

B. F. Booth: The Legacy

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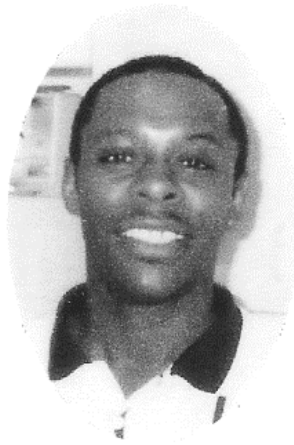
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DEDICATED
TO
The Loving Memory
of
My Beloved Son
Anthony Edward Booth



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To: My Heavenly Father

My Sweet Inspirations

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SPECIAL THANKS

The idea of writing a book about my paternal grandfather captivated me for years. I had a passion for the work he had done and a strong belief that I needed to share his legacy with as many people as possible.

My friend and co-author, *Dr. Yuvonne C. Brooks*, also shared this passion with me. She is a historiographer, reading specialist and the author of several books as well as journal articles.

MEB

PREFACE

For many, many years, I have been on a genealogical journey and painstaking quest to learn more about my family's history. Specifically, I was interested in my paternal grandfather, *Benjamin F. Booth*.

The family's stories about how my grandfather had been a slave, teacher, principal and ultimately a successful attorney sparked a passion within me to gather information about his life. I wanted to learn more about my ancestor.

This led me on a search to obtain documents to substantiate the law cases for which he was the counsel. It was exciting for me to discover that my grandfather had a distinct preference for civil law, was an advocate for civil rights, and was also a master of criminal proceedings.

My grandfather did not have the opportunity to attend law school. However, he studied on his own volition and with the astute legal minds of his era. This allowed him to pass the bar, and he became a practicing attorney in the state of Tennessee in 1885.

CHAPTER ONE

Benjamin Franklin Booth, my grandfather, entered into this world as a slave, but departed as a distinguished, and respected practicing attorney. In 1885, he began his career as a lawyer and for more than fifty-four years he achieved outstanding success without the benefit of formal training at a law college.

He was identified as a self-made lawyer that studied the law on his own as well as with noted lawyers in Mississippi and Tennessee. He was known to be very diplomatic and a master tactician. It is fitting to say, that many of his cases were won by the way he approached the judge. His technique was to sit quietly, and let the opposing counsel talk and harangue as long as necessary. Even when it was his turn to speak, and he was frequently interrupted, Booth would yield politely to the other side.

Then in a carefully crafted, slow and deliberate methodical manner, he would present his case by stating some point of law or precedent which in most instances, was sustained. Thus, his opponent's cases were dismissed without

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a trial by a jury. He was known to have won more cases on pre-emptory rulings than any of his colleagues, Black or White who were practicing in the courts of Memphis, Tennessee at that time.

Booth died on May 31, 1941 and on June 19th the Memphis and Shelby County Bar Association held a special meeting in his memory.

To eulogize B. F. Booth, Negro attorney who died, Saturday, May 31st at Collins Chapel Hospital, the Memphis and Shelby County Bar Association held a special meeting in his honor.

Chancery, Circuit and Probate Courts recessed, while judges and about 40 attorneys paid tribute to Booth, the oldest practicing attorney in Shelby County.

The Chief Deputy Clerk of the Circuit Court framed a resolution expressing the bar's regret on the death of Booth. He was described by speakers at the meeting as capable, competent, and energetic. It can be said that he was an honor to the profession.

Chapter One

This was only the second time that a resolution was drawn for a Negro attorney by the Circuit Court.

My grandfather was born on October 17, 1858 in Prentiss County, Mississippi to Benjamin and Malinda Booth. Being born into slavery should have been viewed as a detriment, but it was the main thing that would drive him to obtain an education, to become a teacher, principal and ultimately a lawyer. Often he remarked, that his list of achievements were based on the fact that he had been a hard working young boy on a farm where he and his parents had been slaves. He remembered when the Civil War ended and he told everyone he never forgot where he was reared.

After the war ended, Booth and his parents moved from Prentiss to Tippah County, Mississippi. It was there that his father died. He and his mother did whatever they could to make a living. First and foremost, he continued to work on farms to earn money. Secondly, he attended elementary school. He was determined to obtain an education, despite the fact that his schooling was frequently interrupted because he

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had to work. However, at the age of sixteen, Booth completed his elementary education. Upon graduation, because of his excellent scholastic record and perseverance, he was asked to take over a classroom and become a schoolmaster for colored students in the nearby area.

