

MYERS v. ANDERSON
A STORY OF A STRUGGLE
FOR POWER AND SURVIVAL
IN MARYLAND

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Myers v. Anderson

The Story of a Struggle for Power and Survival in Maryland

Introduction

The year 1909 was a pivotal one for the Republican Party in the State of Maryland. The Straus amendment, named after its drafter Issac Lobe Straus, easily cleared the heavily controlled Democratic legislature in 1908, and was on the ballot for popular approval in the election of 1909.¹ If this proposal passed, the Democrats would effectively eliminate the struggling Republican Party in Maryland.² The Republican Party's immediate future depended upon defeating this amendment in a statewide referendum vote. However, Annapolis Negroes, who were overwhelmingly Republican, had a more pressing and immediate problem.

The Maryland state legislature passed a law in 1908 titled "Section 525" that effectively disenfranchised 90% of the Negro vote in Annapolis municipal elections.³ James Albert Adams, the

¹ *Democrats Warn of Changes*, Baltimore Sun (Feb. 3, 1908). Issac Laub Straus was the newly elected Maryland attorney general in 1907. He headed the Democratic Committee and supervised drafting the Straus amendment which designated six classes of persons who might vote in Maryland elections. The first four classes enfranchised all white male voters and the latter two were designed to qualify Negro voters.

² See the *Democratic platforms of 1907 and 1911*, in the *Baltimore Sun*, August 9, 1907 and September 8, 1911. The Democratic Party intended to eliminate "all illiterate Negroes" with the Strauss amendment while granting "illiterate white males" the right to vote in Maryland elections. At the dawn of the 20th Century, Negroes voted overwhelmingly Republican. Therefore a law such as Strauss would rob the Republican party of a significant number of would be eligible voters.

³ Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 138, (John Hopkins Univ. Press 1969) (Quoting, *The Afro-American Ledger*, June 12, 1909.)

Negro City Councilman for the Annapolis 4th ward, was in danger of loosing his seat because of this bill.⁴ The Negroes in Annapolis and the Republican Party had to do everything in their power to protect this small foothold in Annapolis city government. Three Negro citizens, represented by the foremost Republican organizer in the state, Charles J. Bonaparte, brought a civil suit against the city registrars in an attempt to force the city of Annapolis, the state of Maryland, the Democratic Party, and the federal government to recognize that the Negro, through the Republican Party, had an important role to play in Annapolis city government.

John Anderson, William Howard, and Robert Brown brought three separate civil suits under Section 1979⁵ against the Annapolis City registrars in Federal Circuit Court, District of Maryland on June 30, 1909.⁶ The suit alleged that the registrars by complying with "Section 525", denied the three men of their federal constitutional right to vote.⁷ Sitting without a jury Judge Thomas J. Morris ruled in favor of the three Negro men and against the registrars on February 3, 1911.⁸ The registrars, backed by the Maryland Democratic Party, immediately appealed to the U.S. Supreme Court and the Court accepted the case and heard

⁴ Edward C. Papenfuse, *Preserving Municipal Heritage*, Maryland Municipal League <<http://www.md-municipal.org/>> (June 26, 2002)

⁵ 42 USC § 1983 (2003).

⁶ *Howard v. Myers et al* 182 F. 223 (C.C.D. Md. 1910).

⁷ *Declaration of William H. Howard, Howard v. Myers et al* 182 F. 223 (C.C.D. Md. 1910).

oral arguments in the case on June 11, 1913.⁹ On June 21, 1915, the United States Supreme Court unanimously affirmed the Circuit Court of the United States for the District of Maryland's decision in *Anderson v. Myers*¹⁰. The case was one in a series of decisions that eventually struck down the so-called "Grandfather Clauses"¹¹ that many southern states passed in an effort to disenfranchise or deny the Negro the right to vote.¹² Although, the *Myers v. Anderson*, 238 U.S. 368 (1915) took a back seat to its popular cousin, *Guinn v. United States*, 238 U.S. 347 (1915), it represented an important victory in the fight against disenfranchisement for the Negro in Maryland.

The scope of this essay is to provide a comprehensive case study of *Myers v. Anderson*¹³ by critically assessing the role political parties played in the plight for Negro suffrage in Maryland. The methodology used will be topical by: (1) examining post-Civil War historical context in which the question of Negro suffrage arose in Maryland and other southern states; (2) identifying and examining the Maryland Grandfather Clause under which the city registrars denied the three Negro

⁸ *Anderson et al v. Myers et al*, 182 F. 223 (Cir. Ct., Dist. Md, 1910)

⁹ *Myers v. Anderson*, 238 U.S. 368 (1915)

¹⁰ 182 F. 223; (C.C.D.Md., 1910); Supreme Court Decision, *Myers v. Anderson*, 238 U.S. 368 (1915).

¹¹ *Black's Law Dictionary* 101 (Bryan A. Garner ed., 7th ed., West 1999). Black's defines as: a clause in the constitutions of some Southern States exempting from suffrage restrictions the descendents of men who voted before the Civil War....

¹² See *Giles v. Harris*, 189 U.S. 475 (1903); *Giles v. Teasley*, 193 U.S. 146 (1904); *Guinn v. United States*, 238 U.S. 347 (1915); *U.S. v. Moseley*, 238 U.S. 383 (1915)

¹³ *Myers*, 238 U.S. 368 (1915)

men the right to vote in Municipal elections; and (3) probing the federal statute under which the three Negroes sued for damages. Additionally, this essay will lay out the procedural background of the Myers case from its beginning to the appeal to the United States Supreme Court, identify interested persons, specifically William Howard¹⁴, that had a stake in the outcome of this case, detail how many southern states, other than Maryland, dealt with the issue of Negro suffrage, and examine the Supreme Court decision and the likely judicial politics that resulted in a unanimous decision. Finally this essay will give the media's reaction to the Supreme Court decision, present the short and long-term impact the litigation had in Maryland and other Southern states.

Historical Context of Negro Suffrage in Maryland

The Fourteenth Amendment to the United States Constitution guaranteed basic civil rights to all citizens.¹⁵ The Republican dominated Congress intended, with this amendment, to persuade (not compel) ex-Confederate southern states¹⁶ to grant suffrage

¹⁴ this essay provides a biographical analysis of William Howard, one of the few Negro attorneys in Annapolis at the turn of the Twentieth century.

¹⁵ The United States ratified the 14th amendment in July 1868. The amendment made all former slaves and free Negroes in Maryland citizens of the United States and Citizens of Maryland.

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State where they reside. U.S. Const. amend. VX

¹⁶ The Confederate States included Virginia, North Carolina, South Carolina, Georgia, Alabama, Tennessee, Mississippi, Louisiana, Texas, Florida, Arkansas and all were dominated politically by the Democratic party prior to and during the Civil War. The Republican Party by advocating for the Negroes right to suffrage assured party stability in each of these southern states.

to the Negro.¹⁷ Additionally, Congress, with passage of the 14th amendment, required the ex-Confederate southern states to adopt new constitutions allowing Negro suffrage before readmitting to Congress, senators and representatives from those states.¹⁸ However, southern states such as Maryland, which remained loyal to the union during the Civil war, still denied suffrage to its Negro population.¹⁹ Therefore, Congress, controlled by the Republican Party, faced a situation where ex-Confederate states granted Negro suffrage and loyal border-states, such as Maryland, denied Negro suffrage.

The end of the Civil War brought political chaos to Maryland. The Unionist party dominated Maryland politics during the war because the Democratic Party was virtually outlawed.²⁰ However, with the controversy over Reconstruction, the Democratic Party gained new life while the Unionist party disintegrated into factions.²¹ Conservative Unionist merged into

¹⁷ David Troy, *Celebrating Rights and Responsibilities, The Story of the 15th Amendment in Maryland* <http://www.toad.net/~dave/project/story.html> (last updated 1996).

¹⁸ Angela P. Harris, *Equality Trouble: Sameness and Difference in Twentieth-Century Race Law*, 88 Cal. L. Rev. 1923.

¹⁹ The Maryland Constitution of 1867 conferred the privilege of Suffrage upon "every white male citizen". See *Md. Const. of 1867*.

²⁰ Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 138, (John Hopkins Univ. Press 1969) (Citing Richard Paul Fuke, "The Break-up of the Maryland Union Party, 1866" (M.A. thesis, University of Maryland, 1965), pg. 32-33.

²¹ *id* at 14. Most Marylanders favored immediate restoration of the Southern States to their pre-war standing, the policy favored by President Andrew Johnson. However, a small faction of the Unionist party favored the Congressional Reconstruction plan. When it became clear that Congress would have its way with Reconstruction in South, the Unionist party split into factions.

the Democratic Party while the more radical wing joined forces with the fledgling state Republican Party.²²

The Maryland Republicans, in 1867 sensed their dismal political future and saw one possible route to power, that being, enfranchisement of the 39,120 Negro males and incorporating them into the Republican party.²³ The Republican Party held a state convention in May, 1867 and invited Negro delegates and appointed them to the party's central committee.²⁴ At the same time, the Maryland legislature, dominated by Democratic membership, called and held a constitutional convention in 1867 and proposed to exclude all Negroes from state elections.²⁵ With little hope of success at the state level, the Maryland Republicans sought for passage of a Fifteenth Amendment to the United States Constitution, to enfranchise the Negro in Maryland thereby guaranteeing the parties survival in a state dominated by the Democrats.²⁶

The Fifteenth Amendment to the Constitution became law March 30, 1870 and reads as follows:

²² *id* at 14.

