

# A Brief History of the Texas Supreme Court Clerk's Office

By Tiffany S. Gilman and Blake Hawthorne

**T**he Clerks of the Texas Supreme Court have come from many backgrounds, and in a way their history reflects the history of our state. They have included military officers, a congressman, a Texas Ranger, a mayor of Austin, a Swedish immigrant, a doctor, ministers, the son of a Chief Justice, and of course many lawyers. Most were not born in Texas, but built lives here and contributed to the formation of the state. All were individuals dedicated to the rule of law and the efficient operation of Texas's highest Court.

The Supreme Court of the Republic of Texas was authorized by the Constitution of 1836, adopted at Washington-on-the-Brazos on March 17, 1836. The new Constitution did not call for a Clerk or any support staff to assist the Court in its duties. But the first Chief Justice, James Collinworth, knew the position was necessary and appointed the first Clerk, William Fairfax Gray, in 1837. A Virginia native and militia colonel who had seen action in the War of 1812, Gray was a new lawyer who had attended law lectures from November 1834 until March 20, 1835 in Virginia, receiving his license to practice on May 4, 1835. Later that same year, he traveled to Texas to purchase land titles for businesses back in Virginia, and found himself in the middle of the Texas Revolution, attending and documenting the Convention of 1836. His diary during this period was preserved, and historian Andrew Forest Muir described it as "one of the most important sources for the history of revolutionary Texas."<sup>1</sup> In his diary, Gray documented perhaps the first eye-witness account of the Alamo battle by Col. William Travis's former slave, Joe, just two weeks after the Alamo's fall.



Portrait of William Fairfax Gray.  
Photo from the Herzstein Library, San Jacinto  
Museum of History. The original painting hangs  
in the Christ Church Cathedral, Houston.

<sup>1</sup> Andrew Forest Muir, "William Fairfax Gray, Founder of Christ Church Cathedral," *Historical Magazine of the Protestant Episcopal Church* 28, no. 4 (Dec. 1, 1959): 343. Gray's diary may be read and downloaded at: <http://j.mp/GrayDiary>.

Prior to being Clerk, Gray had also served as the Texas House of Representatives clerk, secretary to the Senate, and district attorney. Due to the tumultuous nature of the early Republic and Collinsworth's untimely death, Gray's first act as Court Clerk did not happen until the first court session on January 13, 1840 in Austin. Describing his time with the Court, Muir commented that the first Clerk had "few duties" and yielded "few fees,"<sup>2</sup> probably because there was no constitutional provision for his salary. During his role as Clerk, Gray advertised his legal services in local newspapers, attesting to his need for additional employment as well as a lack of prohibition against practicing law independently.

**William Fairfax Gray,**  
**ATTORNEY AT LAW, CITY OF HOUSTON.**

**P**ROPOSES attending the superior court of the second judicial district; the county courts of Harrisburg, and other adjacent counties where he may have business of sufficient importance to require his attendance.

He also offers his services as an AGENT, for the purchase or sale of lands, investigation of titles, &c. Having an extensive acquaintance in the United States, and keeping his office at the seat of government, where all strangers coming into the country will resort. Persons having lands which they are desirous of selling, might find it to their interest to place the agency in his hands.

Communications addressed to him on business at the city of Houston, will be promptly attended to; and all business entrusted to him shall be despatched with diligence and fidelity.

**REFERENCES.**

<p>Hon. B. T. Archer,          Edwin Waller Esq.,  <i>Near Brazoria.</i>          May 16, 1837.</p>	<p>Hon. P. W. Grayson,          Forbes, Brooks &amp; Co.,  <i>Merchants Marion.</i></p>	<p>Hon. James Collinsworth,</p>
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Advertisement of Gray's legal services.  
 Image from *Telegraph and Texas Register*, May 16, 1837.

