

Jackson Against Racial Exclusion: The D.C. Bar Association Library (1941)

*John Q. Barrett**

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From 1873 until 1952, federal courts in the District of Columbia were housed in the District's Old City Hall building at 4th and D Streets, Northwest. The area came to be called Judiciary Square.

For much of that period, the only law library in Old City Hall was the library of the Bar Association of the District of Columbia. The District's federal judges used the library, as did the Bar Association's members. Well into the 20th century, Association membership was limited to white men. The Bar Association refused to permit non-members, including Negro attorneys who were admitted to practice law in D.C. (i.e., black members of the D.C. Bar), to use the law library even as guests.

By statute, the D.C. Courthouse was operated and managed under the authority of the Attorney General of the United States.¹ In 1938, a Negro attorney in Washington, Huver I. Brown, filed a federal lawsuit against Attorney General Frank Murphy and the Bar Association. Mr. Brown alleged that the defendants' exclusion from the courthouse library of Brown and other lawyers violated their constitutional rights.

U.S. Department of Justice attorneys successfully moved to have the case dismissed. Brown then pursued an appeal. While that was pending, the Department sought to negotiate the Bar Association's agreement to permit non-member attorneys—i.e., Negro attorneys who were members of the D.C. Bar but who the all-white D.C. Bar *Association* excluded from its membership—to use the library's books in a separate room. In early 1941, however, the membership of the Bar Association voted to continue to exclude black lawyers from the library.

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¹ See D.C. Code, Title 18, Section 60.

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In January 1940, Robert H. Jackson succeeded Murphy as Attorney General. At some point during the next year, Jackson, exercising his statutory power over the federal courthouse, decided to end the exclusion. On February 12, 1941 (which of course was the 132nd anniversary of Abraham Lincoln's birth), Attorney General Jackson announced that the Department of Justice no longer would defend itself against the *Brown* lawsuit. Jackson also ordered that by April 1st the Bar Association must cease to discriminate in federal courthouse facilities against any D.C. Bar member on the basis of "race, color, religion, or sex."

Jackson officially, by letter, informed the Bar Association of his decision:

February 12, 1941

Honorable Francis B. Hill
President, The Bar Association of the District of Columbia
1331 G Street, N. W.
Washington, D. C.

Dear Mr. Hill:

As you know, the case of Huber [sic] I. Brown v. The Bar Association of the District of Columbia, Inc. has been pending a long time. Mr. Brown, a member of the bar ineligible to membership in your Association because he is colored, complains that certain rooms in the District Court Building over which the Attorney General has supervision and control have been made available for library purposes to your association, which has, however, excluded members of the bar in good standing from use of the library on grounds incompatible with the prescriptions against discrimination contained in the Constitution. Inasmuch as the responsibility for the District Court Building is by law placed upon me, it was proposed to substitute me as a party defendant. I declined to become a personal defendant because technical defenses to Mr. Brown's complaint, whether good in law or not, do not justify me in perpetuating a denial of equal privileges in a Federal Court Building on grounds of race, of color, of religion, or of sex.

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Assured by your officers of a desire to correct this situation and recognizing that an equitable provision for support of the library as between members of your Association and non-members presented some difficulty, I asked [Claims Division] Assistant Attorney General [Francis M.] Shea to attempt to mediate between your association and those who felt the sting of discrimination in an effort to settle the differences. A program was reached which was satisfactory to your committee, which voted unanimously to recommend it to your Association, and I am informed that your Board of Directors voted unanimously to recommend it to your Association. The program was also satisfactory to the complainants and was, therefore, acceptable to me. Upon being submitted to a vote of the membership of your Association, however, the proposal was finally turned down.

It is now apparent that further efforts by this Department at mediation are futile. I shall not defend either on technical or other grounds the discrimination which has been practiced in the use of the facilities of the Federal Court Building. It is due to you and to the Directors of the Association and to the Judges of the District Court and the committee specially appointed to deal with this matter that I should acknowledge that all of you have been most cooperative in this matter and your attitude commendable. The failure of negotiations is due to no fault of yours.

I am issuing an order that on and after April 1 if any space in the Federal Court Building be occupied by any members of the bar or by any association of the bar, the space and its facilities shall be made available to all members of the

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bar in good standing without discrimination on account of race, color, religion, or sex.

Sincerely yours,

/s/ Robert H. Jackson

Attorney General²

² Letter from Robert H. Jackson to Francis B. Hill, Feb. 12, 1941 (carbon copy of two-page typed letter, with stamped blue-ink Jackson signature), *in* Robert H. Jackson Papers, Library of Congress, Manuscript Division, Washington, D.C., Box 89, Folder 2.