1. NAME AND LOCATION OF PROPERTY

Historic Name: Loudoun County Courthouse

Other Name/Site Number: Charles Hamilton Houston Courthouse (Virginia Department of Historic Resources #253-0006)

Street and Number (if applicable)**:** 10 North King Street

City/Town: Leesburg **County:** Loudoun **State:** Virginia

Designated a National Historic Landmark by the Secretary of the Interior December 13, 2024.

2. SIGNIFICANCE DATA

NHL Criteria: 1

NHL Criteria Exceptions: N/A

NHL Theme(s): II. Creating Social Institutions and Movements
2. reform movements
IV. Shaping the Political Landscape
1. parties, protests, and movements

Period(s) of Significance: November 1933 - February 1934

Significant Person(s) (only Criterion 2)**:** N/A

Cultural Affiliation (only Criterion 6)**:** N/A

Designer/Creator/Architect/Builder: 1894-1895: William Callis West, Richmond, VA, architect
Norris Brothers, Leesburg, VA, builder
1956 Alterations: Albert D. Lueders, Waterford, VA, architect
Algar, Inc., Arlington, VA, contractor

Historic Contexts: *Civil Rights in America: A Framework for Identifying Significant Sites*, National Historic Landmarks Theme Study (2002, rev. 2008)

3. WITHHOLDING SENSITIVE INFORMATION

Does this nomination contain sensitive information that should be withheld under Section 304 of the National Historic Preservation Act?

___ Yes

X No

4. GEOGRAPHICAL DATA

1. Acreage of Property: Approximately 1.5

2. Use either Latitude/Longitude Coordinates or the UTM system:

Latitude/Longitude Coordinates (enter coordinates to 6 decimal places)**:**
Datum if other than WGS84:

	Latitude:	**Longitude:**
A:	39.115999	-77.564261
B:	39.115941	-77.564027
C:	39.115992	-77.564000
D:	39.115781	-77.563238
E:	39.115629	-77.563303
F:	39.115666	-77.563456
G:	39.115443	-77.563573
H:	39.115302	-77.563081
I:	39.115130	-77.563172
J:	39.115477	-77.564485

OR

UTM References:

Zone	**Easting**	**Northing**
-	-	-

3. Verbal Boundary Description: The Loudoun County Courthouse property encompasses a portion of Loudoun County parcel number 231486608 bounded by East Market Street to the southwest, North King Street to the northwest, and the perimeter of the Loudoun County Court Complex to the northeast and southeast.

4. Boundary Justification: The boundary includes the 1894 courthouse in which the trial of George Crawford and related events occurred in 1933 and 1934, as well as the remaining historic courthouse yard surrounding the building and historic decorative iron perimeter fence along East Market and North King Streets. The 1844 Academy building immediately southeast of the courthouse and an altered Federal-period building at the corner of East Market and Church Street both stood at the time of Crawford's trial but were not associated with the trial, although the National Association for the Advancement of Colored People (NAACP) lawyers posed for a photograph in front of the Academy building and the lawyers visited the clerk's office then located inside. Together with the courthouse, both buildings contribute to the Leesburg Historic District listed in the National Register of Historic Places (NRHP).[1] Both buildings have been altered and incorporated into the much larger Loudoun County Court Complex, built in phases from the 1950s to the early 2000s, which now forms an irregular perimeter around the historic courthouse lawns to the northeast and southeast.

[1] James Moody, "Leesburg Historic District," National Register of Historic Places Inventory - Nomination Form (Washington, DC: U.S. Department of the Interior, October 15, 1970); Robin J. Weidlich, Annie L. McDonald, and Laura V. Trieschmann, "Leesburg Historic District (Boundary Expansion/Amendment)," National Register of Historic Places Registration Form (Washington, DC: U.S. Department of the Interior, National Park Service, 2001).

5. SIGNIFICANCE STATEMENT AND DISCUSSION

INTRODUCTION: SUMMARY STATEMENT OF SIGNIFICANCE

The Loudoun County Courthouse is significant under National Historic Landmark Criterion 1 as the location of a seminal 1933-34 murder trial that marked a turning point in the history of both African American lawyers and the National Association for the Advancement of Colored People's (NAACP) civil rights legal strategy. In *Commonwealth of Virginia* v. *Crawford*, an all-Black legal team assembled by the National Association for the Advancement of Colored People (NAACP) and led by Charles Hamilton Houston defended a Black man, George Crawford, who was accused of murdering two White women in Middleburg, Virginia.[2] The trial that unfolded at the Loudoun County Courthouse in 1933 and 1934 was one of the earliest and most high-profile demonstrations of Black lawyers' abilities in the Jim Crow era and marked a turning point in civil rights jurisprudence. The trial led directly to Black leadership of the NAACP's legal program and shaped its emerging campaign to use constitutional law and test cases to systematically dismantle the legal premise of racial segregation embedded in the "separate but equal" doctrine of *Plessy* v. *Ferguson* (1896).

Criterion 1: Significance Within the History of the NAACP's Civil Rights Jurisprudence

The individual experiences of George Crawford and the two White victims, Agnes Ilsley and Mina Buckner, are in some ways incidental to the larger forces at issue in the case. From a legal perspective, the Crawford case centered on the exclusion of Black men from grand and trial juries, but the circumstances of the case embodied many of the pressing issues facing Black men in the Jim Crow era, including discrimination in labor markets, lack of economic opportunity, and the underlying White supremacist belief that Black men were predisposed to crime and the likely perpetrators of crimes against White women (especially rape). White prejudice, segregation, and dehumanizing conceptions of African Americans fostered an environment that encouraged unfounded accusations against Black people, inspired White mob violence, and resulted in the over-policing and targeting of Black men for alleged crimes in the absence of evidence, or in full disregard of it. The system of "Southern justice" continually ignored Black defendants' rights to constitutional due process and equal protection, including adequate legal representation, a jury of one's peers, a courtroom atmosphere uninfluenced by White mob violence and intimidation, and freedom from the threat of extrajudicial killings. White juries readily gave Black defendants harsher punishments for even minor crimes, while failing to convict their White neighbors of lynching Black citizens. White officials often rushed African American defendants to trial for mere accusations of violent crimes, obtaining convictions and death sentences from all-White juries and conducting hasty executions. Such "legal lynchings," as they were called by civil rights advocates, enabled White officials to pride themselves on the avoidance of mob lynchings. White supremacist beliefs, both overt and implicit, countenanced a widespread reign of racial terrorism that subjected Black victims to White-inflicted, state-sponsored, and state-condoned violence, riots, and lynchings across the nation, particularly in the Southern states and especially in the Deep South. Violence against African Americans and the mistreatment of Black men

[2] Hereafter, the use of *Crawford* will refer to *Commonwealth of Virginia* v. *Crawford*, and not to *Hale* v. *Crawford*, which involved the extradition hearings through which Crawford was returned to Virginia from Massachusetts earlier in 1933. However, "Crawford case" will refer to the entire sequence of events surrounding the case. Note: The National Historic Landmark program capitalizes both Black and White when describing racial identity. These terms and the descriptor African American will be used to refer to race, while acknowledging that racial categories are historically contingent and socially constructed. Quoted material in the following narrative reflects the conventions of the time and often the abhorrent racist language that permeated public discourse. The preparer thanks Kathryn Smith, Lena McDonald, Jennifer Moore, Patricia Sullivan, José F. Anderson, and Astrid Liverman for their thoughtful comments on draft versions of this nomination.

in the nation's justice systems were founding concerns of the NAACP. The near total exclusion of Black men from jury service in Southern states after Reconstruction eliminated an essential check against the influence of racial bias in trial outcomes for Black defendants.[3] The NAACP viewed the Crawford case as an opportunity to escalate the fight against Black jury exclusion. The fight came at a moment when Black lawyers were rising in influence.

Prior to *Crawford*, the NAACP relied primarily on prominent White lawyers to handle legal redress and civil rights cases involving Black defendants, because these lawyers had valuable legal standing, offered their services without fee, and avoided confronting White racial sensitivities. In addition, because of segregation and prejudice, Black lawyers were fewer in number and faced more limited access to law schools, training, and courtroom experience, particularly in the area of criminal law. By the late 1920s, however, Black lawyers were striving for both professional credibility and a leading role in civil rights litigation, but they labored against assumptions that their abilities were inferior and their presence in the courtroom would jeopardize defendants by triggering the racial prejudice of White judges, lawyers, and jurors. By appointing an all-Black defense team in a Southern courtroom for the high-profile *Crawford* trial, the NAACP empowered Houston and his co-counsel, Leon Ransom, Edward Lovett, and James Tyson, to demonstrate the authority and legal expertise of Black lawyers in an important public sphere, directly undermining White supremacist theories of racial inferiority and creating a precedent for equal treatment of Black lawyers in the practice of law. This radical new confidence in Black lawyers dovetailed with lead counsel Charles Hamilton Houston's mission, as Vice Dean of Howard University School of Law (HUSL), to train upcoming generations of talented young Black lawyers to serve as "social engineers," advancing the work of equal rights. The trial presaged the important role that Black lawyers would play in dismantling Jim Crow and other discriminatory practices in American society.

The NAACP's year-long effort on Crawford's behalf in 1933 also elevated the organization's national profile as a civil rights advocate at a critical juncture in its institutional development. The racial injustices of the 1931 Scottsboro convictions in Alabama galvanized public opinion about the legal practices in Southern courtrooms. The NAACP promoted the Crawford case as its "cause célèbre," generating publicity around the exclusion of African Americans from jury service and establishing its campaign of "social statesmanship" as an alternative to the Communist-affiliated International Labor Defense (ILD), then leading the Scottsboro appeals.

Throughout the 1930s, the rivalry between the ILD and the NAACP raged around the Scottsboro case with both sides vying to represent the Scottsboro defendants, gain control over the public narrative, and attract support for their own brand of racial equality and social revolution. Walter White of the NAACP accused the ILD of "seeking… to use this case for the purpose of making Communist propaganda" and the ILD "routinely castigated the NAACP for not speaking out about it."[4] The Communist Party of the USA (CPUSA) was viewed with suspicion by the White establishment—and not just because of its attack on capitalism and championing of worker solidarity. Its direct-action strategies and uncompromising advocacy for racial equality threatened the White supremacist social order, particularly in the South where the agricultural economy relied heavily on maintaining African American laborers as an oppressed and subordinate group. The NAACP strove to maintain a difficult balance, attempting to build its African American membership by raising its reputation as an ardent champion of civil rights and working carefully within existing legal channels in a way that appealed to liberal

[3] Equal Justice Initiative, *Illegal Racial Discrimination in Jury Selection: A Continuing Legacy* (Montgomery, AL: Equal Justice Initiative, 2010), 5-11. The National Historic Landmarks Program broadly construes the Reconstruction era as a period lasting from 1861 to 1900, although it was long defined more narrowly by historians as the period between 1863 and 1877; see Gregory P. Downs and Kate Masur, *The Era of Reconstruction, 1861-1900: A National Historic Landmarks Theme Study* (Washington, DC: U.S. Department of the Interior, National Historic Landmarks Program, Cultural Resources, National Park Service, 2017), 2.
[4] James A. Miller, *Remembering Scottsboro: The Legacy of an Infamous Trial* (Princeton University Press, 2009), 25.

White supporters and avoided the direct, confrontational tactics that inflamed White supremacist opposition. Houston recognized the limitations of the law to effect sweeping social change and referred to this approach—using legal test cases to gradually build precedents and educate and shape public opinion—as "Social Statesmanship."[5]

In the early 1930s, the NAACP began to formulate a targeted legal campaign designed to methodically break down de jure segregation, particularly in education. Black leadership of this litigation program was an important outcome of *Crawford*. Following his highly publicized performance in the trial, Houston became the NAACP's first special counsel in charge of the new legal program, marking a pivotal transition within the organization toward Black leadership. The *Crawford* trial foreshadowed strategies that became critical to the legal program as it evolved under Houston's guidance. *Crawford* demonstrated the NAACP's steadfast pursuit of constitutional rights in the courts, working respectfully within the nation's legal system and employing the highest degree of professionalism and technical expertise. *Crawford* also demonstrated the NAACP's emerging emphasis on using civil rights cases to expose racial injustice, shape public opinion, and encourage grassroots efforts. Lastly, *Crawford* initiated a strategy for expanding the fight for civil rights by developing model civil rights litigation that could be applied by local lawyers anywhere in similar cases. Under Houston's leadership, the NAACP incorporated the strategies and lessons of *Crawford* into its new legal program and developed a national network of Black lawyers to advance litigation against de jure segregation. Although outside the limits of this nomination, their cumulative efforts led eventually to the landmark Supreme Court decision in *Brown* v. *the Board of Education* (1954), which overturned the legal basis for racial segregation in education.

PROVIDE RELEVANT PROPERTY-SPECIFIC HISTORY, HISTORICAL CONTEXT, AND THEMES. JUSTIFY CRITERIA, EXCEPTIONS, AND PERIODS OF SIGNIFICANCE LISTED IN SECTION 2.

Virginia Murders and the Manhunt for George Crawford

The Murders of Agnes Ilsley and Mina Buckner, January 12–13, 1932

On the night of January 12, 1932, Agnes Ilsley, a 40-year-old widow and wealthy "sportswoman," and her maid, Mina Buckner, were brutally murdered with a sharp object in the guest cottage on Ilsley's property in Middleburg, Virginia. The rural hamlet occupied a section of northern Virginia known for foxhunting and horse farms. Wealthy Northerners and Midwesterners like the Ilsleys bought estates there in the 1920s, transforming the area into a rural retreat popular with "Washington's diplomatic and official set."[6] The murders were discovered the next morning by Ilsley's brother, Paul Boeing, who had lived with Ilsley since her husband's death the previous year. He spent the previous night alone in the main house, which had just been vacated by a group of society women leasing it for the duration of the local foxhunting season.

Agnes Ilsley was raised in relative comfort in North Dakota, where her father, Julius Boeing, was a prosperous farmer, pharmacist, and political operative. Independent and outgoing, Agnes Boeing graduated in 1915 from

[5] Charles H. Houston and Leon A. Ransom, "The Crawford Case: An Experiment in Social Statesmanship," *The Nation* (July 4, 1934): 17-19.

[6] "Suspect Held in 2 Slayings in Middleburg," *Richmond News Leader* (Richmond, VA: January 14, 1932), 1; "Rich Virginia Sportswoman and Maid Beaten to Death on Estate at Middleburg," *Virginian-Pilot and the Norfolk Landmark* (Norfolk, VA: January 14, 1932), 1. On Middleburg, see David Bradley, *The Historic Murder Trial of George Crawford: Charles H. Houston, the NAACP and the Case That Put All-White Southern Juries on Trial* (Jefferson, NC: McFarland & Company, Inc., 2014), 16-17, 33.

the University of Wisconsin, Madison, with a degree in home economics. She subsequently held various jobs in Wisconsin, Michigan, and North Dakota. By the mid-1920s she landed in Manhattan, where in 1927 she married Spencer Ilsley, the scion of a banking family based in Wisconsin, who was nearly twice her age. Spencer Ilsley had acquired the Middleburg property several years earlier, and the couple made the town their main residence.[7] Shortly before Spencer's death in 1931, they purchased a 211-acre nearby farm, building stables for their "hunters and jumpers." Agnes moved in high social circles, actively participated in hunts and steeplechases, engaged in charitable activities, and supported "Prohibition reform."[8] She was reportedly well liked by the local "village people," whom she befriended and readily helped in times of need.[9] The Ilsleys had employed three live-in servants prior to Spencer's death, but as a widow in January 1932, Agnes retained only a single live-in housekeeper, Mina Buckner. Then aged 60, Buckner and her husband were immigrants from Germany. During their married life, they had long been established in Connecticut, but in the previous decade they moved to a farm in Darnestown, Maryland, perhaps to be near their grown son, Walter, who worked as a government draftsman.[10] Buckner's reasons for living apart from her husband to work for Ilsley are unknown, although the economic hardships of the Great Depression (1929 to 1939) may provide an explanation.

The town of Middleburg was sharply divided by class and race. Longtime farmers looked askance at wealthy newcomers and, like all of Virginia, racial segregation was entrenched. By the 1930s, a system of Jim Crow laws in Virginia forbade intermarriage and mandated segregation in schools, all forms of conveyance, places of public accommodation and entertainment, residential areas, and other aspects of public life. To uphold these laws, a "Negro" was defined as any person with even a trace of "Negro blood" regardless of the color of their skin.[11] Racism and inequity characterized all aspects of African American life. African Americans were paid less than their White counterparts for the same work. Their children attended schools with far less funding and lower-paid teachers than White children. Poll taxes, literacy tests, and other restrictions meant that few African Americans could vote; none in local memory had served on juries.[12] In 1930, Loudoun County had a population of 19,852, of whom 77.4 percent were classified by the United States Census Bureau as "native white" and 21.9 percent as "Negro."[13] By one measure of inequality in the overwhelmingly rural county, White farmers who owned their land (1,059 in number) possessed on average approximately 146 acres, whereas Black farm owners (54) on average possessed approximately 47 acres.[14] Anecdotal evidence suggests that many Black residents in

[7] On Agnes Boeing Ilsley, see Bradley, 12-18.
[8] On Ilsley's properties, hunt activity, and support for Prohibition reform, see "Suspect Held in 2 Slayings." See also Bradley, 42.
[9] Helen Boardman Deposition (Washington, DC: Library of Congress), February 2, 1933, Box I:D51, Folder 8, NAACP Records, 7.
[10] U.S. Bureau of the Census [U.S. Census], *Fifteenth Census of the United States: 1930—Population*, Election District 6, Darnestown, Maryland (Washington, DC: Government Printing Office, 1932; accessed May 14, 2023, via ancestry.com, https://www.ancestry.com/discoveryui-content/view/105492162:6224), and Election District 7, Bethesda, Maryland (Washington, DC: Government Printing Office, 1932, accessed May 14, 2023, via ancestry.com, https://www.ancestry.com/discoveryui-content/view/105476959:6224).
[11] AmericansAll.org, "Jim Crow Laws: Virginia" (accessed May 12, 2023, https://americansall.org/legacy-story-group/jim-crow-laws-virginia).
[12] Kathryn Gettings Smith, Edna Johnston, and Megan Glynn, "Loudoun County African-American Historic Architectural Resources Survey" (Leesburg, VA: report prepared by History Matters, LLC, Washington, DC, for the Loudoun County Board of Supervisors and The Black History Committee of the Friends of the Thomas Balch Library, Leesburg, VA, September 2004), 15-16; George S. Schuyler, "Judge Frees Crawford in Ilsley Murder; Hits South's Jury System," *Chicago Defender* (Chicago: April 29, 1933), 1.
[13] U.S. Census, *Fifteenth Census of the United States: 1930, Population, Volume III, Part 2, Reports by States, Showing the Composition and Characteristics of the Population for Counties, Cities, and Townships or Other Minor Civil Divisions, Montana-Wyoming* (Washington, DC: Government Printing Office, 1932), 1165.
[14] U.S. Census, *Fifteenth Census of the United States: 1930, Agriculture, Volume II, Part 2—The Southern States, Reports by States, with Statistics for Counties and a Summary for the United States* (Washington, DC: Government Printing Office, 1932), 187.

the county found employment with "rich" White families.[15] Testimony in Crawford suggests there was little interaction between Black and White residents of the county except as warranted by economic relations.[16] Although White residents reported that race relations in Loudoun County were harmonious, it is doubtful Black residents shared the same feeling in an area where the Ku Klux Klan were active.[17]

Within hours of Paul Boeing's discovery of his sister and her maid, suspicion centered on a single Black man: George Crawford. As the *Afro-American*, a leading African American newspaper published in Baltimore, later put it: "True to Southern tradition, when a crime is committed, the mob mind turned first to the Negro."[18] This bitter statement expressed a deeply embedded historical pattern of criminalizing African Americans as a form of social control and labor exploitation. After the Civil War, particularly in the South, Black Codes, vagrancy laws, and the practice of convict leasing led to the disproportionate targeting of African Americans for detainment, arrest, sentencing, and imprisonment—patterns that survive today.[19]

Little is known about George Crawford except that he was in his early 30s at the time of the murders; had a sister (since deceased) in Richmond, Virginia, and a brother who died in World War I; and spent much of the 1920s in prison for theft, escaping twice. With only a few years of primary education and encumbered by poverty and unemployment, Crawford was a Black man repeatedly ensnared in the nation's unfair justice systems. In March 1931, after his release from prison, he made his way to Middleburg and obtained work as a driver and handyman for both Agnes Ilsley and Richard Holt, a local doctor then living in the Ilsley cottage. Crawford met both of them while he was in prison. Ilsley had done volunteer welfare work for the prison system, and Holt had previously treated Crawford for injuries he sustained defending a prison guard from attack by another prisoner while they were serving on a convict road crew. For Crawford's laudable action, Governor Harry F. Byrd commuted a year from his sentence.[20] However, in September 1931, Ilsley fired Crawford after a short period of employment on suspicion that he was stealing from her, and Crawford left town.[21] On Christmas Eve, someone broke into Ilsley's manor house and stole goods valued at $500. On December 28, Ilsley swore out a warrant charging Crawford for the theft.[22]

The circumstances made Crawford a clear suspect to White investigators, especially since witnesses reported recently seeing him around Middleburg again in the company of a second Black man who was not locally known.[23] Nevertheless, investigators at the murder scene were perplexed by the motive. Many valuables were left in plain sight at the cottage, although Ilsley's car had been taken. It was found later that day in a coal yard in

[15] Nannie Burroughs to Walter White (Washington, DC: Library of Congress, February 2, 1933, Box I:D51, Folder 8, NAACP Records).
[16] "Caste System Excludes Negroes From Juries Here, Says Houston," *Loudoun Times-Mirror* (Leesburg, VA: November 9, 1933), 2; "Commissioner Who Passed on 'Negro Intelligence,' Has Hard Time Reading Names," *Afro-American* (Baltimore: December 16, 1933), 2.
[17] "Crawford Return Fought in Boston," *Loudoun Times-Mirror* (Leesburg, VA: January 26, 1933), 1. On Klan activities in Loudoun County, see Bradley, 32-33.
[18] "All the Elements of a Mystery Novel Surround Case of George Crawford," *Afro-American* (Baltimore: November 11, 1933), 1.
[19] Elizabeth Hinton, LeShae Henderson, and Cindy Reed, "An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System," Vera Institute of Justice (May 2018; accessed May 12, 2023, https://www.vera.org/downloads/publications/for-the-record-unjust-burden-racial-disparities.pdf), 1-2.
[20] Bradley, 44; "Crawford Trial Who's Who," *Afro-American* (Baltimore: December 23, 1933), 17. Ilsley's acquaintance with Crawford in prison is noted in "'Wanted to Get Right With God', Man Bares Story of Dual Virginia Killing," *Pittsburgh Courier* (Pittsburgh: January 28, 1933), 9.
[21] Bradley, 45.
[22] Bradley, 47.
[23] "Suspect Held in 2 Slayings"; Bradley, 64.

Alexandria, Virginia.[24] Investigators assumed that Crawford had an accomplice, and in the next few days, papers across the nation published syndicated press reports of the crime's sensational details and the search for Crawford, announcing that "Washington, Virginia and Maryland police united today in one of the biggest manhunts in the history of the section."[25] According to *The Washington Post*, the mayor of Leesburg, the county seat, expressed fear that if Crawford were captured, "the people would not wait for his trial," although he asserted "there was no talk of lynching."[26] A story carried by the Associated Negro Press (ANP) at the end of January noted that the considerable manhunt resulted in "scores of Negroes" being "arrested for vagrancy in various cities and towns along the eastern coastline." Their fingerprints were compared to those in Crawford's prison records, but as none matched, the suspects were released or given vagrancy sentences. The ANP tersely observed: "No effort has been made to discover whether a white criminal may have committed the murders."[27]

Residents of Middleburg quickly collected a $500 cash reward for information leading to Crawford's capture, an amount that rose to $2,000 by the end of January. Two Loudoun County African American benevolent associations, the Elks and the Odd Fellows, each subscribed $25 to the reward. The county's White authorities later cited the gesture as proof that no "bad feeling existed between white and colored people."[28] However, the contributions could as easily have been a preventive measure undertaken by Black residents to preempt White violence by showing they were law-abiding residents interested in seeing the perpetrator brought to justice.

When the manhunt yielded no results, the story faded from national news, but several newspapers carried notice of two murder indictments against Crawford that were returned by a grand jury in Leesburg on February 8, 1932.[29] The grand jury consisted of only White men. They heard testimony from several local African American residents who had seen or heard from Crawford in the days before the murders, although merely being present around Middleburg did not constitute material evidence of the crime. Judge John R.H. Alexander of the 26th Judicial Virginia Circuit Court issued a warrant for Crawford's arrest.[30]

Crawford's Arrest in Boston, January 13, 1933

A year after the murders, George Crawford sprang back into national headlines when he was identified in Boston following his arrest for petty theft on January 13, 1933. He was using the name Charles Taylor, but his fingerprints matched those on record in Crawford's widely distributed prison file.[31] Loudoun County District Attorney John Galleher quickly prepared extradition papers and traveled to Boston. In jail on January 19, Galleher obtained a confession from Crawford after a lengthy interrogation. Galleher, the sheriff at the jail, and the police stenographer were present at the interrogation, but police were not required to inform Crawford of his

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[24] Bradley, 52.
[25] "Big Manhunt for Killer of 2 Women," *The News* (Paterson, NJ: January 14, 1932), 18; "Rich Woman, Maid Slain in Virginia Manor," *Fresno Morning Republican* (Fresno, CA: January 14, 1932), 1; "2 Suspects Hunted in Murder Case," *Marshall Evening Chronicle* (Marshall, MI: January 14, 1932), 1.
[26] Quoted in Bradley, 53.
[27] "Suspects are Jailed, Released, Futile Search for Ilsley Slayer," *Pittsburgh Courier* (Pittsburgh: January 30, 1932), 2. The *Afro-American* later inquired of District Attorney John Galleher why he "made no effort to seek any other possible guilty party" despite doubts expressed by the "better type citizens of both races" regarding Crawford's guilt. Galleher responded, "I was certain the very next day that Crawford was guilty and made no effort to look further." The *Afro-American* suggested that the young lawyer's "desire to bring about a conviction in this case is motivated, in part, by his political aspirations." See "Leesburg Folk Believe Crawford Pawn in County Politics," *Afro-American* (Baltimore: November 11, 1933), 2.
[28] "Crawford Return Fought in Boston."
[29] "Fugitive Indicted in Ilsley Slaying," *Evening Star* (Washington, DC: February 8, 1932), 4; "Two Indictments in Ilsley Murder," *Daily News* (New York: February 9, 1932), 13.
[30] Bradley, 64. Those who testified before the grand jury included Hammond Nokes and Bertie DeNeal, who later provided critical testimony at Crawford's trial, as described below.
[31] Bradley, 66.

rights and he had no attorney to represent him. The circumstances raised questions about the validity of the confession, since interrogations of detained African American suspects often employed coercive tactics (or worse) that produced false confessions.[32] The record shows that after Crawford repeatedly denied his presence in Middleburg, as well as any association with a second man and any involvement in the murders, there was a break in the interrogation. When questioning resumed, Crawford suddenly offered a full confession. In the confession, Crawford claimed to have been in the company of another man, Charlie Johnson, who enlisted him in burglarizing the home of Crawford's former employer, Agnes Ilsley. While standing guard outside, Crawford claimed, the burglary inside went awry, and Johnson killed both Ilsley and her maid, and then both men fled in Ilsley's car.[33]

Galleher returned to the prison with the prepared confession two days later, but Crawford refused to sign it. He denied his involvement in the murders and said he would not cooperate with extradition. His mind had been changed by lawyers from the National Equal Rights League (NERL), who had made a visit and advised Crawford to fight extradition. In a letter that was widely quoted in newspapers, William Monroe Trotter (misidentified as William Moore Taylor in the Associated Press report), secretary of the NERL, wrote to Governor Joseph B. Ely of Massachusetts, urging him not to grant extradition until receiving "from the state of Virginia full assurance of a trial, fair trail, and no murder mob." Trotter made his request "in view of the history of Virginia as a state where colored men have for years been victims of lynching, especially when accused of crimes against white women."[34]

Historical Background

Lynchings in Virginia

Taylor's criticism drew a sharp protest from White officials in Virginia. Loudoun County Sherriff Eugene S. Adrian claimed that there had been no lynchings in the county in his seventeen years in office, and he had not heard the "slightest rumor or anything else to indicate mob violence in this case."[35] The county's newspaper, the *Loudoun Times-Mirror*, resented the insinuation of poor local race relations and announced that it "was the unanimous sentiment of the community that no difficulty would be encountered in insuring [*sic*] a fair trial for the accused negro."[36] More broadly, L.R. Reynolds, the director of the Virginia Commission on Interracial Cooperation (which included both Black and White members), pointed to Virginia's relatively low lynching numbers—twenty-six between 1900 and 1931 as summarized in the Tuskegee Institute's Negro Year Book—and to Virginia Governor Byrd's recent enactment of Virginia's anti-lynching law, calling it a model for other states.[37]

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[32] Michael J. Klarman addresses the Supreme Court's emerging recognition of the problem, particularly the use of torture to extract confessions, during the interwar period in *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (New York: Oxford University Press, 2004), 99, 118, 128-134. From a contemporary perspective, false confessions are addressed in Richard A. Leo, "False Confessions: Causes, Consequences, and Implications," *Journal of the American Academy of Psychiatry and Law* 37 (2009): 332-343; and Andrew Cohen, "Confessing While Black," The Marshall Project (accessed May 15, 2023, https://www.themarshallproject.org/2014/12/12/confessing-while-black).

[33] Bradley, 68-72.

[34] "Crawford is Unwilling to Return to VA," *Daily News Leader* (Staunton, VA: January 22, 1933), 1; "Man Refuses to Sign for Extradition," *Democrat and Chronicle* (Rochester, NY: January 22, 1933), 6; "Crawford Return Fought in Boston." Trotter co-founded the NERL in 1908 in Boston and still served as its secretary in 1933, although the group had largely foundered by 1921, as most of its members had joined the NAACP; see Charles W. Puttkammer and Ruth Worthy, "William Monroe Trotter, 1872-1934," *Journal of Negro History* 43 (October 1958): 304-305; "Scottsboro Day," *Pittsburgh Courier* (Pittsburgh: June 3, 1933), 12.

[35] "Man Refuses to Sign for Extradition."

[36] "Crawford Return Fought in Boston."

[37] "Virginia Justice Defended," *Evening Star* (Washington, DC: January 22, 1933), 2.

In an analysis of White supremacy in Virginia in the interwar era, historian J. Douglas Smith argues that although on the surface race relations in Virginia and other parts of the peripheral South, such as North Carolina, appeared to be more harmonious than in the Deep South, White supremacist views were just as deeply entrenched. In contrast to the brutality and violence common in the Deep South, Virginia's White elite preferred to manage race relations the "Virginia way," in a genteel, paternalistic fashion, without resort to violence, the courts, or legislation. They preferred to use their social and political influence to modestly improve conditions for Black residents in the state while continuing to believe in Black racial inferiority and to sanction disfranchisement and segregation. Smith identifies the interwar period as a transitional period, when moderate White elites struggled to manage race relations. More radical White supremacists felt increasingly threatened by urbanization and social and economic change and sought to formally legislate segregation. The most significant of Virginia's Jim Crow laws were passed in the 1920s and 1930s, forming the immediate context of Crawford's 1933 trial. By the late 1930s, Black residents had grown impatient with the limits of White paternalism and began to directly pursue their rights of citizenship, particularly in the area of education. After the Supreme Court overturned segregation in education in their *Brown* v. *Board of Education* (1954) decision, Virginia's White leaders led the South in finding ways to avoid integration through an official plan called "Massive Resistance."[38]

Historians agree that although exact figures may never be known, fewer lynchings occurred in Virginia than any other Southern state. The "Virginia way" sought to avert violence, but the state's economy was also more diverse and less dependent on coercive agricultural labor practices than in the Deep South, reducing White Virginians' perceived threat of racial upheaval.[39] By one count, six lynchings occurred in Virginia in the 1920s, an uptick from the previous decade. Each instance drew condemnation from civil rights leaders as well as White and Black newspaper editors and White political and business leaders in Virginia. Lynchings called into question White Virginians' comfortable notions about the superior race relations maintained in their state as compared to the Deep South. Black editors and leaders, on the other hand, questioned the validity of the accusations leveled against individuals who were lynched and condemned the general apathy of White Virginians and the failure of White officials to bring those responsible to justice.[40] For White leaders, however, these instances of White mob violence did more harm as an affront to perceptions of law and order than as specific injustices to African Americans. Virginia's anti-lynching law passed in 1928 when it was tied to the efforts of White political and business elites to attract industry and manufacturing to the state. Passage of the law was praised by both Black and White leaders in Virginia and especially touted by White elites as evidence of Virginia's commitment to law and order. In effect, however, no White person was ever convicted under Virginia's anti-lynching law for committing crimes against an African American, in part because individuals were tried before sympathetic White juries in the jurisdictions where such crimes took place.[41]

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[38] J. Douglas Smith, *Managing White Supremacy: Race, Politics, and Citizenship in Jim Crow Virginia* (Chapel Hill: University of North Carolina Press, 2002), 3-17. See also Lauranett L. Lee and Suzanne Slye, *"The Virginia Way": Race, The Lost Cause & The Social Influences of Douglas Southall Freeman* (Richmond: University of Richmond Inclusive History Project, 2021).

[39] Brendan Wolfe, "Lynching in Virginia," Encyclopedia Virginia (accessed May 1, 2023, https://encyclopediavirginia.org/entries/lynching-in-virginia/); Smith, *Managing White Supremacy*, 155-156; W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Chicago: University of Illinois Press, 1993), 140-143; Equal Justice Initiative, *Lynching in America* (Montgomery, AL: Equal Justice Initiative, 2017; accessed May 1, 2023, https://eji.org/reports/lynching-in-america/). Brundage's seminal study counted eighty-six lynchings in Virginia between 1880 and 1930; the Equal Justice Initiative's more recent report enumerated eighty-four lynchings in Virginia between 1877 and 1950. The EJI reported 654 lynchings in that period in Mississippi, which had the highest total.

[40] Smith, *Managing White Supremacy*, 163-169.

[41] Douglas Smith, "Anti-Lynching Law of 1928," Encyclopedia Virginia (accessed December 23, 2022, https://encyclopediavirginia.org/entries/anti-lynching-law-of-1928/); Smith, *Managing White Supremacy*, 156, 176-177.

Historians also agree that instances of lynching and racial terrorism in Virginia were underreported.[42] When the decomposed body of a Black man, Shadrick Thompson, who had been both shot in the head and hanged was discovered in 1932 in nearby Fauquier County, Virginia, a White crowd gathered and set fire to the remains, limiting the physical evidence police could recover. Walter White, then Executive Secretary of the NAACP, was convinced Thompson's death was a lynching, and the Tuskegee Institute included Thompson as one of eleven lynchings that year. The White-owned *Richmond News Leader* reported that it had conducted a considerable investigation and determined there was no evidence of a lynching. The newspaper's editor, Douglas Southall Freeman, defended the investigation and was one of several White elites who persuaded Walter White to reassess his finding, adding: "[H]ere in Virginia we have been very jealous of our good name in avoiding mob violence."[43] Governor Byrd personally intervened in the case, and Thompson's death was officially classified a suicide, enabling White elites to uphold the fiction that the anti-lynching law was an effective deterrent.[44] The suicide argument was used again in subsequent incidents to avoid classifying a death as a lynching. Black newspapers and the NAACP attempted to expose the lies about Black victims that were often manufactured by White people to justify extrajudicial violence.[45] Despite White obfuscations about lynchings, Black Virginians like Crawford faced considerable risk of being falsely accused of violent crimes, denied constitutional due process, and subjected to White supremacist violence.

The NAACP in Its First Two Decades

The NAACP's engagement in extradition cases reflected its broader concern for lynching. From its founding in 1909 as an interracial organization intent on combating racial violence, the NAACP investigated lynchings throughout the country and pursued anti-lynching legislation at the state level.[46] By 1912 the NAACP was compiling its own lynching statistics, and in 1916 the organization established an anti-lynching committee. The campaign against lynching accelerated in 1918 with the hiring of 24-year-old Walter White, a Black insurance salesman from Atlanta, as assistant field secretary. Blond, blue-eyed, and fair-skinned, White could pass as White in the Jim Crow South and conduct undercover investigations for the organization.[47] Over the course of his career with the NAACP, White personally undertook the investigation of over forty lynchings and eight race riots in which African Americans were terrorized and victimized.[48] The year he was hired, the NAACP supported the first anti-lynching bills to be put before Congress, and in 1919 the organization issued a comprehensive report: *Thirty Years of Lynching in the United States 1889–1918*, enumerating the lynching of 3,224 people, of whom 2,522 were Black and 702 were White.[49] The report, compiled by White and other researchers, sought to document and publicize the nation's horrific history of lynchings, debunking the belief that its leading cause was the alleged rape of White women by Black men (rather than minor social transgressions or other alleged causes), chronicling the complicity or at best negligence of officers of the law from whose custody many victims were taken, and exposing the failure of the legal system to bring any of the

[42] NAACP, "History of Lynching in America," NAACP.org (accessed May 1, 2023, https://naacp.org/find-resources/history-explained/history-lynching-america).
[43] Quoted in Smith, *Managing White Supremacy*, 182.
[44] Bradley, 73-74; Smith, *Managing White Supremacy*, 180-184; see also Jim Hall, *The Last Lynching in Northern Virginia: Seeking the Truth at Rattlesnake Mountain* (Charleston, SC: The History Press, 2016).
[45] Smith, *Managing White Supremacy*, 184-185.
[46] Patricia Sullivan, *Lift Every Voice: The NAACP and the Making of The Civil Rights Movement* (New York: The New Press, 2009), 18-19.
[47] According to twentieth-century laws in several states, including Virginia, the "one drop rule" assigned as Black anyone with both White and Black ancestry, but many light-skinned people of multiracial ancestry assimilated into the White majority ("passed" as White) to avoid the effects of racism. In Virginia, as elsewhere in the South, the rule was used to uphold anti-miscegenation laws.
[48] Eric W. Rise, "Crime, Comity and Civil Rights: The NAACP and the Extradition of Southern Black Fugitives," *The American Journal of Legal History* 55:1 (January 2015): 126.
[49] Sullivan, 73-76, 105-106; NAACP, *Thirty Years of Lynching in the United States 1889-1918* (New York: NAACP, 1919), 7.

killers to justice.[50] The NAACP-backed Dyer Anti-Lynching Bill, which sought to make lynching a federal crime, passed the House in 1922 but died in the Senate that November when Southern Democrats employed the filibuster to derail it.[51] The NAACP did not revive its lobbying effort for federal anti-lynching legislation until the Costigan-Wagner Bill arose in 1933.[52]

The NAACP also fought criminal injustice in the court system, winning a landmark US Supreme Court[53] ruling in 1923 in *Moore* v. *Dempsey*, the first case to come before the Supreme Court that directly addressed the treatment of African Americans in the criminal justice systems of the South. The opinion handed the NAACP a major victory in its four-year-long effort to overturn the hasty convictions of some of the Black sharecroppers who were charged with the murder of White people in the 1919 riots of Elaine, Arkansas. *Moore* ruled that the mob atmosphere of the trial denied the defendants due process of law, a guarantee under the Fourteenth Amendment to the US Constitution. Conducting an undercover investigation in Elaine after the trials in 1919, Walter White exposed and publicized an underlying peonage system in Arkansas, identifying as the cause of the riots the violent White suppression of Black sharecroppers attempting to unionize. White pushed the NAACP to get involved in the defense. The legal process bears mentioning because it illustrates the NAACP's general reliance on White lawyers during much of its early history, partly because it was believed that defendants would more likely receive fair treatment with White representation. For the state-level appeals process, Scipio A. Jones, a respected Black lawyer working in Arkansas, was hired as defense lawyer by the Arkansas Conference on Negro Organizations and the NERL. The NAACP followed its usual practice by hiring a prominent local White lawyer to handle the case, former State Attorney General George W. Murphy. Friendly with each other, the two lawyers worked together. When Murphy died suddenly during the retrials, Jones carried on with the cautious approval of the NAACP; however, Moorfield Storey, a renowned White constitutional lawyer who played a major role in the early history of the NAACP and served as its president from its founding, argued the case for the NAACP when it eventually came before the Supreme Court.[54] The brief for the case was largely written by Jones, however, and after the ruling, the NAACP commended him for his role.[55]

The *Moore* victory and the campaign to pass the anti-lynching bill elevated the national profile of the NAACP in the fight for racial justice, but legal redress and anti-lynching publicity represented just two aspects of the NAACP's wide array of pursuits in its first two decades. The organization took on many different challenges rooted in racial segregation and discrimination. The ideology of racial segregation gained legal standing when the Supreme Court ruled in *Plessy* v. *Ferguson* (1896) that racial segregation did not violate the United States Constitution so long as facilities for each race were equal in quality, a doctrine known as "separate but equal." With the election of segregationist Woodrow Wilson to the US presidency in 1912, the NAACP fought against

[50] Assessments similar to those in *Thirty Years of Lynching* continue to appear in the most recent studies of American's history of lynching, such as the Equal Justice Initiative's report and website on *Lynching in America*; for historical theories of Black male sexual aggression and the NAACP's campaign against lynching, see pp. 49-54.
[51] Sullivan, 106-109. The Dyer Anti-Lynching Bill was named for Representative Leonidas C. Dyer, a Republican from St. Louis, Missouri.
[52] Sullivan, 194. The Costigan-Wagner Bill was named for Edward P. Costigan, Democratic senator from Colorado, and Robert F. Wagner, Democratic senator from New York.
[53] The US Supreme Court Building in Washington, DC was designated a National Historic Landmark on May 4, 1987. The designated building was completed in 1935, and thus all civil rights cases mentioned here that predate 1935 would not have been argued at the present building.
[54] August Meier and Elliott Rudwick, "Attorney's Black and White: A Case Study of Race Relations within the NAACP," *The Journal of American History* 62:4 (March 1976): 926; Sullivan, 73, 88, 110; Kenneth W. Mack, "Law and Mass Politics in the Making of the Civil Rights Lawyer, 1931-1941," *Journal of American History* 93 (June 2006): 40; Mack, *Representing the Race: The Creation of the Civil Rights Lawyer* (Cambridge, MA: Harvard University Press, 2012), 29; Klarman, 117.
[55] "U.S. Supreme Court Reversed Itself in Arkansas Case," *Pittsburgh Courier* (Pittsburgh: April 7, 1923), 2; see also "How the Arkansas Peons Were Freed," *Pittsburgh Courier* (Pittsburgh: July 28, 1923), 3.

the rise of segregation and discrimination in both the federal bureaucracy and the framing of federal legislation. The NAACP advocated for Black labor rights, educational funding and opportunities, voting registration and equal access to the ballot, and an end to all-White Democratic primaries. The NAACP also worked to contain the spread of racial segregation and discrimination outside the South, particularly in the realm of residential discrimination, as the Great Migration brought increasing numbers of job-seeking African American migrants from poor and oppressive Southern states to Northern cities. Educational segregation, which was entrenched in the South, increased across the country in the 1920s, and remained a complicated issue for the NAACP, partly because of mixed opinions among African Americans. Black schools provided employment to Black teachers and offered students a more nurturing environment free from overt racial hostility (notwithstanding gross inequities in funding and facilities), but the NAACP objected to segregation in principle, because the practice relied on theories of racial inferiority. During its first two decades, the NAACP also sought to build its membership and financial resources, develop a strong national organization able to mobilize Black activism and turn a national spotlight on racial injustice, and establish active local branches undertaking a variety of grassroots efforts. The hiring of James Weldon Johnson as field secretary in 1916 and the addition of Walter White in 1918 brought African Americans into positions of administrative authority at the NAACP, and by 1920 membership fees from African Americans were supplying most of the organization's income. Since 1909, the NAACP magazine *The Crisis*, edited by W.E.B. Du Bois, offered a chronicle of Black experiences in America, and publicized the many issues in which the organization and its branches were involved.[56]

The NAACP had become involved in extradition cases as early as 1910, primarily out of concern for the personal safety of individual defendants who were fleeing mob violence in the Southern states where they were accused of crimes. By the 1920s the NAACP had developed a strategy in extradition cases that echoed the organization's effort to pass federal anti-lynching legislation. Extradition cases provided the NAACP with another means to bring publicity to the practice of extrajudicial killings as well as "legal lynchings" that occurred in Southern courtrooms at the hands of White juries or lawyers who offered only a sham defense. The extradition strategy sought to exploit different standards of law and justice among the states and enlist the sympathy and pressure of governors and judges who might prioritize individual rights and violations of due process over interstate cooperation. In extradition hearings, NAACP lawyers typically presented three types of evidence: evidence showing that the fugitive was innocent, evidence showing threats of violence made against the fugitive, and evidence of lynchings in the state or county to which the fugitive would be returned. Walter White was the NAACP's leading authority on mob violence and lynchings. He supplied statistics to the lawyers fighting extradition and sometimes testified in person at the hearings.[57]

By 1921 Moorfield Storey was urging the NAACP to pursue extradition cases not only to expose Southern lawlessness but to secure a Supreme Court decision that would have wider effect as a precedent, shifting the focus more toward the federal courts than the uncertain variable of sympathetic governors.[58] Given the magnitude of requests it received for legal aid by the mid-1920s, Walter White reiterated a principle the NAACP legal committee developed as early as 1916: that any case taken by the NAACP must not only involve racial discrimination but have the potential to establish a precedent that would affect the rights of Black

[56] This broad summary of NAACP activities is dependent on studies by Sullivan; Mark Tushnet, *The NAACP's Legal Strategy against Segregated Education, 1925-1950* (Chapel Hill: University of North Carolina, 1987); August Meier and John H. Bracey, Jr., "The NAACP as a Reform Movement, 1909-1965: 'To Reach the Conscience of America,'" *The Journal of Southern History* 59 (February 1993).
[57] Rise, 126-127.
[58] Rise, 121-124.

people.[59] Within its first decade, the NAACP had also learned that the publicity attending high-profile legal campaigns leading to Supreme Court victories offered the best strategy to raise funds and expand membership.[60] The potential of the Crawford case as a "test case" that could rise to the Supreme Court and establish a wider point of law soon became apparent.[61] Crawford's extradition fight was the first extradition case in which the NAACP based its opposition on "a constitutional question that implicated due process and equal protection issues" by focusing on the exclusion of African Americans from grand juries.[62]

The Scottsboro Trials, April 1931

The haste with which the NAACP became involved in George Crawford's extradition fight was motivated in part by its bruising public relations experience following the Scottsboro convictions of early April 1931. An understanding of the Scottsboro cases is essential for appreciating the Crawford case, as events related to both cases unfolded in parallel fashion in 1933. The Scottsboro trials resulted in death sentences for eight of nine young Black men, mostly teenagers, accused of raping two White women on a freight train in Alabama in late March 1931. The case drew international attention to criminal injustice in the South after the trials were rushed to convictions in less than two weeks despite widely perceived false accusations, poor legal representation, all-White juries, and a disruptive and intimidating mob atmosphere. The CPUSA, which had formed in New York a decade earlier and established an affiliate in Birmingham in 1930, closely followed the trials and immediately launched a campaign of protest, including telegrams, letters, and publicity attacking the "legal lynching" of nine "victims of capitalist justice."[63] The organization aroused international pressure by reaching out to Communist offices in Europe.

The CPUSA and its legal arm, the ILD, were then developing mass appeal among African Americans by promoting working class unity over racial division and focusing attention on pressing labor and economic concerns at the dawn of the Great Depression.[64] As a consequence of the national economic crisis, the organization's period of greatest influence occurred during the 1930s and 1940s. By the early 1930s, the CPUSA and the NAACP were in direct competition with each other for African American membership and financial support. The CPUSA had several African Americans in leadership positions and first sent organizers into the Deep South in the late 1920s, focusing on Birmingham, the most industrialized city in Alabama. Organizing in the South was difficult and dangerous work for both organizations because the threat of violence imperiled organizers traveling in the region and made African Americans fearful of associating with either group. To White supremacists, one of the more alarming positions of the CPUSA involved advocacy for a self-determined Black nation-state in the South.[65] The ILD quickly took up the appeals process for the nine defendants in Alabama, who became known as the Scottsboro Boys.

The NAACP was cautious about getting involved in the case and lacked an active local branch near Scottsboro. The national office in New York City methodically sought trial transcripts and additional information, hesitant to take up the defense if the nine young men were guilty. Walter White, who had just become executive secretary of the NAACP in February, turned down an offer from Clarence Darrow, the famous White criminal

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[59] Sullivan, 114. The NAACP legal committee adopted the principle of choosing cases that would "test broad principles" in 1916: Susan D. Carle, "Race, Class, and Legal Ethics in the Early NAACP (1910-1920)," *Law and History Review* 20:1 (Spring 2002): 118.
[60] Carle, 18.
[61] On the NAACP's early strategic development of "test cases," see Carle, 100-103.
[62] Rise, 140.
[63] Quoted in Sullivan, 148.
[64] Sullivan, 147, 154.
[65] Gilbert Jonas, *Freedom's Sword: The NAACP and the Struggle Against Racism in America, 1909-1969* (New York: Routledge, 2005), 136-137.

defense lawyer who had previously assisted the NAACP, to attend a meeting about the case with a representative of the ILD.[66] Darrow eventually declined to get involved. For White and other leaders of the NAACP, the ILD was only interested in propaganda. They believed the ILD's aggressive, class-based attacks on the American legal system would do more harm than good by alienating the White establishment at the expense of Black defendants. The two organizations adopted an antagonistic stance and engaged in mudslinging in the press for years to come, although many African American leaders valued the CPUSA and ILD for their bold and uncompromising support for racial and economic equality. By the time the NAACP sought to undertake the Scottsboro appeals, the ILD had already gained the upper hand. Consequently, the NAACP faced public criticism for its delay and was reduced to the role of bystander as the ILD carried forward one of the most galvanizing civil rights efforts of the era.[67] In October 1932 the US Supreme Court ruled in a landmark decision, *Powell* v. *Alabama*, that the nine Scottsboro defendants had been denied effective counsel at criminal trial because their lawyers had inadequate time to prepare. The Supreme Court overturned their convictions and returned the case to Alabama for retrial. Crawford's arrest in Boston occurred in the interval before the retrials began in March 1933.

