

University of Colorado Law School

## Colorado Law Scholarly Commons

---

Articles

Colorado Law Faculty Scholarship

---

2021

### Slavery and the Postbellum University: The Case of SMU

Lolita Buckner Inniss

*University of Colorado Law School*

Skyler Arbuckle

Follow this and additional works at: <https://scholar.law.colorado.edu/faculty-articles>



Part of the [Law and Race Commons](#), [Legal History Commons](#), and the [Race, Ethnicity and Post-Colonial Studies Commons](#)

---

#### Citation Information

Lolita Buckner Inniss and Skyler Arbuckle, *Slavery and the Postbellum University: The Case of SMU*, 74 SMU L. REV. 723 (2021), available at <https://scholar.law.colorado.edu/faculty-articles/1557>.

#### Copyright Statement

Copyright protected. Use of materials from this collection beyond the exceptions provided for in the Fair Use and Educational Use clauses of the U.S. Copyright Law may violate federal law. Permission to publish or reproduce is required.

This Article is brought to you for free and open access by the Colorado Law Faculty Scholarship at Colorado Law Scholarly Commons. It has been accepted for inclusion in Articles by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact [lauren.seney@colorado.edu](mailto:lauren.seney@colorado.edu).

# SLAVERY AND THE POSTBELLUM UNIVERSITY: THE CASE OF SMU

*Lolita Buckner Inniss\* & Skyler Arbuckle\*\**

## ABSTRACT

*People who practiced slavery across the United States, or engaged in slavery-related practices, were often the same civically-minded social, legal, and economic leaders who founded the nation's first colleges and universities. There was, thus, from our earliest times, an unacknowledged but firm tie between the values and high ideals of the academy that existed in stark contraposition to the horrors of human bondage that fueled those institutions. Many North American colleges founded before the Civil War relied on money derived from the elite members of society with direct involvements in slavery. While a growing body of scholarly work discusses early colleges' and universities' substantial interactions with slavery, relatively little work has addressed the role of slavery at academic institutions founded after the Civil War and the general emancipation of enslaved people. This Article, part of a larger project, looks at the role of slavery at some postbellum institutions. The focus here is on Texas slavery, which came into wider public attention with the adoption of Juneteenth as a national holiday in June 2021. Many postbellum Texas colleges and universities and their founders had extensive ties to slavery and slavery-related practices. This was no less true at Southern Methodist University (SMU), and for one of its key founding families, the Caruths.*

## TABLE OF CONTENTS

|  |     |
|--|-----|
| I. INTRODUCTION .....                                      | 724 |
| II. SLAVERY IN THE POSTBELLUM UNIVERSITY .....             | 728 |
| III. SLAVERY IN WESTERN STATES: THE CASE OF<br>TEXAS ..... | 729 |
| IV. SLAVERY AND TEXAS COLLEGES AND<br>UNIVERSITIES .....   | 730 |

---

\* Dean and Provost's Professor of Law, University of Colorado Law School. Ph.D., LL.M. with Distinction, Osgoode Hall Law School, York University; J.D., University of California, Los Angeles; A.B., Princeton University. Lolita Buckner Inniss is a former Senior Associate Dean and University Distinguished Professor at SMU Dedman School of Law.

\*\* J.D. Candidate, SMU Dedman School of Law, 2022; B.S., *cum laude*, Howard University, 2015. Skyler Arbuckle is a direct descendant of Edward Fields, an African-ancestored Dallasite who, along with some members of his family, was enslaved by William Barr Caruth, one of the founders of SMU, and his family.

|   |     |
|---|-----|
| V. SLAVERY AND SMU: THE CARUTHS AND THE FIELDS .....                | 734 |
| VI. LOLITA BUCKNER INNISS (LBI) AND SKYLER ARBUCKLE (SNA) TALK..... | 736 |
| VII. CONCLUSION .....   | 745 |

## I. INTRODUCTION

**D**ESPITE many people’s unwillingness to confront the fact, the enslavement of Africans and their descendants was one of the most substantial shapers of socio-legal, political, and economic systems in the early United States and well afterwards.<sup>1</sup> The foundation laid by Black enslavement and slavery-based practices was especially crucial in undergirding the early U.S. economy.<sup>2</sup> In many instances, capital markets and banking were closely tied to systems of enslaved plantation labor.<sup>3</sup> Banks were often tied to planters, and these same planters were

---

1. Discussions of slavery are evident, even if somewhat oblique, in the U.S. Constitution. There are, for instance, the Migration and Importation Clause (permitting a federal ban on the importation of “Persons” into the United States after 1808), U.S. CONST. art. I, § 9, cl. 1, and the Fugitive Slave Clause (allowing for the recapture of those fleeing who were “held to Service or Labour in one State”), *id.* art. IV, § 2, cl. 2, *amended* by U.S. CONST. amend. XIII. I assert elsewhere that these two clauses should be read in tandem because ending the importation of Africans for enslavement by necessity required a mechanism for retaining or recapturing already enslaved Africans and their descendants in the United States. See LOLITA BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE: THE TRIALS OF JAMES COLLINS JOHNSON* 25 (2019).

A growing number of scholars are viewing the early history of the United States, its institutions, and its founding documents with a new lens. One body of work that has received particular attention is the *1619 Project*, an initiative developed by Nikole Hannah-Jones and published by the *New York Times Magazine* beginning in August 2019. See *The 1619 Project*, N.Y. TIMES MAG. (Aug. 18, 2019), <https://www.nytimes.com/section/magazine?action=click&contentCollection=magazine&module=homePage-Title&pgtype=multimedia&region=TopBar> (search in search bar for “The 1619 Project” and choose the entry with the same name) (last visited Aug. 21, 2021); NIKOLE HANNAH-JONES, *THE 1619 PROJECT: A NEW ORIGIN STORY*. A principal goal of the project was to reframe U.S. history by altering the way slavery and its consequences have typically been addressed, especially in national origin narratives. See Jake Silverstein, *Why We Published the 1619 Project*, N.Y. TIMES MAG. (Dec. 20, 2019), <https://www.nytimes.com/interactive/2019/12/20/magazine/1619-intro.html> [<https://perma.cc/EF25-NQ3A>]. While widely acclaimed, the project has also been the subject of a number of critiques, many centering on the assertion that slavery was the key cause of the American Revolution. See, e.g., Leslie M. Harris, *I Helped Fact-Check the 1619 Project. The Times Ignored Me.*, POLITICO MAG. (Mar. 6, 2020, 5:10 AM), <https://www.politico.com/news/magazine/2020/03/06/1619-project-new-york-times-mistake-122248> [<https://perma.cc/B2YM-FWX7>].

2. See EDWARD E. BAPTIST, *THE HALF HAS NEVER BEEN TOLD: SLAVERY AND THE MAKING OF AMERICAN CAPITALISM* xxiii–xxv (2016). Despite data to the contrary, some postbellum historians ignored the role of U.S. slavery in “the great economic and social transformations of the Western world during the nineteenth century.” *Id.* at xix.

3. See EUGENE D. GENOVESE, *THE POLITICAL ECONOMY OF SLAVERY: STUDIES IN THE ECONOMY AND SOCIETY OF THE SLAVE SOUTH* 22 (Wesleyan Univ. Press, 2d ed. 1989) (1961) (“Southern banking tied the planters to the banks, but more important, tied the bankers to the plantations.”). In addition to Edward Baptist, see *supra* note 2 and accompanying text, several scholars have considered the relationship between slavery and finance generally. See *generally* SLAVERY’S CAPITALISM: A NEW HISTORY OF AMERICAN ECONOMIC DEVELOPMENT (Sven Beckert & Seth Rockman eds., 2016); GAVIN WRIGHT, *SLAV-*

often members of state, and in some cases, federal legislatures that regulated banks.<sup>4</sup> In short, while some scholarly accounts have framed the enslavement of captive Africans and their descendants in the United States as part of an almost neofeudal, unsophisticated system that relied on personal relationships and feelings, those engaged in the slave trade were often social leaders, capitalists, and savvy entrepreneurs with enduring engagements in local and national political and legal systems.<sup>5</sup> Given this background, it is no wonder that the history of Black enslavement in the United States is a significant source of persistent Black–white social estrangements and wealth gaps, starting immediately after the general emancipation of Black people in the United States and continuing in the contemporary era.<sup>6</sup>

Even where there is an acknowledgement of the extensive social, legal, and financial structures governing American slavery, there has still been a tendency to think of slavery as being constrained in another way: by geography. Slavery is often framed as an institution that existed only in the “Deep South” region of the United States.<sup>7</sup> Slavery, however, knew no geographic boundaries in the country’s earliest days. During most of the seventeenth and eighteenth centuries, slavery was present in each one of the thirteen colonies (later states), North and South alike.<sup>8</sup> Even when slavery had largely come to an end in parts of the North, it quietly persisted in these ostensibly “free” spaces.<sup>9</sup> Slavery ended in parts of the North only after what were sometimes lengthy periods of gradual emancipation of enslaved people.<sup>10</sup> Upon eradicating slavery, some northern

---

ERY AND AMERICAN ECONOMIC DEVELOPMENT (2006); SVEN BECKERT, *EMPIRE OF COTTON: A GLOBAL HISTORY* (Vintage Books 2015) (2014); JOHN MAJEWSKI, *MODERNIZING A SLAVE ECONOMY: THE ECONOMIC VISION OF THE CONFEDERATE NATION* (2009).

