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MICHAEL A. OLIVAS
William B. Bates
Distinguished Chair in Law
Director, IHELG
molivas@uh.edu
713.743.2078

DEBORAH Y. JONES
Program Manager
dyjones@uh.edu

The Will to Change: The Legal Battle Over the Rice University Endowment

IHELG Monograph

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Steven Harmon Wilson
Associate Dean of Liberal Arts
Tulsa Community College-Metro Campus
909 South Boston Ave.,
Tulsa, OK 74119-2095
E-mail: swilson@tulsacc.edu;
Tel.: 918-595-7117

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The Will to Change: The Legal Battle Over the Rice University Endowment

Texas State Historical Association (Houston: March 2, 2012**)**

Steven Harmon Wilson, Ph.D.
Associate Dean of Liberal Arts
Tulsa Community College

In early 1962, as the close-knit community of faculty, students, and (above all) devoted alumni of Rice University looked forward to the long-planned celebrations publicly marking the semi-centennial of the school, the board of trustees and a new president struggled behind the scenes to define and defend the institution's future. Rice had been gaining in status and prestige over its first fifty years, its rising academic reputation resting on an ability to attract distinguished faculty and high quality students. Yet, the University's leaders now worried that Rice's steady ascent, even to the upper tiers of American higher education would stall, or actually reverse. American higher education was changing. America was changing. The question bedeviling the trustees and president at the mid-century mark was: would Rice embrace these changes, or hold onto its past? Specifically, should and could the campus be racially integrated, despite the founding charter's expectations that Rice would educate "the white inhabitants of Houston, and the state of Texas"? At the same time, the trustees and president asked themselves if Rice could and should continue its tradition—also inspired by the founder's wishes—of offering its increasingly high-quality but increasingly high-cost education tuition-free? These different similarly controversial issues—race and money—were ultimately joined into a single legal case, *Coffee v. Rice University*.[1]

[1] *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966).

This paper will briefly relate the curious history of Rice's painful struggle with itself: a lawsuit pitting the trustees of William Marsh Rice's beneficence against the beneficiaries of Mr. Rice's trust. The trustees argued that desegregation and charging tuition would enable them to fulfill the *spirit* of William Marsh Rice's vision. Some devoted alumni were intent on defending the *letter* of Rice's founding documents. Believing that they had been shut out of the conversation, these troublesome alumni forced a jury trial, which they lost. Then, they filed an appeal that ultimately came before the Supreme Court of Texas, where their arguments prevailed, albeit temporarily.

Some legal scholars regard *Coffee v. Rice University* as a landmark. For example, this case opens Michael A. Olivas's *The Law and Higher Education: Cases and Materials on Colleges in Court*. Under the headline "What is a College?" Professor Olivas explains his editorial choice as follows: "[t]he first case contains two elements that reappear throughout higher education law: the legal character of a college and race."[2] Yet, despite these "elements that reappear" elsewhere, several key details make *Coffee v. Rice* an outlier in history. One anomaly is the fact that the trustees of this private, southern school were not resisting the advancing tide of civil rights; rather, Rice's trustees had themselves filed the legal papers seeking to desegregate. Moreover, this desegregation action did not involve a claim under the 14th Amendment, as did most post-*Brown v. Board* desegregation lawsuits. In fact, *Coffee v. Rice* was not a federal civil rights lawsuit at all—it was a state case, concerned with the laws of trust in Texas. That such an issue was tried before a jury at all was unusual—it was expected that the request would be judicially approved without opposition—and the case became even odder when the jury's decision was

[2] Michael A. Olivas, *The Law And Higher Education: Cases And Materials on Colleges in Court*, 3rd edition (Durham: Carolina Academic Press, 2006), 8-9. Professor Olivas is the William B. Bates Distinguished Chair at the University of Houston Law Center, and the Director of the Institute for Higher Education Law and Governance.

appealed. Indeed, the case is notable for having been successfully appealed by someone other than the actual plaintiff (Rice) or the defendant (the Texas Attorney General), both of whom were satisfied with the trial outcome.

The majority opinion was written by Justice Joseph R. Greenhill III, who declared, in essence, that alumni deserved a voice in such discussions about the future of their beloved *alma mater*. It may be surprising that the judge demonstrated such empathy for the school and its supporters. As a Longhorn—having earned his degrees, B.A., B.B.A., and LL.B., from The University of Texas at Austin—rather than an Owl, Justice Greenhill apparently had no stake in Rice's fight. Yet, he had deeper ties to the case than it may have appeared. He was born in Houston on July 14, 1914, the only son of Texas Company accountant Joe Greenhill, Jr. and Violet S. Greenhill. The father died at age 29, days before young Joe's fourth birthday, leaving Violet to raise their son alone. She stayed in their Montrose-area home, which, divided and rented, served as her primary source of income for several years. Joe III's childhood neighbor and friend Jean Baldwin would one day be the wife of his patron and friend, Texas Attorney General—and later Governor—Price Daniel. Eventually, Violet attended the nearby Rice Institute, training for a career in social work. Justice Greenhill later remembered that many of Houston's sharper students sought to attend Rice—not only did it have a good reputation for academics, it was free. When the time came, Joe applied to and was also accepted at Rice. But, Violet Greenhill was offered a good job as the first Chief of the new Division of Child Welfare being established under the State Board of Control—which meant a move to Austin. Though he was initially "very unhappy" with the move, Joe Greenhill ultimately "acquired orange blood," and became devoted to UT.[3] As we will see below, Justice

[3] "Oral History Interview with the Honorable Joe R. Greenhill, Sr.," Conducted by H.W. Brands, January-May 1986, *A Texas Supreme Court Trilogy*, Volume 2 (Austin, TX: Jamail Center for Legal Research/The

Greenhill's opinion did not long deflect the Rice trustees from their chosen path; however, the opinion opened up a space that allowed a full consideration of the questions raised by all the interested parties, rather than allowing a pantomime proceeding between the trustees and the state to foreclose these issues without a trial.

