn,^{88/}

praised Stewart as "a good lawyer, and a fair opponent."^{89/} Armed with these letters of praise, a few dollars and a lot of heart, McCants Stewart relocated to San Francisco, California, with the hope for a better day.

DAYS AS A LAWYER IN SAN FRANCISCO, CALIFORNIA

When Stewart arrived in San Francisco in the Winter of 1917 he associated with an Afro-American lawyer named Oscar Hudson. His arrival was noted by the press.^{90/} A few months after Stewart settled in San Francisco, he returned to Portland to close his law practice, to finish the appeal in Allen v. People's Amusement Park,^{91/} and to bring his family to California.

According to Mary Katherine Stewart-Flippin, his practice in San Francisco suffered and Stewart's relationship with Hudson ultimately became strained.^{92/}

In 1917 McCants Stewart had filed a lawsuit on behalf of W.D. Allen, an Afro-American, against the Peoples Amusement Park because the Star Theater "drew the color line on the lower floor of the moving picture house."^{93/} Allen was banned from sitting on the main floor of the theater even though he had properly paid for a general admission. Stewart made the same claim in the Allen case that he had asserted in Taylor v. Cohn, ^{94/} a decade earlier. He claimed that the owners of the Star Theater had breached a contract with the Allens by refusing to seat them on the main floor. While the cases are indistinguishable, the Oregon Supreme Court sustained the defendant's motion to dismiss the complaint ^{95/} giving no regard to the precedent established in Taylor v. Cohn. Hence, McCants Stewart, who had fought for years to integrate public accommodations for his people, left Oregon no better than he had found it when he arrived in 1903, a state that discriminated against Afro-Americans in public accommodations.

Arriving in San Francisco, McCants Stewart opened a solo practice at 502 Alto Building. His arrival was noted by the press.^{96/} McCants Stewart's determination to face and to challenge systems of racial discrimination surfaced as soon as he arrived in California. In 1918, McCants applied to the Assessor's Office in Oakland, California, to be commissioned a notary public. No response forthcoming, Mr. Stewart wrote the assessor again asking, "There is not at this time, nor has there ever been, a colored person commissioned as a Notary Public in and for the City and County of San Francisco. Why is this?"^{97/} Apparently several Afro-Americans had applied to be Notary Publics, but none had ever been appointed. Whether Stewart was ever granted a Notary Public commission is uncertain. However, William D. Stephens, the Governor of California, did inform Mr. Stewart that there were no vacancies in San Francisco notaryships at present and that his name would be held for consideration when the first vacancy occurred.^{98/}

CONCLUSION

McCants Stewart was a legal pioneer of the northwest, made a valiant effort and succeeded in his quest to become a part of the American legal system. Stewart was also a trailblazer for his people. Despite the struggles that Mr. Stewart faced as a lawyer in Portland, Oregon, he never forgot the special events challenges and opportunities in his life while at the University of Minnesota Law School. McCants Stewart will be remembered first and foremost as a skilled practitioner of the law in the northwestern part of the United States. He will also be remembered for several historic firsts: such as the first person to prevail in a law suit under the 1897 Minnesota civil right laws; and one of the first Afro-Americans to receive a law

degree from the University of Minnesota School of Law; and the first to receive an LL.M. degree from the University of Minnesota Law School, to be admitted to the bar in the state of Oregon, to appear, argue, and to win a case before the Oregon Supreme Court. There is no doubt several other firsts and major legal accomplishments in Stewart's short life of 41 years yet to be unearthed by legal historians and scholars. In 1918 McCants Stewart, facing blindness, plagued by debt and unable to cope with the thought of his wife, Mary, and young daughter, Mary Katherine, having to take care of him, took his life in San Francisco, California.

McCants Stewart's life was filled with inestimable energy and exacting mission to achieve and to be excellent. His future was predicted in 1896 by his alma mater, Tuskegee Institute, when it was written that McCants Stewart would succeed as a lawyer, and he did.

FOOTNOTES

* This paper was presented on April 14, 1988, on the occasion of the inauguration of the Mary [and] McCants Stewart Foundation scholarship at the University of Minnesota Law School.