4. GENOVESE, *supra* note 3, at 22 (“The banks often found it necessary to add prominent planters to their boards of directors and were closely supervised by the planter-dominated state legislatures.”).

5. See BAPTIST, *supra* note 2, at xviii–xix, xxiv–xxv.

6. According to a report by the Brookings Institution, in 2016 white families had median net worths that were ten times those of Black families. Kriston McIntosh, Emily Moss, Ryan Nunn & Jay Shambaugh, *Examining the Black-White Wealth Gap*, BROOKINGS (Feb. 27, 2020), <https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap> [<https://perma.cc/Y6PN-QBCC>]. Key factors for this disparity are over two centuries of Black enslavement, federal mismanagement of bank deposits made by some Black people, dispossession by racialized violence, and racially discriminatory policies throughout the twentieth century. *Id.*

7. The Deep South is a cultural and geographic subregion in the southern United States that often focuses on the key states of the Confederacy: Alabama, Arkansas, Georgia, Louisiana, Mississippi, and South Carolina. See generally NEAL R. PEIRCE, *THE DEEP SOUTH STATES OF AMERICA: PEOPLE, POLITICS, AND POWER IN THE SEVEN DEEP SOUTH STATES* (1974). It is sometimes used to describe the states most dependent on plantations and chattel slavery during the early period of United States history. See, e.g., *id.* at 30, 37–45.

8. CATHERINE KERRISON, *CLAIMING THE PEN: WOMEN AND INTELLECTUAL LIFE IN THE EARLY AMERICAN SOUTH* 141 (2006).

9. *Id.* (“[A]lthough all northern states had enacted some form of emancipation statute by 1804, slavery was not eradicated completely for decades: in New York and Pennsylvania, for example, it continued into the 1840s.”)

10. JOANNE POPE MELISH, *DISOWNING SLAVERY: GRADUAL EMANCIPATION AND “RACE” IN NEW ENGLAND, 1780–1860*, at 63–64, 79 (1998). That very process of gradual

states, such as those in the New England region, worked actively to disown their slave pasts and to create in their stead an imagined past. In these revised histories, slavery had never occurred, and the presence of Black people was largely unaddressed and unexplained.<sup>11</sup> In New Jersey, a state typically thought of as part of this historic “free” North, slavery continued for decades into the nineteenth century, despite legislative efforts to end it.<sup>12</sup> Nonetheless, it has only been in recent years that scholarly accounts have closely queried slavery in New Jersey and concluded that the state was far from a free or progressive place for Black people in the antebellum period.<sup>13</sup> Some form of enslavement was practiced in New Jersey until the Thirteenth Amendment was ratified in 1865.<sup>14</sup> Slavery permeated U.S. culture and customs, and this bondage played a significant role in shaping many of the country’s institutions.

People who practiced slavery across the United States, and who were correspondingly engaged in shaping the social, legal, and economic norms of slavery, were often the same civically-minded citizens associated with founding and supporting the nation’s first colleges and universities.<sup>15</sup> There was, thus, from the nation’s earliest times, an unacknowledged but firm tie between the codes and “high ideals of academe” that existed in clear opposition to the “horrors of human bondage” that fueled those institutions.<sup>16</sup> It has been asserted, for instance, that most American colleges founded before the Civil War relied on money derived from the elite members of society who practiced slavery.<sup>17</sup> So too were there ties between the nation’s founders and slavery and its universities. For example, Thomas Jefferson, the principal author of the Declaration of Independence and the third President of the United States, also helped found the University of Virginia.<sup>18</sup> Jefferson personally enslaved a large number of people, and independently of Jefferson, the University of Virginia used

---

emancipation was itself a cultural process that was at the foundation of some aspects of race-making and in the shaping of culture, ideology, and broader racial meaning in the places where it occurred. *See id.* at 8. Gradual emancipation very typically had no immediate benefits for the ostensibly freed Black people; they sometimes remained enthralled not just or only to individual owners but to entire communities as a result of arcane laws governing their lives. *Id.* at 63–79.

11. The abolition of slavery in New England led to “a kind of erasure by whites of the historical experience of local enslavement . . . . In its place emerged a triumphant narrative of a historically free, white New England in which a few people of color were unaccountably marooned . . . .” *Id.* at 3.

12. *See, e.g.,* INNISS, *supra* note 1, at 38–42.

13. James J. Gigantino II, “*The Whole North Is Not Abolitionized*”: *Slavery’s Slow Death in New Jersey, 1830–1860*, 34 J. EARLY REPUBLIC 411, 411–13 (2014); *see also* INNISS, *supra* note 1, at 41–42 (noting that even the relatively “freer” part of northern New Jersey was home to industries that produced clothing and foodstuffs for enslaved people in other parts of the country).

14. Gigantino, *supra* note 13, at 437.

15. CRAIG STEVEN WILDER, *EBONY & IVY: RACE, SLAVERY, AND THE TROUBLED HISTORY OF AMERICA’S UNIVERSITIES* 48–49 (2013).

16. INNISS, *supra* note 1, at x.

17. WILDER, *supra* note 15, at 48–49.

18. History.com Eds., *Thomas Jefferson*, HISTORY.COM (July 6, 2020), <https://www.history.com/topics/us-presidents/thomas-jefferson> [<https://perma.cc/D3CR-XAN5>].

enslaved people to perform many functions.<sup>19</sup> In many instances, enslaved people even physically constructed these academic institutions, and once built, provided the labor needed to run these campuses.<sup>20</sup>

There were a number of early colleges and universities with substantial connections to slavery—Columbia, Brown, Harvard, and Princeton—were just a few of the eastern colleges and universities with ties to human bondage.<sup>21</sup> Georgetown University in Washington, D.C. was sustained by the 1838 sale of 272 enslaved people owned by the school.<sup>22</sup> For these antebellum academic institutions, slavery and slavery-related practices served as vital supports for campus cultures that often centered on morality, gentility, and belles lettres.<sup>23</sup> This high-minded campus culture stood in stark contrast to the physical and psychological debasement of slavery, and for this reason, explicit discussion of the realities of slavery, and especially of personal engagement in slavery, was often avoided on antebellum college campuses.<sup>24</sup> And where discussions of slavery took place, they occurred in abstract, academic discourse that failed to address slavery's tangible and practical realities.<sup>25</sup> Given that even schools in northern and Mid-Atlantic states had engagements with slavery in the antebellum period, it is not surprising that southern colleges founded in the antebellum era also had ties to slavery.<sup>26</sup> In sum, slavery was a persistently present institution at colleges and universities all over the country before the Civil War. But what about after the Civil War?

This Article briefly discusses the role of slavery in the development of post-Civil War colleges and universities. It then looks at the role of slav-

19. See generally MAURIE DEE MCINNIS & LOUIS P. NELSON, *EDUCATED IN TYRANNY: SLAVERY AT THOMAS JEFFERSON'S UNIVERSITY* (2019).

20. Kelley Fanto Deetz, *Finding Dignity in a Landscape of Fear: Enslaved Women and Girls at the University of Virginia*, 39 *SLAVERY & ABOLITION* 251, 251–52 (2018). During the early and middle nineteenth century at the University of Virginia, for example, enslaved people were routinely leased from their owners in order to construct campus buildings and provide domestic services. See *id.*

21. INNIS, *supra* note 1, at x.

22. Rachel L. Swarns, *Georgetown Confronts Its Role in Nation's Slave Trade: What Does the University Owe Descendants of 272 Slaves?*, N.Y. TIMES, Apr. 17, 2016, at A1.

23. INNIS, *supra* note 1, at 42. As another author noted, in the decade before the American Revolution, advertisements for postprimary education often advanced appeals to gentility, while at the same time promising that instructors would provide appropriate moral development of students. Carl Robert Keyes, *Selling Gentility and Pretending Morality: Education and Newspaper Advertisements in Philadelphia, 1765–75*, 141 *P.A. MAG. HIST. & BIOGRAPHY* 245, 245–47 (2017).

24. See INNIS, *supra* note 1, at 49. Even those students whose families enslaved people often described them via euphemisms such as “my servant,” “my people,” or “my Negro.” *Id.* at 101, 190 n.3.

25. See *id.* at 49. For instance, two student intellectual societies at Princeton, the American Whig Society and the Cliosophic Society, hosted debates about abolition as early as 1793. *Id.* Many of these discussions were muted and refined, largely in order to spare the feelings of the many students whose families were engaged in the practice of slavery or whose wealth and privilege derived from it. *Id.*

26. The University of Virginia, Washington and Lee, the University of North Carolina and the University of Alabama are a few examples of slavery-associated southern universities. See ALFRED L. BROPHY, *UNIVERSITY, COURT, AND SLAVE: PRO-SLAVERY THOUGHT IN SOUTHERN COLLEGES AND COURTS AND THE COMING OF CIVIL WAR* 48–58, 83, 107–19, 126–27 (2016).

ery in newer states carved from western territories like Texas and examines slavery's relationship to some Texas colleges and universities. The Article then introduces the Caruths and the Fields, the enslavers and the enslaved, and describes their relationship to SMU. Then, via a dialogue between the authors Lolita Buckner Inniss and Skyler Arbuckle, the Article queries the meaning of being an American slave descendant in the place where your ancestors were enslaved, and of attending school on and near the very land where your ancestors were enslaved. The Article concludes by pointing out the importance of looking to the past of colleges and universities, given the crucial role of such institutions in shaping civic life in regard to norms of race and racism.

