

Undaunted

The Story of Colorado's First Black Lawyers

BY JOHN G. BROWNING

In a 1924 address for the Denver Bar Association's "Old Timers Day" dinner honoring lawyers who had practiced in Colorado for 50 years or more, attorney Charles S. Thomas paid homage to the early lawyers of Colorado as "the rugged pioneers of the profession, the leaders of their time."¹ But all of the lawyers and judges Thomas discussed were white, as though there were no African American lawyers in Colorado during its early days of statehood. In fact, Colorado welcomed its first Black lawyer back in 1883. Yet confusion persists about the exact identity of this pioneering attorney, even among Colorado lawyers. For example, Sam Cary—the namesake of Colorado's African American Bar Association—has often been referred to as the state's first Black attorney. But that distinction belongs to another individual: lawyer and Renaissance man Edwin Henry Hackley.

Edwin Henry Hackley



Hackley

of three children, Edwin came down with a "lung fever" at the age of 3; he remained sickly and plagued by respiratory ailments the rest of his life. Young Hackley was deeply interested in music and writing, forming a quartet as a teenager and becoming an editor at a local paper, the *Literary Review*, at the age of 18. Hackley grew increasingly interested in politics and the possibility of a legal career,

Hackley was born September 11, 1859, in Romeo, Michigan. His father, John A. Hackley, was a successful barber in Grand Ledge, Michigan, and his mother, Susan, was a former teacher. The second

but his father wanted him to join the family barbershop.

Unbeknownst to his father, in 1879, Hackley began clerking at the office of a Grand Ledge lawyer, R.F. Pinkham, often reading law books at the barbershop when his father was absent. Against the senior Hackley's wishes, Edwin took the money he'd saved from barbering and enrolled at the Law Department (as it was then known) at the University of Michigan. He started on September 27, 1881, armed with a letter of recommendation from Pinkham's law partner J.L. McPeck, who lauded Hackley as "a young man of excellent habits, good principles, and possessed of rare capabilities."²

Once in Ann Arbor, Hackley threw himself into his studies and paid his way by barbering. But his formal education was interrupted when he was diagnosed with tuberculosis, causing him to leave campus. Hackley persevered

with his studies remotely, and he secured a “Certificate of Attendance” from the law school. He continued apprenticing as well, “reading the law” under the supervision of his mentor McPeek at McPeek’s new Detroit law firm, from the fall of 1882 to the summer of 1883.³ Hackley took and passed the Michigan bar examination that summer. In search of an area that would be both better for his health and welcoming to African American attorneys, Hackley moved to Fort Smith, Arkansas, to begin his legal career.

However, the rough and tumble environment of Fort Smith (whose federal court had jurisdiction over much of the Indian Territory that eventually became Oklahoma) wasn’t to Hackley’s liking, and he soon relocated to Denver, hoping the mountain air would be better for his health. The *Colorado Daily* noted his application for admission to the bar, calling him “a bright and intelligent young man” who would “no doubt . . . be the first Colored lawyer ever admitted to the bar of this state.”⁴ When Hackley was formally licensed by the Colorado Supreme Court on June 7, 1883, *The Denver Tribune* also observed the historic arrival of “the first Colored gentleman ever admitted to the bar of Colorado,” whose entry to the practicing ranks had been sponsored by prominent lawyer George C. Bates. The paper wrote:

This admission marks an era in the progress of this nation . . . for about forty years ago the counsel who moved his admission saw from the windows of the Supreme Court in Washington a slave coffle of forty-two such young men, fastened like mules to a chain en route to Richmond for the auction block. Verily times have changed and we have changed with them.⁵

Despite the historic nature of his admission, Hackley struggled to make a living, and even briefly decamped to Kansas City, Kansas, during the winter of 1884 in hopes of making some money. Prospects in Denver brightened when he was offered the position of Denver county clerk. In May 1885, Hackley returned to Denver to accept the job, hoping it would provide some measure of financial security while serving as a springboard to other opportunities. He was

quickly promoted to abstract clerk, making twice the pay. He would hold this position for the next 14 years (apart from a brief sojourn as a newspaper editor).⁶

Such stability proved vital for Hackley, because his law practice was hardly successful; he argued a handful of cases in Denver but otherwise struggled to cultivate business. It was later described as a “smaller practice than expected, and that quite unremunerative.”⁷ He did embark upon a brief but intense romantic relationship with Black journalist and famed anti-lynching crusader Ida B. Wells, who was staying in Denver in July 1886 while headed to a convention in San Francisco.

