

From Power to Service: The Story of Lawyers in Alabama

By Pat Boyd Rumore

Introduction

Lawyers are, as a group, engaged and engaging. They are people who tend to be bright, curious, energetic, multi-talented, disciplined workers, who also, when they can, take time to relax and enjoy their friends and the good things life has to offer. Their training prepares them to move from one arena to the next with the energy and ability to contribute in many ways that are not always tied to “the law.” Their profession gives them many opportunities to expand their horizons and broaden their minds.

In fact, once you pay attention, you realize that lawyers weigh in everywhere in society: of course, in the courts, but also in academia, politics and government, business, non-profit, religion, literary and art endeavors, and anywhere people are making a difference. And lawyers are born to be leaders. Thus, when I was asked by 2004-2005 state



Douglas McElvy

bar **President Douglas McElvy** to write a book about lawyers in Alabama I was immediately engaged, because I like and respect lawyers and I knew that I would be learning not only about individuals but also about Alabama’s development as a state from every aspect, since lawyers are always among the movers and shakers in society.

With that said, having already written a similar book about the Birmingham bar, I also knew that lawyers would be not only heroes but also villains, depending on one’s values and outlook. They would be pushing the state forward and holding it back. They would be reforming it and corrupting it. They would be

among both the enlightened and the bigoted. That is because lawyers advocate, both for their clients and for themselves, and one’s opinion of lawyers, both as a group and as individuals, often depends on the positions they hold and the positions they take relative to the positions you hold and take. And, of course, not all lawyers fit my optimistic assessment of my fellow professionals. Individual lawyers can be lazy, greedy, ignorant, selfishly ambitious, and crooked. So, to write about lawyers is to write about the best and the worst of being human.

And there is also the problem of looking back, especially in a state like Alabama, which in many ways has a tortured history. I have written about lawyers who were of their times, and whose actions contributed to the historical pain this state continues to suffer. I was told by a historian who reviewed the manuscript that I have been somewhat harsh in my frankness, but that she wouldn’t suggest any changes. I felt moved to be “harsh,” because it seems to me that the lawyers of this state need to

be especially conscious of their importance to the state’s history and its future. To be shown the impact of their predecessors hopefully can serve as a cautionary tale about the potential impact of their own words and actions.

Their oratory and their conduct affect the lives of real people. In truth, at least in my opinion, lawyers need to act for the greater good, regardless who their clients are, because their words and actions resonate throughout the years. The profession has high standards of ethics and conduct, standards which can aid lawyers in contributing their best to society. There are many examples in the book which illustrate the damage done when lawyers violate those standards as well as the honorable legacy left by those who epitomize the best of the profession. The lesson I learned was that lawyers can do great good when they realize how sacred their work is and great harm when they act from selfish or corrupt interests.

I did not title the book until I had completed the four years that it took me to research and write it. The title reflects my



Alabama State Bar, Montgomery

opinion of the work done by the Alabama State Bar as an association to serve the good of individual lawyers, the profession itself and the people of the state of Alabama, especially during the last 45 or so years of its history. It is my hope that the profession and the individuals who comprise it continue to mature so that the service they provide to all is given with sufficient detachment to demonstrate an orientation toward the greater good regardless of parochial interests.

Resources

What I have said about the broad range of abilities and interests of lawyers is illustrated by the resources I used to write the book. One of my major references concerning Alabama's political history was a series of essays about Alabama's governors, the majority of whom have been lawyers, co-edited by **Samuel L. Webb**, now an associate professor in the history department at UAB, who was an assistant attorney general under **Attorney General Bill Baxley** when I graduated from law school in 1975. Another major source was a history and biographical dictionary published in 1921 by **Thomas McAdory Owen**, a lawyer who founded and directed the Alabama Department of Archives and History, the first such department in the country. He and his wife, **Marie Bankhead Owen** (whose brothers were



Governor Albert Brewer

attorney-politicians and who led the department after her husband's death) gathered biographical data about thousands of those who populated the state during its first century. Because of their work, I was able to find information on almost every attorney from this period whose name I came across in other sources, including the almost 100 attorney-delegates to the 1901 constitutional convention.

One of the first things I did was to survey about 50 years of the *Alabama Review*, the journal of the Alabama Historical Association, for articles about lawyers. I found dozens, many containing interesting stories I probably would not have found anywhere else, and some written by such amateur historians as attorney **David Bagwell**, a 1973 law school graduate who has practiced in the Mobile area for most of his career, and **Albert Brewer**, former legislator and

governor and now professor at Cumberland School of Law.