## II. SLAVERY IN THE POSTBELLUM UNIVERSITY

Just as it had served before the Civil War, slavery was also a significant economic platform for many colleges and universities after war, and it appeared in the personal practices of many college founders, even after the enactment of the Thirteenth Amendment. One such postbellum institution that was associated with and benefitted from slavery is Clemson University in South Carolina. Clemson was founded on land that had been the Fort Hill plantation of John C. Calhoun.<sup>27</sup> Calhoun served as a U.S. vice president and a U.S. senator from South Carolina. In its heyday, Fort Hill was staffed by over seventy enslaved people. After his death, Calhoun's daughter and her husband, Thomas Clemson, eventually came into possession of Fort Hill.<sup>28</sup> Clemson left the land to be developed as a college in the late 1800s.<sup>29</sup> Though Clemson's connection to slavery is not as well-known as some institutions given its postbellum founding, the school has joined a long line of colleges and universities that acknowledge their ties to and benefits from U.S. slavery.<sup>30</sup>

---

27. For a detailed discussion of the role of slavery in the founding of Clemson University, see RHONDDA ROBINSON THOMAS, *CALL MY NAME, CLEMSON: DOCUMENTING THE BLACK EXPERIENCE IN AN AMERICAN UNIVERSITY COMMUNITY* (2020).

28. Thomas Clemson appears to have gained parts of the property interest by initiating a lawsuit against other Calhoun heirs whose mortgage he foreclosed when the heirs failed to make payments after the Civil War. *See* *Calhoun v. Calhoun*, 2 S.C. 283, 285–86 (1870) (enslaved persons at issue). The heirs argued that because the majority of the borrowed purchase money was secured by fifty enslaved people who were the object of the purchase, they owed nothing in regard to that part of the debt as the enslaved people were no longer in their possession after the general emancipation following the war. *Id.* at 286. The court disagreed, finding that persons who borrow purchase money to obtain enslaved people and offer them as security for the loan bear the risk that “the institution of slavery might in a short time be abolished, either by a revolution in the Government or by constitutional amendment[.]” *Id.*

29. *See The Clemson Story*, CLEMSON UNIV., <https://www.clemson.edu/about/history> [<https://perma.cc/N8BD-BYRZ>].

30. Clemson, along with several other educational institutions “such as the University of North Carolina, Brown, Harvard, the University of Alabama, the University of Virginia, Columbia, and the College of William and Mary, have in recent years considered their own involvement in the institution of slavery.” INNIS, *supra* note 1, at x–xi. These institutions have united in a group of over six dozen colleges and universities called the Universities Studying Slavery consortium, *id.* at xi, created and led by the University of Virginia, *Univ. Studying Slavery, President’s Commission on Slavery and the University*, UNIV. OF VA.,

It was not only southern colleges that benefitted from slavery or slavery-adjacent practices after the Civil War. One example of a northern college benefitting from slavery is Barnard College in New York City. The school was founded in 1889 to honor Frederick Augustus Porter Barnard, the tenth president of Columbia University, who advocated for the higher education of women. Barnard was founded as an all-women's college and fulfilled Barnard's vision of establishing a place where women could obtain a first-rate postsecondary education. Before coming to Columbia, Barnard had moved south from his native Massachusetts to serve as a professor at the University of Alabama and later as professor and then chancellor at the University of Mississippi for many years before the Civil War, during which time he owned several enslaved people.<sup>31</sup> Barnard, though painting himself as pro-Union after his return to the North, had never been an abolitionist.<sup>32</sup> There are no records of his having liberated his enslaved people before returning to the North. At his death, Barnard left his estate, valued at fifty-thousand dollars, to what became Barnard College.<sup>33</sup>

Hence, in both the North and the South, postbellum colleges and universities had ties to or benefitted from slavery. Much the same can be said of some of the colleges and universities formed in western states and territories after the Civil War.

### III. SLAVERY IN WESTERN STATES: THE CASE OF TEXAS

Apart from the practice of slavery in the North, slavery also occurred in another area that less frequently come to mind when thinking of Black enslavement: the territories, later states, of the American West.<sup>34</sup> One key western state where slavery was practiced is Texas. Many early Texas

---

<https://slavery.virginia.edu/universities-studying-slavery> [<https://perma.cc/AVD8-WKYW>]. To date, SMU has not joined this consortium. See *Univs. Studying Slavery, supra*.

31. BROPHY, *supra* note 26, at 146–47. Barnard taught at the University of Alabama from 1838 until 1854, *id.*, and served as the chancellor at the University of Mississippi from 1856 until 1861, *Former Chancellors*, UNIV. OF MISS., <https://chancellor.olemiss.edu/former-chancellors> [<https://perma.cc/R6J9-MH5U>]. He became president of Columbia in 1864, where he served until shortly before his death in 1889. BROPHY, *supra* note 26, at 146; JOHN FULTON, MEMOIRS OF FREDERICK A. P. BARNARD: TENTH PRESIDENT OF COLUMBIA COLLEGE IN THE CITY OF NEW YORK 335, 405 n.1 (1896).

32. FULTON, *supra* note 31, at 252.

33. John W. Johnson, *Biographical Sketches of Judge A. B. Longstreet and Dr. F. A. P. Barnard*, 12 PUBL'NS MISS. HIST. SOC'Y 122, 145–46 (1912). Fifty thousand dollars in 1889 is valued at almost \$1.5 million dollars in 2021. Ian Webster, *Value of \$50,000 from 1889 to 2021*, CONSUMER PRICE INDEX INFLATION CALCULATOR, <https://www.in2013dollars.com/us/inflation/1889?amount=50000#:~:text=Value%20of%20%2450%2C000%20from%201889,cumulative%20price%20increase%20of%202%2C867.42%25> [<https://perma.cc/T59W-JQ9N>].

34. See generally KEVIN WAITE, WEST OF SLAVERY: THE SOUTHERN DREAM OF A TRANSCONTINENTAL EMPIRE (2021). Even those states that had entered the Union as free states, like California, sometimes quietly condoned the practice of Black enslavement in early years. RUDOLPH M. LAPP, BLACKS IN GOLD RUSH CALIFORNIA 130–33 (1977). This was due to an absence of law enforcement that allowed slavery to proceed unimpeded in some parts of the state. *Id.* at 131.



land grants to white settlers were explicitly tied to the use of slave labor.<sup>35</sup> When Texas was admitted to the Union as the twenty-eighth state on December 29, 1845, it was admitted as a slave state.<sup>36</sup> The widespread practice of slavery in Texas lasted approximately fifty years dating from the heavy influx of white settlers from other parts of the United States.<sup>37</sup> Though this was a much shorter time frame than that of many other states and territories, slavery was a crucial part of the Texas economy and was significantly embedded in many social and legal practices.<sup>38</sup> Texas social practices especially were outgrowths of the same plantation-based, racialized caste system that had been in place in most of the southern states from which Texas settlers had emigrated.<sup>39</sup> With slavery in Texas, there came the entrenchment of an institution that some had believed would die of its own weight. Texas offered new possibilities for the use of human chattels. Slavery was a vital engine for the state's growth and prosperity, as many early settlers moved to Texas from states near and far hoping to take advantage of swaths of open land that were conducive to the kind of slave-based agriculture that had enriched many people in other parts of the United States.<sup>40</sup> And just as in other states, some of the individuals who were tied to slavery in other aspects of Texas life were also often key to the development of many Texas higher education institutions. Slavery is an unacknowledged element undergirding several Texas colleges and universities.

#### IV. SLAVERY AND TEXAS COLLEGES AND UNIVERSITIES

The state of Texas offers several key examples of a connection between slavery and higher education, as some of the state's best-known colleges and universities were tied to slavery and slavery-related practices in much

---

35. ANDREW J. TORGET, *SEEDS OF EMPIRE: COTTON, SLAVERY, AND THE TRANSFORMATION OF THE TEXAS BORDERLANDS, 1800–1850*, at 62 (2015). Under the policies of Stephen F. Austin, a U.S. citizen granted a license by the Mexican government to bring in American families, settlers received land based upon how many people they brought with them, counting both family members and enslaved labor. *See id.* at 49–52, 59–62. These policies helped to lead to expansive growth in the presence of enslaved people in Texas. *Id.* at 84–86.

36. *See* Joint Resolution for Annexing Texas to the United States, 5 Stat. 797, 798 (1845). In one intriguing and relatively infrequently discussed provision of the admission of Texas to the Union, Congress authorized the Texas legislature to divide the state into as many as five states by creating four new states within its limits. *Id.* (“New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may, hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution.”); Paul E. McGreal, *There Is No Such Thing as Textualism: A Case Study in Constitutional Method*, 69 *FORDHAM L. REV.* 2393, 2395–96 (2001) (discussing the constitutionality of the five-state provision in the congressional Joint Resolution admitting Texas to the Union).

37. RANDOLPH B. CAMPBELL, *AN EMPIRE FOR SLAVERY: THE PECULIAR INSTITUTION IN TEXAS, 1821–1865*, at 1–2 (1989).

38. *Id.* at 2–4.