In 1880, after teaching for two years, Booth decided to enter the State Normal School for Colored in Holly Springs, Mississippi. He graduated from the Normal School with honors in 1884 and moved to Middleton, Tennessee where he worked as a teacher and seriously began to think about studying to become a lawyer.

From his meager wages as a teacher, Booth purchased copies of Sir William Blackstone's *Commentaries on the Laws of England*. Blackstone was a Professor of Common Law at Oxford University in England, as well as a respected British jurist. Individuals, who were interested in studying and learning about the law, read his books. It has been noted that Blackstone's writings and ideas are recognized as having

Chapter One

considerable influence on the importation as well as the adaptation of English common law in America. Blackstone's books have been identified as one of the first home study courses that were ever devised. Therefore, Booth obtained a vast amount of knowledge from Blackstone's works that focused on such things as the study of law, the nature of laws in general, rights of persons, rights of things, private wrongs and public wrongs.

As Booth studied the law on his own volition, he came to realize that he needed to obtain more instruction. He traveled to Corinth, Mississippi and met with Colonel William Inge who had been acknowledged by many, to be one of the greatest criminal lawyers of the State of Mississippi. When Inge met Booth, he was not practicing law but had entered into politics and was Speaker of the Mississippi House of Representatives.

The men discussed the almost seemingly impossible and improbable goal that Booth had set for himself. He wanted a respected White attorney to help a Black man study

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to prepare to be an attorney and admitted to the bar. This was something that was not being done in the South on a regular basis.

However, as a credit to Inge, he agreed to have Booth read the law under his instruction. While studying with Inge, Booth continued to teach. During this time he worked in Bolivar, Tennessee and eventually became principal of the public school.

Following his extensive studies with Inge, Booth read the law under Judge Francis Fentress. He gave these two men credit for the thorough preparation and training he received.

Booth said, "If I represent the highest type of the erudite and successful lawyer, it is because of the fact that I was so thoroughly prepared and trained for success. It has been the privilege of few law students to receive a more careful preparation for legal success. Studying as I did under the instruction of some of the ablest lawyers of the South, gave me the opportunity to receive practical information fresh from the fountainhead."

Chapter One

“From my early contact, I gained an inspiration that made the study of law far more pleasant than it might otherwise have been. There is nothing more inspiring to the ambitious student than first class instruction.”

On September 8, 1885, Booth was admitted to the bar in Bolivar. He resigned as principal of the public school and began practicing law.

During this period of time, my grandfather met my grandmother *Lucinda* who was born in 1870. They married and had their first child, my aunt *Mignon*, in 1886.

Practicing law in a small town with a family to support was not very profitable for my grandfather. He decided to move his family to Memphis, where he would have the opportunity to be more successful.

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CHAPTER TWO

The Booth family arrived in the city of Memphis in January, 1889. My grandfather was employed immediately as counsel for L. B. Eaton in a contested election suit. The suit was between Eaton and James Phelan for a seat in the House of Representatives, in Washington, D. C. to represent the Tenth District of Tennessee. This was the first time a Negro or any one of African descent, had been employed as an attorney in an election contest in the South.

In looking after the interests of his client, Booth had to canvass the four counties of the Tenth Congressional District. It has been documented that he took approximately 1,400 depositions on behalf of Eaton. As a result, Eaton won the election contest.

Booth's first important case in the Supreme Court of Tennessee, was that of *Scurlock v. Scurlock*. It was a divorce suit that had been in the courts for about twelve years. Booth represented the complainant *Robert Scurlock*.

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On August 12, 1881, *Virginia Scurlock* filed a bill for divorce from *Robert Scurlock*. The case was presented in the Circuit Court of Shelby County. There was a hearing on September 23, 1882, when a decree was entered, granting *Virginia* a divorce which was mensa et thoro,* and alimony pending the separation. A reference was ordered to report what would be a proper allowance for such alimony. The court clerk reported that five dollars per month would be a proper and fair allowance. This was confirmed by the court. The case continued to be processed in other proceedings from time to time.

On June 4, 1888, the clerk reported that the alimony was in arrears for \$265.00 and a judgment was rendered for this sum. Upon this judgment various payments were made, amounting, in the aggregate to \$170.00.

*a kind of divorce, which is rather a separation of the parties by law, than a dissolution of the marriage