The Crawford Case Begins

Crawford's Boston Extradition Hearing, February 7–8, 1933

The NAACP needed a cause that would bring the organization out of the shadows cast by public focus on the Scottsboro Boys and wasted no time becoming involved in the George Crawford case, although the organization possessed few details and a full year had passed since the murders of Ilsley and Buckner were front page news. Shortly after Crawford's arrest in Boston, White wrote a letter to Butler R. Wilson, president of the Boston branch of the NAACP, enclosing an anonymous letter he had received from "a Virginia white woman" who suggested that Agnes Ilsley's brother, Paul Boeing, was responsible for the murders.[68] The day after Crawford refused to sign the confession, Wilson visited Crawford in jail and took up the case. He was joined by former Massachusetts Attorney General J. Weston Allen, a White lawyer. At a hearing in the Massachusetts State House in Boston on January 25, Virginia prosecutor John Galleher presented witnesses and evidence to show that Crawford was the same man sought in Virginia, was a fugitive from justice in that state, and had been seen in Middleburg in the two days before the murders. Wilson and Allen denied that Crawford was a fugitive from justice, and Crawford himself claimed he had not left Boston since his arrival in September 1931. His counsel said they could produce witnesses to prove Crawford was in Boston at the time of the murders, and the hearing was adjourned until February 7.[69]

After discussing the initial hearing with Wilson and Allen, White asked Helen Boardman, a White investigator who had assisted the NAACP over the years and made contributions to *Thirty Years of Lynching,* to make inquiries about the case in Loudoun County, with an eye toward gauging the potential for mob violence if Crawford were extradited. With a letter of introduction, Boardman went to Washington and was given permission by Lowell Mellett, editor of the *Washington Daily News*, to accompany a staff news reporter to conduct interviews with county officials and residents in Leesburg and Middleburg.

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[66] Richard Kluger, *Simple Justice: The History of 'Brown v. Board of Education' and Black America's Struggle for Equality* (New York: Alfred A. Knopf, 1976), 145; Sullivan, 148.
[67] Rise, 138; Sullivan, 145-151.
[68] Walter White to Butler R. Wilson (Washington, DC: Library of Congress, January 18, 1933, Box I:D51, Folder 8, NAACP Records).
[69] "Negro Suspect Fights Against Va. Extradition," *Richmond Times-Dispatch* (Richmond: January 26, 1933), 3; "Further Delay in Crawford Extradition Case," *Daily News Leader* (Staunton, VA: January 27, 1933), 1.

In the 1930s, Leesburg's small downtown, centered around the courthouse, was almost exclusively White and strictly segregated. Shopkeepers who accepted Black customers forced them to come to back doors or side windows. Most of Leesburg's African American population lived in the south end of town across Town Branch Creek, where they maintained their own stores and businesses.[70] Middleburg was equally segregated and had been transformed in the 1920s as the area became a rural retreat for wealthy newcomers who bought up estates where they lived only part of the year. As a bank, a private school, and other businesses emerged to cater to the foxhunting set, local resentments arose, and African Americans were largely squeezed out of the village except as they found employment with wealthy families.[71] Boardman did not interview any African American residents in either place.

On February 2, Boardman gave a deposition at NAACP offices in New York. Parts of her statement corroborated the anonymous letter White had received implicating Paul Boeing, which White had evidently shared with Boardman before she departed. Boardman reported that three of the individuals she spoke with in Middleburg implicated Paul Boeing in the crime, describing him as "queer," "effeminate," and "strange"—a presumed drug addict who was financially dependent on his sister and believed to be under the protection of "the rich estate people" with whom he was friendly. One individual felt that Crawford was being "railroaded to the chair" and that Boeing's rich friends "might go so far as to engineer a lynching" to protect him. Other individuals felt Crawford was certainly guilty. Many with whom she spoke, however, including local officials in Leesburg, felt there was no chance of mob violence if Crawford were brought back for trial.[72] At Boardman's request, Nannie Burroughs, a leading Black educator and civil rights activist in Washington, DC, made inquiries with Black residents of Middleburg. In a letter to White on February 2, Burroughs conveyed additional rumors about Ilsley's brother and indicated that "the majority of the colored people up there do not think that Crawford killed the woman."[73]

The year that had elapsed since the Middleburg murders had given free rein to local speculation, much of which revolved around racial divisions, class resentments, Paul Boeing's unusual and mystifying character, and the intrigue prompted by the apparent lack of motive and the valuables left at the scene of the crime. The rumors involving Boeing led the NAACP to make initial assumptions about the case that strengthened its resolve to defend Crawford but later caused difficulties for the organization when controverting facts emerged just before Crawford's murder trial in Virginia. Based on hearsay relayed by Boardman and Burroughs, the NAACP went so far as to issue a press release directly repeating rumors about Boeing that seemed to imply Crawford was innocent.[74] In an immediate afterthought, the organization sent telegrams asking newspapers to strike references to Paul Boeing.[75] The initial press release drew a stern rebuke from Lowell Mellett, who felt his newspaper had been made party to the "promulgation" of rumors likely to be deemed libelous.[76]

According to newspaper accounts, Boardman's testimony at Crawford's extradition hearing on February 7 "bordered on the sensational," as she repeated the rumors of an alleged coverup of "someone" by rich and influential friends who would be "glad to have Crawford convicted."[77] Boardman also repeated an assertion made to her by retired Brigadier General William Mitchell, a wealthy friend of Agnes Ilsley, about the

[70] Bradley, 36.
[71] Bradley, 9, 37, 41.
[72] Helen Boardman Deposition.
[73] Nannie Burroughs to Walter White, February 2, 1933.
[74] Press Service of the NAACP (Washington, DC: Library of Congress, February 3, 1933, Box I:D51, Folder 8, NAACP Records).
[75] Bradley, 82.
[76] Lowell Mellett to Walter White (Washington, DC: Library of Congress, February 7, 1933, Box I:D51, Folder 8, NAACP Records).
[77] "Claim A Fair Trial is Not Assured Man," *Daily News Leader* (Staunton, VA: February 8, 1933), 1; "Ilsley Case Prober Claims Covering Up," *The Washington Post* (Washington, DC: February 8, 1933), 3.

likelihood of mob violence against Crawford at the time of the crime: "If we had found him then, there would have been a burning."[78] Boardman's testimony provoked consternation in Loudoun County. The *Loudoun Times-Mirror* and the *Richmond Times-Dispatch* reported that Mitchell and others Boardman had interviewed denied the statements attributed to them, saying "[t]he story was fabricated from beginning to end."[79] *The Washington Post* merely noted that Crawford's counsel "sought to show by the testimony of an investigation that Crawford might not obtain a fair trial in Virginia."[80] In addition, Crawford repudiated his alleged confession at the hearing, and the defense counsel presented three witnesses who testified that Crawford was in Boston at the time Ilsley and Buckner were murdered in Middleburg. The NAACP provided a detailed press release of the hearing on February 10, saying that Boardman's "sensational surprise testimony" caught the Virginia attorney—John Galleher—off guard, and that the testimony of one of the Boston alibi witnesses could not be shaken by "the Virginian," who "lost his temper frequently."[81]

Crawford's Petition for a Writ of Habeas Corpus

After considering the case for a week, Massachusetts Governor Joseph B. Ely announced on February 17 that he would grant Crawford's extradition to Virginia, having been assured by "high authority that Crawford would be given a fair trial and every protection of the law."[82] Prepared by Wilson for this possibility, White wired the Boston attorney $25 to apply for a writ of habeas corpus in federal court on Crawford's behalf, preventing Crawford's immediate release to Virginia authorities:

> I discussed this with my associates and we strongly feel that no stone should be left unturned to save Crawford from going back to Virginia or to defer his return as long as possible. The more trouble we cause Virginia and the more we focus the spotlight on this case the more careful Virginia authorities are going to be about railroading him to death. I think we ought to concentrate on the fact that Negroes are not allowed to sit on juries in Virginia, if that is the case.[83]

White promptly sent inquiries to Virginia acquaintances—lawyers and newspaper editors—seeking information about the exclusion of African Americans from juries in Virginia. He asked them to keep his inquiries "confidential as to do otherwise might cause Virginia to call one or two Negroes to jury duty before we can enter habeas corpus proceedings."[84] The writ of habeas corpus was issued on February 27 and the court hearing was set for March 13, a date subsequently postponed to April 24.[85] In letters exchanged with White, Wilson asked for assistance obtaining evidence of Black jury exclusion in Virginia to show a violation of due process, and by March 2 he had targeted the exclusion of African Americans from the grand jury of February 1932 that had indicted Crawford for the murders in Middleburg, as a denial of rights given by the Fourteenth Amendment

[78] Helen Boardman Deposition, 3.
[79] "Gen. Mitchell Denies Threat in Ilsley Case," *Richmond Times-Dispatch* (Richmond, VA: February 9, 1933), 3; see also "Turn in Crawford Hearings Dismays County Residents," *Loudoun Times-Mirror* (Leesburg, VA: February 9, 1933), 1.
[80] "Alibi of Crawford is Supported by 7," *The Washington Post* (Washington, DC: February 9, 1933), 2.
[81] Press Service of the NAACP (Washington, DC: Library of Congress, February 10, 1933, Box I:D51, Folder 8, NAACP Records). Helen Boardman published an account of her investigation and role in the February 7 hearing in "The South Goes Legal," *The Nation* (March 8, 1933): 258-260, making insinuations that Crawford was being framed for a crime he did not commit.
[82] "Ely to Surrender George Crawford," *The Washington Post* (Washington, DC: February 18, 1933), 4.
[83] Walter White to Butler Wilson (Washington, DC: Library of Congress, February 17, 1933, Box I:D51, Folder 8, NAACP Records).
[84] Walter White to P.B. Young, editor of the *Norfolk Journal and Guide* (Washington, DC: Library of Congress, February 17, 1933, Box I:D51, Folder 8, NAACP Records).
[85] Butler Wilson to Walter White (Washington, DC: Library of Congress, February 27, 1933, Box I:D51, Folder 8, NAACP Records; Press Service of the NAACP, March 10, March 24, and March 31, 1933, Box I:D51, Folder 9, NAACP Records).

to the US Constitution.[86] The NAACP referenced Crawford's extradition fight and other "life and death cases throughout the country" in an appeal for funds early that month, publicizing a request to make contact with the "Virginia white woman" who had said Crawford was being made "the 'goat' for someone else."[87] African American newspapers, such as the *Pittsburgh Courier*, carried the details of this press release and donation request.[88]

NAACP Legal Investigation in Leesburg and Professional Jostling, February to April 1933

On March 6, White reached out to Charles Hamilton Houston pleading for assistance, stressing that the organization would pay expenses for his help but could not afford a fee.[89] Houston was a highly educated Washington lawyer and law school instructor, well known in legal circles for his recent work transforming HUSL into an institution accredited by the American Bar Association (ABA) and the Association of American Law Schools (AALS). Houston received a law degree (1922) and doctorate (1923) from Harvard University, practiced in his father's DC law firm, taught at HUSL (where he had served as vice dean since 1929), and was involved in the all-Black National Bar Association (NBA), founded in 1925 in response to the exclusionary policies of the ABA. Houston had been acquainted with White for some years, providing advice and feedback to him.[90] In May 1932 he addressed the NAACP annual convention with a speech promoting cooperation between the NBA and the NAACP, asserting that Black lawyers were central to the ongoing work of securing civil rights, a theme at the core of his professional mission and a frequent source of friction between the NBA and the NAACP, which typically relied on White lawyers for its important cases. That summer, the NAACP sought to mollify Black lawyers by appointing Houston and three other African American lawyers to the national legal committee, which then included only White lawyers.[91] As the Crawford case evolved in early 1933, Houston had not only critical legal background but geographic proximity to Leesburg.

Houston agreed to undertake an investigation of the jury venire—the list of men from whom the grand jury was selected—in Loudoun County. He was accompanied by Edward Lovett, a 1932 HUSL graduate. In the first of numerous investigative visits to Leesburg that year, the two lawyers met with the Honorable John R.H. Alexander, Circuit Judge of the 26th Judicial Circuit of Virginia; Eugene S. Adrian, Sherriff of Loudoun County; and Edward O. Russell, Clerk of the Circuit Court of Loudoun County, in their respective offices.[92] Judge Alexander's office occupied the rear of the courthouse. The clerk's office was in the former Leesburg Academy building, immediately east of the courthouse, which had been acquired for county offices in 1873.[93] Here, Houston and Lovett also reviewed the indictments against Crawford, the grand jury minutes, and the lists of county taxpayers. The *Loudoun Times-Mirror* reported that county officials described the "colored

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[86] Butler Wilson to Walter White (Washington, DC: Library of Congress, February 20, 1933, Box I:D51, Folder 8, NAACP Records).
[87] Press Service of the NAACP 9Washington, DC: Library of Congress, March 3, 1933, Box I:D51, Folder 9, NAACP Records).
[88] "Mystery Woman Being Hunted in Crawford Case," *Pittsburgh Courier* (Pittsburgh: March 11, 1933), 6. Interestingly, a month and a half earlier, the *Pittsburgh Courier* published a detailed article describing George Crawford's Boston confession that contained no skepticism of his guilt, "'Wanted to Get Right with God', Man Bares Story of Dual Virginia Killing," *Pittsburgh Courier* (Pittsburgh: January 28, 1933), 1.
[89] Walter White to Charles Hamilton Houston (Washington, DC: Library of Congress, March 6, 1933, Box I:D51, Folder 9, NAACP Records).
[90] Tushnet notes that Houston gave White advice in 1930 on selecting a lawyer to lead a proposed new NAACP legal program made possible by funds from the American Fund for Public Service, also known as the Garland Fund: Tushnet, 15.
[91] Sullivan, 157, 159.
[92] "Affidavit of Charles H. Houston and Edward P. Lovett on Exclusion of Negroes from Jury Service in Loudoun County, State of Virginia" (Washington, DC: Library of Congress, March 10, 1933, Box I:D51, Folder 9, NAACP Records).
[93] Eric Larson, "Courthouse and Grounds: 263 Years of Loudoun's Court Complex," *Little Gems* [quarterly newsletter of the Loudoun County Clerk of the Circuit Court Historic Records Division], no. 6 (June 2021): 9.

lawyers"—one of whom was identified as a Howard University professor of law—as "courteous and well qualified" and interested in the local jury selection process.[94]

Exclusion of African Americans from jury service during the Jim Crow era was an egregious problem, especially in the South, and manifestly unconstitutional. The right to a trial by jury is a fundamental protection enshrined in the US Constitution. The Sixth Amendment includes the right to an "impartial jury," which has been interpreted as requiring jurors to be unbiased and drawn from a fair cross section of the community.[95] In the United States, such a jury is usually referred to as a "jury of one's peers," although this phrase does not appear in the US Constitution.[96] The equal protection clause of the Fourteenth Amendment to the US Constitution, adopted in 1868, provided the basis for subsequent legal arguments that the exclusion of potential jurors on the basis of race was a denial of the constitutional right to due process. In addition, the Civil Rights Act of 1875 specifically prohibited the disqualification of citizens for grand or petit (trial) jury service in federal or state courts "on account of race, color, or previous condition of servitude."[97] However, although states abandoned statutes restricting jury service to White men, local White officials used other techniques (such as separate jury rolls) to exclude African Americans from jury service and frequently argued that such exclusion was not based on discrimination but on (in their judgment) the lack of African Americans qualified for jury service. For a long time following Reconstruction, the Supreme Court proved to be indifferent to arguments about the illegal exclusion of Black citizens from juries.[98] By the early 1930s, however, Black jury exclusion was increasingly drawing the attention of civil rights advocates.

In March 1933 Houston began to grapple with the jury issues raised by the Crawford case, sending letters, memos, and telegrams to White and Wilson, preparing an affidavit describing his findings in Loudoun County, and evaluating the merits of the case. The affidavit reviewed the Virginia laws that governed the selection of grand juries, listed the names of the White men who comprised the grand jury that indicted Crawford, and summarized interviews with Judge Alexander, Adrian, and Russell. All three men indicated that they had never known a Black man to serve on a jury, that juries were selected from lists of qualified taxpayers, and that it was "just the custom not to put Negroes on the jury." In addition, the affidavit noted that the list of qualified taxpayers in Loudoun County actually consisted of two parts, and that "qualified Negro tax payers listed were set apart from the white tax payers listed, and labeled 'COLORED.'"[99] Houston sent the affidavit to Wilson before March 13, believing it provided sufficient grounds to request a continuance that would give the lawyers more time to prepare for the hearing. Houston sent a copy to White but cautioned him not to give it any publicity, as it would undermine the professional courtesy cultivated with the officials he had interviewed.[100]

Houston also expanded on his ideas about the importance of the case, indicating that if a federal court in Boston freed Crawford "on the ground that the indictment is fatally illegal and violative of due process under the Constitution, then you have a decision which hits discrimination wherever practiced." The impact would be felt

[94] "Negro's Identity to be Challenged in Court Hearing," *Loudoun Times-Mirror* (Leesburg, VA: March 16, 1933), 1.
[95] Stephanos Bibas and Jeffrey L. Fisher, "The Sixth Amendment," National Constitution Center (accessed October 17, 2023, https://constitutioncenter.org/the-constitution/amendments/amendment-vi/interpretations/127).
[96] Constitutional Rights Foundation, "A Jury of Your Peers" (Summer 2021; accessed May 15, 2023, https://www.crf-usa.org/images/pdf/a-jury-of-your-peers.pdf).
[97] United States Senate, Civil Rights Act of 1875 (accessed May 1, 2023, https://www.senate.gov/artandhistory/history/common/image/Civil_Rights_Act_1875.htm).
[98] Equal Justice Initiative, *Race and the Jury: Illegal Discrimination in Jury Selection* (Equal Justice Initiative, 2021; accessed May 1, 2023, https://eji.org/report/race-and-the-jury/).
[99] "Affidavit of Charles H. Houston and Edward P. Lovett."
[100] Charles Hamilton Houston to Walter White (Washington, DC: Library of Congress, March 10, 1933, Box I:D51, Folder 9, NAACP Records).

beyond just Virginia, he wrote, because the South would be faced with fugitives fleeing North "until it abandons its practice of excluding Negroes from grand jury service." Once Black men were admitted to grand juries, Houston felt, "it would be easy to get them on the petit jury."[101]

White saw additional positive implications for the NAACP. On March 11, *The New York Times* ran an article on a motion filed before the retrial of the Scottsboro Boys, in which one of the defense lawyers retained by the ILD sought to quash (or void) the indictments against the nine defendants because "members of their race had been excluded from the grand jury which indicted them," a systematic exclusion in violation of the Fourteenth Amendment to the Constitution.[102] Seeking additional resources to support the Crawford case, White sent the article to Arthur Spingarn, a prominent White lawyer who headed the NAACP's legal committee and whose brother, Joel Spingarn, served as president of the organization. White emphasized the positive "psychological effect" the NAACP would gain if it succeeded in "establishing this principle in the Crawford case prior to the time of final adjudication of the Scottsboro cases."[103] Houston was also mindful of the competitive relationship between the ILD and NAACP, advising White:

> I have a hunch that if you step out of the case, the I.L.D. will take it over. Crawford is a member of the unskilled laboring class, destitute of funds and out of work. The case has certain elements of persecution by members of the idle capitalistic class. And to my mind, it seems made to order for the I.L.D. So having entered the fight, you will have to decide how far you are going to follow it.[104]

A week later, after the hearing was postponed, White commended Wilson for getting official power of attorney from Crawford: "It is most wise to have this to avoid any difficulties in the future. It is a fixed policy of the Communists now to try to horn in on every case the Association enters and try to gain control of it and, unfortunately, some colored people are not wise enough to see what they are letting themselves in for."[105] White still smarted from the decision of the Scottsboro Boys and their parents to cast their lot with the ILD. John Galleher, the Loudoun County prosecutor, inadvertently brought the Crawford and Scottsboro proceedings into direct connection by writing to state attorneys in Alabama requesting any briefs they may have on defending juries that "contained no Negroes." This news received publicity on the very day that the presiding judge in the Scottsboro cases denied the motion of the lead defense lawyer, Samuel Leibowitz, to quash the all-White venire from which the jury for the first retrial was to be selected. According to the *Birmingham News*, the effort involving the Crawford case "was seen by some observers here as the start of a general assault on the white jury principles of Southern states."[106]

Publicity proved problematic for the NAACP. Houston had cautioned White not to publicize details about their strategy for Crawford's habeas corpus proceedings. The national office, however, in order to generate donations and build membership, had a vested interest in keeping its major efforts before the public, particularly if a case

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[101] Charles Hamilton Houston to Walter White, March 10, 1933.
[102] "Backs Jury Policy in Negroes' Trial: Alabama Attorney General is Ready to Defend System Before Supreme Court," *The New York Times* (New York: March 11, 1933), 28, clipping in Washington, DC: Library of Congress, Box I:D51, Folder 9, NAACP Records.
[103] Walter White to Arthur Spingarn (Washington, DC: Library of Congress, March 11, 1933, Box I:D51, Folder 9, NAACP Records).
[104] Charles Hamilton Houston to Walter White (Washington, DC: Library of Congress, March 12, 1933, Box I:D51, Folder 9, NAACP Records).
[105] Walter White to Butler Wilson (Washington, DC: Library of Congress, March 22, 1933, Box I:D51, Folder 9, NAACP Records).
[106] "Negroes' Defense Motion to Quash Denied by Horton," *Birmingham News* (Birmingham, AL: March 31, 1933), 1. The NAACP issued a press release about Gallaher's request that same day when similar content appeared in *The New York Times* (Washington, DC: Library of Congress, Press Service of the NAACP, March 31, 1933, Box I:D51, Folder 9, NAACP Records).

had the potential to rise to the Supreme Court.[107] White described the Crawford case to Houston as the NAACP's "cause célèbre."[108] The NAACP press release issued March 17 touched on several aspects of the case, including a visit to the national office from John Boeing, brother of Agnes Ilsley and Paul Boeing. In the press release, Boeing was reported to have asked whether the NAACP had evidence of who committed the crime, since the organization seemed to believe Crawford was innocent. A detail left out of the press release, which White reported privately to Wilson, indicated that Boeing believed Crawford guilty on the basis of a piece of paper in Crawford's handwriting found in Ilsley's abandoned car. The slip of paper contained an address near Middleburg where Crawford had stayed two nights before the murders.[109] The NAACP did not pursue this lead at the time, as the organization was primarily interested in the constitutional jury question and believed the alibi witnesses in Boston. The press release went on to note that Houston and Lovett had conducted a "legal investigation" in Loudoun County and would testify at Crawford's habeas corpus hearing, along with Helen Boardman. Crawford's Boston lawyers would present the accumulated evidence, the notice stated, and even "put the Virginia attorney on the stand for questioning." Without openly mentioning the jury exclusion issue, the press release emphasized the national significance of the case: "Sensational evidence which may affect the whole system of justice for Negroes in the South and figure in all extradition cases hereafter is expected to be introduced."[110] The press release drew an angry rebuke from Crawford's defense lawyer in Boston, Butler Wilson:

> I don't try my cases in the newspapers.... If it comes to the attention of the Court that prosecuting the Crawford case is merely incidental to N.A.A.C.P. propaganda we will be out of Court with a rush and Crawford will go back to Virginia....
>
> If you have got a fool killer in your office set him to work on the person who had published in your news letter [sic] this week that we are going to put the District Attorney from Virginia on the witness stand.
>
> Why don't you tell them the whole case and be done with it. I am out of patience with this sort of thing.[111]

Although White and the NAACP hoped that national publicity in the Crawford case would enhance the reputation of the organization against the backdrop of the ongoing Scottsboro cases, the individual lawyers involved were also concerned with their own professional reputations. The potential benefits to reputation and livelihood generated by high-profile civil rights cases were self-evident to lawyers in the 1920s and 1930s, although the work was often pro bono and the NAACP had a history of relying on prominent White lawyers for its important cases.[112] Wilson sought to retain control of the Crawford case as the national office became more involved; however, the potential for the Crawford case to establish a federal precedent against Black jury exclusion began to grow in Houston's mind and he followed up his initial investigative work in Leesburg by telling White he was willing to work on the case without fee, even though criminal law was not his specialty. If

[107] Carle, 117, argues that the NAACP recognized "test case litigation" as its most powerful strategy "to achieve publicity, organization building, and litigation goals."
[108] Walter White to Charles Hamilton Houston (Washington, DC: Library of Congress, March 16, 1933, Box I:D51, Folder 9, NAACP Records).
[109] Walter White to Butler Wilson (Washington, DC: Library of Congress, March 7, 1933, Box I:D51, Folder 9, NAACP Records).
[110] Press Service of the NAACP (Washington, DC: Library of Congress, March 17, 1933, Box I:D51, Folder 9, NAACP Records).
[111] Butler Wilson to Roy Wilkins, Assistant Secretary, NAACP (Washington, DC: Library of Congress, March 23, 1933, Box I:D51, Folder 9, NAACP Records).
[112] Mack, "Law and Mass Politics," 40.

White felt Houston could be of better service "than any other available person," Houston indicated he was "willing to go the limit in the case—and if necessary take full responsibility for trying it."[113]

The competitive jostling, and perhaps White's admiration for Houston, was evident to Butler Wilson in Boston. Through White, Houston had requested from Wilson a notarized power of attorney from Crawford in order to conduct investigations in Leesburg, but Wilson refused, acquiring power of attorney from Crawford for himself.[114] Houston and Lovett made a trip to Boston in late March for the rescheduled habeas corpus hearing, which was ultimately postponed again. Wilson had just acquired exclusive power of attorney and Houston later noted that Wilson made a point of informing the Washington lawyers that his (Wilson's) interests in the case were protected, and he refused to let Houston and Lovett freely question Crawford. As Houston later recollected, Wilson discouraged Houston's and Lovett's further involvement in researching habeas corpus law for Crawford's hearing, although co-counsel J. Weston Allen welcomed their assistance. Houston and Lovett sent Wilson and Allen memoranda on habeas corpus legislation and previous cases that might help Crawford. Houston described the research as "long and laborious," noting that Crawford's case was the first in which "rendition had been resisted because the indictment had been drawn by a grand jury from which Negroes had been unconstitutionally excluded."[115] A young Thurgood Marshall, then one of Houston's top law students, assisted with the legal research assembled for Crawford's hearing, gaining formative experience through the exposure to Houston.[116]

Houston and Lovett again traveled to Boston for the April 24 hearing, having contributed to the legal brief for the case, and they sat at the counsel table but were given no official recognition by Wilson and Allen, a circumstance Houston later related with some bitterness. These recollections appeared in a lengthy history of the case Houston wrote in May 1934, after controversial fallout from Crawford's eventual Virginia trial put Houston and the NAACP on the defensive.[117] The final disposition of the Crawford case, as described below, not only resulted in bitter feelings on Wilson's part but brought about a rift between Helen Boardman and White and was the immediate catalyst for W.E.B. Du Bois's resignation as editor of *The Crisis*, although other, long-simmering differences of opinion between Du Bois and leaders of the organization were the main cause of his departure.[118]

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[113] Charles Hamilton Houston to Walter White, March 12, 1933.

[114] Charles Hamilton Houston to Walter White, March 9, 1933. Houston later noted that Wilson's reason for not obtaining power of attorney for Houston from Crawford was that he did not want Virginia authorities to obtain a sample of Crawford's handwriting: Charles H. Houston, Leon A. Ransom, Edward P. Lovett, and James G. Tyson, "Confidential Report on *Commonwealth of Virginia vs. George Crawford*" (Cambridge, MA: Houghton Library, Harvard University, Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 3, May 28, 1934), 13.

[115] Houston et al., 13-14. See also Rise, 140, for the novelty of this argument.

[116] Mark Tushnet, *Thurgood Marshall: His Speeches, Writings, Arguments, Opinions, and Reminiscences* (Chicago, IL: Lawrence Hill Books, 2001), xix, 428; Juan Williams, *Thurgood Marshall: American Revolutionary* (New York: Three Rivers Press, 1998), 58.

[117] Houston et al., 13-14.

[118] The original draft of an article critical of the Crawford trial written by Martha Gruening and Helen Boardman in April 1934 and submitted to *The Nation* editor Freda Kirchwey was shared with Butler Wilson. The article claimed that Walter White and the NAACP's legal committee had brought Houston onto the case "over the heads of the two attorneys" in Boston, and that the Boston branch of the NAACP resented this discourtesy: Martha Gruening and Helen Boardman, "The NAACP Goes Southern?" (Cambridge, MA: Houghton Library, Harvard University, Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 1, April 1934), 3. After reviewing the draft, Wilson wrote that he saw "nothing in it that I wish changed": Butler Wilson to Martha Gruening (Cambridge, MA: Houghton Library, Harvard University, Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 1, April 27, 1934). The Gruening and Boardman article was eventually published in an altered form because Kirchwey found the authors' tone "pugnacious" and accusatory: Helen Boardman

The Southern Courtroom

Two trials in Southern states in early 1933—the first Scottsboro retrial in Alabama and the Angelo Herndon trial in Atlanta, Georgia—illustrate the overt racial prejudice and systemic injustice that Black defendants (and in the *Herndon* case, Black lawyers) could face in criminal trials held in Southern courtrooms. The two cases serve as a backdrop against which to appreciate more fully how unprecedented *Crawford* was in terms of the suppression of open racial antagonism in a Southern criminal trial, albeit in the peripheral rather than the Deep South. The two cases also demonstrate the legal strategies and ideology-driven publicity tactics of the ILD. The ILD openly attacked the American legal system as an instrument of the capitalist upper classes, sowing animosity and distrust in legal and political circles while appealing to the American masses, including African Americans, who suffered acute economic hardship during the Great Depression. The NAACP, facing its own internal debates regarding the efficacy of litigation over direct action as a means to improve the lives and economic well-being of African Americans, deliberately avoided the inflammatory rhetoric and mass agitation of the ILD, using the ILD as a foil against which to cast itself as the more respectable and legitimate civil rights organization. The irreproachable professionalism and technical expertise displayed by the NAACP's lawyers during George Crawford's eventual trial in Virginia served as a deliberate counterpoint to the first Scottsboro retrial and were part of a broad strategy to cultivate support within the moderate White legal establishment.

The First Scottsboro Retrial, March 27 to April 9, 1933. As Crawford awaited his April 24 habeas corpus hearing, the spectacle of the first Scottsboro retrial commenced in Decatur, Alabama. The New York-based ILD retained Samuel Leibowitz, a White lawyer who was not a Communist but a Democrat from New York, to increase the group's credibility in the Southern courtroom. In preliminary motions, Leibowitz established grounds for an appeal through his attempts to quash both the grand jury that had indicted the Scottsboro Boys and the venire for the petit jury assembled for the trial of Haywood Patterson, the first defendant to be retried. Both motions to quash were denied.

Amidst threats of lynching and mob violence, the defendants and defense counsel had National Guard protection throughout the trial. Ruby Bates, one of the young women who had accused the Black youths of rape, recanted her earlier testimony, saying she had been coerced by the other young woman who had made the accusations, Victoria Price. The presiding judge, James Edwin Horton, did not allow Leibowitz to impugn the characters of the young women by introducing evidence that both had worked as prostitutes in Tennessee. Under cross-examination by state attorney general Thomas Knight, Jr., who asked where Bates had gotten her stylish new clothes, Bates responded that the Communist Party had paid for them, damaging her credibility. During the trial, prosecutors employed anti-Semitic remarks about Leibowitz and implied that various witnesses for the defense had been bought by the Communist Party. In what *The New York Times* called "a frank appeal to local pride, sectionalism, race hatred, and bigotry," County Solicitor Wade Wright made a closing statement that exhorted the jury to "show them that Alabama justice cannot be bought and sold with Jew money from

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and Martha Gruening, "Is the N.A.A.C.P. Retreating?" *Nation* (June 27, 1934): 730-732; Freda Kirchwey to Morris Ernst (Cambridge, MA: Houghton Library, Harvard University, Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 1, April 17, 1934). On Du Bois and the Crawford case, see W.E.B. Du Bois, "The Crawford Case," *The Crisis* 41 (May 1934): 149; letters exchanged between W.E.B. Du Bois and Martha Gruening (Amherst, MA: W.E.B. Du Bois Papers [MS 312], Special Collections and University Archives, University of Massachusetts Amherst Libraries, May through July 1934, accessed July 6, 2022, https://credo.library.umass.edu/view/full/mums312-b070-i278). On Du Bois's resignation as *Crisis* editor, see Sullivan, 202. Du Bois's difficulties with the NAACP included personal differences with White and Du Bois's advocacy for a form of "self-dependence" within Black communities and Black institutions, which appeared to other leaders as an acceptance of segregation.

New York."[119] Judge Horton refused Leibowitz's request for a retrial, and the jury returned a guilty verdict sentencing Patterson to death a second time. Frustrated, Leibowitz made strident remarks of his own:

> This is a black page in the history of American civilization. An occasion where once more twelve citizens of Alabama, swayed by bigotry and prejudice and harkening to the yelps of a bombastic Ku Klux who hurled mud at the Jew and the people of the great State of New York to sympathetic ears in the court-room crowded with lantern-jawed morons and lynchers, brought in a verdict that is a mockery of justice.[120]

The *Pittsburgh Courier* examined how the case was being covered in various newspapers, suggesting that although many editors across the South denounced the verdict as "rank injustice," others blamed it on "outside lawyers" and the ILD. The *Chattanooga News* blamed both sides: "Indeed, it has become such a mixture of propaganda and prejudice that we cannot conceive of a civilized community taking human lives on the strength of the miserable affair." The *Tuscaloosa News* argued that "[r]egardless of the raving grand-stand play of defense lawyer Leibowitz and the hubbub raised by Communistic organizations of the East, we in Alabama know that the Negro Patterson received a fair and honest trial."[121]

The *Daily Worker*, the New York-based newspaper of the CPUSA, devoted most of its front page on April 12 to the "Scottsboro Lynch Verdict," proclaiming that "American capitalism from the industrial masters of the North to the plantation slave drivers of the Southern American Congo, bares its hideous brutality."[122] An account of Leibowitz's return to New York the previous day quoted him as saying, "I am not a Communist, but...had it not been for the International Labor Defense, those nine Negro boys would be in their coffins now."[123] The *Daily News* reported that a crowd of "[t]hree thousand colored people staged a riotous welcome" for Leibowitz and 25,000 African American residents of Harlem signed up for a protest march on Washington.[124] The ILD announced mass protest demonstrations planned for New York, Chicago, and Philadelphia, indicating its intention to appeal the case.[125]

In addition, the *Daily Worker* found space on its front page to attack the NAACP, lambasting the organization for commending "the firmness and fairness with which Judge Horton conducted the trial," and accusing NAACP leaders of being "good and faithful servants" of "the ruling class" who are "doing everything in their power to aid Southern lynch justice." The paper ridiculed a statement from the NAACP carried by *The New York Times* the previous day, which claimed that the verdict would have been different had the Communist Party not entered the case: "[T]he only remaining hope for the boys is to remove from the already overwhelming prejudices which militate against them the additional burden of Communism."[126]

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[119] "Nation Aroused over Travesty on U.S. Justice," *Pittsburgh Courier* (Pittsburgh: May 13, 1933), 2.
[120] "Nation Aroused over Travesty on U.S. Justice." Leibowitz used even more strident terms to describe the Alabama jurors upon his arrival in NYC after the trial: "Riotous Throng Hails Leibowitz," *Brooklyn Times Union* (Brooklyn, NY: April 11, 1933), 3.
[121] *Chattanooga News* and *Tuscaloosa News* quoted in "Nation Aroused over Travesty on U.S. Justice."
[122] "New York Workers Will Score Scottsboro Lynch Verdict Today at Union Square meet at 6 P.M.," *Daily Worker* (New York: April 12, 1933), 1.
[123] "'Boys Saved by ILD' – Liebowitz [*sic*]," *Daily Worker* (New York: April 12, 1933), 1.
[124] "Cops Club Paraders Greeting Leibowitz," *Daily News* (New York: April 1, 1933), 3.
[125] "Chicago and Other Cities Prepare Demonstrations," and "Negro Witnesses Terrorized by Southern Press," *Daily Worker* (New York: April 12, 1933), 1.
[126] "The N.A.A.C.P. and the Lynch Verdict," *Daily Worker* (New York: April 12, 1933), 1.

The *Birmingham Reporter* noted that "national and international protests...poured into Alabama and the Capital of the nation" after the ILD "called for wires and protests."[127] In this polarized atmosphere, Judge Horton postponed the remaining trials. Thousands of protesters marched in Washington on May 8, some carrying signs reading, "Down with legal lynching."[128] By June 22 Judge Horton set aside Haywood Patterson's conviction and granted a new trial, a decision that likely cost him reelection the following year.[129] Patterson's third trial began in November.

The Angelo Herndon Trial, January 1933. Although the Scottsboro Boys comprised the main focus of the May 1933 march in Washington, the protesters publicized other recent miscarriages of justice involving Black defendants, including the conviction of Angelo Herndon in Atlanta, Georgia, in January. Widely covered in newspapers across the country, Herndon's trial not only demonstrated racism against the Black defendant but exposed the hostility Black lawyers could face in a Southern courtroom, a factor that influenced the NAACP's longstanding reliance on White lawyers. Herndon was charged with insurrection for distributing Communist literature at a large demonstration for unemployment relief at the federal courthouse in Atlanta on June 30, 1932. The insurrection charge was based on ideas advanced by the CPUSA about Black self-determination in the South and represented an effort by the White establishment to suppress both Communist and African American activism. For his defense, the ILD hired a White lawyer, H.A. Allen, and two Black lawyers, Benjamin J. Davis, Jr. (a Harvard Law School graduate of 1929) and John H. Geer. Allen withdrew from the case so as not to appear with Black co-counsel. During the trial, the defense lawyers endured disrespectful forms of address and flagrant use of racial epithets over Davis's objections. The presiding judge read a newspaper while Davis argued that possession of Communist literature readily available in public libraries did not amount to evidence of an attempt to overthrow the government.[130]

Herndon, a young Communist Party activist, spoke in his own defense, telling the court that the trial was an effort by "the capitalist class to stir up all this race hatred between Negro and white workers" and telling the courtroom to "do anything you like with me....There are thousands to take my place."[131] Inexperienced in criminal proceedings and disillusioned of the prospects for cross-racial professionalism in the courtroom, Davis was drawn to Herndon's radical leftist views. He joined the Communist Party the night before his closing argument. Dropping the restrained and respectful demeanor that was standard practice among Black lawyers, Davis charged that the State "has waved the bloody flag of racial prejudice and shouted 'Nigger, Nigger, Nigger,' in an effort to send this man to his death because he is black."[132] He further alienated the judge and jury by asking whether charges of insurrection had ever been brought in connection with the "lynching of 3,265 Negroes in the South since 1885," saying: "That...looks to me like an attempt to overthrow the government of the United States."[133] Herndon was found guilty and sentenced to eighteen to twenty years in prison, a sentence regarded as "merciful" since the death penalty was sought.[134] Herndon's appeals process was subsequently

[127] "Death Verdict is Scored," *Birmingham Reporter* (Birmingham, AL: April 15, 1933), 1.
[128] "Scottsboro Petitioners Leave White House Shouting, 'Raw Deal,'" *Baltimore Sun* (Baltimore: May 9, 1933), 1.
[129] "Verdict of Jury Set Aside Today By Judge Horton," *Decatur Daily* (Decatur, AL: June 22, 1933).
[130] Paul Finkelman, "Not Only the Judges Robes Were Black: African-American Lawyers as Social Engineers," *Stanford Law Review* 47 (November 1994): 203; Mack, *Representing the Race*, 168-170.
[131] Mack, *Representing the Race*, 170; "Convicted Negro 'Red' to Appeal," *Macon Evening News* (Macon, GA: January 19, 1933), 5.
[132] "Colored Red Gets 18 Years in Chain Gang," *Daily News* (New York: January 19, 1933), 17; Mack, "Law and Mass Politics," *Journal of American History* 93 (June 2006): 51-52.
[133] "Convicted Negro 'Red' to Appeal," 5.
[134] Virginius Dabney, "What is the Matter with Georgia?" *Richmond Times-Dispatch* (Richmond, VA: January 29, 1933), 20.

taken up by White ILD lawyers and twice went to the US Supreme Court before he was freed in *Herndon* v. *Lowry* (1937), which held that Georgia violated Herndon's right of free speech.[135]

Despite the open antagonism between the NAACP and the ILD, Charles Hamilton Houston held the middle ground, valuing pragmatism over ideology.[136] He maintained a friendship and exchanged letters with ILD officials and lawyers, and had sent periodic contributions to the ILD since at least 1931, even indicating that his donation was not just for the Scottsboro case but for "any case the I.L.D. is defending."[137] At Houston's invitation, William Patterson, the African American national secretary of the ILD, agreed to speak to HUSL students on May 9, 1933, the day after the Scottsboro march arrived in Washington, DC.[138] In a speech the following year, Houston identified Communism as one of the three most significant recent events to have "affected Negro psychology" because it offered full brotherhood instead of paternalism and inspired "the masses with a sense of their raw, potential power" through "mass resistance and mass struggle."[139] As historian Patricia Sullivan notes, Houston admired the Communists' ability to engage the masses in direct action and tried to diminish "the rancor" between the two groups, but he "believed that the NAACP provided the machinery best suited to his vision for securing long-term change."[140] As eventual lead defense counsel in *Crawford*, Houston sought success by cultivating a very different courtroom atmosphere from what had characterized the Scottsboro proceedings and the *Herndon* trial. In this effort he was assisted by Virginia's political environment and codes of gentility that worked to obscure the blatant racism more readily evident in the Deep South.

Crawford's Petition for Habeas Corpus and Its Aftermath

Judge Lowell's Ruling, April 24, 1933. Amid the hue and cry that followed Haywood Patterson's second trial, Crawford's habeas corpus hearing took place on April 24 in Federal District Court in Boston. In an astonishing turn of events, Judge James A. Lowell not only granted the writ of habeas corpus but made pointed comments about Virginia's customary selection of all-White juries that were widely publicized across the county in both White-owned and African American newspapers. The ruling handed the NAACP an immense victory and public relations coup. Wilson and Allen had argued that Crawford's indictment was illegal because the grand jury excluded African Americans. They presented evidence gathered by Houston and Lovett in Loudoun County showing that there were African American taxpayers who were qualified to serve as jurors. They also obtained an agreement by Judge Alexander of the 26th Judicial Circuit of Virginia and both the clerk of the Loudoun County circuit court and the county sheriff that "they would testify that they had never known of any black man to be called for jury service in that county; that they had never investigated the qualifications of any

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[135] David L. Hudson, Jr., "Black History Month: Remembering Angelo Herndon" (Washington, DC: Freedom Forum Institute, February 23, 2011, accessed September 23, 2022, https://www.freedomforuminstitute.org/2011/02/23/black-history-month-remembering-angelo-herndon/); John R. Vile, "Herndon v. Lowry (1937)" (First Amendment Encyclopedia, accessed September 23, 2022, https://mtsu.edu/first-amendment/article/268/herndon-v-lowry).

[136] Gordon Andrews, *Undoing Plessy: Charles Hamilton Houston, Race, Labor, and the Law, 1895-1950* (Newcastle upon Tyne: Cambridge Scholars Publishing, 2014), 156, 135-141.

[137] Charles Hamilton Houston to William Patterson (Washington, DC: Moorland-Spingarn Research Center (MSRC), Howard University, January 6, 1933, Charles Hamilton Houston Collection, Box 163-26, Folder 7). Folder 8 in this box also includes correspondence with Samuel Leibowitz.

[138] William Patterson to Charles Hamilton Houston (Washington, DC: MSRC, Howard University, April 21, 1933, Charles Hamilton Houston Collection, Box 163-26, Folder 7).

[139] Charles Hamilton Houston, "An Approach to Better Race Relations," National Y.W.C.A. Convention, Philadelphia, PA, May 5, 1934 (copy on file, Washington, DC: Houghton Library, Harvard University, Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 2).

[140] Sullivan, 162; see also Genna Rae McNeil, *Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights* (Philadelphia: University of Pennsylvania Press, 1983), 214-215.

for jury service; that they had never served a writ on one for such service or heard of anyone else doing so, and that they had never heard or seen a Negro so serve."[141] The defense concluded that Virginia "invokes the Constitution in order to give effect to its own defiance of the Constitution."[142] In his ruling, Judge Lowell contended that "[t]he Virginia system of choosing jurors is unconstitutional. The whole thing is a piece of stage play."[143] He continued: "If the case is tried in Virginia and sent to the supreme court it will just be sent back. Why should I send a Negro from Boston to Virginia when I know, and everybody knows, the supreme court will say the trial is illegal?"[144]

The effect of Lowell's decision, *The Boston Globe* observed, "was to short-cut the route of one particular criminal case to the Supreme Court of the United States."[145] Among the legal precedents assembled by the defense, Lowell was particularly persuaded by *Neal* v. *Delaware* (1881), in which the US Supreme Court overturned the rape conviction of William Neal on grounds that the petit jury at his trial was composed solely of White men in violation of the guarantees of the Fourteenth Amendment.[146] Lowell said that although Virginia statutes did not exclude African Americans from jury service, "in practice they were never drawn."[147] Although Lowell granted the writ, Crawford remained in custody in Boston. Assistant Attorney General Stephen D. Bacigalupo, representing Governor Ely of Massachusetts, filed an appeal with the US Circuit Court of Appeals and bail was set at $25,000.

Lowell's ruling made headlines across the country and caused an immediate uproar in the South. The *Afro-American* hailed Judge Lowell's decision, saying the NAACP had "scored a smashing victory over the South's lily-white jury system."[148] On April 26, however, US Representative Howard Smith (Democrat) of Virginia laid seven articles of impeachment against Judge Lowell before the House of Representatives, charging that the Massachusetts jurist "did knowingly and wilfully [*sic*] violate his oath to support the constitution."[149] The House voted 209 to 150 to order the judiciary committee to conduct an inquiry into Judge Lowell's conduct, bringing even more publicity to the case.

The *Pittsburgh Courier* offered its readers a digest of varied newspaper opinions regarding this dramatic turn of events, citing first *The New York Times*, which suggested Judge Lowell would have been wiser to send Crawford to Virginia and let the usual appeals process play out, although the newspaper derided the "sudden devotion of the [House] majority to a Constitution which they have been kicking in the head so industriously."[150] By contrast, the *News and Observer* of Raleigh, North Carolina, placed the blame squarely on Alabama and the spectacle of the Scottsboro cases, which "imperiled the quiet relations of the races in the whole South in an outrageous case which is itself a mockery of the South's precious doctrine of white preservation of Southern womanhood." [151] The *Richmond News Leader* of Virginia also attributed Judge Lowell's decision to the publicity surrounding the Scottsboro cases, but suggested that "if Virginia's failure to

[141] Schuyler, "Judge Frees Crawford in Ilsley Murder; Hits South's Jury System," 1.
[142] Ibid.
[143] Ibid.
[144] Ibid.: see also "Biased Jury Selection is Issue in Case," *Pittsburgh Courier* (Pittsburgh: May 6, 1933), 7; "U.S. Judge Refuses Crawford's Return," *The Washington Post* (Washington, DC: April 25, 1933), 5.
[145] "Negro Held in Extradition," *The Boston Globe* (Boston: April 25, 1933), 12.
[146] Schuyler, "Judge Frees Crawford in Ilsley Murder; Hits South's Jury System," 1; Rise, 144; "Crawford Case to High Court as South Roars at Decision," *Washington Tribune* (Washington, DC: May 5, 1933), 3.
[147] "Biased Jury Selection is Issue in Case," 7.
[148] George S. Schuyler, "Boston Judge Won't Send Man Back to Dixie," *Afro-American* (Baltimore: April 29, 1933), 2.
[149] "Impeachment of Judge Lowell is Demanded," *Daily Times* (Salisbury, MD; April 26, 1933), 1.
[150] Quoted in "House Orders Inquiry," *Pittsburgh Courier* (Pittsburgh: May 6, 1933), 7.
[151] Ibid.

summon Negro jurors is to render the extradition of fugitive criminals difficult, then the just and candid thing to do is to have Negro jurors in cases where they can properly serve."[152]

On May 7, the *Daily News* in New York City published a four-page spread on the events and issues of the Crawford case, reflecting on the historical importance of the ruling and suggesting that "the Lowell decision in the Crawford case will be as far reaching as the famous Dred Scott decision of 1857." In *Dred Scott* (1857), the Supreme Court ruled that African Americans could not claim US citizenship or bring suit in federal court. The *Daily News* observed that although African Americans like Dred Scott had for a long time found "little relief" in the "highest court of the land," the recent Supreme Court decision to grant new trials in the Scottsboro case "represents a very different attitude."[153] The next day, *Time* magazine ran an article entitled "Yankee Common Sense," saying that Lowell's decision had made George Crawford almost overnight "a national headline character potentially as famous as that other obscure Negro, Dred Scott."[154] The same theme was picked up in *The Nation* and in *News-Week*, and within the next few weeks, illustrated articles appeared across the country calling Crawford's extradition fight the "New 'Dred Scott' Case" and publicizing the NAACP's leadership in the endeavor (Figure 13).[155]

In a more quietly reported aspect of the habeas corpus hearing, the May 7 *Daily News* alluded to a shift in the composition of Crawford's defense counsel. Butler Wilson, the "colored lawyer who first undertook Crawford's defense," had stepped aside at the hearing in favor of co-counsel J. Weston Allen, out of fear that using "a colored attorney to plead Crawford's case might have an unfavorable reaction on his case in Virginia." Wilson and the NAACP, the article reported, were "eager to avail themselves of the legal resourcefulness and the prestige of Allen in carrying the case to the United States Supreme Court."[156] Wilson's subordinate role aligned with standard practice at the NAACP's national office, which sought highly distinguished White lawyers, like Allen, to plead its important cases.