39. TYINA L. STEPTOE, *HOUSTON BOUND: CULTURE AND COLOR IN A JIM CROW CITY* 25 (2016).

40. CAMPBELL, *supra* note 37, at 3–4.

the same way that many northern and southern colleges were. For example, Prairie View A&M University was founded in 1878 on what was the Alta Vista plantation, owned by Jared E. Kirby, a former Confederate colonel.<sup>41</sup> As far as historians know, Prairie View is the only known historically Black college or university built on land formerly used as a slave plantation.<sup>42</sup> After Kirby's death, his wife sold the plantation to the State of Texas.<sup>43</sup> The first president of what became Prairie View, Thomas Sanford Gathright (who at the same time acted as the first president of the then whites-only Texas A&M University), had served in his native Mississippi as state superintendent of public education.<sup>44</sup> Gathright was also known for founding a white supremacist political organization, the Order of '76, some of the goals of which were "to punish lawless negroes and their white allies" and "to re-establish white supremacy in the State."<sup>45</sup> Gathright was an influential figure in Mississippi postbellum politics whose name is linked to an 1877 incident known as the Chisolm massacre<sup>46</sup>—the Ku Klux Klan's lynching of Judge William Chisolm, a white social progressive; Chisolm's son and daughter; and two Chisolm family friends.<sup>47</sup> Shortly thereafter, Gathright came to Texas to serve as Texas A&M's first president on the recommendation of former Confederate President Jefferson Davis, who had declined the position.<sup>48</sup> Gathright's name lives on in a contemporary academic award named after him at

---

41. See AMILCAR SHABAZZ, *ADVANCING DEMOCRACY: AFRICAN AMERICANS AND THE STRUGGLE FOR ACCESS AND EQUITY IN HIGHER EDUCATION IN TEXAS* 11 (2004); see also VICKI ADAMS TONGATE, *ANOTHER YEAR FINDS ME IN TEXAS: THE CIVIL WAR DIARY OF LUCY PIER STEVENS* 151 n.7 (2016). An 1850 county record describes Kirby as the "owner of fifty-five slaves and an estate valued at \$28,000." Charles Christopher Jackson, *Kirby, Jared E. (1809–1865)*, *Handbook of Texas*, TEX. STATE HIST. ASS'N, <https://www.tshaonline.org/handbook/entries/kirby-jared-e> [<https://perma.cc/6L7J-V949>].

42. SHABAZZ, *supra* note 41. Prairie View was originally named after the Alta Vista Plantation on which it was founded. *Id.*

43. *Id.*

44. DUNBAR ROLAND, *2 MISSISSIPPI: COMPRISING SKETCHES OF COUNTIES, TOWNS, EVENTS, INSTITUTIONS, AND PERSONS, ARRANGED IN CYCLOPEDIA FORM* 621 (1907).

45. *Id.* at 361. The Order of '76 often included members of the more widely known Ku Klux Klan. See Alexander M. Heideman, *Dangerous Subjects in Every Sense: Violence and Politics at the Law Department of the University of Mississippi*, 89 *MISS. L.J.* 407, 468 (2020).

46. See JAMES M. WELLS, *THE CHISOLM MASSACRE: A PICTURE OF "HOME RULE" IN MISSISSIPPI* 112–13 (1877). Addressing an anti-Black crowd, Gathright is said to have stated the following in regard to Judge Chisolm, who supported the rights of Blacks:

"Gentlemen, if you ever expect to have peace and harmony in your county, you must get rid of this man. I will not undertake to tell you *how* to get rid of him; that you know as well as I, *but you must get rid of him!*" Then, encircling his neck with a gesture, he raised his hand up and down several times in imitation of dangling some object from the end of a rope. This speech and pantomime were responded to with loud and continued cheers.

*Id.* at 112–13.

47. See *id.* at 5, 170–99, 220–23.

48. Molly Kate McCaughey & Nancy Young, *Gathright, Thomas S. (1829–1880)*, *Handbook of Texas*, TEX. STATE HIST. ASS'N, <https://www.tshaonline.org/handbook/entries/gathright-thomas-s> [<https://perma.cc/L5MU-XHTP>].

Texas A&M.<sup>49</sup>

The University of Texas at Austin, the state's flagship public postsecondary institution, officially opened on September 15, 1883.<sup>50</sup> This was decades after various Texas constitutions had called for its creation.<sup>51</sup> The fledgling institution was initially organized and led by Ashbel Smith, a Connecticut-born physician and civic leader often described as “the father of Texas medicine” and “the father of the University of Texas.”<sup>52</sup> Smith served as the first president of the Board of Regents of the University of Texas.<sup>53</sup> After his move to Texas in the 1830s, Smith held scores of enslaved people on his Headquarters Plantation and adjoining Evergreen Plantation near Galveston, Texas.<sup>54</sup> Smith once defended a Texas law that called for the reenslavement of free Blacks who “stole,” or aided in the escape of enslaved people. Smith asserted: “The truth is, the punishment of these negroes has been *ameliorated under our statute in favor of their color*. For the same crime, in almost any state of Christendom, they would have been punished capitally . . . .”<sup>55</sup>

It is perhaps understandable that Ashbel Smith would see reenslavement as a favorable option preferable to death for enslaved Black people. Smith apparently experienced ongoing difficulties in managing those enslaved on his plantations, and to address the problem, he condoned the harsh punishments to be meted out by his overseer. In one instance, Smith's overseer, Benjamin Roper, complained of the intransigence of several of those that Smith enslaved and described Roper's own violent efforts to control them, including cutting and whipping.<sup>56</sup> Roper even warned of his intention to kill any of the enslaved people who continued

---

49. See *Gathright Scholar*, ASS'N OF FORMER STUDENTS, <https://www.aggienetwork.com/programs/awards/gathright> [<https://perma.cc/4CQY-4LPB>]. According to the Association's website,

The Thomas S. Gathright Scholar Award was established in April 1973 by The Association of Former Students in conjunction with Texas A&M's Student Government Association. The award was given annually at the Parents' Weekend All-University Awards Ceremony to the outstanding sophomore, junior, and senior of each academic college. Named in honor of the first president of the A&M College of Texas, this award recognizes outstanding scholastic achievement on a university-wide scale.

50. J.J. LANE, HISTORY OF THE UNIVERSITY OF TEXAS: BASED ON FACTS AND RECORDS 258 (1891).

51. See *id.* at 2. A state-sponsored university was mentioned in a prestatehood constitution as early as 1827, and rearticulated in the 1836 Constitution of the Republic of Texas. *Id.*

52. *Ashbel Smith, M.D.*, THE UNIV. OF TEX. SYS., <https://www.utsystem.edu/board-of-regents/former-regents/ashbel-smith-md> [<https://perma.cc/Y4RP-XVHK>].

53. LANE, *supra* note 50, at 12; see also M.E.M. DAVIS, UNDER SIX FLAGS; THE STORY OF TEXAS 171 (1897).

54. See *Evergreen Plantation*, HANDBOOK OF TEXAS, TEX. STATE HIST. ASS'N, <https://www.tshaonline.org/handbook/entries/evergreen-plantation> [<https://perma.cc/MS4-UNMB>].

55. J.D.B. DE BOW, 4 THE INDUSTRIAL RESOURCES, ETC., OF THE SOUTHERN AND WESTERN STATES 512 (1853).

56. Candice D. Lyons, *Rage and Resistance at Ashbel Smith's Evergreen Plantation*, NOT EVEN PAST (Jan. 22, 2020), <https://notevenpast.org/rage-and-resistance-at-ashbel-smiths-evergreen-plantation> [<https://perma.cc/73DR-FVWA>].

to resist.<sup>57</sup> Smith retained Roper in his employ despite, or perhaps because of, Roper's willingness to use brutal methods.<sup>58</sup> The resistance of Smith's enslaved laborers was so great that Roper wrote at one point, after facing particular difficulty: "Your negroes have for a long time enjoyed the reputation of being hard to manage yet I believed until now that I could control them. I am now satisfied that I cannot and being so satisfied I wish to resign."<sup>59</sup> When the Civil War began, Smith organized a military company and was elected its leader.<sup>60</sup> He joined the Confederate army, for which he fought in Mississippi and other areas.<sup>61</sup> After the war, Smith returned to Texas and once again took up residence at his plantations and reengaged in public life. He is memorialized via the Ashbel Smith Professorships offered throughout the University of Texas system to this day.<sup>62</sup>

The founder of Rice University in Houston, Texas, similarly had ties to slavery. The school was founded by William Marsh Rice, a Massachusetts businessman who grew rich from his holdings in land, cotton, and enslaved people in Texas and Louisiana.<sup>63</sup> In 1860 Rice was one the wealthiest men in Texas.<sup>64</sup> In that same year, Rice owned at least fifteen enslaved people.<sup>65</sup> He not only held slaves personally but also ensured that enslaved people could not escape their bondage by serving for a period as a member of his community's slave patrol.<sup>66</sup> Rice University was, from its inception, intended strictly for "the white inhabitants of the City of Houston, and State of Texas."<sup>67</sup> Black students were eventually admitted to the school in 1965.<sup>68</sup>

---

57. In a letter to Ashbel Smith, Roper wrote, "[I]f any negro (whether I have the controll [sic] of him or not) should ever give me the like provocation, I will deliberately take his life. I am now armed and it is my intention never to go into your field without, and to use them if necessary." *Id.*

58. *See id.*

59. *Id.*

60. John Britt, *Sam Houston, Ashbel Smith & the Bayland Guards*, VISIT BAYTOWN TEX., <https://www.visitbaytown.com/baylandguards> [<https://perma.cc/7WJ3-REHB>].

