

# David Walker: The Whig on the State Supreme Court

By Michael B. Dougan

Pre-Civil War Arkansas politics pitted Whigs against Democrats. Whigs, the party dedicated to advancing modernization, failed miserably in hardscrabble Arkansas. The one notable exception was Arkansas Supreme Court judge David Walker. A strong Whig during the life of that party, he became of necessity a Democrat after the Civil War. However, in thought and deed he exemplified what historians call “persistent Whiggery.”

David Walker (February 19, 1806–September 30, 1879) was born to a family prominent in the affairs of Kentucky and Virginia. But his father, “an indulgent master and a poor farmer,” his son recalled, engaged in the vices common among the Virginia gentry. Forever fixed in David’s memory was an all-night card game followed by one of the winners riding off with his pony.

Walker’s schooling was limited, with none between the ages of twelve and eighteen, but a clerking job for one uncle taught him much practical law. A voracious reader, he mostly studied on his own. A combination of a failed romance and too many other Walkers led him westward. His trek stopped at Fayetteville, where his money had run out. Shortly thereafter, he scored a huge success in a court case that launched his career. In contrast to the background from which he had sprung, he avoided parties and dances; no dice or cards were ever permitted in his home. Instead, he invested in land and slaves. He did retain from his Virginia heritage a love of dogs.

Walker was renown in Arkansas politics for losing the 1840 congressional race against the legendary and charismatic Archibald Yell. As the two campaigned across North Arkansas, Yell out prayed Walker at a camp meeting and then out shot him at a beef shoot. Outside politics the two friends joined in speculations. A complex bargain in 1848 got him elected to the state supreme court, where he dispensed Whig legal principles until 1855. In 1860 he supported the Constitutional Union party and the following year opposed secession.

Elected to the Secession Convention, he served as its president. His conversion to secession in May 1861 helped carry all the other northwest Arkansas delegates except Madison County’s Isaac Murphy. However, many back home claimed Walker had broken his promises to the voters.

The war cost Walker a son. His service on a wartime military court that had handed down death sentences did not keep Walker from getting a pardon from President Andrew Johnson. In 1866 he returned to the court as chief justice. His tenure there was terminated by the Constitution of 1868, but notable was his ruling in *Hawkins v. Filkins*, 24 Ark. 286 (1866), that sustained the legality of Arkansas’s wartime government and hence wartime contracts and legal proceedings.

During Reconstruction the ex-Confederate opposition to the Republicans was divided between ex-Whigs (called Conservatives) and Democrats. Only gradually did the hyphenation end. In 1872 Walker supported the Liberal Republican Joseph Brooks for governor and remained unconvinced that winner Elisha Baxter was a legitimate governor. The Brooks-Baxter War in Little Rock was managed without his assistance. An obscure anti-tax farmer denied a Walker a seat at the 1874 constitutional convention, where his presence and legal acumen were sorely needed. However, he returned to the high court as an associate justice.

Walker wrote the opinion in *State of Arkansas v. Little Rock, Mississippi, and Texas Railway Company*, 31 Ark. 701 (1877), holding void the election that had authorized state railroad bonds. This judicial stroke eliminated one third of the state’s debt. He also continued his opposition to legal rights for women that had begun during his 1835 term in the last territorial legislature. Repeatedly during his years on the high court he invoked the common law to gut Arkansas’s liberalizing statutes. After 1876 his mental and physical condition deteriorated, and in 1878 he resigned from court. His death the next year was due to a buggy accident. Walker was one

of the few Arkansans selected for inclusion in the Dictionary of American Biography (1930). His most notable off-bench accomplishment was a much publicized speech at the American Centennial celebration in Philadelphia in 1876. He left behind a series of autobiographical letters and much other correspondence. His daughter Mary married a cousin, James David Walker, who in 1879 was elected to the United States Senate. A number of homes associated with Walker family members survive in Fayetteville. ■

#### Further reading:

Lemke, Walter J., ed. *The Life and Letters of Judge David Walker of Fayetteville: Justice of the Arkansas Supreme Court, 1848–1878*. Fayetteville, AR: Washington County Historical Society, 1957.

*The Walker Family Letters*. Fayetteville, AR: Washington County Historical Society, 1956.

Thompson, George H. *Arkansas and Reconstruction: The Influence of Geography, Economics, and Personality*. Port Washington, NY: Kennikat Press, 1976.

Dougan, Michael B. “The Arkansas Married Woman’s Property Law,” *Arkansas Historical Quarterly*, XLVI (Spring 1987), 3–26.

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**CORRECTION:** A biographical sketch of Supreme Court Justice George Rose Smith that appeared in the Spring 2006 issue of *The Arkansas Lawyer* referred to U. M. Rose as United States Attorney General. Although many urged President Grover Cleveland to appoint Rose as his attorney general, the post ultimately went to another candidate.