

The Week the President Went Fishing

BY DAVID W. LEVY



The University is commemorating, through this entire academic year, the 50th anniversary of the landmark Supreme Court decision in *Sipuel v. Board of Regents of the University of Oklahoma*. The case was decided on January 12, 1948, but the full story involved considerable effort and courage before the matter ever reached the high court and a momentous and dramatic struggle after the court had spoken.

The fight to break racial segregation in southern higher education had a long and frustrating history, but a new chapter opened in September 1945 when Thurgood Marshall, then a civil rights attorney for the National Association for the Advancement of Colored People, traveled to McAlester, Oklahoma, to attend the state's NAACP convention. He told reporters that his organization intended to locate a qualified black applicant and then to challenge Oklahoma laws denying admission to African-American citizens on the basis of their race. The group selected a remarkable 21-year-old woman from Chickasha.

Ada Sipuel (who had married a young soldier named Warren Fisher in March 1944) had graduated from the all-black Langston University in May 1945. She was bright and attractive. She also carried herself through the ordeal that was about to unfold with fearless determination, extraordinary patience and a serene dignity rare in one so young. She wanted to go to law school, and Langston did not offer its students that program.

President George Lynn Cross later recalled his first meeting with her in January

1946: “The young woman was chic, charming and well poised as she entered my office, and I remember thinking that the association had made an excellent choice of a student for the test case.” His personal views quite aside, Cross told her, the University could not admit her because state law, reinforced by a direct order from the University Regents, prohibited mixing the races in any Oklahoma educational institution. Fisher and her attorneys went to court.

Her cause was defeated, predictably, in the Cleveland County District Court (July 1946) and in the Oklahoma Supreme Court (April 1947), both tribunals deciding to uphold Oklahoma’s segregation statutes. On January 8, 1948, her case was argued

“school” would have one student (Fisher) and hold classes in the State Capitol Building. Three Oklahoma City lawyers were hired as part-time faculty for the school. The regents solemnly declared that the new school was substantially “equal” in every way to the one in Norman and that the requirement of “separate but equal” had been fully met.

Fisher and her lawyers, of course, would have nothing to do with this sham and returned for another round of court battles, contending that the makeshift Langston operation was not, in fact, equal to the school for whites in Norman. As before, the Oklahoma

October 1948, McLaurin became the first African American to enroll successfully at the University of Oklahoma—but on a “segregated basis.” The legal battle to break down the racial segregation on the Norman campus itself is another story characterized by courage and patience in the face of interminable legal maneuvers on the part of the state of Oklahoma.

By the summer of 1949, with numerous African-American students busily and peacefully pursuing studies at OU in many fields, the State Regents announced that they intended to close the bogus Langston University School of Law, effective at the end

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before the United States Supreme Court, and the court, with stunning speed, reversed the Oklahoma Supreme Court on January 12, ruling that the state could not deny Ada Lois Fisher equal access to legal education solely on the basis of her race. The State Regents for Higher Education were ordered either to provide legal education for Fisher or to close the all-white school on the Norman campus.

The State Regents attempted one more calculated evasion. They announced, a scant 12 days after the Supreme Court’s pronouncement, that they had created “the Langston University School of Law.” The new



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OU President George L. Cross confers with his academic vice president, Carl Mason Franklin, circa 1950.

courts ruled against her, a ruling that President Cross since has called “incredible.”

At this point, while Fisher awaited another appearance before the U.S. Supreme Court, George W. McLaurin and other African-American students, encouraged by the Supreme Court’s *Sipuel* ruling back in January, applied for admission to graduate programs not available at Langston. In

of June. Fisher naturally assumed that she could enroll at the University of Oklahoma School of Law, and she came to Norman for that purpose on June 17, two weeks before the official demise of the Langston “school.” That legal technicality again prevented her admission.

Years later, President Cross remembered that day. “Word of the denial came to my office that after-

noon, and after reflecting for a few minutes on the possible consequences of violating the state's most recent statute on segregation, I decided it would be absurd not to permit the young woman to get under way immediately with her legal education. If she were required to wait . . . it would be too late for her to enroll in the summer session at the University." That night George Cross picked up his telephone.