Rice University was born in legal jeopardy, and amid potential financial disaster. In 1837, the Massachusetts-born William Marsh Rice came to Houston to find his fortune. He succeeded by dealing in cotton, shipping, land, and railroads. By 1860, Rice was purported to be the second richest man in Texas (at least, he was until he prudently moved his operations to Mexico during the Civil War). Margaret Bremond Rice, Rice's first wife, died in 1863. In 1867, Rice married a young widow, Julia Elizabeth Baldwin Brown. Both of these marriages were childless, and Rice began pondering his legacy. For example, while living in New Jersey, Rice considered founding a vocational school for orphans there, but nothing came of the idea. While visiting Houston again on business in the late 1880s, Rice met with his friend Cesar Lombardi, president of the School Board. Since Rice had made his early fortune in Houston, Lombardi hoped that Rice might fund a much-needed municipal high school. Instead, inspired by such prominent examples as Stephen Girard (who created Girard College in Philadelphia) and Peter Cooper (the founder of Cooper Union in New York City), Rice endowed an independent private institution. Rice invited six friends to act as his fellow trustees, and signed a deed of indenture for "a Public Library and Institute for the Advancement of Literature, Science and Art" and "a polytechnic school." A formal charter incorporating the William M. Rice Institute was then registered in Austin. The board of trustees would exercise full control and management of any endowment passed to the

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University of Texas School of Law, 1998), 1-2. Also see: Jim Cullen, "The Joe Greenhill Story" (Texas Supreme Court Historical Society; online at: http://www.texascourthistory.org/Memorialstories.html).

Institute. However, trustees did not enjoy plenary power. According to the charter, for example, a court could act to prevent and redress "any mismanagement, waste, or breach of trust."[4]

In May 1891, Rice made the initial financial provision for the Institute that now bore his name, in the form of a $200,000 interest-bearing certificate. Other substantial donations followed. In 1892, with Elizabeth Rice as a co-signer, Mr. Rice deeded the Institute several valuable pieces of property, ranging from 50,000 acres of Louisiana timberland to real estate in downtown Houston, including the Capitol Hotel. Despite making such gifts over the ensuing years, Rice did not want significant action taken on the project while he lived; rather, he expected that the Institute would be established in due course after his death. But, complications loomed. After his wife's death in 1896, Rice revised his will, leaving the bulk of the estate to the Institute. Unfortunately, without her husband's knowledge, Elizabeth Rice had also revised her will on her deathbed, naming as executor Houston attorney Orren Holt, the husband of a woman who had faithfully attended Mrs. Rice in her last illness. Elizabeth Rice, entitled under Texas community property laws to half of the assets acquired during the marriage, also made various large gifts to her own projects. If enforced, this will would deplete much of the capital Mr. Rice had earmarked for the Institute. However, as the couple had not lived in Texas for many years, Rice's lawyers were confident that the bulk of his widow's separate gifts would eventually be declared invalid by the courts.[5]

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[4] The six trustees were Cesar Lombardi; Emanuel Raphael, president of the Houston Electric Light and Power Company and trustee of Houston's public school system; Rice's brother Frederick, a banker and treasurer of the Houston and Texas Central Railroad; James E. McAshan, a banker; Alfred S. Richardson, a director of the Houston and Texas Central Railroad; and James A. Baker, Rice's Houston attorney. This James A. Baker was a founder of the Houston law firm Baker Botts, LLP, and is the grandfather of Secretary of State James A. Baker. Fredericka Meiners, *A History of Rice University: The Institute Years, 1907-1963* (Houston: Rice University Studies, 1982), 11, 15. This work is available online: http://www.archive.org/stream/historyofriceuni00mein/historyofriceuni00mein_djvu.txt.

[5] Meiners, *A History of Rice University*, 12.

The issue of Elizabeth Rice's will had not been resolved by the morning of September 23, 1900, when the 84-year-old Rice was found dead in his New York City apartments, having apparently died in his sleep. Questions about the circumstances quickly arose, however, when one Albert T. Patrick, Rice's New York lawyer (and reportedly a colleague of Orren Holt), attempted to cash a large check on the late Mr. Rice's accounts. When challenged about the check (on which his own name had been misspelled), Patrick claimed that, rather than creating the long-planned Institute, Rice had changed his mind and amended his will to leave Patrick in control of the estate. James A. Baker—Rice's personal lawyer in Houston, and the chair of the Institute's board of trustees—knew this to be contrary to his old friend's longstanding intentions. Baker traveled to New York and aided police in the detection of what was soon revealed to be a bogus will bearing a forged signature. Patrick was arrested for forgery, but released on bail. Further investigation uncovered a more disturbing plot: it appeared that Patrick had conspired with Rice's valet, Charles F. Jones, to murder the old man and steal his fortune. Jones confessed that, at Patrick's direction, he had been poisoning his employer with mercury pills, but had finally just administered chloroform to kill the sleeping Rice. Jones twice tried to kill himself in his jail cell, apparently with Patrick's aid, before the latter was re-arrested and charged with murder. Jones was not prosecuted, because he had cooperated with the district attorney, but he was confined for a time in Bellevue Hospital (he was later set free and allowed to return to Texas, where he committed suicide in 1954). In 1901, Patrick was convicted and sentenced to die, although his sentence was then commuted to life imprisonment. Patrick served ten years in Sing Sing prison before being pardoned in 1912, the beneficiary of lingering concerns over conflicting expert medical testimony during the trial.[6]

[6] Meiners, *A History of Rice University*, 13.

Baker, known to many in Houston as "Captain Baker" because of his rank in the Houston Light Guard, a private social association and drill team, would continue to serve as chair of the board of trustees until his own death in 1941. Baker and his fellow trustees must have felt some grim satisfaction with Patrick's conviction for the murder of their friend and benefactor, but they also understood that the future of his Institute was not yet secure. Even after the fraudulent will had been discredited, the trustees still had to worry about the claims on the estate contained in the late Elizabeth Rice's will. Fortunately, her executor Orren Holt seemed to have realized that the negative publicity generated by the sensational murder trial made discretion the better part of valor: he settled out of court with Mr. Rice's executors, and received $200,000 for Mrs. Rice's chosen beneficiaries. Lesser legal challenges to William Marsh Rice's will continued through 1904, by which time lawyers' fees, executors' commissions, and Rice's own unquestioned final bequests to his relatives reduced the estate by another million dollars. When the finances were finally settled, the Rice Institute boasted an endowment worth $4.6 million, consisting of stocks, bonds, deeds, and some $370,000 in promissory notes. This was a substantial fortune, equivalent to more than $100 million dollars in the present day, but the trustees felt obliged to increase it. They organized the Rice Land Lumber Company to manage the Louisiana holdings, for example. More surprising, perhaps, is the fact that the board also acted as something of a for-profit booster association: over the years, loans from the Rice endowment provided much-needed seed capital to businessmen (including the trustees and their friends) eager to build their fortunes in Houston, which was booming during those post-Spindletop and post-Galveston-storm years. By 1912, the year the Institute opened to great public fanfare, its endowment had been doubled, to some $10 million—at the time, the seventh largest collegiate endowment in the country.[7]

