

PREFACE

The idea for this book had its genesis in 1996 when, as director of the American Bar Association Museum of Law, I was researching cases for an exhibit entitled *Famous Trials in American History*. Though an amateur historian, I thought I knew much about major legal cases, such as the colonial trial of printer John Peter Zenger, which laid the foundation for freedom of the press and was described as “the morning star of liberty which subsequently revolutionized America.” My research uncovered additional insights into the named defendant, John Peter Zenger, and the storied lawyer who defended him, Andrew Hamilton. But who was this lawyer James Alexander, whose role seemed more and more prominent as my research progressed?

A bit embarrassed by my ignorance, I asked a number of legal colleagues and journalists about the Zenger case and Alexander. While most were familiar with the case, and with Zenger and Hamilton, few if any knew of Alexander. They too were surprised to learn about Alexander’s extensive contributions—which included getting Zenger to print America’s first opposition newspaper, the *New-York Weekly Journal*; writing much of its content, with fellow counsel William Smith; initially representing Zenger in his trial; writing the case brief; recruiting Hamilton to defend Zenger after he and Smith were removed from the case; and then writing a publication about the trial, which became one of the most popular books in colonial America. Alexander was a major figure who seemed to have been lost in the pages of history.

While the thought then struck me to prepare a book about Alexander and others like him, pressing responsibilities intervened, as I continued my work with the ABA and the Museum of Law. The *Famous Trials* exhibit was soon produced, as was a book and exhibit entitled *America’s Lawyer-Presidents*. In the course of these activities, more individuals like James Alexander came to my attention, and upon completing my tenure

with the ABA, it was time to tell the stories of these important—but largely forgotten—figures in American history.

Beyond being largely forgotten, I identified other criteria for inclusion in the book. First, the featured subjects had to be lawyers or judges who advocated unpopular positions in notable cases or events, often at great personal risk. Second, their lives had to span centuries of American history. Third, they had to reflect ethnic, racial, and geographic diversity. Finally, and most importantly, their stories had to be compelling for the general public.

Based on contacts with legal historians and scholars, I assembled a list of more than fifty individuals who met the above criteria, with the goal of including from seven to ten in the publication. With input from various colleagues and friends, the final group appears in this book.

In addition to Alexander, the book describes the fascinating lives of Samuel Sewall, a judge in the Salem witch trials; Lemuel Shaw, one of the great state jurists; Hugh Lennox Bond, a judge in the South Carolina Ku Klux Klan trials of the 1870s; Clara Shortridge Foltz, whose fifty-year law career was marked by numerous firsts; Noah Parden, who represented an African American in a case that led to a landmark U.S. Supreme Court decision; Octaviano Larrazolo, the first foreign-born Latino to become a U.S. senator and governor; Louis Marshall, champion of the rights of Jews and other minorities here and abroad in the early 1900s; and Francis Biddle, FDR's attorney general during World War II who opposed the internment of Japanese Americans and other infringements on civil rights during wartime. Their stories collectively represent the promise, turmoil, setbacks, and triumphs of the rule of law.

Many people contributed their ideas, time, and talents to this volume. My thanks go first to the authors, who vividly and succinctly describe the book's featured individuals and the challenges and events of their day. The articles present the vision, achievements, and shortcomings of these individuals as they sought to promote and uphold the rule of law. In many respects, the authors provide a mirror to centuries of American history, enhancing our knowledge and appreciation of America's quest for justice and equality under the law.

I also thank Karen Mathis, president of the American Bar Association, for providing the foreword to this volume. Her predecessor as ABA president, Mike Greco, described the profession's noble purposes in a speech to the organization, thus planting the idea for the title of this volume. It is most appropriate that these two ABA leaders have made such contributions to the book, as the organization's activities over the past 128 years have included many significant—and often underrecognized—accomplishments. As with individuals covered in this volume, the ABA record is not unblemished. However, during my years with the ABA, I was continually struck by its multifaceted efforts to promote the rule of law here and abroad, efforts that continue today.

Finally, my appreciation goes to David Sanders and Ohio University Press, which embraced this book concept and have since provided collegial and professional guidance and assistance in its development. It has been a pleasure working with them on all facets of its production.

Norman Gross