The First Integration of the University of Maryland School of Law

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The 1935 court order requiring the University of Maryland School of Law to admit Donald Gaines Murray was the first success of the NAACP's campaign to end segregation in the public schools, but it was not the first time the law school had been integrated. Nearly half a century earlier, in 1889, two black students had graduated from the school. Two other black students attended during the next academic year, but the law school then excluded them and all other blacks until Murray reopened the doors. The story of that first, brief integration of the university law school began with the struggle of blacks to be admitted to the bar and ended with the tragedy of virulent racial prejudice.

At the beginning of the nineteenth century each court in Maryland controlled the admission of lawyers to practice before it. None admitted blacks. In 1832 a state statute setting some uniform standards for bar admission limited eligibility to free, white males. This racial restriction may have been prompted by Nat Turner's 1831 rebellion in neighboring Virginia, an event that led the 1831-1832 session of the assembly to enact other laws designed to control both the slave and the free black populations. The codification of racial discrimination made it more difficult to eliminate in later years when white society was more willing to accept the existence of black lawyers.

The state prohibition against black attorneys did not end with ratification of the Fourteenth Amendment. In 1877 the Court of Appeals held that the amendment did not apply to admission to the bar. The following year an attempt to make black males eligible to practice law failed in the legislature. In 1884 the House of Delegates passed a measure striking the racial restriction, but it failed in the senate despite support for it expressed in newspaper editorials. A Maryland court changed the law in 1885. Reasoning from an earlier decision of the United States Supreme Court, the Baltimore Supreme Bench held that excluding blacks from the practice of law was unconstitutional. On 10 October 1885 Everett Waring became the first black man admitted to legal practice in a state court in Maryland.

Maryland blacks now had a reason to study law. "Reading" law in a lawyer's office was one way to qualify for practice, but few white lawyers would accept blacks. Only recently admitted to the Maryland bar themselves, black lawyers lacked the breadth of experience desirable in a mentor. Law school offered a better alternative, and in 1887 two young black men applied to the University of Mary-

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MARYLAND HISTORICAL MAGAZINE
VOL. 84, NO. 1, SPRING 1989
land. Harry Sythe Cummings, a Baltimore native and an 1886 graduate of Lincoln University, had spent a year reading law in the offices of a black attorney, Joseph Seldon Davis. Charles W. Johnson had just graduated from Lincoln.\(^7\)

The law school had been founded in 1823 as a branch of the University of Maryland by David Hoffman, a celebrated innovator in legal education. The state took over the university in 1826, but, after disagreements with Hoffman, discontinued law school classes in 1833. When the law school reopened in 1870, the university was back in private hands. Until 1885 the racial prohibition on the practice of law made attendance by blacks unthinkable. Consisting of four full professors and four nonteaching attorneys, the Faculty of Law governed the law school. The Board of Instruction, which consisted of the four full professors and three assistant professors, did the teaching.\(^8\)

George William Brown, a nonteaching faculty member, took a strong stand in favor of admitting Cummings and Johnson, and Severn Teackle Wallis, university provost, joined him. Although both men had been interned during the Civil War for fear that they would not support the North, they supported equality in the opportunity to practice law. Brown had been the chief judge of the Circuit Court of Baltimore City when in 1885 the suit for the admission of black attorneys to the bar was filed. Although he initially thought the issue had been settled by the prior Court of Appeals decision, he said, "It is a great injustice that no colored man can be admitted to the practice of the law. There is a large colored population in our State, and they ought to be allowed to enter any lawful occupation for which they may be fitted."\(^9\) Wallis, the foremost Maryland lawyer of his time, was one leader of a reform movement to rid city and state politics of fraud and corruption. The movement sought to overthrow the machine Democrats by uniting independent Democrats and a Republican party heavily supported by blacks.\(^10\)