** Dean, Howard University School of Law, Washington, D.C.

1/ The term Reconstruction was "a term applied by contemporaries to the period after the [civil] war. As they employed it, Reconstruction had a strictly political connotation. It referred to the process by which the defeated states of the late Confederacy would be governed and the conditions on which they would be restored to their former place in the Union. Historians have adopted the term and applied it to all the great transforming changes that occurred in the entire nation between 1865 and 1877, the year when Southern whites overthrew the last Republican state governments in their section and ended political Reconstruction."

T. Harry Williams and Richard N. Freidel, A History of the United States, Since 1865, at 8-9 (1960). For a contrasting point of view on the meaning

of Reconstruction, see W.E.B. DuBois, Black Reconstruction in America 1860-1880, at 670-708 (1934).

2/ 163 U.S. 537 (1896).

3/ William McKinley beat William Jennings Bryan for the presidency in 1896.

President McKinley's victory was subsequently applauded by Afro-Americans when "McKinley . . . appointed twice as many Negroes to federal positions as any previous President." J.H. Franklin, From Slavery To Freedom 434 (1967). One of the most important events during his presidency was the Spanish-American War, a war in which McKinley praised Afro-American soldiers for their loyalty and bravery to the nation. Speeches and Addresses of William McKinley, March 1st 1897 to May 30th 1900, at 126-127 (speech at Springfield, Illinois, October 15, 1898), 176-177 (speech at Georgia Agricultural and Mechanical College, December 18, 1898), 241 (speech at Quinn Chapel, Chicago, Illinois, October 8, 1899) (1900). Hence, it could be said that McCants Stewart was graduated from college during a time when, at least by words, the president was telling the American people that Afro-American soldiers had played a large role in winning the Spanish-American War.

- 4/ Id. at 552. The shadow of Dred Scott v. Sandford, 60 U.S. (19 How.) 393 (1857) continued to be tangled up in American law. (In that decision Chief Justice Roger Taney had stated that "[Blacks] had no right which the white man was bound to respect. . . ." Id. at 407.) See also, Smith, Toward Pure Legal Existence: Blacks and the Constitution, 18 How. L. J. 629, 636-638 (1987).
- 5/ Telephone Conversation with Mary Katherine Stewart-Flippin (Ms. Robert B. Flippin), McCants Stewart's daughter and only child, on December 3, 1987.
- 6/ Dictionary of American Negro Biography, 571, 572 (R.W. Logan and M.R. Winston eds. 1982). Professionally he used the name T. McCants Stewart, the "T." standing for Thomas.
- 7/ Letter from Booker T. Washington to McCants Stewart, May 10, 1894.
- Tuskegee Institute has been renamed Tuskegee University. Founded in 1881, it is located in Tuskegee, Alabama.
- 8/ Letter from Booker T. Washington to McCants Stewart, July 14, 1894
- (original emphasis).
- 9/ Letter from Booker T. Washington to McCants Stewart, October 11, 1894.
- 10/ Letter from Booker T. Washington to McCants Stewart, October 31, 1894.

11/ Letter from Mrs. Booker T. Washington to McCants Stewart, July 20, 1895.

Chris, referred to in Mrs. Washington's letter was McCants Stewart's

brother, whose name was Gilchrist Stewart, an 1895 graduate of Tuskegee

Institute. In later years, McCants Stewart never forgot Booker T.

Washington or his wife. They occasionally communicated with McCants

and he with them. See Letter from Mrs. Booker T. Washington to Stewart

Stewart, December 14, 1910; and Letter from Booker T. Washington to McCants

Stewart, December 22, 1910. The year of 1915 was particularly painful

for McCants Stewart because that is the year that his role model Booker T.

Washington died. In Oregon, McCants Stewart joined in the national

mourning and delivered one of the speeches eulogizing Mr. Washington.

Colored People Honor Booker T. Washington, The Advocate, December 4, 1915.

12/ Tuskegee Normal and Industrial Institute Catalogue, 1895-96, at 35, 36.

13/ Tuskegee Student, April, 1895.

14/ Tuskegee Normal and Industrial Institute Catalogue, 1896-97, at 23. In

various catalogues at Tuskegee, including this one, McCants Stewart's name

appears as Thomas McCants Stewart, Jr., suggesting that he was named

after his famous father. However, his daughter, Mary Katherine Stewart-Flippin, says that his name was McCants Stewart. Telephone interview with author, March 23, 1988.

15/ The Tuskegee Student, 1897.

16/ Ibid.

17/ Ibid.