Hale *v.* Crawford, *U.S. Court of Appeals for the First Circuit, May 23, 1933.* The Massachusetts state appeal—*Hale* v. *Crawford*—headed to the US Court of Appeals for the First Circuit on May 23. On June 16 that court handed down an opinion that reversed Judge Lowell's ruling and ordered Crawford to be sent to Virginia to stand trial. The unanimous opinion found that "the constitutionality of the method of selecting jury members was a matter to be questioned first in the State courts of Virginia, rather than in a federal court on extradition proceedings." However, the judges agreed that the selection of the grand jury that indicted Crawford showed "discrimination against Negroes" and "was an infringement of his rights guaranteed by the 14th Amendment."[157]

NAACP Publicity and the Appeal to the US Supreme Court, June 16 to October 15, 1933. After the reversal, the NAACP announced its intention to appeal the case to the US Supreme Court, which would not come back

[152] Ibid.
[153] "What is Justice in This Case," *Daily News* (New York: May 7, 1933), 9.
[154] "Yankee Common Sense," *Time* (May 8, 1933): 14.
[155] For discussion of coverage in national news magazines, see "Eyes of Nation Focused on Crawford Hearing, May 23," *Pittsburgh Courier* (Pittsburgh: May 13, 1933), 2. For other examples of articles that appeared nationwide, see "Historic Legal Battle Looms in Negro Case: New 'Dred Scott Case' Probable as Judge Refuses to Give Up Prisoner," *Chippewa Herald-Telegram* (Chippewa Falls, WI: May 16, 1933), 16; "New 'Dred Scot Case' Seen in Fight on Negro's Extradition to Virginia," *The Missoulian* (Missoula, MT: June 4, 1933), 20. The content for these articles came from the National Enterprise Association, a syndicated newspaper service.
[156] "What is Justice in This Case," 9.
[157] "Crawford Case to be Appealed," *The Boston Globe* (Boston: June 17, 1933), 3. In January 1934, the *Yale Law Journal* published an assessment of *Hale* v. *Crawford*, taking a position that favored Judge Lowell's ability to intervene on the basis of constitutional issues. "Race Discrimination and Interstate Rendition: The Crawford Case," *Yale Law Journal* 43 (January 1934): 444-453.

into session until October. The organization began a publicity campaign and membership drive. Over the course of ten days in June, White, Houston, and Lovett traveled through Virginia, making stops in Richmond, Petersburg, Hampton, Norfolk, Roanoke, and Alexandria.[158] In Richmond, White, Houston, and Lovett shrewdly met with Virginius Dabney of the *Richmond Times-Dispatch* and Douglas Southall Freeman of the *Richmond News Leader*, White editors at the two Virginia newspapers with the largest circulations. These newspapers eventually provided some of the most detailed coverage of Crawford's Leesburg trial. The two editors often appeared sympathetic to the NAACP and the needs of African Americans. However, Freeman never shed his belief in the inherent superiority of White people, and both editors subscribed to the "Virginia way" when it came to managing race relations—condemning White violence and rank injustices against African Americans to project an image of gentility while continuing to uphold segregation.[159]

An account of White, Houston, and Lovett's speaking engagement in Norfolk described their presentation as part of "the new program of the N.A.A.C.P., to interpret to the man on the street [w]hat these legal battles are all about in order to develop that public opinion without which the struggle for citizenship rights can only proceed half-heartedly."[160] The speaking tour was an early demonstration of the public outreach and education program that Houston would eventually pursue as the NAACP's first special counsel. Houston not only used football metaphors to describe the Crawford effort but emphasized how civil rights cases taking place elsewhere should be the concern of African Americans everywhere. He outlined the several battles then engaging the NAACP and explained how the organization spent money, urging people to "rally to the support of the N.A.A.C.P." as well as to "let their congressmen and senators know how they feel" about the Crawford case.[161]

He also described the jury research he and Lovett conducted in Loudoun County, observing, "The common law says that where Ngroes [*sic*] constitute 5 per cent of the population, over a period of years 5 per cent of the jurors should be Negroes, but we had to prove...that Negroes were not called for jury duty." He further suggested they were able to obtain important documents in Leesburg because of their openness with Loudoun County officials about who they were and what evidence they sought. As a result, he said, the judge, the clerk, and the sheriff in Loudoun County responded with equal candor and courtesy. The episode reinforced Houston's belief that professional courtesy and personal dignity were essential to the Black lawyer working within the American legal system. As for Crawford's supposed confession, Houston said he was "not positive of Crawford's innocence," an admission at odds with NAACP publicity, but he contended that since Crawford refused to sign the confession, it was immaterial to the jury issue.

The July issue of *The Crisis* went to press with a full-page appeal to "SAVE George Crawford!" (Figure 14). The appeal asserted that "[c]areful and exhaustive investigations" had established Crawford's presence in Boston at the time of the murders, a statement that later caused the NAACP considerable difficulty when Crawford's Boston alibi witnesses were not called to testify at his trial. The fundraising appeal noted that although Crawford's defense lawyers were donating their services, expenses would still be heavy.[162] That same month, Houston attended a meeting at Harvard Law School that included his former law school mentor and eventual Supreme Court justice Felix Frankfurter, who was then also a member of the NAACP national legal

[158] Sullivan, 167.
[159] Smith, *Managing White Supremacy*, 11, 13, 37, 246-247. Freeman published a Pulitzer Prize-winning biography of Robert E. Lee in 1934-1935 and was sympathetic to Confederate historical figures. Dabney was regarded as a leading Southern liberal in the early 1930s and believed that African Americans were capable of advancement, but when the NAACP began to challenge the legality of all-White graduate and professional schools in the later 1930s, he revealed an overriding fear of miscegenation. See also Lee and Slye.
[160] "Two More Quarters to Go in Crawford Case, Points Out Legal Expert in N.A.A.C.P. Talk Here," *Norfolk Journal and Guide* (Norfolk, VA: June 24, 1933), 2.
[161] "Two More Quarters to Go in Crawford Case," 2.
[162] "SAVE George Crawford!" *The Crisis* 40 (July 1933), rear page.

committee. Also attending were J. Weston Allen, Butler Wilson, Edward Lovett, Walter White, Arthur Spingarn (who was chair of the national legal committee), and other members of the legal committee. They intended to "map out the appeal" to the US Supreme Court. The impressive gathering was a measure of the resources the NAACP poured into the Crawford jury exclusion fight, which it hoped would establish a national precedent.[163]

The NAACP, White Lawyers, and the US Supreme Court. The NAACP had previously taken half a dozen cases to the US Supreme Court, and all were argued by White counsel. In five cases brought to the Supreme Court between 1913 and 1927, the NAACP relied on two White lawyers: Moorfield Storey, the longtime NAACP president and a former president of the ABA, and Louis Marshall, "the tireless attorney for Jewish rights organizations," both of whom were wealthy and served without fee.[164] When Storey and Marshall both died in 1929, White lamented the loss to the organization: "It is going to be almost impossible to replace these two men who were our greatest legal assets as well as immensely helpful through the prestige which each had."[165] The most recent case the NAACP brought before the Supreme Court was *Nixon* v. *Condon*, one of a series of cases in the ongoing Texas White primary fight. This case was successfully argued in January 1932 by Nathan Margold and James Marshall (son of Louis). Margold was a White Harvard-educated lawyer and a protégé of Frankfurter. He had been hired by the NAACP in 1930 to develop a new legal program to fight segregation, an effort funded by a grant from the American Fund for Public Service. Margold's contract entitled him to argue any NAACP cases that came up before the Supreme Court. In spring 1933, however, he was appointed solicitor for the US Department of the Interior. For the Crawford appeal, the NAACP planned to rely on the stature and constitutional expertise of J. Weston Allen.[166]

***Crawford* and African American Jurors in Virginia.** Although Virginia law did not exclude African Americans from jury service, they were seldom selected, certainly not within the memory of most officials in Loudoun County. One of the earliest Supreme Court rulings involving jury exclusion occurred in Virginia in 1880. Designated in 1987, the Pittsylvania County Courthouse in Chatham, Virginia, has significance as a National Historic Landmark for *Ex Parte Virginia* (1880), one of three companion cases decided that year (including *Strauder* v. *West Virginia* [1880] and *Virginia* v. *Rives* [1880]) in which the Supreme Court ruled it was denial to defendants of the equal protection clause of the Fourteenth Amendment to exclude a person from grand or petit jury service on account of race or skin color, as stated in the Civil Rights Act of 1875.[167] The US Supreme Court ruling in *Neal* v. *Delaware* (1881), which was cited in Crawford's habeas corpus hearing, went further in clarifying that discrimination against African Americans in the administration of the grand jury system was grounds for reversal of a state criminal conviction.[168] However, none of these rulings guaranteed that grand or petit juries would include members of a non-White defendant's race, and discrimination against African Americans in jury service continued. As the Reconstruction era came to an end with the removal of remaining federal troops from the South in 1877, White supremacy reasserted itself and gains made by African Americans in the nation's political life were gradually stripped away. Discrimination in jury selection in Virginia was further ingrained when a revision in the Virginia Code in 1919 shifted responsibility for assembling lists of qualified jurors from judges to lay jury commissioners who were appointed by the judge in

[163] "Crawford Says He Is Not Guilty," *Plaindealer* (Kansas City, KS: July 21, 1933), 2; "Crawford's Counsel Preparing Appeal to U.S. Supreme Court," *Washington Tribune* (Washington, DC: July 20, 1933), 2.
[164] Meier and Rudwick, 917.
[165] Quoted in Meier and Rudwick, 930.
[166] Tushnet, *The NAACP's Legal Strategy*, 15-16.
[167] Harry A. Butowsky, "Pittsylvania County Courthouse," National Register of Historic Places Inventory-Nomination Form (Washington, DC: U.S. Department of the Interior, National Park Service, 1986); National Historic Landmarks Program, *Civil Rights in America: A Framework for Identifying Significant Sites* (Washington, DC: U.S. Department of the Interior, National Park Service, 2002, revised 2008), 38; Klarman, 40; Equal Justice Initiative, *Illegal Racial Discrimination in Jury Selection*, 9.
[168] S.W. Tucker, "Racial Discrimination in Jury Selection in Virginia," *Virginia Law Review* 52 (May 1966): 737.

each court. These jury commissioners shared the prevailing White point of view that African Americans were not qualified for jury service.[169] After Judge Lowell's ruling, many newspapers carried a syndicated press report that described jury selection in Virginia and noted that few African Americans had served on juries in state courts since the establishment of the jury commissioner system.[170]

During summer and fall 1933, the Crawford extradition fight began to affect jury composition in Virginia. In Alexandria in June, "Negroes were called to grand jury service here...for the first time within the memory of anyone."[171] The change occurred when two young Black lawyers—one of them a 1926 HUSL graduate—announced an intention to contest the grand jury indictment against their client based on race exclusion. The lawyers cited as their inspiration the motion to quash the grand jury indictment against the Scottsboro Boys and Judge Lowell's decision in *Hale* v. *Crawford*. They had also consulted with Charles Hamilton Houston. The court clerk and judge both admitted that jury names were picked from White taxpayers only, "never considering Negroes." To remedy the situation, a special grand jury was called that included seven Black men, one of whom was empaneled, and the jury commissioners planned to add the "names of 20 colored persons" to the regular jury list within the next few days.[172] Similarly, in Richmond, the Scottsboro and Crawford cases were cited for an August ruling that "Negroes will serve at the October term of the grand jury."[173] In September, a White man was held in contempt of the Hanover County Circuit Court and fined when he refused to be seated on a grand jury with two Black men. According to the African American semiweekly newspaper *The Washington Tribune*, the incident was "the first in Virginia since the various circuit judges announced, as an aftermath of the George Crawford extradition case between Virginia and Massachusetts, that mixed juries were to be drawn to act on indictments."[174] These episodes were symptomatic of a kind of tokenism in which one or two Black men were placed on venires to avoid accusations of discrimination.[175]

The US Supreme Court Declines Review, October 15, 1933. On October 15, the US Supreme Court declined to review *Hale* v. *Crawford*, letting stand the circuit court's reversal of Judge Lowell's ruling. Loudoun County officials began planning for Crawford's extradition to Virginia.[176]

Debating the Racial Composition of Crawford's Virginia Defense Counsel. Walter White and the NAACP national legal committee began to consider what kind of defense team to assemble for Crawford's Virginia proceedings. They felt that a Northern lawyer might not be welcome in Virginia, where animus toward the North remained strong several generations after the Civil War. Allen and Wilson also felt that "it would not be a good strategy" for Crawford to be represented by the same counsel he had in Boston, although they wished to reserve their right to argue the case if it rose to the Supreme Court after the Virginia trial.[177] The ILD reached out to its Norfolk branch indicating it was negotiating with the NAACP for a "united front" in the Crawford

[169] Tucker, 738.
[170] For example, "How Virginia Selects Her Jurors," *The Missoulian* (Missoula, MT: June 4, 1933), 20; "How Virginia Selects Her Jurors," *Bristol Herald Courier* (Bristol, VA-TN: May 15, 1933), 8.
[171] "Virginia City Shatters Precedent, Uses Race Jurors," *Norfolk Journal and Guide* (Norfolk, VA), June 24, 1933, 5.
[172] "Virginia City Shatters Precedent, Uses Race Jurors," 5; see also "Virginia Judge Calls Negro to Jury Duty," *Pittsburgh Courier* (Pittsburgh: June 24, 1933), 2.
[173] "Negroes to Serve on Virginia Jury," *Plaindealer* (Kansas City, KS: August 18, 1933), 5; "Negroes Will Serve on Virginia Juries," *Loudoun Times-Mirror* (Leesburg, VA: August 10, 1933), 4.
[174] "White Man Refuses to Sit on Jury With Negroes; Fined $10," *Washington Tribune* (Washington, DC: September 21, 1933), 3. Klarman, 166, also notes the conference of Virginia judges that met after the Lowell ruling and agreed that Black citizens should sit on grand juries.
[175] Tucker, 739-740.
[176] "Slayer Suspect Will Be Jailed at Alexandria," *The Washington Post* (Washington, DC: October 24, 1933), 3.
[177] McNeil, 90; Houston et al., 15.

case and wished to send one White and one Black lawyer from Norfolk to assist with the defense, but nothing came of this plan.[178] Houston advised White to hire an expert investigator, saying he would not be "equal to the task" given his commitments at HUSL and the other NAACP efforts he assisted. "I think we had better begin looking out for a good Virginia lawyer immediately," he wrote.[179] The next day, Houston approached White with a different possibility, leveraging both the NAACP's reliance on his background in the case and Howard University's interest in advancing the status of Black lawyers: "The men here [at HUSL] feel if Crawford could be defended by all-Negro counsel, it would mark a turning point in the legal history of the Negro in the country."[180]

By the end of October, however, White had several meetings with prominent Black and White connections in Richmond, including Virginius Dabney of the *Richmond Times-Dispatch* and Douglas Southall Freeman of the *Richmond News Leader*: "There was absolute unanimity among them all and especially strong feeling on the part of the colored people with whom we talked that there should be bi-racial counsel."[181] Freeman argued it would be "impossible" to draw a jury that did not include some racists: "If you too sharply draw the line by having a Negro defendant charged with the murder of white women represented with all Negro counsel, no matter how brilliant, you will inevitably run up against the kind of white man in which resentment against the Negro grows in direct proportion to the ability and intelligence of the Negro." Crawford's life was the NAACP's "prime responsibility," Freeman asserted, and "[w]e can't correct between now and the trial the evil of race prejudice which has been three centuries in the making."[182] Dabney communicated a statement from "a well-known citizen of Leesburg" whom he believed to be not "more prejudiced against Negroes than the average citizen of Loudoun" and who predicted that the trial would run smoothly "if the defense isn't damn fool enough to bring colored lawyers in there. If they do that there may be trouble....[I]f a Negro lawyer gets to cross questioning a white witness, particularly a white woman, I don't know what might happen."[183]

White described his difficult position to the defense team: "I above all others wanted all Negro counsel in this case. On the other hand I am unwilling to do anything which may militate against Crawford." White offered a compromise based on the order of planned proceedings. As in the second Scottsboro trial of Haywood Patterson, Crawford's defense would file a preliminary motion to quash the indictment against Crawford that was issued in February 1932 in an attempt to show that African Americans had been excluded from the grand jury because of discrimination. White suggested "the argument on the motion to quash shall be made by all Negro counsel. Should this motion be granted it will be one of the greatest victories ever won and, to be perfectly selfish from a racial point of view, I want to see this won by Negro counsel, and young Negro counsel at that." White continued, "The second thing that I feel strongly is that in the criminal proceedings Charlie [Houston] should be chief counsel or, at most, that the white and colored counsel should be on an absolute parity."[184]

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[178] "Virginia Seeks Early Crawford Case Trial," *Norfolk Journal and Guide* (Norfolk, VA: October 21, 1933), 1.
[179] Charles Hamilton Houston to Walter White (Washington, DC: MSRC, Howard University, October 16, 1933, Charles Hamilton Houston Collection, Box 163-26, Folder 22).
[180] Charles Hamilton Houston to Walter White (Washington, DC: Library of Congress, October 17, 1933, Box I:D52, Folder 11, NAACP Records, quoted in Sullivan, 183; see also Tushnet, *The NAACP's Legal Strategy*, 41; Meier and Rudwick, 939.
[181] Walter White to Leon Ransom, Edward Lovett, and James Tyson (Washington, DC: MSRC, Howard University, October 30, 1933, James Guy Tyson Papers, Box 108-1, Folder 24). White communicated the same to Houston: see Meier and Rudwick, 939.
[182] Quoted in Walter White to Leon Ransom, Edward Lovett, and James Tyson, October 30, 1933.
[183] Quoted in Bradley, 121. Bradley did not offer a citation. White noted that he was enclosing a copy of this letter to the defense team, but it has not been located at MSRC, Walter White to Leon Ransom, Edward Lovett, and James Tyson, October 30, 1933.
[184] Walter White to Leon Ransom, Edward Lovett, and James Tyson, October 30, 1933. White communicated the same to Houston: see Meier and Rudwick, 939.

Houston, who had staked his career on advancing the prospects of Black lawyers, stood his ground. White noted after a phone conservation with Houston that, as Vice Dean of HUSL, Houston felt "it would not be consistent for him to serve with white counsel in the Crawford case."[185] The legal committee agreed to these conditions and HUSL gave Houston a six-week leave. The defense team would consist of Houston, Leon Ransom, Edward Lovett, and James Tyson, all of them Black lawyers connected with HUSL.[186] Ransom had been valedictorian at Ohio State University Law School and was a recent faculty addition at HUSL; Lovett and Tyson were both 1932 HUSL graduates then practicing in Washington, DC. Despite this agreement, questions about the trial counsel continued to be aired publicly and privately, and the NAACP did not emphasize the all-Black defense team until after the preliminary hearing had made a very good showing for Houston and his co-counsel.[187]

Charles Hamilton Houston and the Status of Black Lawyers in America

Houston and the Accreditation of Howard University School of Law

The status of the Black lawyer was a subject that engrossed Houston when he began to teach at HUSL but had deep roots in his earlier experiences. The son of a Washington, DC, lawyer and a homemaker, and grandson of self-emancipated grandparents from Kentucky and free Black grandparents from South Carolina and Kentucky, Houston was raised in relative comfort in Washington, DC. He graduated magna cum laude from Amherst College, the only Black student in the class of 1915. He was honored for his achievements by making an address at commencement.[188] After teaching English in Howard University's Commercial Department for two years, Houston trained with the first cohort of Black infantry officers in World War I. In the army, he endured discrimination and a particularly embittering experience as judge advocate of a special court martial in which he "lost [his] first case." Houston later recalled: "I made up my mind that I would never get caught again without knowing something about my rights; that if luck was with me and I got through this war, I would study law and use my time fighting for men who could not strike back."[189] Entering Harvard Law School in the fall of 1919, Houston excelled at his studies and became friendly with a small cohort of Black law school students who were not always welcomed by the White students or clubs. In his second year, he was the first African American to be elected to the editorial board of the *Harvard Law Review*. Finishing in the top 5 percent of his class, Houston was offered a scholarship by Dean Roscoe Pound to continue studies at Harvard toward a doctorate. In applying to the Veterans Bureau for an extension of his vocational training benefits in 1922, Houston expressed clear reasons for his desire to become a law professor. He believed "there must be Negro lawyers in every community...the great majority [of which] must come from Negro schools...[where] the training will be in the hands of Negro teachers. It is to the best interests of the United States...to provide the best teachers possible."[190] After a fourth year at Harvard he won a scholarship for a year of additional legal studies abroad at the University of Madrid, where he experienced an environment far less constrained by racial prejudice than in the United States.[191]

Houston returned from Europe in 1924, passed the bar exam of the District of Columbia, and entered his father's law practice, renamed Houston & Houston. Based on recommendations from Roscoe Pound, who considered Houston "a remarkable man" with "a high order of scholarship," and Felix Frankfurter, who recalled

[185] Quoted in Meier and Rudwick, 939.
[186] Sullivan, 183.
[187] Tushnet, *The NAACP's Legal Strategy*, 41.
[188] McNeil, 31-34.
[189] Charles H. Houston, "Saving the World for Democracy," *Pittsburgh Courier* (Pittsburgh: August 24, 1940), 13.
[190] Quoted in McNeil, 52.
[191] McNeil, 54.

Houston as one of the best doctoral students he had taught, Houston began teaching at HUSL that fall.[192] Howard University, the oldest of the nation's Historically Black Colleges and Universities, was founded in 1867. The law school opened in 1869. Although hard figures are scarce, scholars agree that HUSL provided legal training for a large percentage of Black lawyers practicing in the two generations after the Civil War, and indeed throughout much of the twentieth century.[193] When Houston began teaching, HUSL functioned as a night school that accommodated students who needed to work day jobs. Like many other Black lawyers then practicing across the country, Houston's own father, William Houston, put himself through law school at Howard University by working during the day as a clerk in a government office. However, the law program was beginning to receive criticism for its lack of accreditation.

By the 1920s the ABA and the American Association of Law Schools were both instituting higher standards for law schools, reflecting a broader shift toward professionalization in many disciplines. Howard University trustees knew that if their students' law degrees were questioned because of the school's lack of accreditation, as had already happened, it would be damaging for both the school and its graduates.[194] When the trustees mandated a drive toward accreditation of the law school in 1928, HUSL implemented higher admission standards and a three-year, full-time day school alongside the four-year evening school.[195] Houston used research he had compiled in 1927 during an extensive study of Black lawyers in various Northern and Southern cities to prepare a document in the spring of 1929 that laid out his far-reaching vision for the law school's societal obligations in training African American lawyers. In addition to being prepared to handle individual clients' needs, Houston asserted, "The Negro lawyer must be trained as a social engineer and group interpreter."[196] His earlier survey had revealed a striking shortage of Black lawyers across the nation, particularly in the South, disproportionate to the needs of African Americans for legal representation and advocacy for their rights as a group. Houston noted that 25 percent of Black law students in 1927 to 1928 were attending HUSL, making it incumbent on the institution to pay particular attention to the "legal aspects of Negro economic, social and political life."[197] Recognizing his commitment to the institution, Howard University trustees appointed Houston vice dean of the law school that summer. Under Houston's guidance in the next few years, the law school stiffened admission standards and made dramatic improvements to the law library, curriculum, and faculty. Beginning in 1930, the night school ceased admitting students and was phased out. These rapid changes were not without controversy both internally and externally. As enrollment declined in a challenging economic environment, the school was accused of becoming unaffordable and elitist under this "Harvardization."[198] Nevertheless, the ABA and AALS awarded HUSL full accreditation by the fall of 1931, an extraordinary achievement in a short span of time.[199]

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[192] McNeil, 64.
[193] Meier and Rudwick, 918; McNeil, 64; Abraham L. Davis, "The Role of Black Colleges and Black Law Schools in the Training and Black Lawyers and Judges: 1960-1980," *Journal of Negro History* 70 (Winter-Spring 1985): 24-34.
[194] McNeil, 69
[195] McNeil, 72; Walter Dyson, *Howard University, The Capstone of Negro Education, A History: 1867-1940* (Washington DC: The Graduate School, 1941), 225.
[196] Quoted in McNeil, 70. Houston described "social engineers" as lawyers "equipped to deal with all the complex questions affecting the race in its social relations with one another, with the members of other races and in fact the state itself," in "Musolit Club Honors Deans," *Pittsburgh Courier* (Pittsburgh: October 29, 1929), 6.
[197] McNeil, 71.
[198] McNeil, 72-75,
[199] Tushnet, *The NAACP's Legal Strategy*, 30; Kluger, 131; Finkelman, 168; J. Clay Smith, Jr., *Emancipation: The Making of the Black Lawyer, 1844-1944* (Philadelphia: University of Pennsylvania Press, 1999), 49-51; William H. Hastie, "Charles Hamilton Houston, 1895-1950," *The Journal of Negro History* 35 (July 1950): 356.

As vice dean, Houston arranged fellowships for faculty to pursue graduate studies at Harvard, Michigan, Yale, and Columbia. He made field trips exposing students to the Washington, DC, legal system. He established a special fund for guest speakers, bringing in leading legal figures like Clarence Darrow, Felix Frankfurter, Roscoe Pound, and Arthur Garfield Hayes to speak to law students.[200] Setting very high expectations for students, Houston became known as a demanding taskmaster, unwilling to accept mediocrity. He earned nicknames like "Cement Drawers" and "Iron Pants," as Thurgood Marshall later recalled, but "he loved people."[201] He was also known for his catchy aphorisms: "No tea for the feeble, no crepe for the dead," he told any student who complained.[202] "Lose your head and lose your case" was another expression Marshall particularly remembered.[203] He drilled home the concept of the Black lawyer as a social engineer: "He instilled among all of us the need for understanding the problems of our local communities and a willingness to work toward bettering conditions of the underprivileged citizens."[204] To this day, HUSL remains dedicated to the concept of producing "social engineers."[205] Houston recognized that although Black citizens were disenfranchised politically, the courts and the US Constitution offered an avenue for reform and redress: "The American Negro is the only subordinate, minority group that I know of whose legal rights outreach actual practice....[T]he Thirteenth, Fourteenth, and Fifteenth Amendments have given the Negro in theory and in law absolute equality of citizenship, so that the real problem of the Negro is not to obtain new rights but to obtain the effective enforcement of those he already has."[206] Houston's concept of "social engineering" also acknowledged that lawyers seldom force change through the courts independent of change in the wider social context and must therefore play an important role in the development of public opinion.

Black Lawyers in the Interwar Period

Through his surveys, research, and experience, Houston was well aware of the many challenges facing Black lawyers. These included lack of adequate training after law school because of the paucity of apprenticeships or clerk positions and the tendency of Black lawyers to practice alone; lack of employment at White law firms; lack of access to law libraries and bar associations in many places; low public opinion of the training and abilities of Black lawyers; an unwillingness on the part of Black clients to trust an important case to Black counsel, giving Black lawyers little opportunity to gain experience in criminal law; general restriction to Black clients and consequently lower fees within poorer Black communities; and, not least, the entrenched prejudice that made it difficult for Black lawyers to receive impartial treatment in the courts when judges, juries, and opposing counsel were White.[207] Unlike other professions such as doctors, whose work was conducted privately, lawyers depended on cooperation with other lawyers, as well as respect and influence in court, making the profession particularly susceptible to prejudice and discrimination and limiting the types of legal experience Black lawyers could obtain.[208] Northward migration of African Americans from the South was enlarging the clientele of Black lawyers in the North, but the activities of most Black lawyers were limited to civil law and routine office practice—debt collection, trusts and estates, real property, personal injury,

[200] McNeil, 76; Tushnet, *Thurgood Marshall*, 290.
[201] Tushnet, *Thurgood Marshall*, 290; see also Meier and Rudwick, 167-168.
[202] Williams, 57; Spottswood W. Robinson, "No Tea for the Feeble: Two Perspectives on Charles Hamilton Houston," *Howard Law Journal* 20 (1977): 1-9.
[203] Tushnet, *Thurgood Marshall*, 290.
[204] Thurgood Marshall, quoted in Geraldine R. Segal, *In Any Fight Some Fall* (Rockville, MD: Mercury Press, 1975), 34.
[205] "Our History," Howard University School of Law (accessed January 12, 2023, http://law.howard.edu/content/our-history).
[206] Houston, "An Approach to Better Race Relations," 7.
[207] Charles H. Houston, "Tentative Findings Re: Negro Lawyers" (February 1928, accessed September 13, 2022, https://www.law.cornell.edu/houston/survey.htm). See also Meier and Rudwick, 916-917; Finkelman, 190; Kluger, 149; Mack, *Representing the Race*, 40-43.
[208] Mack, "Law and Mass Politics," 39.

divorce—rather than courtroom work. Office work characterized Houston's early years of practice with his father; even Houston had scant experience with criminal law prior to the Crawford trial.[209]

Houston found that the 1930 census enumerated 159,735 White lawyers in the United States but only 1,230 Black lawyers, of whom only 487 lived south of the Mason-Dixon line, a figure Houston believed to be inflated. He contended there were only 100 Black lawyers in the South who had actually passed the bar and were practicing full time, and yet the lion's share of the nation's Black population—nine million people—still lived in the South.[210] In 1930 only three schools in the South, including Howard University, offered legal training to Black applicants.[211] More opportunities were available at law schools in the North and Midwest, but an assessment from 1939 indicates that thirty-four of eighty-eight accredited law schools had a policy of excluding Black students.[212] In the South, Black lawyers tended to avoid the risk of violence associated with cases involving inflammatory issues, where their very presence in the courtroom represented an affront to White supremacists.[213] William Hastie—who followed Houston's footsteps in earning a law degree (1930) and law doctorate (1933) from Harvard, and who eventually became the first African American federal judge (1937)—later recalled that in 1930 "there were not ten Negro lawyers, competent and willing to handle substantial civil rights litigation, engaged in practice in the South."[214]

Houston sought to mold HUSL into an institution able to produce impeccably trained Black lawyers who possessed the knowledge and fortitude to rise above the many disadvantages they faced and combat the generally low public opinion of their professional abilities. The need for Black lawyers was essential to the pursuit of civil rights, Houston contended: "[T]he average white lawyer, especially in the South, cannot be relied upon to wage an uncompromising fight for equal rights for Negroes. He has too many conflicting interests, and usually himself profits as an individual by that very exploitation of the Negro which, as a lawyer, he would be called upon to attack and destroy."[215]

As Black lawyers began to increase in number in the early twentieth century, especially after World War I, they began to form their own local professional associations in the face of exclusion from White bar associations.[216] Houston, for example, helped found the Washington Bar Association in 1925 as an alternate to the DC Bar Association, which excluded Black lawyers.[217] That same year, the creation of the NBA provided Black lawyers with a national forum for airing grievances, forging professional relationships, working collectively to "protect the civil and political rights of all citizens," and to advance the prospects of Black lawyers as a group.[218] By 1928 Houston observed a shift attributable to solidified group identity:

> In the past it very frequently happened that a Negro lawyer would make connections with a white lawyer as a sort of protector and advisor, and use the white lawyer to try all his cases....Then

[209] Houston, "Tentative Findings Re: Negro Lawyers"; Mack, "Law and Mass Politics," 39; Mack, *Representing the Race*, 40, 56; McNeil, 61; Segal, *In Any Fight Some Fall*, 49.
[210] Charles Hamilton Houston, "The Need for Negro Lawyers," *The Journal of Negro Education* 4, no. 1 (January 1935): 49.
[211] Walter J. Leonard, "The Development of the Black Bar," *The Annals of the American Academy of Political and Social Science* 407 (May 1973): 140. Leonard identified the two others as Simmons University in Louisville, Kentucky, and Virginia Union University in Richmond, Virginia.
[212] Finkelman, 167.
[213] Finkelman, 193.
[214] Quoted in Meier and Rudwick, 917.
[215] Houston, "The Need for Negro Lawyers," 49.
[216] Mack, *Representing the Race*, 40.
[217] McNeil, 67.
[218] Geraldine R. Segal, *Blacks in the Law: Philadelphia and the Nation* (Philadelphia: University of Pennsylvania Press, 1983), 18-19.

> again the white lawyer would often be called into the case by the client himself who would be unwilling to trust the matter entirely to his Negro lawyer. This is now vanishing by degrees....So that in many cities at the present time a Negro lawyer loses face both with his client and his brother lawyers if he calls in a white lawyer instead of another Negro lawyer as associate counsel.[219]

For members of the NBA, the NAACP's longstanding reliance on White lawyers was a source of contention and had been for some years. The NAACP had been founded as an interracial organization, but with mostly White leaders, which enabled it to project an aura of legitimacy and cultivate support among White elites. Initially, W.E.B. Du Bois was the only Black leader within the organization's inner circle. Gradually, the organization assembled a Black field staff and in 1921 James Weldon Johnson became the first African American national secretary, the top administrative position, until he was succeeded by Walter White in 1931. The organization's legal committee, which had existed in various forms since 1911, was dominated by White lawyers and advisors until the 1930s. As historians August Meier and Elliott Rudwick have shown, prior to the 1930s the NAACP relied on White lawyers to carry the "principal burden of the national office's legal activity."[220] This proclivity was shared by both White and Black leaders in the NAACP and reflected practical considerations: the dearth of Black lawyers with sufficient experience, the potential hostility they faced in the courtroom, and the ability of the cash-strapped organization to secure pro bono services of highly distinguished White lawyers—such as Moorfield Storey and Louis Marshall. To mitigate prejudice against Black defendants in local cases, the NAACP sought White local lawyers of high standing, who would receive respect from local judges, and who could withstand unpopular litigation without permanent harm to their practices.[221] Local branches of the NAACP, especially in the South, sought to improve their odds by allying themselves with White counsel in important cases. Black lawyers associated with local branches in the North might carry forward cases on their own, but as the national office became involved, it sought to bring in White counsel and sometimes doubted the abilities of local Black lawyers or questioned the fees they requested. In numerous cases during the 1920s, relations between the NAACP and local Black lawyers soured.[222] In more than a few situations in which the national organization felt a case had been bungled by local Black lawyers, it declined to get involved or provide financial assistance so as to not risk a loss that might damage its reputation.[223]

By the late 1920s, a small number of young Black lawyers educated at Ivy League law schools rose into leadership positions and began to affect the dialogue on the role of the Black lawyer. Prominent among them were several who had studied constitutional law at Harvard under Felix Frankfurter, including Charles Hamilton Houston, Raymond Pace Alexander, Jesse Heslip, and William Hastie. Alexander and Heslip each served as president of the NBA in the late 1920s and early 1930s, giving speeches that stressed the importance of civil rights work, the effect of economic inequality on Black lawyers, the need for better training, and the importance of overcoming common distrust in the abilities of Black lawyers:

> We must become thoroughly grounded in constitutional law; we must be ready to face the nation's highest tribunal in search of justice for ourselves. It is more apparent each day that white men of the type of Moorfield Storey, Louis Marshall, Hays, and Darrow are rapidly fading away;

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[219] Charles H. Houston, "Tentative Findings Re: Negro Lawyers."
[220] Meier and Rudwick, 915-917. See also Finkelman, 202-203; Mack, *Representing the Race*, 68.
[221] Meier and Rudwick, 920.
[222] Meier and Rudwick, 929-933; Mack, *Representing the Race*, 69.
[223] Meier and Rudwick 921, 932; David A. Canton, *Raymond Pace Alexander: A New Negro Lawyer Fights for Civil Rights in Philadelphia* (Jackson: University Press of Mississippi, 2013), 29-30, 34.

> they extend to us, Negro lawyers, the torch of able service, and only we, Negro lawyers, can accept it and carry on the battle for justice.[224]

Lawyers at the 1931 NBA convention went so far as to condemn Black preachers and other Black professionals who steered African American clients toward White lawyers. They also criticized unnamed legal defense organizations for failing to employ Black lawyers—and they voted to send a statement expressing their views to both the NAACP and the ILD.[225] As Houston explained at the 1932 convention of the NAACP, the NBA intended to develop its own initiatives to improve legal education, lead civil rights battles in the courtroom, and to develop a legal aid program.[226]

That summer—against objections over appointing untested young lawyers—White succeeded in having four Black lawyers, including Houston and Heslip, added to the NAACP's ten-member national legal committee, increasing Black representation to one third.[227] The only Black lawyer who previously served on the committee was James Cobb, a HUSL graduate of 1900 and a highly respected lawyer who was one of the most effective allies for the NAACP in Washington, DC. Cobb left the committee in 1926 when he became the first Black lawyer appointed judge in DC municipal court.[228] The NAACP legal committee appointments came in advance of White's keynote address at the NBA convention in 1932, in which he sought increased cooperation between the two organizations.[229] William Hastie and a sixth Black lawyer joined the national legal committee the following year.

William Hastie and* Hocutt *v.* Wilson, *March 1933

Hastie's addition to the legal committee followed his highly regarded performance in March 1933 in *Hocutt* v. *Wilson* in North Carolina. In *Hocutt*, Hastie became the first Black lawyer to represent the NAACP national office in an important civil rights case, more as a consequence of rapidly unfolding circumstances than deliberate strategy. Two young Black lawyers in Durham, North Carolina, were pursuing a lawsuit against the University of North Carolina on behalf of Thomas Hocutt, a Black applicant to the School of Pharmacy who was denied admission. When the local NAACP branch withdrew its support out of concern for possible negative repercussions on its other efforts, the lawyers appealed to Walter White to send Nathan Margold to assist them. White saw an opportunity to launch the NAACP's long-planned legal campaign for educational equality, but the court date was only days away. Margold had just been appointed solicitor of the US Department of the Interior and was not available. White sought out Houston, but he was just then tied up in Boston working on the Crawford extradition hearing. Houston suggested sending Hastie, who was finishing his doctorate at Harvard. Not yet thirty years old, Hastie immediately left for Durham, stopping at the NAACP's New York office for case files and money to cover expenses.[230]

Considerable public interest surrounded the potentially precedent-setting case as well as Hastie's elite educational credentials and his rumored association with the NAACP. Consequently, the courtroom was "packed with colored and white people," from the curious public to judges, members of the local bar, and law

[224] Quoted in Meier and Rudwick, 934; see also Canton, 37-38; Raymond Pace Alexander, "The Negro Lawyer," *Opportunity* (September 1931): 268-71.
[225] Meier and Rudwick, 934.
[226] Sullivan, 157.
[227] Ibid.; Meier and Rudwick, 936-937.
[228] Sullivan, 157; Meier and Rudwick, 923.
[229] Sullivan, 159.
[230] Sullivan, 168-169; Meier and Rudwick, 933; McNeil, 66, 79, 132; Encyclopedia.org, "William H. Hastie, 1904-1976" (accessed September 23, 2022, https://www.encyclopedia.com/history/historians-and-chronicles/historians-miscellaneous-biographies/william-henry-hastie).

faculty and students from both the University of North Carolina and Duke University.[231] The spectacle of Black and White lawyers facing each other in a court of law as equals was electrifying to the local Black community. One account in the African American press mentioned that although the closing argument for the university was given by no less a person than the state attorney general, his statement drew unintended laughter from the Black audience. In solemnly asserting that the "deep motive behind this suit...is that this 'Nigra' wants to associate with white people," the attorney general "evidently thought he would get approval from the whites and fearsome silence from the Negroes," but "the whites did not say anything" and "[t]he Negroes broke out into a loud derisive laugh," forcing the judge to rap for order.[232] The trial offered Black observers a striking inversion of racial norms. The space of the courtroom enabled Hastie to assume equal footing with his White counterparts in a manner seldom seen in the segregated South, where Hastie could not have received service at a lunch counter down the street.

Hastie's concluding argument offered appreciation for the courteous treatment extended to him by local officials, prompting Judge Barnhill to compliment Hastie on his "demeanor at the local bar," adding, "I think you will find that the relations between Negroes and white people in this state are incomparable with those in any other state of the union."[233] The legal establishment in North Carolina clearly wished to separate itself from the infamous trial proceedings of the Scottsboro Boys. One of Hocutt's initial lawyers wrote to White that Hastie "swept the entire court-room off its feet with his ability and demeanor....The white Bar was unanimous in its praise...and a millionaire white lawyer extended his hand to Mr. Hastie and congratulated us with feeling, on the way the case was conducted."[234] These comments reveal the era's high regard for lawyerly performance, courtroom ability, and displays of intellectual and verbal prowess. These were matters for avid public consumption in a cultural context less saturated by media and entertainment than that of today. In the end, the *Hocutt* case was dismissed on a technicality, and legitimate questions were raised about Thomas Hocutt's academic qualifications, causing the NAACP to reevaluate the merits of an appeal. Nevertheless, the organization capitalized on the local excitement generated by the case, opening six new branches in North Carolina in May alone. After joining the legal committee that summer, Hastie began working on a North Carolina case to challenge salary differentials for Black teachers.[235]

The NAACP's Planned New Legal Program to Fight Segregation

The new legal program White wished to jumpstart with *Hocutt* proposed targeted litigation that would fight segregation in its various forms, such as Jim Crow transportation, residential segregation, and "vicious discrimination in the apportionment of public school funds" in the South.[236] The program had been in the planning stages following an award of $100,000 in 1930 from the American Fund for Public Service (AFPS), also known as the Garland Fund.[237] The first installment of the funding in 1930 provided for hiring a lawyer

[231] "Judge Denies Writ of Mandamus to Youth Seeking to Enter Uni. Of N. Carolina," *Omaha Guide* (Omaha, NE), April 8, 1933, 1.
[232] "Judge Denies Writ of Mandamus to Youth Seeking to Enter Uni. Of N. Carolina," 1.
[233] "Hocutt Loses Opening Round in Legal Fight to Enter University," *Durham Morning Herald* (Durham, NC: March 29, 1933), 1.
[234] Conrad O. Pearson to Walter White (Washington, DC: Library of Congress, March 31, 1933, Box D-96, NAACP Records, quoted in Meier and Rudwick, 940.
[235] Sullivan 168-170; Mack, "Rethinking Civil Rights Lawyering and Politics in the Era before 'Brown,'" *Yale Law Journal* 115 (November 2005): 296-297; Mack, *Representing the Race*, 86-87; Meier and Rudwick, 940-941; Tushnet, *The NAACP's Legal Strategy*, 52-53.
[236] Quoted in Tushnet, *The NAACP's Legal Strategy*, 14.
[237] Tushnet, *The NAACP's Legal Strategy*, 2, 4-5, 8; see also Kluger 132-133. Also known as the Garland Fund, the AFPS was founded in 1922 by Charles Garland, who as a young man refused his inheritance and used it instead to establish a philanthropic foundation. The Garland Fund supported organizations that conducted research or experimental efforts to improve the condition of working class or oppressed minority groups. The NAACP received several small Garland Fund grants to study funding inequities in Black schools in the South in the 1920s.

who would study the relevant law and plan a coordinated litigation program. Nathan Margold was hired, and by 1931 he had prepared a lengthy report on strategies to fight segregation, with a major focus on education.[238] As a result of the stock market collapse and loans it was unable to recall, the Garland Fund could not deliver additional installments and instead asked the NAACP to work out a revised program according to the reduced funds available, an amount of $10,000 that was released to the NAACP in July 1933.[239] By then, Margold had moved on, leaving White and NAACP leaders to debate whether a White or Black lawyer would be best suited to carry forward the proposed litigation campaign.[240]

The Commonwealth of Virginia* v. *Crawford

Preparation and Circumstances Leading up to the Crawford Trial

As debate continued regarding the strategic roles of White and Black lawyers at the NAACP, Crawford was extradited to Virginia in October and public attention focused on how the trial would unfold in Leesburg. Virginius Dabney, of the *Richmond Times-Dispatch*, observed that "[t]he eyes of the nation will be on Virginia," stressing the state must avoid "a reputation such as Alabama has built up as a result of the behavior of its authorities in the Scottsboro and other cases. We must bend every effort to see that no constitutional rights are violated and that no inflammatory and bigoted appeals are made by our officials."[241] He also pointed out that Communist "agitators" might come to Virginia to "stir up inter-racial strife" as they did in the Scottsboro case, but "we must be ever mindful that...a Communist has the right of free speech just as much as anyone else." [242] Always on guard for Communist incursions, White sent a *Daily Worker* clipping to Douglas Southall Freeman at the *Richmond News Leader* as an example of the "continued bombardment the NAACP receives [from the CPUSA] because we are not trying to overthrow the American government, but fighting for justice under the American form of law." White argued that an "absolutely fair trial" was necessary so that neither the Communists nor newly named German Chancellor Adolf Hitler could use the episode to attack America.[243] Based on a press release from the NAACP, *The Washington Tribune* told its readers: "Virginia authorities have indicated they will take all measures to see that the defendant gets a fair trial. They do not want a Scottsboro case on their hands."[244] The blatant miscarriage of justice in those trials brought Alabama extensive negative press both nationally and internationally. White leaders in Virginia were just as—if not more—concerned about their state's reputation for law and order as they were for the well-being of an oppressed minority group.

Judge Alexander, who had presided over the grand jury that indicted Crawford in February 1932, announced that the trial "would be conducted with the utmost dignity."[245] To that end, he stated that overcrowding would not be allowed and once the courtroom seats were filled, the doors would be shut. In addition, he ordered that no distinction in seating would be made between Black and White spectators, even though state law mandated segregation in public spaces.[246] Newspapers would receive space for their reporters, but no photography would be allowed inside the courtroom during the trial.[247] White wrote to the editors of seven African American newspapers—*The Richmond Planet, Pittsburgh Courier, The Chicago Defender, The Philadelphia Tribune, The*

[238] Tushnet, *The NAACP's Legal Strategy*, 26.
[239] Tushnet, *The NAACP's Legal Strategy*, 17.
[240] Sullivan, 168, 187.
[241] Virginius Dabney, "The Crawford Case," *Richmond Times-Dispatch* (Richmond, VA), October 18, 1933, 8.
[242] Dabney, "The Crawford Case," 8.
[243] Bradley, 122-123.
[244] "Frame-up Hinted in Crawford Case; Alexandria Jail Protected," *Washington Tribune* (Washington, DC: November 9, 1933), 2.
[245] "Judge Will Bar Sensational Crowds from Crawford Trial," *The Washington Post* (Washington, DC; November 1, 1933), 11.
[246] "Summon 46 for Defense of Crawford," *Richmond Times-Dispatch* (Richmond, VA: November 5, 1933), 19.
[247] "Judge Will Bar Sensational Crowds from Crawford Trial," 11; see also "Traditions of Virginia Courts to be Maintained During Trial," *Loudoun Times-Mirror* (Leesburg, VA: November 2, 1933), 1.

Washington Tribune, Baltimore's *Afro-American*, and the *Norfolk Journal and Guide*—as well as the Chicago-based ANP, asking them to cover the case. He similarly appealed to White news outlets, including the Associated Press (AP), the Scripps-Howard newspapers, and *The New York Times*.[248] White sought to attract broad coverage of the NAACP's major civil rights effort and raise the organization's stature among African Americans in particular.

The NAACP also continued to appeal for funds in press releases that appeared in African American newspapers. The *California Eagle*, for example, published a full letter from Walter White, noting that John Galleher, the Loudoun County prosecutor, "has announced he will give time for Crawford to secure attorneys," but White called the projected November 15 date "a desperately short time." Charles Hamilton Houston would lead the defense, White wrote, and was conducting research for a motion to quash the grand jury that had indicted Crawford. White emphasized the drain on NAACP funds caused by multiple ongoing battles.[249]

Ongoing antagonism with the ILD and renewed outrage over lynching formed the immediate backdrop to Crawford's extradition and trial. The NAACP was struggling with another legal redress case in Alabama initially sponsored by the Birmingham branch, and the ILD began to use the case to suggest that the NAACP's "legalistic" methods would not work.[250] In August, when Houston was in Alabama helping with that case, two African American teenagers accused of murdering a White girl were lynched near Tuscaloosa while they were in police custody. Their case had been taken up by the ILD, and the local sheriff blamed the lynching on ILD interference. The overt message, Houston suggested, was that any "aggressive organization which insisted on immediate equality of rights for Negroes in the South would be just as violently opposed."[251] Houston and delegates from the NAACP, the ILD, the American Civil Liberties Union (ACLU), and other groups met with the US Attorney General to argue for a federal indictment of the sheriff who allowed the mob to seize and lynch the young men. Houston, Ransom, and Lovett began preparing a legal brief that laid out the violation of federal code, the failure of the South to protect its least powerful citizens, and the national hypocrisy of a country that castigated Nazi atrocities against Jewish people in Germany while remaining "acquiescent in the face of barbarities practiced daily within its own boundaries."[252] The widely distributed "Tuscaloosa Brief" was finished in mid-October, just days after an Alabama grand jury failed to bring an indictment against any of the people who murdered the two teenagers because of a "lack of evidence."[253]

At that moment, a similar story unfolded much closer to Washington with the horrific torture and murder of George Armwood in Maryland's rural Eastern Shore on October 18, two days after he was accused of raping a White woman. A White lynch mob forcibly removed him from the jail where he was held.[254] The NAACP, the ILD, the National Urban League, and other groups expressed outrage and called for an investigation.[255] Of the

[248] Bradley, 122.
[249] "N.A.A.C.P. Defends George Crawford," *California Eagle* (Los Angeles: November 3, 1933), 8. Other NAACP efforts included the fight against discrimination of Black workers in the Mississippi Flood Control Project and other federally funded projects under the National Recovery Act, the fight against wage differentials for Black teachers in North Carolina and other southern states, and the Willie Peterson case in Alabama. See also "Who Laughs Last," *Pittsburgh Courier* (Pittsburgh: November 4, 1933), 10. Houston admitted to the *Loudoun Times-Mirror* that the defense counsel's effort had been centered on the extradition and nothing had yet been done to prepare for the trial: "Attorney, Here on Case, Doubts Accused Guilty," *Loudoun Times-Mirror* (Leesburg, VA: October 19, 1933), 1.
[250] Tushnet, *The NAACP's Legal Strategy*, 39.
[251] Sullivan, 172.
[252] Sullivan, 182.
[253] Sullivan, 182.
[254] Bradley, 117-118.
[255] "Washington Citizens Condemn Maryland's Latest Lynching," *Afro-American* (Baltimore: October 28, 1933), 13.

twenty-one witnesses gathered to testify at an inquest, including the sheriff, none could identify anyone in the lynch mob of 3,000 White people.[256] The Armwood lynching raised regional tensions just as Crawford was returned to Virginia in late October. Plans were laid for placing Crawford in the jail in Alexandria rather than Leesburg as a precautionary measure.[257] Galleher told the *Loudoun Times-Mirror* that he expected a request for a change of venue.[258]

On October 24, White was in Boston, securing written power of attorney for Houston from Crawford before his extradition, indicating a commitment to Houston as lead defense counsel. White implied to Houston that he had some difficulty with Butler Wilson, who still had no intention of relinquishing his right to the case if it should go to the US Supreme Court.[259] In the week before the hearing on the motion to quash the indictment, White received numerous communications, chiefly from White newspaper editors, leaders, and lawyers in Virginia, urging the NAACP to hire White counsel and warning of dire ramifications for Crawford if none were employed. Some individuals made recommendations of specific White lawyers and White made inquiries as well.[260] The *Richmond Times-Dispatch* noted on November 4, however, that Houston and Lovett would appear for the defense at the preliminary hearing and that the NAACP had "announced that it will retain a prominent white attorney to aid in the defense, if and when the trial is held."[261] That same day the *Richmond News Leader* quoted Houston as saying, "Virginia counsel will be associated with us in the trial proper, but no decision has yet been reached as to whom will be chosen."[262] Presumably to deter the potential for local violence, Houston and state authorities let it be publicized that Crawford would not attend the hearing but would sign a waiver allowing it to proceed in his absence.[263] Despite the Armwood lynching, Houston said he would not seek a change of venue if the case went to trial, asserting, "We are now convinced that the Commonwealth of Virginia will offer to the country an entirely new picture of Southern justice toward the Negro."[264] Nevertheless, the *Pittsburgh Courier* published a political cartoon implying that Death was coming for Crawford, urging readers to join the "Crawford Defense Fund" (Figure 15).[265]

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[256] Quoted in Bradley, 118.
[257] "Slayer Suspect Will Be Jailed at Alexandria," 3.
[258] "Motions for Change of Venue and Venire Expected to be Made by Lawyers for Accused," *Loudoun Times-Mirror* (Leesburg, VA: October 19, 1933), 1.
[259] Bradley, 118-119.
[260] Bradley, 123.
[261] "Crawford Attorneys Prepared to Battle Negro Juror Issue," *Richmond Times-Dispatch* (Richmond, VA: November 4, 1933), 4. The same was noted in "Judge McLemore to Hear Motion to Quash Crawford Indictment," *Loudoun Times-Mirror* (Leesburg, VA: November 2, 1933), 1.
[262] "Will Not Ask Venue Change for Crawford," *Richmond News Leader* (Richmond, VA: November 4, 1933), 1. Houston made similar comments regarding counsel to the *Loudoun Times-Mirror* in "Attorney, Here on Case, Doubts Accused Guilty."
[263] "Crawford Counsel Expects Fair Trial," *Evening Sun* (Baltimore: November 4, 1933), 5; "Will Not Ask Venue Change for Crawford," 1. *The New York Times* noted that "Because of some feeling in the county State authorities had let it be known that defense counsel did not plan to bring Crawford to the hearing today," "Negro Jury Rights Argued in Virginia," *The New York Times* (New York: November 7, 1933), 25. The *Richmond Times-Dispatch* noted that at the last minute "the prosecution decided to have the defendant in the courtroom to avoid any possibility of legal error," "Ruling Set Today in Crawford Plea; Hearing Guarded," *Richmond Times-Dispatch* (Richmond, VA: November 7, 1933), 1.
[264] "Crawford Counsel Expects Fair Trial," 5; "Summon 46 for Defense of Crawford," 19.
[265] [Wilbert] Holloway, "His Stock Takes A Rise," *Pittsburgh Courier* (Pittsburgh: November 11, 1933), 10. Weekly issues of the *Pittsburgh Courier* reflect a time lag between events and publication; even though the cartoon appeared after the close of Crawford's hearing, those events were not covered until November 18, and the cartoon reflects the context of Crawford's return to Virginia. For Wilbert Holloway, see Allan Holtz, "Ink Slinger Profiles: Wilbert Holloway" (accessed February 13, 2023, http://strippersguide.blogspot.com/2012/02/ink-slinger-profiles-wilbert-holloway.html).