Other nonteaching faculty members probably supported Brown and Wallis. George Dobbin and John H. B. Latrobe were the surviving members of the Faculty of Law from David Hoffman's era. When the law school had been revived, Dobbin had become the first dean. Latrobe had sought to preserve the Union although three of his sons had fought for the Confederacy. Another son, Ferdinand, was Baltimore mayor in 1885 and publicly favored the admission of blacks to the bar. The fourth nonteaching faculty member was Bernard Carter. A relative of Confederate General Robert E. Lee, Carter had sympathized with the South in the Civil War. During the suit to admit blacks to the bar, a reporter had asked Carter, then city solicitor, for his opinion. Carter replied that "he had not thought about the policy of the matter at all, but that personally he saw no objection whatever in admitting colored men to practice at the bar."\(^11\)

The majority of the four teaching faculty members may have opposed the admission of black students. The dean of the law school, John Prentiss Poe, was later active in efforts to disenfranchise blacks. Two professors, Richard M. Verable and Thomas W. Hall, had been majors in the Confederate army.\(^12\) Only Judge Charles E. Phelps had fought for the Union, and he was the only full professor on record in favor of black rights. In litigation over the admission of blacks to the bar, Phelps had characterized the racial barrier as a "relic of barbarism."\(^13\)

With Wallis and Brown in the lead and Phelps, Carter, Latrobe, and Dobbin as likely supporters, the law school admitted Cummings and Johnson in 1887.
Integrating the Maryland School of Law

Figure 1. John Prentiss Poe, dean of the Maryland School of Law, 1870–1909. This portrait, oil on canvas, was a gift of the class of 1911. (University of Maryland School of Law. Photo: Rick Lippenholz.)

Some of the faculty disliked the change, but they accepted it. If Poe, Hall, and Venable had been determined to exclude blacks from the school, they might have succeeded. After all, Poe was the dean and Venable the most senior faculty member. Blacks in the classroom hardly threatened their status, for whites often taught Negro students in the segregated schools of Maryland. Indeed, the Baltimore City Council fought bitterly between 1885 and 1888 over whether to allow black teachers to teach in black schools. A strict party vote in 1887 rejected an effort to permit Negro teachers in black secondary schools, but in 1888, an ordinance allowing it was passed. The new ordinance met earlier objections by providing that white and black teachers would never be employed in the same school. 14

Progress in race relations was mixed during this era: Baltimore was partially integrated and partially segregated. Many restaurants excluded blacks, and theaters restricted their seating. Even so, at least one white church had a Negro member, and some blacks performed in largely white troupes of entertainers. Court decisions had compelled the integration of municipal transit in 1871, and it remained integrated in 1887. 15 In this context the faculty may have been satisfied that more students at a proprietary school meant more fees. The faculty seems to have felt that sitting for an hour or two listening to a lecture in a classroom more closely resembled riding in a train than eating or playgoing.

Cummings and Johnson completed the three-year course in only two years, graduating in the spring of 1889. Johnson finished third and Cummings tenth in a class of thirty-three. White students at first had grumbled about their black classmates but eventually accepted them. At a class meeting before graduation Charles Johnson reportedly thanked whites for their kindness; he and Cummings, he said,
“had been treated with the utmost respect and made to feel that they were gentlemen associating with gentlemen.” A leading contemporary student of race relations noted that “the graduating students themselves, by the good judgment and tact of the two colored ones, and the kindly feeling of a majority of the white ones, in return, prevented any color discrimination in seating the guests at the graduation exercises.”

Cummings and Johnson enjoyed success that appeared to bode well both for race relations and the law school. The black community feted the pair at a testimonial dinner at the Madison Street Presbyterian Church. Joseph Seldon Davis presided, Everett Waring delivered a speech, and the new graduates received law books. Afterward Cummings and Johnson plunged into work. Judge Phelps asked one of them to assist him in preparing his book on equity jurisprudence. But there were more pressing concerns: In November 1889 Cummings and Johnson successfully represented a black man accused of assaulting a white girl in Baltimore County. That fall two more black students enrolled at the law school—John L. Dozier, another product of Lincoln, and William Ashbie Hawkins, who had graduated from Centenary Bible Institute (later Morgan College).

