

American University Washington College of Law

Digital Commons @ American University Washington College of Law

Articles in Law Reviews & Other Academic Journals

Scholarship & Research

2006

A Tribute to Professor Charles J. Ogletree, Jr.

Roger Fairfax

Follow this and additional works at: https://digitalcommons.wcl.american.edu/facsch_lawrev



Part of the [Criminal Law Commons](#), and the [Criminal Procedure Commons](#)

A TRIBUTE TO PROFESSOR CHARLES J. OGLETREE, JR.

*Roger A. Fairfax, Jr.**

I recall vividly how, as a junior at Harvard College, I landed a coveted position on Professor Ogletree's office hours list. My ostensible purpose for taking an office hours slot away from a deserving law school student was to discuss the college seminar paper I was writing on the District of Columbia statehood movement. Although I did leave that meeting with several fruitful research leads, I was much more satisfied with achieving my true aim—to meet in person this man about whom I had heard so many wonderful things. The professor did not disappoint. As I sat in his office—the old office in Griswold, not the fancy new one in Hauser Hall—I soaked up tales of PDS trials and Supreme Court litigation, lessons on the ethical obligations of lawyers, and the story of a lawyer named Charles Hamilton Houston.

I somehow finagled another visit to Tree's office before the summer. Tree must have realized that this persistent college student from northeast D.C. had determined to latch on permanently, and I left that meeting with an offer for a part-time summer job working on an evidence and technology project with which Tree was affiliated. That job led to an internship with Tree's Criminal Justice Institute, where I was able to work for Tree and the staff, faculty, and students of the criminal defense clinic at Harvard during my senior year in college.

After graduate school abroad, I returned to Cambridge to attend Harvard Law School, where I was fortunate to serve as one of Tree's research assistants and, during my third year, to take his same criminal defense clinical course for which I had been an intern when in college. I also was privileged to assist Tree on various *pro bono* matters, including his representation of individuals involved in independent counsel investigations of the late 1990s. That experience gave me the opportunity to witness firsthand Tree's brilliance play out in a practice setting. My research work for those matters sparked my curiosity in the nature and function of the grand jury—a central theme of my research agenda as a law professor today.

However, the most meaningful work I did with Tree took place when I was a third-year law student planning a symposium to honor Charles Hamilton Houston, LLB '22, S.J.D. '23, a man whose life I had studied since

* Associate Professor of Law, George Washington University Law School. J.D., Harvard Law School; M.A., University of London; A.B., Harvard. Research Assistant to Professor Charles J. Ogletree, 1996–1998.

being introduced to his story by Tree several years earlier.¹ When a classmate and I sought faculty support for a program to honor Charles Hamilton Houston on the seventh-fifth anniversary of his graduation from Harvard Law School, we were greeted with enthusiasm by Tree and his colleagues, the late Judge A. Leon Higginbotham, Randall Kennedy, and David Wilkins.² Our student committee's wildest dreams for the symposium paled in comparison to what actually transpired in February of 1998.³

The two-day symposium, which examined and celebrated the life and contributions of the oft-described "architect" of the legal demise of Jim Crow, featured the personal reflections of Houston's family, Houston's biographer, three past directors-counsel of the NAACP Legal Defense and Educational Fund, Inc., distinguished jurists, professors, and attorneys who worked elbow-to-elbow with Houston to develop the precedential foundation for the *Brown v. Board of Education* decision.⁴ It was a magnificent event, and Tree was instrumental in helping us bring to Harvard many of these tremendous individuals, all of whom illuminated the Houston legacy.

Tree has been building his own formidable legacy for over twenty-five years now. His many publications and well-deserved honors are rightfully catalogued elsewhere in this issue. Furthermore, one taking stock of his institutional contributions certainly will be dazzled by his past service as deputy director of the D.C. Public Defender Service, chair of the Board of Trustees of the University of the District of Columbia, and member of the Board of Trustees of Stanford University, as well as his ongoing service to Harvard Law School, the B.E.L.L. Foundation, the Benjamin Banneker charter school in Cambridge, Mass., and now the Charles Hamilton Houston Institute for Race and Justice. Certainly, Tree has compiled a re-