Hackley also turned his attention to politics, running for election in 1886 in a bid to become only the second Black man in the Colorado legislature (John T. Gunnell was the first).⁸ Ever the maverick, Hackley ran not as a member

of the Republican Party that traditionally enjoyed the support of the African American community, but rather as an independent on what he called the “Liberty Union Ticket.” Hackley believed the party reflected the dissatisfaction of Black voters, “an element long depended upon by Republicans for victories and correspondingly affronted, cheated, or ignored in the awarding of benefits.”⁹ Hackley lost the election by 111 votes.

In the summer of 1887, Denver’s mayor offered Hackley the post of clerk of the police court, but the young lawyer declined it. Before long, his life would change in several ways. In 1889, Hackley joined former Booker T. Washington protégé Joseph D.D. Rivers to form *The Statesman* newspaper. Later known as *The Denver Statesman* and eventually as *The Denver Star*, Hackley envisioned the newspaper as the means by which the African American communities of Colorado, Wyoming, and Mon-



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tana could “voice their opinions, assert their rights, and demand their due recognition.”¹⁰ Hackley also met his future wife, Emma Azalia Smith, in 1889. Smith, the granddaughter of a freed slave, was a musical prodigy who went on to be the first Black graduate of the Denver University School of Music in 1900.¹¹

Edwin and Azalia soon became a power couple in Denver’s Black community, marrying on January 29, 1894. She wrote a column on women’s issues for the *Statesman*, while also performing publicly to great acclaim as a vocalist. Together, the Hackleys founded the Imperial Order of Libyans, a service organization that advocated for Black pride and against racial prejudice. Meanwhile, Edwin used his position as editor of the *Statesman* to speak out against prejudice and racial inequality at every turn. Responding to criticism in white newspapers of his paper’s call for a boycott of a business that had fired a Black employee, Hackley wrote:

We ask no more now for the colored citizen than he is entitled to. We are willing to outgrow the ills arising from his ignorance and past condition. But the time when the colored man shall have an open chance to live and improve like other people need not be the millennium.¹²

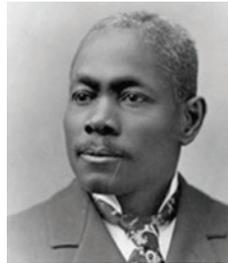
In other writings, Hackley urged Black voters to reject the confines of party affiliations and support only those candidates who were committed to the interests of the Black community. Calling the Republican Party an “insincere pretender” and the Democratic counterpart “soulless,” Hackley advocated for Blacks to “join those having leading interests common with them, binding themselves by no other obligations,” and to offer the major parties “no hope of forgetfulness for an unpardonable past.”¹³

But by late 1899, Hackley was frustrated on many fronts. His law practice was practically nonexistent, he’d been rebuffed in efforts to secure a federal patronage position, and the *Statesman* was failing financially; before the end of the year, he sold the newspaper to G.F. Franklin.¹⁴ The Hackley’s marriage had also soured, and in 1900, they relocated to Philadelphia.¹⁵ Although they didn’t officially divorce until 1910, Edwin and Azalia began to lead separate lives, as

she concentrated on her musical career. Hackley turned his attention to writing, penning the 1913 musical drama *The Ambassador*. Hackley also performed a great service for Blacks traveling through Jim Crow America by co-authoring the 1930 book *Hackley and Harrison’s Hotel and Apartment Guide for Colored Travelers*, an influential precursor to the famed *Green Book* for Black motorists.