Yet the racial climate was turning cold. One reason was the political struggle between regular Democrats and the reform coalition. Reformers had succeeded in blocking the machine Democrats’ legislative program. In response Senator Arthur Pue Gorman, state Democratic boss, in the fall of 1889 launched a campaign to weaken the racially mixed, independent-Democrat/Republican coalition by invoking the specter of black rule. Gorman said, “We have determined that this government was made by white men and shall be ruled by white men as long as the republic lasts.” Dean Poe was growing closer to Senator Gorman. Poe had always been a Democrat and since 1885 had openly pledged his support to Gorman’s cause. In view of the racial tone of the 1889 campaign, Dozier and Hawkins must have found life at the law school particularly difficult.

Discontent with integration at the University of Maryland now flared into open attack. The medical school faculty voted to deny admission to blacks. White students from the law, medical, and dental schools petitioned the faculty against the admission of black students to the law school. During the winter of 1889–1890 nearly all of ninety-nine enrolled law students signed a petition protesting black admissions. The petitioners kept up pressure to dismiss Hawkins and Dozier through the academic year. In the summer of 1890 the issue went to the university regents, a group composed of the faculties of law, medicine, and dentistry, who held several meetings on it.

Meantime, fueling the controversy, Harry Sythe Cummings conducted a strong campaign for a city council seat in Baltimore’s Eleventh Ward. It was probably apparent early in the year that his chances of success were high, and he did indeed win the seat in the November election. The faculty’s public statements did not mention this rise of a black lawyer to modest political power, but it may have affected the attitudes of the white students who demanded that blacks be excluded from the law school. The opening of Baltimore University Law School in the fall of 1890 gave segregationists new leverage. Students unhappy at attending school with blacks could now go elsewhere. Too, old age and death weakened the regents’
ability to resist student pressure. Dobbin and Latrobe were in their eighties, and George William Brown had died.

With the voice of the strongest supporter of integration stilled, the university surrendered to student agitation and the fear of revenue losses. In September 1890, reported Dean Poe, the regents "finally resolved that it would be unwise to endanger the school or jeopardize its interests in any way by any longer allowing colored students to attend the school in the face of such manifest opposition." Claiming that the presence of Hawkins and Dozier had caused a number of students to leave the school and others to refuse to enter, the regents cited the prospect of continued enrollment losses as the chief consideration in their decision to expel the two black students. In fact, the size of the school had changed only slightly between 1887 and 1890; there were 101 students enrolled when Cummings and Johnson matriculated and 99 when Hawkins and Dozier enrolled. If expulsion of the 2 black students did not result in a significant increase in student numbers, segregation may have prevented more white students from leaving to attend the new rival.

In any case, Poe also attempted to justify exclusion of black students "in view of their exceedingly low record." The Baltimore Herald responded by reporting the words of a prominent jurist connected with the school. "We treat a colored student as we do a white one," he said, "and if he has no aptitude for the law we simply tell him we cannot take his money, as he will receive, of course, no equivalent for it." Hawkins himself wrote a protesting letter to the same paper. "The mere statement itself is enough to provoke an incredulous smile on the face of every man in Baltimore," he declared of the suggestion that his expulsion was based on record...
and not on race. “It is bad enough to have the University of Maryland take our money, start us on our course, and then suddenly stop us for no other reason than that the white students do not desire to mingle with us, but to have one of the offices misrepresent us in this way is provoking in the extreme.” Hawkins noted that although he had done poorly in Property, he had met the university requirements for retention and done so at a level higher than some white students who were continuing. Even Dean Poe had called his record a fine one. “The real and the only question underlying this difficulty is my race and not my intellectual fitness for the study of law,” Hawkins wrote. “If it were not for my color there would be no trouble. . . . I do not care for my exclusion from the university. I can find some other place to pursue my studies, but the faculty does me an injustice and shows the weakness of its own cause when it charges that my exclusion is for any other cause than my color.”

Hawkins and Dozier faced difficulties in finding another place to pursue their studies. They sought to persuade Hawkins’s alma mater, Morgan College, to open a law school. Facing financial problems, Morgan set up a committee to see if one could be established “without additional expense to the College.” Judge Hugh Lennox Bond, one of the original trustees of Morgan, threw cold water on Hawkins and Dozier’s hopes for obtaining a legal education in Maryland. He wrote Morgan College President F. J. Wagner, “I do not think a law school at Morgan College would be a success. Volunteer lecturers of any ability on law could not be obtained; and, as I understand you, the college will have to rely wholly upon the efforts of unpaid teachers.”