The Hearing on the Motion to Quash the Indictment, November 6-7, 1933

The hearing on the motion to quash the indictment was scheduled for November 6. Judge Alexander voluntarily stepped aside as judge in the case since he had selected the grand jury and expected to testify in the hearing. The Virginia governor appointed Judge James L. McLemore of Suffolk County to preside over both the hearing and the criminal trial if the motion were overruled.[266] Houston ordered forty-six witnesses to be summoned to court for the hearing, consisting of five White individuals, including Judge Alexander, the court clerk, the sheriff, and two members of the grand jury, as well as forty-one African American residents of Loudoun whose testimony would be used to show they were qualified for jury duty.[267]

The hearing received wide press coverage across the nation, with particularly detailed accounts appearing in the local *Loudoun Times-Mirror, The Washington Post*, the *Richmond Times-Dispatch*, *Richmond News Leader*, and one of the nation's most prominent African American newspapers—the *Norfolk Journal and Guide*. Coverage in many of the nation's White-owned newspapers, such as *The New York Times* and *The Boston Globe*, relied on AP reports; in smaller newspapers and far-flung locations, AP content was frequently abbreviated. African American newspapers like the *Norfolk Journal and Guide*, the *Pittsburgh Courier*, and Baltimore's *Afro-American* included better coverage of Houston's statements than White-owned newspapers, as well as broader praise for the defense lawyers and more direct reflection on the racial dynamics of the proceedings, drawing some of their content from NAACP press releases.

In a surprise move, Crawford was brought to the courthouse from Alexandria on the day of the hearing. Crawford's heavily armed police guard was described in every newspaper article. Houston was quoted as saying he felt the guard accompanying Crawford was necessary given the "recent atrocious lynching of George Armwood in Maryland."[268] According to *The Washington Post,* Crawford was escorted by a guard of twenty-five state and county police. Under the headline "Virginia Governor Orders Soldiers to Shoot to Kill," the *Afro-American* reported that the state police carried "gas masks, tear gas bombs, gas guns, side arms and rifles," adding that "a machine gun was also in evidence." The governor also sent Brigadier General Samuel Gardner Waller as his personal representative; Waller sat directly behind Crawford and had "discretionary command over the police."[269]

The Washington Post estimated that 600 spectators, half of them African American, "filled every available seat in the court room" and "scores of others milled about the courthouse."[270] The figure of 600 spectators far exceeded the capacity of the courthouse, which was closer to 300, and may have been an estimate of the crowd both inside and outside the courthouse.[271] Other newspapers mentioned the small courthouse was packed and

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[266] "Crawford Attorneys Prepared to Battle Negro Juror Issue," 4.
[267] "Summon 46 for Defense of Crawford," 19; "Crawford Case Starts Today," *The Washington Post* (Washington, DC: November 6, 1933), 3.
[268] "Wants Crawford's Guard Maintained," *Evening Sun* (Baltimore: November 11, 1933), 13. A similar comment is attributed to Houston in "'Venue Change Would Spoil Case'—Houston," *Norfolk* (VA) *Journal and Guide* (Washington, DC: MSRC, Howard University, clipping, n.d., James Guy Tyson Papers, Box 108-2, Folder 29).
[269] "Virginia Governor Orders Soldiers to Shoot to Kill," *Afro-American* (Baltimore: November 11, 1933), 2.
[270] "Court to Rule on Crawford Defense Today," *The Washington Post* (Washington, DC: November 7, 1933), 1.
[271] A description of the courthouse prior to its construction in 1894 said it would have seating for 250 to 300 on the main floor with accommodations for eighty more in the balcony, "The New Courthouse," *Loudoun Times-Mirror* (Leesburg, VA: March 22, 1894), 1. In 1956, when the removal of the balcony was being considered, it was estimated as a loss of thirty-two seats, "Contract Let For Courthouse Remodeling; Work will Be Finished by October First," *Loudoun Times-Mirror* (Leesburg, VA: August 9, 1956), 1. In the days before the December trial, *The Washington Post* reported that attendance would be limited to the seating capacity of the courthouse, "approximately 300," "Crawford Trial to Open Today in Quiet Scene," *The Washington Post* (Washington, DC: December 12, 1933), 24.

the crowd consisted of equal numbers of Black and White spectators, and the *Evening Leader* of Staunton, Virginia, noted that the "about 300 curious stood outside during most of the day."[272] The *Richmond Times-Dispatch* reported that "many persons [were] peering through the windows."[273] The newspaper published a photograph of the small Classical Revival courthouse in Leesburg with inset images of Galleher and Houston. The view captured a small crowd gathered on the steps, including two men perched on the building's water table to look in the windows, and a cluster of people in the yard outside (Figure 16). *The Washington Post* described police stationed at the courthouse doors and mingling throughout the crowd: "The atmosphere in the court room was tense, but there was no disorder." [274] *The Boston Globe* reported that despite Crawford's surprise presence and the troopers with sawed off shotguns, "there was no evidence of intense feeling."[275] The *Richmond Times-Dispatch* went so far as observe that even the ILD, which was thwarted in its "efforts to get at Crawford in Boston and Alexandria[,]...didn't bother to send one abusive telegram today."[276]

Thomas W. Young, an African American correspondent for the *Norfolk Guide and Journal*, described "a spirit of fairness and cooperation among the press representatives of both white and Negro newspapers....White and colored reporters sat where they chose around the two press tables." [277] Spectators nevertheless followed legally-mandated segregation practices: "The whites sat on one side of the room and the Negroes on the other, although Judge McLemore was reported to have given instructions that they were to sit where they chose."[278] Among the African Americans seated in the courthouse were Houston's parents, Walter White, newspaper reporters, and other educated, urban professionals who had come from Washington, DC, to watch the proceedings. Young described them as a "whole crew of 'strange colored people' whom natives stared at."[279]

Some newspapers offered a description of Crawford. The *Richmond News Leader* described him as a "short, very bowlegged, brown man with an alert, intelligent face."[280] Crawford sat behind his lawyers but in front of the railing that divided them from the spectator benches. The *Richmond News Leader* said "[h]e sat very still, one foot on the ring of Attorney Lovett's chair. His fingers interlocked upon his vest, palms outward."[281] *The Washington Post* correspondent said only that he "appeared bored."[282] The *Loudoun Times-Mirror* reported that as news of Crawford's presence spread, a "vast crowd had assembled outside the building," and on leaving the courthouse, officers had to open a lane through the crowd from the rear entrance to police vehicles waiting on East Market Street. Crawford appeared nervous passing through the crowd, the newspaper noted, but "there was no hostile demonstration."[283] Houston stated afterward that he was apprehensive the first day when court adjourned "and a crowd of people pressed around Crawford as the troopers were carrying him from the court

[272] For example, "Denies Prejudice in Crawford Jury," *Evening Star* (Washington, DC:L November 6, 1933), 1; "Negros Not on Jury List," *The Boston Globe* (Boston: November 6, 1933), 4; "Motion in Crawford's Case overruled; Exception Filed," *Daily News Leader* (Staunton, VA: November 7, 1933), 1.
[273] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[274] "Court to Rule on Crawford Defense Today," 1.
[275] "Negros Not on Jury List," 4.
[276] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[277] Thomas W. Young, "Atty Houston Wins Loudoun County Citizens' Respect; Use of Colored Lawyers Regarded as Wise Move," *Norfolk Journal and Guide* (Norfolk, VA: November 11, 1933), 1.
[278] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[279] Thomas W. Young, "Leesburg's Best Foot is Put Forward for Hearing in Crawford Case This Week," *Norfolk Journal and Guide* (Norfolk, VA: November 11, 1933), 1.
[280] "Negro Jurors for Crawford Not Considered," *Richmond News Leader* (Richmond, VA), November 6, 1933, 1.
[281] "Negro Jurors for Crawford Not Considered," 1.
[282] "Court to Rule on Crawford Defense Today," 1.
[283] "Crawford Comes to Loudoun Under Guard By State Police," *Loudoun Times-Mirror* (Leesburg, VA: December 9, 1933), 2.

house, ... [b]ut the crowd was only curious and there was not the slightest hostile demonstration."[284] The *Richmond Times-Dispatch* published a photograph of the diminutive Crawford being led from the rear entrance of the courthouse by an armed escort (Figure 17).

The hearing lasted one full day, and Judge McLemore issued his ruling the following morning. Judge Alexander's lengthy testimony under cross-examination from Houston formed the primary focus of newspaper reports after the first day. Judge Alexander repeatedly asserted that in selecting the grand jury he "was never conscious of any discrimination as to race." His main objective was to pick "good men, known to be available and reliable," and whom he "personally knew to be qualified to serve as grand jurors."[285] When Houston confronted him with the statement he had signed for Crawford's Boston extradition hearing—"It is a custom in Loudoun County to use white men exclusively for jury duty in the State courts, and I merely followed the custom"—Judge Alexander answered, "I may have said that."[286] Afterward, Houston confided to Wilson and Allen that Judge Alexander was "shifty and evasive; but in substance we got out of him everything but the admission expressly that he had followed custom."[287]

The newspapers reported that John Galleher, the prosecuting attorney, "formally denied that any Negroes in Loudoun are qualified to serve on a grand jury."[288] To counter this assertion, Houston presented census statistics showing that nearly a third of the county population was African American. He called thirteen African American property owners to the stand, and questioned them on their occupations and education, seeking to establish their qualifications for jury service. Houston was prepared to continue calling additional African American witnesses, but the court permitted him to instead file a list of "other Negroes whose 'qualifications' for grand jury service were approximately the same."[289] The NAACP described this exchange differently, indicating that when the prosecutors objected to additional witnesses of the same sort, "defense counsel agreed to cease only if the prosecution would admit for the record that there were qualified colored citizens in the county," and a list of "80 colored people" was agreed upon.[290] Houston also successfully blocked one avenue of attack advanced by the prosecution, who called to the stand H.C. Rogers, a member of the county board of supervisors. Rogers testified that "the white grand jurors selected by Judge Alexander were greatly superior to the Negroes put on the stand by the defense earlier in the day."[291] Houston asked Rogers if he had any social or business interaction with African Americans, which caused Rogers's face to redden. McLemore set aside the question to avoid tension, but Houston argued that because Rogers had no social interaction with African Americans, he was in no position to judge their qualifications.[292] Houston eventually persuaded Judge McLemore to have Rogers's testimony stricken, arguing that jury qualifications were based on a "legal"

[284] "'Venue Change Would Spoil Case'—Houston," *Norfolk* (VA) *Journal and Guide* (Washington, DC: MSRC, Howard University, clipping, n.d., James Guy Tyson Papers, Box 108-2, Folder 29; also quoted in "Houston Thinks Crawford will Get Fair Trial," *Afro-American* (Baltimore: November 18, 1933).
[285] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[286] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1. See also "Shades of Euel Lee Stalk at Crawford Trial," *Afro-American* (Baltimore: November 11, 1933), 2; "Judge Up-Holds Lily-White Jury System," *Afro-American* (Baltimore: November 11, 1933), 1.
[287] Quoted in Bradley, 130.
[288] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1; "Negro Jury Rights Argued in Virginia," 25; "Court to Rule on Crawford Defense Today," 1; "Shades of Euel Lee Stalk at Crawford Trial," 2.
[289] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1. In contrast to Houston's reported percentages, Loudoun County's population was 21.9 percent African American in 1930.
[290] "N.A.A.C.P. News: Crawford to Have Defense By All-Negro Counsel," *Wyandotte Echo* (Kansas City, KS: November 17, 1933), 1.
[291] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[292] "Caste System Excludes Negroes From Juries Here, Says Houston," 2.

standard rather than opinion, causing Galleher to set aside other White witnesses who were to give similar testimony.[293]

The Washington Post noted that in his closing argument, Houston described Judge Alexander as "a slow and reluctant witness," a striking choice of words by a Black lawyer describing a White judge.[294] Houston asserted that there were "Negros qualified for jury service" in Loudoun County and they had been excluded "solely on account of race and color." He argued: "Judge Alexander has been revolving around a closed circle—a wheel excluding all Negros. In other words, a caste system is prevalent in Virginia and the South."[295] John Galleher, the Loudoun County prosecutor, argued that Black people were not excluded solely on account of their race and that Judge Alexander "selected an intelligent class of people he thought would measure up to the requirements of law." [296] Frank Wray, the Clarke County prosecutor who was assisting Galleher, inadvertently laid bare a broad range of inequities encapsulated by all-White male juries, arguing that "[n]o man can demand a mixed jury. If that contention be true—the contention that Negroes are entitled to mixed juries—then foreigners could not obtain fair play unless granted mixed juries. The same principle would apply to persons under 21 and to women because they are excluded from jury service and if on trial would be in the hands of juries among whom they were not represented." [297]

On the second day of the hearing, Judge McLemore denied the motion to quash the indictment. He stated that although he was "satisfied there are colored men in Loudoun competent to serve on grand juries," he believed that a jury list that "includes no colored people...is still a perfectly good list" so long as the judge chooses "honestly and conscientiously," considering intelligence and good citizenship.[298] He accepted Judge Alexander's testimony that he had selected the grand jury "from men he knew without regard to race."[299] According to several accounts, Houston was "on his feet in an instant."[300] He asked the judge for an exception: "I respectfully request a ruling on testimony that Judge Alexander picked the grand jury from his personal acquaintances. Your honor should say something about the caste system existing in Virginia. Inside the circle are white people. Outside are black people. Black people cannot get inside."[301] Judge McLemore responded, "We're perfectly conscious that a social caste is well marked in Virginia," adding: "It is not for me to say what will be the future in this State, in the light of the discussion and agitation which have been brought out largely by this particular case. This is a matter which will have to be met by the courts, and I have no doubt it will be met in a way which will mean justice to all parties and all races."[302] Houston filed a plea in abatement to reserve the right to appeal the ruling, which Judge Alexander overruled, prompting Houston to ask for an exception, which the judge granted, laying the basis for a subsequent appeal. As soon as the hearing on the motion to quash the grand jury came to an end, Crawford was arraigned on the first of two counts of murder. The trial for the

[293] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[294] "Court to Rule on Crawford Defense Today," 1. According to Mack, *Representing the Race*, 90, Houston "all but said that the circuit judge was lying." Kluger, 151, described these words as "about as close to personal rebuke as it was safe for him to venture in that courtroom."
[295] "Court to Rule on Crawford Defense Today," 1.
[296] Ibid.
[297] Ibid.
[298] Ibid.; Young, "Atty Houston Wins Loudoun County Citizens' Respect"; "Judge Upholds Lily-White Jury System," 1.
[299] "Court to Rule on Crawford Defense Today," 1; see also "Crawford Fails to have Murder Counts Quashed," *Evening Star* (Washington, DC: November 7, 1933), 17.
[300] "Crawford Fails to have Murder Counts Quashed," 17; "Judge Upholds Lily-White Jury System," 1.
[301] "Court to Rule on Crawford Defense Today," 1.
[302] "Court to Rule on Crawford Defense Today," 1. See also "Grand Jury List Here Held Valid In Ruling Upholding Indictment," *Loudoun Times-Mirror* (Leesburg, VA: November 9, 1933), 1.

murder of Agnes Ilsley would occur first. Crawford stood and entered a plea of not guilty. Judge McLemore set the date of the first trial as December 12.

At the close of the hearing, Judge McLemore made widely reported comments on the tenor of the proceedings:

> Judge McLemore complimented the opposing counsel on what he termed "their very able manner" in presenting their arguments, and for the "courtesy shown one another and the court." Turning to the spectators, he said: "There has been absolutely an absence of anything like excitement. I have seen nothing to create a suspicion that the people of this county might resort to violence."[303]

Walter White was reported to have "described the courtesy and consideration of the local officials and citizens 'as superb,' and was especially loud in his praise of the ability and fairness of Judge McLemore."[304] At the close of the hearing when reporters questioned Houston, the lead defense counsel mentioned he would not seek a change of venue for the trial and was quoted as saying, "We are going to cram this case down Loudoun county's throat." The verbal gaffe was an indication of how carefully Houston had to choose his words. He quickly sent a letter to several newspaper editors contextualizing his statement and commending the officials and people of Loudoun County:

> [M]y associates and I have received every professional courtesy at the hands of the county officials and the attorneys for the Commonwealth. We have traveled over the county making our investigations and have yet to encounter the first unpleasant incident. While we disagree with Judge McLemore's ruling on our motion to quash and plea in abatement, the hearing itself was as full and as fair as it could be.[305]

He added that "the court and attorneys for the Commonwealth desire that Crawford get a fair trial" and argued that a fair trial in Loudoun County would "demonstrate to the world that there are places in the South where a colored man can get a fair trial no matter with what crime he is charged." He hoped the Crawford trial would "be conducted on such a high plane that it will serve as a model for future cases involving racial antagonisms," adding that "Loudoun County and Virginia justice [are] just as much on trial as Crawford."[306]

Racial Dynamics in the Loudoun County Courthouse

Coverage in newspapers such as *The Washington Post*, *The New York Times,* and *The Boston Globe* identified Houston as a "colored lawyer" or "Negro attorney for Crawford," but generally made no further comment on his race or whether his presence in the Leesburg courthouse was unusual.[307] The *Loudoun Times-Mirror* gave more ink to Houston's forceful statements than most newspapers, including his "shouted" retort: "Every man, white and black, in Loudoun knows that no matter what the negro's qualification may be, he is excluded from

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[303] "Motion in Crawford's Case overruled; Exception Filed," 1. On expression of courtesy, see also "Crawford Motion Overruled," *The Bee* (Danville, VA: November 7, 1933), 1; "Race Refuted as Crawford Jury Factor," *The Washington Post* (Washington, DC: November 8, 1933), 17; Young, "Atty Houston Wins Loudoun County Citizens' Respect."
[304] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[305] "Crawford's Lawyer Would Make Trial Model For Future," *Loudoun Times-Mirror* (Leesburg, VA: November 16, 1933), 1; see also "Wants Crawford's Guard Maintained," 13; "'Venue Change Would Spoil Case'—Houston"; Walter White, "Crawford Case 'Most Important Legal Fight,'" *Harlem Heights Daily Citizen* (New York: November 20, 1933), 4.
[306] "'Venue Change Would Spoil Case'—Houston"; "Houston Thinks Crawford will Get Fair Trial"; "Crawford's Lawyer Would Make Trial Model for Future," 1.
[307] "Race Refuted as Crawford Jury Factor," 17. See also "Negro Jury Rights Argued in Virginia," 25; "Negroes Not on Jury List," 4; "Court Sets Date to Try Crawford," *The State* (Columbia, SC: November 8, 1933), 3.

jury service because he is a black man." The local weekly further noted that Houston was generally felt to have made "a well-presented argument" and offered a separate article about Houston's credentials and renown as "one of the leaders" of his race.[308]

The *Richmond Times-Dispatch* was one of the few large-circulation White newspapers to directly address the race of the defense lawyers. The newspaper offered a lengthy description of Houston's academic credentials and noted that "Dean Houston was polite in his examination of Judge Alexander and the latter was unruffled by his cross-examination at the hands of the Negro." The newspaper further noted that "[w]hile there was no outward manifestation of irritation in or around the courthouse, persons in the crowd were heard to express indignation over the appearance of Negro lawyers in the case."[309] After Judge McLemore's ruling the next day, however, the newspaper observed that a "leading topic of conversation here today is the absence of interracial bitterness or excitement of any kind in connection with the Crawford hearing."[310] Moreover, the paper noted: "Although a few persons had been heard yesterday to voice objections to the appearance of Negro attorneys as counsel for the defense, this feeling apparently had evaporated here today. When the Negro lawyers entered the courthouse lawn this morning, for example, they were cordially greeted by the group of farmers and other bystanders who stood near the entrance."[311] The next day, the *Richmond News Leader* offered a detailed account of Houston's background and credentials, calling him "probably the most celebrated Negro lawyer in the United States," but noted that the Crawford case would be his first murder trial.[312]

African American newspaper correspondents were far more attentive to the racial dynamics surrounding the defense lawyers and the courtroom atmosphere. They were often effusive about Houston's performance. The *Norfolk Journal and Guide* devoted almost the entire front page of its November 11 issue to several articles on the Crawford hearing. Thomas Young reported that Houston "won the 'genuine admiration' of Loudoun County citizens." Despite some bitterness about the cause he was arguing, "[t]he majority of white people hereabouts...looked upon the acting dean of the Howard University law school with unstinted respect for his genius."[313] A second correspondent characterized one such local impression: "'I never thought I would live to see the day,' drawled a white spectator in a drugstore after the hearing, 'when anybody would make such a fool of Galleher.'"[314] The *Pittsburgh Courier* heaped praise on Houston:

> Charles Houston with his towering physique, his brilliant mind and superior professional training and the very force and confidence which he radiated, stood as a symbol of that increasing number of privileged Negroes upon whom must rest more and more the grave responsibility of reaching out to protect and elevate the masses of oppressed negroes everywhere.[315]

Against the belittling tendency of White lawyers to address an African American witness by his first name, Young commended Houston for never making "a single concession to Southern tradition in his conduct of the case. Throughout, he invariably addressed all witnesses, colored and white, as 'Mr. So and So.'"[316] (In the

[308] "Caste System Excludes Negroes from Juries Here, Says Houston," 2; "Houston, Crawford Attorney, One of Leaders of Race in Nation," *Loudoun Times-Mirror* (Leesburg, VA: November 9, 1933), 2.
[309] "Ruling Set Today in Crawford Plea; Hearing Guarded," 1.
[310] "Negro to Sit on Crawford Jury's Panel," *Richmond Times-Dispatch* (Richmond, VA: November 8, 1933), 1.
[311] "Visiting Lawyers Treated Friendly, Absence of Interracial Bitterness Main Topic as Hearing is Held," *Richmond Times-Dispatch* (Richmond, VA: November 8, 1933), 1.
[312] "Negros May be Named on Venire," *Richmond News Leader* (Richmond, VA: November 8, 1933), 6.
[313] Young, "Atty Houston Wins Loudoun County Citizens' Respect."
[314] "Brilliant Array of Legal Talent in Famous Case," *Norfolk Guide and Journal* (Norfolk, VA: November 11, 1933), 1.
[315] "Refuse to Quash Geo. Crawford Indictment," *Pittsburgh Courier* (Pittsburgh: November 18, 1933), 3.
[316] Young, "Atty Houston Wins Loudoun County Citizens' Respect."

second trial of Haywood Patterson, by contrast, Samuel Leibowitz had drawn gasps by repeatedly warning opposing counsel to address an African American witness as "Mr."[317]) Young concluded that Crawford got a fair hearing "unless you score against the state the constant intonation of 'Nigga' by the whites in referring to Negroes, and the outright use of the word 'nigger' twice by Mr. Galleher. But to offset that pair of offensive slips, the commonwealth's attorney also slipped twice and said 'Negro' the way it is spelled."[318]

In a separate personal narrative, laden with irony, Young described his experience as a Black journalist covering a hearing predicated on fairness in such a segregated jurisdiction. Approaching Leesburg on the Robert E. Lee Highway, Young passed the Robert E. Lee School for White children who were delivered to school by buses paid for with public funds, while "the little colored tots walked through a drizzling rain, impervious of the hazards of speeding automobiles, to their little wooden schoolhouse behind the woods." He received courtesy at the clerk's office—"arrangements would be made for all reporters"—and on asking where he could get a room and something to eat, was referred to Lizzie Walker. In Walker's "little, but neat home," rest and sustenance were found by the "whole crew of 'strange colored people,'" including Walter White, the defense counsel, Houston's mother and father, and other African American reporters.[319] Young's description reinforces White's subsequent recollection of "the refusal of any Negro in Loudoun County to give food and shelter to us during the trial." White continued: "They understandably feared attacks upon their homes if we stayed there. It was therefore necessary to us to drive the thirty-five miles from Washington to Leesburg each morning and return to Washington each night to find a place to sleep." He recalled, however, "a courageous colored woman" who "prepared delicious hot meals for us."[320] The Leesburg Inn, which then stood next to the courthouse, would not accommodate the defense counsel because of their race, although Judge McLemore was staying there.

Young noted that he overheard crowds of "natives" discussing the case "and you hear lots of 'nigger this' and 'nigger that.' But let your presence be discovered and a hush envelops them." He also suggested an atmosphere of intimidation when he observed: "The colored people are not talking about this case to anyone."[321] Young described the courthouse as a "setting of illusive splendor," and as for the public seating inside, he gave credit to James Tyson of the defense counsel (and a former Howard University football star)[322] for a key intervention:

> There was to be no segregation of spectators Judge Alexander had specifically ordered. There never had been in the Loudoun County courtroom, Clerk E. O. Russell stated, but he added that from time immemorial the Negroes, because of natural proclivities, had grouped themselves on the left and whites on the right hand side of the room. So when a member of the State Police stood at the entrance and directed colored spectators to one side and whites to the other, Mr. Tyson, associated defense counsel, questioned his authority. The officer replied that he was

[317] James Goodman, *Stories of Scottsboro* (New York: Vintage Books, 1994), 120-121. See also Mack, *Representing the Race*, 85, citing a 1949 interview in which Houston "remembered the struggle over that one word, 'mister,' as one of the most significant accomplishments" of Haywood Patterson's second trial.
[318] Young, "Leesburg's Best Foot is Put Forward." Galleher's use of offensive terms was also noted in "Leesburg Folk Believe Crawford Pawn in County Politics," 2.
[319] Young, "Leesburg's Best Foot is Put Forward."
[320] Walter White, *A Man Called White* (New York: The Viking Press, 1948), 154. At the time, White wrote to Freeman of the *Richmond News Leader* describing their inability to find lodging within the African American community, saying he could "understand the reluctance of these local colored people, who will have to stay there after we shall have gone," but he questioned whether "any pressure" or "quiet threats" of reprisal had been made. Freeman demurred, saying, "That would not be in accordance with the spirit of the people of Loudoun." Walter White to Douglas Southall Freeman, December 4, 1933, and Freeman to White, December 6, 1933, quoted in Bradley, 136.
[321] Young, "Leesburg's Best Foot is Put Forward."
[322] Tyson's football history is noted in MSRC Staff, "Tyson, James Guy" (Washington, DC: MSRC, Howard University, Manuscript Division Finding Aids, 2015), 2.

> acting on court orders. Mr. Tyson began a little investigation which inspired the state policeman's confession to Mr. Tyson that he was acting on his own initiative, not by order of the judge.[323]

Despite the episodes of offensive language, Young characterized the hearing as an "unprecedented atmosphere of cordiality in Southern courts where white and Negro lawyers are pitted on opposite sides." Afterward, there was "handshaking and unqualified expressions of commendation" from both sides. Young suggested that the NAACP "took a big gamble when it placed the entire matter in the hands of Negro lawyers. But it won a great victory. There is no doubt...that Crawford's chances are 100 percent better because of his able Negro counsel."[324] Another correspondent for the *Norfolk Journal and Guide* also contended that "[n]o more brilliant array of lawyers could perhaps have been assembled to conduct Crawford's defense. And over the disapproval of many Negroes in Virginia, the National Association for the Advancement of Colored people has staked its cause with an all-Negro staff. Undoubtedly, they acquitted themselves splendidly."[325] The article sketched the academic and professional credentials of the four defense lawyers, but focused on Houston's persona, describing him as "the epitome of gentlemanliness—cool, resourceful, brilliant. His cold penetrating logic arrives quickly on a clear and sonorous voice."[326] Of the opposing counsel, John Galleher and Frank Wray, the article only said their "efforts were made to appear futile before the accurate fire from the legal guns of Mr. Houston."[327]

Judge McLemore, despite his ruling, was described as a "mental giant" and "regarded as one of the ablest members of Virginia's judiciary."[328] Nevertheless, Houston had "so completely clinched every point in contention" regarding jury discrimination that Judge McLemore was left "but one straw" on which to hang his ruling, which was Judge Alexander's testimony that he had not been influenced by "race or color" in selecting the grand jury.[329] The *Afro-American* was less sanguine about the courtroom cordiality, describing McLemore's ruling more bitterly as "cavalier Virginia judicial shenanigans." The article exposed the hypocrisy of a hearing in which the prosecutor began by arguing that "no Negroes in the county were qualified for jury duty" and then agreed to a list of 80 Black men who were qualified, and where one jurist acknowledged the custom of using White men exclusively for jury service and another jurist "blandly ruled that the lily-white jury was legal." The "legal run-around" the article said, was that "Judge Alexander did not *exclude* Negroes; he never *considered* them."[330]

Despite testimonials regarding the fairness of the hearing, the NAACP sought to emphasize the drama and urgency of Crawford's situation in order to continue raising funds for his defense. Only African American newspaper articles contained any hints of a frame-up in the *Crawford* case, content that can generally be traced to NAACP press releases. *The Washington Tribune* relied on an NAACP press release when it reported that a "sensational under-current of scandal and charges of a frame-up are flying about" in Leesburg, describing the hearing to quash the indictment as "the opening gun in what promises to be a bitter, sensational struggle for Crawford's life" in a section of Virginia "which is both prejudiced and wealthy." The fight will be expensive,

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[323] Young, "Leesburg's Best Foot is Put Forward."
[324] Young, "Atty Houston Wins Loudoun County Citizens' Respect."
[325] "Brilliant Array of Legal Talent in Famous Case," 1.
[326] Ibid.
[327] Ibid.
[328] Ibid.
[329] Young, "Atty Houston Wins Loudoun County Citizens' Respect"; "Arguments Made Left State But One Leg on Which to Stand at Leesburg," *Norfolk Journal and Guide* (Norfolk, VA: November 11, 1933), 1.
[330] "The Crawford Case 'Run Around,'" *Afro-American* (Baltimore: November 18, 1933), 16.

the notice concluded, and the NAACP is appealing for funds.[331] The *Afro-American* played up the social discord among White residents in Loudoun County, describing the "Middleburg Sportsmen" as a wealthy class of Northerners and New Yorkers who descend seasonally on estates bought up by their forebears after the Civil War, enjoying a life of dissipation, with their horses, hounds, and opulence; in contrast, the "Old Virginians" were "backwoodsmen, sharecroppers, farmers and laborers...who often expressed hatred and looked with both contempt and awe upon the wealthy hauty [*sic*] 'yankees.'" Despite this conflict between different classes of White residents, the newspaper suggested, the crime was quickly pinned on a Black man in a manner "[t]rue to Southern tradition."[332] A week after the hearing, however, Roy Wilkins, Assistant Secretary of the NAACP, wrote to Houston: "If we cannot release pretty soon some 'blood and thunder' sensation, involving Crawford's personal welfare, the danger to his life, or some such angle, I am afraid the publicity will peter out so far as raising money is concerned."[333]

The NAACP Selects an All-Black Defense Counsel

Houston's performance at the hearing and positive reports in the Black press had considerably strengthened the position of the NAACP on the question of using Black lawyers, but pressure on this point continued. The area secretary of the Commission of Interracial Cooperation argued that "it would strengthen the case immeasurably if you had the prestige of an outstanding white attorney born and reared and educated here in Virginia," but admitted that his opinion might be of little value after "the very satisfactory handling of the case by negro lawyers alone."[334] Just days after the hearing, Houston wrote to Freeman of the *Richmond News-Leader* to explain the position he was now in with regard to the question of biracial counsel, noting that he had become "enmeshed in my own propaganda." Houston contended that since "Mr. Ransom and I are both teaching at the Law School it would be impossible for us to explain to the Negro bar our bringing on white counsel....You might not know the pressure on us in this regard, but if we brought in white counsel our usefulness here [at HUSL] would be at an end."[335] He further confided, "I am trying to see whether this case can be lifted above racial prejudice either at the bar or at the counsel table."[336] For Houston, a demonstration of fair treatment for Black lawyers was a critical part of the gamble. In a careful reconstruction of the underlying significance of Houston's courtroom performance in *Crawford*, historian Kenneth Mack wrote: "The problem of a black lawyer in a southern courtroom would now take its place as one of the central issues that would define the meaning of the case."[337]

Reaction to the hearing had tipped the scales in Houston's favor and the NAACP developed a public relations effort around the selection of an all-Black defense counsel. Content from an NAACP press release appeared in African American newspapers throughout the country with such headlines as "Crawford Defense Staff to be All Negro," and "All-Race Counsel to Defend Crawford." [338] The NAACP statement cited praise for Crawford's counsel in "the colored press, especially the *Afro-American*, the Journal and Guide and editorially by the New York Amsterdam News," all of which supported the view that "it is a great opportunity for colored lawyers,"

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[331] "Frame-up Hinted in Crawford Case; Alexandria Jail Protected," 2; "Hears Whispers of a Scandal in Crawford Case," *Norfolk Journal and Guide* (Norfolk, VA: November 11, 1933), 1; "Crawford Defense and Negro Attorneys," *Pittsburgh Courier* (Pittsburgh: November 18, 1933), 10.
[332] "All the Elements of a Mystery Novel Surround Case of George Crawford," 1.
[333] Roy Wilkins to Charles Hamilton Houston, November 18, 1933, quoted in Bradley, 131.
[334] Quoted in Bradley, 133.
[335] Charles Hamilton Houston to Douglas Southall Freeman, November 11, 1933, quoted in Bradley, 133.
[336] Charles Hamilton Houston to Douglas Southall Freeman, November 11, 1933, quoted in Mack, *Representing the Race*, 97.
[337] Mack, *Representing the Race*, 97.
[338] "N.A.A.C.P. News: Crawford to Have Defense by All-Negro Counsel," 1; "Geo. Crawford Defense Staff to be All Negro: Showing of Houston and Leesburg Basis of NAACP Move," *Norfolk Journal and Guide* (Norfolk, VA: November 18, 1933), 2; "All-Race Counsel to Defend Crawford," *Pittsburgh Courier* (Pittsburgh: November 18, 1933), 6.

although it is "a gamble especially in a Southern state." The *Pittsburgh Courier* believed the selection of Black defense counsel to be one of the most significant aspects of the case: "[F]or the first time in an important case arousing national interest, the defense has been represented by an exclusively Negro legal counsel."[339] The NAACP news release indicated that "Dean Houston has converted" the "liberal white Virginians" who wanted to ensure Crawford received the fairest possible trial by hiring a White lawyer:

> It was the conduct of the colored attorneys in the hearing on the motion to quash the indictment that finally decided the question of mixed or all-colored defense counsel. Dean Houston's dignity in the court, his thorough grasp of the law, his courtesy, his firmness in pressing his contentions, his handling of witnesses, and his ability in opposing the prosecutors won him instant respect from all court officials, even his opponents across the counsel table.[340]

The announcement continued:

> It is not a new thing for the N.A.A.C.P. to use colored lawyers, but this is the first time all-Negro counsel has been used in such an important case in a southern state. Another famous case in which the N.A.A.C.P. used eminent colored counsel was the Arkansas riot cases in Elaine [C]ounty, in 1919–1923. Judge Scipio A. Jones of Little Rock raised the jury question in that long fight and on the strength of his argument secured the reversal of the death sentences of six men before the Arkansas supreme court.[341]

Heading into December, the *Pittsburgh Courier* described the upcoming trial as a "battle of the brains," referring to the retention of State Senator Cecil Connor, an experienced criminal prosecutor, to assist Galleher and Wray, and noting that Houston was "regarded as one of the most brilliant lawyers in America."[342] An opinion letter sent to the *Washington Tribune* following the preliminary hearing contended that "Virginia has never heard a better lawyer, white or black," and that "Dean Houston" not only "established a precedent here for the future Negro race" but made a great start on the principle of mixed juries. The writer urged readers to support the upcoming trial: "Let us do our part to help Dean Houston and his associates to put this great justice program over."[343] NAACP funding requests highlighted the significance of the African American lawyers: "It is the first time a group of colord [*sic*] lawyers has handled a major trial with interracial complications in Southern courts."[344] The organization's appeal for donations also stressed the more fundamental implications of the case for African Americans: "[T]o establish the Negro's constitutional right to jury service, and...to assure to Crawford the fair and impartial trial to which, under the law, every person is entitled."[345]

As the issues and funding needs were being rehearsed in the African American press, Judge Lowell died unexpectedly on November 30. The notoriety of his ruling in Crawford's habeas corpus hearing was

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[339] "Refuse to Quash Geo. Crawford Indictment," 3.
[340] "Geo. Crawford Defense Staff to be All Negro: Showing of Houston and Leesburg Basis of NAACP Move," 2.
[341] "N.A.A.C.P. News: Crawford to Have Defense by All-Negro Counsel," 1; "Geo. Crawford Defense Staff to be All Negro: Showing of Houston and Leesburg Basis of NAACP Move," 2; "Crawford Defense and Negro Attorneys," 10.
[342] "State Senator to Help in Prosecution of Crawford," *Pittsburgh Courier* (Pittsburgh: December 2, 1933), 2.
[343] Worthy Jones, "Praises Attorney Houston's Conduct at Crawford Trial," *Washington Tribune* (Washington, DC: December 7, 1933), 4.
[344] "Crawford Case Crippled by Lack of Funds," *Press-Forum Weekly* (Mobile, AL: December 8, 1933), 1; "Trial to Start in Virginia on December 12," *Harlem Heights Daily Citizen*, (New York: December 4, 1933), 3.
[345] "Geo. Crawford Defense Staff to be All Negro: Showing of Houston and Leesburg Basis of NAACP Move," 2; "N.A.A.C.P. News: Crawford to Have Defense by All-Negro Counsel," 1. Specific sums spent and needed were provided in Walter White, "Crawford Case 'Most Important Legal Fight,'" 4.

remembered in newspapers across the country. His death effectively ended impeachment proceedings in the US House of Representatives.[346]

Planning Crawford's Defense

With the motion to quash the indictment decided, Houston and his co-counsel began to focus on the facts of the murder case and their plan for Crawford's defense. Houston and his co-counsel met with the opposing counsel and Judge McLemore in the weeks before the trial. Houston explained their intention to make a complete investigation and to find out if the rumors implicating Paul Boeing were false, so as to keep the trial "clean from any unjust accusations."[347] Houston and his co-counsel were allowed to interview the state's witnesses, including Bertie DeNeal, a key witness for the prosecution. DeNeal was a local African American woman and former paramour of Crawford who admitted returning with him from Boston in December 1931. She shared other details that placed Crawford in Leesburg at the time of the murders the following month. DeNeal was held in the county jail in Leesburg for safekeeping for several weeks preceding the trial, a potentially coercive factor that subsequently led critics of the NAACP to doubt her version of the story.

Additional investigations and interviews confirmed Crawford's presence in Leesburg and indicated that he and another Black man who was not locally known had stayed on the property of a local Black resident, Hammond Nokes, in the days before the murder. Nokes's name was on the piece of paper in Crawford's handwriting that had been discovered in Ilsley's abandoned car. Crawford had written down Nokes's address intending to send some compensation for the food Nokes had given him. Ransom and Tyson went to Boston to check on Crawford's alibi witnesses but in the short time they were there, they were unable to locate or interview the individuals who had placed Crawford in Boston at the time of the murders. A visit to Richmond showed that Crawford had been previously imprisoned twice, instead of only once, as Crawford had claimed. Interviews with local Middleburg residents indicated that the information implicating Boeing was "all hearsay and surmises."[348] Of Boardman's January 1933 investigative report, which led the NAACP to believe Crawford was an innocent victim being railroaded to the chair, the lawyers later wrote that Boardman had been sent to gauge the "temper of the County" relative to Crawford's physical safety, not to track down the facts of the case. When the defense lawyers confronted Crawford with the information they had gathered, he admitted his part in a burglary that went awry and ended in murder.[349] Houston later noted that although the NAACP's initial belief that Crawford was innocent proved false, the organization could not then abandon Crawford, and the case still presented an opportunity to attack the unconstitutional exclusion of African Americans from Virginia juries.

Assertions of Crawford's innocence or scapegoating had previously appeared mainly in the African American press, although the *Loudoun Times-Mirror* also reported the NAACP believed he was not guilty.[350] Most newspapers were primarily interested in the legal challenge being made to the "Southern jury system" because of its exclusion of Black jurors.[351] As the *Loudoun Times-Mirror* told its readers, "The news value of the

[346] For example: "Judge J. A. Lowell, Ill Ten Days, Dies: Death Ends Impeachment Case in Congress Due to Extradition Decision," *Baltimore Sun* (Baltimore: December 1, 1933), 1; "Federal Judge James Lowell Dies Thursday: Massachusetts Jurist Gained Nation-wide Fame by Decision in Crawford Affair," *Billings Gazette* (Billings, MT: December 1, 1933), 1.
[347] This summary of the investigation is based on Houston et al., 17.
[348] Houston et al., 20. Boardman obtained much of this hearsay from a local magistrate named Roy Seaton; see Helen Boardman Deposition.
[349] Houston et al., 15, 17-20. For Roy Seaton's disappearance, see Mack, *Representing the Race*, 100; "Roy Seaton Looms as Mystery Man in Trial of Crawford," *Loudoun Times-Mirror* (Leesburg, VA: December 14, 1933), 1.
[350] "Main Witness in Crawford Case Missing," *Afro-American* (Baltimore: November 11, 1933), 2; "Frame-up Hinted in Crawford Case; Alexandria Jail Protected," 2; "Attorney, Here on Case, Doubts Accused Guilty," 1.
[351] Virginius Dabney, "State Witness Balks at Trial of Crawford; Pollard Appeals to Ely," *Richmond Times-Dispatch* (Richmond, VA: December 12, 1933), 1.

Crawford trial for the big metropolitan newspapers and the national press associations lies in the constitutional question involved." The objective of Crawford's attorneys, the newspaper continued, "is to get the case before the United States Supreme Court, in the expectation of obtaining...a ruling establishing a precedent they think will change conditions in the South."[352]

After the November hearing, Judge McLemore suggested to the court clerk that the jury commissioners "would save a good deal of trouble if they included some dozen or more negroes" in the venire—the list of men from which the trial jury would be selected.[353] Houston publicly announced that the defense would challenge the venire if Black men were excluded and would ask for a delay of trial until a new group including Black men was obtained.[354] In early December, *The Washington Post* reported that "no colored persons are on the list of the 104 men drawn for jury service" in the *Crawford* trial.[355]

The *Richmond Times-Dispatch* reported that many of the witnesses summoned by the state were "men prominent in Middleburg's hunting colony" and those summoned by the defense included numerous witnesses to testify in the motion to quash the jury list, as well as alibi witnesses from Boston to testify in the trial.[356] Two days later, *The Washington Post* reported that 105 witnesses had been summoned for the trial, of whom more than 80 were African American. However, of the "80-odd" witnesses summoned by the defense, including Judge Alexander, the newspaper noted that none were for the trial itself; they were instead to testify on "the exclusion of Negroes from the venire."[357] Behind the scenes, the defense had dropped its intention to bring Crawford's alibi witnesses from Boston, believing that to knowingly allow witnesses to commit perjury was contrary to legal ethics.[358]

Commonwealth of Virginia *v.* Crawford*, December 12–16, 1933*

The ongoing Scottsboro retrials heightened the focus on Crawford's trial. Within the previous two weeks, two of the Scottsboro Boys had been retried and again found guilty by all-White juries: Haywood Patterson received a third death sentence and Clarence Norris received the same in his second trial, although none of the Scottsboro Boys are believed to have been guilty. The *Loudoun Times-Mirror* assured its readers that the principal issue at stake in Crawford's trial was "the Southern jury system."[359] The unwritten subtext was White Virginians' belief that an all-White jury could still render a fair and impartial verdict. Reporting on the public mood and preparations for Crawford's trial in Leesburg, the *Richmond Times-Dispatch* asserted that the "citizens of Loudoun County want the accused man to have a fair and impartial trial" and that great interest in the trial would bring a crowd to the small town: "Preparations are being made by the business people to take care of the many who will want accommodations over night," and "[t]he telegraph company has rented an entire building opposite the courthouse" for transmission of news dispatches.[360]

[352] "Constitutional Question Makes Crawford Case News For Dailies," *Loudoun Times-Mirror* (Leesburg, VA: November 9, 1933), 4.
[353] James L. McLemore, Judge of Circuit Court of Sussex County, to E.O. Russell, Clerk of Court, Leesburg, VA (Leesburg, VA: Loudoun County Department of Records [LCDR], November 18, 1933, Loudoun County Criminal Cases, *Commonwealth of Virginia vs. George Crawford*, Folder 1932-090-#1). See also Bradley, 134; Mack, *Representing the Race*, 93.
[354] "Crawford Defense to Demand Negroes on Death Trial Jury," *The Washington Post* (Washington, DC: November 19, 1933), 12.
[355] "Challenge Sure For All-White Crawford Jury," *The Washington Post* (Washington, DC: December 4, 1933), 17.
[356] "Stage is Set for Trial of Crawford," *Richmond Times-Dispatch* (Richmond, VA: December 10, 1933), 25.
[357] "Crawford Trial to Open Today in Quiet Scene," 24.
[358] Houston et al., 21.
[359] Virginius Dabney, "State Witness Balks at Trial of Crawford; Pollard Appeals to Ely," 1.
[360] "Stage is Set for Trial of Crawford," 25. Preparations for telegraph wires and reporters were also noted in "Nations [*sic*] Press to be Represented at Crawford's Trial for Murder," *Loudoun Times-Mirror* (Leesburg, VA: November 9, 1933), 4.

Although the NAACP and Black newspapers frequently alluded to the significance of Crawford's all-Black legal team, White-owned press outlets were less attentive to this aspect of the trial. The *Richmond Times-Dispatch* was one of the few White-owned newspapers to observe that "it is perhaps the first time in the history of the South that in a criminal case of this magnitude, the defense has been conducted entirely by Negro lawyers."[361] Conscious of the historic moment, a *Richmond Times-Dispatch* photographer took a photograph of the defense counsel posing with Walter White in front of the clerk's office (the former Academy building) next to the courthouse (Figure 18).[362] Similar to the November hearing, the major White-owned Virginia newspapers and several African American newspapers sent reporters who provided extensive coverage of the trial, in addition to the local *Loudoun Times-Mirror*. The story was followed in other newspapers across the country that primarily drew content from AP reports.

