



A Mother's Day Salute to Mary Hamilton Houston

Paul D. Carrington & Kenneth Ching

CHARLES HAMILTON HOUSTON WAS a lawyer dedicated to his cause.¹ He proposed to use the law to change the shape of the society that enacted it, and was perhaps the first American lawyer to invest a career in that purpose. He acquired many of the requisite qualities from his mother, Mary Ethel Hamilton Houston, who dedicated much of her life to her only son, Charles. We propose to salute her on Mother's Day 2005.²

Mary's strength reflected that of her grandmother Joanna, who had been a South Carolina slave of sufficient will that she mutilated the hand of her master when he presumed to molest her. That resulted in a severe beating, but made the master willing

to sell her to Jesse Hamilton, a free black who emancipated and married her. Jesse and Joanna soon had a son, Amaziah Hamilton, and moved together to Wilberforce, Ohio, a center of anti-slavery sentiment. Mary Ethel Hamilton was born there in 1867, the first of ten children of Amaziah and his wife, who was also a former slave in Kentucky.

As the eldest of ten children, Mary Ethel acquired many of the duties of raising nine siblings, and helped out on the farm as well. In addition to a number of household chores, Mary helped raise the nine other children. Mary proved quite intelligent throughout secondary schooling, but was unable to continue her studies because she needed to assist her family financially. She did so without

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- ¹ His biography is Genna Rae McNeil, *Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights* (Philadelphia 1983). Much of the information in this essay comes from that source. For a recent salute to Houston, see Roger A. Fairfax Jr., *A Tribute to Charles Hamilton Houston*, 14 *Harv. Black Letter L. J.* 17 (1998).
- ² This essay is the successor to Paul D. Carrington & Laura Kelley, *A Mother's Day Eulogy for Margaret Walker Wythe*, 3 *Green Bag 2d* 255 (2000); Paul D. Carrington & Sarah Berger, *Tikkun Olam: A Mother's Day Eulogy for Frederika Dembetz Brandeis*, 4 *Green Bag 2d* 247 (2001); Paul D. Carrington, *A Mother's Day Eulogy for Janet Llewellyn*, 5 *Green Bag 2d* 265 (Spring 2002); Paul D. Carrington, *A Eulogy to Harriet Joyner Wigmore*, 6 *Green Bag 2d* 229 (2003); Paul D. Carrington & Christopher Machera, *A Father's Day Eulogy to William Darrah Kelley*, 7 *Green Bag 2d* 209 (2004).

complaint. She began teaching at the country school which many of her siblings attended.

As her siblings aged, she became free to move on. She was attracted to Paducah, Kentucky, by an offer of teaching employment. There, she met William Houston, the oldest son of Thomas Jefferson Houston, who had fled slavery in Missouri to become a conductor on the underground railway and then a Baptist minister. William was at the time a law student at Howard University. They were married in 1891, and Mary Ethel acquired employment in the District of Columbia schools, enabling her to support William while he completed his law studies. Her mother-in-law taught her the skill of hairdressing.



The Houston Family.

Charles was born in 1895 and was to be an only child. As often as their tight budget allowed, his doting parents took him to the zoo, concerts, and matinee theaters. They provided him with a piano and he spent many hours alone practicing his music. He became something of a bookworm. At twelve, he had completed the eight grades of primary school. He was then enrolled at M Street High School, the first black high school in the United States, where he received a classical education from black teachers.

The early years of William Houston's law practice were lean, so Mary supplemented

the family's income as a hair dresser. She maintained an elite clientele that included wives of senators, diplomats, and cabinet officers. Her physical appearance made her nearly indistinguishable from a white person, but she insisted on being known as a 'Negro' by her white patrons. She also insisted on entering their homes at the front door and being addressed as Mrs. Houston.

The Houstons sought to move to better neighborhoods and in time found themselves firmly entrenched in the black middle class of Washington. Charles was expected to go to college and attain the greatest academic heights. After graduating from M Street, he received a scholarship from the University of Pittsburgh. But Mary and William pushed him to attend Amherst despite a financial burden they took upon themselves.

They made sure that Charles never had to worry about money. After he arrived at Amherst, he decided that he would like two rooms: one to sleep in; one for a study. He contacted his mother who made the arrangements with the administration without mentioning it to William. He justified her faith by excelling in his studies. He was the only black member of the Amherst class of 1915. He was elected to Phi Beta Kappa.

For two years, Charles taught English at Howard, developing a course entitled "Negro Literature." When war came in 1917, he volunteered and served as an artillery officer in France, leading a unit of black American soldiers. While in the Army, he experienced more racial hostility than he had known in Washington or at Amherst. On one occasion in France, he was threatened with lynching by white soldiers. He returned home to a nation given to race riots, and determined to do something about that.