Judge Bond’s letter exemplified “liberal” thought. A staunch Republican federal judge after the Civil War, he had ruled in favor of the integration of city transit. But Judge Bond was skeptical of professional education for blacks. “I do not think, as yet, the colored youth of our state have the education or the habit of close mental application to fit them for the study of law,” he wrote. Bond thought he was being practical in urging manual labor instead of law: “There are a few who have been educated in more liberal states who have good positions at the bar, but the colored people do not support them, and they can hardly be called successful practitioners.”

Publication of Judge Bond’s letter sparked more controversy than had the closing of the Maryland Law School to blacks. Letters from black lawyers poured in to attack his comments. Everett J. Waring contended that the black community did indeed support black lawyers, and he noted the outstanding record of Cummings and Johnson at the law school. Waring also pointed out that it was easier for a black to train for the professions than to get into trade school or a trade association to apprentice. Another recently admitted black lawyer, Robert A. McGuinn, agreed with Bond that blacks did not support their legal representatives as they ought, but he contended that five years was not a sufficient time to test whether attitudes would change. Of Judge Bond’s advice to learn a trade, McGuinn wrote, “It is like telling a man to learn to swim on dry land.” Harry Cummings also criticized the judge. He noted that black lawyers had been at least as successful in their first five years of practice as their white counterparts.

Although Judge Bond saw vocational training as the first priority for black education, he did not support the University of Maryland’s policy. He contended
that racial exclusion violated the university charter and argued against a law school at Morgan on the grounds that it would reduce the pressure on Maryland to conform to its obligations. Bond did "not propose to supplement by charity that which belongs to every citizen by right." (Since the charter made no reference to race, and the courts were not likely to find a commitment to race-neutral practices in its general language, no one attempted to sue the university on Bond's theory.)

Bond ended his letter by suggesting the publication of the names of the faculty and students who voted against the black students. This advice was spitting into the wind. No strong constituency for racial integration existed in the white community. Indeed, race prejudice was becoming a political asset in the state. Only a few months later, William Cabell Bruce published a pamphlet called "The Negro Problem" which launched a political career that ended in the United States Senate.

The excluded black students finished their legal education at Howard University Law School and became members of the Baltimore bar. In what must have been sweet revenge, W. Ashbie Hawkins subsequently led a successful court fight to overturn a series of residential segregation laws in Baltimore City. The rising tide
of anti-black feeling, however, left private institutions strictly segregated. The faint hope that the law school's integration had raised in 1887 lay dashed. The law school did not come under state control until 1920, by which time the whites-only admissions policy had grown firmly entrenched. Only a courageous and unprecedented lawsuit could end it.

NOTES


4. In the Matter of Charles Taylor, 48 Md. 28 (1877), reasoned that the practice of law was not a "privilege or immunity of citizens of the United States" on the basis of the Slaughterhouse Cases, 83 U.S. [16 Wall.] 36 (1873) and Bradwell v. Illinois, 83 U.S. [16 Wall.] 130 (1873). Taylor did not rely on the equal protection clause in his argument, and the court did not mention it. See also Margaret Law Callcott, The Negro in Maryland Politics, 1870–1912 (Baltimore: Johns Hopkins Press, 1969), p. 63; Jeffrey R. Brackett, Notes on the Progress of the Colored People of Maryland Since the War (Baltimore: John Murphy & Co., 1890), pp. 72–76; and, for editorial support of the change, Baltimore Sun, 7 February and 12 March 1884.


6. Waring graduated from Howard in 1885. Joseph Seldon Davis, another recent Howard Law School graduate, was admitted to practice on 1 March 1886 (Baltimore City Superior Court Test Book, no. 3, 1880–1895, p. 205).


9. *Sun*, 9 February 1885. "When an effort was made at one time . . . to refuse colored law students the privileges of the institution, he [Brown], together with his colleague, S. Teackle Wallis, took a very pronounced stand against any such narrow policy of exclusion" (Conway Sams, *Bench and Bar of Maryland: A History, 1634 to 1901* [Chicago: Lewis Publishing Co., 1901], p. 499).