He called Carl Mason Franklin, his academic vice president. Franklin was 38 years old. He had come to the University after earning his law degree at the University of Virginia. Franklin, who held various degrees from the University of Washington, Stanford, Columbia, Harvard and Yale, already had accumulated considerable classroom and administrative experience, notwithstanding a four-year stint in the Naval Reserve during World War II. He was both Cross' vice president and a professor of law. Franklin was to remain in Norman until 1953, when he joined the law faculty at the University of Southern California, where he enjoyed a distinguished career both as a professor and an administrator.

In late June 1997, Professor Franklin, now 86 years old, wrote to OU President David L. Boren recounting his memory of that turbulent and important moment in the University's history. He begins his reminiscence with the phone call.



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Although the U.S. Supreme Court had ruled in her favor in January 1948, state officials still prohibited President George L. Cross, left, from admitting Ada Lois Sipuel Fisher, right, to the OU law school.

The Admission of Ada Lois Sipuel To the University of Oklahoma Law School

Late in the evening of June 17, 1949, the phone rang in our home in Norman, Oklahoma. Carolyn answered and said, "It is for you, Carl. It sounds like President Cross, but there is juke-box music in the background, so it may be someone pretending to be George Cross."

I answered, and it was George Cross, who said, "Carl, it is time that we stop this foolishness and admit Ada Lois Sipuel to the OU Law School. I want you to do that in the morning."

"Yes, sir," I responded, with some enthusiasm because I was much in favor of his instruction to me. However, knowing that admitting Ada Lois would stir up a hornet's nest of opposition on the campus and off (mostly the latter), I asked, "Where will you be tomorrow in case I need to reach you?"

He said, "I will be on my way to Colorado to go fishing, and when I get there I will be 27 miles from the nearest telephone. You and Roscoe are on your own. I will see you in about 10 days when I return."

He said, "I will be on my way to Colorado to go fishing, and when I get there I will be 27 miles from the nearest telephone." I could almost see him smile slightly as he added, "You and Roscoe (Cate, OU's financial vice president) are on your own. I will see you in about 10 days when I return."

I swallowed hard and said, "Thanks. Roscoe and I will do our best, but I expect that all

hell will break loose in the morning when I tell Dean Keeton of the Law School that he is being ordered to admit Ada Lois."

When I hung up the phone from my conversation with George Cross, Carolyn asked, "What was that all about? You look a little worried."

I said, "George has instructed me to admit Ada Lois Sipuel to the OU Law School tomorrow, and I intend to do so, but there will be some fireworks I am sure. . . . Carolyn listened intently to my brief resume of the tumultuous history of several attempts by Ada Lois to enter the OU Law School, and then she asked, "What do you intend to do tomorrow morning?"

I said, "I intend to carry out George Cross' instructions to me and order Ada Lois to be admitted to the OU Law School."

The next morning at breakfast, Carolyn said sweetly, "You tossed and turned a good deal during the night. Apparently, you had this problem on your mind."

I said, "I'm sorry if I kept you awake, but this is a difficult situation, and I just hope I am equal to the task which President Cross has assigned to me."

As I left the house, Carolyn gave me an extra kiss and said, "I hope there won't be any physical violence of any kind. Good luck."

Early that next morning I called Page Keeton and told him of George Cross' instructions to me. He said, "I don't want to do that, especially in view of the Oklahoma law which makes it a misdemeanor to admit a black student to OU, with a daily fine of \$100 and five days in jail for each day of violation."

"I know what the law says, Page, but I have my instructions from President Cross."

He pleaded, "Why don't you check with the chairman of the Board of Regents to see what he says. I don't think he would be in favor of doing



George W. McLaurin, the first black to be admitted to the University of Oklahoma, attends his first class under segregated conditions. The lecturer is F. A. Balyeat of the OU College of Education.

what President Cross wants."

I responded, "Page, I can't do that. George Cross is my boss. He has given me an order, and I intend to carry it out. If I checked with the chairman of the regents, and he gave me a different instruction, I would be in the middle. You must admit Ada Lois to the Law School as George has instructed."

As a last defense Page said, "You will have to put your order in writing and sign it as acting president, based upon instructions from George Cross." So I wrote out the order and personally delivered it to Page.