The interesting thing about many of these articles was that the lawyers who were their subjects were as often as not also on the list of former Alabama State Bar presidents, providing me with tidbits about many bar presidents that were unrelated to their presidencies. I also discovered that such military heroes as **Joseph Wheeler**, **Raphael Semmes**, **E.W. Pettus** and **John Tyler Morgan** were attorneys.

The state bar provided me with copies of proceedings of years of state bar conventions at a time when the attendance was relatively small and the proceedings were transcribed verbatim, including many comments and debates which were a treasure trove of information from the "horses' mouths." Many of the comments seem to capture something of the personality or character of the person speaking. These proceedings also listed attendees and what local bar associations they represented, allowing me to see who were the bar activists from around the state. The proceedings were highlighted by speeches on the important legal and political issues of the day and provided background for the continuing evolution of the bar as an association and also the court and legal system in the state.

I also had access to proceedings of the Board of Bar Commissioners, which



Joseph Wheeler



John Tyler Morgan



Hugo Black



Lister Hill being sworn in by Vice President Garner

were especially helpful during the period of major reform and expansion after 1964. Then, too, *The Alabama Lawyer* began publication in 1940 and provided a wealth of information about the growth of both membership and services and about the attitude of the bar as a profession during a period of great change in the state and in the bar.

Old Martindale-Hubbell legal directories also were great sources of information, especially when it came to tracing the lineage of law firms in various parts of the state and determining the kinds of practices lawyers and their firms have engaged in throughout the years.



Senator Howell Heflin

Biographies of some of Alabama's great lawyers, including **Hugo Black**, **Lister Hill**, **Frank Johnson** and **Howell Heflin**, and books about the Scottsboro Boys, Phenix City and the political careers of **John Patterson** and **George Wallace** also gave insight to the story of lawyers in 20th-century Alabama. I was able to find details about many important Alabama cases of the civil rights era because attorney **Fred Gray** wrote an autobiography in which he included not only the facts and clients but also their attorneys and the judges who heard these cases. Attorney **Nina Miglionico** allowed me the use of several notebooks of information regarding female attorneys in the state which she had put together over the course of her more than 70 years in the profession.



Nina Miglionico

There are also historians who have spent at least part of their careers focused on Alabama, such as **Dan Carter**, **J. Mills Thornton**, **Malcolm McMillan** and **Leah Rawls Atkins**, whose works I relied upon heavily. An unpublished manuscript written by **Paul Pruitt**, **Howard Walthall**, **Tony Freyer** and **Timothy Dixon** about the Alabama Supreme Court and the legal profession was also made available to me.

I did some interviewing to give me direction, including conversations over the years with **Howell Heflin**, **Bill Hairston**, **Ira Burleson**, **Reggie Hamner**, **Frank Donaldson**, **George Peach Taylor**, **Rod Nachman**, **Atley Kitchings**, **Oakley Melton**, **Keith Norman**, **Judge Harold Albritton**, and, of course, my husband, **Sam Rumore**. I also had the input and comments of members of the **History and Archives Committee**, whose chairman is **Ben Spratling**. Still, I relied mostly on written sources so that I could thoroughly read and absorb information with the hope of enhancing the accuracy of my interpretation of what I learned. I can't be sure that I have been as accurate or thorough as I should have been since my mind is definitely not a steel trap, but I have tried and I apologize for any mistakes or injured feelings. I don't claim that this book is all original scholarship, as one can see from the variety of authors I have relied upon. I hope my attributions are adequate.



George Peach Taylor



Keith Norman

Did you know...?

Here are some tidbits of information which struck me as I read about lawyers and their lineages in the various biographical dictionaries and historical works available to me. Not all of these ended up in the book.

Some of our historically prominent legal families can trace their lineage to the Harrison family that produced two presidents, the Lee family of Old Virginia and that state's House of Burgesses, the Jones family (of John Paul Jones fame), and to members of the various delegations to the conventions which adopted the Declaration of Independence and the

U.S. Constitution. There was a definite sense of *noblesse oblige* among many of our attorney forefathers, some of whom (regretfully) led us into civil war, its corrupt Bourbon aftermath and the adoption of the 1901 constitution.

In the 1800s, it was not uncommon for families to be very large. The sons would usually become planters, doctors, ministers or lawyers. Sometimes the families would have to spread throughout multiple counties in order to have enough population centers to give them a living. Family names became associated with geographical regions. Today, these associations continue, but not nearly to the extent as during the 19th and 20th centuries because the major cities and large law firms have drawn lawyers away from smaller towns since the cities are the centers of government and commerce.

