

Austin's First African-American Lawyer: John N. Johnson

by John G. Browning

Long before Martin Luther King, Jr. preached and before a young Thurgood Marshall litigated for civil rights, an African-American lawyer in Austin was railing against dismal educational opportunities, disparate treatment of incarcerated black men, and racial violence, and he backed up his words with the filing of civil rights lawsuits. But this legal trailblazer fought his battles, not in post-World War II America, but in 1880s Texas. His name was John N. Johnson, and he was the first African-American attorney in Austin as well as the first African-American admitted to practice before the Supreme Court of Texas.

The rolls of the Court reveal his name on February 9, 1883, during a period in which most Texas lawyers did not seek admission to the Court unless they actually had a case pending before it.¹ Referred to invariably in contemporary newspaper accounts as “the colored lawyer at Austin,” John N. Johnson was something of an anomaly even among the few African-American lawyers practicing in Texas at the time. The earliest known black attorney in the state, William A. Price, was practicing in Fort Bend County as early as 1872, and even by 1890 there were only a dozen African-American lawyers in Texas. Most of these shunned the cities for rural areas or small towns, usually places “with sizeable black populations and receptive political climates,” where they attended to the mundane legal needs of their communities.² In contrast, John N. Johnson was a strident voice for social justice, and long before *Brown v. Board of Education*, he was filing what may have been the earliest civil rights lawsuits in Texas.

¹ Rolls of Attorneys Admitted to Practice Before the Supreme Court of Texas, February 9, 1883, Supreme Court of Texas Archives, Austin, Texas

² Carter G. Woodson, *The Negro Professional Man and the Community* (New York: Negro Universities Press, 1969)
Page 107

What do we know about Johnson? Little is known about his personal background or where he received his education, but like most Texas lawyers of his day – white or black – he probably “read the law” in the offices of a sympathetic local lawyer. After such an apprenticeship, aspiring lawyers usually applied to the local district judge, who would then appoint a committee of established members of the bar to conduct an oral examination of the candidate before pronouncing him fit to practice. Texas didn’t have a bar exam until 1903, and the standards for earning a license to practice law changed little between Texas’ days as a republic in 1839 and the passage of a bar licensing statute in 1891.³ The standards for admission were so lax, in fact, that even notorious outlaw and convicted murderer John Wesley Hardin was admitted to the Texas bar after one 15-year jail stay for one of his murders.⁴ Thanks to the records of the Brazos County District Clerk, we do know that John N. Johnson applied for admission to practice law in September 1881 and April 1882, and was rejected both times by all-white committees before eventually gaining his license.⁵

We also know that Johnson had pursuits outside the law. He was a schoolteacher in Calvert. He also published and wrote for one or more newspapers. In June 1881, other newspapers published the news that “Bryan is soon to have a newspaper, published by John N. Johnson, a colored man, which is to be devoted to the interests of the colored race.”⁶ By February 1883, Johnson was involved with The Austin Citizen, a newspaper for the African-American community (“published by and for the colored man”), that was “edited by W.D.F. Pyle

³ Michael Ariens, Lone Star Law: A Legal History of Texas 182 (2011)

⁴ Id. at 183

⁵ Records of the Brazos County District Clerk (Historical Collection), Book F, pages 505, 529, and 533

⁶ Weekly Democratic Statesman (Austin, Texas), Vol. 10, No. 46, Ed. 1 (Thursday, June 23, 1881)
<http://texashistory.unt.edu/ark:/67531/metaph277797/>

with Professor John N. Johnson as local editor.”⁷ Johnson appealed to the black community for support, promising that “[B]y continued and increased patronage, watchful agents and thrifty writers, the Citizen can be made to the Texas colored people what other famous papers are to the people of the North, East and West.”⁸ Johnson was also active in Republican politics, holding various offices in the local party during the early 1880s. By August 1884, he was presiding over the Colored Men’s State Convention in Houston, at which topics such as civil rights, sentencing disparities for white and black criminals, and lynchings were addressed.⁹