-
1. Houston was, among many other things, the architect of the legal assault on the Jim Crow regime, a law professor and dean at Howard Law School, a brilliant lawyer, and the leader of and mentor to a cadre of talented and dedicated civil rights lawyers, including Thurgood Marshall. See generally GENNA RAE MCNEIL, GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS (1983); Roger A. Fairfax, Jr., *Wielding the Double-Edged Sword: Charles Hamilton Houston and Judicial Activism in the Age of American Legal Realism*, 14 HARV. BLACKLETTER L.J. 17 (1998). Harvard takes particular pride in the Houston legacy, as Houston graduated from Harvard Law School at the top of his class, was the first African American editor of the *Harvard Law Review*, and was a protégé of then-faculty members Roscoe Pound and Felix Frankfurter. See *id.* Thanks to a host of individuals, including Tree, Houston's legacy needs explaining to far fewer people than it did in 1993. Today, the Dean of Harvard Law School, Elena Kagan, holds the title Charles Hamilton Houston Professor of Law.
 2. My co-convenor and classmate, Diara Holmes '98, and I were assisted by a talented group of first- and second-year law students, including Danielle Holley '99, Darin Johnson '00, Kwame Manley '00, Te-Mika Warner '00.
 3. The symposium was commemorated in volume 14 of this journal, and in volume 111 of the *Harvard Law Review*.
 4. Symposium participants included the Honorable Robert Carter, the late Honorable A. Leon Higginbotham, the Honorable June Miles, the Honorable Annice Wagner, Julius Chambers, Esq., Professor Jack Greenberg, Conrad Harper, Esq., William H. Hastie, Jr., Esq., Oliver Hill, Sr., Esq., Charles Hamilton Houston, Jr., Dr. Caron Houston, Elaine Jones, Esq., Professor Randall L. Kennedy, Professor Genna Rae McNeil, Professor J. Clay Smith, Professor James Vorenberg, and Professor David Wilkins.

cord of commitment to education and justice that would rival any of his contemporaries.

However, what continues to impress me most is the tremendous work Tree does outside of institutional boundaries. Tree does so much that goes relatively unnoticed and unheralded—from working behind the scenes to diversify law clerk ranks at all levels of the state and federal judiciary, to launching and guiding the legal, academic, business, and judicial careers of untold numbers of law students who have come under his tutelage, to quietly reaching across party and ideological lines to draw leaders together to arrive at solutions to some of the most thorny problems facing our communities. As passionate as he is about a myriad of social justice issues, Tree is able to work productively and form friendships with a diverse array of people across the ideological spectrum. The widespread recognition of Tree's fairness and reputation as an honest broker is manifested in his status as the "go-to" person for everything from moderating discussions of difficult issues by important thinkers to moderating high-stakes political debates. Tree is, in a word, ubiquitous.

As I sat in the Harvard Law School's Ames Courtroom, at the unveiling of the Charles Hamilton Houston Institute for Race and Justice in September of 2005, it certainly was not lost upon me that the Institute's inaugural director shared many of the qualities of the man in whose name the entity was founded. I heard similar sentiments spoken in Tree's presence by various observers over the years and each time Tree modestly and politely dismissed any such suggestion that he has stepped into the shoes of a towering figure like Houston.

Tree's typical humility aside, I foresee another symposium that will one day be held at Harvard Law School to honor *him*. As with the 1998 Houston symposium, people will once again gather from far and wide to discuss the life and contributions of a Harvard-trained law professor who lent us his brilliance and mastery of the law, who trained, mentored, and inspired scores of lawyers, judges, and law professors, who had an insatiable thirst for social justice, and who worked tirelessly to help bend that arc of the moral universe toward justice.⁵ All of these descriptors are properly applied to Houston, and they also will be applied to Tree.

Beginning with that first meeting with Tree during my college days, he continues to affect my life and career in ways I may never fully comprehend. I have relied on his wisdom, counsel, and judgment on countless occasions. Whether an encouraging e-mail—usually dashed off at 3:00 AM, a quick chat during one of his trips to Washington, or a long and meandering conversation while fishing on the Chesapeake Bay, I treasure the interactions we had and continue to have. I cannot count the number of times that my solution to a knotty question was simply to "call Tree." I am a constant beneficiary of the support, inspiration, and counsel so many have come to rely upon Tree to give.

At a recent academic conference where Tree was present, another one of Tree's former research assistants and I joked about how once you work for Tree, you always work for Tree. As those who know him will recog-

5. "[T]he arc of the moral universe is long, but it bends toward justice." Reverend Dr. Martin Luther King, Jr., "Our God is Marching On!" (Mar. 25, 1965).

nize, it is not uncommon to get an e-mail from Tree regarding some project he has undertaken and on which he requires assistance or help spreading the word. Of course, because it is Tree, you always drop whatever you are doing to lend a hand. One of my most valued possessions is a framed poster announcing the Charles Hamilton Houston symposium I helped organize back in 1998. Unbeknownst to me as I scurried about dealing with logistics during the event, my wife was quietly gathering all of the participants' signatures on the poster she later had framed for me. Nestled among plaudits from everyone including the Dean and faculty members of the Law School, to Mr. Oliver Hill and Judge A. Leon Higginbotham, is Tree's inscription—"Roger, Great job. I'll see you Monday to discuss your next project." That was quintessential Tree—never resting on laurels, always pushing forward, and forever seeking and conquering the next challenge. Perhaps that is why we never stop working for Tree—because he never stops working for all of us.