Hackley died on July 11, 1940, at the age of 81. While his accomplishments in the courtroom may have been modest, he left behind a legacy of battling racism and second-class status, and he blazed a trail that other Colorado lawyers would follow.

Joseph H. Stuart



Stuart

Colorado’s second Black lawyer, Joseph H. Stuart, was born in the British West Indies in 1854. After graduating from Codrington College in Barbados, Stuart emigrated to South Carolina, where he attended Cedar Hall Academy. Stuart briefly worked as a school-teacher but soon moved on to the University of South Carolina Law School. After graduating in 1875 as Reconstruction ended, Stuart (like many Blacks) left the increasingly violent South for better opportunities in a more tolerant state. By 1879, Stuart had set up a law practice in Topeka, Kansas (however, he was not admitted to the Kansas bar until 1883). In 1890, Stuart moved to San Diego, California, but its tiny African American community didn’t provide much of a client base. So he relocated to Denver, and on December 1, 1891, Stuart officially became Colorado’s second Black lawyer.¹⁶

Stuart thrived, both in practice and in politics in Arapahoe County. He was elected to the Colorado legislature in 1895, becoming the state’s second Black representative. Among other achievements, he sponsored a bill to strengthen civil rights by providing for equal access to public places like restaurants, hotels, and entertainment venues.¹⁷ Sadly, Stuart did not win another term after 1897,

and the passage of Jim Crow measures weakened the effectiveness of the earlier legislative gains. Stuart remained active in his law practice, however, traveling to Trinidad in 1907 to defend Grattan Turner, a Black man from Denver, in a high-profile murder trial there.

Stuart was always ready to answer the call of those in need in Denver’s African American community. In 1906, he won the acquittal of a Black man, George Turner, who was accused of killing a white police officer. Noting that Blacks are “handicapped before the courts on account of prevailing prejudices, both in the minds of judges and juries,” one newspaper said “Turner’s acquittal should forever set at rest the argument against the employment of a colored attorney.”¹⁸ When the Anti-Saloon League targeted the city’s only Black-owned drug store and accused owner George A. Allen of selling liquor on a Sunday, Stuart took the case.¹⁹ Allen was acquitted of the “uncertain and conflicting charges” on March 26, 1910.

It was to be Stuart’s last victory. He died at his home on April 4, 1910, and is buried at Denver’s Fairmount Cemetery.²⁰

William Townsend, George Ross, and Thomas Campbell



Townsend

But just as he had followed Hackley, others followed Stuart. Soon after Stuart’s admission came William Bolden Townsend, who in 1891 was the University of Kansas Law School’s first Black graduate. After gaining his Kansas license that same year, Townsend settled in Pueblo, Colorado.²¹ Following years of practice there, Townsend moved to Denver in 1905. There, he represented a number of Black-owned businesses as well as Black fraternal organizations like the Knights of Pythias.

When Townsend moved to Denver in 1905, he joined a small community of Black lawyers there, including not only Joseph Stuart but also Thomas Campbell (admitted in Colorado in 1903), and George Gallious Ross Jr. (admitted



Ross

in 1906). Campbell, an 1893 graduate of Howard University Law School, had already practiced in Missouri and Oklahoma before settling in Denver.²² His legal career in Colorado spanned more than 50 years.

Ross also graduated from Howard’s law school (class of 1904). Following in Hackley’s footsteps, he balanced his law practice with publishing the newspaper now known as *The Denver Star*.

Samuel Cary



Cary

Colorado’s sixth Black lawyer, and the namesake of its African American bar association, was Samuel Cary. Born in Kentucky on July 9, 1886, he was the first Black graduate of Washburn University School of Law in Topeka, Kansas, in 1910.²³ He opened his law office in Denver’s historic Five Points neighborhood in 1919. There, he focused his practice on criminal defense, particularly the representation of members of diverse communities.