Johnson was vocal about the inequalities facing African-Americans and how they contributed to other social ills. In an 1880 editorial, he urged the state legislature to follow the example of other states and promote literacy efforts and educational opportunities for the black community, by “lending in hand in educating those who have not the means to educate themselves.”¹⁰ Pointing out that “there is also a large percentage of the white race who form a part of this illiterate class,” Johnson argued that enhanced literacy and education reform would reduce other burdens on society, since “this predominant mass of ignorance is the nursery of crime, furnishing our jails and penitentiaries with inmates, instead of being intelligent citizens, developing the vast resources of the great South.”¹¹ In 1884, Johnson urged the passage of a civil rights law that would, among other things, protect the rights of blacks to serve on juries:

Stop the nefarious, one-sided work of many of the jury commissioners, who consider it their duty to pass by every negro’s name when found on the list. In some counties, where half, or nearly half, of the population is colored and where about nine-

⁷ The Galveston Daily News (Galveston Texas), Vol. 41, No. 271, Ed. 1 (Thursday, February 1, 1883) <http://texashistory.unt.edu/ark:/67531/metaph464554>

⁸ Id.

⁹ Alwyn Barr, “Black State Conventions,” Handbook of Texas Online, <http://www.tshaonline.org/handbook/online/articles/picb01>

¹⁰ The Galveston Daily News (Galveston, Texas), Vol. 39, No. 225, Ed. 1 (Friday, December 10, 1880), <http://texashistory.unt.edu/ark:/67531/metaph465048/>

¹¹ Id.

tenths of the cases involve the rights, life or liberty of colored men, not five negroes have been selected as jurors in eight years. Hundreds of negroes have languished and are now languishing in prisons, who have been the mere victims of prejudice instead of being the fruit of fair and impartial trials. We pray that these wrongs by corrected by our state government.¹²

The “colored lawyer at Austin” brought this same fervor to his legal work. In April 1883, Johnson wrote to the state attorney general to protest the shooting death of Sam White, an African-American convict sentenced to five years in the penitentiary by the Brazos County District Court.¹³ White was party of a prison detail working on the Burleson County plantation of H.K. White when he was killed by a guard. Johnson implored the attorney general to launch an investigation in the wake of the county attorney’s failure to do so, saying “I have seen colored convicts beaten to death, and colored citizens who witnessed the scene were afraid to testify from the fact that the guards are generally desperate men and are feared, and white citizens, not being much interested and are not often around, do not testify.”¹⁴ The attorney general responded by ordering the Burleson county attorney to investigate the shooting.¹⁵ Eventually, Inspector of Prisons John W. Daniels was ordered to investigate, and after a cursory investigation pronounced the guard “justified” and dismissed “colored attorney John N. Johnson” as “wholly unworthy of belief.”¹⁶

In August 1883, Johnson made headlines by filing three civil rights lawsuits against the Houston and Texas Central Railroad Company for denying African-Americans facilities equal to

¹² “Will the State Pass a Civil Rights Law?” The Galveston Daily News (Galveston, Texas) Vol. 42, No. 285, Ed. 1 (Tuesday, January 1, 1884) <http://texashistory.unt.edu/arks:/67531/metaph461634/>

¹³ Dallas Weekly Herald, Vol. 30, No. 21 (April 19, 1883) <http://www.texashistory.unt.edu/ark:/67531/metaph295031>

¹⁴ Id.

¹⁵ Id.