I found examples of families where the father had multiple sets of children because of the death of his first wife and remarriage to a younger woman. In some cases the half-families grew up at different ends of the state, producing two prominent legal families with common ancestors and common names.

I found myself becoming confused sometimes about who did what because of the many families with multiple generations of lawyers having the same name. An example is the family of **Alto Vela** and **William Lovard Lee**. The first Alto Vela Lee I found in Alabama was a lawyer born in 1844 in Barbour County. He had several sons, born in the 1860s and 1870s, who became lawyers, including **Alto Vela, Jr.** (who practiced in Gadsden) and **William Lovard**. **Alto Vela Lee III** of Dothan, who entered the bar in 1937, was president of the ASB in 1974-75. He practiced law with William Lovard Lee, who entered the bar in 1895, and **William Lovard Lee III**, who entered the bar in 1968. Although there is no Alto V. Lee in the bar today, William Lovard Lee III and **William Lovard Lee IV** (1995) currently practice together in Dothan.

Another interesting tidbit from Alabama's early history was the number of sisters in lawyer families who married into lawyer families and the number of wives who came from lawyer families. For instance, Vela, daughter of the origi-



Governor George Wallace blocking the door at University of Alabama

nal Alto Vela Lee, married lawyer **George W. Peach** of Clayton (the father of 1925-26 ASB President **John H. Peach** and grandfather of former University of Alabama law school Professor George Peach Taylor). Vela's brother, **Lawrence Haywood Lee**, also a lawyer, married Augusta Alston, daughter of **Augustus Holmes Alston** who was a lawyer and, later, supernumerary circuit judge. Of course, today, with the presence of many women lawyers, lawyers very often marry lawyers. There are a lot of interconnections and many proud heritages.

And, also...

Alabama's political history has been dominated by lawyers. One reason is that during the 19th and early 20th century, becoming a lawyer was primarily a matter of reading the law in a local firm and being admitted by local judges into the bar. Thus, a law license was easily come by and was a good credential for someone with political ambitions. Holding political office was a natural outgrowth of a lawyer's place in the local community and in the state.

Today, Alabama's bar has over 16,000 members, but more and more non-lawyers are dominating state politics outside the judicial branch. Commentators

say this is because there are fewer and fewer lawyers who can afford the time needed for politics because of the trend to tie income to the hourly rate they charge their clients. Hours away from their practices have a direct impact on income, and today's lawyers have greater expectations about what their income and lifestyles should be, expectations that some of today's "old-timers" have told me were not present when they entered practice in the 1950s and 1960s.

Also, the laws that attorneys work with in their day-to-day dealings have become much more complex and specialized in the last 50 years. Giving advice and ensuring compliance has become more time- and energy-intensive, leaving less time for the kind of service politics requires. And legal work has become multi-jurisdictional and even international, expanding the arena in which today's lawyers operate.

Another factor affecting public service is today's high cost of education, generally, and legal education, specifically. Many lawyers practicing today have substantial education debts to pay at a time when they are also establishing their professional and family lives. Their expenses can be huge and must be matched by their incomes. Their firms make demands for large numbers of billable hours as well.

Fortunately, lawmakers today have access to legal services from both the Legislative Reference Service and the Alabama Law Institute, institutions dating from the 1960s, when a great wave of reform swept the bar and the legal system in Alabama. Therefore, being a lawyer is not quite as important as it might once have been to a legislator. Still, legal training continues to be a great credential for political leaders and political life will continue to attract lawyers, even if the numbers are smaller.

Personalities...

The book is full of personalities. It does not contain the humorous “war stories” lawyers like to share, because there were so many important historical stories to tell. I am not going to highlight any here that are in the book. I will include one story that was too long to cover in the book, but that I found intriguing.

This story is about **Clement R. Wood**, whom I first came across in the 1912 proceedings of the state bar convention. He gave an address entitled “Progressive Ideals for the Lawyer.” At the time, he was 24 years old and very much the idealist, lecturing his elders on their failure to bring about adequate legal reform and adjuring them to lead the way to a progressive future in the state. He quoted a Yale law professor as saying, “Bluntly put, the American lawyer is a failure. In the administration of the law, America lags two generations behind the rest of the civilized world.”