61. *See id.*

62. *See* Will Sansom, *Dr. Julio Palmaz Appointed to Prestigious Ashbel Smith Professorship*, UT HEALTH SAN ANTONIO (Jan. 24, 2006), <https://news.uthscsa.edu/dr-julio-palmaz-appointed-to-prestigious-ashbel-smith-professorship> [<https://perma.cc/N8F3-6HB4>].

63. *See* Andrew F. Muir, *Rice, William Marsh (1816–1900)*, *Handbook of Texas*, TEX. STATE HISTORICAL ASS'N, <https://www.tshaonline.org/handbook/entries/rice-william-marsh> [<https://perma.cc/A665-RA5U>].

64. WILLIAM MARSH RICE AND HIS INSTITUTE 28 (Randal L. Hall ed., The Centennial ed. 2012).

65. *Id.* at 33.

66. *See id.* at 28.

67. KATE SAYEN KIRKLAND, CAPTAIN JAMES A. BAKER OF HOUSTON, 1857–1941, at 147 (2012). The school, intended to be tuition-free, *Rice U. Is Given Right to Admit Negroes and Charge Tuition*, N.Y. TIMES, Mar. 10, 1964, at 21, did not admit Black undergraduates until 1965, *The Short History of Race-Based Affirmative Action at Rice University*, 1996 J. BLACKS HIGHER EDUC. 36, 36.

68. *The Short History of Race-Based Affirmative Action at Rice University*, *supra* note 67, at 36. One example is Antoine Arbuckle, the father of Author Skyler Arbuckle. Mr. Arbuckle is a 1984 graduate of Rice University, where he was a member of Rice's football team. He is also a third-generation descendant of Edward Fields.

## V. SLAVERY AND SMU: THE CARUTHS AND THE FIELDS

Another school whose ties to slavery have been relatively little explored is SMU. SMU was founded in 1911 by the Methodist Episcopal Church and by a coalition of Dallas civic leaders and national leaders who together raised over \$300,000.<sup>69</sup> In addition to cash gifts, donations of land helped jumpstart the institution: the Caruth family gave a half interest in 722 acres.<sup>70</sup> Much of that land was sold to ensure the school's survival and ultimately became the community of University Park.<sup>71</sup> What remained makes up part of the present-day campus.<sup>72</sup> This gift comprised only a fraction of the over 30,000 acres the Caruth family owned in Dallas and other nearby communities.

The Caruth family first came to Texas when William Barr Caruth (1827–1885) moved to Dallas in 1848.<sup>73</sup> Popular lore says that William Caruth came to Dallas with only \$100, a dream, and a willingness to take a chance. In reality he arrived equipped with borrowed funds from his father—a merchant, farmer, and according some accounts, judge, in Kentucky.<sup>74</sup> Crucially, he also brought enslaved people. Within a year William Barr Caruth was joined by his brother Walter Caruth (1826–1897).<sup>75</sup> In Kentucky the pair had worked with their father, John Caruth, along with over a dozen enslaved people, on a fifty-acre farm.<sup>76</sup> In Dallas the brothers established a general store, which soon generated enough income that they were able to purchase large land holdings. In 1858 John Caruth joined his sons in Dallas where he too amassed land holdings that were inherited by his children after his death.<sup>77</sup>

---

69. *Tax Reform (Administration and Public Witnesses): Public Hearings Before the H. Comm. on Ways & Means*, 94th Cong. 3774 (1975) [hereinafter *Tax Reform*]. Among the largest donors was the General Education Board, *see id.*, a charity formed in 1903 by John D. Rockefeller to support higher education, *The General Education Board*, THE ROCKEFELLER FOUND., [https://rockfound.rockarch.org/general\\_education\\_board](https://rockfound.rockarch.org/general_education_board) [https://perma.cc/SY6J-BZBH]. The General Education Board gave \$111,500 for the founding of SMU. *Tax Reform, supra*.

70. MARSHALL TERRY, "FROM HIGH ON THE HILLTOP . . .": A BRIEF HISTORY OF SMU 4 (1993).

71. *See id.*

72. *See id.*

73. *The Caruth Family*, TEX. GENEALOGY TRAILS, <http://genealogytrails.com/tex/prairieslakes/dallas/caruth.html> [https://perma.cc/77SV-TR98].

74. *See id.*

75. *See id.*

76. *See* Manuscript Census Returns, Schedule 2—Slave Inhabitants in the County of Allen State of Kentucky, in U.S. CENSUS BUREAU, SLAVE SCHEDULES OF THE SEVENTH CENSUS OF THE UNITED STATES (1850), *microformed on* M432, Record Group 29 (Nat'l Archives & Records Admin.); 1 Chapter VI Kentucky Land Warrants (1816–1873), at 506, in THE KENTUCKY LAND GRANTS (1782–1924). By 1860 John Caruth had almost two dozen enslaved people in Dallas. *See* Manuscript Census Returns, Schedule 2—Slave Inhabitants in Precinct No. 1 in the County of Dallas State of Texas, in U.S. CENSUS BUREAU, SLAVE SCHEDULES OF THE EIGHTH CENSUS OF THE UNITED STATES (1860), *microformed on* M653, Record Group 29 (Nat'l Archives & Records Admin.).

77. 2 PHILIP LINDSLEY, A HISTORY OF GREATER DALLAS AND VICINITY 84 (L.B. Hill ed., 1909). At his death in 1868, John Caruth left thousands of dollars and almost 700 acres of land to his sons, William and Walter. Dallas County Probate Case 122: Caruth, Jno. (Deceased) (1869), in DALLAS COUNTY, TEXAS, PROBATE CASES 1846 – EARLY 1900'S

Most of the Caruth family's Dallas-area land, including the portion now comprising SMU, was dedicated to cotton, dairy, and cattle operations, which were greatly enhanced when the brothers joined the Confederate Army and supported the war effort by creating a supply depot.<sup>78</sup> Before the Civil War, Caruth farm work was carried out by enslaved people; for the decades immediately afterward, those same enslaved people often continued as laborers on the land.<sup>79</sup> Among these people was Edward Fields.

Edward "Ned" Fields was born around 1820 in Kentucky and accompanied William Barr Caruth on his move to Texas in 1848.<sup>80</sup> In Dallas, Fields married Caroline Bonner, who was born in Alabama and who had traveled to Dallas along with her siblings sometime in the 1860s.<sup>81</sup> The couple had several children together, and their descendants were and are some of the most accomplished people in the history of Dallas.

Much has been written about the Caruth family and their pivotal role in the founding and development of parts of Dallas and of SMU in particular. Comparatively, little has been written about the enslaved people who were present from the beginning of the Caruths' settlement in Texas. Little is known, for instance, of Edward Fields's life in Kentucky before he reached Dallas. Nor is much known about the conditions of his servitude while enslaved by the Caruths. Fields likely worked in some of the Caruths' massive cattle works since later his two sons, Anderson and Lewis, were able to purchase land and establish a family farm and settlement, named the "Fields Community" after the general emancipation.<sup>82</sup> Fields' family stories mostly center on the life the Fields were able to craft after obtaining freedom.<sup>83</sup>

It is only in recent years that the Fields family has begun to closely query what it means to have descended from someone enslaved by one of Dallas's wealthiest families, and to have lived, even after emancipation, on the margins of that wealth. It is perhaps especially poignant to consider what that heritage means to an SMU student that descended from the Fields family. Below follows a conversation between the Authors. It queries, among other things, the meaning of being a slave descendant in the place where your ancestors have been enslaved, and of attending school, and especially law school, on the very land where your ancestors were enslaved.

---

(Dall. Genealogical Soc'y ed., 1977), *microformed on* The Portal to Texas History (Univ. of N. Tex.).

78. See *The Caruth Family*, *supra* note 73.

79. See *infra* Part VI.

80. Some research suggests that most enslaved people present in Texas after statehood came with their enslavers as opposed to being brought in on their own. CAMPBELL, *supra* note 37, at 51 & n.3.

81. Like the Fields family, the Bonners also became land owners and prominent members of the Dallas Black community. The Bonners were from Alabama and arrived in Texas some time in the 1860s.

82. See *infra* Part VI.

83. See *infra* Part VI.

## VI. LOLITA BUCKNER INNISS (LBI) AND SKYLER ARBUCKLE (SNA) TALK

*LBI*: It is widely known that Texas was a slave state. African enslavement was a feature of Texas life when Texas was Spanish territory, during the colonial period (1690–1821), during the Mexican National Period (1821–1836), when it existed as a Republic of Texas (1836–1845), and after it became a state in 1845. Most enslaved people arrived in Texas when settlers came from the upper and lower South, bringing their slaves with them. In a few instances, some enslaved people were even brought directly from Africa via the Gulf Coast in defiance of the 1808 bar on the importation of slaves contained in the Migration and Importation Clause of the U.S. Constitution.<sup>84</sup> Enslavement was commonplace in most Texas agricultural settings.