²³ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 17, (John Hopkins Univ. Press 1969) (Citing *Baltimore Sun*, February 28, 1867). The practical reason for such a strategy was to shore up the Republican party in Maryland. The success of the Republican party nationally was without question; however, the party struggled in Maryland. The state elected a Democratic Governor, Oden Bowie in 1867, and the Democrats controlled the State Legislature as well.

²⁴ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 17, (John Hopkins Univ. Press 1969) (Citing *Baltimore Sun*, May 15, 1867).

²⁵ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 17, (John Hopkins Univ. Press 1969) (Citing William Starr Myers, *The Reconstruction of Maryland, 1864 -1867*, 94, (Baltimore, 1909)); Maryland Constitution of 1867.

"Sec. 1. The right of every citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude."

"Sec. 2. The Congress shall have power to enforce this article by appropriate legislation."²⁷

Congress exercised the powers conferred upon it in the amendment by enacting the following "appropriate legislation":

Sec. 2004. All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality or other territorial subdivision, shall be entitled and allowed to voted at all such elections without distinction of race, color or previous condition of servitude; any constitution, law, custom, usage or regulation of any State or Territory, or by or under it authority, to the contrary notwithstanding."²⁸

A Private Right of Action

In addition to enacting Section 2004 under the "appropriate legislation" provision of the Fifteenth Amendment, Congress enacted Section 1979 on April 20, 1871. The revised statute gave private citizens a cause of action in equity against those who infringed upon their right of suffrage. The law read as follows:

Sec. 1979. Every person who under color of any statute, ordinance, regulation, custom or usage of any State or territory, subjects or causes to be subjected any citizen of the United States, or other person within the jurisdiction thereof, to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party in

²⁶ David Troy, *Celebrating Rights and Responsibilities, The Story of the 15th Amendment in Maryland* <http://www.toad.net/~dave/project/story.html> (last updated 1996).

²⁷ U.S. Const. amend. XV

²⁸ Acts of May 31, 1870, c. 114, sec. 1, now Rev. Stat. §2004 (1913)

an action at law, suit in equity, or other proper proceeding for redress.²⁹

Additionally, Congress enacted Clause 16 of Section 629 of the Revised Statutes giving the Federal Circuit Courts original jurisdiction over the above-mentioned suits.³⁰

Before enactment of the Fifteenth amendment, the Constitution of Maryland³¹ conferred the privilege of suffrage only upon "every white male citizen".³² Although the amendment did not guarantee the Maryland Negro the right to vote, it eliminated the word "white male" from the Maryland Constitution.³³ By operation of the 15th amendment, Negroes could vote in national and presumably Maryland state elections. Therefore, with passage of the fifteenth amendment, Section 2004, and Revised Section 1979, Congress provided itself, the United States Government, and private citizens with powerful tools to combat individuals, States or other entities that attempted to deny the Negro suffrage.

The Disenfranchisement Movement

In 1901 the Maryland legislature, dominated by the Democratic Party, passed the election law of 1901.³⁴ The law eliminated straight party ticket voting by prohibiting party

²⁹ 42 USC § 1983 (2003).

³⁰ U.S. Comp. St. 1901, p. 506

³¹ Adopted in 1867 by the Maryland Constitutional Convention

³² See Md. Const. of 1867.

³³ Myers v. Anderson, 236 U.S. 368, 376, (1915)

³⁴ Laws of Maryland, Extraordinary Session, 1901, pg 4-23.

grouping, removed all party emblems from the ballot, and prohibited assistance for voters in marking their ballots except for those who were physically disabled.³⁵ The law provided that candidates could be listed alphabetically with the name of their party spelled out next to their name under the office they sought.³⁶ Additionally, the law required those who left the state temporarily, specifically the Negro population in Southern Maryland who traveled daily into Washington, DC, to declare their intention to return, or lose their legal residence and right to vote.³⁷ The Democrats intended to exclude the votes of eligible Negro voters who were illiterate. However, the Republicans countered with an ingenious plan of their own.

The Republican Party prepared for municipal elections of 1901 by opening schools and teaching its illiterate Negro voters to recognize the word "Republican" on the ballot.³⁸ The Democrats attempted the same with its illiterate white voters, but the white males were unwilling to learn.³⁹ The law decreased voter turn-out throughout the state, which aided the Republican Party's bid to maintain a voice in state politics. Addition-

³⁵ *id at 22.*

³⁶ *id at 23.*

³⁷ *id at 23.*

³⁸ *Seven More Nominees, DD Dickerson Goes on Ticket*, Baltimore Sun, (Apr. 26, 1901).

³⁹ *No Blanket Ballots, Democrats Deny Rumor Circulating among Republicans*, Baltimore Sun, (Apr. 27, 1901).

ally, the Republicans won seats on the Baltimore City Council and picked up about 20 seats in the State legislature.⁴⁰

The Democrats, sensing failure in their first attempt to break the Republican Party through Negro disenfranchisement, ran and won on a racist platform in 1903 vilifying the Negro and pledged to amend the election laws so that the Negro would no longer participate in state elections.⁴¹ The heavily democratic legislature, advised now by John Prentice Poe⁴² and Arthur P. Gorman⁴³, introduced and passed the Wilson Ballot Law.⁴⁴ The law prohibited the use of party emblems, party names or any party designation on the ballot. Moreover, the prohibitions applied only to counties that had either a large Negro population or where the Republicans held a majority.⁴⁵ The Republican Party, smaller yet highly organized, countered this law by again instructing its illiterate constituents on how to mark their ballots. Those who had problems recognizing the Republican

⁴⁰ *Willing to Serve, The New Counsel*, Baltimore Sun, (May 9, 1901).. The Republican Party won seventeen of the twenty-four seats in the first branch of the Baltimore City Counsel and all four of the second branch seats. Additionally, Republicans increased their representation in the House of Delegates from twenty-six to forty-three out of ninety-one seats.

⁴¹ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 107, John Hopkins Univ. Press 1969) (Citing *Baltimore Sun*, September 18, 1903). The Democratic Platform read, "We believe that the political destinies on Maryland should be shaped and controlled by the white people of the state.... And we declare without reserve our resolute purpose to preserve in every conservative and constitutional way the political ascendancy of our race."

⁴² John P. Poe, served as Dean of the Maryland Law School and was the unofficial advisor to the Democratic Party aiding in drafting election laws that were aimed at disenfranchising Negroes.

⁴³ Arthur P. Gorman was elected to four terms in the United States Senate and controlled the Maryland Democratic Party during the disenfranchisement movement.

⁴⁴ Laws of Maryland, 1904, chap.339, p. 601; Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 109, John Hopkins Univ. Press 1969). The Wilson Ballot Law, named after William R. Wilson, of Queen Anne's County, was an attempt at "fixing a higher standard of qualification for the exercise of the elective franchise".

candidates were instructed to recognize symbols in the names similar to farm equipment.⁴⁶ The ballot laws of 1901 and 1904 substantially decreased voter participation in Maryland elections for both whites and Negroes.⁴⁷ Although the Democrats intended to disenfranchise the Negro voter with both laws, the direct effect of the laws further aided the Republican Party in maintaining its voice in Maryland politics.

The Democratic Party made three separate attempts via constitutional amendments to remove the Negro from the political arena. The Poe Amendment posed the most serious threat to the Negroes right to vote in Maryland elections.⁴⁸ The amendment proposed to restrict voting privileges to males who qualified in one of four categories:

- (1) a person able to read and to give a "reasonable explanation" of any section of the Maryland constitution submitted to him by the officers of registration;
- (2) a person unable to read but able "to understand and give reasonable explanation" of a section of the constitution read to him by registration officials;
- (3) a person who on the first day of January, 1869, or prior thereto, was entitled to vote under the laws of this State of the United States wherein he then resided;

⁴⁵ *id.* The counties included Anne Arundel, Calvert, Charles, Frederick, Garrett, Kent, Prince Georges, St. Mary's, Somerset, Talbot, and Worcester. The Wilson law intended to make impossible for illiterate Republican voters to cast effective ballot in areas where the Republican Party held a majority.

⁴⁶ Baltimore Sun, October 23, 1904.

⁴⁷ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 112 (Figure 4), (John Hopkins Univ. Press 1969) (Citing to U.S. Bureau of the Census, Twelfth Census of the United States; 1900 Population, 2:188, and Thirteenth Census of the United States: 1910. Population, 2:843-47.

⁴⁸ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 115, (John Hopkins Univ. Press 1969) The text of this amendment did not appear in either the *Laws of Maryland* or in the house and senate journals; however, the complete text appeared in the *Baltimore Sun*, (Aug. 29, 1905), (appendix 27, titled Proclamation) .