The situation was delicate, and I was sympathetic to Page's position. As dean of the OU Law School, he

was my boss in my capacity as a part-time law professor. However, our roles were reversed in this situation, when I was temporarily acting president of OU in the absence of George Cross. Moreover, Page was a Texan, and it was generally assumed that he would one day return to the University of Texas, possibly as dean of the Texas Law School. (Eventually, that is what happened.) Understandably, he did not want to do anything to jeopardize his chances of returning to the University of Texas. The anti-black sentiment there was somewhat stronger than at OU.

Well, we admitted Ada Lois to the OU Law School on June 18, 1949, two weeks after the summer session had begun. The world did not come to an end. However, the newspapers had a field day, even including some papers overseas. Reporters from the Oklahoma papers and the *New York Times* began ringing my phone off the hook, asking for the whereabouts of President Cross, about my role as acting president, and whether I was going to pay the daily fine of \$100 for admitting Ada Lois. At first, the stories, including the

one in the *Herald* in Europe, referred to me as acting president. Then, they dropped the word "acting" and began referring to me as president, whereupon George Cross' relatives in South Dakota began phoning me to ask what had happened to George. I tried to reassure George's relatives that he had just gone fishing and would return in about 10 days, saying, "George is still president, and I will be very glad when he gets back. Then, I think I will go fishing."

Headline stories generally have a short life. Fortunately, the one about the admission of Ada Lois Sipuel to the OU Law School did, although there was some acrimony. I began receiving postcards and letters, some of them not too legible, usually unsigned, accusing me of being a "nigger lover." Many of these letters were from the southern part of Oklahoma known as "Little Dixie."

So, people had a chance to exercise their right of free speech under the First Amendment to the U.S. Constitution, and in the process, perhaps, they achieved some therapeutic benefit from venting their spleens. All to the good. Keep in mind that this was 1949, more than six years before Rosa Parks refused to give up her seat on a bus to a white man in Montgomery, Alabama, on December 1, 1955. Also, it was some five years before the Supreme Court over-ruled the "separate but equal" doctrine of *Plessy v. Ferguson* (1896) in *Brown v. Board of Education* (1954).

The bitterness of some people over the admission of Ada Lois to the OU Law School was counterbalanced by some wry humor on the part of the law students, who took the whole matter in stride. They generally had a "So, what?" attitude. Making a pretense at following the "separate but equal" doctrine of *Plessy v. Ferguson* after the admission of Ada Lois, we provided a wood standard in the back of a law classroom with sign attached which read, "Reserved for Colored." At the beginning of a class, some students put the standard in back of the podium on the raised plat-

form where Professor Earl Sneed was to teach. He entered the room, took his place before the podium and began to lecture. Afterwards, Earl said that he thought that the students seemed especially attentive and responsive. It was not until Earl started to leave the platform at the end of the class that he noticed the sign, "Reserved for Colored." He shrugged and left the room while the students roared with laughter. The next day I ordered all such signs removed from the classrooms.



Ada Lois Sipuel Fisher was photographed on January 14, 1946, as she first applied for admission to the University of Oklahoma School of Law.

Carolyn was a calming influence in my stressful life during the 10-day period following the admission of Ada Lois to the OU Law School. She and I were both in favor of the policy which President Cross had ordered me to carry out, but we both wished that he had not gone fishing and was not 27 miles from the nearest telephone.

Finally, George Cross, looking relaxed and tanned, walked into my office upon his return from his vacation and asked, with a wry smile, "How did you and Roscoe get along? Did everything go all right?"

I said, "George, you know very well that we had a devil of a time with the admission of Ada Lois to the Law School. I hope

that you have called your family in South Dakota to assure them that you are still president of OU. Now, I think I will take a few days off and will be at least a hundred miles from the nearest phone." George smiled, puffed on his pipe, and walked into his office. . . .

Ada Lois' perseverance and George Cross' courage eventually prevailed. I learned a great deal from the experience, and I have always taken great pride in relating that I admitted the first black woman to the OU Law School—and I did not have to pay a \$100 per day fine or go to jail for the misdemeanor in having done so.

[Source: Professor Franklin's original letter is in the possession of President Boren; a copy has been deposited in the University Archives, Western History Collections.]