[7] Meiners, *A History of Rice University*, 14-15. The trustees' investment strategies are covered thoroughly in the various sections concerned with the Rice Institute's founding and growth in: Cheryl

While the trustees were successfully growing the endowment, they were also carefully laying the foundation of the Institute it was intended to support. In 1907, they commenced a lengthy search for a president. After soliciting recommendations from various distinguished academics across the country, they offered the leadership post to Edgar Odell Lovett, a young mathematician and astronomer at Princeton University, who had been recommended by Dr. Woodrow Wilson, then Princeton's president. Lovett accepted, declared that Rice should strive to be an institution "of the highest grade," and then worked the rest of his life to make that promise a reality, remaining president for thirty years. In 1908, Lovett embarked on a tour of the world's finest institutions of higher learning, taking notes on what we would now call "best practices." In 1910, he was made a member of the board. In 1911, the cornerstone was laid for the first building (now aptly named Lovett Hall). Lovett planned world-class facilities and used them to recruit high-quality faculty, including the famous English biologist, Julian Huxley. On September 23, 1912, the anniversary of William Marsh Rice's murder, the Rice Institute celebrated its opening with a lavish public convocation of invited scholars, national and international dignitaries, and local worthies.[8]

Because the deed of indenture filed with the charter directed that the "polytechnic school" was to admit women as well as men, the Rice Institute was coeducational from the very beginning—the inaugural class of seventy-seven students consisted of forty-eight men and twenty-nine women. The indenture also stated that the library and Institute were to be "free and open to all," and so the students did not pay tuition. The trustees were comfortable interpreting this clause liberally,

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Ann Matherly, Cheryl Ann Matherly, *"More valuable than two Panama Canals": higher education in pro-growth Houston, 1900-1990*, Ed.D. dissertation, University of Houston, 2001.

[8] See generally: John B. Boles, *University Builder: Edgar Odell Lovett and the Founding of the Rice Institute* (Baton Rouge: LSU Press, 2007).

as the endowment was in good shape when the Institute opened in 1912. Of course, this act of generosity established the precedent that gave rise to the tuition dispute fifty years later. Finally, Rice was born segregated. The charter directed the trustees to establish and maintain facilities, collections, and apparatus suitable for the "instruction for the white inhabitants of the City of Houston, and State of Texas." Rice was literally a man of the nineteenth-century (in fact, he had reportedly been a slave-holder prior to the Civil War), and his trustees were now residents of the twentieth-century Jim Crow south. This racial stipulation was hardly controversial at the time, although it understandably became the focus of controversy during the modern civil rights era.[9]

Over the next few years, a recognizable "Rice culture" developed. The first commencement was celebrated in 1916, at which thirty-five bachelor's and one master's degree were conferred. That same year, the student body voted to adopt an Honor System, and created a student newspaper, the *Thresher*, both of which remain vital to campus life. The first doctorate was earned in 1918. President Lovett banned sororities and fraternities, and social clubs that resembled them, in 1919. He was disturbed by the class-consciousness he saw arising at some academically elite colleges (including his former employer, Princeton). Lovett desired that the Rice campus would maintain a democratic, although meritocratic tenor. In 1922, after earning a reputation as the second-worst hazing school in Texas (second only to Texas A&M), the Rice faculty also forbade hazing.[10]

[9] Meiners, *A History of Rice University*, 15.

[10] Meiners, *A History of Rice University*, 114-115. Not that "Rice exceptionalism" rendered it immune from the diversions and temptations of developing American collegiate culture. John W. Heisman, for whom the Heisman Trophy would eventually be named, became Rice's first full-time head football coach in 1924. Although he already had a reputation for building championship teams, Heisman's time at Rice was disappointing. His first season ended with Rice tied for third-place in the Southwest Conference (with Texas A&M), and his second saw the Owls in seventh. The next two seasons were worse, and Coach Heisman resigned in 1927. Meiners, 104-106.

Eliminating student misbehavior was not the only or most pressing issue troubling President Lovett and the trustees, of course. Classroom and laboratory facilities needed expansion and modernization to accommodate higher enrollment in the 1920s. Finances were showing the strain. In 1928, a faculty committee studied the issue, and recommended that the Institute begin charging tuition. Current costs were not the only factor under consideration. That same year, Lovett spoke about a future that might see the establishment of a law department, and perhaps eventually a medical school, both expensive prospects. The next year, Lovett wrote to the leaders of Stanford University to inquire how they had revised that school's charter to allow the charging of tuition. Yet, beyond this inquiry, Lovett apparently did not explore revising the Rice charter.[11] The 1929 stock market crash and the advent of the Great Depression changed the terms of all campus financial discussions. In 1932, faculty salaries were cut by at least 5 and by as much as 10 percent. Although tuition was not imposed, Rice students saw increased costs. Registration fees were raised from $10 to $25, and students were required to live one year in the residence halls. In 1933, the student body voted to levy a blanket tax on itself—$8.40 per student—and adopted resolutions favoring compulsory support of the Student Association, the Honor Council, and student publications, for an additional $18 per year.[12]

Still troubled by the Institute's financial position as late as April 1941, Baker, who remained chair of the board, recommended to his fellow trustees that the charter be amended to allow Rice to charge tuition. The board had to file a renewal of the charter that month, which gave Baker his opportunity to open the discussion. Although the board agreed in principle, events intervened to

[11] Meiners, *A History of Rice University*, 94-95.
[12] Meiners, *A History of Rice University*, 120-121.

prevent them from taking that long-dreaded but seemingly necessary step.[13] On May 14, Lovett resigned as president, although he agreed to remain in office until his successor was appointed. Then, on August 1, Captain Baker died. In light of such upheavals, discussions about any other drastic changes were on hold. Before the issue of tuition could be raised again, it seemed to be rendered miraculously moot point when oil was discovered on Rice's timberlands in Louisiana, the same parcel that was part of Mr. Rice's original endowment. In 1942, Rice expanded its oil holdings when the trustees bought shares in the Rincon field in Starr Country, Texas, for $1 million (half supplied by the Institute and the other half raised from donors, including the M.D. Anderson foundation). It was a sound investment that returned $35 million over 35 years.[14]

