

# The Murray Case

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I

DONALD GAINES MURRAY, A. B., is a young colored man of Baltimore. He has been living here since childhood, and his family has been paying State and city taxes for thirty years. In the spring of 1934, after the usual four years of study, he was given his bachelor's degree by Amherst, one of the oldest and best of the smaller American colleges. On January 24 last, having a mind to consecrate his life to the fearsome mysteries of the law, he applied for admission to the Law School of the University of Maryland, a tax-supported institution. He was well qualified for entrance, academically speaking, and indeed much more than qualified, for he had four years in college behind him, whereas the school statutes require but two. But on the ground that he was of African descent, and on that ground alone, his application was peremptorily refused, and the \$2 fee that he had sent in with it was returned.

On April 8, dissatisfied with this summary rejection, he filed a suit in the Baltimore City Court, praying most humbly for a mandamus requiring the regents of the University of Maryland to admit him. On April 18 a temporary order to that effect was signed by Stein, J., and the regents were commanded to come into court on May 6 to give an account of themselves. On that day, through their official legal adviser, Attorney-General Herbert R. O'Connor, LL. B., they filed their answer, and on May 21 the plaintiff's attorneys replied to it. On June 25, in the same court, O'Dunne, J., reaffirmed the Stein mandamus, and added an order requiring the regents to examine Mr. Murray's qualifications before September 25, the first day of the Law School year, and to admit him forthwith if he turned out to be eligible.

On August 2 the regents filed an appeal, and at the same time petitioned the Court of Appeals to hear it at a special session before the end of August, on the stated ground that if the hearing were postponed until the regular session in October, the plaintiff would be already enrolled in the Law School. This application the learned judges refused, and so there will be an Ethio among the Aryans when the larval Blackstones assemble next Wednesday. Moreover, he is likely to remain there for a long while, for it will take some time for the Court of Appeals to hear and dispose of his case, and no matter what its decision may be there will be an appeal to the Supreme Court of the United States, either by him or by the regents.

II

SO long as the matter remains *sub judice* it would be an indecorum, and an impertinence, of course, to venture upon any opinion about the constitutional issues that it involves. On all such issues, whatever they may be, the judgment of the Court of Appeals may be awaited with full confidence, for the present judges thereof are not only notable for their wisdom and learning, but also for their courage and impartiality. But there are also some social issues in the case, and inasmuch as they are already being discussed somewhat heatedly, at least in Afro-American circles, it may be proper to advert to them in a chaste and cautious manner.

The first has to do with the question whether the professors and students of the Law School really object to the presence of a colored student in their midst. If they do, then I can find no indication of it in the papers filed in the case. The regents of the university apparently object violently, and so does the registrar of their Baltimore schools, but the gentlemen actually in charge of the Law School are not so much as mentioned in the papers, and neither are the young men who sit under them. The only complainant produced by the regents, outside their own household, is a gentleman who has three daughters at College Park, thirty miles away, and he is a Washingtonian and apparently pays no taxes in Maryland.

Why, indeed, should the professors and students of the Law School object to the presence among them of a self-respecting and ambitious young Afro-American, well prepared for his studies by four years of hard work in a Class A college? Scholastically, he will stand above rather than below the average of his class, and as a matter of common sense and common justice it would not only be brutal but also absurd to turn him out. All the judges among the professors have been listening for years to the pleadings of colored attorneys, and all the practicing lawyers have met them in court and in conference. There has never been any hint that this contact has been revolting to either judges or lawyers, or that it has worked any ponderable damage to either the administration of justice or the dignity of the bar. Indeed, the salient despoilers of both, in late years, have not been black lawyers but white ones, and the Law School itself has been engaged in an heroic effort to raise the intellectual and moral level of its students, hitherto all white. Mr. Murray will need no such lifting up. He already stands on a level clearly higher than that which the Law School has set.

III

THE regents of the university, in their official statement of their case, make much of the fact that it has always been the policy in Maryland to educate whites and blacks in separate schools. This is true so far as the public schools are concerned, and even so far as the ordinary college courses are concerned. The separation has been resented by a small faction of colored people, but the majority of them do not object to it, and inasmuch as virtually all the whites of the State are in favor of it, it is not likely to be abandoned in the near future.

But the reasoning which supports it fails when one comes to the level of the professional schools, and especially when one comes to the Law School. The students in the Law School are not children, and hence are not likely to divide themselves into hostile camps over anything so superficial as the color of their skins. Nor are they hollow adolescents going through the ordinary college mill, and eager only to dance, neck, and hoodwink the poor gogues told off to struggle with them. They are, instead, grown men and women, and they are in school for the serious purpose of preparing for a learned and honorable profession. To think of them as crackers hugging idiotically their more fortuitous whiteness is to say at once that they are unfit to be admitted to the bar of any civilized State.

I am not arguing here for mixing the races in the public schools. As I have hinted, in the present state of public opinion in Maryland it would probably be most unwise, no matter what may be said for it in the abstract. The public schools are for immature children, and it would be foolish to expect them to rise above the prevailing *mores*. And behind those children are parents who, taking one with another, are of scarcely sounder judgment. But in the professional schools we are dealing not only with adults, but also with adults who are presumed, by definition, to be of more than ordinary intelligence, prudence, and decency. If that presumption is false, then there is no superior class at all in Maryland, and the State must be content to be ranked, intellectually, with Arkansas and Mississippi.

IV

THE regents of the university deny that barring Mr. Murray from the Law School would do him any appreciable damage. They advise him, complacently, to go to Washington and enter Howard University, and even hint that, if he is lucky, he may get a grant in aid from the Commission on the Higher Education of Negroes, which was set up by the last Legislature with resources running to the lavish amount of \$10,000. But it must be obvious that this answer is really no answer at all. The regents might just as well advise him to go to Addis Ababa or Timbuctoo. He wants to get his training, not in Washington, but here in Baltimore, where the laws and procedure of Maryland are at the bottom of the teaching and where he plans to practice after he has completed his course, and the only question at issue is whether he can be denied that choice on the sole ground that he is black.

On all other grounds he is admittedly qualified to enter the Law School. He is of a proper age, he has been prepared in a first-rate college, there is no shadow of objection to him on moral grounds, and his people have been taxpayers since before his birth. The one and only allegation brought against him is that he is not white. And the obvious motive in raising that caveat is not to protect the Law School, which does not complain, but to protect the huge tax-eater at College Park. What the regents really fear is that if the courts order Mr. Murray admitted to the Law School, other Negroes will apply for admission to the so-called College of Arts.

As for me, I believe that the courts may be trusted to differentiate between the two. The Law School is a first-rate professional school supported by the taxpayer, and there is no institution of its kind in the State for colored students. Either it must let them in, or they must leave the State. But the College of Arts is a fifth-rate pedagogical dump patronized largely by the children of Washingtonians, and it would be easy to bring the Princess Anne Academy, which is for colored students, up to equality with it. Thus the issue is clear. The only question before the house, disregarding purely legal considerations, is whether the Law School is to be abandoned to Ku Kluxry in order to protect a so-called college that costs the taxpayers immense sums every year, benefits them little if at all, and is in general vastly less an institution of learning than an impudent political racket.