Upon his death, Gray was replaced by Thomas Green, a veteran of the Battle of San Jacinto, in 1841. Green had been among the company that manned the famous Twin Sisters cannons during the battle, and had recently represented Fayette County in the Republic's House of Representatives and served as Senate secretary. Fearing Mexican invasion that same year, Sam Houston initially moved the national capital to Houston, then to Washington-on-the-Brazos from 1842 to 1844. The Court met during this period wherever the seat of government was located. Legislation passed on January 22, 1842 established another annual term to be held at Nacogdoches, but changed that by an act passed on February 3, which directed the Court to hold its annual term at Washington.

The United States annexed Texas on December 29, 1845, and a new constitution went into effect. Notably, this state Constitution included a Texas Supreme Court Clerk—no doubt due to the lobbying of the Court's justices to assist them in their travels to sessions throughout the year in Austin, Galveston, and Tyler. This circuit-riding practice continued through Secession and the Civil War period. Prior to the war, Clerk Green accompanied the judges in their travels across

<sup>2</sup> *The Diary of William Fairfax Gray, from Virginia to Texas, 1835-1837* (Dallas, TX: William P. Clements Center for Southwest Studies, Southern Methodist University, 1997).

the state. In between court sessions he served in military campaigns against the Comanche Indians, and during the 1846 Mexican-American War he recruited and commanded a company of Texas Rangers.

In 1861 Green joined the Confederate Army as a colonel and later brigadier general, and died leading a charge on Union gunboats in April 1864.<sup>3</sup> Tom Green County is named in his honor. In November of 1864 each of the Court's meeting locations began to employ its own Clerk, each with his own records and docketing system, which would create a major recordkeeping headache in the years to come.

In the post-war years between 1867 and 1869, all of the Supreme Court Clerks were removed from office as "impediments to Reconstruction" and replaced by order of the occupying Union government in Austin. Four successive Clerks were removed during this time.<sup>4</sup> The Texas Constitution of 1869 allowed for the Supreme Court's annual meetings in Austin only—the Clerks in Galveston and Tyler were released from their positions, and the law library at Galveston was sold to book dealers in St. Louis. The Court began traveling between Austin, Galveston, and Tyler again after the Constitution was amended in December 1873, with an additional act in February 1874 providing that the Court hold its sessions once in every year in those cities.

Clerks for Galveston and Tyler were again appointed to assist the Court during its sessions beginning in February of 1874.<sup>5</sup> One of the Galveston Clerks, Daniel Atchison, was also a philanthropist who contributed to the establishment of Austin College and supplied the funds to found the Atchison Free School in Navasota.<sup>6</sup> A briefly appointed Austin Clerk in 1869, Edwin M. Wheelock, was a minister and superintendent of the Freedmen's Bureau schools, and was instrumental in forming the Texas Republican Party.

The former mayor of Austin, William Penn DeNormandie, became Clerk of the Austin Court in December of 1869. Born in Pennsylvania, DeNormandie fought with the Kentucky cavalry in the Mexican American War and was taken prisoner in Mexico, but escaped in 1847<sup>7</sup> and later settled in Texas. In 1853, he was appointed mayor of Austin. He served as Clerk of the

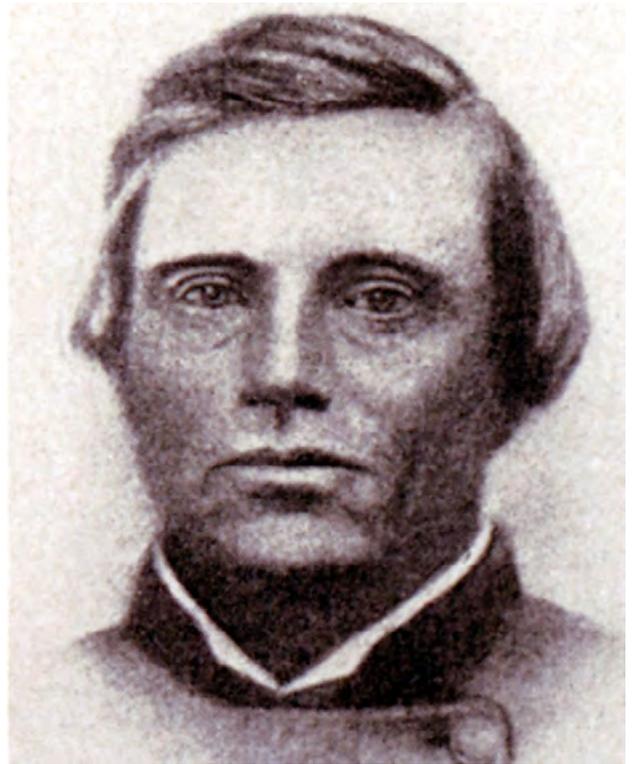
<sup>3</sup> Alwyn Barr. "Green, Thomas," *Handbook of Texas Online*, <https://tshaonline.org/handbook/online/articles/fgr38>.