The first day of the trial unfolded on Tuesday, December 12, in much the same fashion as the November hearing. The *Richmond Times-Dispatch* published a photo collage of the legal protagonists along with a scene showing the crowd on the courtroom steps, which included White men and women in suits and overcoats along with two men in overalls to one side (Figure 19). The crowded courthouse included "[r]oughly dressed farmers" sitting beside "fashionably garbed men and women from Middleburg and other sections in the horse raising, fox chasing region."[363] African Americans sat on the left side of the chamber.[364] Many people "stood outside in the bitter cold peeping into the windows," and the crowd inside "included many women."[365] Crawford arrived with a heavily armed guard and photographers snapped photographs as he was escorted across the courthouse yard (Figures 20–23). Once again, the Black lawyers made the round trip daily between Washington and Leesburg, experiencing a lengthy trip home one night when freezing rain made the roads slippery.[366] Crawford and his police escort faced the same hazards.[367]

A good part of the first day was taken up with the motion to quash the venire for the trial jury, which consisted of only White men. Judge Alexander was excused from testifying because of illness, and Houston focused his cross-examination on the three White jury commissioners and the court clerk. The court clerk testified that so far as he knew "no Negro had ever served on a jury in Loudoun County."[368] The jury commissioners testified that they considered "both whites and blacks" for jury service but said they did not know of any Black residents in the county who were qualified. Houston pressed them on the statutory requirements and reminded them of Judge McLemore's statement at the November hearing admitting there were qualified African Americans in the county. The *Afro-American* reported in some detail how Houston flustered and even embarrassed two of the jury commissioners, including one who clearly struggled to read, and another one who in the course of questioning admitted that he found his African American housebuilder to be intelligent, honest, and fair-

[361] Dabney, "State Witness Balks at Trial of Crawford."
[362] An original print once belonging to James Tyson and signed by the individuals portrayed is located in James Guy Tyson Papers (Washington, DC: MSRC, Howard University, Box 108-9). The photograph was also published in various newspapers: "Scene and Figures at Opening of Crawford Trial," *Richmond Times-Dispatch* (Richmond, VA: December 13, 1933), 3; "All Negro Counsel at Crawford Trial," *Black Dispatch* (Oklahoma City, OK: December 28, 1933), 1; "Charles Houston, The Defense Attorney In The Celebrated Crawford Case, The Principal Speaker at Y.M.C.A. Sunday," *Pittsburgh Courier* (Pittsburgh: January 20, 1933), 1. The *Afro-American* published an earlier version of the group portrait taken at the time of the November hearing, although the quality of the image on microfilm is poor: "Lawyers Who Defended Crawford at Leesburg, Virginia," *Afro-American* (Baltimore: November 11, 1933), 2.
[363] "Heated Clashes in George Crawford Trial," *The Boston Globe* (Boston: December 12, 1933), 6.
[364] "Admonition Marks Crawford Trial," *The Bee* (Danville, VA: December 13, 1933), 1.
[365] Roy C. Flannagan, "Crawford Note in Murder Car, State Claims," *Richmond News Leader* (Richmond, VA), December 13, 1933, 1.
[366] "Slippery Roads Tie up Crawford Lawyer 5 Hours," *Afro-American* (Baltimore: December 16, 1933), 2.
[367] "Sleet on Roads Only Hazard in Crawford Case," *Richmond News Leader* (Richmond, VA), December 14, 1933, 28.
[368] "Heated Clashes in George Crawford Trial," 6.

minded, which Houston pointed out were the statutory requirements.[369] None of the African American residents summoned to testify as to their qualifications for jury service were called to the stand. The Commonwealth instead agreed that their testimony would be similar to that taken from them in the November hearing. Judge McLemore overruled the motion to quash, as expected, saying there was no evidence of deliberate exclusion of Black jurors. Within the span of an hour, a panel of twenty White men was selected from which each side would strike four the next morning.[370]

Narrowed to twelve men on Wednesday, December 13, the jury consisted of one merchant, two bankers, and nine farmers.[371] Following the jury selection, Judge McLemore gave an admonition to reporters against writing "incendiary" articles and to the spectators not to give an ear to "anything that would stir feeling in this case." He openly addressed the race of the defense counsel: "Counsel for the defense are negroes, who have exactly the same rights in this court as white counsel. If they conduct themselves properly, I have no doubt they will be treated like white people."[372] The record does not reveal whether McLemore's words were perceived by the defense team as a veiled threat. The *Afro-American* also covered McLemore's admonishment but chose a different quote: "The defense attorneys are officers of this court and as such will receive [the] same respect and consideration."[373]

The prosecution made an opening statement laying out its assessment of the facts in the case and the evidence to be presented. Amid the copious details of that day's proceedings, few newspapers reported that the defense waived the right to make an opening statement.[374] The trial transcript shows that Houston generally said very little during much of the trial, which featured testimony provided over three days.[375] Newspapers reported Houston asking a perfunctory question here and there during cross-examination. Under questioning from Houston, for example, Paul Boeing said he was aware of no disagreement or quarrel between his sister and Crawford.[376] Newspapers also reported that when Boeing was asked to identify Crawford, the defendant "immediately stood up and smiled affably at Boeing, who smiled back at him."[377] A more substantial exchange was reported on the cross-examination of a medical expert who testified that the skin found underneath Agnes Ilsley's fingernails was that of a Black man. Under questioning from Leon Ransom, who had done advance research to cast doubt on this testimony, the medical expert acknowledged the particles of skin could be those of a White person.[378] The doctor also testified that neither Ilsley nor Buckner had been raped.[379]

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[369] "Commissioner Who Passed on 'Negro Intelligence,' Has Hard Time Reading Names," 2.
[370] "Heated Clashes in George Crawford Trial," 6; Virginius Dabney, "Crawford Talesmen Quickly Named As Defense Loses Motion to Quash," *Richmond Times-Dispatch* (Richmond, VA: December 13, 1933), 1; "Discrimination Not Proved, Court Rules in Jury List Motion," *Loudoun Times-Mirror* (Leesburg, VA: December 14, 1933), 4; "Crawford Found Guilty by White Jury; Gets Life," *Pittsburgh Courier* (Pittsburgh: December 23, 1933), 1.
[371] A newspaper photograph of the jurors can be found in an undated clipping (Washington, DC: MSRC, Howard University, James Guy Tyson Papers, Box 108-2, Folder 29).
[372] "Admonition Marks Crawford Trial," 1; see also "Incendiary Article Draws Fire of Court; Author is Rebuked," *Loudoun Times-Mirror* (Leesburg, VA: December 14, 1933), 1.
[373] "Court Rebukes Va. Press., Will Protect Houston," *Afro-American* (Baltimore: December 16, 1933), 2.
[374] "End of Crawford Trial in Sight," *Loudoun Times-Mirror* (Leesburg, VA), December 14, 1933, 1.
[375] Mack, *Representing the Race*, 101.
[376] Roy C. Flannagan, "Crawford Seen in VA. Before Ilsley Murder," *Richmond News Leader* (Richmond, VA: December 14, 1933), 1.
[377] Virginius Dabney, "Killer a Negro, Says Doctor at Crawford Trial," *Richmond Times-Dispatch* (Richmond, VA: December 14, 1933), 1.
[378] "End of Crawford Trial in Sight," *Loudoun Times-Mirror* (Leesburg, VA: December 14, 1933), 1; Dabney, "Killer a Negro, Says Doctor at Crawford Trial."
[379] Roy C. Flannagan, "Court Admits Crawford's Murder Confession," *Richmond News Leader* (Richmond, VA: December 15, 1933),

Seventeen witnesses for the state—including Bertie DeNeal and Hammond Nokes—testified to having seen Crawford around Middleburg at various times and places prior to the murders. DeNeal and Crawford were reported to have smiled broadly at each other during her testimony.[380] Nokes, a transgender Black woman and one of the earliest known instances of an openly transgender person testifying in Virginia courts, caused something of a sensation among the spectators, taking the stand in "a woman's wig, a woman's hat, dress coat and shoes" and talking "in a shrill affected voice."[381] The night watchman at a coal company near Washington, DC, witnessed Crawford and another man abandoning Ilsley's car before dawn; he claimed to recognize Crawford by his "peculiar, pigeon-tied [*sic*] gait, his diminutive stature," and his manner of "swaying from side to side when walking," which he observed again while Crawford walked across the courthouse yard.[382] The cumulative testimony was circumstantial but damning. Virginius Dabney, writing for the *Richmond Times-Dispatch*, was openly perplexed by the actions of the defense, reporting that Houston "scarcely cross-examined these witnesses at all" and afterward announced to newspaper reporters that the defense would not be calling alibi witnesses, leaving "considerable speculation as to what course the defense plans to follow."[383] The *Richmond News Leader* likewise reported that "the all-Negro defense staff has maintained the strictest secrecy as to its case," but speculated that Crawford might take the stand.[384]

By Thursday afternoon, the jury was excused from the courtroom as Judge McLemore heard arguments on the admissibility of Crawford's alleged confession. Houston argued forcefully that the confession be excluded on grounds that Crawford had not been informed his words might be used against him and that he had been induced to make the confession.[385] McLemore decided to allow the confession as evidence. Friday morning it was read to the jury and corroborated by the Boston stenographer, Galleher himself, and a police lieutenant and sheriff from Boston. The confession was widely regarded as critical to the prosecution because all other evidence was circumstantial.[386] In a "surprise move," the defense did not put Crawford on the stand.[387] In fact, the defense only put four witnesses on the stand during the trial. One was an elderly Black woman who lived near the Ilsley cottage and reported hearing no noise the night of the murders. The others were Black men who were put on the stand Friday to impeach the testimony of Robert Hutchins, a Black special narcotic investigator for the federal government who had testified the day before of overhearing Crawford boast in Boston of killing two White women in Virginia. Hutchins had claimed to be a captain of Company A, 367th Infantry during the

1; "Alibi May Help Win Crawford Freedom," *Pittsburgh Courier* (Pittsburgh: December 16, 1933), 1. Two days after the women were murdered, the newspapers published the pathologist's statement that neither had been "criminally assaulted": "Suspect Held in 2 Slayings at Middleburg," 1.

[380] "End of Crawford Trial in Sight," 1.

[381] Dabney, "Killer a Negro, Says Doctor at Crawford Trial"; see also "Red Wigged Boy-Girl Witness for Crawford," *Afro-American* (Baltimore: December 16, 1933), 1. On Hammond Nokes, see also Ralph Matthews, "Mother Always Wore Pants, Hammond Nokes Wears Dresses," *Afro-American* (Baltimore: December 23, 1933), 1; Amy Bertsch, "The Remarkable Visibility of Hannah Nokes," (Office of Historic Alexandria, accessed March 4, 2022, https://www.alexandriava.gov/sites/default/files/2021-12/Alexandria-Times-Article-Hannah-Nokes.pdf). Although Bertsch suggests that the defense regarded Nokes as disreputable, newspaper stories indicate sensitivity on Houston's part, as when he asked whether the form of address Nokes preferred was "Miss, Mrs., or Mr." in "Red Wigged Boy-Girl Witness for Crawford," 2.

[382] Virginius Dabney, "Crawford, Placed At Crime's Scene, To Offer No Alibi," *Richmond Times-Dispatch* (Richmond, VA: December 15, 1933), 1.

[383] Dabney, "Crawford, Placed At Crime's Scene, To Offer No Alibi."

[384] Roy C. Flannagan, "Court Admits Crawford's Murder Confession," 1.

[385] Flannagan, "Court Admits Crawford's Murder Confession," 1.

[386] "Crawford Jury Expected to Get Charge Today," *Richmond Times-Dispatch* (Richmond, VA: December 16, 1933), 1; "Alibi May Help Win Crawford Freedom," 1; Frank Getty, "The Dramatic Leesburg Murder Trial," *Washington Post Magazine* (December 31, 1933): 3.

[387] "Crawford Case is Near Jury," *Kansas City Times* (Kansas City, MO: December 16, 1933), 7.

World War and the three men, lieutenants in the same regiment, testified that he was not.[388] The *Richmond News Leader* suggested there was "general surprise at the weakness of the defense in view of the pre-trial manuvrs [*sic*] of the prisoner's active and brilliant counsel."[389]

The Verdict

The trial concluded on Saturday, December 16, when McLemore gave instructions to the jury, the opposing lawyers made their closing arguments, and the jury went out after a lunch break to deliberate. The *Richmond News Leader* rushed an article to print while the jury was out, describing the extensive jury instructions and closing arguments, putting "the betting odds in Leesburg as...4 to 1 for the death penalty or life imprisonment."[390] The *Afro-American* reported that with the confession admitted as evidence and the defense resting its case without calling Crawford to the stand, "Crawford's conviction and the ultimate death penalty was generally conceded on all sides in whispered conferences."[391] The largest crowd of the week attended on the final day, and the *Richmond News Leader* reported that four fifths of them were "white people who...came to hear the Negro attorneys defend Crawford."[392] Society matrons and debutantes from "the Middleburg millionaire colony" were seen exchanging pleasantries with the defense counsel.[393] The wives of three of the defense lawyers also made the trip to Leesburg for the final day.[394]

The jury reached a verdict after deliberating for one and three-quarter hours. Before the verdict was read, Judge McLemore warned the crowd against making any "demonstration." *The New York Times* reported that for the first time in the five-day trial, "[a]rmed troops were posted in the chamber."[395] The sheriff then announced that the jury found Crawford guilty and sentenced him to life in prison. The verdict was so wholly unexpected that the courtroom received it "in absolute silence."[396] Houston quickly moved to set the verdict aside and asked for a new trial "as a matter of form," but the court overruled his motion. Crawford was immediately escorted by state police to waiting vehicles and was on his way to the state prison in Richmond before "the great crowd had a chance to file out of the courthouse and on the lawn."[397] Although three jurors had initially voted for the death penalty, on each of three more ballots, one juror conceded to life in prison until the verdict was unanimous.[398] Houston afterward told reporters that he gave "formal notice of appeal" to preserve Crawford's rights but had only intended to appeal to the higher courts if the death penalty were imposed.[399]

The astonishing outcome of the trial was a topic of general comment. The state had asked for the death penalty, and the lighter sentence was widely attributed in White and African American newspapers to the strength of Houston's concluding arguments.[400] All but acknowledging Crawford's guilt, Houston offered an empathetic

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[388] Virginius Dabney, "Crawford Jurors Get Case Today; Chair Predicted," *Richmond Times-Dispatch* (Richmond, VA: December 16, 1933), 1; "Confession of Crawford is Admitted as Evidence," *Evening Leader* (Staunton, VA: December 15, 1933), 1.
[389] Roy C. Flannagan, "Crawford Case Nears Jury; State Asks Death," *Richmond News Leader* (Richmond, VA: December 16, 1933), 1.
[390] Flannagan, "Crawford Case Nears Jury."
[391] Ralph Matthews, "'Homeless Dog' Plea Saves Life of Crawford," *Afro-American* (Baltimore: December 23, 1933), 1.
[392] Flannagan, "Crawford Case Nears Jury."
[393] "Lawyers' Wives Attend Trial," *Afro-American* (Baltimore: December 23, 1933), 17.
[394] "Lawyers' Wives Attend Trial," 17.
[395] "Crawford Guilty, Gets Life Term," *The New York Times* (New York: December 17, 1933), 15.
[396] Virginius Dabney, "Crawford Given Life In Prison as Defense Plea Cheats Execution," *Richmond Times-Dispatch* (Richmond, VA: December 17, 1933), 1.
[397] Dabney, "Crawford Given Life In Prison."
[398] "Crawford Found Guilty by White Jury; Gets Life," 1; Dabney, "Crawford Given Life In Prison"; "Crawford Guilty, Gets Life Term," 15.
[399] "Crawford Guilty, Gets Life Term," 15.
[400] "Crawford Found Guilty by White Jury; Gets Life," 1; Dabney, "Crawford Given Life In Prison; "Crawford Guilty, Gets Life

portrait of Crawford as a "homeless, hungry dog, caught in a web of circumstance and led into the crime by a stronger mind."[401] *The Washington Post* published an extensive quote from Houston:

> I have no words to palliate this offense. Every white woman and black woman is entitled to safety in her bed. But I ask you to consider the fact that you haven't got 'Charley Johnson,' who, if you accept the confession—and you must accept it unless the Commonwealth's case is to collapse completely—actually committed the murders while Crawford waited outside. You've got George Crawford, and I put it to you that Crawford is not the killer type. You have seen him here in the courtroom, how respectful he is, how he bobs up with a smiling greeting to acquaintances, including the slain woman's brother, who came to testify against him. He is a thief, yes—but not the killer type. There is nothing in the record to show that Crawford would have harmed a hair of Mrs. Ilsley's head. There is a grave distinction between Crawford and the actual killer.[402]

Houston then offered a powerful final argument that no one had yet considered: "If you ever hope to catch Charlie Johnson and put him in the electric chair, there is only one man who can do it. If you send this man to death, you haven't any evidence against Johnson....If you wipe George Crawford out, Charlie Johnson is gone beyond all possible hope of recall."[403] As the *Afro-American* put it, Houston's final plea "turned the tide from death to tolerance," and sent "a murmur of approval" through the courtroom.[404] The *Pittsburgh Courier* said it was widely regarded that the "jury of white men" was "greatly influenced...by the brilliant closing argument of Dr. Houston." [405] *The New York Times*, relying on AP content, reported that "[m]embers of the jury said the lighter penalty fixed by the jury resulted from the appeal earlier in the day by his attorney that his life be spared so he might identify an alleged accomplice, Charlie Johnson."[406] The *Pittsburgh Courier* further observed: "No dissatisfaction with the verdict was openly voiced by the hundreds of citizens who filled the courtroom." [407] Virginius Dabney of the *Richmond Times-Dispatch* described "considerable surprise" among spectators at the life sentence rather than the death penalty but he observed "no ill feeling" or "trace of disorder."[408] The *Washington Herald* called the verdict "a distinct triumph" for Houston, who "saved his client from the electric chair with legal strategy that caught the prosecution totally unprepared."[409]

Cordiality in the Courtroom and Praise for the Defense Counsel

The *Richmond Times-Dispatch* and *The Washington Post* gave extensive coverage to the cordial atmosphere that prevailed between the opposing counsel and within the courtroom generally.[410] During closing arguments, the prosecutors and defense lawyers commended each other. Galleher thanked the "very able and learned

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Term," 15; Roy C. Flannagan, "Crawford May Plead Guilty in Second Case," *Richmond News Leader* (Richmond, VA: December 18, 1933), 1.

[401] "Stays Action on Crawford," *New York Amsterdam News* (New York: December 20, 1933), 14.

[402] Getty, "The Dramatic Leesburg Murder Trial."

[403] Dabney, "Crawford Given Life In Prison"; see also Flannagan, "Crawford Case Nears Jury"; "Stays Action on Crawford," 14.

[404] Ralph Matthews, "'Homeless Dog' Plea Saves Life of Crawford," *Afro-American* (Baltimore: December 23, 1933), 1.

[405] "Stays Action on Crawford," 14.

[406] "Crawford Guilty, Gets Life Term," 15; Dabney, in "Crawford Given Life In Prison," noted that "[t]he jury was so strongly influenced by the closing argument of Chief Defense Counsel Charles H. Houston, distinguished Negro lawyer, that it decided not to give the accused the electric chair, one of the jurymen revealed after the case was concluded."

[407] "Crawford Found Guilty by White Jury; Gets Life," 1.

[408] Dabney, "Crawford Given Life In Prison."

[409] "Defense Lawyer Uses Strategy to Cheat Death Chair," *Washington Herald* (Washington, DC: December 18, 1933), clipping, (Washington, DC: MSRC, Howard University, James Guy Tyson Papers, Box 108-2, Folder 27).

[410] Getty, "The Dramatic Leesburg Murder Trial"; Dabney, "Crawford Given Life In Prison."

counsel for the defendant for the courtesy and consideration they have shown me and my associates."[411] Ransom followed by saying, "We have received the utmost courtesy....Mr. Galleher and his associates have handled the case with the utmost dignity. We are highly appreciative of that fact and we wish them to know it."[412] Houston added, "I have just heard one of the fairest arguments I have ever heard. It is an unusual circumstance when the first words out of the prosecuting counsel's mouth are 'Every man is presumed to be innocent until he is proven guilty.'"[413] Senator Connor "complimented Houston on his 'broad learning, polished manner and cultured gentility,' and declared that he had 'compelled the respect if not the admiration of the public at large.'"[414] A further exchange of compliments ensued while the jury was out deliberating, prompting the *Afro-American* to run the headline "Crawford Case Ends in Legal Love Feast."[415] Wray took the opportunity to commend Judge McLemore's "great ability and absolute fairness," inducing Houston to offer similar sentiments, although he noted his disagreement with the judge's ruling on the exclusion of Black jurors. In comments that were widely excerpted, Houston remarked:

> In the matter of the jury question which struck, we know, at the heart of institutions this county holds dear, we appreciate that we cannot hope to rise by tearing your institutions down, but only by proving that we can share your institutions without endangering them. We did not want to participate [in] a battle of wits through this case, a battle in future as to whether Negroes should or should not share with other citizens duty on juries. For such matters ultimately must rest upon the acceptance of the community. We do not expect to see things changed overnight. If the feeling of purity of purpose is shared by us, no matter how hot a legal contest there may be, the result will be beneficial to us all.[416]

According to the *Richmond News Leader*, Houston's "straightforward statement...brought tears to the eyes of some of the white people who heard it."[417]

During the interval that the jury was out and these exchanges took place, a photographer for the *Richmond News Leader* captured a remarkable image of the courtroom and the key players from the rear balcony (Figure 23). The photograph depicts a relaxed atmosphere with people seated casually in numerous chairs about the judge's dais and counsel table. The twelve ornate jury chairs, most of them empty, occupy the middle ground. Judge McLemore reclines in his chair at the judge's desk (bench) up on the dais and the prosecution and defense counsel are respectively seated at the left and right sides of the shared counsel table in the foreground. Crawford's head is visible at the lower right edge of the frame, seated behind the defense counsel. The figure standing at left is Frank Wray, at that moment complimenting "the defendant's Negro counsel during the jury's deliberations in an anteroom."[418]

In widely publicized comments, Judge McLemore then described the trial as "an oasis in a desert," declaring:

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[411] Dabney, "Crawford Given Life In Prison."
[412] Ibid.
[413] Ibid.
[414] Ibid.
[415] "Crawford Case Ends in Legal Love Feast," *Afro-American* (Baltimore: December 23, 1933), 17.
[416] Flannagan, "Crawford May Plead Guilty in Second Case." This same statement was partially quoted elsewhere as "We cannot hope to rise by tearing down your institutions. We can only hope to convince you that we are entitled to share in them." See Dabney, "Crawford Given Life In Prison"; Getty, "The Dramatic Leesburg Murder Trial."
[417] Flannagan, "Crawford May Plead Guilty in Second Case."
[418] *Richmond News Leader* (Richmond, VA: December 18, 1933), photograph, 2. The photograph was republished to accompany Getty, "The Dramatic Leesburg Murder Trial."

> In all the cases I have tried in twenty-seven or twenty-eight years on the bench, I have never tried a case where the facts have been such as these that the temper of the courtroom has been such as it has been here. I have never seen counsel conduct themselves with such restraint, such courtesy, such respect for the feelings of others....I approach the close of this case with the feeling that I have somehow caught a new vision of how a case ought to be conducted.[419]

Newspaper reporters commented on the striking absence of overt racial prejudice on the part of the prosecution. As Frank Getty wrote for *The Washington Post*, Senator Connor and Frank Wray omitted from their closing arguments the "histrionism" of "outraged Southern chivalry" and "the artifice of appeal to baser emotions" that often characterized cases involving White female victims and Black defendants.[420] In fact, as the *Afro-American* and other papers noted, "[n]one of the prosecutors referred to race or color and [they] used no epithets in referring to the defendant." [421] Virginius Dabney of the *Richmond Times-Dispatch* characterized the five-day trial as a "credit to Loudoun County and Virginia." [422] Getty gave credit for the tenor of the proceedings to "the gentle earnestness of Crawford's chief counsel," a "personable, self-effacing Negro" who "without ever yielding a point of law, had set a high standard of gentleness and courtesy for his opponents at the bar."[423] The *Loudoun Times-Mirror* commended the judge, the prosecutors, and the defense: "Charles H. Houston and Leon Ransom, colored attorneys of Washington, conducted their case on a lofty plane and with marked ability."[424]

For perspective on the significance of the all-Black defense team, the African American press relied on statements from Walter White. The *Afro-American* quoted White as saying that "legal and racial history has been made by these four able and courageous men. Negroes have rightly poured adulation at the feet of white lawyers like Darrow and Leibowitz who have defended Negroes. Let them now show equal appreciation to these lawyers of their own race, who have dared and fought."[425] The *New York Amsterdam News* quoted White's statement: "'No four attorneys anywhere, of any color, could give a defendant any braver, more painstaking, more brilliant, or more scholarly defense than Mssrs. [*sic*] Houston, Edward P. Lovett, James G. Tyson and Leon A. Ransom.'"[426] Houston's comportment and expertise directly undermined views among White people about African American inferiority that were used to justify segregation. The *Pittsburgh Courier* published comments that were "representative of the opinion of the white people in Loudoun County, Va., who for the first time in history had the experience of seeing Negro legal talent in action." The newspaper quoted an "aristocratic white woman" who declared: "After hearing that brilliant man, I can no longer hold the views I previously held about the Negro." In another example, an "overalled white farmer" conceded that Houston was "certainly a smart n-----!"[427] The newspaper contended that the case "added laurels to the Negro legal profession besides contributing a great deal to the betterment of race relations." The defense counsel's "brilliant handling of the Crawford case...should do much to end the ridiculous prejudice of unthinking Negroes against

[419] Dabney, "Crawford Given Life In Prison."
[420] Getty, "The Dramatic Leesburg Murder Trial"; see also Virginius Dabney, "Outcome of Trial Pleases Virginia," *The New York Times* (New York: December 24, 1933), E7; Dabney, "Crawford Given Life In Prison"; "The Crawford Verdict," *Loudoun Times-Mirror* (Leesburg, VA: December 21, 1933), 4.
[421] Matthews, "'Homeless Dog' Plea Saves Life of Crawford"; Dabney, "Crawford Given Life In Prison."
[422] Dabney, "Crawford Given Life In Prison."
[423] Getty.
[424] "The Crawford Verdict," 4.
[425] "Walter White Lauds Lawyers," *Afro-American* (Baltimore: December 16, 1933), 2.
[426] "Stays Action on Crawford," 14.
[427] "The Crawford Trial," *Pittsburgh Courier* (Pittsburgh: December 30, 1933), 10.

employing colored lawyers. It should also help put a stop to the contention that a Negro lawyer cannot defend a Negro accused of a major crime in the courts of the South."[428]

Writing for the *Pittsburgh Courier*, Kelly Miller examined the different trial outcomes at Scottsboro and Leesburg by considering the contrasting nature of the two cases and the role of sectional differences. The world was shocked, he wrote, when the nine Scottsboro Boys were "summarily condemned to death on the alleged charge of rape upon two hobo white girls." The Scottsboro cases "elicited the interest and sympathy of the entire Negro race" and "[a]fter three attempts the world is still unconvinced that the Scottsboro boys have had a fair trial." Crawford, on the other hand, was a less sympathetic figure: "That Crawford has been fairly convicted is conceded on all sides." The ILD and the NAACP undertook the two defenses, respectively, fielding White lawyers in Scottsboro and Black lawyers in Leesburg. In Miller's view, "[c]olored counsel could probably not have succeeded at Scottsboro; white counsel could not have done better at Leesburg." The distinction, Miller believed, lay in the fact that the Scottsboro cases involved "sex intimacies across the color line, into which colored counsel could hardly inquire without inflaming the jury and local sentiment beyond the point of endurance." The case against Crawford had not involved accusations of rape. In addition, Miller suggested that "a more liberal and tolerant attitude" prevailed among White people in northern Virginia, and that Virginia was more accustomed to Black lawyers. However, Miller observed that "[i]t might have been Cracker cunning that the verdict was so shaped that Crawford's attorneys dared not appeal without jeopardizing the neck of their client." The "jury issue" had no real path forward after the *Crawford* trial, but it remained alive in the ongoing Scottsboro proceedings. For Miller, the chief "advantage that the race derive[d] from the Crawford case" was the demonstration of "courage, ability, courtesy and tact" on the part of Crawford's Black lawyers. Miller noted it was the first time the NAACP had "engaged colored counsel in a case of vital importance," and he contended that "[a] race pleading its own cause in its own voice is apt to prove more convincing than the voice of the stranger to its sufferings." Miller claimed that both cases "will stand out vital to racial welfare in the future as red letter marks in the history of judicial procedure," but he longed for the day when a Black defendant charged with "the most flagrant crime" could get "a fair trial in Alabama and force recognition of jury rights in that intolerant southern state."[429]

Walter White provided the official NAACP interpretation of the case in a brief essay published in *The Crisis* in January 1934. He hailed the Crawford verdict as "one of the most distinguished victories for justice to the Negro yet won." White contended the Crawford case was of "far-reaching" importance for two reasons. First, Judge Lowell's ruling in the extradition phase focused national attention on the exclusion of African Americans from juries, resulting in Black citizens being placed on grand and petit juries in five Southern states. Although he did not specify which five states, White claimed more were likely to follow. He also contended defense counsel had shown that Black residents met the statutory requirements for jury service, despite Judge McLemore's rulings on the motions to quash the grand jury indictment and the petit jury panel. A second "and equally significant development" of the case, White contended, was the "brilliance, militancy, fairness and dignity" demonstrated by the Black lawyers who defended Crawford, who with the prosecution set a "new highwater mark for the handling of a criminal case charged...with all the explosives which in the past have led to unjust conviction or lynching."[430]

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[428] "The Crawford Trial," 10. White, too, in *A Man Called White,* 155, recounted chance hearsay when Houston debated a legal technicality with the prosecutor, and the court ruled in his favor: "[A] Virginia farmer clad in overalls and manifestly in need of a shave and bath... turned to his companion, nodding his head admiringly, and declared, 'You got to give it to him. He knows what he's talking about even if he is a nigger.'"
[429] Kelly Miller, 10.
[430] Walter White, "George Crawford: Symbol," *The Crisis* 41 (January 1934): 15.

Crawford's Plea in the Second Indictment for Murder

On the Monday after the trial, Houston proposed to John Galleher that Crawford would plead guilty on the second indictment charging him with the murder of Mina Buckner, in exchange for the same penalty, life imprisonment, and an agreement to cooperate in the search for Charlie Johnson. The *Richmond News Leader* reported that Houston desired "to close the case and that if this can be done there will be no appeal." In addition, Houston felt that "the constitutional questions raised during the Crawford case had better be left for other cases under different circumstances."[431] The plea bargain recognized that if Crawford were tried for the Buckner murder, or if an appeal in the Ilsley murder trial were won and he were retried, he might receive the death penalty. In his later defense of how the *Crawford* case was handled, Houston noted that it was Crawford's life that was at stake, and Crawford chose not to appeal if the Commonwealth would accept a plea of guilty in exchange for a life sentence in the Buckner case.[432]

Amid widespread praise for the conduct of the NAACP lawyers in the Crawford case, the Communist-affiliated newspaper *Daily Worker* unsurprisingly took a different point of view. With the headline: "NAACP Attorney Helps Lynch Court Sentence Crawford," the newspaper suggested Houston helped the "boss white jury" to convict the defendant. The decision not to appeal, the newspaper claimed, further demonstrated "the tactics of the N.A.A.C.P. leaders in discouraging mass defense actions for Crawford, and in carrying out the merest pretense of a fight in the court against the flagrant violations of the constitutional rights of the Negro people as practiced in the systematic exclusion of Negroes from juries in Lowdoun [*sic*] County."[433]

A trickle of criticism began to emerge among supporters of the NAACP as well, questioning why the NAACP had used its "worthy efforts" and funds "contributed by Negroes in the face of very pressing needs" on a case that would not proceed to appeal. After raising such high expectations among its supporters as to Crawford's innocence and bringing in as defense counsel "an array of legal talent of the Negro race that made our breasts swell with pardonable pride," critics argued that the *Crawford* case had ultimately failed as a test case in the unlawful exclusion of Black men from jury service.[434]

To further complicate matters, in the days prior to his February 12 return to Leesburg to enter a plea in the Buckner murder, Crawford gave a jail-cell interview to reporters from the *Norfolk Journal and Guide* in which he expressed dissatisfaction with the trial, reasserted his alibi, claimed to have been coerced into making the confession, and called the trial a frame-up.[435] Questioned by Judge Alexander at his arraignment in the Buckner case, where he was accompanied by a visibly frustrated Houston, Crawford denied making any such statements to reporters, and proceeded to enter a guilty plea in exchange for a second life sentence.[436] Houston may have been glad to conclude his dealings with Crawford, but the fallout from the *Crawford* case consumed his time for another year and a half. Crawford spent the remainder of his life in prison, initially writing to Houston or White periodically to request tobacco, money, or other items, which they typically sent. Crawford died of a cerebral hemorrhage in the Virginia Penitentiary on August 15, 1955.[437]

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[431] Flannagan, "Crawford May Plead Guilty in Second Case"; see also Dabney, "Crawford Given Life In Prison."
[432] [Charles H. Houston], "The George Crawford Case: A Statement by the N.A.A.C.P.—Part II." *The Crisis* 42 (May 1935): 151.
[433] "NAACP Attorney Helps Lynch Court Sentence Crawford," *Daily Worker* (New York: December 18, 1933), clipping (Washington, DC: Library of Congress, Box I:D52, Folder 18, NAACP Records).
[434] Gordon B. Bancock, "Between the Lines," n.d., clipping (Washington, DC: MSRC, Howard University, James Guy Tyson Papers, Box 108-2, Folder 26); see also Harold G. Eaton, "Why the N.A.A.C.P. Took the Crawford Case," *Washington Tribune* (Washington, DC: December 21, 1933), 4.
[435] "Crawford Not Satisfied With His Trial," *Norfolk Journal and Guide* (Norfolk, VA: February 10, 1934), 1.
[436] "Crawford Gets Life on Second Murder Count," *Richmond Times-Dispatch* (Richmond, VA: February 13, 1933), 3.
[437] Bradley, 178, 183.

The NAACP Faces Controversy over Crawford

After the *Crawford* verdict, Helen Boardman began writing letters to Walter White questioning the handling of the defense. She enlisted the aid of Martha Gruening, a White civil rights activist and author who had contributed to *The Crisis* and prepared research for *Thirty Years of Lynching in the United States 1889–1918*. Gruening was a longtime friend of W.E.B. Du Bois, editor of *The Crisis*. In May, Du Bois published a brief editorial in the magazine asking for an explanation of the trial's outcome and suggesting that "either we should never have taken the case in the first place, or we should have fought it to the last ditch."[438] In light of the public relations effort that had long emphasized Crawford's presumed innocence and Boston alibi, confusion about the trial outcome and the lack of an appeal was widespread, forcing Houston and the NAACP into a defensive posture. White was mortified by Du Bois's public reproach in the organization's own magazine and apologized profusely in a letter to Houston and the defense team as well as in an NAACP press release in which he called the editorial "a personal expression of the editor" and lauded the lawyers for their "brilliant attack on the unconstitutional exclusion" of Black jurors and their "skillful and courageous defense of Crawford."[439] By June 1934, the NAACP executive board instituted restrictions against publishing editorials critical of the organization without board approval. Du Bois's relationship with White and the organization had already frayed over other issues, but the board restriction served as the immediate cause of his resignation from *The Crisis*.[440]

Both Gruening and Boardman had been contributors to *The Crisis*, and after Walter White dismissed the concerns they raised to him, they published their criticism in the progressive magazine *The Nation*. The authors questioned why the defense failed to summon the Boston alibi witnesses, three of whom the two authors were able to locate, obtaining from them affidavits placing Crawford in Boston in January 1932. They also questioned why the credibility of the Virginia witnesses was not strongly challenged, particularly that of Bertie DeNeal, whom they believed was under duress by being kept in jail. They questioned why the defense had accepted Crawford's confession so readily and suggested that he had been pressured by counsel to plead guilty to the Buckner indictment. They did not view Crawford's conviction by an all-White jury as a victory for justice, but as a continuation of "Virginia justice" underneath a veil of "surface courtesy and fair play." They faulted the NAACP's failure to appeal the case and suggested the NAACP was becoming "the South's best tool" in substituting the law for lynching.[441]

Houston and Ransom published a response in *The Nation* the following month, strongly implying Crawford's guilt based on their Virginia investigation. They defended their handling of the case and their consideration for Crawford's best interests. Crawford did not want "to gamble with his life to challenge further the issue of jury discrimination in Virginia."[442] If Crawford had received a death sentence at the trial, they argued, he would have had nothing to lose by appealing. The defense lawyers instead framed the trial as "an experiment in social statesmanship."[443] The law, they wrote, is "a powerful weapon, but it has certain definite limitations when it

[438] W.E.B. Du Bois, "The Crawford Case," 149; see also Richard W. Hale, "Justice and Law: A Dissertation on the Crawford Case," *The Crisis* 41 (May 1934): 142-44.
[439] Walter White to Charles H. Houston, Leon Ransom, Edward P. Lovett, and James G. Tyson (Washington, DC: Library of Congress, April 30, 1934, Box I:D53, Folder 2, NAACP Records; and Press Service of the NAACP, May 11, 1934, Box I:D53, Folder 2).
[440] Sullivan, 202. A series of digitized letters between Gruening and Du Bois in the W.E.B. Du Bois Papers at the University of Massachusetts, Amherst, reveals a shared point of view regarding the Crawford case. See, for example, W.E.B. Du Bois to Martha Gruening (Amherst, MA: University of Massachusetts Amherst Libraries, June 27, 1934, W.E.B. Du Bois Papers (MS 312), Special Collections and University Archives, https://credo.library.umass.edu/view/full/mums312-b070-i278, accessed July 6, 2022).
[441] Helen Boardman and Martha Gruening, "Is the N.A.A.C.P. Retreating?", 730-732.
[442] Houston and Ransom, "The Crawford Case: An Experiment in Social Statesmanship," 18.
[443] Ibid., 17.

comes to changing the *mores* of a community."[444] Virginia law proscribed the exclusion of African Americans from juries, yet the practice persisted in Virginia. The NAACP is predicated, they wrote, on the belief that "the Negro can attain full citizenship and equal rights only with the cooperation and good-wil [*sic*] of the dominant majority."[445] Their task, they asserted, was "not to force the issue, but to force it in such a way as to provoke the minimum amount of resistance," thus avoiding resentments that would be visited upon the local African American community after the trial had concluded.[446] They noted that when the *Crawford* trial began, the local African American population was too apprehensive to provide lodging for the defense counsel, yet since the case closed, "both white and colored now report race relations in the county better than ever before."[447] They concluded by saying that Virginia knows the NAACP has not dropped the jury issue, but that the organization also seeks to "foster rather than to destroy interracial cooperation, mutual confidence, and good will."[448]

Within days, the *Norfolk Journal and Guide* aired the controversy among its readers by republishing both *Nation* articles.[449] *The Nation* subsequently published letters to the editor expressing opinions on both sides.[450] P.B. Young, editor of the *Norfolk Journal and Guide*, and Judge McLemore wrote letters that referenced the recent calling of African Americans to jury duty in various Virginia jurisdictions as a positive outcome of the *Crawford* case. Following the trial, McLemore began summoning African Americans for jury duty in his own circuit.[451] One of the letters received by Freda Kirchwey, editor of *The Nation*, that was not published came from Douglas Southall Freeman, who also credited the *Crawford* case for the recent inclusion of African American jurors in the Richmond and Suffolk circuits. In language inflected by White condescension, Freeman also emphasized the significance of the example set by Houston:

> The appearance of such a Negro lawyer as Dr. Houston in the courts of Virginia was a revelation to bench and to bar. Heretofore in the commonwealth most Negro lawyers have been of one or another type, either obsequious Negroes who tried to curry favor, or else men who were manifestly ill at ease when they appeared before a court. Dr. Houston was neither obsequious nor arrogant. He was neither ill at ease nor truculent. Instead, he behaved as any other high class lawyer would in such proceedings, and he did the Negro lawyers of Virginia unreckonable good by his bearing and handling of the case....Without any flattery, obsequiousness, or concession, he disarmed antagonism. Every Negro lawyer in Virginia, I think, will have easier work because of the standard Dr. Houston set.[452]

Furthermore, Freeman contended that the "courageous and tactful" role of the NAACP in the case "went a long way toward changing the whole attitude of Virginia toward that organization." During the previous year, he had conferred multiple times with White and Houston and personally observed the trial. He noted that his own prejudice about the motives of the organization had "evaporated." [453]

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[444] Ibid., 18.
[445] Ibid., 18.
[446] Ibid., 19.
[447] Ibid., 19.
[448] Ibid., 19.
[449] "Pro and Con in the Current Crawford Case Dispute" *Norfolk Journal and Guide* (Norfolk, VA: July 7, 1934), 14. See another reprinting in Charles H. Houston and Leon A. Ransom, "The Crawford Case," *Chicago Defender* (Chicago: July 14, 1934), 10.
[450] *The Nation* (August 8, 1934): 157-159.
[451] "McLemore Leads the Way," *Richmond News Leader* (Richmond, VA: April 18, 1934), 8.
[452] Douglas Southall Freeman to Freda Kirchwey (Cambridge, MA: Houghton Library, Harvard University, June 12, 1934, Harvard Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 3).
[453] Douglas Southall Freeman to Freda Kirchwey, June 12, 1934.

Gruening, unhappy with alterations Kirchwey had made to the article she and Boardman wrote for *The Nation,* individually published a second critical article in the *New Masses*, a leftist political magazine, in January 1935. There, she blamed the NAACP for its "policy of cowardly compromise and betrayal of Negro interests."[454] At White's request, Houston penned a straightforward, factual account of the "investigation, trial, and disposition" of the Ilsley and Buckner cases, which was published anonymously across two issues of *The Crisis* in April and May 1935 as "The George Crawford Case: A Statement by the N.A.A.C.P."[455] Boardman and Gruening subsequently published a response in pamphlet form that was signed by a variety of NAACP members, again raising the question of whether the organization represented the interests of Black people or of moderate White people.[456] Historian Kenneth Mack has suggested the controversy exposed a larger conflict within the organization over the NAACP's methods, as a group of younger activists and left-leaning intellectuals urged the NAACP to "reorient its program away from civil rights litigation in favor of a new one that emphasized economic advocacy on behalf of black workers and farmers, unity with the white working class, and decentralization of power to take the organization closer to the people."[457] Although Houston was not averse to these methods, his particular skill set embraced the legalistic approach accompanied by the "social statesmanship" or "social engineering" theories he had developed.

By late 1935, the particularities of the *Crawford* controversy faded in the wake of continuing NAACP activities. In the institutional memory of the NAACP, the trial was remembered as a distinct victory in that era. As Thurgood Marshall later recalled: "If you get a life term for a Negro charged with killing a white person in Virginia, you've won...because normally they were hanging them."[458]

Conclusion: The National Significance of *Crawford*

Crawford *and Perceptions of African American Lawyers*

The *Crawford* case represents a pivotal episode in the history of African American lawyers, one that affected regional and national perceptions of the status and abilities of Black lawyers and precipitated a transition from White to Black leadership within the NAACP's legal program. Geraldine Segal was one of the first historians to draw attention to the significance of the *Crawford* case in her 1975 biography of Charles Hamilton Houston. In describing the case, Segal contended that although "the paramount issue was the life of George Crawford, a secondary issue of far-reaching importance was the status of the black lawyer."[459] The *Crawford* case, Segal asserted,

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[454] Martha Gruening, "The Truth about the Crawford Case: How the N.A.A.C.P. 'Defended' a Negro Into a Life Sentence," *New Masses* 14 (January 8, 1935): 9-15. The next month, Houston was heckled for his handling of the Crawford case at a dinner honoring Arthur Spingarn, "Hecklers Hit Houston Here," *New York Amsterdam News* (New York: February 16, 1935), 1.

[455] [Charles H. Houston], "The George Crawford Case: A Statement by the N.A.A.C.P.—Part 1," *The Crisis* 42 (April 1935): 104-105, 116-117, 125; [Charles H. Houston], "The George Crawford Case: A Statement by the N.A.A.C.P.—Part II," 143, 15-151, 156.

[456] Helen Boardman and Martha Gruening, *The Crawford Case: Reply to the N.A.A.C.P.* (New York: Helen Boardman and Martha Gruening, 1935).

[457] Mack, *Representing the Race*, 178.

[458] Quoted in Williams, 59. Houston defied expectations a second time in Leesburg when he returned in 1942 to defend a Black man tried for the rape of a White woman in a bizarre case involving false accusations. The state Supreme Court of Appeals overturned the man's conviction and death sentence—an outcome widely regarded as impossible. The outcome served as a testament to Houston's high regard among Loudoun County's legal establishment. See Mack, *Representing the Race*, 109; José Felipe Anderson, *Genius for Justice: Charles Hamilton Houston and the Reform of American Law* (Durham, NC: Carolina Academic Press, 2021), 98-99.

[459] Segal, *In Any Fight Some Fall*, 50. In a survey of Black lawyers that grew out of her doctoral work in sociology, Segal wrote, "On the national scene, the life of Charles Hamilton Houston shows how one man, as practicing lawyer, law teacher, law dean, and civil-rights attorney, inspired generations of blacks in the law." Segal, *Blacks in the Law*, 209-210.

> allowed the Bench, the Bar, and the spectators in a strongly segregated area, unfamiliar with the talents of black legal scholars, to witness a team of brilliant black lawyers at work. They saw for themselves that legal ability was not determined by, or dependent upon, the color of a lawyer's skin. The realization of this fact became a topic of conversation as word of the superb performance of Houston and his team spread quickly through Leesburg, where the trial was held. The Crawford case served to enhance the reputation and standing of Negro lawyers generally.[460]

Historians maintain that the space of the courtroom in the Jim Crow era provided a singular context for reconfiguring racial boundaries. Courtrooms were public spaces subject to highly scripted codes of lawyerly conduct, courtesy, and interaction deeply ingrained in Anglo-American legal practice that sometimes superseded race.[461] Judge McLemore asserted as much on the first day of the *Crawford* trial, when he instructed the courtroom: "Counsel for the defense are negroes, who have exactly the same rights in this court as white counsel. If they conduct themselves properly, I have no doubt they will be treated like white people."[462] The very presence of a Black lawyer in the courtroom challenged the status quo of White supremacy. Their demonstrations of legal expertise undermined the "racist ideology of black inferiority that perpetuated segregation in America."[463] Not all Southern courtrooms admitted Black lawyers, but by the 1920s and 1930s in several highly publicized cases, Black lawyers gave courtroom performances in which their lawyerly identity transcended race, and they enacted roles and received courtesies not available to African Americans in the segregated public spaces that prevailed outside the courtroom.[464] Historian Kenneth Mack, who analyzed several high-profile courtroom performances by Black lawyers in this period, described Houston's performance in *Crawford* as a "breakthrough moment" for Black lawyers.[465] Mack suggests that Houston's cross-examination of Judge Alexander in the November hearing in Leesburg furnished the most striking episode of the *Crawford* case. Houston's "identity as a lawyer inside the courtroom" enabled him to challenge statements made by White authorities in a way that would not be tolerated by most White people outside the courtroom.[466] Judge Alexander's unruffled response to Houston' cross-examination set the tone in the courtroom by extending to Houston the same authority and respect that would be offered a White lawyer, rather than resorting to racial bias or, as Houston once put it, to "make capital out of the fact that opposing counsel is black."[467] As the Arkansas lawyer Scipio Jones argued in 1930, "aristocratic" Southern judges "are unwilling to break the great chain of precedents...just to do injustice to the cases espoused by the black lawyer."[468] Houston's ability to appeal "to a sense of fairness and justice among southern whites and their own interest in maintaining civil order," contrasted to the antagonistic, mass protest approach of the ILD, as Patricia Sullivan has pointed out.[469]

The *Crawford* trial was important for its national visibility and the way it showcased the abilities of Black lawyers.[470] Michael Klarman suggests that courtroom performances by Black lawyers "were symbolically

[460] Segal, *In Any Fight Some Fall*, 51.
[461] Mack, *Representing the Race*, 81-82; Finkelman, 180-181.
[462] "Admonition Marks Crawford Trial," 1; see also "Incendiary Article Draws Fire of Court; Author is Rebuked," 1.
[463] Finkelman, 189; see also Randall Kennedy, *Say It Loud! On Race, Law, History and Culture* (New York: Pantheon Books, 2021), 276-277.
[464] Mack, *Representing the Race*, 64, 85-88.
[465] Mack, *Representing the Race*, 88. See similar assessments in Finkelman, 187, 189-190; Kluger 146-154; Meier and Rudwick, 939-940.
[466] Mack, *Representing the Race*, 90.
[467] Houston, "Tentative Findings Re: Negro Lawyers."
[468] *Afro-American* (Baltimore: August 16, 1930), quoted in Meier and Rudwick, 40.
[469] Sullivan, 184.
[470] Finkelman, 187, 189-190.

important to black spectators."[471] Inspiring and precedent-setting performances such as Houston's in *Crawford* and Hastie's in *Hocutt* continued into the 1940s. In that decade, for example, Thurgood Marshall described the effect of his aggressive cross-examination of White witnesses in an Oklahoma county that had never witnessed a Black lawyer at work. The White witnesses, Marshall observed, "all became angry at the idea of a Negro pushing them into tight corners and making their lies so obvious. Boy did I like that—and did the Negroes in the Court-room like it."[472] The *Crawford* trial had a positive effect on White perceptions, as well, to judge from the reported comments of White spectators at the trial and the analysis of newspaper editors like Virginius Dabney and Douglas Southall Freeman, who described Houston's performance as "a revelation to bench and to bar."[473] Changing such perceptions was necessary to advance the cause of equality for Black Americans since White people controlled such major institutions as government, law, banking, local school systems, and most universities.

Houston's Appointment as NAACP Special Counsel, October 1934

Crawford was one of the most publicized efforts of the NAACP in 1933, involving sustained attention and allocation of resources over the course of a year. The national publicity surrounding *Crawford* gave Houston and his co-counsel greater name recognition and speaking opportunities.[474] When Houston gave a speech at the YMCA in Pittsburgh in January 1934, for example, he was announced as the "Brilliant Leader of the Famous Crawford Defense" who "fought so courageously" to win Crawford life imprisonment instead of "death at the hands of 'Southern Justice.'"[475] The following week, Houston was again commended for his handling of the *Crawford* trial when he was named a speaker at the upcoming meeting of the Virginia Commission on Interracial Co-Operation.[476] After the trial, Leon Ransom spoke about *Crawford* at the Union-Wesley AME Zion Church in Washington, DC, where it was noted that the repeal of the Eighteenth Amendment and the *Crawford* case were the two "most important events in the past year." Ransom observed that although *Crawford* "added nothing to our body of laws...it did demonstrate that a case may stand dispassionately on its merits before a court and be won or lost on that basis." An additional effect, Ransom pointed out, was that all but six Virginia counties had placed African Americans on their juries.[477]

Edward Lovett and James Tyson, "[t]wo brilliant young lawyers of the Defense in the famous George Crawford Case," went on a tour through Virginia and North Carolina in February 1934, speaking to branch members of the NAACP at local churches. The two lawyers discussed both the *Crawford* trial and NAACP support for the Costigan-Wagner anti-lynching bill just introduced to Congress.[478] At a mass meeting they attended at the Second Calvary Baptist Church in Norfolk, the role of the Black lawyer arose when the speakers were preceded

[471] Klarman, *From Jim Crow to Civil Rights*, 112; Michael J. Klarman, "The Racial Origins of Modern Criminal Procedure," *Michigan Law Review* 99 (October 2000): 91.
[472] Quoted in Mack, *Representing the Race*, 87. Mack provides similar examples of other Black lawyers inspiring African American audiences in Southern courtrooms where Black lawyers had not previously worked.
[473] Douglas Southall Freeman to Freda Kirchwey (Cambridge, MA: Houghton Library, Harvard University, June 12, 1934, Harvard Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 3).
[474] Eben Miller, *Born Along the Color Line: The 1933 Amenia Conference and the Rise of a National Civil Rights Movement* (New York: Oxford University Press, 2012), 122.
[475] "Charles Houston, The Defense Attorney in the Celebrated Crawford Case, The Principal Speaker at Y.M.C.A. Sunday," 5.
[476] "Dr. Patton Ill; Unable to Speak," *Richmond News Leader* (Richmond, VA: January 25, 1934), 7.
[477] Clipping (Washington, DC: MSRC, Howard University, n.d., James Guy Tyson Papers, Box 108-2, Folder 27). Ransom continued to teach at HUSL for another ten years and afterward worked in the NAACP legal department, arguing numerous civil rights cases up to his untimely death in 1954. "Leon Ransom—D.C. Rights Attorney and Activist" (Flickr.com, accessed January 16, 2023, https://www.flickr.com/photos/washington_area_spark/49069296237).
[478] Handbills (Washington, DC: MSRC, Howard University, February 21, 25, and 27, 1934, James Guy Tyson Papers, Box 108-1, Folder 23); "Negro Society to Meet Today," *Charlotte Observer* (Charlotte, NC: February 25, 1934), 5.

by L.A. Howell, an attorney for the local branch, who "sharply criticised [*sic*] ministers and teachers of the city who give their work to white lawyers."[479] In a reference to *Crawford*, Lovett mentioned that it took "the N.A.A.C.P. 25 years to employ Negro lawyers" and he stood firmly against a regression on this issue.[480]

As a result of the *Crawford* trial, Houston became the public face of the NAACP's legal activities. He had been a member of the legal committee since 1932 and was involved in many efforts on behalf of the organization, usually serving without fee and only receiving payment for expenses.[481] Although a financial sacrifice, serving without fee had the strategic value of preserving Houston from accusations of self-interest. Throughout this time, Walter White's admiration for Houston and reliance on his knowledge and judgment only deepened. White began to lobby for a more permanent role for Houston within the NAACP as early as the summer of 1933. At that time, the Garland Fund released $10,000 for the new NAACP legal program and the association began searching for a lawyer to serve as its first special counsel. Nathan Margold had fulfilled the terms of his contract to prepare a blueprint for litigation, but he became solicitor of the US Department of the Interior that spring. The debate on who should be appointed special counsel became a protracted struggle between White and Roger Baldwin, the founder and chief executive of the ACLU, as well as a board member of the Garland Fund and the joint Garland Fund/NAACP committee managing the allotted funds. White immediately proposed Houston, arguing that his "very deep interest would enable us not only to secure a man who would have all the intellectual and legal background necessary but one who will have a definite personal interest which would cause him to do the job better and less expensively than would otherwise be the case."[482] In a letter to Arthur Spingarn, head of the NAACP legal committee, White confided that Houston's appointment would be "strategically valuable" because it would "tie up to the Association...the young colored men and women of the country as nothing else would."[483] The *Crawford* trial still lay ahead, however, and Baldwin expressed doubt about Houston's courtroom experience.