(4) a male lineal descendent of such last-mentioned person who may be twenty-one (21) years of age or over in the year 1906.⁴⁹

The amendment posed such a serious threat to the Republicans and their Negro constituents that the Republican party turned to Charles J. Bonaparte.⁵⁰ Bonaparte's strategy was simple yet effective. He mapped out a plan whereby Republican regulars and their Negro constituents stayed in the background and aided the anti-Poe forces in the Democratic Party to defeat the proposed amendment.⁵¹ Additionally, Bonaparte formed alliances with independents eager to voice their concerns with the amendment, thereby giving the fight against the amendment and air of nonpartisanship.⁵² The strategy proved effective, as the amendment was defeated 104,286 to 70,227 in a state wide vote.⁵³ Bonaparte proved a capable leader of the Republican fight to defeat this and other disenfranchising amendments presented by the Democrats.

⁴⁹ *Id* at 115. The amendment named after its drafter Dean John P. Poe, Maryland Law School, was approved by the same state legislature that approved the Wilson Ballot Law. It was an attempt to copy other southern states in their attempt to disenfranchise their Negro population while Grand fathering their white population.

⁵⁰ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 17, John Hopkins Univ. Press 1969) (Citing Jane L. Phelps, "Charles J. Bonaparte and Negro Suffrage in Maryland," *Maryland Historical Magazine*, 54, 342, (December, 1959). Charles Bonaparte was a prominent Maryland Republican of aristocratic lineage and considerable wealth who had been appointed Secretary of the Navy by Theodore Roosevelt. Bonaparte founded the National Civil Service Reform League in the 1880's and used this organization to gain control of the Republican Party. Bonaparte opposed the Maryland Democratic machine by organizing the smaller Republican Party into a well oiled and driven machine capable of capitalizing on Democratic disunion to defeat the Poe amendment.

⁵¹ *Baltimore Sun*, October 6, 13, 1905. The Anti-Poe forces were considerable in Maryland. They included the League of Foreign Born Citizens whom believed that a considerable number of their constituents would be affected by this amendment. Additionally, there was the independents in the Democratic Party that resented the Gorman-Rasin Machine and wanted to topple it and reorganize the Democratic platform.

⁵² *Baltimore Sun*, October 27, 1905.

⁵³ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 17, John Hopkins Univ. Press 1969) (Citing *Maryland Manual*, 1905, p. 306.)

The Democrats next attempt at disenfranchising the Negro voter in Maryland by constitutional amendment was the 1907 Straus Amendment.⁵⁴ The Straus amendment designated six classes of persons who might vote in future elections in Maryland. The first four classes, which were conferred immediate voting rights, were designed to enfranchise all white males:

- (1) any person entitled to vote in or prior to January, 1869;
- (2) any male descendant of such person;
- (3) any foreign-born citizen naturalized between January 1, 1869, and the date of the amendment's adoption; and
- (4) any male descendant of such person.⁵⁵

A person who qualified under any of these four categories and fulfilled residence and age requirements merely had to make a sworn personal affidavit to this effect, which registrars had to accept as prima facie evidence of qualification. The last two classes of the amendment were designed as categories under which Negroes would have to qualify in order to vote. According to the amendment, voting rights also would be extended to:

- (5) a person who, in the presence of the officers of registration, shall in his own handwriting, with pen and ink, without any aid, suggestion or memorandum whatsoever and without any question or direction addressed to him by any of the officers of registration, make application to register correctly, stating in such application his name, age, date and place of birth, residence and occupation, at the time and for the two years next preceding, the name or names of his employer or employers, and whether he has previously voted, and if so, the State, county or city and district or precinct in which he voted last, and also the

⁵⁴ The amendment was named for its drafter Isaac Lobe Straus, a prominent lawyer of Jewish descent who had just been elected Attorney General in 1907. Straus was from Baltimore. The amendment cleared the legislature in 1908 on strict party lines and went on the ballot for popular approval in 1909.

⁵⁵ *Laws of Maryland*, 1908, chap. 26, pp. 300-304.

name in full of the President of the United States, of one of the Justices of the Supreme Court of the United States, of the Governor of Maryland, of one of the Judges of the Court of Appeals of Maryland and of the Mayor of Baltimore City, if the applicant resides in Baltimore City, or of one of the County Commissioners of the county in which the applicant resides; or

- (6) a person, or the husband of a person, who owned and was assessed on the tax books for \$500.00 of real or personal property, and had owned, paid taxes on, and had tax receipts for this property for the preceding two years.⁵⁶

The amendment posed an impracticable test for Negroes; however, it is important to note that the amendment did not have an expiration date on either the grandfather clause or the naturalization clause.⁵⁷ Bonaparte organized the Republicans and made defeat of the amendment top priority. Additionally, he allied with The League of Foreign Born Voters and The Negro Suffrage League, forming a strong opposition group against the amendment.⁵⁸ However, the Democrats, led by Strauss, presented the amendment as one that would make the Negro a better citizen by encouraging thrift, education and property ownership.⁵⁹ The Republicans defeated the amendment at the polls by popular vote in the election 1909. The defeat was due in part to a large number of foreign born Democrats in Baltimore and Western Maryland Democrats who distrusted the disenfranchisement

⁵⁶ Laws of Maryland, 1908, chap. 26, pp. 300-304.

⁵⁷ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912*, 128, (John Hopkins Univ. Press 1969) (Citing to Baltimore Sun, February 3, 7, 1908). Straus and other drafters left the expiration date out because they reasoned that by the time the federal courts heard a case challenging the amendment, the Grandfather clause would have expired leaving its remaining provisions to operate equally against white and Negroes. Finally, the drafters reasoned that their white citizens would never approve a clause that subjected their kids to educational or property requirements.

⁵⁸ *The Baltimore Afro-American Ledger*, October 16, 1909.

movement.⁶⁰ The defeat of this amendment assured the Republicans of their primary goal of maintaining a two party system in Maryland, while ensuring that their Negro constituents maintained their suffrage rights.

The third and final statewide amendment that attempted statewide disenfranchisement was the Digges amendment.⁶¹ The amendment was clearly racist in that it conferred voting rights on all white males of legal age and residence and required Negroes to own an pay \$500.00 in personal or property taxes.⁶² The amendment was submitted for popular approval in the fall of 1911.⁶³ The amendment fared worse than previous attempts in that it did not gain a majority of votes in any city or county in the state.⁶⁴

The Democratic controlled Maryland legislature attempted to disenfranchise the Negro through three separate amendments to the Maryland Constitution. All three failed because the Republican Party, although smaller, was well organized and focused on defeating each amendment through popular vote at the polls. Additionally, the Republican Party took advantage of

⁵⁹ *Uplifting the Afro-American*, The Baltimore Afro-American Ledger, (Oct. 2, 1909).

⁶⁰ Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912, 131*, (John Hopkins Univ. Press 1969); Baltimore Sun, November 6, 1909.

⁶¹ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912, 131*, (John Hopkins Univ. Press 1969). The amendment was sponsored and named after Walter M. Digges, a Maryland Delegate from a long-time Republican Stronghold, Charles County.

⁶² Laws of Maryland, 1910, chap. 253, pp. 446-48.

⁶³ See Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912, 132*, (John Hopkins Univ. Press 1969) (Citing Baltimore Sun, November 9, 1911).

⁶⁴ *id.*

factions in the Democratic party, often allying with these factions, to defeat the amendments. However, the Democratic legislature did not need popular approval to introduce and pass municipal legislation, and in 1908 the legislature passed legislation for the city of Annapolis that effectively denied Negroes the privilege of voting in local elections.

The Maryland Law and the inception of the Grandfather Clause

The Maryland State legislature passed a law in 1908 titled "An Act to fix the qualifications of voters at municipal elections at the City of Annapolis and to provide for the registration of said voters."⁶⁵ The law provided for the appointment of three Registers for each ward in the city of Annapolis to serve for two years.⁶⁶ Furthermore, the law conferred the right to vote in Municipal election to all male citizens 21 years and older, who resided in the municipality for one year, had not been convicted of a crime and who came within one of the following:

1. All taxpayers of the City of Annapolis assessed on the city books for at least five hundred dollars.
2. Any duly naturalized citizens. 2 ½ and male children of duly naturalized citizens who have reached the age of 21 years.
3. All citizens who, prior to January 1, 1868, were entitled to vote in the State of Maryland or any other State of the United States at a state election, and the lawful male descendents of any person who prior to January 1, 1868, was entitled to vote in this State or in any other State of the

⁶⁵ Md. Laws of 1908, c525, p.347.

⁶⁶ Md. Laws of 1908, c525, p. 347, sec. 1.

United States at a state election, and no person not coming within one of the three enumerated classes shall be registered as a legal voter in the City of Annapolis or qualified to vote at the municipal elections held therein...⁶⁷

This enactment effectively disenfranchised all native-born Negroes and their male descendents, who did not pay at least five hundred dollars in taxes, from all municipal elections in the city of Annapolis.⁶⁸ However, Maryland was not the first state to disenfranchise Negro voters.