18/ Andrew Franklin Hilyer was born near Monroe, Walton County, Georgia August 14, 1858. For a period of time he lived in Omaha, Nebraska (1868). Hilyer moved to Minneapolis, Minnesota, and was graduated from Minneapolis High School in 1878 and from the University of Minnesota, College of Science, Literature and the Arts, in 1882. The General Catalogue of the University of Minnesota 26 (W.J. Maxwell ed. 1916); E. Spangler, The Negro In Minnesota 76 (1961) (erroneously states the year that Hilyer was graduated from the University of Minnesota was 1887). Hilyer then attended the Howard University School of Law graduating in 1884 with an LL.B degree and in 1885 with an LL.M law degree. R.W. Logan, Howard University--The First Hundred Years 96 (1968). Hilyer used his law training to further his business ambitions. In 1890, Hilyer received two patents: Patent No. 435,095, for an invention of the

Water Evaporator Attachment for Hot Air Register (August 26, 1890) and Patent No. 438,159, for the invention of Registers (October 26, 1890).

The Negro Almanac, Third Revised Edition 799 (H.A. Ploski and W. Marr,

II eds. 1976) (listing inventions). Other information on Hilyer can be

found in: Forty Years of the University of Minnesota 486, 569 (E. Bird

Johnson ed. 1910) (listing Hilyer as graduate in 1882); Editorial--

Andrew F. Hilyer, Vol. XIX, The Howard University Record 170 (1925)

(Obituary states that Hilyer was the "first colored alumnus" of the

University of Minnesota); Dictionary of American Negro Biography 314-315

(R.W. Logan and M.R. Winston eds. 1983) (reports that in correspondence

with the University of Minnesota, the Office of Admissions did "not respond

to the question of whether [Hilyer] was the first Negro graduate of the

University") Id. at 315. But see, Memorandum from Lisbeth Williams

(Minnesota Historical Society) to Director of University of Relations

(Howard University), May 26, 1983 (Ms. Williams states, "Mr. Hilyer . . .

played an important role in Minnesota history, as the first Black graduate

of the University of Minnesota.")

19/ John Frank Wheaton (sometimes listed as J. Francis Wheaton) was born in Hagerstown, Maryland, in 1866, attended Storer College in West Virginia, studied law at Howard University, but was graduated from the University of Minnesota Law School in 1894. Wheaton was the first person of his race elected to the Minnesota State Legislature, serving from 1898-1900.

Minnesota Legislative Manual 627 (George E. Hallberg ed. 1899) and, telephone conversation with Daniel Gjeten, Reference Librarian, Minnesota State Legislature, March 23, 1988; Alumni Director of the University of Minnesota Law School, 1889-1931, at 100 (1932); E. Spangler, The Negro In Minnesota 69 (1961) (stating that Wheaton was the first black law graduate). See also, Forty Years of The University of Minnesota 528, 584 (E. Bird Johnson ed. 1910) (listing Wheaton as an 1894 law graduate).

20/ Mr. McCants Stewart, Minnesota Daily, July 27, 1900.

21/ Tuskegee Normal and Industrial Institute Catalogue, 1896-97, at 22-23.

22/ See Nineth Edition Alumni Directory of University of Minnesota Law School, 1889-1986, at 90, 447 (1986) (Reid). It is likely that Stewart had completed one year of law school at New York Law School because when

he transferred to the University of Minnesota it had just started a three year law program. Stewart was enrolled in the day program, although the law school still had an evening law program. Forty Years of The University of Minnesota 422 (E. Bird Johnson ed. 1910) (refers to Stewart as being "secretary of the day law class of 1899.") See also, Stein, In Pursuit of Excellence--A History of the University of Minnesota Law School Part I: The Pattee Years--A Time of Accommodation, 62 Minn. L. Rev. 485, 505 (1978) and Part II: The Vance Years--A Time of Ascendancy, id. at 862 (1978) (referring to William Reynolds Vance, the second dean of the University of Minnesota Law School).

23/ Testimonial Concert, The Afro-American Advance, June 24, 1899. (Describes a fund raising event that was organized and held at the St. Peter's A.M.E. Church (W.S. Brooks, pastor) to aid Mr. Griffin.) Both Joseph C. Reid and McCants Stewart were involved in the planning of and the program. Mary Delia Weir, the future Mrs. McCants Stewart, did a dramatic performance.)