White then suggested William Hastie. Baldwin instead put forward three New York-based White lawyers, two of them faculty at Columbia Law School. As this debate played out, Hastie took a job as assistant solicitor under Margold. In the spring of 1934, White and Spingarn finally met with Karl Llewellyn, one of Baldwin's selections, whom they eventually approved, but Llewellyn declined the offer. White again pushed for Houston's appointment. He was convinced that a Black lawyer, especially one as tactful as Houston and possessed of a thorough "knowledge of the South and conditions there," would fare better with Southerners than a White lawyer from the North.[484] He also appreciated the strategic value of selecting a highly regarded Black lawyer, which he felt would have "a most favorable effect on our branches."[485] Margold also offered his endorsement, having worked with Houston in law school as co-editor of the *Harvard Law Review* and on many occasions

[479] "Jury Question Valuable NAACP Attorney Says," *Norfolk Journal and Guide* (Norfolk, VA: February 24, 1934), 3.
[480] "Jury Question Valuable NAACP Attorney Says," 3. After the *Crawford* trial, Lovett continued to practice law at Houston & Houston and assist with NAACP civil rights cases. Beginning in 1938, he took a role at the US Housing Authority, spending the rest of his legal career there in various positions where he addressed housing and equal opportunity. MSRC Staff, "Lovett, Edward" (Washington, DC: MSRC, Howard University, Manuscript Division Finding Aids, 2015), accessed January 20, 2023, https://dh.howard.edu/finaid_manu/230), 4-5. Tyson spent the remainder of his career primarily in private practice in Washington, DC. MSRC Staff, "Tyson, James Guy" (Washington, DC: MSRC, Howard University, Manuscript Division Finding Aids, 2015, (accessed January 20, 2023, https://dh.howard.edu/finaid_manu/200). 3.
[481] Expenses related to the *Crawford* trial, for example, included such items as $91.05 for the transcript from the November hearing, $3.00 for stenographic services, $0.60 for a telegram, $2.25 for lunch for four, and $3.25 for "car greased, oil changed, etc." "*Commonwealth* v. *George Crawford*, Account of Charles H. Houston with N.A.A.C.P." (Washington, DC: Library of Congress, November 15 to December 2, 1933, Box I:D52, Folder 15, NAACP Records).
[482] Walter White to Roger Baldwin, July 8, 1933, quoted in Tushnet, *The NAACP's Legal Strategy*, 32; also quoted in McNeil, 115.
[483] Quoted in Tushnet, *The NAACP's Legal Strategy*, 32.
[484] Walter White to Arthur Spingarn, quoted in Tushnet, *The NAACPs Legal Strategy*, 32-33.
[485] Quoted in Tushnet, *The NAACP's Legal Strategy*, 33.

afterward. Houston's "ability as a lawyer and character as a man" were not only "superlative," Margold wrote, but Houston possessed "unusual tact and personal charm, by reason of which I believe him well equipped to overcome, in large measure, the unreasoning prejudices which he, and indeed anyone else in his position, would encounter in the course of the campaign."[486] *Crawford* had offered a national demonstration of Houston's abilities. Baldwin eventually relented. In October 1934, Houston was hired as part-time special counsel with a salary of $2,000.[487] He continued teaching at HUSL until the summer of 1935, although his frequent absences for NAACP work frustrated students at the law school.[488] In 1935 he took a leave of absence from HUSL, relocated to New York City, and became full-time special counsel to the NAACP, serving in that role through 1940.

Historians agree that the late 1920s and early 1930s represented a watershed moment in the history of African American lawyers, as highly educated Black lawyers rose to national prominence by engaging in civil rights work.[489] Houston's nationally publicized role in *Crawford* and subsequent appointment as the NAACP's first salaried legal staff was an essential part of this evolution. As Mark Tushnet has written, "Houston's appointment was one of a series of events in the black legal community in the 1930s that both expressed and symbolized the belief within that community that the interests of blacks would best be advanced by blacks."[490] Houston's appointment as the NAACP's first staff lawyer transformed the organization's longstanding reliance on White lawyers. During the 1920s, Walter White had screened requests for legal assistance and consulted with the legal committee for advice, a role taken over by Roy Wilkins when White became acting secretary in 1929. Through White's efforts, the legal committee had increased its representation of Black lawyers in 1932 and 1933, but Houston's appointment as special counsel was the most important element in a shift toward Black leadership of the NAACP's legal program and the development of a Black legal staff.[491] As special counsel, Houston shouldered almost all of the legal work at the national office, screening requests for legal assistance, dispensing legal advice to branches, conducting investigations, testifying at congressional hearings on New Deal legislation that affected Black Americans, joining in public protests, and speaking at mass meetings. In addition, he gave shape to the NAACP's legal program to fight segregation and cultivated a network of Black lawyers across the country to advance these efforts.[492]

The Significance of Crawford *as an NAACP Test Case*

Although *Crawford* did not rise to an appeal or result in a US Supreme Court decision, it played a significant role in the success of *Hollins* v. *Oklahoma*, the second of two cases in 1935 in which the Supreme Court reversed the convictions of Black men based on discrimination against African Americans in the jury selections. The other case, *Norris* v. *Alabama*, was an appeal stemming from the Scottsboro trials. As NAACP special counsel, Houston argued *Hollins* before the Supreme Court.

Jess Hollins was a poor Black farmer in Oklahoma accused of rape in December 1931 after ending a consensual relationship with a White woman. After a rushed trial with an all-White jury, he was sentenced to death by electrocution. The Oklahoma City branch of the NAACP hired two White lawyers to appeal his case.[493] By

[486] Nathan Margold to Walter White, October 22, 1934, quoted in McNeil, 115.
[487] Tushnet, *The NAACP's Legal Strategy*, 32-33; Sullivan, 186-187.
[488] McNeil, 111-113; Mack, *Representing the Race*, 44.
[489] Leonard 139; Finkelman, 168, 202-203; Meier and Rudwick, 915.
[490] Tushnet, *The NAACP's Legal Strategy*, 33.
[491] Tushnet described Houston's hiring as "the most important event in the displacement of white attorneys" by Black ones at the NAACP, in *The NAACP's Legal Strategy*, 32; Meier and Rudwick, 944; Meier and Bracey, 14; Finkelman, 202-203.
[492] McNeil, 132; Sullivan, 204-205.
[493] Sullivan, 179-180, 222.

1935, when *Hollins* came before the US Supreme Court, Houston was full-time special counsel to the NAACP and led the first all-Black defense team representing the NAACP before the Supreme Court. *Hollins* became the first Supreme Court victory by a Black lawyer representing the NAACP.[494]

Crawford laid the groundwork for other cases addressing Black jury exclusion. Its potential to establish a national precedent on the issue of jury exclusion was widely publicized in newspapers during 1933. With this goal in mind, Houston and his co-counsel methodically laid a basis for arguing discrimination in jury selection through careful research of the law and legal procedure as well as examination of census records and tax and jury lists, combined with outreach to the local African American population.[495] In addition, Houston and his co-counsel contributed to the legal briefs prepared during Crawford's extradition fight. In earlier phases of the *Hollins* case in 1933, Houston shared with his Oklahoma connections the briefs used in the *Crawford* case.[496] *Crawford* also enabled Houston and Leon Ransom to develop detailed instructions on the investigative work and legal procedures to be used in fighting jury exclusion. The NAACP authorized the dissemination of this template to 112 of its branches in Southern and border states in the fall of 1934.[497] The brief prepared by Houston and his co-counsel for *Hollins* used these same procedures.[498] The jury discrimination strategy developed in *Crawford* had enduring value. Thurgood Marshall used the strategy in numerous cases, winning reversals of conviction in the US Supreme Court in *Patton* v. *Mississippi* (1947) and *Watts* v. *Indiana* (1949).[499] *Crawford* not only laid the groundwork for *Hollins* and subsequent cases but in effect became one of the first "test cases" by which the NAACP's national legal office demonstrated methods to fight segregation that could be applied at a grassroots level throughout the nation. Because the NAACP's legal budget was so limited, the litigation program sought to develop "model procedures, through test cases, that could be used by local lawyers and communities around the South in cases brought on their own initiative and with their own resources."[500] *Crawford* served as a prototype for this strategy.

Rather than launch a direct attack on segregation as Margold had proposed, Houston reframed the litigation program to target areas more narrowly where equality was not provided under the "separate but equal" doctrine of *Plessy* v. *Ferguson* (1896). The program would concentrate on discrimination in education since "education is the preparation for the competition of life," Houston argued.[501] Houston's program proposed three types of lawsuits: suits against the exclusion of Black students from public graduate and professional schools, suits

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[494] Sullivan, 222; Finkelman, 169. History shows that even *Hollins* and *Norris* did not end the practice of jury discrimination, which has remained a deeply embedded problem in the American legal system. As shown in a report by the Equal Justice Initiative, African Americans began to be included on venires to avoid a finding of discrimination but were then excluded during jury selection "for cause" and through peremptory strikes. Finally, in 1986, the US Supreme Court lowered the standard of proof for discrimination in peremptory strikes in *Batson* v. *Kentucky*; however, discrimination has persisted into the twenty-first century as "communities have failed to make juries inclusive and representative of all who have a right to serve." Equal Justice Initiative, *Illegal Racial Discrimination*, 9-13. The decision in *Batson* v. *Kentucky* failed to provide retroactive justice. Lawyer Bryan Stevenson, founder of the Equal Justice Initiative, demonstrated the profound human cost of criminal injustice in *Just Mercy: A Story of Justice and Redemption* (New York: One World, 2014).

[495] Andrews, 156, notes the importance of *Crawford* in allowing Houston to establish a court record that laid a foundation for inclusion of African Americans on juries; Houston himself thought *Crawford* was important in this regard, in Miller, 112.

[496] Sullivan, 180; McNeil, 121-122.

[497] "Launch Southwide Drive on Jury Exclusion: Crawford Case is Used as Example," *Pittsburgh Courier* (Pittsburgh: October 20, 1934), 2; Charles Hamilton Houston and Leon A. Ransom, "Suggestive Outline of Procedure for Attack Upon an Indictment by Reason of the Unconstitutional Exclusion of Negroes from the Grand Jury" (Washington, DC: MSRC, Howard University, James Guy Tyson Papers, Box 108-2, Folder 35).

[498] McNeil, 122.

[499] Williams, 147.

[500] Sullivan, 205.

[501] McNeil, 132.

seeking to equalize the salaries of Black and White teachers, and suits seeking to address the unequal distribution of public funds to schools for White and Black children. Whereas equalization was the goal of most of these suits, integration was the objective of the graduate school suits. By focusing on the exclusion of Black students from graduate and professional schools at public institutions where separate opportunities were not available for Black students, Houston reasoned that states would find it too expensive to establish two separate but equal programs and would instead admit Black students to programs that previously admitted only White students. He also reasoned that since changes in higher education would affect a narrower swath of the social fabric, integration in this area would be met with less public resistance and commence a slow erosion of segregation in education.[502]

Maryland became an ideal early battleground for NAACP litigation because of considerable prior organization within the African American population there and because Houston's acolyte, Thurgood Marshall, was from Baltimore. Marshall established a practice there in 1933 and was thoroughly devoted to the NAACP cause.[503] The selfless and largely unremunerated work Marshall began conducting for the organization under Houston's guidance led to the admission of a Black applicant, Donald Murray, into the University of Maryland Law School in 1936. The case, however, did not establish a precedent at the federal level. That year, spread thin by the magnitude of the work, Houston expanded the legal staff at the NAACP by persuading the joint committee to place Marshall on salary as assistant special counsel. Houston advised White to consider "the moral effect on the Negro bar in general from rewarding one of our young lawyers who stripped himself for us. May lead others to work harder."[504] Marshall was also carrying out various teacher salary equalization suits throughout Maryland, winning the first such case in 1938. These lawsuits became test cases along the lines of the *Crawford* approach, and by 1939 Marshall was drafting an outline of model procedures to be followed anywhere in these types of suits.[505] In 1940 the acumen that the NAACP was beginning to develop in equalization efforts, combined with local respect for Houston in Loudoun County, Virginia, enabled Houston to help Black families advocate (without recourse to lawsuits) for a new Black high school in Leesburg to replace the woefully inadequate facility then provided for Black students.[506]

The Significance of Crawford *to the NAACP's Public Outreach Efforts*

Houston's observation of ILD strategies in the Scottsboro cases and his own experience in *Crawford* led him to emphasize the importance of educating the public, mobilizing group support, and shaping public opinion.

The tour of Virginia he had made in June 1933 with White and Lovett to discuss the ongoing *Crawford* case was described at the time as a "new program...to interpret to the man on the street [w]hat these legal battles are all about in order to develop that public opinion without which the struggle for citizenship rights can only proceed half-heartedly." [507] It was a preview of the political education program Houston spearheaded after becoming NAACP special counsel.[508] In November 1934, for example, Houston and Lovett made a tour of Virginia, North and South Carolina, and Georgia, representing both the NAACP and HUSL. They met with

[502] Tushnet, *The NAACP's Legal Strategy*, 34-36; Sullivan, 205; McNeil, 132-139; Kluger, 136.
[503] Tushnet, *The NAACP's Legal Strategy*, 55-59; Sullivan 207-210.
[504] Quoted in Tushnet, *The NAACP's Legal Strategy*, 47.
[505] Tushnet, *The NAACP's Legal Strategy*, 68; Sullivan, 248.
[506] Teckla H. Cox, "Douglass High School," National Register of Historic Places Registration Form (Washington, DC: U.S. Department of the Interior, National Park Service, 1991); Mack, *Representing the Race*, 108; Bradley, 181-182; "Negroes Seek Better Schools in Loudoun," *Richmond Times-Dispatch* (Richmond, VA: March 13, 1940), 5; "Lawyer Asks School Plans for Negroes," *Richmond Times-Dispatch* (Richmond, VA: April 10, 1940), 8. See also Jane Covington, "Union Street School," National Register of Historic Places Registration Form (Washington, DC: U.S. Department of the Interior, National Park Service, 2022).
[507] "Two More Quarters to Go in Crawford Case, Points Out Legal Expert in N.A.A.C.P. Talk Here," 2.
[508] McNeil, 133, Tushnet, *The NAACP's Legal Strategy*, 43-44.

Black lawyers, spoke at Black colleges, investigated school conditions, and met with teacher groups, NAACP branches, and other organizations to build visibility and support for the NAACP legal program.[509] Genna McNeil, Houston's biographer, reported that he logged 25,000 miles his first year as special counsel.[510] Through speeches, articles, photographs, and film, Houston sought to publicize NAACP successes as well as expose inequities and discrimination, inform Black citizens of their rights, and motivate collective action to fight for them.[511] Houston believed that the NAACP needed to develop a "sustaining mass interest" to overcome fear and apathy in Black populations that had long been subject to racial terror. He contended that legal initiatives must spring from substantial grassroots support in given localities if they were to proceed, particularly in communities where challenges to salary differentials required solidarity.[512]

Houston believed that the shaping of White opinion was also critical. He spoke of social change with regard to jury selection while awaiting Crawford's verdict in the Leesburg courthouse: "[S]uch matters ultimately must rest upon the acceptance of the community. We do not expect to see things changed overnight."[513] After Marshall and Houston secured Donald Murray's admission to the University of Maryland Law School, Houston published an article in *The Crisis* entitled "Don't Shout Too Soon." He described both the money needed to fight discrimination battles in multiple states and the considerable challenge of influencing White public opinion when White newspapers were "callously indifferent" and "millions of white people...have no real knowledge of the Negro's problems."[514] He argued:

> Every Negro organization and every intelligent Negro must redouble its and his efforts toward interracial understanding. We must seek out opportunities to state our case to the white public. We must accept the chance to address white audiences on the race question, no matter how insignificant or how small.[515]

For Houston, showing that Black students could attend public universities without validating White people's fears of miscegenation, loss of university reputation, or interference in student life and culture, were incremental steps in shaping White public opinion toward a larger goal.[516] Houston himself was an ambassador to White audiences in speaking engagements, congressional hearings, and courtroom appearances.

Even when a case was lost, the publicity surrounding litigation could focus attention on discrimination and shift public sentiment. Michael Klarman argues that the *Crawford* case played an extralegal role in eroding "white resistance to black jury service...in the peripheral South."[517] Klarman suggests that the willingness of the US Supreme Court "to change the law to curb race discrimination" in both *Norris* and *Hollins* in 1935 was made possible by the *Crawford* and Euel Lee cases, which served as indicators of shifting social attitudes.

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[509] Sullivan, 206; McNeil 133, 135.
[510] McNeil, 140.
[511] Klarman, "The Racial Origins of Modern Criminal Procedure," 89-92; Sullivan, 208-209.
[512] McNeil, 135. See also Houston's comments in "'Mass Action' Seen Solution Negro Problem," *Philadelphia Tribune* (Philadelphia: May 23, 1935), 2.
[513] Mack, *Representing the Race*, 73, 163, 170; Mack, "Law and Mass Politics," 40-41.
[514] Houston, "Don't Shout Too Soon," *The Crisis* 43 (March 1936): 79.
[515] Houston, "Don't Shout Too Soon," 79.
[516] Houston, "Don't Shout Too Soon," 79.
[517] Klarman, *From Jim Crow to Civil Rights*, 126-128. See also Klarman, "The Racial Origins of Modern Criminal Procedure," 75; McNeil, 136.

Considerable publicity in both cases appeared to subsequently influence jury selection practices in some counties in Maryland and Virginia, respectively, opening the door to Supreme Court intervention in 1935.[518]

The Significance of Crawford *to Social Statesmanship at the NAACP*

Crawford gave Houston and Ransom an opportunity to demonstrate the concept of "social statesmanship," which they used to defend their handling of the trial. The concept embraced a desire to use the legal system to press for change, but to do so in a way that did not raise White antagonism within a given community and instead fostered "interracial cooperation, mutual confidence, and good will."[519] *Crawford* was an object lesson in the NAACP's respectful, methodical, and patient use of the legal system, still acknowledging the larger social context in which change must occur and the slow pace of such change. In a column for the *Afro-American*, Ralph Matthews captured the many complexities of the *Crawford* trial, including the very identity of the NAACP, "once a pioneer in the militant struggle for racial advancement, vilified because of its misconstrued conservatism, fighting for the chance to prove that its policy of substituting tact for antagonism is the proper course for permanent adjustment."[520] The NAACP litigation program continued to operate within this framework, relying on a deep understanding of legal procedure and redress without recourse to the more direct language or public agitation that often worked against the ILD by raising fear and distrust among Southern White people.

Houston's skill in cultivating this professional atmosphere was strategic. Throughout the *Crawford* case, he interacted with Judge Alexander, Galleher, and Loudoun County officials numerous times, fostering professional relationships by repeatedly extending courtesies and showing appreciation for those received.[521] Newspapers also reported on Houston's regular expressions of confidence in Loudoun County's ability to provide a fair trial. Finally, Houston kept his demeanor courteous and respectful, even while he was directly challenging White supremacy.[522] Kenneth Mack argues that such "cross-racial professionalism" typified the courtroom practices developed by the "Black bar" in the 1920s and 1930s. The Black bar sought to overcome racial disadvantage by establishing and maintaining relationships with White counterparts within the legal community, by demonstrating a shared interest in upholding the core values of the profession, by maintaining "'poise, dignity, and skill' in the face of...racially charged proceedings," and by publicly expressing faith in the legal system.[523] These beliefs underlay Houston's heartfelt declaration at the close of Crawford's trial: "[W]e

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[518] Klarman, *From Jim Crow to Civil Rights*, 127; "Lee Plea Denied, Ritchie to Speed Hanging," *Evening Sun* (Baltimore: October 9, 1833), 1. Euel Lee was a Black man convicted of murder by an all-White jury in Maryland in 1931. In a landmark ruling in *Lee* v. *State* (1932), the Maryland Supreme Court overturned Lee's conviction, stating that local officials' testimony that they had not considered race in jury selection was insufficient to overcome the "long, unbroken absence" of Black men from juries. At Lee's second trial, Black men were included in the venire but removed from the jury panel through peremptory strikes, prompting another appeal. In October 1933, the US Supreme Court declined to review Lee's appeal; a week later they declined to review *Hale* v. *Crawford*. Lee was hanged on October 28, 1933. Lee's defense counsel, Bernard Ades of the ILD, subsequently faced disbarment proceedings related to the case. Houston defended Ades in his disbarment proceedings in February 1934. When Houston's connection to the radical lawyer was questioned by Howard University president Mordecai Johnson, Houston argued that Ades had "rendered significant service" in exposing discrimination in Maryland and providing legal aid to poor Black clients. Moreover, Houston believed, as a matter of principle, that any lawyer who espoused "an unpopular cause... be freed from the threats of arbitrary pressure of the Court," quoted in McNeil, 95.

[519] Houston and Ransom, "The Crawford Case: An Experiment in Social Statesmanship," 17-19.

[520] Ralph Matthews, "What Happened at Leesburg," *Afro-American* (Baltimore: December 23, 1933), 17.

[521] For example, Houston sent copies to E.O. Russell, Clerk of the Court of Loudoun County, of letters he wrote to newspaper editors expressing public appreciation for the courtesies received from court officials. Loudoun County, Loudoun County Criminal Cases, *Commonwealth of Virginia vs. George Crawford*, Folder 1932-090-#2 (Leesburg, VA: LCDR, May 16, 1933, and November 9, 1933).

[522] Mack, *Representing the Race*, 90.

[523] Mack, *Representing the Race*, 73, 163, 170; Mack, "Law and Mass Politics," 40-41. José Felipe Anderson examines Houston's

cannot hope to rise by tearing your institutions down, but only by proving that we can share your institutions without endangering them."[524] His comments were subsequently described in a *Washington Post* editorial as "a black man's faith in white men's justice."[525] It was this interpretation that did not always sit comfortably with some Black (and some White) observers, who felt that the NAACP approach went too far toward mollifying the moderate White establishment, as shown in the controversy that followed *Crawford*.[526]

Crawford gave Houston a highly publicized platform for his own rare and formidable personal qualities, which seemed to elevate the performance and civility of everyone around him. Following the *Crawford* verdict, Douglas Southall Freeman of the *Richmond News Leader* wrote of Houston: "The dignity of the man, his ability, and his fair presentation of the legal issue dissipated any atmosphere of hostility that may have existed."[527] Frank Getty, of *The Washington Post*, also attributed the *Crawford* outcome to Houston, describing him as a "quiet, personable, [and] self-effacing" lawyer who "without ever yielding a point of law, had set a high standard of gentleness and courtesy for his opponents at the bar."[528] After Houston's premature death from heart disease in 1950, testimonials were not hard to find. Erwin Griswold, a White professor at Harvard Law School in the early 1930s when he met Houston, recalled: "Even then, though not yet 40, he [Houston] was a striking and impressive man. He was handsome, in a dignified yet forceful way. He was a man who created respect."[529] Spottswood W. Robinson III, an African American lawyer and later judge who graduated from HUSL in 1939 and became deeply involved in NAACP civil rights litigation, described Houston as "surrounded by an aura of extreme competence, his very presence in legal dialogue commanded respect. His wise advice, accompanied by explanation of analysis and synthesis..., was a revelation in itself."[530] Of Houston's significance to the history of civil rights litigation, William H. Hastie wrote in an obituary: "It is doubtful that there has been a single important case involving civil rights during the past fifteen years in which Charles Houston has not either participated directly or by consultation and advice."[531]

The Role of Black Lawyers at the NAACP After Crawford

Houston's professional mission to advance the prospects of Black lawyers began at HUSL and continued with the NAACP. *Crawford* was an essential bridge in this process. Kenneth Mack dates Howard University's "transformation into a laboratory for civil rights work" to 1933, when Houston engaged colleagues and former and current students on the *Crawford* case and his other endeavors for the NAACP.[532] At the close of the

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remarkable persuasive ability in criminal cases that involved fairness of procedure, calling him a "legend" in criminal justice jurisprudence, "The Criminal Justice Principles of Charles Hamilton Houston: Lessons in Innovation," *University of Baltimore Law Review* 35, no. 3 (Spring 2006): 314, 322-323.

[524] Flannagan, "Crawford May Plead Guilty in Second Case." This same statement was partially quoted elsewhere as "We cannot hope to rise by tearing down your institutions. We can only hope to convince you that we are entitled to share in them." See Dabney, "Crawford Given Life In Prison"; Getty.

[525] Getty.

[526] Mack has addressed this topic at length in *Representing the Race*, "Law and Mass Politics," and "Rethinking Civil Rights Lawyering."

[527] Douglas Southall Freeman to Freda Kirchwey (Cambridge, MA: Houghton Library, Harvard University, June 12, 1934, Harvard Crawford Case, Correspondence and Documents, 1933-1934, *The Nation* Records, MS Am 2302 [5309], Folder 3). A copy of this letter was also sent to Walter White (Washington, DC: Library of Congress, Box I:D53, Folder 2, NAACP Records).

[528] Getty.

[529] Erwin N. Griswold, "Charles Hamilton Houston," *Negro History Bulletin* 13 (June 1950): 210.

[530] Spottswood W. Robinson III, 7, quoted in McNeil, 66.

[531] Hastie. Similarly, Thurgood Marshall recalled that of the thirty lawyers assembled on behalf of Black schools when *Brown* v. *Board of Education* was argued in 1954, "there were only two who hadn't been touched by Charlie Houston," quoted in Tushnet, *Thurgood Marshall*, 290.

[532] Mack, *Representing the Race*, 44. See also Leland Ware, *A Century of Segregation: Class, Race, and Disadvantage* (Lanham, MD: Lexington Books, 2018), 13-14.

Crawford trial, White told Houston that the case would be "the greatest thing for Howard Law School that has happened in a long time."[533] Enrollment patterns at HUSL in the 1930s were generally positive but reflected both the economic strain of the Great Depression and the school's transition in the early 1930s into an accredited law school with higher admissions standards.[534]

While still vice dean of HUSL in 1934, Houston embarked on multiple speaking tours to recommend the legal profession to Black college students. Visiting fourteen colleges in the spring, he spoke about the Crawford case but, more importantly, he emphasized opportunities for service over pecuniary considerations, saying "[t]he Negro lawyer stands on the social frontier, fighting for the rights of the Negro."[535] In November, representing both HUSL and the NAACP and accompanied by Lovett, Houston embarked on a month-long speaking and investigative tour through the South, visiting thirteen Black colleges among many other venues.[536] Houston reiterated his belief that more Black lawyers were needed and that "[t]he great work of the Negro lawyer in the next generation must be in the South and the law schools must send their graduates there and stand squarely behind them as they wage their fight for true equality before the law."[537] In addition to recruiting for HUSL, Houston had other efforts to discuss, including his vision for the new litigation campaign against educational discrimination which he was then leading, and which would require the assistance of dedicated Black lawyers working throughout the South.[538] The results of Houston's recruiting efforts may be reflected in a dramatic increase in the enrollment of first-year law students at HUSL in 1934 and 1935.[539] In an annual report of 1939, William D. Taylor, Acting Dean of HUSL, observed that the goal of increasing representation of "states and institutions hitherto unrepresented" was bearing fruit, and of the thirty-four institutions in which present students had received their pre-legal education, "[t]wenty-six...are colored institutions and twenty-four of them are located in the [S]outh."[540]

Houston's appointment as special counsel at the NAACP ensured that Black lawyers would carry forward the work of the organization, just as increased rigor at Howard University produced young lawyers who would become indispensable to the NAACP.[541] Houston was just as intent on developing Black legal talent at the NAACP as he had been at Howard University. In 1935 Houston received congratulations on the *Hollins* ruling

[533] Walter White to Charles Hamilton Houston (Washington, DC: Library of Congress, December 18, 1933, Box I:D52, Folder 15, NAACP Records).
[534] Total enrollment gradually rose from thirty-seven in 1933-34, to seventy-six in 1937-38, before dropping to sixty-one in 1939-40. The number of graduates was inconsistent in the middle of the decade—seven in 1934, ten in 1935, five in 1936—but by 1940 there were twenty-one graduates. These figures declined again with the onset of World War II but rebounded after the war. Dyson, 230; Rayford W. Logan, *Howard University: The First Hundred Years 1867-1967* (New York: New York University Press, 1969), 377; William E. Taylor, "Howard University School of Law, Report of the Acting Dean For the School Year Ending June 30, 1939" (Washington, DC: MSRC, Howard University, University Archives, Box 143, folder "School of Law Reports 1871-1948"), 4.
[535] This assessment refers to a speaking tour Houston made to fourteen colleges in the spring of 1934: "Houston Issues Bulletin on Howard Univ. Law School," *Norfolk Journal and Guide* (Norfolk, VA: July 28, 1934), 5. See also, "State College Students Hear Dean Houston: Commends Law to Those Who Like A Good Fight," *Norfolk Journal and Guide* (Norfolk, VA: April 21, 1934), 9; "Law Dean Visits Atlanta University," *Norfolk Journal and Guide* (Norfolk, VA: May 12, 1934), 9.
[536] Sullivan, 205-206.
[537] Houston, "The Need for Negro Lawyers," 52. Although Houston published these views shortly after this trip, they are in line with his earlier assessments and statements regarding Black lawyers.
[538] An announcement for Houston's address at Second Ward High School in Charlotte, NC, referred to him as dean of Howard Law School, chief counsel in "the famous Crawford case," and noted his testimony before a congressional committee on the anti-lynching bill: "Howard U. Dean to Speak Here," *Charlotte Observer* (Charlotte, NC: November 25, 1934), 18.
[539] Ten first-year law students were enrolled in 1933-34, rising to twenty-four in the fall of 1934 and thirty-eight in 1935, a high point for the decade; Taylor, 4.
[540] Taylor, 1, 3.
[541] Robert K. Poch, "Shaping Freedom's Course: Charles Hamilton Houston, Howard University, and Legal Instruction on U.S. Civil Rights," *American Educational History Journal* 39, no. 2 (2012): 417-431.

from a fellow lawyer: "Now that the NAACP has had a Negro lawyer for the first time in its history to handle one of its important cases before the Supreme Court, I trust that this will be the beginning of a new policy, under which no case in the future will be presented in that tribunal without a Negro lawyer at the counsel table."[542] In response, Houston asserted that the NAACP "should be the great laboratory for developing Negro leadership wherever possible....I know it is the general policy of the Association to appoint Negro lawyers in all cases where considerations are otherwise equal."[543] When Hollins's conviction was overturned by the Supreme Court and he was retried in Oklahoma, Houston insisted on retaining a local Black lawyer, especially "in view of the many competent Negro lawyers in Oklahoma some of whom are Howard graduates."[544]

Through the late 1930s, the salaried legal staff at the NAACP consisted of just Houston and Marshall. They relied heavily on a network of lawyers across the country who were motivated to help the effort and who worked with or without fees from the organization, or who received fees from fundraising conducted by local branches or teacher association initiatives.[545] Black lawyers became critical to the organization. August Meier and Elliott Rudwick note that the NAACP's change in policy toward Black lawyers "came at a time when southern judges were beginning to show greater respect for black lawyers."[546] As Marshall later recalled, Houston "got together Negro lawyers from one end of this country to the other."[547] Houston worked with Black lawyers in Tennessee, Missouri, Maryland, and Washington, DC, to search for a graduate school case to take to the US Supreme Court.[548] In 1938 Houston, Ransom, Lovett, and Marshall achieved success in *Missouri ex rel. Gaines* v. *Canada*, the first such case brought by the NAACP before the US Supreme Court.[549] The lawyers rehearsed the arguments in front of professors and students at Howard University in "the first in a long line of dry runs in which black civil rights lawyers presented their various legal positions to Howardites for scrutiny."[550] Howard University thus became an important source of legal talent, sociological research, expert testimony, and legal critiques for NAACP litigation.[551] Not only did HUSL students benefit from the exposure and inspiration of these practice sessions, but the first civil rights law course taught at an American law school was implemented at Howard University by Professor James Nabrit, Jr., in 1936.[552]

Marshall assumed the helm as special counsel at the NAACP when Houston resigned in 1940 and resumed his position on the NAACP legal committee. That year the NAACP incorporated the Legal Defense and

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[542] J. Alston Atkins to Charles Hamilton Houston, May 12, 1935, quoted in Meier and Rudwick, 942. Just weeks before *Hollins*, Atkins had unsuccessfully argued *Grovey* v. *Townsend* at the US Supreme Court, acting independently of the NAACP, in one of several cases fighting the Texas white primary.
[543] Charles Hamilton Houston to Atkins, May 15, 1935, quoted in Meier and Rudwick, 942.
[544] Charles Hamilton Houston to Roy Wilkins, May 22, 1935, quoted in Meier and Rudwick, 943.
[545] Tushnet, *The NAACP's Legal Strategy*, 101-102, 110.
[546] Meier and Rudwick, 945.
[547] Quoted from remarks Marshall made at Amherst College in 1978 in honor of Houston, in Tushnet, *Thurgood Marshall*, 274. Some of the young Black lawyers involved with NAACP cases in these years included Conrad Pearson and Cecil McCoy in Durham, NC; J. Alston Atkins and Carter Wesley in Houston, TX, Byron Hopkins in Richmond, VA., and Cecil Robertson in Muskogee, OK. The list of Black lawyers grew to include Oliver Hill and Spottswood W. Robinson III, in Virginia, Arthur Shores in Alabama, A.P. Tureaud in Louisiana, A.T. Walden in Georgia, S.D. McGill in Florida, and others, many of whom were HUSL graduates. Sullivan, 189, 249; Larissa M. Smith, "A Civil Rights Vanguard: Black Attorneys and the NAACP in Virginia," in *From the Grassroots to the Supreme Court:* Brown v. Board of Education *and American Democracy*, ed. Peter F. Lau (Durham, NC: Duke University Press, 2004), 129-153.
[548] McNeil, 143-144.
[549] McNeil, 145.
[550] McNeil, 150.
[551] Turkiya L. Lowe, "Andrew Rankin Memorial Chapel, Frederick Douglass Memorial Hall, and Founders Library," National Historic Landmark Nomination Form (Washington, DC: U.S. Department of the Interior, National Park Service, 2000).
[552] Jack Greenberg, *Crusaders in the Courts: How a Dedicated Band of Lawyers Fought for the Civil Rights Revolution* (New York: Basic Books, 1994), 39; Tushnet, *The NAACP's Legal Strategy*, 30-31; Kluger, 520.

Educational Fund (subsequently, the LDF) to better support the organization's legal program, enabling Marshall to expand the legal staff with additional men and women, most of whom were Black. Black lawyers thus assumed the leadership and the work of the NAACP litigation program in a shift that began with the all-Black defense of George Crawford in 1933.[553]

Houston returned to private practice, eventually taking up labor discrimination against African American railroad workers, racially restrictive real estate covenants, and other battles.[554] He continued to contribute legal services to the organization, and by 1947 endorsed a shift in NAACP strategy to a frontal attack on segregation in education.[555]

COMPARATIVE ANALYSIS

This National Historic Landmark nomination argues that the Loudoun County Courthouse possesses national significance as the location of a 1933 civil rights trial that proved to be a pivotal moment in the history of the NAACP and of African American lawyers. In a high-stakes gamble, the NAACP fielded a defense counsel composed entirely of African American lawyers in a nationally publicized case that directly confronted White supremacy. The trial was a formative test case in the NAACP's emerging legal fight against segregation, brought recognition to the abilities of Black lawyers, and marked a transition toward Black leadership within the NAACP litigation program.

Cases selected for comparative analysis offer examples prior to *Crawford* of notable courtroom performances or civil rights achievements by African American lawyers. Comparison of these cases helps clarify the significance of *Crawford* both as a turning point for the NAACP in its reliance on Black lawyers and as a high-profile demonstration of the organization's methods and strategies. The cases and lawyers discussed here have already been introduced in the preceding narrative. They illuminate the range of legal work bringing acclaim to Black lawyers in the 1920s and early 1930s, as well as the role of sectional variations and the motives and strategies of different civil rights organizations, particularly the NAACP and the ILD. The comparable events and individuals discussed below may be found to have national significance within other sub-themes related to American Civil Rights jurisprudence.

Scipio A. Jones: The Elaine 12 (Early 1920s)

Scipio A. Jones, a highly respected Black lawyer who practiced in Arkansas, is best known for his role in the appeals and retrials of the Elaine 12, a group of Black sharecroppers rushed to conviction and sentenced to death for their alleged role in an October 1919 "race insurrection" in Phillips County, Arkansas. Jones played a critical role in the appeals process, working with George Murphy, a White lawyer selected by the NAACP, to

[553] Creating the LDF enabled donors to claim tax deductions; Tushnet, *The NAACP's Legal Strategy*, 100; McNeil, 152. In 1943, Marshall was able to hire two assistant special counsels: Edward Dudley, a Black lawyer, and Milton Konvitz, a White lawyer, both of whom received law degrees in New York City and worked for the LDF for a couple of years. Between 1944 and 1945, the legal staff expanded to include Robert L. Carter, Franklin Williams, Marian Wynn Perry, and Constance Baker Motley, all of whom were Black but Perry. PBS American Experience, "Edward Dudley, Civil Rights Warrior at Home and Abroad" (accessed February 3, 2023, https://www.pbs.org/wgbh/americanexperience/features/american-diplomat-edward-dudley-civil-rights-warrior-home-and-abroad/); David J. Danelski, *Rights, Liberties, and Ideals: The Contributions of Milton R. Konvitz* (Littleton, CO: Fred B. Rothman & Co, 1983), 15; Sullivan, 297.

[554] McNeil, 157. José Felipe Anderson notes that Houston set two Supreme Court precedents in the field of labor law in 1944 that still stand today, and in 1948 he guided *Shelley* v. *Kraemer*, "which ended the use of racially discriminatory restrictive covenants" (personal communication to preparers, August 31, 2023).

[555] Sullivan, 249-250; McNeil, 199.

secure new trials from the Arkansas Supreme Court. When Murphy died suddenly, Jones served as defense counsel at the retrials with NAACP approval. Jones is credited with writing the brief used when one of the cases went to the US Supreme Court, resulting in *Moore* v. *Dempsey* (1923), which established a violation of the due process clause of the Fourteenth Amendment. The NAACP relied on Moorfield Storey to argue the case before the Supreme Court, although the NAACP and African American newspapers praised Jones for his role.[556] Back in Arkansas afterward, Jones secured dismissal of some cases and lesser sentences and eventually pardons in the remaining cases.

The Phillips County Courthouse in Helena, Arkansas, where Jones defended the sharecroppers during retrials, was built in 1914 and listed in the NRHP in 1977.[557] The building likely retains sufficient integrity to represent Jones's legal work on behalf of the sharecroppers. However, Jones's courtroom performance during the appeals and retrials was not given noteworthy press and his involvement largely reinforced the NAACP custom of using Black lawyers who associated at the local level with White lawyers. Although the circumstances surrounding Murphy's death forced the NAACP to rely on Jones to an unusual degree in an important effort, the organization preferred to have a prominent White lawyer argue the case before the US Supreme Court.

Raymond Pace Alexander: The Louise Thomas (1924–1925) and Willie Brown (1932) Cases

Raymond Pace Alexander graduated from Harvard Law School in 1923 and shortly afterward started his own practice in Philadelphia with a focus on representing Black clients. He soon gained experience and notice as a criminal defense lawyer. Commenting on Alexander's conduct in a 1925 trial, the *Pittsburgh Courier* contended that "the case undoubtedly has established the fact that the negro lawyer has ability and qualities ranking with those of the most competent, regardless of race."[558]

In 1932, Alexander defended William E. "Willie" Brown in a case that generated national attention, particularly with a public primed by the injustices of the ongoing Scottsboro cases. Willie Brown, the sixteen-year-old African American defendant, was accused of the rape and murder of a seven-year-old White girl. The case involved accusations of police brutality and a forced confession taken under threat of mob violence. The clear civil rights implications attracted the interest of both the ILD and the NAACP. Walter White was initially very interested in the case, calling Philadelphia's police brutality "most flagrant." In the end, both the local branch of the NAACP and the national legal committee declined to get involved, although White cautioned the local branch to "prevent the Communists from gripping cases for their own purposes."[559] The ILD staged protests and compared the case to the Scottsboro Boys, but Alexander steered clear of both groups, partnering with another Black lawyer to defend Brown without fee. As with cases in the South, Alexander faced a hostile judge who favored police, as well as an all-White jury, and a White supremacist culture that was quick to assign guilt to Black males. Since Black men were removed from Brown's jury through peremptory strikes, jury discrimination was not a pursuable issue. Brown was convicted and sentenced to death. Alexander's performance at the trial warranted little comment, but his appellate performance at the state Supreme Court, in which he cited prejudicial comments made by the prosecutor and errors on the part of the judge while supporting his arguments with legal precedents, won him a great deal of respect in the White legal

[556] Meier and Rudwick, 926; Sullivan, 73, 88; Mack, "Law and Mass Politics," 40; Mack, *Representing the Race*, 29; "U.S. Supreme Court Reversed Itself in Arkansas Case," 2; see also "How the Arkansas Peons Were Freed," 3.
[557] Sandra Taylor, "Phillips County Courthouse," National Register of Historic Places Nomination Form (Washington, DC: U.S. Department of the Interior, National Park Service, 1976).
[558] "Jury Finds Girl 'Not Guilty,'" *Pittsburgh Courier* (Pittsburgh: October 24, 1925), 1; "Din Greets Acquittal," *Philadelphia Inquirer* (Philadelphia: October 17, 1925), 2.
[559] Quoted in Canton, 43; Mack, *Representing the Race*, 72.

establishment and secured Brown a retrial.[560] Alexander subsequently withdrew from the case and the remaining lawyer, Robert Nix, handled the second trial. Brown entered a guilty plea and was sentenced to life in prison. Nix regarded the sentence as a victory under the circumstances, but for the ILD it was a legal lynching in the North.[561]

The Willie Brown trial took place in Philadelphia's NRHP-listed City Hall.[562] The case exposed the competing objectives and tactics of leading civil rights organizations but did not invoke constitutional issues with the potential to set wide legal precedents. The NAACP did not invest its resources in the defense, provide publicity, or support the local African American lawyers arguing the case. The case had no bearing on leadership roles for Black lawyers within the NAACP, but Houston subsequently published an editorial in *Opportunity* that commended Alexander as "one of the finest young lawyers the Negro race has produced" and applauded his ability to obtain a favorable appellate court decision that reaffirmed the constitutional right to a fair trial.[563]

Benjamin J. Davis: The Angelo Herndon Case (1933)

Partnered with another Black lawyer and supported by the ILD, the young Harvard Law-educated Benjamin Davis argued the case of Angelo Herndon in January 1933. Herndon was a Black Communist Party activist charged with insurrection for distributing Communist literature at a mass demonstration for unemployment relief in Atlanta, Georgia. Such demonstrations by all races and ethnicities were common during the Great Depression, a period when dire conditions gave Communist ideology its greatest appeal. The biracial nature of the demonstration presented a threat to the White supremacist social and economic order of the Deep South. The insurrection charge contrived by the White prosecution held that Herndon was agitating for a Black nation-state in the South, an idea associated with the CPUSA. The charge sought to create an oppressive environment for Communist organizers in Georgia. During the trial, Herndon and his defense lawyers were faced with rabid anti-Communist bias in addition to racism, enduring disrespectful forms of address and flagrant use of racial epithets despite Davis's objections.[564] In his own testimony, Herndon called the trial an effort by the "capitalist class" to stir up "race hatred."[565] Frustrated and persuaded by Herndon's leftist ideas, Davis joined the CPUSA and made aggressive remarks in his closing statement, further alienating the White judge and jury. Herndon was convicted and given 18 to 20 years in prison; a sentence regarded as "merciful" since the death penalty was sought.[566] Davis was forced to relocate to New York City. Herndon's appeal was subsequently taken up by White lawyers associated with the ILD. In *Herndon* v. *Lowry* (1937), the Supreme Court ruled that Georgia's insurrection statute violated Herndon's First Amendment right of free speech.

Davis defended Herndon in Atlanta's NRHP-listed Fulton County Courthouse.[567] The trial is an example of a major civil rights case undertaken by Black lawyers, but under the auspices of the ILD rather than the NAACP. The case varies from *Crawford* in demonstrating the exceedingly difficult challenges faced by a Black lawyer in a hostile criminal court in the Deep South, especially in proceedings compounded by anti-Communism. Davis

[560] "May Win Reversal of Death Decree in Willie Brown Case," *Pittsburgh Courier* (Pittsburgh: December 3, 1932), 19; "Seek New Trial for Willie Brown," *Pittsburgh Courier* (Pittsburgh: May 14, 1932), 5.
[561] Canton, 44-45; Mack, *Representing the Race*, 163-165.
[562] Caroline Pitts, "Philadelphia City Hall," National Register of Historic Places Nomination Form (Washington, DC: U.S. Department of the Interior, National Park Service, 1976).
[563] Charles H. Houston, "Commonwealth v. William Brown," *Opportunity* 11 (April 1933): 109-111.
[564] Finkelman, 203; Mack, *Representing the Race*, 168-170.
[565] "Convicted Negro 'Red' to Appeal," 5.
[566] Dabney, "What is the Matter with Georgia?"
[567] "Fulton County Courthouse," Thematic National Register Nomination – Georgia Courthouses (Washington, DC: U.S. Department of the Interior, National Park Service, 1980).

later credited his conversion to Communism to "the savage white supremacy assaults of the trial Judge."[568] Although widely reported, the case did not raise awareness of the abilities of Black lawyers or affect their status at the NAACP, which wished to keep itself clear of anti-Communist bias.

William H. Hastie: The Thomas Hocutt Case (1933)

The Hocutt case was an early offensive in the NAACP's nascent battle against segregation in education and one of the first major civil rights cases in which the NAACP was represented solely by Black counsel. The national office sent William Hastie, then finishing his doctorate in law at Harvard, to lead a lawsuit prepared by two young Black lawyers against the University of North Carolina on behalf of Thomas Hocutt, a Black applicant to the School of Pharmacy who was denied admission. Trying to find an available lawyer to help with the case on short notice in March 1933, White settled on Hastie at Houston's recommendation.[569] Hastie's performance in the Durham County Courthouse caused a local sensation, in part because of his academic credentials and association with the NAACP, but also because of the precedent-setting potential of the case. Hastie's impressive "ability and demeanor" in the courtroom while engaging in legal sparring with the White state attorney general was widely acknowledged by White observers and electrifying to Black spectators.[570] On the basis of the positive support he witnessed within the Black population, Hastie wired White: "Incalculable good done whatever the outcome."[571] The NAACP capitalized on the local excitement by opening six new branches in North Carolina in May alone.

The Durham County Courthouse (1916) where *Hocutt* took place contributes to the Durham Downtown Historic District, although the NRHP nomination indicates that the courthouse interior has been altered.[572] In terms of significance to the stature of the Black bar and to the NAACP's emerging legal campaign, both *Hocutt* and *Crawford* generated excitement among Black observers and recognition of Black legal talent among White observers, although both fell short of the hope and expectation of establishing legal precedents. As Richard Kluger remarked, the two cases were "not precisely ringing triumphs in terms of measurable results" but they "sent morale soaring" at HUSL and "demonstrated the high competence and cool courage of black counsel arguing freely in Southern courtrooms."[573]

In comparison to *Hocutt*, however, *Crawford* engaged the full resources of the NAACP over a prolonged period in which the case was brought repeatedly into public view, achieving national publicity on a much wider scale and, afterward, generating much debate over the goals and practices of the NAACP's legal program. The legal stakes were far higher in *Crawford* than in *Hocutt*. A win in *Hocutt* would have affected a small segment of the population, but *Crawford* involved a man's life and civil rights issues then raging across the South—the right to a fair trial and a jury of one's peers without the threat of extrajudicial lynching. The stakes for the NAACP and Black lawyers were also high. After facing years of growing criticism from Black lawyers over its preferential use of White lawyers, the NAACP was at a crossroads and its appeal to African American constituencies was in question. For Black lawyers who were striving to take the helm in the fight for civil rights, the performance of Black counsel in the *Crawford* trial offered a highly visible gauge of their ability to succeed with White judges,

[568] Mack, *Representing the Race*, 170.
[569] Sullivan, 168-169; Meier and Rudwick, 933; McNeil, 66, 79, 132; Encyclopedia.com, "William H. Hastie, 1904-1976."
[570] Conrad O. Pearson to Walter White, March 31, 1933, Box D-96, NAACP Papers, quoted in Meier and Rudwick, 940; "Hocutt Loses Opening Round in Legal Fight to Enter University," 1.
[571] Quoted in Sullivan, 169.
[572] H. McKelden Smith and John B. Flowers, "Downtown Durham Historic District," National Register of Historic Places Nomination Form (Washington, DC: U.S. Department of the Interior, National Park Service, 1977).
[573] Kluger, 158.

lawyers, and juries in racially charged cases. The success of Black counsel in *Crawford* opened the door to Black leadership of the NAACP's civil rights litigation campaign.

SUMMARY

The Loudoun County Courthouse has significance under National Historic Landmark Criterion 1 as the location of *Commonwealth of Virginia* v. *Crawford* in 1933. The trial of George Crawford has national significance as a seminal event in the history of Black lawyers, the NAACP, and the NAACP's civil rights jurisprudence. Crawford strongly supports National Historic Landmark themes II(2), for its importance to the NAACP as a movement promoting legal and social reform, and IV(1), for its importance in shaping the political landscape and protesting the racist underpinnings of segregation. In a period rife with racial, sectional, class, and political antagonisms, the African American lawyers defending Crawford offered a powerful demonstration of legal ability and racial equality, leading to a transition within the NAACP toward Black leadership of its legal program and a jurisprudence that exposed inequality, fought segregation through strategically chosen legal cases, enlisted African Americans in the fight for civil rights, and undermined racism in the court of White public opinion.