Most people, however, tend to think of rural parts of Texas when they envision slavery; few people think of its presence in more urban areas like Dallas. In Dallas, however, slavery proliferated, largely in relation to the early agriculture fueling Dallas's growth as an urban center.<sup>85</sup> Many members of the Dallas wealthy elite enslaved people, and thus slavery left its mark on the area in ways both large and small. One prominent early Dallas figure, Alfred Horatio Belo, a native of North Carolina, "served in every major engagement" of Robert E. Lee's Confederate army, eventually reaching the rank of colonel.<sup>86</sup> After the war, Belo moved to Houston, where he began his newspaper career with Richardson, Belo & Co., which later became A. H. Belo & Co. Dallas in 1885.<sup>87</sup> The company established the *Dallas Morning News*.<sup>88</sup> To this day, the newspaper is owned by a continuation of the A. H. Belo Corporation, though the company has recently undergone a name change to distance itself from Belo.<sup>89</sup> Belo's downtown Dallas home, now known as the Belo

---

84. U.S. CONST. art. I, § 9, cl. 1. In 1902 a University of Texas professor made inquiries among some of the state's oldest residents about whether they were aware of any Africans being smuggled directly into Texas. See Eugene C. Barker, *The African Slave Trade in Texas*, 6 Q. TEX. STATE HIST. ASS'N 145, 151–52 (1902). He obtained evidence that such actions had occurred as late as the 1830s. See *id.*

85. MICHAEL PHILLIPS, *WHITE METROPOLIS: RACE, ETHNICITY, AND RELIGION IN DALLAS, 1841–2001*, at 24–25 (2006).

86. George B. Dealey, *Belo, Alfred Horatio (1839–1901)*, *Handbook of Texas*, TEX. STATE HIST. ASS'N, <https://www.tshaonline.org/handbook/entries/belo-alfred-horatio> [<https://perma.cc/RMP8-U54S>].

87. Judith Garrett Segura, *Alfred Belo, Galveston Daily News, Hall of Fame Class of 2007*, TEX. NEWSPAPER HALL OF FAME (Aug. 30, 2006), <https://www.tnf.net/alfred-belo> [<https://perma.cc/Z72E-E4ED>].

88. Dealey, *supra* note 86.

89. *Company History*, DALLASNEWS CORP., <https://www.dallasnewscorporation.com/about/company-history> [<https://perma.cc/XP6P-GZE8>]. In March 2021, A.H. Belo Corporation announced that it planned to change its name due to Belo's ties to the Confederate army. Maria Halkias, *Dallas Morning News Parent Company Seeks Name Change to "Embrace Social Justice Movement"*, DALL. MORNING NEWS (Mar. 9, 2021, 9:33 AM), <https://www.dallasnews.com/business/local-companies/2021/03/09/dallas-morning-news-parent-company-seeks-name-change-to-embrace-social-justice-movement> [<https://perma.cc/7GTC-V9FZ>].

Mansion and owned by the Dallas Bar Association, is a headquarters for the region's lawyers, and serves as a popular venue for weddings and other events.<sup>90</sup>

In some instances, there are dark stories of Texas slavery that have remained largely hidden. For example, the first woman legally executed in Texas was Jane Elkins, an enslaved woman who lived just north of the center city area.<sup>91</sup> She was hung in 1853 for killing her enslaver; little is known of the circumstances that may have driven Elkins to commit the act, if in fact she did commit it. After death, her body was subjected to the indignity of being removed from its grave and used as a medical cadaver.<sup>92</sup>

Jane Elkins was not the only enslaved Dallasite to come to a tragic and violent end. In 1860 a massive fire broke out in Dallas, burning much of the business district.<sup>93</sup> Although some believed that spontaneous combustion had caused the blaze, others asserted that the fires were set by slaves who were part of an abolitionist conspiracy to destroy North Texas and free the region's enslaved people.<sup>94</sup> Three enslaved men, Sam Smith, a man known as Old Cato, and Patrick Jennings, were hanged as ring leaders, though no clear evidence supported their guilt.<sup>95</sup> All other enslaved people in Dallas county were ordered to be whipped.<sup>96</sup> Stories like that of Elkins and of the other executed enslaved people are part of the history of Dallas slavery. Few records remain about most of the enslaved people in the Dallas area, and even fewer families have oral histories of their enslavement. Skyler Arbuckle belongs to one such family.

*LBI:* When did you first hear of your enslaved Dallas ancestors?

*SNA:* The first time I heard of my enslaved ancestors was in high school. At the time, their story was mentioned to me in vague detail, but I came to understand my father's family had been enslaved by a prominent white family in Dallas whose last name is "Caruth." I didn't think much of the story initially as I was too young (maybe fourteen or fifteen) to appreciate or find value in my ancestors' story. Frankly, as an African American, you aren't socialized or taught to be proud of the fact your ancestors were enslaved. In fact, you're socialized to feel ashamed and embarrassed.

One of the most pivotal moments in my life came when I was an undergraduate at my beloved Howard University. While there, I took a

---

90. *History*, BELO MANSION & PAVILION, <https://www.belomansion.com/index.html> [<https://perma.cc/LT5R-HQFQ>].

91. DAINA RAMEY BERRY, *THE PRICE FOR THEIR POUND OF FLESH: THE VALUE OF THE ENSLAVED, FROM WOMB TO GRAVE, IN THE BUILDING OF A NATION* 114–15 (2017); PHILLIPS, *supra* note 85, at 25.

92. BERRY, *supra* note 91, at 115.

93. *Great Fire in Texas. The Town of Dallas Destroyed—All the Stores, Hotels and Private Dwellings Burned.*, N.Y. TIMES, July 23, 1860, at 8.

94. See DONALD E. REYNOLDS, *TEXAS TERROR: THE SLAVE INSURRECTION PANIC OF 1860 AND THE SECESSION OF THE LOWER SOUTH* 80 (2007).

95. *Id.* at 81–82.

96. *Id.* at 81.



mandatory schoolwide course called “Introduction to Africana Studies.” My teacher, Dr. Gregory Carr, asked our class if we knew who we were. This question, on the surface, can seem not at all nuanced, but the follow-up to his question, particularly for African American students, was extremely profound and certainly something I will never forget. He said: “If you really want to know who you are, go talk to your oldest living relative.” I don’t know why his question and charge are still with me today, but I owe so much of the awakening of my consciousness as a Black woman to that moment, to my teacher, and to Howard University. That moment, for me, was a call to action, and that same day, I picked up the phone and called my grandmother, or as we call her, “MeMe.”

*LBI:* In recent years genealogical research has grown among people of all backgrounds in the United States. The broad availability of online services and of genetic genealogy via inexpensive DNA testing have helped to hasten the growth of such research. Still, even with these tools, genealogical research begins with the sharing of family stories that go back decades or even centuries. Relatively few people of African ancestry in the United States have the luxury of accessing such information. Sometimes, it is not available due to what genealogists sometimes call the 1870 “brick wall”—the fact that most African descendant people in the United States were not accurately or directly enumerated in population counts and other official records until 1870, the first decennial census after the general emancipation of enslaved people in the United States.<sup>97</sup> At other times, conditions caused families to be broken up both before, and sometimes for decades after, the Civil War, and many stories were lost. Still others have recollections of the time of enslavement and of the years immediately following, but the pain of such memories causes some families to limit transmission of such stories. For some slave descendants, it can be a difficult task to first ask for family history and then an even more difficult task to hear it if it is available.

*LBI:* What did you think when you first heard more details of your family’s story? Did it change your view of the history of slavery?

*SNA:* I didn’t think much of it. Generally, America’s education system teaches us African Americans were once enslaved and emancipated when “Abraham Lincoln freed the slaves.” So, upon hearing my ancestors were enslaved, I thought, “Yup, and so was every other African American ancestor in this country.” I never challenged or critically thought about the implications of that history due to my grade school education. This country has deliberately chosen to view and subsequently teach the history of slavery in America as a necessary evil, which places an unfair burden on African Americans. The burden makes some of us ashamed and embarrassed our ancestors were once enslaved, which is nefarious and demoral-

---

97. Thom Reed, *Breaking Through the 1870 Brick Wall: The Significance of the Freedmen’s Bureau Records*, FAMILY SEARCH BLOG (June 16, 2015), <https://www.familysearch.org/blog/en/breaking-1870-brick-wall-significance-freedmens-bureau-records> [<https://perma.cc/8JGA-D2E7>].

izing because the legacy of slavery is not our burden—it's white America's burden. That same burden is one of the main reasons why, as a young girl, I didn't see any value in my ancestors' story, which is sad.

More narrowly, Texas's education system teaches students about how triumphant and extraordinary of a state Texas is. We're taught Texas "won" its independence from Mexico and dared anyone who protested the contrary to "come and take it." We're taught Texas stands on its own in excellence as a "Lone Star." And we're taught Texas is a state you just "don't mess" with. Texas's history as a slave state, however, is history that is seldom ever taught or talked about. My parents and my village taught me more about the significance and importance of Black Texas cultural history, such as Juneteenth and the Buffalo Soldiers, than my grade school education ever did. I never interrogated the history and legacy of slavery, and my view of slavery was surface level at best. So, in retrospect, I wasn't moved by the fact my family was even able to put a name to the family that enslaved us as I was too young and indoctrinated to have a true appreciation for how robust and unique my family's story is.