<sup>4</sup> S. H. Morgan (Nov. 1864–1866); George W. G. Brown (1866 –Sept. 1867); George H. Gray, Jr. (Oct. 1867–Oct. 1869); Edwin M. Wheelock (Oct. 1869–Dec. 1869).

<sup>5</sup> J. H. Davenport, *The History of the Supreme Court of the State of Texas* (Austin: Southern Law Book Publishers, 1917).

<sup>6</sup> "Atchison dead," *The Louisville Courier-Journal*, December 26, 1898, 2.

<sup>7</sup> "Escape of Eight American Prisoners," *The Evening Post*, New York, NY, Saturday, July 24, 1847, 3.



Thomas Green, 1864.  
Photo from Francis Trevelyan Miller and Robert S. Lanier, *The Photographic History of the Civil War*, Vol. 10 (New York, 1911), 153.



The "Semicolon Court" (seated), with E. M. Wheelock (left) and Clerk W. F. DeNormandie, 1874.  
Photo courtesy of the Austin History Center.

U.S. District Court in Austin in 1856 and was elected secretary of the Union Club in 1860.<sup>8</sup> He participated in pro-Union rallies in 1861, described by an onlooker as a member of a "company of 'Union men' called 'home guards' [who] drilled in the manual of arms until a short time after Fort Sumter was assaulted. Then many of them crossed the Rio Grande."<sup>9</sup> DeNormandie fled Texas for the duration of the war, but returned in July of 1865 on the same ship as Governor A. J. Hamilton,<sup>10</sup> and served as the postmaster of Austin before his appointment as Clerk. According to the U.S. Census, by 1880 his eldest son Edward had joined him as Deputy Clerk. DeNormandie died in office in 1881.

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<sup>8</sup> *The Southern Intelligencer* (Austin City, Tex.), vol. 5, no. 3, ed. 1, Wednesday, September 5, 1860.

<sup>9</sup> A. W. Terrell, "The City of Austin from 1839 to 1865," *Southwestern Historical Quarterly* XIV (1911): 120.

<sup>10</sup> *Houston Tri-Weekly Telegraph*, vol. 31, no. 53, ed. 1, Wednesday, July 26, 1865.

The circuit-riding practice continued under the Constitution of 1876, but ended under a constitutional amendment adopted September 22, 1891, which permanently moved the Court's seat to the capital city of Austin. The records from this period, with their idiosyncratic numbering and docketing methods, were shipped to Austin from the Galveston and Tyler locations.<sup>11</sup> These individual filing systems were maintained until the mid-1930s, when long-time Clerk Charles Morse passed away, taking his vast, intricate knowledge of each system with him.



Deputy Clerk F. T. Connerly, Clerk Charles S. Morse, with Court. Undated. Photo: Austin History Center.

Morse's Deputy, Carl Lyda, wrote in his memoir that "oftimes both of us together would search a whole day or more for a particular record then be compelled to conclude we did not have it."<sup>12</sup> Lyda said that around 1944 he revamped the Court's docketing system, which at one time had multiple docket types spread out over six different ledgers. According to Lyda, "every case coming to the Court would appear on at least two, and sometimes on all, of these dockets... No list of the documents filed with the record in the different cases was noted anywhere...[T]he only way to ascertain the status or history of a case was to search through all the dockets."