¹⁶ Brenham Daily Banner (Brenham, Texas), Vol. 8, No. 105, Ed. 1 (Thursday, May 3, 1883) <http://texashistory.unt.edu/ark:/67531/metaph486754/>

those for white passengers.¹⁷ Newspapers condemned Johnson's legal maneuverings as just stirring up trouble. As one newspaper stated:

The race troubles in eastern Texas have given origin to a good deal of unnecessary comment These agitations are beneficial to nobody, while, since they show Texas in the light of depravity not really existing, we out to hear the end of them ... J.N. Johnson, the colored lawyer at Austin, has done much to keep up this feeling by bringing suits under the civil rights bill against railroads for refusing negros the privilege of occupying the cars reserved at the end of the train for white people.¹⁸

Another newspaper was equally dismissive of Johnson's legal campaign against the railroad, saying that the lawyer "is trying to make a reputation by filing" the suits seeking the then-astonishing damages figure of \$50,000 per lawsuit.¹⁹ The paper sneered that "Johnson is only wasting his time and talent – if he has any."²⁰

By late September 1883, Johnson had met in Houston with the railroad's management and announced that he was dismissing the lawsuits, as well as discouraging "the bringing of similar suits on the part of our people."²¹ Johnson pointed out that the Houston and Texas Central Railroad had promised to furnish "separate, exclusive, equal accommodations for colored patrons" within three months. He denied that his lawsuits were "brought to force social admixture," noting that they were brought to achieve a "just verdict of public opinion and a lawful demand by lawful means."²²

Johnson continued to earn a living teaching school, practicing law, and writing for an African-American newspaper in Austin. By 1886, he had not only moved to Brazos County and

¹⁷ Fort Worth Daily Gazette, Vol. 7, No. 114 (August 9, 1883)
<http://texashistory.unt.edu/ark:/67531/metaph114503/m1/2>

¹⁸ Id.

¹⁹ Brenham Daily Banner (Brenham, Texas), Vol. 8, No. 190, Ed. 1 (Friday, August 10, 1883)
<http://texashistory.unt.edu/ark:/67531/metaph484253/>

²⁰ Id.

²¹ Austin Weekly Statesman, Vol. 13, No. 4, (September 27, 1883)
<http://texashistory.unt.edu/ark:/67531/metaph277913>

²² Id.

the town of Bryan, but was also the Republican nominee for district attorney for that judicial district.²³ He also continued his civil rights efforts. That year, in the aftermath of “the Brazoria troubles” – attempted forced evictions by whites of black settlers in Brazoria and Matagorda counties – Johnson wrote to the governor requesting that he appoint a commission to investigate.²⁴ According to contemporary newspaper accounts, while the governor questioned the constitutionality of appointing a commission, he did take action that indicated Johnson’s plea was favorably received. An October 15, 1887 article included an excerpt from Governor Sul Ross’ October 6 letter to the district judge for both counties, W.H. Burkhardt, directing him to “form a constituent part to incite the officers and especially the grand juries” to use “every means in their powers to make such strenuous queries as shall lead to the arrest and conviction of all parties concerned in the late outbreak.”²⁵ The governor’s letter emphasized that he was “most anxious for the protection of all classes of our citizens, no matter whether black or white, and that the hand of the law shall with unsparing vigor and with full measure exact justice on all wrongdoers.”²⁶

John N. Johnson could have led a life of obscurity content with handling land conveyances and minor criminal matters. Instead, he chose to fight for justice at a time when justice was rarely to be had for African-Americans. Consider the chilling words in a newspaper report about “a negro rapist arrested and jailed in Bowie County,” an account that ironically appears on the same page as news of Johnson’s civil rights settlement with the Houston and

²³ *Galveston Daily News*, Vol. 45, No. 167, (Sunday, October 10, 1886)

<http://www.texashistory.unt.edu/ark:/67531/metaph463913>

²⁴ *Fort Worth Daily Gazette*, Vol. 13, No. 74 (October 15, 1887)

<http://texashistory.unt.edu/ark:/67531/metaph85589/>

²⁵ *Id.*

²⁶ *Id.*

Texas Central Railroad. The newspaper gleefully anticipated a lynch mob, noting there was “a fair prospect” of the alleged rapist “getting justice without the formality of a trial.”²⁷

²⁷ Brenham Daily Banner, Vol. 8, No. 228, Ed. 1, (Sunday, September 23, 1883)
<http://www.texashistory.unt.edu/ark:/67531/metaph486140/>