*LBI:* You are so right that there is a constrained version of the history of slavery that is often taught in many U.S. schools. For instance, most slavery in the United States ended with the Emancipation Proclamation, which took effect on January 1, 1863. However, in Texas, the end of slavery was not announced until June 19, 1865, two and a half years after the Emancipation Proclamation took effect.<sup>98</sup> This belated announcement is often called Juneteenth or the Jubilee and is still today celebrated in Texas and throughout the country.<sup>99</sup> Because of the delay in officially promulgating the end of slavery, some enslavers in Texas retained their enslaved workers, and enslavers from other parts of the country moved to Texas in an effort to postpone or forestall emancipation altogether. Still, slavery did eventually end, and the newly liberated people faced disparate fates. For some, emancipation meant migration, and they left Texas as soon as they were able. Some of my own ancestors who were enslaved in Sherman, Texas, barely an hour outside of Dallas, left the region as soon as they were able and established themselves in Los Angeles, where, despite segregated jobs and housing and low wages, they enjoyed relatively more freedom and civic membership than they had in North Texas. By the 1880s, for example, some of my male ancestors were on voting rolls in Los Angeles. Voting in Texas was largely out of reach for Texas's Black residents at that time. Other Black families stayed in Texas, like your family, the Fields.

*LBI:* How did your enslaved family fare after coming out of slavery?

---

98. MITCH KACHUN, *FESTIVALS OF FREEDOM: MEMORY AND MEANING IN AFRICAN AMERICAN EMANCIPATION CELEBRATIONS, 1808–1915*, at 118 (2003).

99. *See id.* In the decades immediately after early celebrations of Juneteenth, however, there was resistance by some Black leaders who wanted to gear celebrations of freedom to the date of the Emancipation Proclamation, deemed by some to be "the real emancipation day." *Id.* at 254.

SNA: It's difficult to say with certainty. Socioeconomically, I believe they ended up doing as well as they could have, given they were free and legally considered "people." Psychologically, I believe they struggled. From a socioeconomic perspective, my third great-grandfather, Anderson Fields, along with his siblings, Lewis and Edward Fields, were approached by Mattie Caruth with a proposition.<sup>100</sup> Mattie Caruth promised to sell some of her land to Anderson and his brothers in exchange for their continued assistance on the Caruth plantation after emancipation and the death of William Barr Caruth. Many African Americans post-slavery found themselves trapped in the unrelenting grip of poverty because they left slavery with nothing. Thankfully, my ancestors seized what turned out to be an excellent opportunity. They were able to acquire land, which ended up giving them great economic leverage because they owned the land they lived on. To many, owning land may not seem like much of a "leg up" socioeconomically, but that leverage put my ancestors on a track to be more upwardly mobile. This resulted in my great-grandfather, Lewis Alonzo Fields, becoming the first African American entrepreneur recognized by the city of Dallas, which gave him the resources necessary to put my grandmother and grandaunt through college at Prairie View A&M University.

Psychologically, however, I can't say with great assurance they were okay. How do you integrate into a society that didn't consider you a human being, but property? How do you join a society that didn't honor your autonomy? How do you truly participate as a citizen in a country that held you captive when you don't know or understand what it is to be a free person? I'm sure along with their newfound freedom, and even with the land they ultimately acquired, came a lot of emotional and psychological baggage that was only exacerbated by the horrors of Reconstruction and Jim Crow. This was so much so that my great-grandfather, Lewis Alonzo Fields (1912–1992), never revealed his racial identity as a Black man and owner of his landscaping company, "Lewis Fields Hauling Contractors," until his death. My grandmother recounted stories of how profitable his business was as the bulk of his customers were residents of Highland Park, and how his business was renowned for excellence and attention to detail. She also recounted the day of his funeral and how many of his clients, who were members of the Highland Park community, stopped by to pay their respects only to be shocked and appalled upon discovering Lewis Fields was a Black man. While my great-grandfather experienced significant success as an entrepreneur, he had to conceal his identity because he lived in the threat of danger as a Black man in the South running and owning a business in a predominantly white area. So, while the physical bondage of slavery ended for my ancestors, the psychological bondage persisted.

---

100. Martha "Mattie" Wycliffe Worthington Caruth, (1836–1907), the wife of William Barr Caruth, married William Barr in 1864. See *The Caruth Family*, *supra* note 73.

*LBI*: In the immediate aftermath of slavery, many who had been enslaved in the Dallas area settled around the large farms and households where they had served white families. This meant that many were clustered in the northern part of Dallas. Some lived directly in white households as servants, with little having changed since slavery ended. Still others eventually moved to the central and south side of Dallas, especially in the early 1900s with the development of the SMU campus and the creation of what were the explicitly white communities of Highland Park and University Park.<sup>101</sup> The latter two communities have sometimes been included in compilations of cities known as “sundown towns,” places where Black people are subject to white violence after dark.<sup>102</sup> These cities, known together as the Park Cities, remain overwhelmingly white today, despite the number of enslaved and formerly enslaved people who were associated with the area in the nineteenth and early twentieth centuries.

Black families managed to maintain presence in some areas of northern Dallas. In fact, for decades some controlled agricultural interests near what is now NorthPark Mall and near the current Lake Highlands area.

---

101. Highland Park, Texas, for example, was billed as a “modern garden suburb” at the time of its development. *Good Neighbors, You May Be Sure*, ARCHITECT’S NEWSPAPER (Nov. 18, 2014), <https://www.archpaper.com/2014/11/good-neighbors-you-may-be-sure> [<https://perma.cc/7V9F-GP8Q>]. When it was laid out by the same developers who designed Beverly Hills, California, restrictive covenants were applied to every home in 1913. *Id.* According to many reports, the first Black family to purchase a house in Highland Park arrived in 2003. *See, e.g.*, JAMES W. LOEWEN, *SUNDOWN TOWNS: A HIDDEN DIMENSION OF AMERICAN RACISM* 403 (2005). Housing, and correspondingly, schools, remain highly segregated even at the present time. *See Tasby v. Estes*, 412 F. Supp. 1185, 1188, 1192 (N.D. Tex. 1975) (denying plaintiff’s petition to include the Highland Park School District in a desegregation plan for Dallas Independent School District). Similarly, the contiguous city of University Park was designed by land owner SMU (it was part of the Caruth grant) and was intended as a way of raising funds beginning in 1913. *See City History*, CITY OF UNIV. PARK, TEX., <https://www.uptexas.org/about-up/city-history> [<https://perma.cc/PF2F-KZEQ>]; Jim Atkinson, *The Caruth Saga . . .*, D MAG. (Sept. 1975), <https://www.dmagazine.com/publications/d-magazine/1975/september/the-caruth-saga> [<https://perma.cc/2GT3-EJ7D>]. Lots sold contained the following provision: “Said lot may be used for private residence purposes or for business houses, sorority houses, fraternity houses, apartments, offices, garages, or any other purpose not constituting a nuisance; but, if said lot shall be used for private residences, it shall be used by white persons only.” *Couch v. S. Methodist Univ.*, 290 S.W. 256, 259 (Tex. App.—Dallas 1926).

102. *See* LOEWEN, *supra* note 101, at 120, 403. As late as the 1970s, the few Black students who attended Highland Park High School reported racialized abuse. *See id.* at 403. One 1974 Highland Park Black student shared that he was called the N-word, had his pants ripped, and was subjected to other racist acts. *Id.* at 403. Even today there are few Black students attending the school, especially given the demographics of the surrounding Dallas area. *Highland Park High School*, THE TEX. TRIB., <https://schools.texastribune.org/districts/highland-park-isd-dallas/highland-park-high-school> [<https://perma.cc/DL2Z-CXYW>] (reporting that 0.8% of the school is African American). In its early development campaign, Highland Park used the slogan “Beyond the City’s Dust and Smoke.” LOEWEN, *supra* note 101, at 120. One wonders if this was a veiled racial reference (“smoke” is a racist slur for Black people). *See, e.g.*, RICHARD A. SPEARS, *SLANG AND EUPHEMISM: A DICTIONARY OF OATHS, CURSES, INSULTS, SEXUAL SLANG AND METAPHOR, RACIAL SLURS, DRUG TALK, HOMOSEXUAL LINGO, AND RELATED MATTERS* 361 (1981) (discussing the phrase “smoked Irishman” as a slur for Black people). Similarly, Black people were sometimes referred to as sooty or dusty. *See* JOHN AYTO & JOHN SIMPSON, *THE OXFORD DICTIONARY OF MODERN SLANG* 232 (1992).

Still others held land near what is now the Bluffview section of Dallas. Some Black families remain in Bluffview, but the forces of gentrification are causing their rapid disappearance.

*LBI:* Where in Dallas did your family live after slavery? Where do they now live?

*SNA:* After slavery, my ancestors lived on land in the northeastern portion of Dallas. They lived in an area called Elm Thicket, which is now present-day Lake Highlands and White Rock. The area, at the time, was home to a lot of Black families who lived in the area on farms and was referred to as “Freedman’s Town.” My family lived on a farm and settlement located on Abrams Road named the “Fields Community,” where they owned several acres of land, cattle, and other livestock. On this same land, they grew fresh produce, which they sold for profit, and raised livestock, such as pigs, mules, and cattle—they’re the original cowboys and cowgirls. They also established a burial plot named the Fields Cemetery, which was set aside for family members and still stands today. Through the years, my family migrated more toward the city, and more recently, my family is from South Dallas and Oak Cliff.

