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Foreword

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FOREWORD

*Charles Clark**

This issue comprises the second annual symposium on the work of the United States Court of Appeals for the Fifth Circuit. Knowledgeable authors have diligently documented the Court's historic role in the most significant areas of civil rights during the turbulent decades of the 1960s and 1970s.¹ This history emphasizes that the Court's most significant role was one of moral persuasion through its forceful, articulate declaration and justification of legal principle. It was in these two decades that the Court earned its reputation for changing society in the South. It created much of the law of school and public facilities desegregation still in force today. It developed and applied many of the employment discrimination principles still widely accepted. The Court pioneered the interpretation and enforcement of the Voting Rights Act. Its work produced nothing short of a social and political revolution.

In those decades, the Fifth Judicial District was Texas, Louisiana, Mississippi, Alabama, Florida, and Georgia — the six states known as the Deep South. However, the legal history of the nation establishes that civil rights law developed in the Fifth Circuit has extended far beyond its boundary. The Court led the nation into new eras in race relations, minority employment rights, public education, and voting rights.

It was a unique privilege to practice before the Court in the 1960s and an even greater honor to participate as a member of the Court during the 1970s. The articles by Justice Banks, Judge Bridges, and Ms. Walker in this edition furnish an interesting history of the Court's activities and the impact of such activities on the law and the lives of the people in the Fifth Judicial District. Messrs. Rhodes, Ross, and Case chronicle developments in the Supreme Court's application of the law of voting rights, public school desegregation, and affirmative action. This Foreword would add to those perspectives a brief snapshot of those who served the court in these times.

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1. Actually, two articles deal directly with the Fifth Circuit. The remaining three describe decisional trends in the United States Supreme Court regarding civil rights—areas in which the Fifth Circuit led the way in the 1960s and 1970s.

THE JUDGES OF THE FIFTH CIRCUIT
1960 THROUGH 1979²

Name	State From Which Appointed	Date of Commission	Appointing President
Hutcheson, Joseph C.	Texas	January 26, 1931	Hoover
Rives, Richard Taylor	Alabama	May 3, 1951	Truman
Tuttle, Elbert Parr	Georgia	August 4, 1954	Eisenhower
Cameron, Benjamin Franklin	Mississippi	March 16, 1955	Eisenhower
Jones, Warren Le Roy	Florida	April 21, 1955	Eisenhower
Brown, John Robert	Texas	July 27, 1955	Eisenhower
Wisdom, John Minor	Louisiana	June 27, 1955	Eisenhower
Gewin, Walter Pettus	Alabama	October 5, 1961	Kennedy
Bell, Griffin Bayett	Georgia	October 5, 1961	Kennedy
Thornberry, William Homer	Texas	July 1, 1965	Johnson
Coleman, James P.	Mississippi	July 26, 1965	Johnson
Goldberg, Irvin L.	Texas	July 22, 1966	Johnson
Ainsworth, Robert A., Jr.	Louisiana	July 22, 1966	Johnson
Godbold, John C.	Alabama	July 22, 1966	Johnson
Dyer, David William	Florida	August 25, 1966	Johnson
Simpson, Bryan	Florida	November 3, 1966	Johnson
Clayton, Claude Feemster	Mississippi	October 27, 1967	Johnson
Morgan, Lewis R.	Georgia	July 25, 1968	Johnson
Carswell, George Harrold	Florida	June 20, 1969	Nixon
Clark, Charles	Mississippi	October 17, 1969	Nixon
Ingraham, Joe McDonald	Texas	December 18, 1969	Nixon
Roney, Paul H.	Florida	October 16, 1970	Nixon
Gee, Thomas Gibbs	Texas	July 18, 1973	Nixon
Tjoflat, Gerald Bard	Florida	November 21, 1975	Ford
Hill, James C.	Georgia	May 21, 1976	Ford
Fay, Peter T.	Florida	September 21, 1976	Ford
Rubin, Alvin B.	Louisiana	September 19, 1977	Carter
Vance, Robert S.	Alabama	December 15, 1977	Carter
Kravitch, Phyllis A.	Georgia	March 23, 1979	Carter

Most who write about the work of the Court in these times tend to focus on four of its judges — Rives, Tuttle, Brown, and Wisdom. Those men were, by any measure, superb judges who richly deserve the accolades accorded them. Accurate history requires however, that one note these four comprised a minority of the judges of the Court through the 1960s and 1970s.

2. This table is substantially adopted from *A HISTORY OF THE FIFTH CIRCUIT 1891-1981* by Professor Harvey C. Couch of Tulane University published under the auspices of the Bicentennial Committee of the Judicial Conference of the United States.

The Omnibus Judgeship Act of 1978 added eleven judges to the Fifth Circuit. 28 U.S.C. § 44(a) (1993). They were appointed by President Carter in mid to late 1979 and included the Court's second woman and first African-American. Their main service came later.

It was the institution of the Court which became and continued to be a bulwark for constitutional liberties and civil rights. After the Court abandoned the practice of assigning specific judges to specific cases in 1963 and adopted the present random choice system of judge assignment it still uses today,³ no perceptible change occurred in the courageous championship of constitutional rights and the rule of law. This observation is not intended to detract from that status accorded any one person, but only seeks to remind the reader that credit for the progress of justice should be accorded to all who were, in this era, the United States Court of Appeals for the Fifth Circuit.

The Editorial Board and faculty advisors of the *Mississippi College Law Review* are to be commended for their contributions to the quality of their work and dedication to the goal of making the Mississippi College School of Law a premier institution for legal education.

3. See *Armstrong v. Bd. of Educ. of Birmingham*, 323 F.2d 333, 357-359 (1963) (Cameron, J., dissenting); HARVEY C. COUCH, *THE HISTORY OF THE FIFTH CIRCUIT* 121 (1984); JACK BASS, *UNLIKELY HEROES*, 235-47 (1981); and FRANK T. READ & LUCY S. MCGOUGH, *LET THEM BE JUDGED* 267-75 (1978).