6. PROPERTY DESCRIPTION AND STATEMENT OF INTEGRITY

Ownership of Property	Category of Property
Private:	Building(s): X
Public-Local: X	District:
Public-State:	Site:
Public-Federal:	Structure:
	Object:

Number of Resources within Boundary of Property:

Contributing		Noncontributing	
Buildings:	1 (courthouse)	Buildings:	
Sites:	1 (yard)	Sites:	
Structures:		Structures:	
Objects:	2 (WWI monument, cast iron fence)	Objects:	5 (3 war memorials, 2 stone benches)
Total:	4	Total:	5

PROVIDE PRESENT AND PAST PHYSICAL DESCRIPTIONS OF PROPERTY

Summary Description

The Loudoun County Courthouse is a two-story red brick building designed with a temple form in the Classical Revival mode. Fronted by a giant order Corinthian portico facing North King Street and topped by a tower and belfry rising twice the height of the portico, the building was erected from 1894 to 1895. It is the third courthouse to occupy the site. It stands back from North King Street within a largely level, grassy lawn that occupies the east corner of North King Street and East Market Street in Leesburg, Virginia (Figure 24, Photo 1). The courthouse interior consists of a square entry vestibule at the base of the tower, a large full-height courtroom featuring a gallery across the northwest wall and a judge's dais against the southeast wall; and two floors of supporting rooms at the southeast end of the building. The nominated property consists of just over 1.5 acres and encompasses the courthouse and its yard, including lawns, brick walkways, a World War I memorial, and a decorative cast iron perimeter fence (Photo 2). Noncontributing elements include three additional memorials and two stone benches installed after the period of significance, as well as stairs and accessibility features built at a later time at the rear of the courthouse. The buildings of the Loudoun County Court Complex form the northeast and southeast boundaries of the nominated property and were either not associated with the George Crawford trial or were not present in 1933 or 1934. Overall, the courthouse retains a high level of integrity. Modest mid-twentieth-century alterations to its interior placed a high value on retaining the building's historic character while ensuring its continuous use as a courthouse.

Exterior

Location and Setting

The Loudoun County Courthouse occupies the grounds of the Loudoun County Court Complex in Leesburg, Virginia, at the east corner of North King Street and East Market Street. The two streets form the historic crossroads at the center of Leesburg, defining a street grid oriented slightly askew from the cardinal points. King Street and Market Street feature densely organized contiguous commercial buildings fronting directly on the street and dating primarily from the late eighteenth to the mid-twentieth centuries. The area lies at the core of the Leesburg Historic District, which was listed in the NRHP in 1970 and updated with an expanded boundary and period of significance in 2002.[574] The nominated courthouse property is bounded on the southwest by East Market Street, on the northwest by North High Street, and on the northeast and southeast by the perimeter of the County Court Complex buildings (Figure 24). The grounds include the original 1-acre lot set aside for the courthouse in 1757 when the town of Leesburg was platted and Loudoun County was created out of Fairfax County, as well as additional land added later.

Landscape

The courthouse yard is enclosed to the southwest and northwest by a decorative cast iron fence that lines the brick sidewalks along North King Street and East Market Street (Photos 1–3). The fence, installed between 1853 and 1861, includes four original pivot gates set under decorative iron arches and a fifth arch missing its pivot gate, each providing access to brick walkways within the yard.[575] Although not original, the brick paths are comparable in appearance to the herringbone walks that existed in 1933 and occupy similar alignments, contributing to the historic character of the setting. Two walkways, from North King Street and East Market Street, respectively, lead axially through pivot gates toward the front and side of the courthouse. Both paths widen into a paved brick circle halfway to the courthouse. The circle at the northwest front of the courthouse once featured a prominent Civil War monument of a Confederate soldier on a pedestal (Figure 3). Dedicated in 1908, the statue was removed in the summer of 2020.[576] The circle to the southwest contains a World War I monument, one of three stone memorial pillars arranged in a row on this side of the courthouse. Four additional walks lead from East Market Street through two pivot gates, the open arch, and a small single-leaf gate at the south corner of the yard. These walkways lead to the main entrance of the Loudoun County Court Complex southeast of the 1894–1895 courthouse. A grade-level brick path also encircles the base of the courthouse on all sides except the southeast, where brick steps and access ramps lined with metal railings lead to a raised brick landing that extends across the rear of the courthouse (Photo 13). This configuration dates to 2010, when a 1980s access ramp was replaced. Numerous plain metal benches and several metal refuse bins are distributed along the walkways, and two flagpoles stand outside the entrance to the County Court Complex; these small-scale, noncontributing elements postdate the period of significance for this nomination. The lawns around the courthouse feature mature trees set in a grass lawn. The bases of four columns from the second courthouse (completed in 1812) were placed in the northwest lawn of the courthouse at the nation's bicentennial and are not contributing elements (Photo 4).[577]

Three war memorials stand in a row between the courthouse and East Market Street, and one more occupies a brick-paved plaza northeast of the courthouse (Photos 8 and 9). The oldest memorial, a World War I monument

[574] Moody; Weidlich et al.
[575] Quinn Evans, Architects, "Loudoun County Courthouse Historic Structures Report" (Leesburg, VA: prepared by Quinn Evans, Architects, for Loudoun County Department of General Services, January 15, 2008), 3.4.
[576] ABC8 News, Richmond, VA, "Confederate Soldier Statue Removed in Leesburg, VA" (July 21, 2020, accessed August 15, 2022, https://www.wric.com/news/virginia-news/confederate-soldier-statue-removed-in-leesburg-virginia/).
[577] Smith, Causey, and Johnston.

installed in 1922, consists of a square stone pedestal featuring a molded base, Corinthian pilasters at each corner, a cornice at the top, and a bronze tablet on its southwest face inscribed with the names of Loudoun County's war dead. In 2021 the original plaque was replaced by one that did not separate the county's Black and White service members.[578] A combined World War II and Korean War memorial standing to its northwest consists of a simpler square monolith on a raised base. It features a figurative relief sculpture and inscriptions on its southwest face, as well as the names of the dead from each war inscribed on its northeast face. Carved by Walter Hancock of Lanesville, Massachusetts, the memorial was installed in April 1956 on a base built by C. Maloy Fishback, a Leesburg contractor.[579] At the southeast end of this row of monuments is a Vietnam War memorial, a simple stone slab with a base and cap, similar in scale to the other two memorials, installed in 1988. Names inscribed on its southwest face honor Vietnam War veterans; bronze medallions and plaques on its northeast face were added in 2007 to commemorate service members who lost their lives in the wars in Iraq and Afghanistan.[580] Two semicircular stone benches at either end of the row of three memorials were installed at about the same time as the Vietnam War memorial. A statue on the northeast side of the courthouse was installed in 2015. Entitled the "Spirit of Loudoun," the figurative group commemorates the Revolutionary War.[581]

The Loudoun County Court Complex forms the perimeter of the courthouse yard to the northeast and southeast. It consists of older buildings as well as newer additions and renovations.[582] The former Leesburg Academy (1844), built as a Greek Revival tetrastyle temple with a giant order of Ionic columns, stands immediately southeast of the courthouse and faces southwest toward East Market Street. The building was acquired by the county for the Clerk's Office in 1873, expanding the courthouse property from 1 to 1.5 acres. The former Academy building was the backdrop for a photograph of George Crawford's defense counsel in December 1933 (Figure 18). A Federal-period building at the corner of East Market and Church Street now houses the Commonwealth Attorney's Office. These two buildings were present in 1933 but were incorporated into the larger Loudoun County Court Complex through construction projects of the late 1950s and early twenty-first century. A wing of the current complex located northwest of the 1894 courthouse occupies ground where the historic Leesburg Inn stood until the 1970s.

Courthouse Exterior

The courthouse consists of a brick rectangular main block, a front portico, and a tower. The main block measures five bays (49 feet) wide and seven bays (74 feet) long and has a hipped slate roof with a shallow-pitch central area clad in standing-seam galvanized metal (originally tin). The roof features three cross gables at the southwest, northeast, and southeast elevations, and a projecting portico (32 feet wide by 10 feet deep) at the northwest (main) elevation. The tower rises above the main roof at the rear of the front portico to twice the height of the portico (66 feet above the water table). The lower walls of the tower form a vestibule inside the northwest entrance of the courthouse. The building has a raised basement capped by a projecting slate water

[578] Nathaniel Cline, "Loudoun County to Replace Segregated World War I Plague on Veterans Day," *Loudoun Times-Mirror* (Leesburg, VA: November 8, 2021, updated November 11, 2021, accessed September 2, 2022, https://www.loudountimes.com/news/loudoun-county-to-replace-segregated-world-war-i-plaque-on-veterans-day/article_28fc8596-40c7-11ec-a4da-67b55f9249ec.html).
[579] Quinn Evans, Architects, 2.6.
[580] Will Murphy, Max Villegas, and Lindsey Somers, "The Important History of The Brave American Veterans Who Sacrificed Their Lives from 1775 to the Current Date for American Freedom" (August 11, 2022, accessed September 2, 2022, https://www.loudounnow.com/2022/08/11/loudoun-awards-scholarships-for-war-monuments-history/).
[581] Margaret Morton, "Loudoun's Revolutionary Spirit Memorialized At Courthouse" (November 12, 2015, accessed September 2, 2022, https://www.loudounnow.com/2015/11/12/loudouns-revolutionary-spirit-memorialized-at-courthouse/).
[582] Larson, 5-16.

table. The grade around the courthouse inclines slightly up toward the rear of the building, leaving more of the basement level exposed toward the northwest front of the building.

Portico. The tetrastyle portico at the front, or northwest, entrance is designed in a classical vein and features four Corinthian columns with a wider intercolumniation at the center (Photo 4). The portico stands on a raised podium with slate steps at the northwest side, brick cheek walls, and a slate deck at the same level as the water table of the main block. The slate steps are original but were turned over (worn side down) in 1989; the brick cheek walls were rebuilt in 2006 and resemble the originals.[583] The portico features four round columns built of brick and coated in plaster. The columns have molded cast iron bases set on square plinths and molded cast iron Corinthian capitals. The columns and capitals are painted white, and the bases and plinths are painted black. The columns support an entablature consisting of a molded sheet metal architrave painted white, an unornamented flat brick frieze, and a heavy metal cornice featuring ornamental metal modillions. The raking cornices of the pediment are identically adorned. The ceiling of the portico has been lowered to nearly the bottom edge of the architrave, concealing the original beaded board ceiling still visible in an attic crawlspace.[584]

Main Block. The main block of the courthouse features common bond brickwork and is divided into bays by brick pilasters aligned above projecting brick pedestals at the basement level (Photos 6, 9, and 12). The degree of decorative finish varies by façade. The more visible northwest and southwest façades, facing the public streets, feature a higher level of ornamentation than the northeast and southeast façades, which face the interior of the courthouse yard (originally facing the Leesburg Inn and Leesburg Academy buildings, respectively). The historic record provides no direct explanation for the hierarchical treatment, but an 1894 Leesburg *Mirror* article indicated that architect William Callis West's courthouse design could be built within the allotted budget for the new building, "which many thought could not be done."[585] The *Mirror* article described the proposed new building but made no note of its cost-saving gestures, which may have included a lesser amount of architectural detail on its southeast and northeast sides and the use of prefabricated ornamental components made of cast iron, terra cotta, and sheet metal.

The pilasters feature unglazed molded terra cotta bases all around the exterior, but only the pilasters of the northwest and southwest elevations feature terra cotta Corinthian capitals (Photos 10 and 11); those on the northeast and southeast elevations feature sheet metal capitals with plain horizontal banding (Photo 7). Each bay contains a single tall arched window opening except for the central bay of the northwest façade, which contains the main entrance and an oculus window above. Also, the two end bays of the southeast (rear) elevation contain no windows or other openings. The window openings have slate sills sloped to shed water. The window heads consist of three flush rowlock arches under a raised brick arch on all façades but the southeast (rear), which features only two flush rowlock arches over each opening. In addition, the arches of the more prominent northwest and southwest façades feature a terra cotta keystone shaped like a scrolled bracket. The main block of the courthouse has an entablature and cornice level with that of the front portico. The cross gables on the southwest, northeast, and southeast façades form pediments with full entablatures that project forward slightly from the wall plane. Consistent with the decorative hierarchy established throughout the exterior, only the northwest and southwest cornices and pediments feature ornamental metal modillions.

Windows. Most of the tall arched window openings contain two-over-two single-hung windows at the bottom (the lower sash operates vertically, and the upper sash is fixed), surmounted at the top by a single arched sash with tracery (Photo 10). The top arched sash is hinged at the base and tilts inward. A fixed lunette-shaped wood

[583] Quinn Evans, Architects, 3.8.
[584] Quinn Evans, Architects, 4.34.
[585] "The New Courthouse," *Mirror* (Leesburg, VA: March 22, 1894), 1.

storm sash covers the top of most of the arched sashes. In the southeast (rear) elevation, the upper third of the arched opening is instead occupied by a two-light wood sash surmounted by a single-light lunette (Photo 13). At the front and rear elevations and in the end bays on each side elevation, a horizontal wood panel separates the top sash from the bottom two sashes, concealing the structure of the second floor at the southeast end of the building and the interior gallery at the northwest end. The lower two sashes throughout are covered by metal storm sashes installed in 1954.[586] In addition, the southwest and northeast pediments each contain a single oculus window set within two rings of rowlock bricks. An identical oculus window appears under the northwest portico over the main entrance. The southeast pediment contains a louvered semicircular vent set under two rowlock arches.

Entrances. The courthouse has three entrances, one at the front and two at the rear (Photos 5 and 13). The main entrance faces northwest in the central bay under the portico and consists of a large arched opening with paneled wood reveals capped by a scroll-shaped terra cotta keystone set in the brick surround. The entrance contains a four-light arched transom over a pair of six-panel painted wood doors finished on the inside with horizontal matchboards (Photo 21). The southeast (rear) elevation features an original entrance in the central bay, containing a four-panel wood door set within plain reveals. The window bay northeast of the original rear entrance was retrofitted with an identical four-panel wood door in place of the original window. The door may have been installed in 1956 when the interior rear rooms were reconfigured.[587] The original rear door enters into a private foyer outside the judge's office. The nonoriginal entrance opens into a lobby and hallway providing access to the other rear rooms and the courtroom.

Tower. The courthouse tower consists of a clock tower (although it did not originally house a clock) and open belfry surmounted by a small cupola topped by a weathervane (Photos 8 and 9). The clock tower has a square profile with canted corners and is clad in wood matchboard siding. Its cornice features segmental arches over the tower's four faces, accommodating three clockfaces (currently plexiglass replacements) in the southwest, northwest, and northeast sides. The side facing southeast toward the courthouse roof features a simple oculus window. The round openings occupied by the current clockfaces originally contained louvered vents.[588] A pendulum clock with glass faces was installed in 1910, likely the same clockfaces visible in 1933 newspaper photographs of the *Crawford* trial.[589] One of the original glass clockfaces is stored inside the tower. The octagonal belfry above the clocktower has a parapet wall clad in matchboard siding, surmounted by open arches, a wood cornice, and a domed copper roof. The small, ventilated cupola on top of the belfry dome was rebuilt in 1994 and is similar although not identical to the cupola visible in early photos through 1952, before its loss in a storm (Figure 3).[590] Repairs were made to the tower roof in 1952, and a new weathervane was made in 1953 and mounted directly on the belfry dome until the new cupola was installed.[591]

Mechanical Features. The crawlspace under the courthouse is ventilated in each bay along the northeast and southwest elevations by small cast iron grates featuring a decorative zigzag grille. In keeping with the hierarchical treatment of the exterior, the grates along the southwest elevation are situated in recessed brick

[586] "Courthouse Will Be Air Cooled," *Loudoun Times-Mirror* (Leesburg, VA: August 5, 1954), 1.
[587] Quinn Evans, Architects, 2.12.
[588] Quinn Evans, Architects, 3.8.
[589] The 1910 installation date was noted when the original clock was electrified in 1941. Loudoun County Board of Supervisors Minute Book [Loudoun County Minutes], January 25, 1937 through December 29, 1944 (January 27, 1941) (accessed August 22, 2022, https://www.loudoun.gov/3435/Archived-Action-Reports-Copy-Testes-Minu), 189; "Scene, Attorneys and Principal in Crawford Case," *Richmond Times-Dispatch* (Richmond, VA: November 7, 1933), 4.
[590] Quinn Evans, Architects, 3.8.
[591] Loudoun County Minutes, February 5, 1945, through February 3, 1953, (July 7, 1952), 373; (November 3, 1952), 387; (February 3, 1953), 396; Loudoun County Minutes, March 2, 1953, through June 30, 1959, (March 3, 1953), 3; (April 6, 1953), 5.

panels that are corbeled at the top and bottom. The courthouse originally had only built-in (sunk) gutters in the roof above the cornice; these are now covered by sheet metal roofing material but visible in the attic. Nonoriginal copper gutters run along the flat cornices at each corner of the building, leading to replacement downspouts at both ends of the two long elevations in the locations of the original downspouts.[592] A nonoriginal two-bulb spotlight fixture is located above the oculus window under the portico. The central rear door is flanked by two nonoriginal wall-mounted lantern fixtures (no light fixtures were installed by the rear entrance as late as 1946).[593] A single brick chimney rises over the southeast elevation servicing a second-floor fireplace that once heated a meeting room. Historical photographs show four chimneys over the southeast elevation and two brick chimneys over the southwest elevation, and they indicate that the chimneys were removed between 1946 and 1974.[594]

Interior

The courthouse interior contains a square vestibule inside the main entrance at the northwest end of the building, a courtroom with a 22-foot-high ceiling and spectator galleries, and a two-story section at the southeast end containing offices, conference rooms, bathrooms, and circulation spaces.

Vestibule

The vestibule occupies the base of the tower and contains the main entrance and two interior doors. The paired main entrance doors feature a matchboard finish on their inside faces (Photo 21). Two additional doorways in the side walls feature deep but plain reveals and contain single four-panel wood doors leading into the courtroom (Photos 17 and 18). The doorways feature surrounds with reeded molding. The baseboards have heavily molded caps like those in the courtroom. A fourth door that once occupied the wall opposite the main entrance was removed in the 1970s as a security measure.[595] This door was not depicted on a sketch plan (not drawn to scale) prepared in 1934 when additional radiators were installed in the courthouse (Figure 4), but its omission seems to have been an oversight, given that the Board of Supervisors' minutes do not mention installation of a new doorway between 1934 and 1945 and the doorway appears in a 1945 photograph of the courtroom (Figure 10).[596] The vestibule would have been where the large numbers of spectators entered to attend George Crawford's hearing and trial in 1933.

Courtroom

The courtroom occupies most of the building interior, measuring approximately 45 feet wide by 50 feet long. It has the size and grandeur of a ceremonial space, rising to an impressive 22-foot-high ceiling with a deep plaster cove along the flanking walls above the full-height arched windows (Photos 14 and 16). The space is illuminated by five tall arched windows set in each of the northeast and southwest walls and four in the northwest entrance wall, which are partially obscured by the gallery. The window openings feature rounded wood moldings and wood sills with a reeded apron. An elevated judge's dais is located against the southeast wall, opposite the vestibule, and flanked by two doorways leading into the back rooms of the courthouse. A stepped jury box occupies the east corner of the courtroom, facing the judge's dais. Spectator seating occupies most of the courtroom floor behind a historic decorative wood railing that separates the courtroom into two halves. Galleries on the northwest wall overlook the courtroom. The heavily molded doorway surrounds within

[592] Quinn Evans, Architects, 3.7.
[593] Winslow Williams Photograph Collection, photograph number VC 0003 0212 (Leesburg, VA: Thomas Balch Library, 1946).
[594] Quinn Evans, Architects, 2.24.
[595] Quinn Evans, Architects, 2.12.
[596] Loudoun County Minutes, April 25, 1932, through December 21, 1936, (December 19, 1934), 373.

the courtroom exhibit decorative reeding. The courtroom retains portions of its original high baseboards with heavily molded caps.

The courthouse was remodeled and modernized in 1956. The southeast wall of the courtroom was moved one window bay toward the front entrance (reducing the length of the courtroom by approximately 10 feet). This was done to expand the office and jury deliberation spaces that occupied the two stories at the southeast end of the courthouse. In addition, the judge's dais was rebuilt, and the raised jury box was installed against the northeast wall. Originally, the jury sat in two rows of chairs directly in front of the judge, facing the counsel table; while the 1956 jury box positioned jurors to the side of the judge's dais and counsel table. The organization of the southeast wall largely reflects the arrangement in place at the time of the 1933 trial, although the 1956 dais is not as symmetrical as the original dais, and the door on its northeast side may have been shifted slightly toward the center of the wall to accommodate the new jury box.

Galleries

The walls of the entrance vestibule rise through the courtroom to carry the tower and provide support for second-floor spectator galleries along the northwest wall. The square space over the entrance vestibule features a level floor, two openings stepping down to the galleries on either side, a large rectangular opening with a balustrade overlooking the courtroom, and an oculus window in the exterior northwest wall. A ladder rises to a trapdoor in the ceiling with access to the clock tower, belfry, and attic. The galleries on either side have sloped plaster undersides accommodating a tiered wood floor above for seating (Photos 17, 18, and 20). The gallery railings feature turned wood balusters set above tongue-and-groove vertical beaded board spandrels. A set of winder stairs rises in the northeast corner of the courtroom to access the galleries. The staircase features turned wood newel posts and balusters, and a stained wood railing (Photographs 18 and 19). The outer edges of the steps display reeded trim boards identical to those under the windowsills.

Courtroom Furnishings

The judge's dais (rebuilt in 1956) spans the southeast wall between two doorways and incorporates three different levels, each partially enclosed by a wood railing featuring turned balusters and square posts with pyramidal caps (Photo 15). The judge's desk occupies the highest level, on axis with the center of the room, four steps above the courtroom floor, and accessible via steps at either side of the dais. On the northeast side of the judge's desk, one step down, is the witness stand, which contains a small platform with a fixed wood swivel chair enclosed by a railing except where three steps lead down to the main floor on the side. On the southwest side of the judge's desk, two steps down, is the clerk's desk. The original judge's dais, visible in an undated historical photograph (Figure 9), was centered against the same wall and featured a higher central section for the judge's desk, flanked by two lower sections for the witness stand and court clerk. The photograph shows that a railing enclosed only the northeast section of the original judge's dais, presumably the witness stand. This railing appears to have been replicated in 1956 to span the width of the rebuilt dais. A single riser spanned the front of the original judge's dais, providing a raised platform for the back row of jury chairs. The front row of jury chairs was placed on the main courtroom floor. The riser was not replicated in the 1956 remodel as the jury was moved to a box located along the side wall. The historical placement of jury seats in front of the magistrates' bench reflects an arrangement that prevailed in colonial Virginia, in contrast with other colonies, where juries commonly sat in a box to one side of the judge.[597] The Loudoun County Courthouse suggests that the tradition persisted in Virginia into the late nineteenth century.

[597] Carl Lounsbury, *The Courthouses of Early Virginia: An Architectural History* (Charlottesville, VA: University of Virginia

The judge's desk appears to be the same one that was in use in 1933 (Figure 9; Photo 23). A long counsel table with a raised back rail and turned legs stands in front of the judge's dais and was also in use in 1933 (Photo 15). The original jury chairs, distinctive wood high-back chairs with curved arms and unusual grooved ears, also still furnish the courtroom (Photo 22).

The jury box (installed in 1956) occupies the east corner of the courtroom and consists of two tiers enclosed by a railing identical in design to that of the original judge's dais (Photo 14). The lower tier is two steps above the courtroom floor. Thirteen wood swivel chairs on casters occupy the tiers.

A historic ornate wood railing (the bar) crosses the courtroom, separating the spectator benches from the area occupied by counsel, judge, jury, and defendant (Photos 14 and 24). Although original, the railing was reconfigured in 1956 into three spans, aligning with three rows of spectator benches divided by two aisles. The railing has an intricate design featuring segmental arches, turned spindles, and square posts with incised linear patterns and hemispherical knobs on top. As originally configured, the railing was U-shaped in plan, with openings situated in the forward ends of the U at either side of the courtroom (Figures 4, 9, and 11).

The courtroom benches or pews consist of shaped pew ends featuring a carved arch motif and applied rosettes, plain seats and backs, and a beaded rail cap (Photo 24). Several benches in the gallery are similar in size and shape but of a plainer variety lacking all ornament. Other furniture in the courtroom includes a stenographer's table and chair, a lectern, four-legged chairs similar in design to the 1956 jury box chairs, and portable modern audiovisual equipment. A large wood clock mounted high on the vestibule wall facing the courtroom was shown over the original doorway in this location in a 1945 photograph, although the date of the clock remains uncertain (Figure 10).

The courtroom floor is covered in wall-to-wall red carpet installed in the 1970s. The original wood floor is presumably underneath. The floors throughout the building (except for the lavatories) were covered with "vinyl composition flooring" during the 1956 renovation.[598] The walls consist of painted plaster.

The courtroom lighting consists of nine brass chandeliers suspended from the ceiling that were installed in the late 1980s.[599] The interior was originally lit by electric lights, including a $100 chandelier installed by Leesburg Electric Light Company.[600] No conclusive photographic evidence of the original interior lighting system—or that in use in 1933—has emerged. A photograph taken before the 1956 renovation shows a single two-tier electric chandelier of simple design suspended in the center of the courtroom ceiling (Figure 9). This fixture appears to be of the correct period to have been extant during the trial. A photograph dated 1953 shows a grid of light fixtures with opaque glass bowl shades suspended from the ceiling (Figure 11). These appear to be modern, streamlined mid-twentieth-century designs.

Historical and modern portraits hang on the southeast wall above the judge's dais and on the side walls of the courtroom. The three portraits immediately over the judge's dais are the same as those described by a reporter at George Crawford's trial, consisting of John Marshall (1755–1835), Chief Justice of the United States, at the

Press, 2005), 128-134, 150-155; Carl Lounsbury, "The Structure of Justice: The Courthouses of Colonial Virginia," in *Perspectives in Vernacular Architecture, III*, ed. Thomas Carter and Bernard L. Herman (Columbia: University of Missouri Press, 1989), 220-224.

[598] "Courthouse Remodelling [*sic*] Bids Are Asked by August 6," *Loudoun Times-Mirror* (Leesburg, VA: July 12, 1956), 1.

[599] Quinn Evans, Architects, 2.12.

[600] Larson, 10.

center, flanked to either side by former Loudoun County judges Charles E. Nichol (1854–1924) and James Keith (1839–1918).[601]

Courtroom Alterations

In 1954 acoustic tile was installed on the ceiling, the upper portion of the northwest wall, and most of the southeast wall behind the judge's dais, from the ceiling to 5 feet above the floor; an air conditioning system was also installed. The acoustic tile was intended to absorb sound; storm windows were simultaneously installed outside to help muffle street noise.[602] In 1956 the wall behind the judge's dais was moved forward into the courtroom one window bay (about 10 feet) to its current location and the acoustic tile was reinstalled. The judge's dais was rebuilt, the current jury box was constructed, the courtroom railing was reconfigured, and spectator benches were placed in three rows rather than two.[603] Between 1954 and 1956, a debate played out locally, weighing the cost and merits of either building an addition at the rear of the courthouse or shifting the partition wall to enlarge the rear rooms. Retired Judge J.H.R. Alexander, who in 1933 had stepped aside as presiding judge in the George Crawford trial so he could give testimony, argued in favor of shifting the partition: "It is my opinion that this room is too large. The only time I remember the room being filled was when we had those murder cases."[604] The judge also suggested that television had replaced court attendance as an amusement. Although the Loudoun Bar Association argued against changing the courtroom, the Loudoun County Board of Supervisors favored the lower cost of shifting the partition wall.[605] Subsequent changes are believed to have occurred in the 1970s, when the door on axis from the vestibule was removed, changes were made to the configuration of the rear rooms, and the red carpet was installed. In the late 1980s, baseboard heaters replaced radiators around the courtroom perimeter and the light fixtures were replaced with nine brass chandeliers.[606] The ceiling also features two central air diffusers and return grilles of unknown date. Horizontal wood blinds have been installed in the windows.

Rear Rooms

The southeast end of the courthouse contains two stories of offices, auxiliary rooms, bathrooms, and circulation spaces. This portion of the courthouse was doubled in area and reconfigured in 1956 when the courtroom wall was moved. The central exterior rear door leads into a small vestibule with access to the basement steps, a closet, and the judge's large office (chambers) in the south corner. The judge's office features window surrounds, door surrounds, and baseboards identical to those in the courtroom, and has a door leading directly into the courtroom. A smaller six-panel wood door leads into a small inner passage with access to a private bathroom and small conference room. The small passage features simpler baseboards and door surrounds.

The second exterior rear door leads into a hallway with access to the stairs leading to the second floor and doors leading to the small conference room, the courtroom, and an office on the northeast side of the building, from which an interior door leads to a utility room in the east corner. These spaces feature door surrounds and baseboards like those in the courtroom. The stairway has a straight run; the lower four steps and staircase opening feature a wood railing with tapered dowels and turned newel posts.

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[601] Thomas W. Young, "Leesburg's Best Foot is Put Forward for Hearing in Crawford Case This Week," 1.
[602] "Courthouse Will Be Air Cooled," 1.
[603] "Courthouse Remodelling [*sic*] Bids Are Asked by August 6," 1; "Contract Let for Courthouse Remodeling; Work Will be Finished by October First," 1; "Judge Snead Surveys New Courtroom," *Loudoun Times-Mirror* (Leesburg, VA: August 30, 1956), 1.
[604] "Courthouse Addition Cut," *Loudoun Times-Mirror* (Leesburg, VA: April 14, 1955), 1.
[605] "Board Sticks to its Guns on Courthouse," *Loudoun Times-Mirror* (Leesburg, VA: June 9, 1955), 1.
[606] Quinn Evans, Architects, 2.12-2.13.

The second floor contains a hallway across the center of the southeast wall, women's and men's restrooms against the northeast wall, a large office against the southwest wall that has been subdivided by a makeshift drywall partition into two conference rooms, and private men's and women's bathrooms in a small passage leading from the rear conference room. An original fireplace surround remains in the southeast conference room, although the firebox has been infilled. The surround consists of both stone and wood given a faux marble finish; incised decorative patterns reflect the Eastlake style, consistent with 1890s design. The stairway, hall, and conference rooms feature window surrounds and baseboards (except on the makeshift partition) like those in the courtroom, but the door surrounds are simpler than those in the courtroom. The inner passage has plain baseboards and surrounds. The bathrooms feature fixtures and finishes of various dates.

The rear spaces on each floor originally consisted of a central hall and staircase with two rooms of equal size on either side.[607] As shown in a 1934 sketch plan, the hall contained an L-shaped staircase rising in the same location as it does presently but in the opposite direction (Figure 4). The rear rooms were expanded in 1956, when the southeast courtroom wall was shifted toward the front of the building. Albert D. Lueders of Waterford, Virginia, was the architect who drew up plans for the 1956 alterations; Algar, Inc., of Arlington, Virginia, served as the contractor.[608] Several plans survive from 1954 and 1955, including one published in the *Loudoun Times-Mirror* (Figure 5), but none reflect the existing configuration.[609] The design that comes closest is dated April 4, 1955, but even this drawing does not exactly reflect the current plan or the insertion of the second rear door (Figure 6). A newspaper account in 1956 described the new judge's quarters as 17 feet, 11 inches by 18 feet, 8 inches, reflecting its present dimensions.[610] The craftsmen who carried out the alterations in 1956 skillfully reproduced woodwork that was original to the building, including door surrounds and the distinctive baseboards (as well as the railing around the judge's dais), suggesting that the present arrangement may closely represent the 1956 alterations. The second rear entrance may have also been installed in 1956. The new doorway became a more public entrance, leaving the original central doorway to open into a private vestibule with access to the judge's chambers. One account suggests that minor changes to the arrangement of the rear rooms occurred in the 1970s at the request of the judges, but this could not be confirmed.[611]

STATEMENT OF INTEGRITY

The Loudoun County Courthouse is associated with the nationally significant *Crawford* case of 1933, in which an all-Black legal team funded by the NAACP defended a Black man accused of murdering two white women in a highly publicized trial. Crawford's defense was conducted by Charles Houston, James Tyson, Edward Lovett, and Leon Ransom. The case brought national attention to the NAACP, facilitated widespread recognition of the abilities of Black lawyers, and laid important groundwork in the NAACP's emerging campaign to use constitutional law to dismantle racial segregation. The Loudoun County Courthouse was the location in which Crawford's defense counsel: (1) argued to quash the grand jury indictment against Crawford on November 6 to 7, 1933; (2) defended Crawford at his trial for the murder of Agnes Ilsley from December 12

[607] "The New Courthouse," 1.
[608] "Contract Let for Courthouse Remodeling; Work Will be Finished by October First,"1.
[609] "Committee Presents Courthouse Proposal," *Loudoun Times-Mirror* (Leesburg, VA: 28 January 1954), 1; "Schools, Courthouse Trimmed," *Loudoun Times-Mirror* (Leesburg, VA: April 8, 1954), 1; "Courthouse Addition Cut," 1; "Board Sticks to its Guns on Courthouse," 1; "Board, Bar Disagree on Courthouse," *Loudoun Times-Mirror* (Leesburg, VA: June 15, 1956), 1; "Bar Association Agrees on Courthouse Remodeling," *Loudoun Times-Mirror* (Leesburg, VA: June 21, 1956), 1.
[610] Courthouse Remodelling [*sic*] Bids Are Asked by August 6," 1.
[611] Quinn Evans, Architects, 2.12.

to 16, 1933; and (3) assisted Crawford at his arraignment and sentencing for the murder of Mina Buckner on February 12, 1934.

The physical features that are most essential to conveying these historic events are the courthouse and grounds and the courtroom interior. The courthouse exterior and grounds were amply recorded in newspaper photographs of the judge, the lawyers, and the defendant, as well as the crowds drawn by the extensive publicity surrounding the case. The Loudoun County Courthouse retains high integrity of location and setting. The courthouse continues to occupy a sizeable yard with lawns, brick walkways, and mature trees, as it did in 1933. The yard is still enclosed by the same historic cast iron fence with distinctive pivot gates visible in newspaper photographs showing George Crawford escorted to and from the courthouse under armed guard. The building still serves as a courthouse and is surrounded by other government functions located in the center of the historic county seat within a largely intact historic district.

The World War I memorial installed in 1922 remains in place on the southwest side of the courthouse. The addition of three other memorials and stone benches does not detract from the setting but underscores the solemn, contemplative nature of the courthouse grounds. The adjacent historic crossroads of Market and King Streets feature contiguous commercial buildings dating primarily from the eighteenth to the early twentieth centuries, reflecting conditions much like those that existed in 1933. The former Academy building (1844) southeast of the courthouse served as a backdrop for a group photo of Walter White and the defense lawyers, who posed before the front entrance (Figure 18). The building retains its original exterior character and remains a separate and freestanding building within the larger Loudoun County Court Complex, which frames the historic courthouse to the southeast and northeast. The circa 2010 access ramps and walkways introduced between the courthouse and the former Academy building remain low in profile and subtle in the landscape. Construction of the Loudoun County Court Complex in 1999 included a new façade on the former 1975 County Administration Building northeast of the courthouse, rendering the building a more sympathetic backdrop that picks up on the materials, details, and façade rhythm of the courthouse showcased in the center of the yard.

The exterior of the courthouse has not undergone any additions or major alterations since its construction and retains a high integrity of design, materials, workmanship, feeling, and association. The building retains all the features that define it as a late nineteenth-century Classical Revival courthouse, including original brickwork; terra cotta capitals and keystones; slate sills, stairs, and water table; tall arched wood-sash windows; cross-gable pediments with metal cornices and ornamental modillions; multi-level clock/bell tower; and giant order front portico with cast iron Corinthian capitals. Various minor alterations include the installation of copper gutters at the corners of the building, the removal of the chimneys, the installation of metal storm sashes, and several low-profile light fixtures, which do not detract from an appreciation of the original materials and design. Where introduced, new fabric remains subtle, such as the second door installed in the rear elevation of the courthouse, which reproduces the look of the original door at the center. The tower features replacement clockfaces in the same locations as those in place in 1933, and a new cupola at the very top was installed in 1994 to replace one blown down circa 1952, restoring the tower to a close approximation of its 1933 appearance.

The courtroom retains a high integrity of feeling and is immediately recognizable as the setting of the 1933 George Crawford trial. Although shortened in 1956, the courtroom retains similar proportions and reflects the original design, conveying an impression of size and grandeur, with 22-foot-high ceilings, coved cornices, the original tall arched windows, and the original rear gallery overlooking the space. The interiors of the vestibule and courtroom retain many original materials and evidence of workmanship that expresses the historic character of these spaces during the period of significance, including windows, window surrounds, doors, door surrounds,

baseboards, and the railing (bar) dividing the courtroom. The design and finishes of the gallery and staircase along the northwest wall of the courtroom remain unaltered.

When the courtroom interior was shortened in length from 60 to 50 feet in 1956, the southeast partition wall was moved inward, enlarging the support spaces at the southeast end of the courthouse. It is a measure of the care and workmanship of these changes that most could not easily be distinguished from original fabric until clear documentation was identified. The partition wall was rebuilt in its original configuration, featuring a central judge's dais flanked by two doors. The original door surrounds and baseboards were reinstalled or replicated on the new wall. The rebuilt judge's dais is a tiered wood structure similar to the original and surrounded by a railing that replicated the railing of the dais there prior to the renovations. Because the length of the courtroom was shortened, the jury was relocated from freestanding chairs in front of the judge's dais to an enclosed jury box built against the northeast wall. The jury box has a railing that also replicates that of the original judge's dais and does not noticeably intrude on the historic design and feeling of the courtroom. The bar separating the courtroom into two areas remains materially the same and demonstrates much of its original workmanship, although its configuration was altered when it was moved slightly northwest and reconfigured into a straight line from its original U-shape.

The courtroom also retains much of its original furnishings and decor, including the judge's desk, high-back jury chairs, counsel table, railing, spectator benches, and historic portraits in use or present during the 1933 trial. The objects add greatly to the association of the space with the events of the 1933 trial. In addition, the spatial organization of the courtroom remains substantially the same as in 1933, with spectator seating behind the railing, the counsel table in front, and the judge's desk (bench) elevated on a dais and centered on the southeast wall. The retention of original materials, finishes, and features contributes to a strong feeling of historical authenticity. The location of the jury seats has changed, but the original jury chairs remain in the courtroom and when they are placed between the counsel table and dais, the arrangement recreates the spatial dynamics and feeling of the 1933 trial as recorded in the 1933 newspaper photograph of the trial (Figure 23).

Other interior alterations are cosmetic or represent modernized mechanical systems. The original wood floor has been covered with carpet. Acoustic tile was installed on the ceiling and portions of the front and rear walls of the courtroom in 1954 and 1956, but it is light in color like the walls and does not obscure the coved moldings. Baseboard heaters installed around the perimeter of the courtroom in the 1980s remain largely hidden by spectator benches and chairs. The style of the brass ceiling chandeliers installed during that same period are not appropriate to either the original construction period or the 1930s but are not intrusive and are easily replaced. Central air diffusers and return ducts are mounted on the ceiling and do not draw attention to themselves.

The support spaces at the southeast end of the courthouse were expanded and reconfigured in 1956. These spaces retain several original doors and much original woodwork, and additional woodwork was replicated to finish the enlarged spaces. These spaces are not significant in relation to the historic event for which the courthouse is being nominated because they were out of public view and not a setting for the activities of the defense counsel.

Lastly, the courthouse is nominated for significance under Criterion 1, for its ability to convey a nationally significant historic event, and not Criterion 4, for its architectural design. Whereas integrity of design and workmanship are critical for nominations under Criterion 4, the information these aspects of integrity convey about the history of technology, aesthetics, or economics is not as relevant to the historic event associated with the courthouse in this nomination. Nevertheless, much evidence of historical design and workmanship remains

intact. High retention of the remaining aspects of integrity enables the courthouse, yard, and courtroom to convey the ambiance and material sensibility of the nationally significant 1933 trial, as comparison of contemporary newspaper photos to existing conditions especially helps to make clear (Figures 16 and 23; Photos 4 and 15).

The comparative analysis shows that no other site has as much significance in conveying a pivotal moment in the history of the NAACP that led to the rise of Black lawyers into positions of leadership at the NAACP, and informed the organization's civil rights strategies as it began formulating its targeted legal campaign against segregation. Analysis of comparative sites appears in the Significance Statement and Discussion.

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Previous documentation on file (NPS):

_X_ Previously listed in the National Register (fill in 1 through 6 below) **Leesburg Historic District**

__ Not previously listed in the National Register (fill in **only** 4, 5, and 6 below)

1. NR #: 70000807; 02000531
2. Date of listing: 02/26/1970; revised 05/22/2002
3. Level of significance: not specified in nomination
4. Applicable National Register Criteria: A_x_B__ C_x_D__
5. Criteria Considerations (Exceptions): A__ B__ C__ D__ E__ F__ G__
6. Areas of Significance: Architecture, Community Planning and Development

__ Previously Determined Eligible for the National Register: Date of determination:
__ Designated a National Historic Landmark: Date of designation:
__ Recorded by Historic American Buildings Survey: HABS No.
__ Recorded by Historic American Engineering Record: HAER No.
__ Recorded by Historic American Landscapes Survey: HALS No.

Location of additional data:

State Historic Preservation Office: https://www.dhr.virginia.gov/historic-registers/253-0035/

Other State Agency:

Federal Agency:

Local Government:

University:

Other (Specify Repository):

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FIGURES LOG

FIGURE 1: Location Map, Loudoun County Courthouse, 10 North King Street, Leesburg, Virginia (USGS Leesburg, 2019, 1:24,000)

FIGURE 2: Site Plan, Leesburg County Courthouse, 10 North King Street, Leesburg, Virginia (Loudoun County, VA, GIS)

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FIGURE 4: Sketch Plan of Courthouse (unscaled and inaccurate in some details) Showing Configuration of the Bar (railing) and Proposed Locations for New Radiator Installation (Board of Supervisors, Minute Book, December 19, 1934)

FIGURE 5. Proposed Loudoun County Courthouse Plan (*Loudoun Times-Mirror,* January 28, 1954)

FIGURE 6: Proposed Plan, Main and Second Floors of Loudoun County Courthouse, Albert D. Lueders, Architect, April 14, 1955 (Loudoun County Courthouse Records, Thomas Balch Library). Note: The jury box and witness stand were ultimately constructed on the opposite side, opposing counsel continued to sit at the long counsel table used in 1933 (rather than two separate tables), and the back rooms were executed somewhat differently or subsequently altered (compare with the existing configuration shown in Figure 7, in which the judge's chamber is not partitioned and a second rear entrance is present)

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FIGURE 25: Photo Key (interior, first floor), Leesburg County Courthouse (Quinn Evans, 2008)

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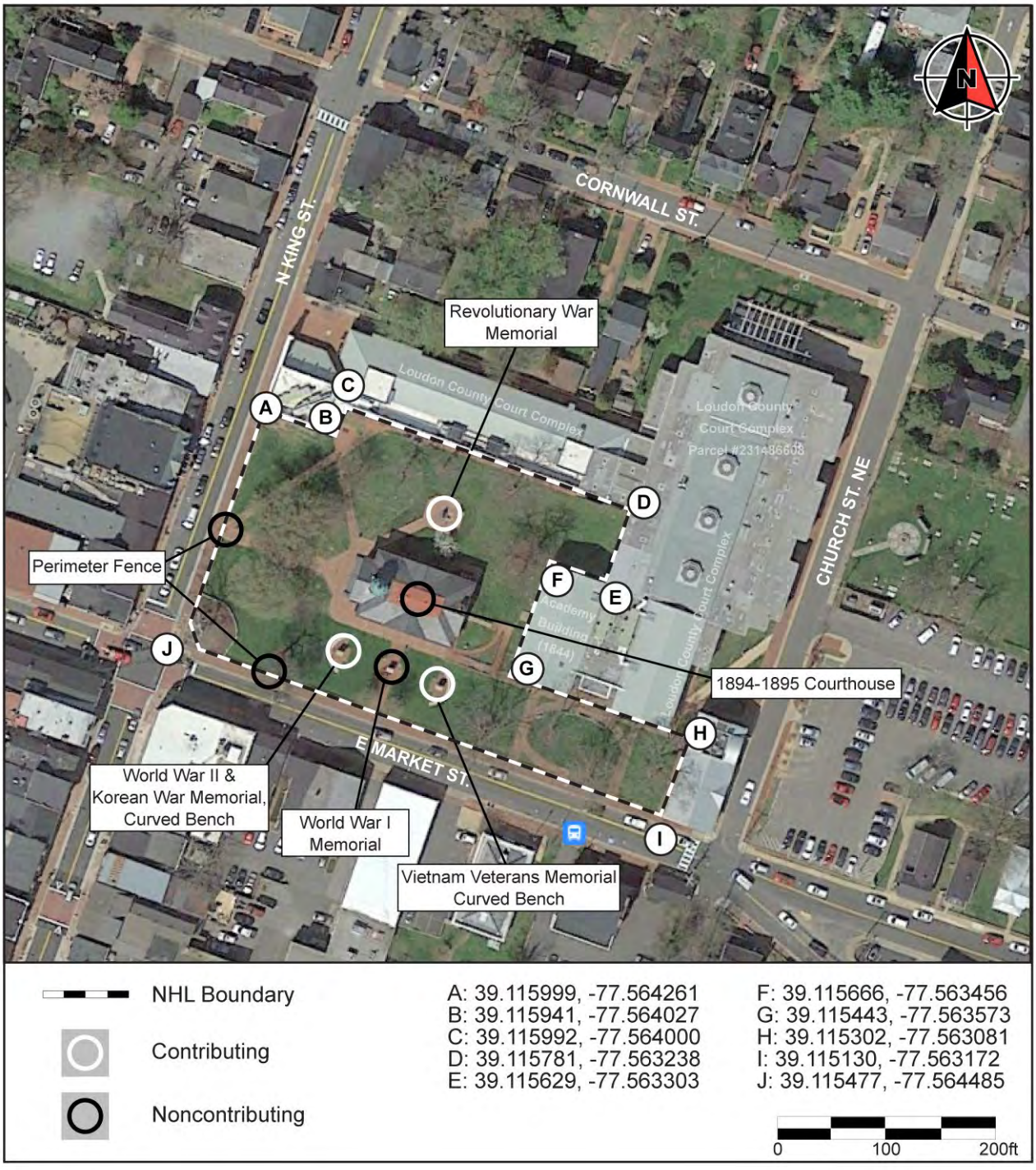

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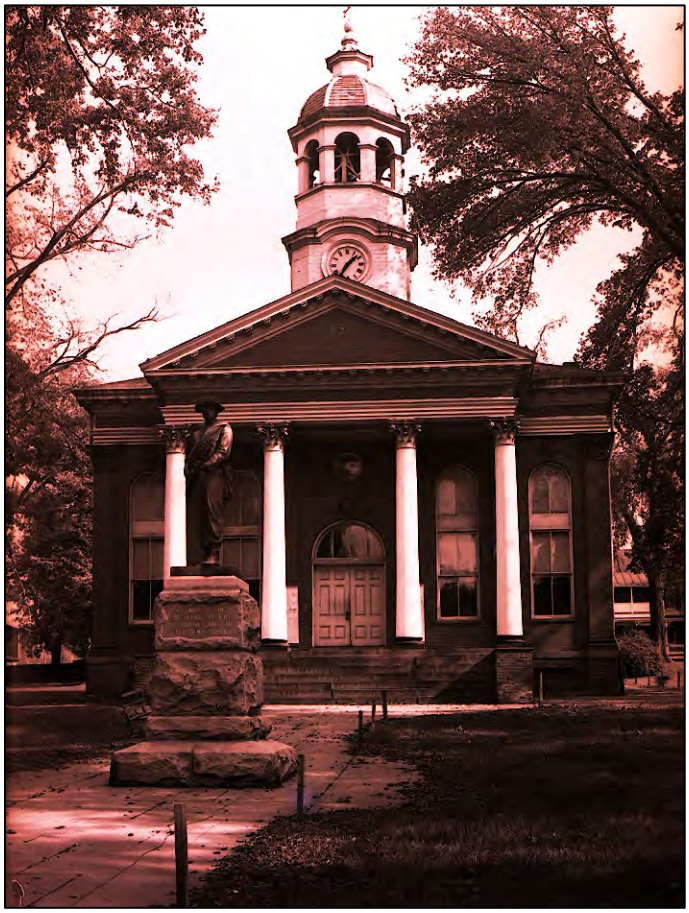

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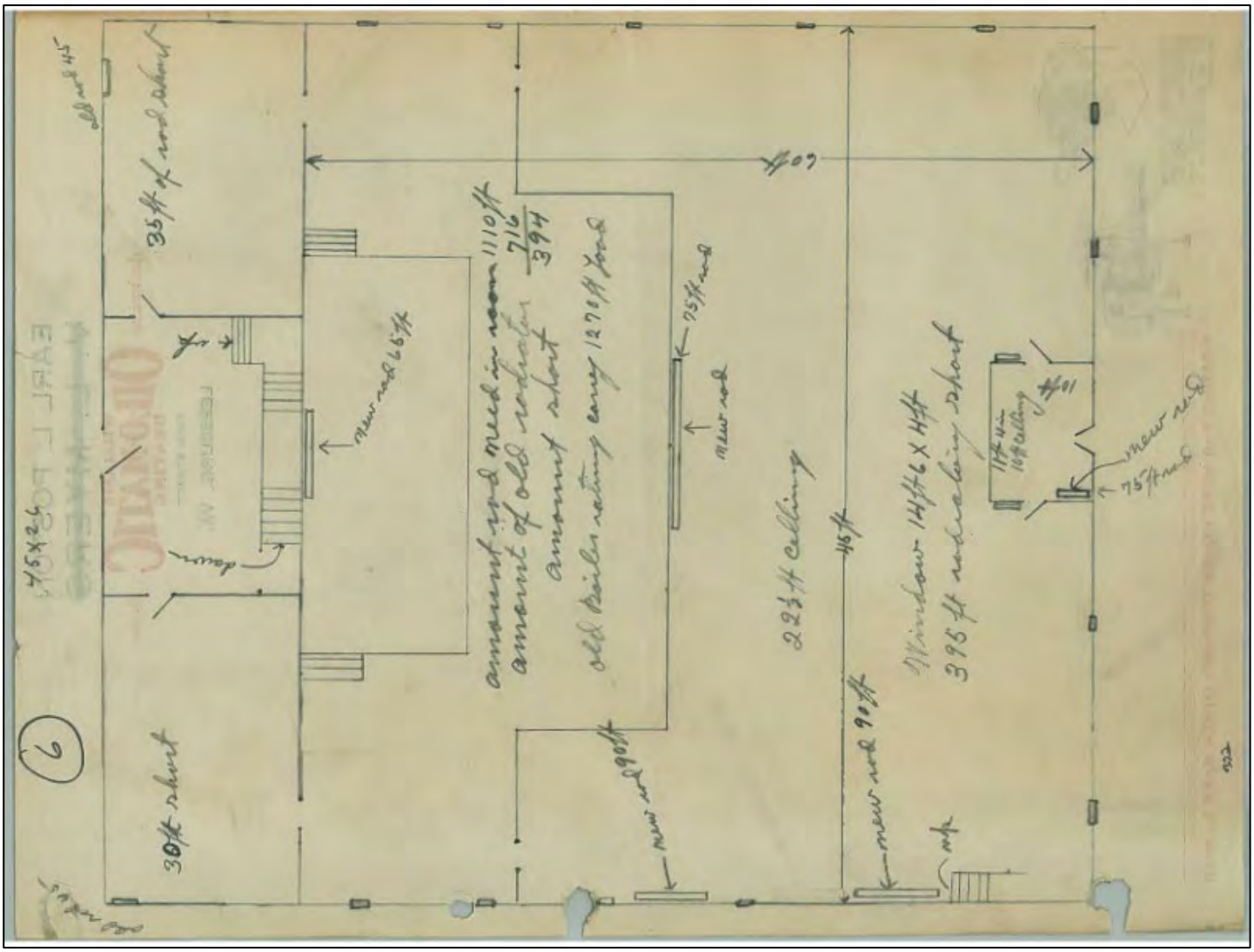

