

# COURT OUTLAW'S GRANDFATHER CLAUSE

## Supreme Court Blocks Attempt Of Violation

WASHINGTON, D. C.—The attempt of the state of Oklahoma to dodge a United States supreme court decision in 1915 which outlawed the grandfather clause in its constitution was in vain outlaid by the United States supreme court here May 22.

In rendering its opinion in *Jane v. Wilson*, the court held that Oklahoma had an unconstitutional law in the 1915 statute requiring person who had not voted in 1914 to register within a period of ten days or forever thereafter lose their right to register and vote.

The 1916 registration law was passed immediately after the grandfather clause was declared unconstitutional, and was designed to catch Negroes off their guard and their suffrage.

The opinion, written and delivered by Mr. Justice Frankfurter, held that the 15th Amendment to the Constitution "nullifies sophisticated as well as simple minded modes of discrimination." The opinion represented a 6-2 decision, with Justices McReynolds and Butler dissenting and Justice Douglas not participating.

The case, which was carried to the high court by the National Association for the Advancement of Colored People, represents the twelfth victory out of thirteen cases carried to the supreme court by that organization.

In the opinion delivered by Justice Frankfurter the court said:

"The crux of the present controversy is the validity of this registration scheme, with its dividing line between white citizens who had voted under grandfather clause prior to 1866. Since no Negroes were qualified to vote prior to 1866 the discrimination in the constitution was apparent and the U. S. supreme court in 1915 held this provision unconstitutional in a case fought by the NAACP."

Pointing out that this was a clear violation of the fifteenth amendment which secures freedom from discrimination on account of race in matter affecting the franchise, the opinion made it clear that this amendment nullifies sophisticated as well as simple minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race.

The case which is now thrown back to the supreme court of Oklahoma, involves a \$10,000 law suit filed against the registrar of Wagoner County, Okla., in 1934 by I. W. Lane, who charged that he was refused permission to register to vote in that year.

NAACP attorneys who argued the case before the highest tribunal in the country were: Charles A. Chandler, of Musko-

gee, Okla.; and James Nabrit, a professor in the Howard university law school. Associate counsel who prepared the brief in the case were: Thurgood Marshall, assistant legal counsel of the NAACP; Charles H. Houston, and Leon A. Ransom, of the Howard university law school.

### Case Goes Back to 1914

This case had its birth in the old grandfather clause cases of 1914 whereby the constitution of Oklahoma and several other states provided strict educational qualifications for voters unless they could prove that their grandfathers had voted prior to 1866. Since no Negroes were qualified to vote prior to 1866 the discrimination in the constitution was apparent and the U. S. supreme court in 1915 held this provision unconstitutional in a case fought by the NAACP.

Immediately after this decision Oklahoma attempted to get around the 15th amendment again by passing an act February 26, 1916 that all persons eligible for registration had to register within 12 days or be forever barred from registration. But the act provided however, that all persons who voted in the 1914 elections (when Negroes were excluded by the grandfather clause) were not affected. This act was challenged on constitutional grounds in 1934 by the NAACP when registration was refused J. W. Lane.

Officials of the NAACP pointed out that the court's decision can be hailed not only as a great gain for Negroes because it establishes their right to vote under the fifteenth amendment to the Constitution, but it also gives a broader interpretation to the so called Civil War amendments. Not only is the right to vote established by the old grandfather clause, cases and the right to vote in primaries established by the Texas primary cases, a 111 handed by the NAACP, but now the right to register has been established.

Twelve out of thirteen cases carried to the U. S. Supreme

HOME ECONOMICS DEPARTMENT OF BENNETT



GREENSBORO—The First Lady being graciously received by family. "The Bennett Family" circle is an inspiration to the Bennett Girls as they in turn become home makers.

The first case in 1915 struck down as unconstitutional the grandfather clauses which were used to disfranchise Negroes in many states.

The second case declared the Louisville segregation ordinance unconstitutional in 1917. This ordinance similar to those in other cities prohibited whites and Negroes from living in the same districts.

The principle that a trial dominated by mob violence is but a mask and a denial of due process was established in 1928 in several cases growing out of the Elaine, Arkansas riots. 12 Negro sharecroppers were sentenced to death and 67 for long prison terms at trials dominated by mobs. These men were freed by this decision and the precedent of due process established. This precedent has been used in many later cases including the famous Scottsboro appeals.

In 1926 the New Orleans segregation ordinance similar to the Louisville one was declared unconstitutional in a memorandum opinion.

The first Texas primary case in 1927 established the right of Negroes to vote in the primary

## First Lady Endorses Mural For Anderson

WASHINGTON, D. C. (Special to the TIMES)—Expressing approval of the drive fund for a Mural commemorating Marian Anderson's Easter Sunday Concert, Mrs. Roosevelt recently asserted in her column, MY DAY, that "this seems to me a fine occasion to commemorate a noble idea which will meet with an enthusiastic response."