William Vermillion Houston (pronounced HOW-stun), a Scottish-born physicist, became Rice's second president in 1946. Money woes had receded temporarily after World War II, but racial controversies now emerged. Heman Sweatt, a Houston mail carrier, filed *Sweatt v. Painter*, a suit challenging segregation at the University of Texas Law School.[15] In 1948, as the *Sweatt* case gathered momentum, Rice students, or at least the current editors of the *Thresher*, went on the record in favor of Rice's own desegregation. However, President Houston ultimately quashed that discussion by reminding the students that the charter forbade the possibility. Across town, students at Texas State University for Negroes applauded the Rice students' stand, noting that they were arguing about the morality of segregation, not its legality.[16] The reasoning in the US

[13] Matherly, *"More valuable than two Panama Canals,"* 182.
[14] Melissa Fitzsimmons Kean, *"At a most uncomfortable speed" : the desegregation of the South's private universities, 1945-1964*, Ph.D. dissertation, Rice University, History Dept., 2000, 80-81. Meiners, *A History of Rice University*, 137, 200-201.
[15] *Sweatt v. Painter et al*., 339 U.S. 629 (1950).
[16] Kean, *"At a most uncomfortable speed,"* 86-87. Of course, the historically black school's origins and future were bound up in the *Sweatt* case. Established in 1927 as the Houston Colored Junior College, the state legislature declared it to be TSUN, first state university in Houston, on March 3, 1947, and even

Supreme Court's June 1950 decision in Sweatt's favor underpinned the Court's 1954 landmark *Brown v. Board of Education*, in which Justices unanimously declared that separate educational facilities were "inherently unequal."[17] Although these civil rights victories formally applied only to state laws establishing separate public schools for black and white students, the writing was on the wall for all segregated institutions. By the end of the decade, surveys indicated that a growing number of Rice students were opposed to segregation, although few took action beyond, perhaps, supporting or participating in sit-in protests of Houston businesses, which began in 1960.[18]

Meanwhile, Rice was at a turning point. In December 1959, the board of trustees met to discuss changing the name of the Institute. President Lovett had long argued that the term "institute" did not accurately convey the school's evolving broad-based education programs, rising academic status, or high ambitions. Now, two years after Lovett's death in 1957, the trustees finally agreed that a change in name would be desirable. Happily, unlike the segregation and tuition policies, a name change was not especially difficult to effect, because the charter stated that the school was to be known "by such a name as [the trustees] may in their judgment select." Nevertheless, the trustees desired to gain the support of its main constituents, and revealed the discussion in a story published in the January 1960 issue of *Sallyport*, the alumni magazine. There was some minor opposition from some old Owls, but the trustees felt able to go forward. In April, they filed the necessary petition with the Secretary of State's office in Austin, and announced the action to the

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created a law school there, in a cynical bid to avoid desegregating UT. This did not work, and the US Supreme Court ruled unanimously that UT Law must admit African Americans. *Sweatt v. Painter et al.*, 339 U.S. 629 (1950). In 1951, the Texas State University for Negroes became Texas Southern University. Matherly, *"More valuable than two Panama Canals,"* 175.

[17] *Brown v. Board of Education of Topeka, KS, et al.*, 347 U.S. 483 (1954).

[18] Kean, *"At a most uncomfortable speed,"* 319-332. See generally: Thomas R. Cole, *No Color Is My Kind: The Life of Eldrewey Stearns and the Integration of Houston* (Austin: University of Texas Press, 1997).

current student body in the *Thresher*. On July 1, 1960, the William Marsh Rice Institute for the Advancement of Letters, Science and Art officially became William Marsh Rice University.[19]

When chemist Kenneth Sanborn Pitzer agreed to become Rice's third president in 1961, he saw that more fundamental changes (more so than a name modification) could no longer be delayed. The university's reputation for academic excellence had increased over the years, becoming its prime asset for attracting quality students and faculty. Yet, the arts and humanities needed to be strengthened if Rice's new name was ever to be more than merely symbolic. Although the graduate programs had grown under President Houston, Rice offered a doctorate in only a few fields, mostly in the sciences and engineering. Moreover, even these strong departments needed to attract more nationally known professors if the university was to gain and maintain a higher standing. Accordingly, Pitzer brought concrete plans to transform Rice into a leading university. He wanted to increase undergraduate enrollment modestly over five years, but double graduate enrollment, and raise standards for both. This would necessitate hiring nearly sixty new faculty, with about half of these individuals brought in at a senior level. Because faculty excellence was critical to the university's reputation, Pitzer proposed new processes for evaluating performance, with clear expectations to be met for retention and promotion. For the first time, Rice would formally award—or withhold—tenure. There would have to be new equipment, new laboratories, and an expanded library. The key to this proposed future was money. Pitzer's short-range plans, for the three to five years, called for expenditures of $4.6 million, and an associated increase in annual operating costs of $1.77 million. He soon realized that this higher level of spending was not going to be easy to attain, as Rice was already operating near the limit of its income.[20]

[19] Meiners, *A History of Rice University*, 197.

[20] In January 1963, the board approved Rice's first formal tenure policy. By March, all faculty had been assigned tenure or one-to three-year appointments. Meiners, *A History of Rice University*, 198, 204.

The university had to investigate every possible source of income. Pitzer hoped to fund some of his plans with major grants from foundations, with research contracts with companies, and with unrestricted donations to the endowment from friends of the university. It was new ground: Rice had never embarked on a major fundraising campaign. Now, whether justified or not, Rice had a reputation as a wealthy school, which made it difficult to court new donors. Furthermore, Rice's well-known policy of not charging tuition was leading to some problems in securing grants, as major foundations were reluctant to give funds to a university that was not actively using all its own resources. This reality had led the trustees to consider the role of lost tuition as part of the overall financial equation in 1961, even before Pitzer made his expansion recommendations.[21] One emerging prime funding source was the federal government. As early as 1958, Houston's boosters, including Congressman Albert Thomas, began courting the nation's brand new space program. In 1959, the Rice Institute acted as a temporary intermediary in the transfer of cheap land near Houston from Humble Oil to the National Aeronautics and Space Administration. The cheap real estate sweetened the deal, but, ultimately, nearness to Rice's faculty and laboratories was key to the choice of the Houston area as the site of the NASA's Manned Spaceflight Center (now the Johnson Space Center) in 1961. Rice's graduate programs in science and engineering reaped rapid and substantial benefits from these close links with NASA. In 1962, the university established the nation's first space sciences department. And, on September 12, 1962, President John F. Kennedy delivered his famous address on space exploration while standing at a podium in Rice Stadium. Promising that the US would send a man to the moon by the end of the 1960s,

[21] Meiners, *A History of Rice University*, 200-201.