Wood spoke specifically of the Alabama legal system as being antiquated, overly technical, exploitative of the poor and ruled by special interests, prejudice and undue influence, rather than impartiality. He then criticized the bar itself for dishonesty and “sharp practice.” Lawyers, he stated, are useless members of the social body if they do not fulfill their duty to see that justice is administered between man and man. They poison that social body if their activities cause delay or defeat justice or result in injustice or if they foment and stir up strife and litigation. He also criticized his fellow lawyers for their role in restricting voter eligibility in Alabama (which was described by a convention attendee to be something like five percent

of the population at the time), arguing that both the poor and women should be eligible to vote and the illiterate should be educated to take up the responsibilities of citizenship.

Wood’s talk was made during what is known in history as the “progressive era.” He defined a “progressive” as a person who held that the rights of the people were more important than the rights of property—the rights of the whole people and not of any class or division of them. He defined “a conservative” as one who stood for the continuance of “our present system of property rights and practices, and sees no need for any decided change in the system.” He stated that “the evils of the system often are a denial of justice to the poor and needy, rarely the rich and prosperous; the remedy is the restoring of the balance until it swings true for the poorest man as for the richest.”

During this period of the state bar’s history, time was set aside for discussion of papers. As you can imagine, Clement Wood’s talk stirred discussion. Emmet O’Neal, governor at the time, was in attendance and took particular offense with Wood’s remarks and let him, and the rest of those in attendance, know it. As I reviewed subsequent bar proceedings, I noted that Clement Wood did not attend another state bar convention.

My curiosity was piqued when I realized how young Wood was. How did he get the pulpit at the bar after only a year of practice? I found his biographical sketch in Owen’s *Dictionary of Alabama Biography* and became even more interested when I saw that he described himself as a member of Phi Gamma Delta college fraternity, a Methodist and a Socialist. I believe he is the only self-described Socialist I came across in all my research.

Clement Wood was the son of **Sterling Alexander Wood**, a lawyer who practiced in Birmingham, served terms as secretary (1884-1887) and clerk (1892-98) of the Alabama Supreme Court and was president of the Birmingham Chamber of Commerce in 1910, leading the legislative effort that year that expanded the City of Birmingham by incorporating several smaller towns into its city limits, resulting in Birmingham becoming the “Magic City.” Clement

was the grandson of **Sterling Alexander Martin Wood**, also a lawyer, who was a brigadier general in the Civil War.

Sterling Alexander Martin Wood served as attorney for Alabama Great Southern Railroad from its beginning after the war until his death in Tuscaloosa in 1891. His son, **William J. Wood**, was a lawyer who was third vice president of the L & N Railroad in Indiana and a member of the Ku Klux Klan.

Clement graduated from the University of Alabama, having served as editor of the *Corolla* and a representative to the southern intercollegiate oratorical contest. He went to Yale Law School, where he was an intercollegiate debater and assistant editor of the *Yale Law Journal*. Upon graduation, he entered practice in 1911 with his father. In addition to the speech he gave at the bar convention in 1912, he delivered two speeches entitled “Criminal Law and Women in Alabama” and “Scientific Basis for Equal Suffrage” before the Birmingham Equal Suffrage Association. These were not mainstream topics at that time in Alabama.

At about the same time, he was appointed judge of the Birmingham Recorder’s Court to replace Hugo Black, who had served the previous 18 months. In this position, Clement Wood had to deal with an entrenched system of law enforcement which harassed poor blacks, often trumping up charges to arrest vagrants and put them on forced labor gangs to collect the costs which paid law officers’ salaries. This system was the antithesis of Wood’s progressive ideals. He left that bench and ran as one of three candidates for Birmingham mayor in 1913. He came in second.

Soon Wood removed himself from the Birmingham legal scene, moved to New York City and became a prolific and successful writer of novels, essays, poems and even dictionaries and histories. There are close to 40 titles of his works in the stacks of the Linn-Henley Southern History Department of the Birmingham library, including an autobiography entitled *The Glory Road*.

In that book, where he described his youth in Birmingham, Wood called himself a rebel against his father’s politics and religion (Roman Catholic) and conservatism and everything for which he stood. He

wrote, “For years we were not on speaking terms...If I couldn’t remember so clearly the daily thrashings he used to give me, to cure me of what he called my laziness, and what I still think was my differentness, we might have been better friends later on. I admire him still, somewhat as I admire Gibraltar.”

After arriving in New York, he “waited on tables at a Socialist eatery, scribbling poems on my way to and from the kitchen, as I had scribbled them during the boring arguments of windy lawyers in the recorder’s court.”