The Louisiana legislature enacted the first Grandfather Clause in 1898.⁶⁹ The law granted suffrage to males twenty-one years and older who before 1867 could vote and their male descendents.⁷⁰ Additionally, foreign-born naturalized males over twenty-one were permitted to register without meeting literacy or property requirements. The law required all others to pass literacy test and to be able to write or recite parts of the Constitution.⁷¹ As in Maryland, there was no hiding the purpose of this law. In the words of the *New Orleans Times-Democrat*, the law aimed "at placing every white voter on the poll list and keeping out nearly every Negro, without violating the Federal Constitution".⁷²

⁶⁷ Md. Laws of 1908, c525, p. 347, Sec. 3.

⁶⁸ Md. Laws of 1908, c525, Sec. 3.

⁶⁹ LA. Const. 1898, Article 197 § 5

⁷⁰ LA. Const. 1898, art. 197 § 5

⁷¹ LA. Const. 1898, art. 197 § 5

⁷² Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 835. The law had a detrimental effect upon the number of eligible black voters in the state. In 1896, 130,000 Negroes voted; however, by 1904 only 1,342 were registered and voted.

North Carolina followed Louisiana's example in 1900, and Alabama enacted a Grandfather Clause in 1901.⁷³ The *Birmingham Age-Herald* correctly identified the purpose saying "What they want is a scheme pure and simple which will let every white man vote and prevent any Negro from voting".⁷⁴ Virginia modeled its Grandfather Clause after Alabama and Georgia adopted a similar provision in 1908.⁷⁵ The Grandfather Clause effectively disenfranchised the Negro vote in all the above-mentioned states, thereby dealing a serious blow to the Republican Party in southern state elections and solidifying the political agenda of staunch conservative Democratic candidates.

Myers v. Anderson

The Negro population knew that if they did nothing to challenge "Section 525", Councilman James A. Adams would lose his seat on the City Council. Generally, Annapolis Negroes viewed the councilman for the 4th ward as their political leader and voice in city government. To lose this voice meant sure political isolation in city government for the Negro citizens. Someone had to do something, and it is probable to conclude that two attorneys Charles Bonaparte and William Howard decided that a lawsuit challenging the law in federal court presented the

⁷³ AL. Const. of 1901, Art. 1.

⁷⁴ *Birmingham Age-Herald*, June 5, July 12, & July 17, 1901 (Quoted in Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 835)

⁷⁵ 82 Colum. L. Rev. 835, at 882

best way to defeat the law, thereby ensuring James A. Adams of his seat on the city council.

The case began as three separate civil suits for damages against Charles E. Myers and A. Claude Kalmey in the Circuit Court of the District of Maryland. The Myers and Kalmey along with Clearance M. Jones were registrars appointed under Section 525⁷⁶ whose duty it was to register qualified voters at a special registration held in the Annapolis in June, 1909.⁷⁷ The three Negro citizens⁷⁸ presented themselves for application to register to vote at the Municipal elections and the Registrars denied registration by a two to one vote. The registrars voted two to one to deny the three Negroes' application because they did not qualify under Section 525 of the Laws of Maryland.⁷⁹ Anderson, Howard, and Brown protested and informed the Registrars that to deny them suffrage was a violation of their Constitutional rights under the Fifteenth Amendment.⁸⁰ Finally, the three men attempted to vote at the municipal elections held in the month of July 1909; however, the appointed judges for the election

⁷⁶ Maryland Laws of 1908, c. 525, p.347

⁷⁷ See Maryland Laws of 1908, c. 525, p. 347, Sec. 2

⁷⁸ John Anderson, William Howard, and Robert Brown

⁷⁹ *Declaration of William H. Howard, Howard v. Myers et al* 182 F. 223 (C.C.D. Md. 1910)

Myers and Kalmey voted to deny Anderson, Howard and Brown the right to register and Jones voted in the affirmative.

⁸⁰ *Id* at 4.

refused their votes because their names did not appear among the qualified voters for the city.⁸¹

The three men, represented by Charles J. Bonaparte, brought suit-alleging damages under Section 1979 in that they were denied the right to vote as citizens of Annapolis, not only at the election held in 1909, but at all subsequent municipal elections held in Annapolis.⁸² Moreover, to deny citizens the right to vote at municipal elections that were not entitled to vote in Maryland prior to January 1, 1868 is contrary to the Constitution of the United States, specifically the Fifteenth Amendment.⁸³ Finally, they alleged that the Myers and Kalmey in denying them the right to vote degraded their status as citizens of the United States and of Maryland.⁸⁴

The defendants filed a demurrer to the plaintiff's suit. The demurrer alleged that the suit was insufficient in law and failed to show any grounds that the Circuit Court had jurisdiction over.⁸⁵ Secondly, the demurrer proposed that the defendants were appointed and acting under a Maryland law that charged them to exercise good faith and judgement in registering prospective citizens and they could not be held legally responsible for anything more than an honest and faithful

⁸¹ *id* at 5.

⁸² *Declaration of William H. Howard, Declaration John Anderson, Declaration of William Brown, Howard et al v. Myers et al* 182 F. 223 (C.C.D. Md. 1910)

⁸³ *id* at 4.

⁸⁴ *id* at 5.

exercise of their judgment.⁸⁶ Additionally, the declarations failed to state a claim in that Myers and Kalmey's actions were not malicious, fraudulent and corrupt.⁸⁷ Because the declaration charged that on its face that the Maryland law was unconstitutional, Myers and Kalmey, whom were appointed under such law had no legal duty to register the plaintiffs and were not liable for refusing to register them.⁸⁸ Finally, the registrars were not subject to civil penalties under the Maryland law for not registering the plaintiffs; however, the registrars were subject to criminal prosecution if they violated the terms of the act by registering anyone who did not fall into one of the three categories.⁸⁹

Judge Thomas J. Morris⁹⁰, a federal district judge, issued an opinion regarding the defendant's demurrers to all three suits on October 28, 1910.⁹¹ Judge Morris first ruled that the defendants were acting under their official capacity under the laws of Maryland in denying registration to the plaintiffs.⁹² However, he asserted that if the provision of law is void then

⁸⁵ Demurrers to the Declarations, *Anderson et al v. Myers et al*, 182 F. 223, 225 (C.C.D. Md., 1910)

⁸⁶ Demurrers to the Declarations, *Anderson et al v. Myers et al*, 182 F. 223, (C.C.D. Md. 1910)

⁸⁷ *id.*

⁸⁸ *id.*

⁸⁹ *id.*

⁹⁰ Judge Thomas J. Morris was born in Baltimore in 1837. He graduated for Harvard with an A.B. in 1856 and was admitted to the Maryland bar in 1860. He practiced in Baltimore, both privately and for the city and was appointed to the District Court in Maryland in 1879 by President Rutherford B. Hayes. He was a Republican and died in 1912. Subcomm. On Biographical Directory, Bicentennial Comm., Judicial Conf. of the U.S., Judges of the United States 287 (1978)

⁹¹ See *Myers et al*, 182 F. 223, (C.C.D. Md. 1910)

⁹² *id* at 226-227.

it affords the defendant no protection against the plaintiff's private right action.⁹³ Judge Morris looked to the 15th amendment and decided that while the amendment did not confer the right to vote on the Negro, it provided Congress with the right to punish those who denied citizens the right to vote.⁹⁴ Congress exercised this right by passing Section 2004 and Section 1979.⁹⁵ Therefore, the plaintiffs had a right to vote in Municipal elections and had a private right of action under federal law. Due to these findings, Judge Morris over-ruled the demurrers stating that it was his contention "that each of the declarations states a case in which the right of action is validity given by the constitution and laws of the United States..."⁹⁶

Judge Morris set a trial date for February 3, 1911 and gave leave to the defendants to file an answer to the declarations.⁹⁷ Counsel for both parties agreed to sit without a jury and join the issues for disposal at one proceeding.⁹⁸ Judge Morris, sitting without a jury directed a verdict in favor of the plaintiffs on February 6, 1911 and awarded damages in the sum of two hundred fifty dollars.⁹⁹

⁹³ Anderson et al, 182 F. 223, 226 (C.C.D. Md. 1910) (Citing Ex parte Siebold, 100 U.S. 371-376, 25 L. Ed. 717)

⁹⁴ id at 228 -229.

⁹⁵ id at 229.

⁹⁶ Anderson et al v. Myers; 182 F. 223, 230,(C.C.D. Md. 1910)

⁹⁷ Bench Order of Judge Morris, Anderson et al v. Myers et al; 182 F. 223, (C.C.D. Md. 1910).

⁹⁸ id

⁹⁹ Bench Order of Judge Morris, Anderson et al v. Myers et al; 182 F. 223, (C.C.D. Md. 1910).