Kennedy noted: "I am delighted that this university is playing a part in putting a man on the moon as part of a great national effort of the United States of America."[22]

Government contracts earmarked for science and mathematics would not be enough, of course. Rice needed funds that could be applied anywhere on campus. Unfortunately, federal funding in the future would become more restrictive, rather than less, and Rice's segregation would soon loom large as a barrier to access. Years before making its move to become a center of emerging space science, Rice had begun receiving research funding from the Atomic Energy Commission, which the US government established in 1946 to undertake the peacetime development of atomic technology. In 1954, President Eisenhower had signed Executive Order 10557, requiring non-discrimination in federal contracting. Initially, this was interpreted as applying to employers, not educational institutions. By 1957, however, Rice heard warnings that AEC and other agencies would eventually require non-discrimination in educational and training programs. Among the characteristics that had made Pitzer an attractive choice to become Rice's new president was his access to AEC research dollars, and these were now under a cloud. In addition, by the 1960s, private foundations were also indicating a heightened sensitivity to civil rights issues. Rice's leaders were feeling increasingly "boxed in" by federal regulations and grant requirements. One indication of the seriousness of the matter was that, while negotiating with the trustees, Pitzer had named timely resolution of the segregation issue as among his conditions for accepting the presidency at Rice. In September 1961, at its first board meeting attended by Pitzer as the newly

[22] Kean, *"At a most uncomfortable speed,"* 316. Meiners, *A History of Rice University*, 200-204.

named president, the board of trustees agreed that it was necessary for the university both to end racial segregation and to begin charging tuition.[23]

Despite that early endorsement, many months would pass before the trustees took any practical action on either matter, although they did ask Rice's attorneys at Baker & Botts to determine the actions necessary to make such changes. At late as May 1962, several trustees argued that, rather than acting precipitously and unilaterally, they should take some time to measure the public mood and perhaps to quietly build sentiment favorable to tuition and integration. It was soon apparent that some alumni worried more about the end of the free Rice education than the end of segregation. Many current students seemed to favor desegregation; indeed, although the trustees had discussed their plans behind closed doors, the issue had been revived in the *Thresher*. The lawyers reported in July that the Texas attorney general would support the university's goals on both questions. On September 26, 1962, a year after they first endorsed the notion, the trustees unanimously resolved to initiate a legal action to obtain the authority to admit qualified students to the university without regard to race or color and to charge tuition. This resolution stated that, while the indenture quoted in the charter imposed segregation on the school and limited the charging of tuition, it also left to the board the right to set requirements for admission. At the same meeting, coincidentally or not, the trustees approved the final conveyance of property to NASA, to be used for the construction of the manned spaceflight center.[24] Having made this decision, the trustees looked forward to the long-planned semi-centennial, scheduled for October 10-12, 1962. As it had done in 1912, Rice invited dignitaries from top universities and learned

[23] Kean, *"At a most uncomfortable speed,"* 312, 411-414, 417-418. Matherly, *"More valuable than two Panama Canals,"* 172-174, 177.
[24] Matherly, *"More valuable than two Panama Canals,"* 183-185. Kean, *"At a most uncomfortable speed,"* 423. Meiners, *A History of Rice University*, 201.

societies. The three-day academic festival included speeches, lectures, tours, toasts, receptions, and demonstrations. The celebrations climaxed with Pitzer's formal inauguration as president.[25]

The trustees' long delay in filing the legal papers now had to accommodate a change in the state government, and, apparently, the holiday season. It was not until two days after Christmas 1962 that the new Attorney General, Waggoner Carr, received a memo from Baker & Botts informing Carr of the pending action. Finally, on February 21, 1963, Rice's legal team filed the request to alter the charter with District Judge Philip Peden's court. In formal terms, the trustees instituted an action for a construction of the trust instrument under an application of the equitable doctrine of *cy pres* (pronounced *see-pray*; the term can be translated from old Norman French to English to be "as near as may be"). Although it had taken many years to reach this point, and the legal language was a complicated-sounding, this was nevertheless ordinary petition to revise the past interpretation of trust language. The suit claimed that such actions were necessary to eliminate the named limitations (that is, segregation and absence of tuition), in order to carry out William Marsh Rice's primary intent to establish an educational institution "of the first class." A statute (Article 4412a) pointed to the Attorney General as the proper defendant, so the case was filed as *Rice v. Carr*. On April 20, Carr's office gave notice to the court that it raised no objection.[26]

Unfortunately, several devoted and determined alumni did raise objections. On September 20, 1963, John B. Coffee, Val T. Billups, and others sought to intervene in the legal case, with the goal of forestalling the proposed changes. These alumni claimed they didn't care about either race or tuition, but cared deeply about the sanctity of testamentary documents. In their petition to

[25] Meiners, *A History of Rice University*, 213.
[26] Kean, *"At a most uncomfortable speed,"* 425-427. Meiners, *A History of Rice University*, 201. All statutes refer to revised civil statutes in Texas as collected in Vernon's Annotated Civil Statutes.

the court, they argued that, if the trustees succeeded, it would "deal a fatal blow to certainty in wills and trusts." Some were skeptical about this claim. One recipient of a scholarship created by Coffee (and named for him) returned the money in protest. In a letter responding to the student, Coffee defended his motives in challenging the trustees. He also wrote to the *Houston Press* to complain that the Rice trustees were imposing their own aspirations on the school, at the expense of those of Mr. Rice. Oddly, Coffee blamed the controversy on the scheming of Bobby Kennedy, the US Attorney General, who many southerners believed had been engaged in a crusade against their way of life. As Coffee's argument indicated, many critics of the trustees (then and since), have misconstrued these actions as efforts to break William Marsh Rice's will, rather than amend the understanding of the trust documents. Critics cast themselves as defenders of the words of the founder, while supporters regard themselves defenders of his purpose. The real question could be stated as: would the trustees honor the letter of the founder's legacy or the intent of his bequest? In such terms, the trustees were on firm ground; it was well established in the law of trust that the purpose of a bequest would trump mere words.[27]