He continued,

“I worked at night for the Rockefeller Vice Investigation, and by day for Upton Sinclair, at a moment when the two were as thick as two clawing Kilkenny cats. I became a teacher and then vice-principal at a conservative boys’ preparatory school; and, at night, soapboxed the East Side as a Socialist candidate for alderman or something easily as cosmic. Editors began paying me for my stories and books, to my amazement, and I hard-heartedly let the field of pedagogy stagger along as best it could without me thereafter. I married. I learned a lot about girls and women. I had some share in the making of two splendid children, and was quite impotent to persuade their mother that a woman could be mother and wife both. She was certainly an excellent mother. After I was divorced, I was luckier than most people and found out what love was...”

In a section about his memories of Birmingham, Wood wrote,

“Would you see what the city hides? Go to her police courts. I presided over one, until my lack of tact, in jailing the Democratic boss for being caught with a girl and then boasting that he had fixed it with me, eased me into friendlier service.

“I presided over one. I have not forgotten. Thirty-seven Negroes jugged at a ‘chitterling party’ for laughing louder than Ordinance 99 allows.

“‘Five dollars and costs,’ the judge yawns. The officer earns thirty-seven convictions...thirty-seven sets of costs.

“Five dollars means ten days; costs, two weeks more. Thirty-seven Negroes...”

“I heard a woman singing softly, as her barred slavery began: ‘I am so glad that Jesus loves me, Jesus loves me, Jesus loves...’

“‘Shut up, you black sow.’

“‘What the city hides...’”

In another part of the chapter about Birmingham he wrote:

“You talk a lot about leading law-abiding lives, and earning Heaven.

“Your penny-greedy department stores start their girls on six a week. They find Heaven, of course.

“Your Negro workers find the white hand heavy. The merchant lies: ‘This bill was never settled.’ The lawyer lies: ‘This title is not good.’ The farmer lies: ‘Your cotton’s underweight.’ The poll clerk lies: ‘The law won’t let you vote.’ The detective lies: ‘I seen him do it, Yer Ronner.’ The jury lies: ‘We find the defendant guilty.’ The old judge lies: ‘You need a life sentence...’ The lynching rope, the lynching fire, don’t lie, in their rare black words. The Negroes find Heaven, of course.

“The white workers get more wages, enough to bribe death briefly. They find Heaven, of course.

“The women can go to church in last year’s suit. Their men are often polite and loving in public. My father was. They don’t need justice: they have chivalry. They find Heaven, of course.

“But the rich lead stainless lives, meekly receive their dividends, enjoy their women, and I said women, with Christian humility, please the heart of Christ by gifts to charity and the Democratic party, and go to glory in twelve-cylinder limousines. They find Heaven!”

Finally, he wrote:

“The next thing is hard to say. In 1900 it was the L & N. In 1910, it was the Steel Trust. In 1920, it was the Power Trust. In 1930—but the Power Trust hasn’t moved.

“Shall Birmingham have prohibition? See what the Power Trust says.

“Shall its legislators vote for equal suffrage? See what the Power Trust says.

“Shall its papers publish this truth or that lie? See what the Power Trust says.

“Shall its preachers thunder for this cause, or damn it with the ancient curse? See what the Power Trust says.”

I include this story here because Clement Wood was an Alabama lawyer, even though he did not stay in the state and practice law very long. His legal training and perspective and family ties and upbringing informed his outlook on life. His story influenced my writing of *From Power to Service* even though I don’t believe I even mentioned him. To me, he is part of the story of lawyers in Alabama. My definition is broad because I find it fascinating to see the twists and turns lawyers’ lives can take and I also feel that legal training forms a person to have a definite outlook, that of a lawyer.

At the time this issue went to press, *From Power to Service: The Story of Lawyers in Alabama* was scheduled to be published in February 2010. A pre-publication discount (shipping and handling charges will be waived on all orders for a specified period of time) will be offered to those who purchase the book. The book can be ordered only by using a credit card. See the ad in the January 2010 issue of *The Alabama Lawyer* and look for e-mail announcements and information posted online at www.alabar.org/historybook. ▲▲▲



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Alabama Supreme Court and has practiced law in various capacities for almost 35 years. Her book *Lawyers in a New South City*, written for the Birmingham Bar Association, was published in 2000, with a second edition in 2006. She lives in Birmingham with her husband (and law partner), former ASB president Sam Rumore.