The Plaintiffs

John B. Anderson was born a slave on June 1, 1848.¹⁰⁰ He belonged to Mordecai Plummer a resident and citizen of Maryland.¹⁰¹ Anderson became free after Congress issued and the States ratified the Thirteenth amendment in 1866.¹⁰² Additionally, John Anderson, by operation on the Fourteenth and Fifteenth Amendments to the United States Constitution, became a resident of Annapolis and thus registered to vote in Anne Arundel County in 1866. He exercised his right to vote at Municipal elections and it was recognized by the State for more than thirty-eight years before the Maryland legislature passed the above-mentioned Grandfather Clause.¹⁰³ Finally, during the Civil War Anderson served for about one year in the Army, was then transferred to the Navy and received a monthly pension as a result of his service.¹⁰⁴

Robert Brown was born in the latter part of the nineteenth century. His father was born a slave and became free via the Thirteenth amendment to the United States Constitution.¹⁰⁵ We know little about Brown's life; however, his declaration asserted that he had been a life long resident of Anne Arundel County and had voted at Municipal elections before the enactment

¹⁰⁰ Declaration of John Anderson, *Anderson et al v. Myers et al*; 182 F. 223, (C.C.D. Md. 1910).

¹⁰¹ *id.*

¹⁰² *id.*

¹⁰³ *id.*

¹⁰⁴ *id.*

of the Maryland Grandfather statute.¹⁰⁶ Finally, Brown argued that his father would have been able to vote in Maryland before January 1, 1868, but for the requirement that one must be a "white male".¹⁰⁷

**William H. Howard, Esquire
"A Negro Lawyer in Annapolis"**

The end came slowly and painfully for William H. Howard. He died on August 21, 1929 in Crownsville State Hospital, a mental institution, from general paralysis of the insane caused by syphilis.¹⁰⁸ This was no ordinary Negro layman. He was one of the first Negro lawyers in Annapolis and a member of one of the prominent families in the city.

The Role of a Negro Lawyer at the Turn of the 20th Century

Lawyers play a critical role in maintaining the integrity of our system of laws and advocating change in the law when society makes such a demand. Black's Law Dictionary defines the law as "The regime that orders human activities and relations through systematic application of the force of politically organized society, or through social pressure, backed by force in such a society..."¹⁰⁹ Additionally, Black's defines a Lawyer

¹⁰⁵ Declaration of Robert Brown, *Brown et al v. Myers et al* 182 F. 223 (C.C.D. Md. 1910).

¹⁰⁶ *id.*

¹⁰⁷ *id.*

¹⁰⁸ Archives of Md., Maryland State Archives, *From Frederick to Thurgood, William H. Howard's Death Certificate* <<http://www.mdarchives.state.md.us>> (accessed Oct. 10, 2002).

¹⁰⁹ *Black's Law Dictionary* 101 (Bryan A. Garner ed., 7th ed., West 1999).

as "One who is licensed to practice law".¹¹⁰ Therefore, lawyers, in the American system, are responsible for defining, maintaining and changing the system that administers social, economic, and political rules that give order and structure to our society.

The Negro lawyer in Maryland historically has been an advocate for social and political change. Many advocated for social and political change by holding positions of leadership in local government, churches, fraternal organizations and by strengthening the economic structure of the Negro community.¹¹¹ Additionally, Maryland's Negro bar represented clients in the courtroom as well. Therefore, the Negro Lawyer in Maryland has been both an advocate for change and an advocate for their clients through the judicial process.

At the turn of the twentieth century, there were a small number of Negro lawyers in Maryland.¹¹² Baltimore City had the largest concentration of Negro lawyers in the state. However, a few Negro lawyers practiced law in other counties, including Anne Arundel County. William H. Howard, practiced law in

¹¹⁰ *id.*

¹¹¹ Charles Houston, *Tentative Findings re Negro Lawyers* <http://www.law.cornell.edu/houston/survey.htm> (accessed October 25, 2002).

¹¹² *id.*

Annapolis, Maryland from 1901 to shortly before his untimely death in 1929.¹¹³

The purpose of this section of the essay is to examine the life and career of William H. Howard. Although, little authoritative biographical information is available on the life of Mr. Howard, this essay will attempt to reconstruct his life and career by revealing what his life would have been like as a young Negro man growing up and living in Annapolis at the turn of the twentieth century. Finally, this portion of the essay will attempt to recreate Mr. Howard's law practice prior to *Myers v. Anderson* to determine the type law he specialized in and examine Mr. Howard's life post *Myers* and his untimely death in 1929.

The Early Years

William Howard was born on February 10, 1874 in Annapolis, Maryland.¹¹⁴ His father, Mr. James E. Howard, a waiter at a local establishment, was twenty years old at the time of his birth. Mr. Howard's mother, Mrs. Eliza Howard, a nurse, was eighteen years old at the time of his birth.¹¹⁵ Although, little is known about Mr. Howard's parents, both had reasonably

¹¹³ Archives of Md., Maryland State Archives, *From Frederick to Thurgood, William H. Howard* <http://www.mdarchives.state.md.us> (accessed Oct. 10, 2002).

¹¹⁴ Archives of Md., Maryland State Archives, *From Frederick to Thurgood, William H. Howard*, <<http://www.mdarchives.state.md.us>> (accessed Oct. 10, 2002).

¹¹⁵ *id.*

good jobs at a time when many Negroes worked as day laborers and domestic servants in Annapolis.

Annapolis like many other southern cities was a racially segregated city. Most Negroes lived in the 4th Ward consisting of Northwest, Carroll, Calvert, Clay, Washington, Monument and Pleasant streets.¹¹⁶ The young Howard family may have resided in one of four Negro communities, one of those being Freetown. Prior to the Civil War, Freetown had the largest free black population in the County.¹¹⁷ Freeborn Negroes began buying property here in the 1840s. By the 1880s, Negroes owned almost 1,000 acres. Two of the community's founders served in the Civil War, James Spencer and William Howard.¹¹⁸ There is no evidence that the William Howard that served in the Civil War was related to the subject of this essay; however, one may reasonably deduce that Mr. Howard's parents named him after one of their neighbors Mr. William Howard, a Civil War veteran.

The Clay street neighborhood was a bustling Negro community that changed from one of scattered "Negro tenements," coal yards, and flats to a community of over 200 houses and some 30 stores.¹¹⁹ Most Negroes in the area owned their own houses and many were owners of stores and businesses in the neighborhood.

¹¹⁶ Philip Brown, *The Other Annapolis 1900-1950*, (The Annapolis Publishing Company 1994).

¹¹⁷ The Annapolis and Anne Arundel County Conference and Visitors Bureau, African American Heritage, <http://www.visit-annapolis.org/aaguide.shtml> (accessed November 26, 2002)

¹¹⁸ *id at 5.*

However, many Negroes did not begin to move into this neighborhood until 1885.¹²⁰ The Howard's began their family in 1874; therefore, it is reasonable to conclude that this was probably not a neighborhood in which they resided.

The Cornhill neighborhood, located on Fleet and East Streets was founded in 1770.¹²¹ From the early 1800's, businessmen of the town had saved sufficient capital and invested in building rental properties of "tenements" or rowhouses for the growing and largely Negro working class. Negro families owned or rented their dwellings as well.¹²² Many of the individuals living in this area of the city worked for the U.S. Naval Academy.

Additionally, the Negro Community in the West Benning Road area of Galesville dates back to the 1870s.¹²³ As previously stated, there is no evidence to affirmatively conclude that the Howard family lived in one of the above-mentioned areas. However, both communities were close to the Naval Academy and downtown Annapolis; therefore, it would not be unreasonable to

¹¹⁹ *id* at 6.

¹²⁰ *id*.

¹²¹ Charles Wallace, merchant and builder, subdivided this tract of land and began development of the district for craftsmen, tradesmen, shopkeepers, livery stables and taverns.

¹²² The Annapolis and Anne Arundel County Conference and Visitors Bureau, African American Heritage, <http://www.visit-annapolis.org/aaguide.shtml> (accessed November 26, 2002)

¹²³ Many descendants of the first property owners still live in the community. By 1919, Albert Woodfield, owner of the Woodfield Oyster Company, owned many of the houses on West Benning Road, using them as workers' housing.

conclude that the young Howard family lived in one of the above mentioned communities.

The Negroes in Annapolis had very little choice in terms of the schools they attended. Prior to 1900, the Gallilean Fisherman School was the only organized school for Negro children in Annapolis.¹²⁴ The school was founded by a group of Negro Methodist laymen who operated the school from 1868 to 1900.¹²⁵ The young Howard family probably sent young William to this school to ensure that he would be educated and aspire to be a leader in their community. However, Annapolis had unorganized Negro schools that taught basic reading, writing and arithmetic. Because little is known about William Howard's education one may conclude that he received some formal education via one of the sources mentioned above.

A Spiritual and Social life for young William

Church played a vital role in the spiritual and professional lives of Negroes in Maryland and William Howard likely was a member of one of the churches in Annapolis. The Churches in the city included Mt. Moriah African Methodist Episcopal Church, Asbury Methodist Episcopal Church, St. Mary's Catholic Church, Mt. Olive Mission, St. Anne's Episcopal Church,

¹²⁴ Philip Brown, *The Other Annapolis 1900-1950*, (The Annapolis Publishing Company 1994).