From the standpoint of public relations, especially, alumni relations, the trustees could feel the ground shaking under them. They were not without supporters. In January 1964, a second group of alumni, led by Charles Bybee, filed a petition in support of the trustees' position, and opposed to that of Coffee. Coffee and the others opposed to the proposed changes at Rice then filed an amended petition further outlining their points. Opponents of the proposed change represented themselves in court documents as proper parties to the suit because they "[had] a direct interest in . . . an adjudication of which cannot be made without affecting their interests as former

[27] Meiners, *A History of Rice University*, 201. Kean, *"At a most uncomfortable speed,"* 428-429. Matherly, *"More valuable than two Panama Canals,"* 187.

students, alumni, donors, contributors and beneficiaries." They now alleged that they, and the class they represented, having made contributions to Rice University pursuant to the indenture and, therefore, now had the right to have the indenture upheld in accordance with its terms. Yet, supporters of the proposed change represented themselves similarly. Both of these groups were permitted, without apparent objection, to intervene in the case. Perhaps Rice's lawyers and the state realized too late that the intervention would lead to a jury trial on the merits, seriously delaying what was intended to be a quick proceeding. Jury trials in trust cases are rare, because they are a matter of Equity, the proceedings of which are usually argued in front of a judge. Now, having intervened, Coffee demanded a trial, and Rice acquiesced.[28]

The delay risked the failure of the effort to change the charter, and threatened its point. As examples, even after Rice had established its intention (and taken action) to desegregate, the Navy considered pulling its NROTC from the campus, the Ford Foundation indicated it would wait for the result before final consideration of a grant application, and even NASA made its contingency plans. Pitzer's plans for academic improvement had also begun to suffer, as many star recruits were reluctant to join the faculty of a still-segregated university. Pitzer sought to assuage some of the concerns, by pointing to Rice's new policies on non-discrimination in hiring and contracts. Moreover, to keep a previously arranged federal program alive, and in anticipation of a favorable court ruling, Rice bent the rules in 1963, and admitted its first African American graduate student, Raymond Lewis Johnson, who was seeking a master's degree in Math.[29]

[28] *Coffee v. William Marsh Rice University*, et al. 387 S.W.2d 132 (1965), 133.
[29] Kean, *"At a most uncomfortable speed,"* 428-432, 434. Matherly, *"More valuable than two Panama Canals,"* 177-180. *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966), 341.

The trial opened in District Judge William M. Holland's Houston courtroom on February 10, 1964. Forced by the interventions to put on a case, Rice's lawyers opened by emphasizing that no provisions in the trust instrument (the deed of indenture) or Rice's corporate charter expressly excluded African Americans (or other non-whites) from sharing in the "instruction, benefits, and enjoyments" to be derived from the Institute, nor did the documents declare that the "instruction" should be confined to the white inhabitants of Houston and Texas *solely.* On the contrary, the documents directed that the instruction, *et cetera,* were to be "free and open to all, to be non-sectarian and non-partisan, and subject to such restrictions only as in the judgment of the Board of Trustees will conduce to the good order and honor" of the Institute. The challenge for Rice was to explain why the interpretation of these documents by the first trustees—and the traditions established by them and continued during the fifty years the Institute had been in operation—no longer applied, and in fact directly contradicted the interpretation they now sought to place on the documents. Rice's strategy was to argue that the judgment about the *relative* importance to be given to the various provisions in Mr. Rice's indenture and charter lay within the trustees' discretion. That is, the argument went, the trustees were merely choosing at this admittedly late date to exercise discretionary authority they had possessed all along, having lately concluded that the continuance of segregation and a free education at Rice were *lesser* goals, and now presented high barriers to their current efforts to raise necessary funds, attract first-rate students, and recruit and retain superior faculty—which would enable the institution to reach its *higher* goals. From the trustees standpoint, keeping the *status quo* on either of the race and tuition issues risked damaging Rice's prestige, its quality, and, ultimately, its long-term viability.[30]

[30] *Coffee v. William Marsh Rice University*, et al. 408 S.W.2d 269 (1966), 278, 284-285. Kean, *"At a most uncomfortable speed,"* 432. Matherly, *"More valuable than two Panama Canals,"* 178-182, 187.

Rice's lawyers sought to place the charter's racial language in historical context, in light of the fact that in 1891 Texas, segregation of the races in public institutions was required by law, and such segregation was the invariable custom in private institutions, as well. As a practical matter, any school at that time was either for white or for black children. Times had now changed. To bolster these claims, Rice produced various documents from its archives and called numerous expert witnesses. Dr. Carey Croneis, Rice's Chancellor (formerly the provost, and once interim president), testified regarding the probable negative effects that the racial and tuition restrictions would have on the future of the university. Additional testimony from the top administrators of most of the universities in Texas established their consensus that, under the present conditions, no institution that continued to discriminate in the selection of faculty or students on the basis of race could attain or retain the status of a university of the first class. Such an institution could not recruit the necessary faculty, and would be at a disadvantage in seeking grants for research from foundations and the government. Such testimony allowed Rice's advocates to connect the racial question with the financial issue. They suggested that the language "free and open to all" was not a specific instruction that no tuition was ever to be required of students; rather, it expressed the founders' general philanthropic intent, which the trustees properly carried into effect by adopting a policy of requiring no tuition. Rice's witnesses testified that the failure of Rice to charge even modest tuition impaired its ability to secure foundation grants. Finally, Rice presented testimony indicating that, despite its reputation for wealth, it needed foundation and government money. If it continued to operate on a deficit basis, Rice could not long maintain its current position in the academic world, let alone begin the great university its founder wished to create and support.[31]

[31] *Coffee v. William Marsh Rice University*, et al. 408 S.W.2d 269 (1966), 286-287.