24/ One of the University of Minnesota's sources states that McCants Stewart "was the first colored person to finish any post graduate course in the

history of the University of Minnesota." Forty Years of The University of Minnesota 422 (E. Bird Johnson ed. 1910). This statement appears to be in error given the available information on John Frank Wheaton, an 1894 graduate of the law school, who is listed in the same book, id. at 528, 584, and who has been verified as being Black. E. Spangler, The Negro In Minnesota 69 (1961).

25/ See Nineth Edition Alumni Directory of Minnesota Law School, 1889-1986, at 90, 435 (1986). Griffin was a native of Opelika, Alabama.

26/ Kent Wins, The Ariel, April 22, 1899. See also Stein, In Pursuit of Excellence—A History of the University of Minnesota Law School Part I: The Pattee Years—A Time of Accommodation, 62 Minn. L. Rev. 485, 489, n.18 (1978) (discussing paucity of women in law school).

27/ Mr. McCants Stewart, Minnesota Daily, July 27, 1900.

28/ The Ariel, February 18, 1899. (The University student newspaper).

29/ Another Paper in Sight, Minneapolis Tribune, May, 1899. The Twin-City American was located at 200 Washington Avenue, South, Minneapolis, Minnesota. See also, E. Spangler, The Negro In Minnesota 75 (1961) (refers to Twin-City American).

- 30/ A La Lake City In A Restaurant (News Article, source unidentified)
dated March, 1898.
- 31/ Civil Rights Law, Minneapolis Tribune, March 18, 1898 (Stewart's
complaint triggered the first prosecution under the recently passed
civil rights law).
- 32/ Guilty, The Minneapolis Tribune, March 19, 1898.
- 33/ Ibid. At the time of this verdict, the Afro-American population in
the state of Minnesota was approximately 5,000 people. E. Spangler,
The Negro In Minnesota 64 (1961).
- 34/ W.J. Simmons, Men of Mark 1052 (1887).
- 35/ Stein, In Pursuit of Excellence—A History of the University of Minnesota
Law School Part I: The Pattee Years—A Time of Accommodation, 62 Minn. L.
Rev. 485 (1978) (Stein's article of the early years of the Minnesota Law
School under the leadership of Dean William S. Pattee does not mention
the enrollment of students of Afro-American descent).
- 36/ The Minneapolis Afro-American Advocate, June 3, 1899.
- 37/ The Negro and Higher Education, The Colored Citizen, June 10, 1899.
- 38/ Ibid.

- 39/ Telephone interview with Vanne O. Hayes, Assistant Dean, University of Minnesota, March 2, 1988. See also, Forty Years of The University of Minnesota 552 (E. Bird Johnson ed. 1910) (list Stewart as receiving LL.M. degree in 1901).
- 40/ Race Problem Debated, Minneapolis Journal, April 9, 1901.
- 41/ Ibid.
- 42/ Colored Attorney May Practice Here, The Oregon Daily Journal, May 22, 1903. Only one other Afro-American lawyer is known to have set foot in Oregon before McCants Stewart and that was Robert Charles O'Hara Benjamin. In 1891 Benjamin, who practiced law in San Francisco, gave a speech in Portland, Oregon, before the A.M.E. Zion Church. Dictionary of American Negro Biography, 39, 40 (R.W. Logan and M.R. Winston eds. 1982.)
- 43/ The admitting Supreme Court Clerk was J.C. Moreland. Stewart opened a law office at 106 1/2 Third Street in Portland, Oregon.
- 44/ Must Labor Now, The Oregonian, September 11, 1903; E. McLagan, A Peculiar Paradise, A History of Blacks in Oregon, 1788-1940, at 115 (1982).
- 45/ Quibble Fails To Win, The Morning Oregonian, May 16, 1903.
- 46/ On Trial For Assault, The Telegram, October 17, 1904.

47/ Ibid.

48/ Mary Delia Weir and McCants Stewart were married on August 22, 1905.

Mary was the daughter of Victoria Weir and lived at 2105 13th Avenue, South, in Minneapolis. Married at All Soul's Church on August 22, 1905, they left for Portland on October 1, 1905. Only one child, Mary Katherine, resulted from this marriage. She was born in 1906. Regarding the details of the marriage, see Stewart-Weir, The Minneapolis Tribune, August 23, 1905; The Minneapolis Times, August 23, 1905 and The Minnesota Alumni Weekly, September 18, 1905.