Organized by Edward Bruce, Chief of the Section of Fine Arts, Procurement Division of the Treasury Department, the Marian Anderson Mural Fund Committee is appealing to the youth of the country for contributions of pennies, nickels and dimes with which to defray the expense of executing and installing the interior Department of Art Mural Depicting Miss Anderson's here.

Adults as well as school children and other young people are invited to send contributions either individually or through their organizations to the Committee's treasurer, J. C. H. Mitchell, President, Industrial Bank of Washington, D. C.

Under the caption, "A Mural Painting of an Unforgettable Scene," Mrs. Roosevelt wrote in her column:

A letter from Mr. Edward Bruce, Chief of the Section of Fine Arts in the Treasury Department, tells me of a project which he is starting. He was so impressed by the singing of America by Marian Anderson in front of the Lincoln Memorial on Easter Sunday that he felt the solemnity, grandeur and challenge of that moment should be captured for posterity.

He is raising a fund which he is asking every youngster who can afford it, as well as their elders, to contribute pennies, nickels and dimes. In order to have a mural painted of what he considered an unforgettable scene. This seems to me a fine occasion enthusiastic response.

### LOCAL SONGBIRD THRILLS BENNETT AUDIENCE

GREENSBORO, N. C.—Mrs. Mabel Jackson, coloratura soprano, delighted her audience on Thursday night when she was presented in formal recital by Dr. R. Nathaniel Dett at Bennett College. Mrs. Jackson has been a special student of music at the college during the year. She was accompanied at the piano by Dr. Dett.

## Legal Notice

TRUSTEE SALE OF LAND NORTH CAROLINA DURHAM COUNTY. UNDER AND BY VIRTUE OF the power conferred upon the Trustee in a certain deed of trust dated May 12th, 1939, executed by Robert Mason (Widower) and duly recorded in the Office of the Register of Deeds for Durham County in Book of Mortgages 209 at page 407; Default having been made in the payment of the same, the undersigned will offer for sale at the Courthouse door in Durham, North Carolina, at public auction to the highest bidder for cash, on MONDAY, JUNE 19th, 1939 at 12 o'clock noon, the following described land, to wit:

BEGINNING at a stake in the Southwest intersection of Spaulding Avenue (now Concord St.) and running with the Western edge of Spaulding Avenue, South 2 deg. 05' West 81.7 feet to an iron stake; thence North 87 deg. 55' West 187 feet to a stake; thence N 51 deg. 45' West 21 feet to an iron stake; thence North 38 deg. 55' East 171.5 feet to an iron stake, in the Southern edge of Dunston Avenue; thence with the southern edge of the said Avenue, South 57 deg. 35' East 118.3 feet to the point or place of beginning. Same being Lot No. 3 of the plat recorded in Plat Book 6 at page 13 in the office of the Register of Deeds of Durham County. Also see deed to Robert Mason, duly recorded in Book of Deeds 81 at page 427, Durham County Registry.

THIS SALE will remain open for ten days to receive increase bids, as required by law. THIS PROPERTY is sold at the request of the holder of said note. Dated this 17th day of May, 1939. E. R. MERRICK, Trustee M. H. THOMPSON, Attorney

EXECUTORS' NOTICE NORTH CAROLINA, DURHAM COUNTY. HAVING QUALIFIED as executors of the estate of Mrs. Martha Merrick late of Durham County, this is to notify all persons having claims against the estate of said deceased to exhibit them to the undersigned executors at the North Carolina Mutual Building, 114 W. Parrish Street, or P. O. Box 201, Durham, North Carolina on or before the 10th day of May, 1940, or this notice will be pleaded in bar of their recovery. All persons indebted to said estate will please make immediate payment. This 10th day of May, 1939. E. R. MERRICK and C. H. DONNELL, EXECUTORS. M. H. THOMPSON, Atty.

EXECUTORS' NOTICE NORTH CAROLINA, DURHAM COUNTY. HAVING QUALIFIED as Executor of the estate of Mrs. Luetta Haskins late of Durham County, North Carolina this is to notify all persons having claims against the estate of said deceased to exhibit them to the undersigned executor at the North Carolina Mutual Building, 114 W. Parrish Street, or P. O. Box 201, Durham, North Carolina on or before the 10th day of May, 1940, or this notice will be pleaded in bar of their recovery. All persons indebted to said estate will please make immediate payment. This 10th day of May, 1939. E. R. MERRICK and C. H. DONNELL, EXECUTORS. M. H. THOMPSON, Atty.

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