Although the nominal defendant in *Rice v. Carr*, the Attorney General's official position was to remain neutral in the matter. The only pleading filed by Carr's representatives in the case was a one-page answer, in which the Attorney General neither admitted nor denied Rice's allegations. Carr merely requested that the court require proof and act in such a manner as to do justice and equity. As a later court noted, except for a few isolated questions on cross examination, and an occasional joinder in stipulations of fact, the representative of the Attorney General was silent throughout the trial. This non-defense represented exactly the effort Carr's office would have made had the case been heard by the judge, that is, if the alumni had not intervened. In this and any other trust case, the state simply wanted to see that all groups were heard, the matter fully developed, and justice done. The Attorney General's passivity permitted the intervenors to step into the vacuum. As a result, the real contest of Rice's positions came from Coffee's team. They filed exceptions to pleadings, filed pleas in abatement, and objected to the documentary evidence or testimony, often on the grounds that these were hearsay. The judge overruled the objections, as the law allowed "parol" or extrinsic evidence to be admitted for exactly these purposes, that is, to aid in construing an uncertain or ambiguous trust instrument, to illuminate the circumstances surrounding its execution, and to better apprehend the settlor's original understanding or intent. When Rice rested its case, Coffee's lawyers moved for an instructed verdict, They objected to the court's charge to the jury. What had been expected to be a perfunctory hearing had become a major legal event: in all, documentary evidence and transcribed testimony filled four volumes.[32]

Judge Holland submitted the issues to the jury, which unanimously found in the trustees' favor. Specifically, the jury held: first, that William Marsh Rice intended that the benefits to be derived

[32] *Coffee v. William Marsh Rice University*, et al. 387 S.W.2d 132 (1965), 134. *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966), 341, 348. *Coffee v. William Marsh Rice University*, et al. 408 S.W.2d 269 (1966), 273.

from the Institute were to be free of tuition, but that it was impossible or impracticable under the present conditions to carry out that intent; and, second, that William Marsh Rice intended that the funds given the Institute be used for the instruction and improvement of white inhabitants only, but that it was impossible or impracticable under present conditions to carry out that intent. On March 9, 1964, Judge Holland made Rice's legal victory official by entering a judgment that "ordered, adjudged and decreed, that William Marsh Rice University, and its trustees, now and hereafter, under the law, and notwithstanding the color and tuition restrictions in the indenture of 1891 and in the charter of William Marsh Rice University, may disregard such restrictions, and are no longer bound thereby, in the administration and operation of said University; and said trustees are hereby authorized and empowered to alter or amend the charter of said University, if they wish to do so, in order to reflect therein the provisions of this judgment eliminating the said two restrictions so as to render it practicable for the trustees to achieve the main purpose of William Marsh Rice, i.e., the development of an educational institution of the first class."[33]

The Attorney General did not appeal the verdict, but Coffee did, preventing Rice from putting the issue completely behind it. At first, Coffee's appeal seemed a quixotic project, after Judge Holland's judgment was affirmed in late 1964, and as Rice's reinvention followed in due course. In fall 1965, Rice's first two African American students began classes as "freshmen" (one was a woman, Jacqueline McCauley of Houston). Although current students saw no change, students entering in 1965 were charged tuition (if they could afford to pay). At this time, Rice began to award generous merit scholarships. In the spring of 1965, optimistic about their ultimate victory

[33] *Rice v. Carr* (Harris Cy. Tex. Dist. Ct.), 9 Race Rel. L. Rep. 613 (1964). *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966), 349. Meiners, *A History of Rice University*, 201. Kean, *"At a most uncomfortable speed,"* 433. Kean, *"At a most uncomfortable speed,"* 433. Matherly, *"More valuable than two Panama Canals,"* 188.

in the courts, the trustees and alumni began the $33 million development campaign, which, by 1969, actually raised approximately $43 million (now the equivalent of nearly $250 million).[34]

In February 1965, the law, and history, seemed still to be firmly on Rice's side, when the first Texas Court of Civil Appeals in Houston dismissed the appeal, ruling that Coffee and Billups had no justifiable—and more to the point, no justiciable—interest in the case. The intervenors had given notice of their intent to appeal, and, after their motion for new trial was overruled, they had complied with the procedural steps required for appealing a judgment. Yet, the fact remained that the defendant (under Article 4412a, still the Attorney General) had not appealed, or moved to dismiss the appeal. This silence on the matter left the judges to conclude that their jurisdiction had not been properly invoked.[35] Coffee and the other appellants continued to claim a special interest, due to their status as alumni, contributors, and beneficiaries of Mr. Rice's trust. Writing for the court, Justice Coleman found, however, that sentimental attachment to Rice alone could not support their unusual, and by now clearly independent, challenge to the trustees' actions, since, "[n]either as alumni, nor as potential or past beneficiaries, have appellants been given any peculiar or individual rights, distinct from those of the public at large, in or to the trust property by the Indenture; nor have they been charged with any duty relating to the trust by that instrument." The judges "reluctantly" declined to consider the merits and dismissed the appeal.[36]

After the decision of the Court of Civil Appeals, the Attorney General (apparently having been reminded by the judges that he was the nominal defendant and hence a necessary party) chose to

[34] *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966), 341. Kean, *"At a most uncomfortable speed,"* 434. Meiners, *A History of Rice University*, 201.
[35] *Coffee v. William Marsh Rice University*, et al. 387 S.W.2d 132 (1965), 134.
[36] *Coffee v. William Marsh Rice University*, et al. 387 S.W.2d 132 (1965), 136, 138.

file a motion for rehearing, urging the appellate judge to set aside its order and to consider the case on its merits. This new motion stated that the Attorney General now recognized that various segments of the public had different views regarding the relief sought by the Rice trustees, and they should have an opportunity to contest the legal action if they desired. The Attorney General professed that he had already agreed that all parties who desired to intervene would be entitled to do so, in the interest of seeing the evidence and arguments fully developed in court. Apparently, subsequent to Holland's judgment but prior to the expiration of the appeal deadline, the state's lawyers had met with Coffee's attorneys, and advised them the Attorney General did not have to be a party to the appeal. That view, now rendered invalid by the appellate opinion, was reached because Coffee had been allowed to intervene in the first place, and had played such an active role in the case. Having mostly sat on the sidelines in round one, Attorney General Carr now declared that he desired nothing more than to see the case "fully decided on its merits, both as to law and as to facts, for the protection of the public at large, who are the real beneficiaries of the William Marsh Rice Trust." The Court of Civil Appeals, in a *per curiam* opinion (which the judges ordered withheld from publication), refused to consider the Attorney General's motion, and further stated that the motion should not be considered as part of the record.[37]

But, Rice's legal concerns were not yet ended. Coffee appealed the case to the Texas Supreme Court, where it came under the purview of Justice Joe Greenhill. He was, as described earlier, a loyal Longhorn, but as a native Houstonian, and a once-thwarted Owl, Greenhill was perhaps better equipped than some judges to understand the social ramifications—even the emotional issues—of the case. He was also very familiar with knotty issues surrounding the desegregation of higher education, although perhaps not in a way that at first blush gave the Rice trustees much

[37] *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966), 341-342.