49/ State v. Browning, 47 Or. 470, 82 P. 955 (1905).

50/ Taylor v. Cohn, 47 Or. 538, 84 P. 388 (1906). See Hill, The Negro As A Political and Social Issue In The Oregon Country, 33 J. of Negro Hist. 130 (1948). (The early history of Oregon and the treatment of Blacks); Davis, Blacks In The State of Oregon 1788-1974, at 11 (July, 1974, Mimeo) (same); Bell, Forward--An Issue On Race Relations, 61 Oregon L. Rev. 151, 154 (1982). (In his Forward, Derrick Bell, Dean of the Oregon Law School, referring to attempts to exclude Blacks from Oregon in its early history said, "The presence of exclusion laws did not deter blacks from emigrating

to Oregon in slowly increasing numbers throughout the Nineteenth Century, but their activities were strictly circumscribed by law, and their rights were almost nonexistent.") See also, E. McLagan, A Peculiar Paradise, A History of Blacks in Oregon, 1788-1940, at 23-60 (1982) (discussion of exclusion laws and slavery in Oregon).

51/ Costs Negro \$40 To Insult Woman, The Evening Telegram, April 29, 1907;

Negro Editor Follows Girl, Sunday Mercury, April 27, 1907.

52/ Girl Must Tell Who Made Threat, Portland Journal, April, 1907.

53/ Stench Smells To The Heavens, Welcome, April 27, 1907; A Mean Black

Hypocritical Howler, Peoples Press, April 27, 1907.

54/ Was Treated Unjustly, The Advocate, May 4, 1907.

55/ A City's Disgrace, Peoples Press, April-May, 1907.

56/ White Girl Wants To Share Porter's Estate, The Evening Telegram,

May 1, 1907; Claims A Negro's Estate, The Morning Oregonian, May 1,

1907.

57/ Letter from Wallace McCamant to McCants Stewart, September 26, 1908.

At one time, McCamant was a Justice on the Supreme Court Bench of Oregon.

See McCamant, Toasts To Judges Wolverton and Bean, 4 Ore. L. Rev. 69 (1924).

58/ Letter from McCants Stewart to Wallace McCamant, October 7, 1908.

(The name of the case which was subject of the brief was State v.

Ross, 55 Or. 450, 104 P. 596 (1909), aff'd 227 U.S. 150 (1913)).

59/ Attorney McCants Stewart Office Burns, The Charleston, S.C. Southern

Reporter, July 25, 1908. The Advocate was the second Black owned newspaper

in Portland. It was founded by several local Black men, including McCants

Stewart. E. McLagan, A Peculiar Paradise, A History of Blacks in Oregon,

1788-1940, at 111 (1982).

60/ Man Weeps As Sentence Is Said, The Oregon Daily Journal, July 17, 1908.

61/ Test Case Filed, The Oregonian, July 19, 1908; Negro's Sentence

Declared Illegal, The Evening Telegram, July 22, 1908; Van Zante Is

Reversed, The Daily News, July 22, 1908.

62/ For National Negro Fair, The Mobile Register, November 24, 1908.

63/ Honor Portland Lawyer In South, The Oregon Daily Journal, December 19,

1908. (While in Alabama, "McCants Stewart visited Tuskegee Institute

and St. Joseph's College at Montgomery, the only Catholic institution

for the higher education of the colored people in this country." At

the time there were only four black priests in the world, and one of

them was at St. Joseph's College.) Stewart was Catholic.

- 64/ Minneapolis Man Suffers, The Advocate, May 29, 1909.
- 65/ Rev. Matthews Not Guilty, The Advocate, [no date], circa 1910.
- 66/ Negro Lawyer Aroused, The Morning Oregonian, September 20, 1911.
- 67/ Negro Lawyer and Policeman Fight, The Evening Telegram, September 19, 1911.
- 68/ Chop Suey Court Study, The Morning Oregonian, October 3, 1911.
- 69/ Says Policeman Acted Cruelly, Portland Daily Journal, September 20, 1911.
- 70/ The Morning Oregonian, September 21, 1911.
- 71/ Wilson Is Condemned For Recent Lynchings, The Morning Oregonian, December 14, 1914.
- 72/ Ibid.
- 73/ Negroes To Make Gift, The Morning Oregonian, October 12, 1915.
- 74/ Ibid. In 1915 McCants Stewart was a prime mover in having language excluding Blacks from voting removed from the Oregon State statutes, even though such conduct had been invalidated by the ratification by the states of the Fifteenth Amendment to the United States Constitution in 1870.
- E. McLagan, A Peculiar Paradise, A History of Blacks in Oregon, 1788-1940, at 161 (1982).