Many of Cary’s clients couldn’t afford to pay him, and as family and friends would

later recount, “nearly half of Denver owed him money.”²⁴ After complaints of “neglected finance” by some of his paying clients, Cary was disbarred by the Colorado Supreme Court in 1926.²⁵ To this day, some observers maintain that the disciplinary action was racially motivated. But in 1935, the Colorado bar and the Colorado Supreme Court reinstated Cary’s membership. He practiced without incident until his retirement in 1945.²⁶

While Sam Cary may not have been Colorado’s first Black lawyer, he continued a tradition begun by the trailblazing African American attorneys who came before him. That tradition was one of giving voice and representation to Colorado’s African American community. Practicing in all-white courtrooms and enduring the indignities of racial prejudice, these early Black lawyers stood for equality—through their advocacy, their writings, their political activism, and even their very existence.

Conclusion

The year 2021 was bittersweet for the Colorado legal community: it witnessed the hiring of Lolita Buckner Inniss, the first African American dean of a Colorado law school, as well as the passing of Justice Gregory Kellan Scott, the first (and only) Black person to serve on the Colorado Supreme Court. Yet for every milestone on the rocky road to racial justice, we must remember and acknowledge those who blazed the trail that other Black lawyers have followed. **CL**

9. Davenport, *supra* note 6 at 85.
10. *Id.* at 77-78.
11. See generally Karpf, “The Vocal Teacher of Ten Thousand: E. Azalia Hackley as Community Music Educator, 1910-1922,” 47:4 *J. Res. in Music Ed.* 319 (Winter 1999).
12. Hackley, “Editorial Responding to the Colorado Graphic,” *Statesman* (May 24, 1890).
13. Hackley, “The Negro Voter,” *Statesman* (1894).
14. Brevard, *supra* note 2 at 15.
15. *Id.* at 15-16.
16. Smith Jr., *Emancipation: The Making of the Black Lawyer, 1844-1944*, at 490-91 (Univ. of Penn. Press 1993).
17. Stuart, “Colored Lawyer Is Dead,” *Denv. Post* (Apr. 5, 1910).
18. “Called to Trinidad to Defend a Man Charged With Murder,” *Statesman* (Mar. 16, 1907).
19. “Our Druggist Only One Attacked,” *Statesman* (Mar. 26, 1910).
20. Armstrong, “Armstrong: Colorado’s Remarkable Early Black Legislators,” CompleteColorado.com (June 15, 2020), <https://pagetwo.completecolorado.com/2020/06/15/armstrong-colorados-remarkable-early-black-legislators>.
21. Smith Jr., *supra* note 16 at 491.
22. *Id.*
23. Concannon, “The Ideal Place . . . For the Establishment of a Great Law School,” 42:4 *Washburn L.J.* 803 (2004).
24. Erikson, “Six of the Greatest: A Tribute to Outstanding Lawyers in Colorado History,” 23 *Colo. Law.* 1487 (June 1994).
25. *People ex rel. Colo. Bar Ass’n v. Cary*, 251 P. 597, 80 Colo. 443, 445 (1926).
26. Brovsky-Easker, “How One Lawyer Returned to the Courtroom Against All Odds,” *L. Wk. Colo.* (July 7, 2020), <https://www.lawweekcolorado.com/article/how-one-lawyer-returned-to-the-courtroom-against-all-odds>.



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NOTES

1. Thomas, “The Pioneer Bar of Colorado,” *Colo. Mag.* 5 (July 1924).
2. Brevard, *A Biography of Edwin Henry Hackley (1859-1940): African-American Attorney and Activist* 5 (Edwin Mellen Pr. 2003).
3. *Id.* at 6.
4. “Hackley’s Hide,” *Colo. Daily*, in Brevard, *supra* note 2 at 7.
5. “Two ‘Eds’: Educating and Edwin Hackley,” *Det. Plain Dealer* (June 2, 1883) (reporting *Denv. Trib.* article).
6. Davenport, *Azalia: The Life of Madame E. Azalia Hackley* 77 (Chapman & Grimes 1947).
7. *Cleveland Gazette* (Sept. 25, 1886).
8. *Cleveland Gazette* (Dec. 11, 1886).