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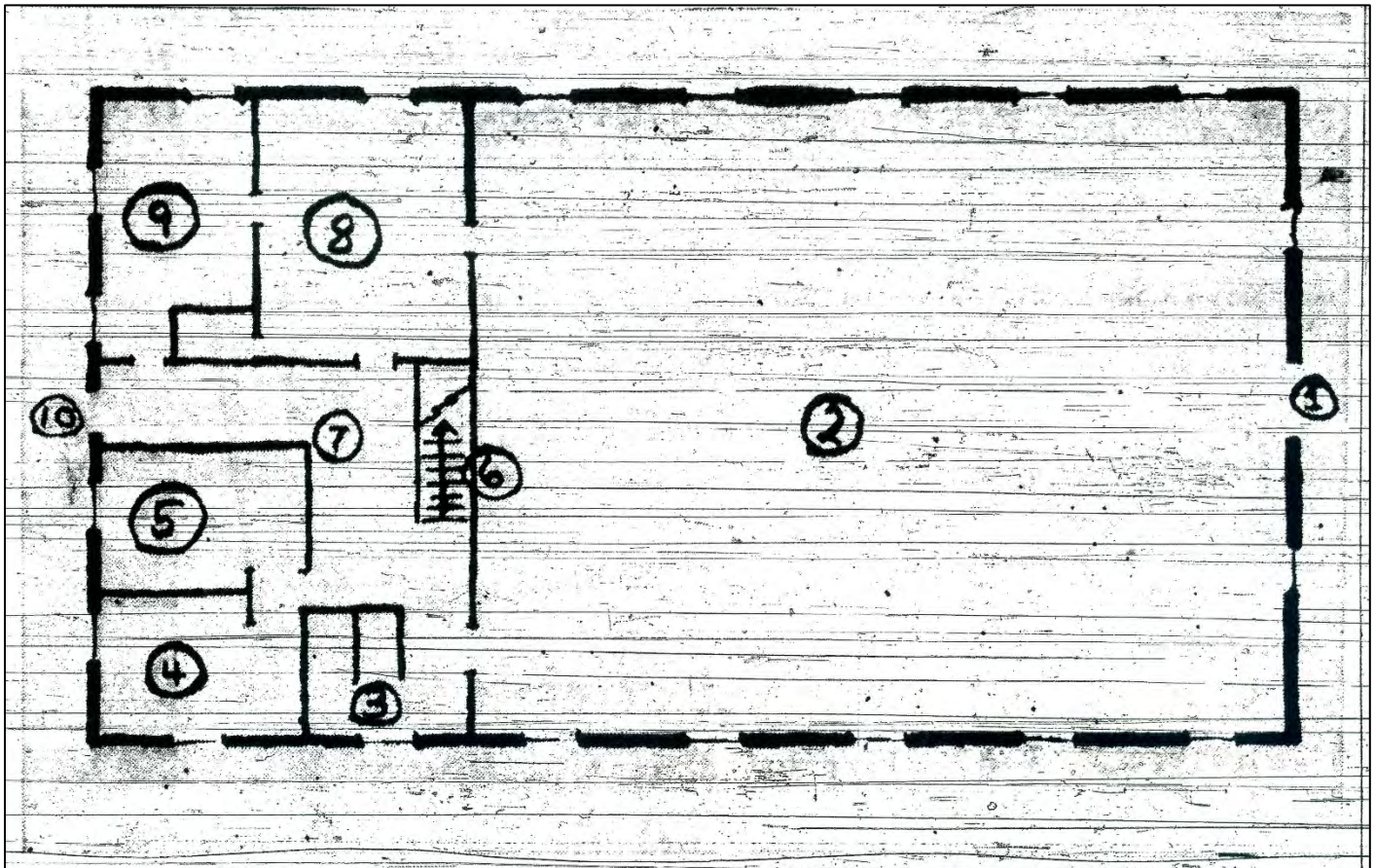


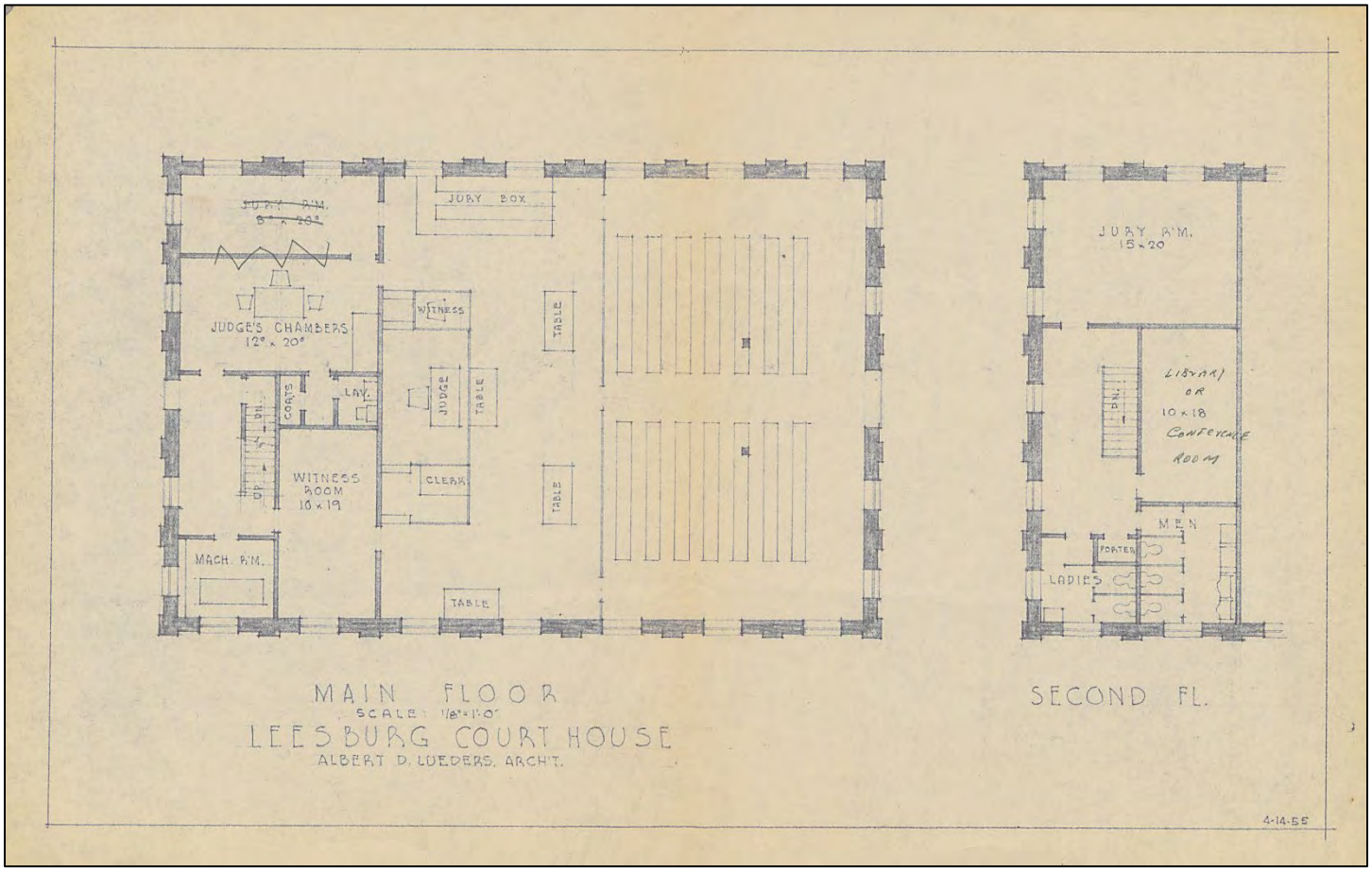
THIS IS HOW COURTHOUSE GROUND FLOOR WOULD LOOK

This drawing indicates how proposed remodeling would change the Courthouse. The present rear wall of the building would be moved back 14 feet, so that additional rooms could be accommodated without changing the present size of the courtroom. Key to the drawing is as follows:

(1) front door. (2) courtroom. (3) ladies' restroom. (4) and (5) jury rooms. (6) stairway to second floor. (7) hallway. (8) judge's chambers. (9) conference room. (10) back door.

Upstairs (not shown) the space above the rooms at the rear would be utilized as follows: Jury room over judge's chambers and conference room; office over witness rooms. There would also be a men's rest room on the second floor. Architect who prepared plans for the remodeling was Albert D. Lueders.

FIGURE 5. Proposed Loudoun County Courthouse Plan (*Loudoun Times-Mirror*, January 28, 1954)



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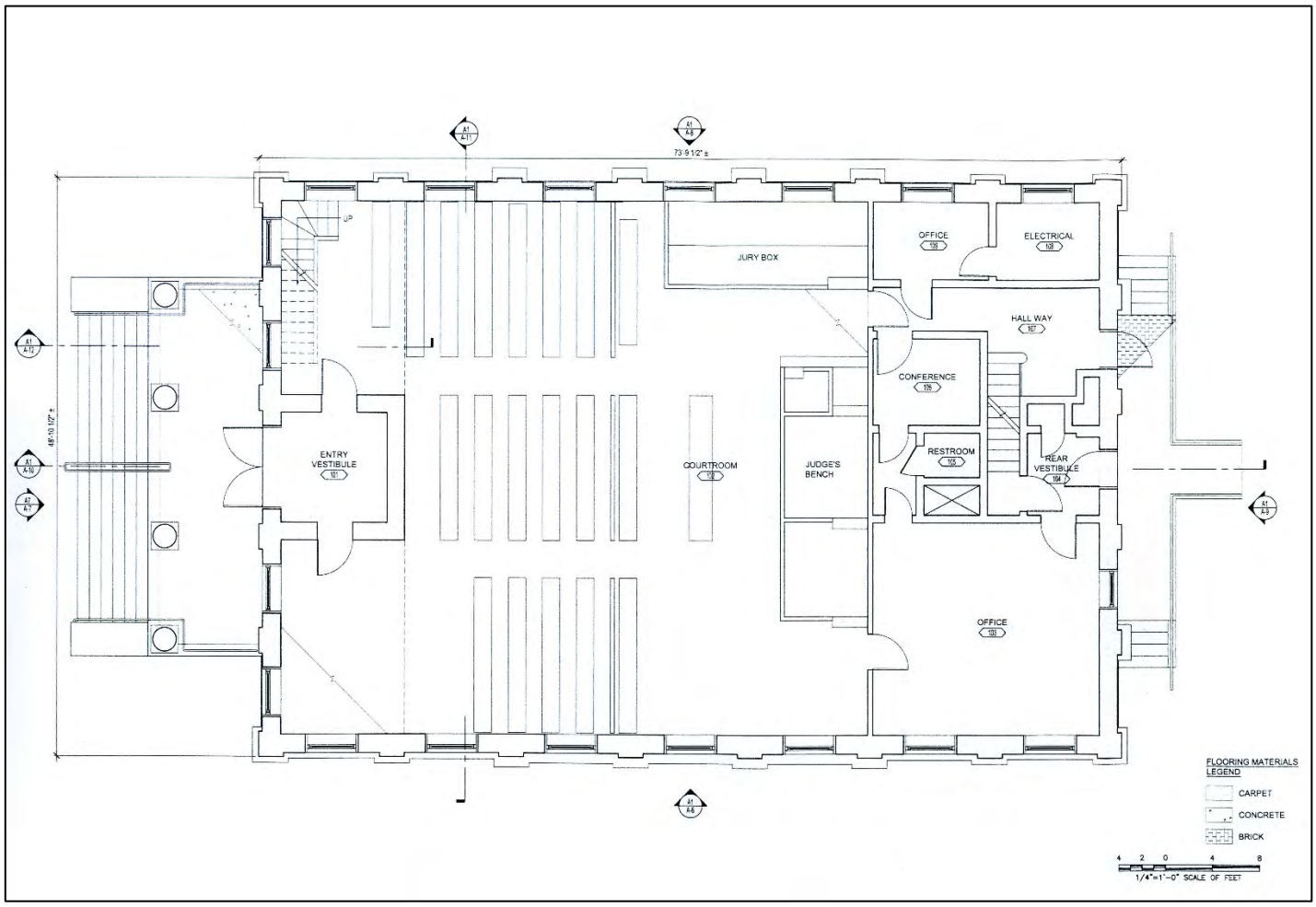

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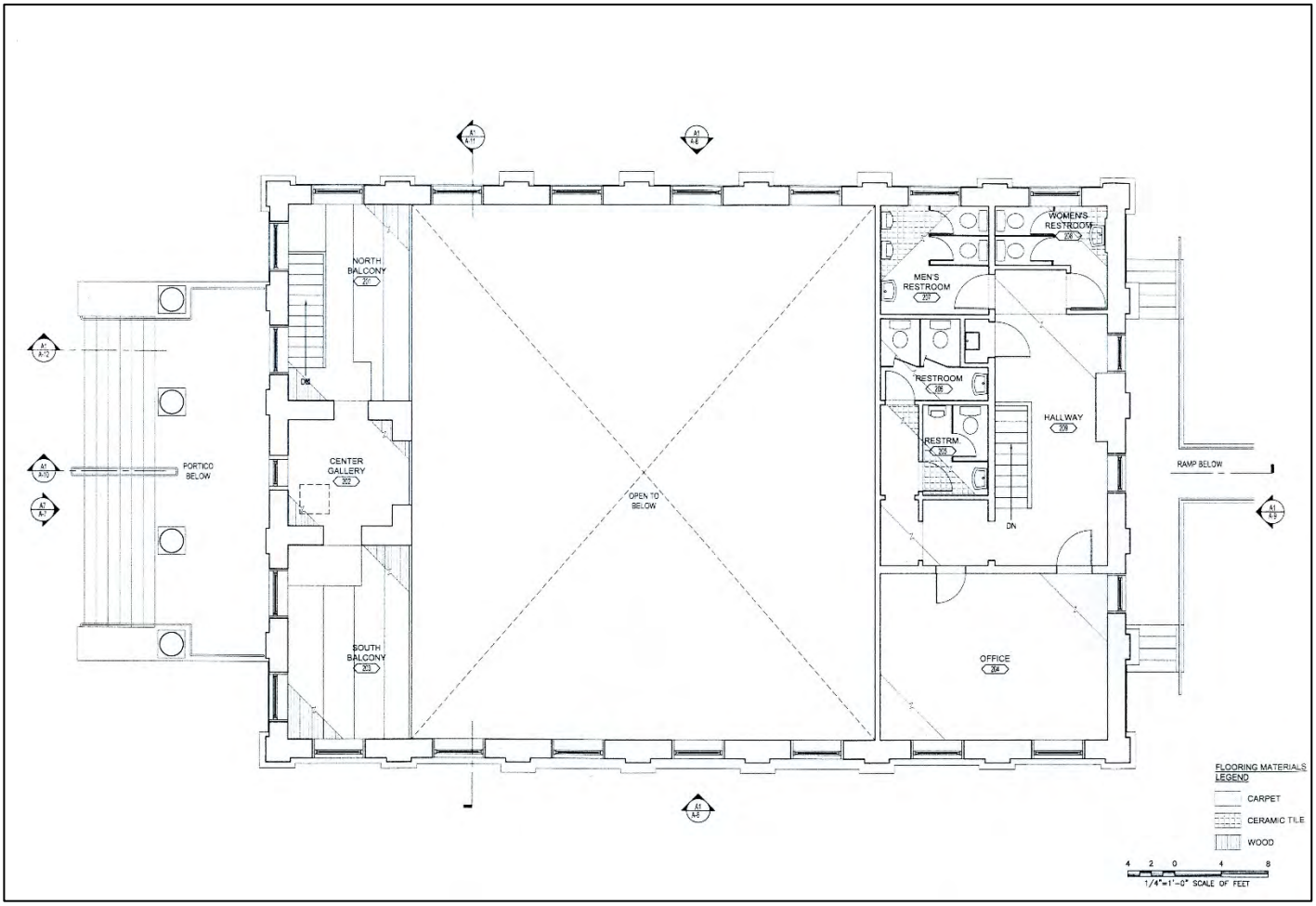

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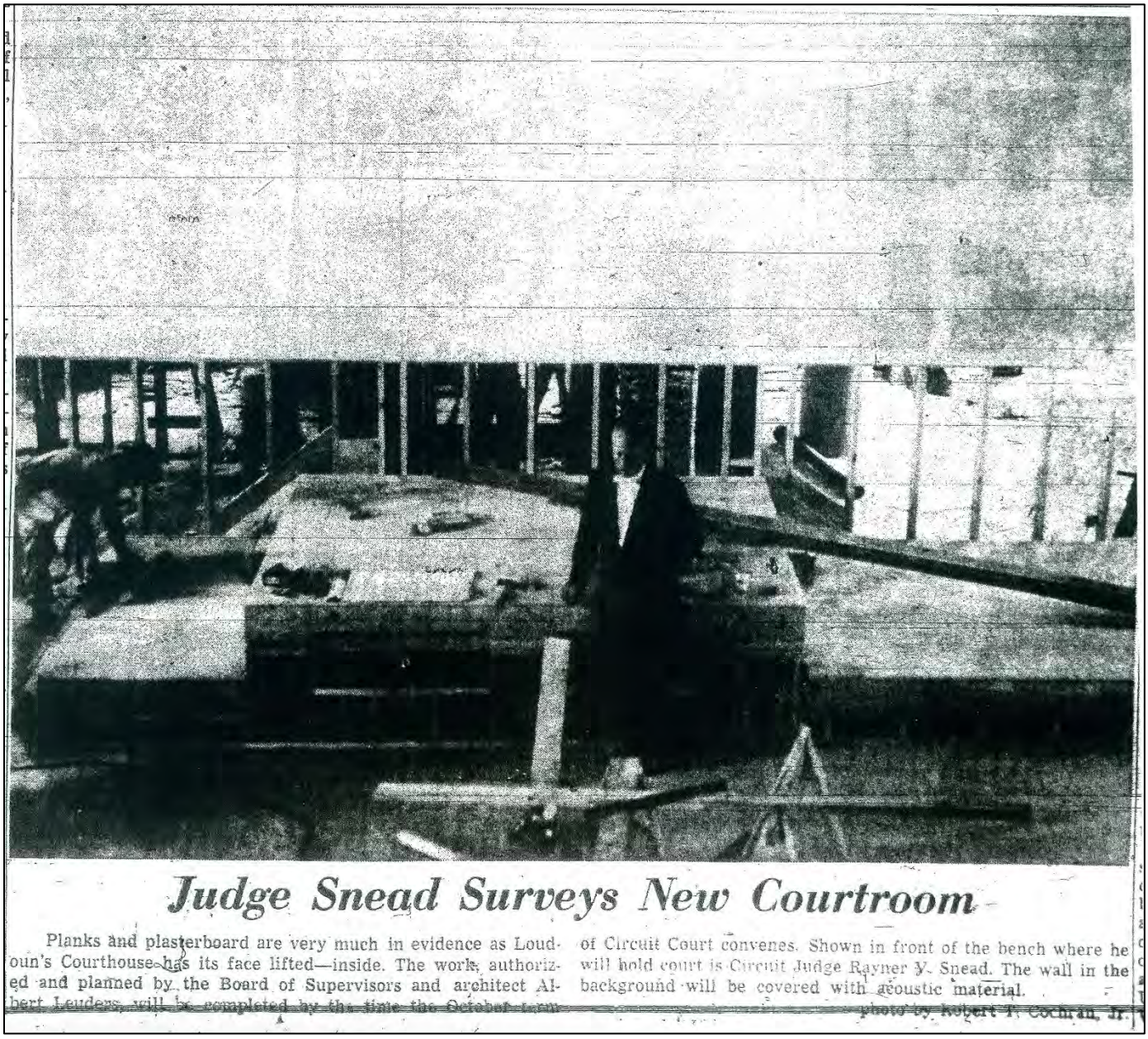


Judge Snead Surveys New Courtroom

Planks and plasterboard are very much in evidence as Loudoun's Courthouse has its face lifted—inside. The work, authorized and planned by the Board of Supervisors and architect Albert Leudens, will be completed by the time the October term of Circuit Court convenes. Shown in front of the bench where he will hold court is Circuit Judge Rayner V. Snead. The wall in the background will be covered with acoustic material.

photo by Robert T. Cochran, Jr.

FIGURE 12: Construction of New Judge's Dais and Courtroom Wall (*Loudoun Times-Mirror*, August 30, 1956)

New "Dred Scott Case" Seen in Fight On Negro's Extradition to Virginia

* * * * * * * * * * * * * * * *

Southern Jury Systems to Be Defended Against Attack of Boston Judge

By N. E. A. Service.

BOSTON, Mass., June 3.—The right of a white-haired Yankee jurist in Boston to pre-judge the constitutionality of a trial which the State of Virginia waits to accord to a Negro murder suspect, is the history-making problem which will confront the U. S. Circuit court here soon.

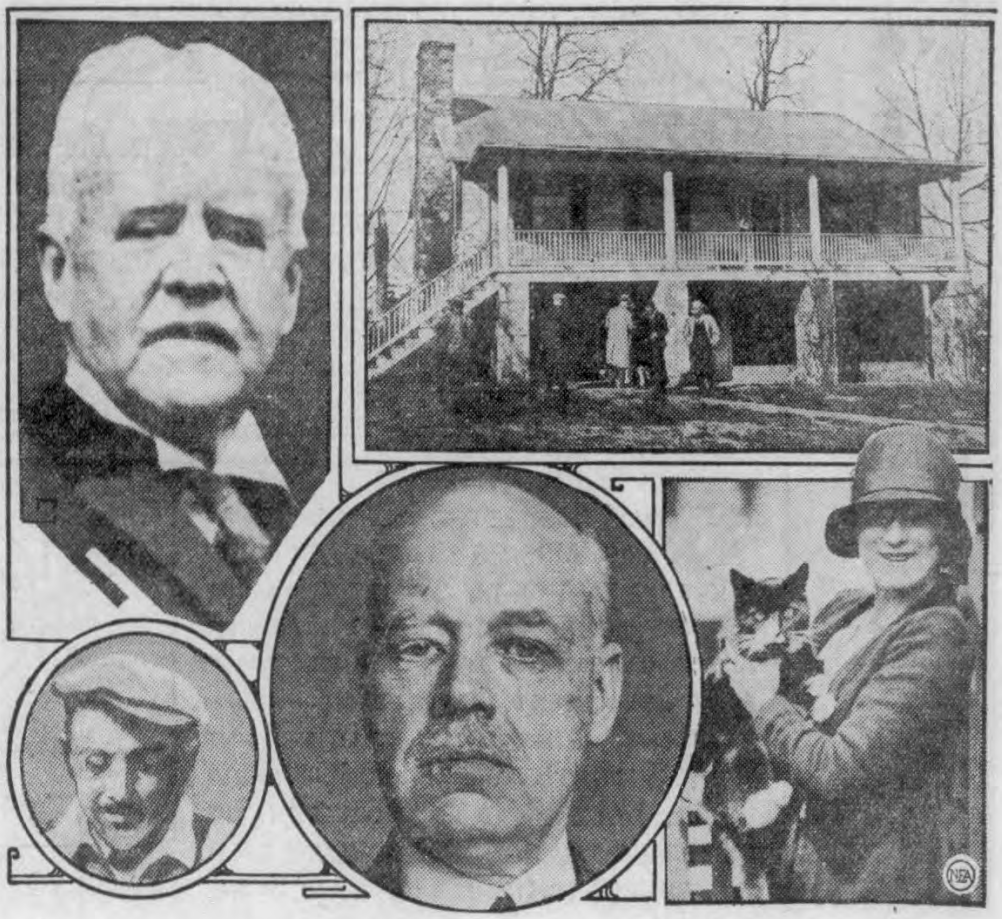
The human black pawn in this grim legal game—who may become as famous as the Missouri slave, Dred Scott, in the celebrated court conflict of 1857—is obscure George Crawford, a former chain-gang convict.

Wanted in Middleburg, Va., for the brutal murders of wealthy Mrs. Agnes Boeing Ilsley and her elderly maid, Crawford temporarily has found Massachusetts to be a legal haven since Judge James Arnold Lowell startled the country by granting a writ which prevents the Negro's extradition

Issue Transcends Crime.

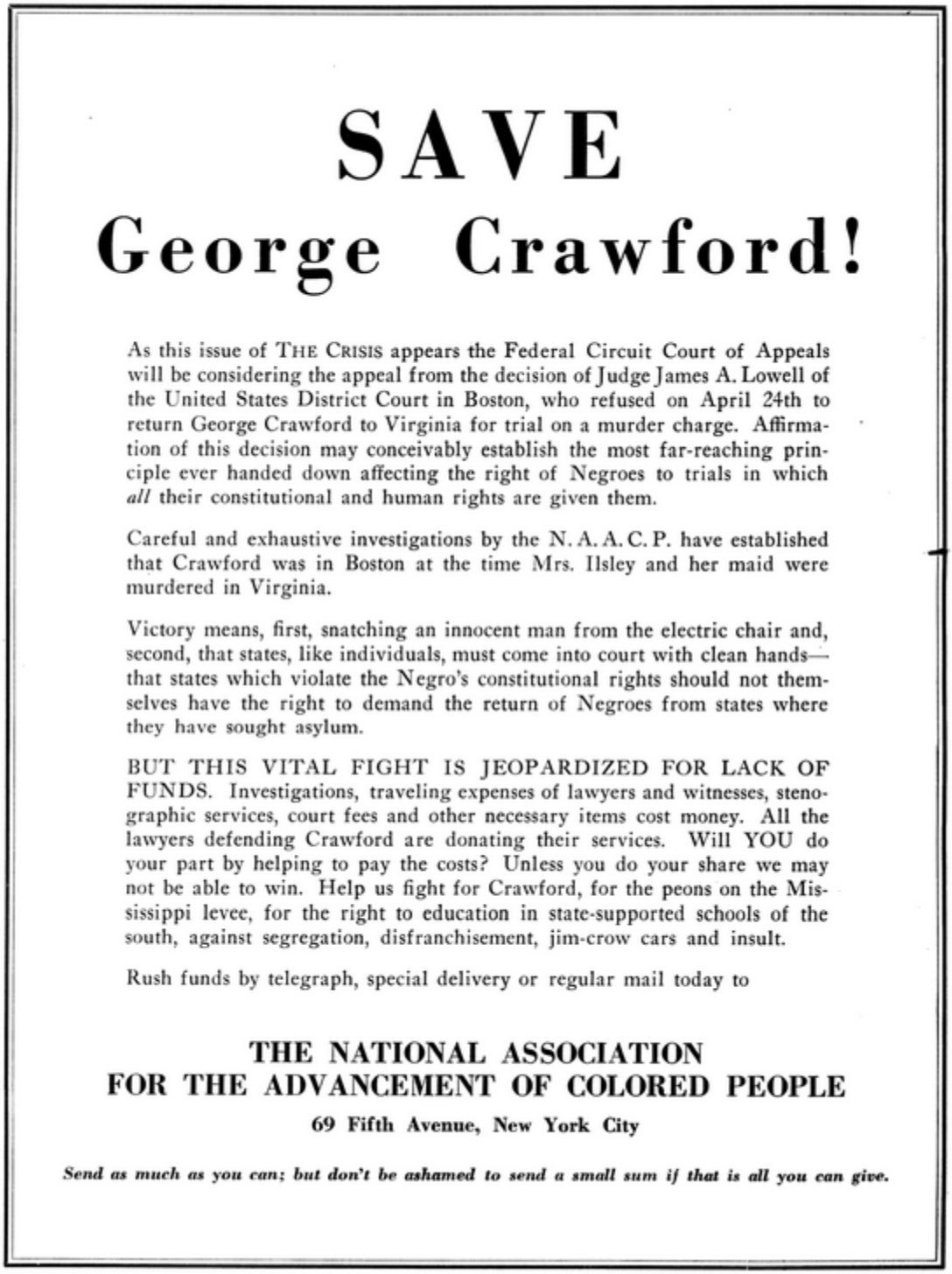
The real issue—suddenly become even greater than the bludgeoning to death of two helpless women—is whether Crawford would receive a constitutionally fair trial if he were sent back to Virginia The question, too, is whether Negroes are permitted to serve on Virginia juries; and, if not, whether the conviction of a Negro would be constitutionally void as being contrary to the Fourteenth amendment.

The issue was raised in the Scottsboro case in Alabama, and legal au-



Upper left, Judge James M. Lowell. Upper right, the Middleburg, Va., country home where Mrs. Agnes Ilsley (lower right) and her maid were found slain. Lower left, George Crawford, the accused negro. Center, below, J. Weston Allen, chief defense counsel.

FIGURE 13: Syndicated Press Coverage of the "New 'Dred Scott Case'" (*The Missoulian* [Missoula, Montana], June 4,1933)



SAVE
George Crawford!

As this issue of THE CRISIS appears the Federal Circuit Court of Appeals will be considering the appeal from the decision of Judge James A. Lowell of the United States District Court in Boston, who refused on April 24th to return George Crawford to Virginia for trial on a murder charge. Affirmation of this decision may conceivably establish the most far-reaching principle ever handed down affecting the right of Negroes to trials in which *all* their constitutional and human rights are given them.

Careful and exhaustive investigations by the N. A. A. C. P. have established that Crawford was in Boston at the time Mrs. Ilsley and her maid were murdered in Virginia.

Victory means, first, snatching an innocent man from the electric chair and, second, that states, like individuals, must come into court with clean hands—that states which violate the Negro's constitutional rights should not themselves have the right to demand the return of Negroes from states where they have sought asylum.

BUT THIS VITAL FIGHT IS JEOPARDIZED FOR LACK OF FUNDS. Investigations, traveling expenses of lawyers and witnesses, stenographic services, court fees and other necessary items cost money. All the lawyers defending Crawford are donating their services. Will YOU do your part by helping to pay the costs? Unless you do your share we may not be able to win. Help us fight for Crawford, for the peons on the Mississippi levee, for the right to education in state-supported schools of the south, against segregation, disfranchisement, jim-crow cars and insult.

Rush funds by telegraph, special delivery or regular mail today to

THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED PEOPLE
69 Fifth Avenue, New York City

Send as much as you can; but don't be ashamed to send a small sum if that is all you can give.

FIGURE 14: "Save George Crawford" (*The Crisis*, July 1933)

FIGURE 15: "His Stock Takes A Rise" (*Pittsburgh Courier*, November 11, 1933)

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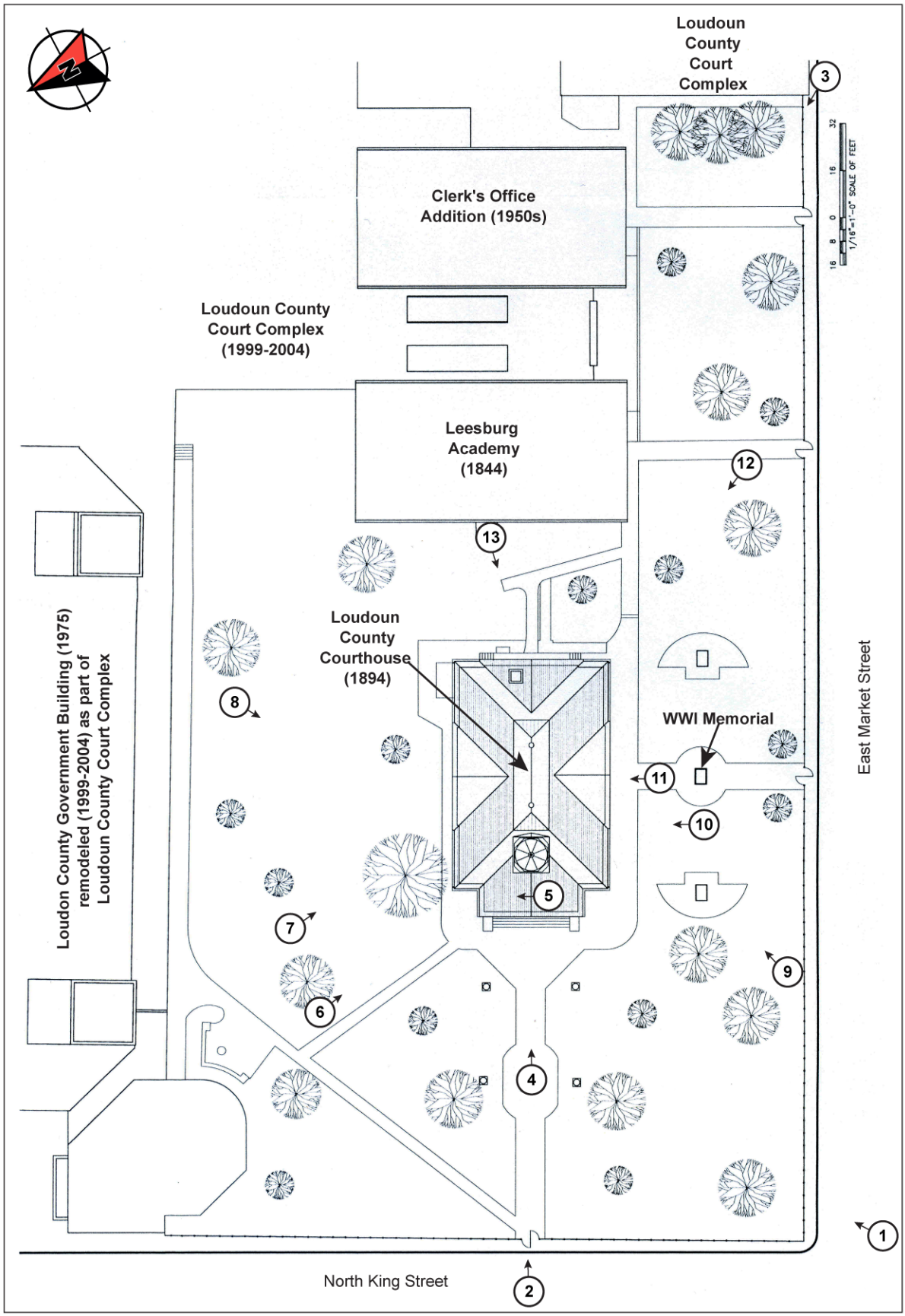

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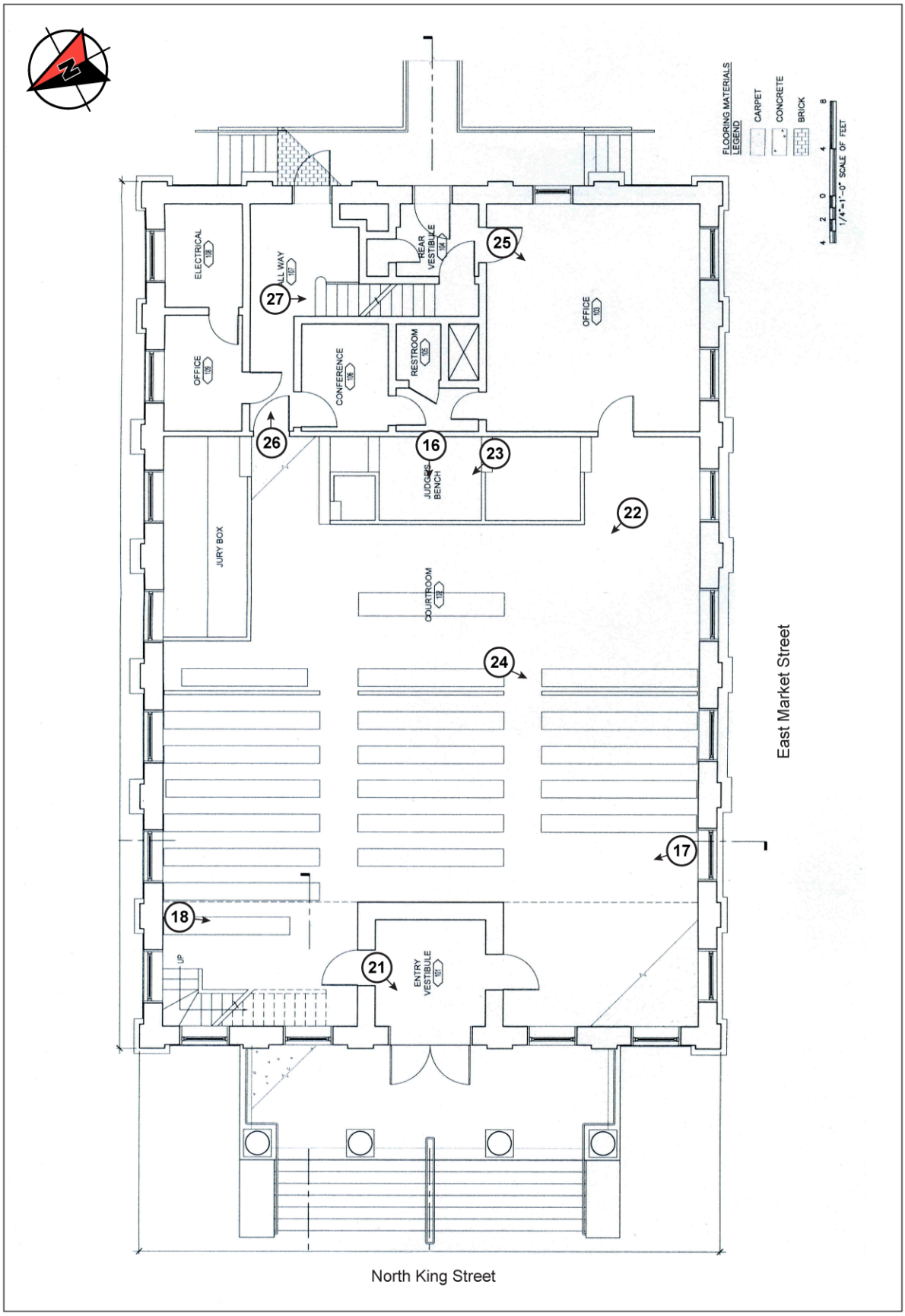

FIGURE 25: Photo Key (interior, first floor), Leesburg County Courthouse (Quinn Evans, 2008)

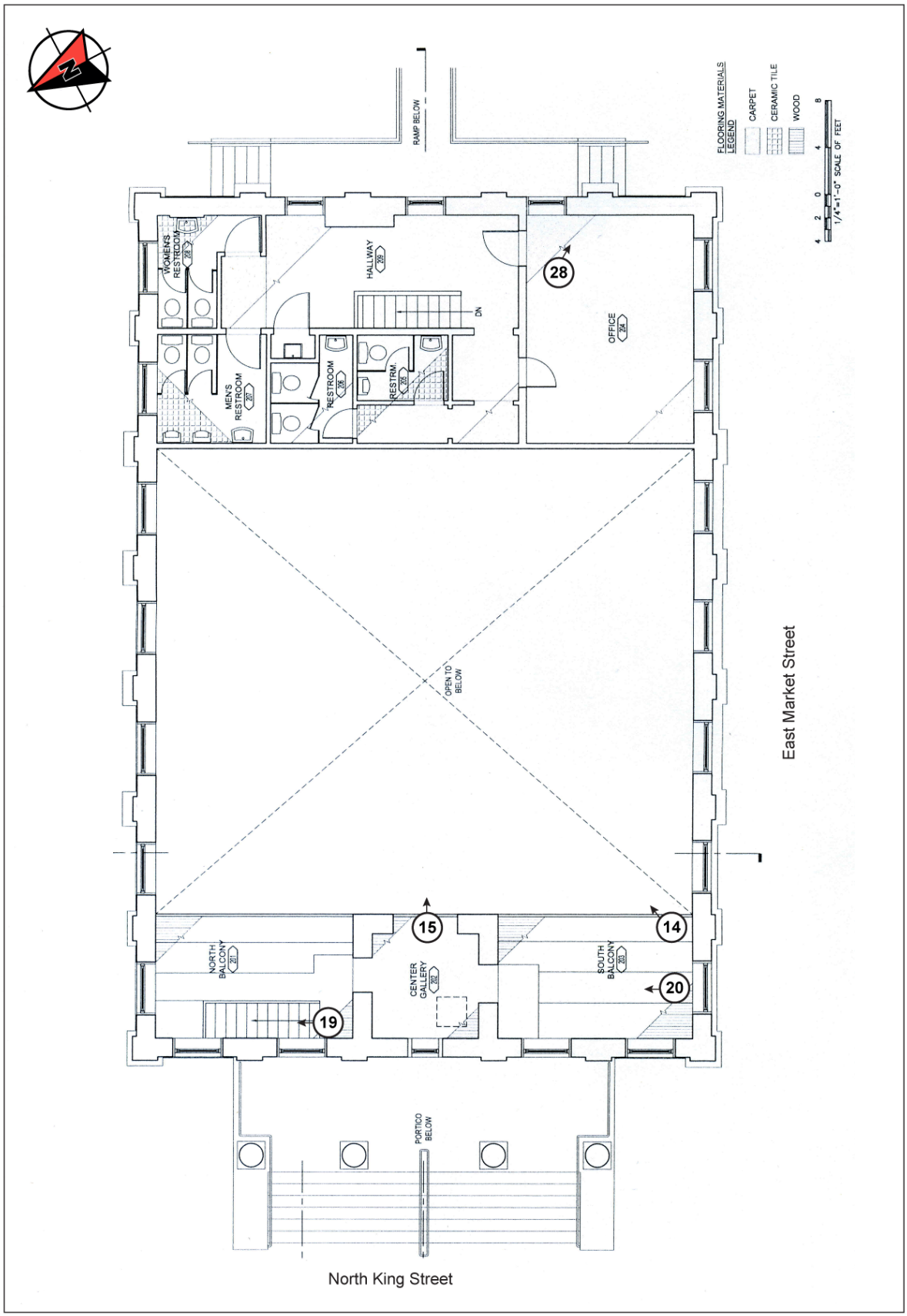

FIGURE 26: Photo Key (interior, second floor), Leesburg County Courthouse (Quinn Evans, 2008)

PHOTO LOG

Name of property:	Loudoun County Courthouse
City or vicinity:	Leesburg
State:	Virginia
Photographer:	Nancy Holst
Dates of Photographs:	March 24 and August 29, 2022, and January 28, 2023
Number of Photographs:	28 (on file with the National Park Service)

(Refer to Figures 27-29 for photo keys.)

Courthouse Exterior

PHOTO 1: View east toward Loudoun County Courthouse showing cast iron fence and courthouse yard, from across West Market Street at corner of King Street (N. Holst, January 28, 2023)

PHOTO 2: View southeast toward Loudoun County Courthouse showing cast iron fence and courthouse yard, from North King Street (N. Holst, January 28, 2023)

PHOTO 3: View from south corner of courthouse yard looking northwest toward Loudoun County Courthouse (center distance) showing cast iron fence, courthouse yard, 1844 Academy Building/Clerk's Office (center right [not in NHL boundary]), and late-1950s Clerk's Office Addition/"Clone Building" (right [also not in NHL boundary]), (N. Holst, January 28, 2023)

PHOTO 4: View southeast toward main façade, Loudoun County Courthouse (N. Holst, January 28, 2023)

PHOTO 5. View northeast toward front entrance under northwest portico (N. Holst, January 28, 2022)

PHOTO 6: View south toward Loudoun County Courthouse (N. Holst, March 24, 2022)

PHOTO 7: View of cross-gable pediment, northeast façade (N. Holst, August 29, 2022)

PHOTO 8: View west toward Loudoun County Courthouse showing 2015 Revolutionary War Memorial in foreground (N. Holst, August 29, 2022)

PHOTO 9: View east toward Loudoun County Courthouse showing (left to right foreground) World War II/Korean War Memorial (erected 1956, non-contributing), World War I Memorial (erected 1922, contributing), Vietnam/Iraq and Afghanistan War Memorial (1988/2007, non-contributing), and Academy Building/Clerk's Office/Loudoun County Courthouse Complex (non-contributing) in rear (N. Holst, August 29, 2022)

PHOTO 10: Detail of southwest (East Market Street) façade (N. Holst, August 29, 2022)

PHOTO 11: View of cross-gable pediment, southwest façade (N. Holst, August 29, 2022)

PHOTO 12: View north toward rear and east market street façades of Loudoun County Courthouse showing in background a partial view of Loudoun County Courthouse Complex (non-contributing) (N. Holst, March 24, 2022)

PHOTO 13: View toward rear (southeast) façade of Loudoun County Courthouse showing original rear entrance used in the 1933-34 trial (center) and second rear entrance (right) installed at a later date (N. Holst, August 29, 2022)

Courthouse Interior

PHOTO 14: View of courtroom toward judge's dais from gallery (N. Holst, August 29, 2022)

PHOTO 15: View of courtroom toward judge's dais showing counsel table, jury chairs, and judge's desk that were used during the 1933 trial (N. Holst, August 29, 2022)

PHOTO 16: View toward rear of courtroom showing gallery on northwest wall (N. Holst, August 29, 2022)

PHOTO 17: View of gallery and door of entrance vestibule (N. Holst, March 24, 2022)

PHOTO 18: View underneath gallery showing door of vestibule and stairway to gallery (N. Holst, March 24, 2022)

PHOTO 19: View of stairway from gallery (N. Holst, March 24, 2022)

PHOTO 20: View of gallery (N. Holst, March 29, 2022)

PHOTO 21: View of main entrance doors from inside vestibule (N. Holst, August 29, 2022)

PHOTO 22: View of historic jury chair in use in 1933 (N. Holst, August 29, 2022)

PHOTO 23: View of historic judge's desk in use in 1933 (N. Holst, March 24, 2022)

PHOTO 24: View of historic railing (bar) and spectator benches present in 1933 (N. Holst, March 24, 2022)

PHOTO 25: View inside judge's office (expanded 1956) toward door of courtroom (N. Holst, August 29, 2022)

PHOTO 26: View into rear hallway from doorway of courtroom, reconfigured 1950s and 1970s, showing new secondary rear entrance (N. Holst, March 24, 2022)

PHOTO 27: View of staircase to second-floor conference rooms and bathrooms (N. Holst, August 29, 2022)

PHOTO 28: View of original fireplace surround in second-floor conference room (N. Holst, August 29, 2022)

PHOTO 1: View East Toward Loudoun County Courthouse Showing Cast Iron Fence and Courthouse Yard, from Across West Market Street at Corner of King Street (N. Holst, January 28, 2023)

PHOTO 2: View Southeast Toward Loudoun County Courthouse Showing Cast Iron Fence and Courthouse Yard, from North King Street (N. Holst, January 28, 2023)

PHOTO 3: View from South Corner of Courthouse Yard Looking Northwest Toward Loudoun County Courthouse (center distance) Showing Cast Iron Fence, Courthouse Yard, 1844 Academy Building/Clerk's Office (center right [not in NHL boundary]), and Late-1950s Clerk's Office Addition/"Clone Building" (right [also not in NHL boundary]), (N. Holst, January 28, 2023)

PHOTO 4: View Southeast Toward Main Façade, Loudoun County Courthouse (N. Holst, January 28, 2023)

PHOTO 5: View Northeast Toward Front Entrance Under Northwest Portico (N. Holst, January 28, 2022)

PHOTO 6: View South Toward Loudoun County Courthouse (N. Holst, March 24, 2022)

PHOTO 7: View of Cross-Gable Pediment, Northeast Façade (N. Holst, August 29, 2022)

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PHOTO 10: Detail of Southwest (East Market Street) Façade (N. Holst, August 29, 2022)

PHOTO 11: View of Cross-Gable Pediment, Southwest Façade (N. Holst, August 29, 2022)

PHOTO 12: View North Toward Rear and East Market Street Façades of Loudoun County Courthouse Showing in Background a Partial View of Loudoun County Courthouse Complex (non-contributing) (N. Holst, March 24, 2022)

PHOTO 13: View Toward Rear (southeast) Façade of Loudoun County Courthouse Showing Original Rear Entrance Used in the 1933 Trial (center) and Second Rear Entrance (right) Installed at a later date (N. Holst, August 29, 2022)

PHOTO 14: View of Courtroom Toward Judge's Dais from Gallery (N. Holst, August 29, 2022)

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PHOTO 16: View Toward Rear of Courtroom Showing Gallery on Northwest Wall (N. Holst, August 29, 2022)

PHOTO 17: View of Gallery and Door of Entrance Vestibule (N. Holst, March 24, 2022)

PHOTO 18: View Underneath Gallery Showing Door of Vestibule and Stairway to Gallery (N. Holst, March 24, 2022)

PHOTO 19: View of Stairway from Gallery (N. Holst, March 24, 2022)

PHOTO 20: View of Gallery (N. Holst, March 29, 2022)

PHOTO 21: View of Main Entrance Doors from Inside Vestibule (N. Holst, August 29, 2022)

PHOTO 22: View of Historic Jury Chair in Use in 1933 (N. Holst, August 29, 2022)

PHOTO 23: View of Historic Judge's Desk in Use in 1933 (N. Holst, March 24, 2022)

PHOTO 24: View of Historic Railing (bar) and Spectator Benches Present in 1933 (N. Holst, March 24, 2022)

PHOTO 25: View Inside Judge's Office (expanded 1956) Toward Door of Courtroom (N. Holst, August 29, 2022)

PHOTO 26: View into Rear Hallway from Doorway of Courtroom, Reconfigured 1950s and 1970s, Showing New Secondary Rear Entrance (N. Holst, March 24, 2022)

PHOTO 27: View of Staircase to Second-Floor Conference Rooms and Bathrooms (N. Holst, August 29, 2022)

PHOTO 28: View of Original Fireplace Surround in Second-Floor Conference Room (N. Holst, August 29, 2022)