Instead Lyda created a "one docket" system, where every case filed, "regardless of its nature or from where or how it came to the Supreme Court would be assigned a separate docket sheet and separate number, and every paper filed in that case ... would be filed and docketed under that one number."<sup>13</sup> The Court implemented his idea, which paved the way for its modern case-numbering system.

About the same time, according to his memoir, Lyda had come up with a plan to eliminate the many duplicate and nonsensical cause numbers from the nineteenth century by consecutively renumbering the cases, disregarding the old ones, and cross-filing them with their docket entries. The Deputy Clerk assigned new numbers with an "M-" prefix to all the pre-1892 files and created a card index to the cases.<sup>14</sup> To this day, his index is the only access point for most of the cases. This process took over two years, but the end result allowed for easier access and assists the archival research and replevin efforts underway today.

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<sup>11</sup> Kyle Gregory, "Through the Lens of History: Republic of Texas-Era Court Cases Shed New Light on State's Past," *Texas Heritage* 2 (2013): 13.

<sup>12</sup> C. B. Lyda, "Forty-five Years Association with the Supreme Court of Texas," unpublished typescript, May 1971, Texas Supreme Court Archives.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*



Texas Supreme Court Clerk's Office, 1914. Left to right: Deputy Clerk J. S. Myrick, Deputy Clerk H. L. Clamp, and Clerk Fred T. Connerly. Photo courtesy of the Austin History Center.

In April of 1972, Clerk Garson Jackson noticed 1,853 Supreme Court records in 62 “wallets” missing from the Clerk’s Office records storage basement.<sup>15</sup> After a subsequent investigation, he found out that they had been stolen by Earl Collins, a porter for the Third Court of Appeals.<sup>16</sup> The story was that custodians and porters would often gather in the basement for lunchtime games of dominos, during which Collins would sneak away to pilfer records. The cases stolen were

<sup>15</sup> G. Jackson, Letter to Security Division, State Board of Control, August 9, 1973, Texas Supreme Court Archives.

<sup>16</sup> T. E. O’Quinn, Letter, December 18, 1972, Texas Supreme Court Archives.

the M-prefix cases dating from 1840 to 1892, many dealing with slavery disputes or containing the signatures of famous Texans such as Sam Houston and Stephen F. Austin.<sup>17</sup> Collins was an amateur signature collector, and had connections in the antiquities market.

By the time Collins was arrested and charged with “larceny of file papers” in August 1973, the unscrupulous porter had already sold all of the stolen records to dealers and unknown persons. He was convicted in 1974 of larceny and received probation.<sup>18</sup> While initially approximately 600 records were recovered, over the next twenty-five years only about 40-50 additional files were returned.<sup>19</sup> Knowledge of the M- prefix numbering system (and many sellers’ attempts at removing the telltale stamps) assisted the Texas State Library and Archives in the fall 2012 recovery of 90 additional case files from an auction in New Jersey. Hundreds, and possibly thousands, of these case files are still missing, creating a major gap in the rich historical resource. The State Archives hopes that its investigative research, along with Deputy Clerk Lyda’s case file index, will help augment its list of known missing documents that are now in private hands.

One historical relic in the custody of the Texas Supreme Court Clerk’s Office that survived the 1972 theft is the Supreme Court “Sam Houston” Bible. At some point during the Republic era, the Court’s famous 1816 King James Bible, now used at every gubernatorial inauguration and many elected officials’ investitures, became a part of the Court’s collection. This is indicated by the calligraphic script that reads “Supreme Court of the Republic of Texas- 184-” and could date from any time between 1840 and December 1845. The legend often repeated at the Court is that the Bible was once the property of Sam Houston, who gave it to the Court. While modern research has cast doubt on the veracity of this story, the Bible has been in regular use at investitures and inaugurations at least since the late nineteenth century, and as long as anyone can remember has been in Clerk’s Office custody.