- 75/ Letter from Ben W. Olcott to McCants Stewart, May 12, 1916. Olcott later became the Governor of Oregon. Id. at 135.
- 76/ Attorney Sues Church, The Advocate, Jan. 20, 1917. There is no question that McCants Stewart earned his fee as he had won a jury verdict the year before for the Church in the amount of \$7,296. A.M.E. Zion Church Awarded Damages, The Advocate, March 4, 1916. See also, Golden Rule Is Shut Out in Condemnation Suit, The Morning Oregonian, February 26, 1916.
- 77/ Attorney McCants Stewart to Leave, The Advocate, September 29, 1917.
- 78/ Telephone conversation with Mary Katherine Stewart-Flippin (Ms. Robert B. Flippin) December 2, 1987.
- 79/ Attorney McCants Stewart to Leave, The Advocate, September 29, 1917.
- 80/ Letter from James Whitecombe, Governor of Oregon, to William D. Stephens, Governor of California, October 10, 1917.
- 81/ Stevenson, What Was Said of McCants Stewart, The Pacific Coast Appeal, January 5, 1918.
- 82/ Letter from Judge George Tazwell, to McCants Stewart, September 28, 1917.
- 83/ Letter from George Rossman to Judge of Municipal Court of San Francisco, September 28, 1917.

84/ Letter from Judge P. Kavanaugh to Chief Justice and Associate Justices of the Supreme Court of California, October 11, 1917.

85/ Letter from Judge Joseph H. Jones to McCants Stewart, September 27, 1917.

86/ Letter from Associate Justice Lawrence T. Harris to McCants Stewart, October 10, 1917.

87/ Letter from Associate Justice Henry L. Benson to McCants Stewart, October 10, 1917. McBride, Reminiscences of The Oregon Bar, 2 Ore. L. Rev. 136, 148 (1923) (Henry L. Benson mentioned).

88/ Letter from Samuel White to McCants Stewart, September 28, 1917.

89/ Letter from D. Solis Cohn and Alex Bernstein to [Otto I.] Wise and O'Conner (a San Francisco law firm), October 11, 1917.

90/ Colored Lawyer to Locate in City, Vallejo Times, December 5, 1917.

91/ 85 Or. 636, 167 P. 272 (1917).

92/ Letter from Oscar Hudson to McCants Stewart, January 29, 1918. (At the time, Mr. Hudson was with the Office of Adjutant, Colored California Volunteer Regiment. Hudson was admitted to the Bar in California in 1911. G.R. Segal, Blacks In The Law 192 (1983)).

While it may be that the relations between Oscar Hudson and McCants

Stewart became strained, it appears that Hudson did try to maintain the firm's law practice during Stewart's absence. Hudson apparently did not pay some of the bills while Stewart was in Portland. In his January 29, 1918 letter to Stewart, Hudson said "I am keeping things together as best I can, but I am very short on money . . . Of course, I do not mind putting out anything that I may have for our mutual interest . . . I have delayed some very necessary work on my place on account of lack of funds"

93/ Theater Sued By Negro, The Morning Oregonian, September 17, 1917; Color Line Causes Suit, The Evening Telegram, September 16, 1915; Rights To Any Seat In A Theater, The Advocate, September 8, 1917; Allen Theatre Case, The Peoples Bulletin, September 21, 1917.

94/ Taylor v. Cohn, 47 Or. 538, 84 P. 388 (1906).

95/ Allen v. People's Amusement Co., 85 Or. 636, 167 P. 272 (1917); Allen Loses Suit In Supreme Court, The Advocate, September 15, 1917.

96/ Oregon gained statehood on February 14, 1859. In 1917 Oregon retained an "anti Negro" clause in its state statutes, although apparently inoperative. Vol. 17 The New International Encyclopaedia 554 (1925).

97/ Letter from McCants Stewart to Harry Jones, State Assessor, October 5,

1918.

98/ Ibid.