hope. Greenhill had graduated from the UT Law School with highest honors in 1939, and began his long association with the Supreme Court of Texas in 1941, when he was appointed to a newly created position as briefing attorney. He worked for the Court for only a few months before the outbreak of World War II, during which he enlisted in the Navy and later served in the Pacific. Greenhill briefly returned to the Supreme Court after the war, but soon accepted appointment as the first person to serve as Assistant Attorney General of Texas. Hence, alongside Attorney General Price Daniel, Greenhill was called upon to defend the state in *Sweatt v. Painter*. Judge Greenhill later maintained that he was no supporter of segregation, but that it was his duty to defend existing state law. In any case, Greenhill subsequently entered private practice in Austin. He worked as a campaign manager for Price Daniel's 1952 and 1956 gubernatorial races, and in 1957, Governor Daniel appointed him to the Texas Supreme Court. At 43, Greenhill became the youngest justice, and also the first former briefing attorney to serve on the state's highest court. Justice Greenhill won his bid to retain his seat on the Court in 1958, and ran unopposed in 1964.

In April 1966, Justice Greenhill, writing for the court over the dissents of three of his fellow judges, now castigated the Court of Civil Appeals in Houston. True, the Attorney General did not choose to appeal. True, Rice made no complaint when Coffee chose to appeal. But, this was not in and of itself legal proof that Coffee lacked the interest or capacity to appeal. Nevertheless, the Houston court held that it had no jurisdiction, declined to consider the issues, and dismissed the appeal. The narrow question, Greenhill wrote, and in fact, the single point of error before the Supreme Court, was the correctness of that action by Court of Civil Appeals.[38] To answer this question, Greenhill went back to Article 4412a. Although the Attorney General must be a party, must be served with citation, and must be a party to any settlement, Greenhill noted, the statute

[38] *Coffee v. William Marsh Rice University,* et al. 403 S.W.2d 340 (1966), 341.

did not require the Attorney General to file an answer or conduct the litigation. Also, while the Attorney General was not the only person who can bring such a suit, a potential intervenor must have some special interest—that is, an interest different from that of the general public—in the trust. The reason for this, Greenhill wrote, was that otherwise, third parties could file suit at any point, on any point, and harass charities and trustees. However, when the trustees themselves bring a suit and the Attorney General is made a party, and third parties are allowed to intervene, the question of undue harassment of the trustees is eliminated, and the case may proceed as in other civil cases. Under the statute, the Attorney General is a necessary party; but, Greenhill noted, Article 4412a did not say that he was the only party who can appeal.[39] As Coffee and the other alumni had been permitted to intervene in the trial court, apparently unchallenged, Judge Greenhill regarded them as having become essentially equivalent to named defendants (in terms of their justiciable interest). He suggested that the place to have challenged that interest and their right to intervene was in the trial court. Accordingly, the Justices of the Texas Supreme Court held that the Court of Civil Appeals did indeed have jurisdiction over the subject matter (whether it thought so, or not). Greenhill reversed the judgment as erroneous, remanded the case to the Court of Civil Appeals, which would hear the appeal on its full merits.[40] And Coffee continued the fight. But, after another appeal, this time on the merits, the Texas Court of Civil Appeals in October 1966 affirmed the judgment in favor of Rice, as rendered by the district court in 1964.[41] Coffee still did not yield, but the battle was lost. In February 1967, the Texas Supreme Court denied a writ of error filed by Coffee and Billups.[42]

[39] *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966), 342-343.
[40] *Coffee v. William Marsh Rice University*, et al. 403 S.W.2d 340 (1966), 346-347.
[41] *Coffee v. William Marsh Rice University*, et al. 408 S.W.2d 269 (1966), 283.
[42] Kean, *"At a most uncomfortable speed,"* 425.

As 2012 is Rice's centennial year, it is proper to note, as has the university's official historian Melissa Kean, that Rice was among the last of the southern colleges to admit students of color. This was in part due to the trustees dawdling, and in part due to the delay caused by Coffee and his fellow alums. Yet, it is also fair to correct at least part of the record from those years. The Rice case had garnered some publicity nationally (probably exactly what the trustees wanted to avoid) and Coffee's long appeal made the case seem more remarkable. In 1967, for example, law professor Norman Dorsen published an article on private schools' desegregation battles. Dorsen is primarily concerned with K-12 schools in the south, created to evade *Brown v. Board*, but he does mention colleges, including Rice. He suggested that the then fresh and ongoing Rice case indicated how "obdurate state officials can at least delay a favorable outcome," and also noted how the "court rather surprisingly empanelled a jury."[43] It is unclear if the author intended to criticize Attorney General Carr for his role as defendant, Judge Holland for hearing the case. In either of those cases, as this paper has shown, it is an entirely misguided view of the issue.

If this remark is intended as a blow at Greenhill, for allowing Coffee's appeal to survive to be heard another day, it is a clear misinterpretation of the law and facts. It is notable, and entirely proper, that Justice Greenhill made no reference to his own thoughts about the merits of Coffee's case, with regards to Rice's desegregation or tuition. Yet, it is abundantly clear that Greenhill felt very strongly about the injustice, and the inequity—perhaps even the iniquity—of Rice's and Carr's so rashly letting Coffee into the argument and then just as quickly tossing him and his fellow alumni out of the room. If Justice Greenhill was obdurate, it was on that point alone.

[43] Norman Dorsen, "Racial Discrimination in 'Private' Schools," 9 Wm. & Mary L. Rev. 39 (1967), 40-41, 52.

Justice Joe R. Greenhill's career, viewed in its totality, justifies this view of the case. Six years after hearing Coffee's appeal, Greenhill was appointed Chief Justice by Governor Preston Smith. He served for ten years in the middle seat, and retired in 1982. During his tenure as Chief, he played a key role in winning passage of a Texas constitutional amendment to give the Court of Civil Appeals criminal jurisdiction and thus to alleviate the backlog of cases for the Court of Criminal Appeals. Beginning in the 1980s, he worked to change restrictive Texas laws that discouraged the use of arbitration and mediation in lieu of litigation. Thanks to these efforts, many low-income people were guaranteed access to the legal system, and at the same time, the backlog in Texas courts was significantly reduced. He was also, of course, a founding member of the Texas Supreme Court Historical Society.[44]

[44] Jim Cullen, "The Joe Greenhill Story" (Texas Supreme Court Historical Society; online at: http://www.texascourthistory.org/Memorialstories.html).