¹²⁵ *id.*

St. Phillip's Mission, Mt. Zion Methodist Episcopal, First Baptist Church, and John Welsey Methodist Episcopal Church.¹²⁶ The black and white congregation founded the First Methodist Episcopal Church in 1784 on the grounds of what we know as the U.S. Naval Academy. The Negroes left in 1838 and formed the Asbury United Methodist Church¹²⁷ which they built themselves. Additionally, William Howard may have attended the First Colored Baptist Church of Annapolis.¹²⁸ Both the First Methodist Episcopal Church and the First Colored Baptist Church of Annapolis were the center of the Negro spiritual and social lives in Annapolis at the turn of the twentieth century. Although, there is no definitive evidence to determine which church William Howard attended, because the Negro community was small in Annapolis, it is reasonable to conclude that Mr. Howard may have at one time or another attended many of the churches listed for social and spiritual events.

The 4th ward was the Harlem of Annapolis and was where most if not all social events occurred at the turn of the 20th

¹²⁶ *id* at 69.

¹²⁷ Located at 87 West Street, Annapolis. The church, founded and built by free black families, is now called Asbury United Methodist Church.

¹²⁸ Located at 121 & 123 Market Street, Annapolis. William H. Butler, a free black, purchased and developed property into the 1880s, particularly on Market Street. He built five frame rowhouses as rental properties, a legacy for his 6 children. He sold two lots, now 121-123 Market Street, to the Maryland Colored Baptist Congregation for a church.

century.¹²⁹ Frequently there were balls, dances and other social events that would keep a young Negro male such as William Howard quite busy. Community organizations such as the Improved Order of Elks of the World, of which the Ancient City Lodge 175 is part and the Order of the Free Masons put on social events and were the host to many social and political debates by the Negro leadership.¹³⁰ Although, we have no evidence that William Howard was a member of one of these organizations, we may reasonably infer that an influential educated man such as he frequented such organizations and probably aided in advising these organizations on how to achieve community and organizational goals.

A family man is worthy of respect in the Negro Community

William Howard, at the age of twenty-nine, married Amanda Stewart on June 3, 1903 in Annapolis, Maryland.¹³¹ Amanda was twenty-five at the time she married William.¹³² Little is known about where the couple resided during the early years of their marriage; however, the couple purchased property located at 59 North West Street, in Annapolis from Mr. and Mrs. Hopkins on January 1, 1921.¹³³ This was a significant event in the life of

¹²⁹ Charles Houston, *Tentative Findings re Negro Lawyers* <http://www.law.cornell.edu/houston/survey.htm>

¹³⁰ *id.*

¹³¹ Archives of Md., Maryland State Archives, *From Frederick to Thurgood, William H. Howard* <http://www.mdarchives.state.md.us> (accessed Oct. 10, 2002).

¹³² *id.*

¹³³ *id.*

a Negro family, because ownership of property was paramount to moving into the middle class. Finally, the couple had one child, a daughter, Evelyn Alsop born in 1905.¹³⁴

William Howard, Esquire

William Howard was admitted to the Maryland Bar in Anne Arundel County on January 29, 1901.¹³⁵ A few Negro attorneys admitted to practice in Maryland studied law at either Howard University or Harvard University. Neither school had any record of a William H. Howard attending their law schools between the periods of 1890 to 1901.¹³⁶ Additionally, some but not many Negro lawyers read and studied law as an apprentice of a licensed attorney and after a sufficient period of time applied for admission to the bar. Because little is known about William Howard's education, it is reasonable to conclude that he may have read and studied law; however, there were other schools on the east coast that educated Negro lawyers.

William Howard was one of the few Negro lawyers in Annapolis, Maryland at the turn of the twentieth century. Like many other Negro lawyers in Maryland, Mr. Howard represented clients in criminal matters, domestic relations, personal

¹³⁴ *id.*

¹³⁵ Archives of Md., Maryland State Archives, *From Frederick to Thurgood, William H. Howard* <http://www.mdarchives.state.md.us> (accessed Oct. 10, 2002).

¹³⁶ I chose these dates because Mr. Howard would have been 16 years old in 1894 and as previously stated, he was admitted to practice law in 1901.

injuries, small claims, and probably matters growing out of the conduct and management of churches and fraternal organizations.

The first mention of William Howard as legal counsel on the Anne Arundel County Circuit Court Docket was in April, 1902. In *State v. Tallifer*, No. (AA Cir. Ct. Apr. 1902).¹³⁷, William Howard represented William Tallifer on a charge of carrying a concealed pistol within the city limits of Annapolis. The trial was held on May 10, 1902 and Mr. Tallifer plead not guilty. He was found guilty and sentenced to one year in the Maryland House of Corrections.¹³⁸ A diligent search of the court records produced only a summons of the defendant. At first glance a sentence of one year seems harsh for a crime such as carrying a weapon in the city limits. However, many southern states and cities had strict laws regarding Negroes and weapons. It is reasonable to conclude, that had Mr. Tallifer not hired William Howard to represent him, he may have received a significantly longer sentence.

The next case found on the Anne Arundel County Circuit Docket was *State v. Quiller*, (AA Cir. Ct Nov. 10, 1903).¹³⁹ William Howard represented Joseph Quiller in a criminal matter where the State charged Mr. Quiller with selling alcohol to

¹³⁷ Accession No. 4727, MSA No.: C 65-101, Location 1/2/10/17

¹³⁸ There was neither a brief nor a published opinion. The Archivist and I searched through the records and this docket entry was the only thing found.

Frank Carol on Sunday, August 16, 1903 within the city limits. Mr. Quiller plead not guilty at the trial held on November 10, 1903. The court found the defendant guilty as charged and he was fined thirty-dollars and court costs. Selling alcohol on a Sunday in a southern city such as Annapolis by a Negro was a serious offense. Although, the defendant was found guilty, he served no time in jail. Therefore, one may infer that this was a significant accomplishment for a Negro lawyer in a southern city at the turn of the twentieth century.

Finally, in 1908 William Howard was legal counsel in a civil matter titled *Jones v. Evans* No. (AA Cir. Ct Apr. 1908).¹⁴⁰ The docket did not give specific details about the nature of the suit and searching the court records produced no additional information. The civil case indicates that William Howard did in fact have a diverse practice in the years subsequent to his being admitted to the Anne Arundel County Bar. Although, only three cases were found while searching the Anne Arundel County Docket for the years 1901 - 1908, it is important to note that a lawyer's work includes more than arguing cases before a court of law. William Howard may have aided citizens in the community in preparing legal documents such a last will and testaments, contracts, drafting charters for community organizations, and a

¹³⁹ Accession No. 4728, MSA No.: C 65-102, Location 1/2/10/18

¹⁴⁰ Accession No.: 4739, MSA No.: C 65-113, Location: 1/2/10/29

number of other tasks that an attorney in General Practice would do.

A law practice post Myers v. Anderson

In *Staff v. Philip*, No.37 (AA Cir. Ct May 4, 1910), William Howard represented Benjamin Philip in a replevin suit.¹⁴¹ The Staffs operated as partners in Roland M. Staff furniture store and sold the defendant, Philip, some furniture. The plaintiffs brought an action of replevin against the defendant and Howard represented the defendant in the suit. The case concluded on May 4, 1910 with a judgment by confession entered in favor for the plaintiff. The defendant was ordered to return the property, pay damages and court cost.

In *Hall v. Duvall* No.26 (AA Cir. Ct Oct.1915), William Howard represented the plaintiff Mr. William Hall.¹⁴² Howard and his client brought a civil suit against Mary J. Duvall, trading as Peoples Grocery Store. The plaintiff won a summary judgment for \$12.50, and the defendant's appeal was dismissed for failure to answer a motion to dismiss filed by William Howard.

William Howard's name appeared twice in the Anne Arundel County docket for the period 1910 - 1921. Although, he may have practiced law in other courts outside Anne Arundel County, his

¹⁴¹ Accession No.: 4743, MSA No.: C 65-117, Location: 1/2/10/33

¹⁴² Accession No.: 02/10/87, MSA No.: T 1100-13, Location: 1/5/11/13

name appearing only twice may indicate a probable backlash for participating in the Myers case. Many Negro lawyers had a difficult time supporting themselves and their families practicing law; therefore, William Howard may have taken up some other occupation while practicing law part-time.

The Final Years

William Howard contracted syphilis sometime between 1921 and 1927. The syphilis worked its way through his body and eventually to his brain. As the disease infected his brain he began to go insane.

William Howard died a broken man on August 21, 1929 in Crownsville State Hospital, Anne Arundel County, Maryland.¹⁴³ The coroner listed his cause of death as General Paralysis of the Insane due to Syphilis.¹⁴⁴ This must have been an excruciating slow death for a man so full of hope and promise. Howard's death certificate listed that he had been committed to the institution for life and had been there for one year, eleven months and fourteen days before his death.¹⁴⁵

Interestingly, William Howard's death certificate listed his occupation as a Laborer. As previously stated, many Negro

¹⁴³ Archives of Md., Maryland State Archives, *From Frederick to Thurgood, William H. Howard's Death Certificate*, <<http://www.mdarchives.state.md.us>> (accessed Oct. 10, 2002).