After his discharge, Houston enrolled at the Harvard Law School. He became the first black student to win a position on the

Harvard Law Review. At Harvard, he encountered some bigotry, and perceived that he was not at first welcome as a member of the Review; but later proclaimed that "all is one grand harmony My stock is pretty high in these parts. God help me against a false move."³ Dean Roscoe Pound took an interest in his career and awarded him a law school scholarship so that he might continue his study as a candidate for the doctoral degree, which he attained in 1923. Harvard then awarded him a Sheldon Fellowship supporting a year of travel and study in Madrid.

Returning from Madrid, Houston joined his father in law practice in Washington and began teaching law at Howard. There, he taught his students to be social engineers. He envisioned an army of black civil rights lawyers who would use the law to challenge the second-class citizenship of African-Americans. After comprehensive studies on the state of black legal education and lawyers, he realized black lawyers needed better training. So, Charles undertook to change Howard from a part time evening program to a fully accredited three year day school. In 1929, he was appointed vice dean of a three-year school conducted in the daylight hours, a reform made not only to satisfy the organized bar but also in response to the advocacy of Louis Brandeis, who was a university trustee.⁴ But, accreditation did not necessarily mean better lawyers, so Charles demanded the absolute best from his students and refused

to graduate anyone who could not meet his standards. His intensity met with some resistance, but also allowed him to mentor and train many influential African-American lawyers including Thurgood Marshall. "No tea for the feeble; no crepe for the dead," was said to be a motto of his program.

Houston also practiced what he preached. In addition to teaching, he volunteered his services to a number of "Negro" causes. In 1932, Houston became active in the National Association for the Advancement of Colored People as a member of its legal committee. In his first case for the NAACP, Houston prepared a powerful argument against discriminatory jury selection to protect a man in Virginia whom he believed to be falsely charged, only to have his client withdraw his assertions of innocence and plead guilty. It was, however, an achievement of advocacy that the jury did not recommend capital punishment. It was also an achievement of professionalism that he won the friendships of the sheriff and the prosecutor.⁵

At the outset in 1909, the NAACP had organized "legal vigilance" committees. Most NAACP officers and staff were by 1932 black, except for the President, who had always been white.⁶ An exception on the staff was Nathan Margold, a Jewish former student of Felix Frankfurter who was hired to plan a litigation strategy.⁷ Margold authored a plan to undermine the institutions of racial segregation by attacking the points at which they

3 McNeil, note 1, at 52.

4 Rayford W. Logan, *Howard University: The First Hundred Years, 1867–1967* at 314 (New York, 1969). The role of Brandeis is described by McNeil at 70–72.

5 Geraldine R. Segal, *In Any Fight Some Fall* 50 (Rockville, 1975) (quoting the *Philadelphia Inquirer*).

6 Gunnar Myrdal, *An American Dilemma* 819–836 (New York, 1944), gives a useful account of the Association's history and its status in 1940.

7 Mark V. Tushnet, *The NAACP's Legal Strategy Against Segregated Education, 1925–1950* at 15–17 (Chapel Hill 1987). And see Nathan Margold, *Preliminary Report to the Joint Committee Supervising the Expenditure of the 1930 Appropriation by the American Fund for Public Service to the NAACP*, in Jack Greenberg, *Cases and Materials on Judicial Process and Social Change: Constitutional Litigation* 50 (St. Paul 1977).

were most vulnerable, i.e., where the principle of separate-but-equal was most visibly unworkable. Houston and the Howard Law School became the instruments for pursuing Margold's plan.

With Margold's scheme in hand, Charles started his relentless attack on de jure segregation that would continue throughout his life. He built a string of precedents that once placed together undermined the feasibility of separate but equal both legally and economically. He demanded equal pay for black teachers, challenged university admission policies, and fought against racially restrictive real covenants. In 1935, he was designated to direct the NAACP campaign against Jim Crow laws and it was during the next critical years that he shaped its objectives and chose its targets. In 1939, Charles returned to practice with his father in Washington, leaving the NAACP role in the hands of Marshall. But he continued to play a leading role in the organization, and to handle cases with Marshall and others.

In 1947, Mary died. Her husband William confessed he had little interest in life after

her passing. And Charles took her death very hard. He had for all his adulthood confided nearly every detail of his life to his mother. A letter she wrote Charles in 1913 illuminates their relationship:

At the close of the day I turn to you my dear for a break with the tasks, for sunshine, for happiness. I have a mental picture of 22 years before me now, the canvas thank God is not full, there is room for many more years. But that part of the picture which [is finished] is satisfactory – yes, even more than I ever dreamed. God keep you my Boy, fill your life from good deeds so that when evening of life comes, that your path may be made as bright as the noonday sun by the blending of the lights from the canvas.⁸

Charles died of heart failure in 1950 and so did not live to see the consequences of his career. His name is nonetheless familiar to readers of the *Green Bag*, and they can be expected to join in this salute to him and to his mom, whose hopes he sought so vigorously to pursue. *GB*

8 www.law.umkc.edu/faculty/projects/ftrials/trialheroes/charleshoustonessayF.html.