Deputy Clerk Max Bickler (whose home still stands on Judge’s Hill in Austin) recalled that the Bible was in use when he began work in 1911, and the Court’s porter “Old Alex” Phillips, who had been with the Court for over fifty years at that time, claimed it had always been used at inaugurations.<sup>20</sup> Deputy Clerk Bickler became a well-known fixture at inaugurations beginning with Governor James Ferguson’s in 1917, when he took over the duty from the Clerk, Fred T. Connerly, who reportedly did not relish public



Max Bickler in Austin, Texas, 1906.  
Photo courtesy of the University of Texas  
at San Antonio Libraries.

<sup>17</sup> Gregory, “Through the Lens of History,” 13.

<sup>18</sup> Report on the Preservation of Historical Texas State Court Records, Texas Supreme Court Records Task Force, August 2011, 58.

<sup>19</sup> Laura K. Saegert, “Preservation of the Texas Supreme Court’s History Requires Preservation of Its Files,” *Journal of the Texas Supreme Court Historical Society* 2, no. 4 (Summer 2013): 20-21; G. Jackson, “Rec’d from FBI, August 2, 1976,” unpublished document, August 1976.

<sup>20</sup> D. Fairchild, “Bickler Funeral Held Here Today,” *Austin American-Statesman*, January 1971.

appearances.<sup>21</sup> Bickler continued to be the de facto “master emeritus of protocol for Texas inaugurations” even after his retirement in 1957, and continued this dedicated duty right up to his death in 1971.<sup>22</sup> Today the Clerk’s Office still maintains vigilant care of perhaps our most precious artifact.

The Clerk’s Office is led by a Clerk and staff who occupy a key role in the efficient operation of the Court. Besides the duties outlined in the Texas Government Code, such as carefully filing and preserving the record, docketing causes, faithfully recording the proceedings and decisions of the Court, and certifying judgments, the Clerk is the Court’s voice to the outside world. The office is steeped in Texas history. While they have come from many different walks of life, the Clerks and their staff have faithfully served the Texas Supreme Court and our state for nearly one hundred and eighty years.

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<sup>21</sup> L. Cardwell, “Bibles behind a Texas Tradition,” *Austin American-Statesman*, January 14, 1973.

<sup>22</sup> In Memory of Max H. Bickler, S. Res. 17, 1971 Leg., 62nd (Tex.) (enacted).



**TIFFANY (SHROPSHIRE) GILMAN** was hired as the Court’s first in-house archivist and records manager in the spring of 2010. Born and raised in Dallas, she earned dual bachelor’s degrees from The University of Texas at Austin through the Liberal Arts Honors program in 2006, then a master’s degree in information studies with an emphasis on archives, and a Certificate of Advanced Study in preservation in 2009.

*In addition to being a certified archivist and member of the Academy of Certified Archivists, Tiffany is a member of the Society of American Archivists and the Society of Southwest Archivists, and has served on the Records Management Interagency Coordinating Council and the Texas Court Records Preservation Task Force.*



**BLAKE A. HAWTHORNE** is the Clerk of the Supreme Court of Texas. The Court appointed him to a four-year term on August 1, 2006, and reappointed him to a second term beginning on August 1, 2010 and again on August 1, 2014. Prior to his appointment to Clerk of the Court, Blake served the Court as the Staff Attorney for Original Proceedings. Before joining the Court, he was an Assistant Attorney General for the State of Texas and an associate in the law firms of Wiley, Rein & Fielding in Washington, D.C. and Jackson Walker in Fort Worth, Texas.

*Blake is the President of the National Conference of Appellate Court Clerks (NCACC) and Immediate Past President of the Austin Bar Association Appellate Section. He is also a member of the Judicial Committee on Information Technology (JCIT) and serves as the Co-Chair of the Electronic Filing Subcommittee.*

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