¹⁴⁴ *id.*

lawyers supplemented their income by taking second jobs. It is not known at this time whether or not Mr. Howard stopped practicing law or if his primary occupation was that of a laborer and he practiced law as a side job. However, his involvement in the Myers case may have contributed to his inability to support his family by practicing law.

William Howard entered an occupation that employed few Negroes at the turn of the twentieth century. He was a Negro lawyer at a time when few Caucasian colleagues accepted or respected a Negro lawyer. He became a forgotten footnote in Annapolis history. He appears in no history books and his fight against the disenfranchisement effort in Maryland is all but forgotten by those who write and sing the praises of early civil rights advocates. One may infer that his sickness and death caused by a sexually transmitted disease is a badge of shame that many historians choose not to study. However, William Howard was a man who made a stand for something he believed in, that being his right to voice his opinion through voting in municipal elections. William Howard took the road less traveled, and in doing so, he made Maryland a better place for all to live.

¹⁴⁵ *id.*

The plaintiffs represented three distinct ways in which the Maryland Grandfather Clause denied the Negro suffrage rights. John Anderson was born a slave, served in the military during the Civil War, and could not vote in Maryland before 1870 due to the racial restrictive clauses in the Maryland Constitution. William Howard, one of the few Negro attorneys in Annapolis, whose grandfather was a free man before January 1, 1868 and could not vote in Maryland for the same reasons stated above. Additionally, Robert Brown was a resident of Annapolis; his father was born a slave and could not vote in Maryland prior to January 1, 1868. All the plaintiffs voted in municipal elections before the Maryland Grandfather clause, were fine up standing citizens of high moral character, and none of which had been convicted of any crimes.¹⁴⁶ Therefore, it is reasonable to conclude that the plaintiffs were motivated to file civil suits challenging the constitutionality of the Maryland Grandfather Clause because they represented the best opportunity for the Negro to strike a blow at systematic disenfranchisement.

The Supreme Court Decision

Immediately after Judge Morris, sitting without a jury, ruled in favor of the plaintiffs, the defendants appealed the decision to the United States Supreme Court.¹⁴⁷ The Maryland

¹⁴⁶ Brief for the Plaintiffs, on the Demurrers to the Declarations, *Anderson et al v. Myers et al* 182 F. 223 (C.C.D. Md. 1910)

¹⁴⁷ Brief for Plaintiffs in Error, *Myers v. Anderson*, 238 U.S. 368 (1915)

Officials were represented by William A. Marbury, a life long Democrat and leader of the Baltimore Bar.¹⁴⁸ Marbury in his 122 page brief argued:

That to argue that it was racial discrimination to condition the right to vote on whether one's ancestor could vote was a potential fallacy

It might as well be argued that the property qualifications discriminate on account of previous condition of servitude, because if a man had not been held in bondage he would have been able to acquire some property. A slave could not acquire property any more that he could vote.¹⁴⁹

Marbury offered a test to uphold the Maryland Grandfather Clause in that the law is constitutional because it includes some Negroes and excludes some white men.¹⁵⁰ Finally, Marbury made the argument that the Fifteenth Amendment applied only to federal elections and that Section 1979 of the Revised Statutes protected only civil rights not political rights, and suffrage was a political right.¹⁵¹

Edgar Gans, Morris Soper¹⁵², and Daniel Randall represented the Defendants in Error¹⁵³ in the Supreme Court.¹⁵⁴ The Briefs,

¹⁴⁸ Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 835. Mr. Marbury was born in Maryland in 1858. He graduated from John Hopkins University and studied law at the University of Maryland. He began practicing law in Baltimore in 1862. Additionally, he served as U.S. Attorney in Maryland in 1894. Finally he practiced at the firm Marbury, Gosnell & Williams until in death in 1935.

¹⁴⁹ Brief for the Plaintiffs in Error at 49, 51, *Myers v. Anderson*, 238 U.S. 368 (1915)

¹⁵⁰ *id* at 51. Marbury reasoned that a 21 year- old or older Negro citizen of Annapolis who was assessed \$500.00 in property taxes could vote in the Municipal elections and that a white man who was not assessed \$500.00 or more in property taxes and was not 21 years as of January 1, 1868 and did not know who his father was (illegitimate child) could not vote at city elections. Therefore, the law on it's face treated whited and Negroes equally and was constitutional.

¹⁵¹ *id* at 100.

¹⁵² A Maryland attorney, born January 23, 1873 in Baltimore and died March 11, 1963. Served on the U.S. District Court, Maryland from 1923 to 1931. Served on the 4th Circuit Court from 1931 to 1963. Received undergraduate degree from John Hopkins in 1893 and law degree from Maryland in 1895.

¹⁵³ The original plaintiffs, Anderson, Howard and Brown

although not as eloquent as Mr. Marbury's, attacked their opponent's position with asserting that the Maryland legislature knew the Grandfather clause was probably unconstitutional.¹⁵⁵ Although, there is no mention of race or color in the Grandfather Clause the intent was to exclude the Negroes from the Municipal elections.¹⁵⁶ Additionally, although the property requirement is constitutional, Section 525 is void as a whole because the property clause can not stand without the Grandfather Clause. The result of such a law would include all naturalized citizens and exclude all citizens White or Negro who did not own at least \$500.00 of taxable property.¹⁵⁷ Finally, the brief vigorously attacked Marbury's contention that the Fifteenth Amendment did not apply to state elections. Counsel argued that the plain reading of the Fifteenth Amendment and the "appropriate legislation" enacted by Congress reveals a clear intent by Congress to include all such elections within the boundaries of the United States.¹⁵⁸

The Supreme Court unanimously affirmed the Circuit Court decision. Chief Justice White writing for the majority considered if the standards for registering and voting under the

¹⁵⁴ See Brief for Defendants in Error, *Myers v. Anderson*, 238 U.S. 368 (1915)

¹⁵⁵ *id.*

¹⁵⁶ *id.*

¹⁵⁷ *id.*

¹⁵⁸ *id.*

Maryland law were repugnant to the 15th Amendment.¹⁵⁹ He first looked at the property requirement and the sections relating to naturalized citizens and their decedents of Section 525 and decided that none of these sections were repugnant to the 15th Amendment.¹⁶⁰ The legislature had the right to place reasonable requirements on the right of suffrage and so long as there was no alleged wrongful motive, the sections were valid.¹⁶¹

However, Chief Justice White declared the third standard of "Section 525" void. Justice White wrote that the operative effects of the third standard denied the plaintiffs the right to vote and therefore was repugnant to the 15th Amendment.¹⁶²

Finally, because the third standard was so interrelated by its operation to the first two standards, "Section 525" was as a whole invalid.¹⁶³

The Supreme Court did not hand down its decision for more than a year and a half after the oral argument.¹⁶⁴ Activists following the case thought this was an unusual delay for a unanimous decision.¹⁶⁵ There was speculation that Chief Justice

¹⁵⁹ *Myers v. Anderson*, 238 U.S. 368, 379 (1915)

¹⁶⁰ *id* at 380.

¹⁶¹ *id.*

¹⁶² *id* at 380.

¹⁶³ *id* at 382.

¹⁶⁴ Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 845

¹⁶⁵ See in Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 835, 867. (Quoting Letter from M. Storey wrote to J. Spingarn, (July 12, 1915) in Moorfield Storey Papers, Massachusetts Historical Society. After the decision came down, Moorfield Storey wrote to Joel Spingarn: "I am very much afraid that the court was equally divided, and I am unable even now to understand why the

White caused the delay because Justice Lurton refused to join the majority.¹⁶⁶ It was commonly known that Justice Lurton was ill and near death. Chief Justice White may have waited for Justice Lurton to die in 1914 before handing down the decision.¹⁶⁷ Therefore, no one would know of the lone voice of dissent in this case.

MEDIA REACTION

The immediate reaction by the media to the unanimous decision in this and other Grandfather cases in the north was one of cautious optimism. James C. Hamphill, writing in *The North American Review* called the decision "one of the most important pronouncements of the court in recent years".¹⁶⁸ The *New York Sun* predicted that the Southern states would find other ways to exclude Negro votes.¹⁶⁹ The *New York Times* spewed its racial-political remarks saying that the white man will continue to rule this land, even after this Supreme Court Decision.¹⁷⁰

However, the reaction in the south, specifically Maryland, was much different. The *Baltimore Sun* wrote the decision would:

decision should have been delayed so long.") M. Storey was a prominent member of the NAACP and wrote amicus briefs in *Guinn v. United States*.

¹⁶⁶ *id* at 867.

¹⁶⁷ *id* at 868.

¹⁶⁸ Hamphill, *The South and the Negro Vote*, 202 N. American Review 213 (1915) (Quoting: Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 880). The North American Review was founded in Boston in 1815 and moved to New York City in 1870. It suspended publication in 1967. The University of Northern Iowa revived in December, 1968.