*LBI:* Given the history of Black people in Dallas and the area near SMU, it is perhaps surprising that more Black students do not matriculate here. As your own story shows, some Black families lived within a few miles of SMU for generations. But just as Black families were barred from the communities of Highland Park and University Park, so too were Black students unwelcome at SMU for much of its history. The first Black student admitted to SMU Dedman School of Law was Ruby Braden Curl in the fall of 1955.<sup>103</sup> Like the few Black students who came shortly after her, she did not graduate.<sup>104</sup> The first apparent Black graduate of Dedman School of Law was Richard A. Strecker, who was admitted in 1960 and was listed among the graduates in 1964.<sup>105</sup> Like so much about the history of Black people in the Dallas area, the story of Blacks attending SMU is complex and often painful.

*LBI:* Many Black students consider the racial climate as they select a law school. This is especially true for schools like SMU, which has not only enrolled relatively few Black students in its history but has also proven to be a racially hostile climate for those Black students who have attended.<sup>106</sup> You, however, may have had particular concerns. Did your

---

103. *SMU Law School Grants Admission to Negro Student*, DALL. MORNING NEWS, May 26, 1955, at 3. There are suggestions that another student may actually have been the first Black student.

104. See Scott Alan Cashion, “And So We Moved Quietly”: Southern Methodist University and Desegregation, 1950–1970, at 111 (May 2013) (Ph.D. dissertation, University of Arkansas) (ProQuest).

105. *Id.* at 112.

106. In the last few years Black students across the SMU campus have expressed their frustrations with what they describe as the racist climate at the school. See Kennedy Williams, #BlackAtSMU Tries to Pierce the “Bubble” of Southern Methodist University, TEX. MONTHLY (Sept. 14, 2020), <https://www.texasmonthly.com/news-politics/black-at-smu-southern-methodist-university> [<https://perma.cc/U8RN-H7TY>].

family history affect your decision to come to SMU Dedman School of Law?

*SNA*: While I am a proud native Houstonian, Dallas is woven into the fabric of who I am. I wanted to be in a place that felt like home, and my family is here in Dallas. As an undergrad, I deliberately chose to attend a Historically Black College or University (HBCU) because I knew HBCUs were of extreme cultural significance and importance to me as a Black American Descendant of African Slaves and Sharecroppers (B.A.D. A.S.S.). Now, here I am a law student at SMU, a school situated on some of the same land my family toiled over, studying to become a Black female attorney. My family's history and specific ties to this University are deeply personal for me, so I don't take being at SMU for granted. In fact, I came to SMU to leave my mark and not for any superficial or self-righteous reasons. I'm doing it for my ancestors. I'm doing it for the Fields. My ancestors worked too hard for me to fail—success is my only option. It is an honor and privilege to be studying the law at a school that would not exist had it not been for the labor of my ancestors and other African Americans, enslaved and free, some of whom we will never know. That fact has never been and will never be lost on me, not even after I earn my degree and become a licensed attorney.

Carter G. Woodson's *Mis-education of the Negro* captures so eloquently how I, and I'm sure many other Black attorneys and legal scholars, approach our legal education. Woodson writes:

There are, moreover, certain aspects of law to which the white man would hardly address himself but to which the Negro should direct special attention. Of unusual importance to the Negro is the necessity for understanding the misrepresentations in criminal records of Negroes, and race distinctions in the laws of modern nations. These matters require a systematic study of the principles of law and legal procedure and, in addition thereto, further study of legal problems as they meet the Negro lawyer in the life which he [or she] must live.<sup>107</sup>

The law reflects what society values, permits, and encourages. America has not valued, permitted, or encouraged Black people to live as free and fulfilled people. As a Black woman, I understand studying a subject that has been used and is still used to deny Black people liberty and justice challenges the very foundation of the American jurisprudential system. And to be doing this at the very institution that rests on the same land that my ancestors and other African Americans enriched as enslaved people is far more than I can comprehend.

*LBI*: For you, attending SMU is part of a tremendous legacy. What does your family feel about your attending a school enriched by your ancestors' enslaved labor?

---

107. CARTER GODWIN WOODSON, *THE MIS-EDUCATION OF THE NEGRO* 121–22 (1933).

*SNA*: My dad, who is a direct descendant of the Fields family, never lets a day go by without telling me how incredibly proud he is of me. He also feels that my journey was predestined. My great-grandfather, Lewis Alonzo Fields, as it has been told to me, was not a braggart or boastful man at all, but I think he would be proud I'm pursuing higher education at a school that was not within reach when he was alive. I recently had the opportunity to interview my fourth cousin, James Fields, who will be ninety this year. I asked him what he thought about my attending SMU, and he told me he thinks it's amazing, especially since he used to work at SMU as a janitor at the student union. He told me during the first several years he was employed as a member of the custodial staff (in 1949), there were hardly any Black students on the campus at all. So, to hear I was enrolled as a law student was absolutely amazing to him. He told me he was very proud of me. I also asked him what he thought our ancestors would think about me being enrolled at SMU. He responded, "That would be one of the proudest things in their lives to know, 'hey, I even had something to do with this girl being there. That's one of mine.'" I am and will forever be indebted to them.

*LBI*: There have been a few modern colleges and universities that have attempted to make amends for their past engagement with slavery, whether that involvement included directly enslaving people, enriching themselves from slavery-related activities or property, or with benefitting from the state of peonage in which many Black people lived in the decades after the general emancipation. Some schools have, for example, established special programs of study that interrogate their engagement in Black oppression.<sup>108</sup> Still others have made efforts at recognition and reconciliation of their actions. Some schools have, for example, offered direct apologies.<sup>109</sup> Nonetheless, there is, as I have previously stated, "a crucial r-word [that] is usually missing from such efforts: reparations."<sup>110</sup>

Do you think that reparations are due to your family or the families of other descendants of enslaved African Americans? If so, what form might they take?

*SNA*: Absolutely. The word "reparation" is defined as "the act of making amends . . . for a wrong or injury,"<sup>111</sup> but I think before this country can even get to a discussion about reparations, the United States needs to

---

108. See INNISS, *supra* note 1, at 131–132.

109. See, e.g., Jacey Fortin, *U.N.C. Chancellor Apologizes for History of Slavery at Chapel Hill*, N.Y. TIMES, (Oct. 13, 2018), <https://www.nytimes.com/2018/10/13/us/unc-carolina-apologize-slavery.html> [<https://perma.cc/XAG3-A4F6>].

110. INNISS, *supra* note 1, at 131. One exception is Virginia Theological Seminary, an academic institution that recently began a program of direct cash payments to the descendants of Black people whom it enslaved or subjected to compulsory labor after the general emancipation and into the twentieth century. Will Wright, *Seminary Built on Slavery and Jim Crow Labor Has Begun Paying Reparations*, N.Y. TIMES (May 31, 2021), <https://www.nytimes.com/2021/05/31/us/reparations-virginia-theological-seminary.html> [<https://perma.cc/V6JB-M7GW>].

111. *Reparation*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/reparation> [<https://perma.cc/96S8-H6J4>].

first acknowledge Black people have been wronged. Black people have been injured. Black people have been impaired, and all of that is of no fault of our own—it's America's fault. The next step is to deeply examine and study the multitude of ways Black people have been harmed because it will ultimately affect how reparations should take shape.

I believe all African Americans should be automatically registered to vote at age eighteen, African Americans with student loan debt should have their loans forgiven, and if African Americans want to go to college, their tuition should be paid in full by the government or the university they wish to attend. I believe a number of police and other criminal justice practices should be reformed, every African American in this country should have healthcare benefits regardless of their employment status—I mean, the list truly goes on. Reparations, in my estimation, are not and should not be a one-time payment or public apology. Reparations need to be a concerted effort on behalf of the entire United States to repair African Americans' relationship with America, put us on equitable footing with the rest of the country, and finally eradicate white supremacy in all its forms.

## VII. CONCLUSION

There is a tendency to historicize African-ancestored slavery as an institution frozen in time and of limited reach. It should instead be framed as a remembrance of a series of ongoing events with very real, harsh consequences for enslaved Black people and for their descendants. The treatment of African-ancestored people during slavery and in its aftermath is more than a part of a somber past. African women, children, and men were removed from their homes and introduced into a system of bondage that was violent and capricious and deprived them of the essence of their humanity: freedom in the present and hope for and opportunity in the future. Considerations of the role of slavery at colleges and universities, and the social, legal, economic, and political norms that supported such practices, are an important part of how we remember slavery.

Colleges and universities were and are institutions that form the leaders of society. From their earliest creation in what is now the United States, they were designed as “imperial instruments akin to armories and forts.”<sup>112</sup> Institutions of higher education not only educate people; they create laws, rules, and norms, and shape the meaning of the word citizenship. Notions of race and racism have often been forged in these very environments. Colleges and universities shape our present and our future. Recognizing this mission, we must also understand the past of such institutions.

---

112. WILDER, *supra* note 15, at 33.