11. *Sun*, 10 February 1885. Eugene Fauntleroy Cordell, *University of Maryland, 1807–1907: Its History, Influence, Equipment and Characteristics, with Biographical Sketches and Portraits of its Founders, Benefactors, Regents, Faculty and Alumni* (2 vols.; New York: Lewis Publishing Co., 1907), 1:348–49. Dobbin graduated from the law school in 1830, when David Hoffman was its only teacher, and was elected a judge of the Supreme Bench in Baltimore in 1867. When in 1879 he passed the age limit of seventy, the General Assembly passed a special act to permit him to remain on the bench. He served as dean of the law school in its first year of revival, before yielding place to Poe (ibid., 2:7–8).


12. Although Poe dropped racial classifications respecting bastardy and admission to the bar from Maryland laws when in 1888 he codified them at the assembly's request, in 1905 he wrote an unsuccessful constitutional amendment that would have prevented blacks from voting (Callcott, *Negro in Politics*, pp. 115–25). Born in Virginia, Venable served in the Army of Northern Virginia, rising to the rank of major of artillery and engineers. After the war he taught at Washington and Lee in the department of mathematics, receiving his LL.B. from that institution in 1868. He moved to Baltimore in 1869 and the following year became a professor in the law school, where he served for thirty-two years. Venable was also the senior partner of Venable, Baetjer & Howard and was active in numerous civic endeavors, particularly the development of the city's parks (Cordell, *University of Maryland*, 1:363–64). During the Civil War Hall wrote newspaper articles criticizing the Lincoln administration, for which he was imprisoned for one year. After his release (no legal grounds for detention were shown), he joined the Confederate army and eventually rose to the rank of major. When the test oath was removed in 1867, Hall returned to Maryland, dividing his time between journalism and the law. For twelve years (1870–1882) he was a member of the editorial staff of the *Sun*. He also served as city solicitor from 1878 to 1883. Hall taught international and constitutional law (Cordell, *University of Maryland*, 2:12–14).

13. *Sun*, 10 February 1885. Phelps, a brigadier general who had been seriously wounded in battle, opposed Reconstruction in Congress and voted against the Fifteenth Amendment (*Proceedings of the Memorial Meeting of the Bench and Bar of Baltimore City in Memory of Charles Edward Phelps, Late Judge of the Supreme Bench of Baltimore City, January 11, 1909*).

15. See ibid., p. 60, where Brackett wrote: "Some little complaint has been made by respectable colored men against the discrimination between white and colored citizens in the city park, in that lessees of the restaurant will serve the latter only at a stand without the restaurants. In such matters as these, however, the complaint of the colored people usually runs against a high wall, of strong and widely spread public sentiment against any change." See also, ibid., pp. 62–64, and Meredith Janvier, *Baltimore in the Eighties and Nineties* (Baltimore: H. G. Roebuck & Son, 1933), pp. 249, 276.


17. *Sun*, 7 June 1889; *New York Times*, 10 June 1889; Brackett, *Notes*, p. 77. Phelps acknowledged the help of neither Cummings nor Johnson; perhaps legal duties prevented the black student from being of assistance after Phelps selected him. For the 1889 black admittees, see *The Law School of the University of Maryland Catalogue* (Baltimore: Isaac Friedenwald, 1890), p. 6.


20. "The [Medical School] Dean then presented the application of two negro students for admission to the University. After general discussion it was: —Moved: —-(Chew) That the Dean be instructed to say in answer to the applications, that the Faculty deem it inexpedient to admit colored students to the medical class. Carried." Minutes of the Faculty of Physic, 8 October 1889. These minutes are in manuscript, preserved in the archives at the Health Sciences Library of the University of Maryland at Baltimore. See also *Baltimore American*, 15 September 1890, and *New York Times*, 15 September 1890.


24. *Baltimore American*, 15 September 1890; *Baltimore Sunday Herald*, 14 September 1890; *Baltimore Morning Herald*, 15 September 1890. See also *Baltimore American*, 17 September 1890.


28. Ibid., 16 December 1890. In *Clark v. Maryland Institute*, 87 Md. 643 (1898), the Maryland Court of Appeals held that the institute was not bound by its contract with the city to admit black students nominated by city council members.