¹⁶⁹ N.Y. Sun, June, 1915, (Quoting: Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 880)

¹⁷⁰ N.Y. Times, June 23, 1915, at 10, col.2

Unsettle an accepted arrangement that has helped to keep the peace and to prevent the domination of the higher and the lower elements... The misfortune of having waked the sleeping dog in the "Grandfather Clause" is that it may revitalize a dead issue and lead to a race and political agitation earnestly to be deprecated.¹⁷¹

The decision was a slap in the face to southern states, such as Maryland, and they went about finding other ways to disenfranchise the Negro from the political process.

The *Baltimore Afro-American Ledger* followed the case extensively. The decision was seen as a win over the Democrats' attempts throughout the south to disenfranchise Negro citizens.¹⁷² Additionally, the *Afro-American Ledger* saw the case as one that would begin recovery some of the rights lost by the Negro in the years following Reconstruction in the South.¹⁷³

Short-term and Long-term Impact

The immediate impact this decision had in Annapolis was it effectively stopped the Maryland legislature's attempt to disenfranchise the Negro. In Annapolis, James Albert Adams regained his seat on the City Council in 1915 and served until 1921.¹⁷⁴ However, the legislature used other means, such as Jim Crow laws, to disenfranchise the Negro.¹⁷⁵ While the Negro in

¹⁷¹ *Baltimore Sun*, June 22, 1915 at 6, col. 1.

¹⁷² *The Baltimore Afro-American Ledger*, "Grandfather Clause" Declared invalid by Supreme Court, June 26, 1915.

¹⁷³ *The Baltimore Afro-American Ledger*, "Grandfather Clause" Declared invalid by Supreme Court, June 26, 1915.

¹⁷⁴ Phillip Brown, *The Other Annapolis 1900-1950*, 127-129 (The Annapolis Publishing Company 1994).

¹⁷⁵ Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912* (John Hopkins Univ. Press 1969); *Laws of Maryland*, 1904, chap. 109, pp. 186-88, and chap. 110, pg. 188-89; The Maryland legislature passed laws to

Maryland saw no other significant attempts to legally limit his suffrage rights, other more barbaric attempts by the Ku Klux Klan and the White Knights through terror and intimidation caused lower voter turnout in Maryland and other southern states.¹⁷⁶

CONCLUSION

Myers v. Anderson represented the culmination of a struggle by Annapolis Negro Citizens to protect their political voice in city government. As previously stated, James A. Adams lost his seat on the City Council in 1909 due to the passage and operation of "Section 525". Neither he nor any other Negro sat on the Annapolis city Council from 1909 to 1915.¹⁷⁷ However, *Myers* was about more than a struggle for power in Annapolis City government.

Democrats attempted to maintain political power and the Republicans struggled for political survival in Maryland. The Democratic leadership saw the disenfranchisement of Negroes in

segregate the races on railways and Steamships. See *Hart v. State*, 100 Md. Reports 595 (1905). A Negro Law Professor at Howard University challenged the law by refusing to move to a segregated seat on a trip from Maryland to Philadelphia. He was arrested and fined in Cecil County. However, he appealed the case to the Maryland Court of Appeals and the court ruled that the law was an "unconstitutional infringement on interstate commerce" and that only passengers who travel began and ended in Maryland could be segregated under the law.

¹⁷⁶ *id.*

¹⁷⁷ Phillip Brown, *The Other Annapolis 1900-1950*, 127-129 (The Annapolis Publishing Company 1994). Adams was reelected to his seat in 1915 and served until 1921. A Negro served the 4th ward on the city council from 1915-1951 continuously.

the state as a viable way to maintain political power while at the same time appealing to the racist feeling of its base. The Republicans saw the Negro as its only means of political survival and vigorously fought any efforts to disenfranchise such a valuable political commodity.

The Democrats first passed the election laws of 1901 and the Wilson Ballot Law of 1904. As the chart below indicates, these laws resulted in only marginal success for the Democrats in disenfranchising Negroes and resulted in lower voter registration for both white and Negro throughout the state.¹⁷⁸ Additionally, the Democrats attempted through constitutional amendments to disenfranchise the Negro voter. These amendments included the Poe Amendment, the Strauss Amendment and the Digges

¹⁷⁸ VOTER REGISTRATION BY RACE IN MARYLAND: 1882 - 1912

YEAR	Eligible Voters		Registered Voters		Percentage Registered	
	White	Negro	White	Negro	White	Negro
1882	175,072	49,246	142,765	39,521	81.55	80.25
1884	182,034	49,908	171,690	45,690	94.32	91.55
1886	188,996	50,570	182,375	44,265	96.32	87.53
1888	195,958	51,232	190,659	49,532	97.30	96.68
1890	202,922	51,895	186,327	45,960	91.82	88.56
1892	211,852	53,557	201,432	48,285	95.08	88.56
1894	220,782	55,219	205,932	46,262	93.27	90.16
1896	229,712	56,881	213,304	52,113	92.86	83.78
1898	238,642	58,543	215,785	54,280	90.42	91.62
1900	247,573	60,208	236,105	57,284	95.37	92.72
1902	254,027	60,959	214,736	51,783	84.53	95.14
1904	260,481	61,710	235,018	53,029	90.23	85.10
1906	266,935	62,461	220,830	49,922	82.73	79.93
1908	273,389	63,212	237,380	50,336	86.83	79.63
1910	279,844	63,963	230,719	48,693	82.45	76.13
1912	291,100	65,787	243,693	48,185	83.72	73.24

Amendment. Each was soundly defeated by the Republican Party, lead by Charles P. Bonaparte, and independents and dissidents in the Democratic Party.

Finally, *Myers v. Anderson* represents a forgotten footnote in the history of the Negro's attempt to protect and exercise his right to suffrage. Few Democrats or Republicans refer to it as the culmination of a battle for political power in Maryland. There are other more well known cases in Maryland; however, few encompassed such complex struggles that help shape the political structure of Maryland politics.

APPENDIX

The following is a list of sources used to write this essay. All the following sources are copied and attached in a binder along with the Certification paper. The source not copied and attached in the binder is annotated with the symbol *.

1. Definition of Suffrage <http://govt.claremontmckenna.edu>
2. Amend.XII Dec 18, 1865, Amend. XIV July 28, 1868, Amend. XV March 30, 1870
3. U.S. Constitution: The Fifteenth Amendment: Annotations <http://caselaw.lp.findlaw.com>
4. *Myers v. Anderson*, 238 U.S. 368 (1915)
5. *Anderson v. Myers et al*, 182 F. 223 (1910)
6. Index along with Declaration of Plaintiffs and pleadings filed in Circuit Court of Maryland, *Anderson v. Myers et al*, 182 F. 223 (1910).
7. Demurrer to the Declaration, *Anderson v. Myers et al*, 182 F. 223 (1910).
8. Opinion of the Court, issued by Judge Morris, *Anderson v. Myers et al*, 182 F. 223 (1910).
9. Brief on Behalf of Plaintiffs in Error, filed with the U.S. Supreme Court with index, *Myers v. Anderson*, 238 U.S. 368 (1915).

10. Brief on Behalf of Defendants Error, filed with the U.S. Supreme Court, *Myers v. Anderson*, 238 U.S. 368 (1915).
11. Beno C. Schmitt, *Principle and Prejudice: The Supreme Court and Race in the Progressive Era*, 82 Colum. L. Rev. 880.
12. Angela P. Harris, *Equality Trouble: Sameness and Difference in Twentieth Century Race Law*, 88 Cal. L.Rev. 1923.
13. Edward C. Papenfuse, *Preserving Municipal Heritage*, Maryland Municipal League <http://www.mdmunicipal.org/> (June 26, 2002).
14. United States Department of Justice Civil Rights Division, Voting Section, Before the Voting Rights Act, http://www.usdoj.gov/crt/voting/intro_a.htm
15. Selwyn Carter, *African American Voting Rights: A Long, Historical Struggle*, <http://www.southerncouncil.org/helpnet/articles/history.html>
16. Ron Avery, *A History of the Republican party 1872 to 1900*, <http://www.ushistory.org/gop/history/avery1-72.htm>
17. The Afro-American Ledger, *Why this Gum Shoe Method*, May 16, 1909.
18. The Afro-American Ledger, *Disenfranchising the Negro In Annapolis*, May 16, 1909.
19. The Afro-American Ledger, *Judge Morris Goes After "Grandfather Clause"*, May 16, 1909 and *Judge upholds Supreme Law*, November 26, 1909.

20. The Afro-American Ledger, "Grandfather Clause Declared Invalid by the Supreme Court, June 26, 1915.
21. Archives of Maryland, Maryland State Archives, *From Frederick to Thurgood, Document relating to the life of William H. Howard* <http://www.mdarchives.state.md.us>.
22. The Annapolis and Anne Arundel County Conference and Visitors Bureau, African American Heritage, <http://www.visit-annapolis.org/aaguide.shtml>
23. Charles Houston, *Tentative Findings re Negro Lawyers*, <http://www.law.cornell.edu/houston/survey.htm>
24. Philip Brown, *The Other Annapolis 1900-1950*, Selected pages (The Annapolis Publishing Company 1994).
25. * Margaret Law Callcott, *The Negro in Maryland Politics, 1870-1912* (John Hopkins Univ. Press 1969).