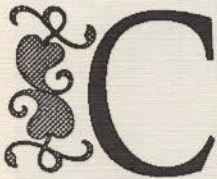




HALL OF HONOR
• 1990 •

Tribute to WILLIAM HENRY FRYER

by John B. Luscombe, Jr.



COME WITH ME TO THE UNITED STATES COURT-
house and view Tom Lea's mural and its inscription:

O Pass of the North
now the Old Giants are Gone
we Little Men Live
where Heroes once Walked
the Inviolable Earth

It is one of those Old Giants we honor at this time.

And come with me to El Paso. This year is 1904. The town has a population of 30,000. There are no paved streets. There are 94 gambling houses and 46 more across the river in Juarez. Mesa Street is known as Utah Street, and it features sumptuous pleasure palaces—one of which is Tillie Howard's. There are two newspapers. On July 8, the headline in the *El Paso Herald* reads: DEMOCRATS HAVE NO FINANCIAL POLICY. There is a picture of William Jennings Bryan. Porterhouse steak is advertised at 70 cents a pound; bananas are 25 cents a dozen.

On that day, the Galveston, Harrisburg & San Antonio Railway train

pulls into its depot. A critically ill young man is taken from the train. He has typhoid fever from drinking water in New Orleans. It is his 24th birthday, and his name is William Henry Fryer. From that day forward his life and that of the city of El Paso would never be the same.

William H. Fryer was born in Brooklyn, New York, on July 8, 1880, to the unlikely union of English and Irish parents, William H. and Loretta Flannagan Fryer, devout Catholics. He was educated by the Christian Brothers, graduating from St. James High School in 1897. His education included training in shorthand to the extent that on graduation he became the secretary to the President of the Southern Express Company. At night he attended the Christian Brothers Manhattan College from which he graduated in 1900.

In 1904, because he was eligible for railway passes, he decided to visit Yosemite National Park, the nation's newest; and it was on this trip that he fell ill. At El Paso he was taken to Hotel Dieu Hospital and treated by Dr. Frank Gallagher. When he was released from the hospital on Labor Day, he weighed 95 pounds. Dr. Gallagher entreated him to recuperate for one year before returning to New York.

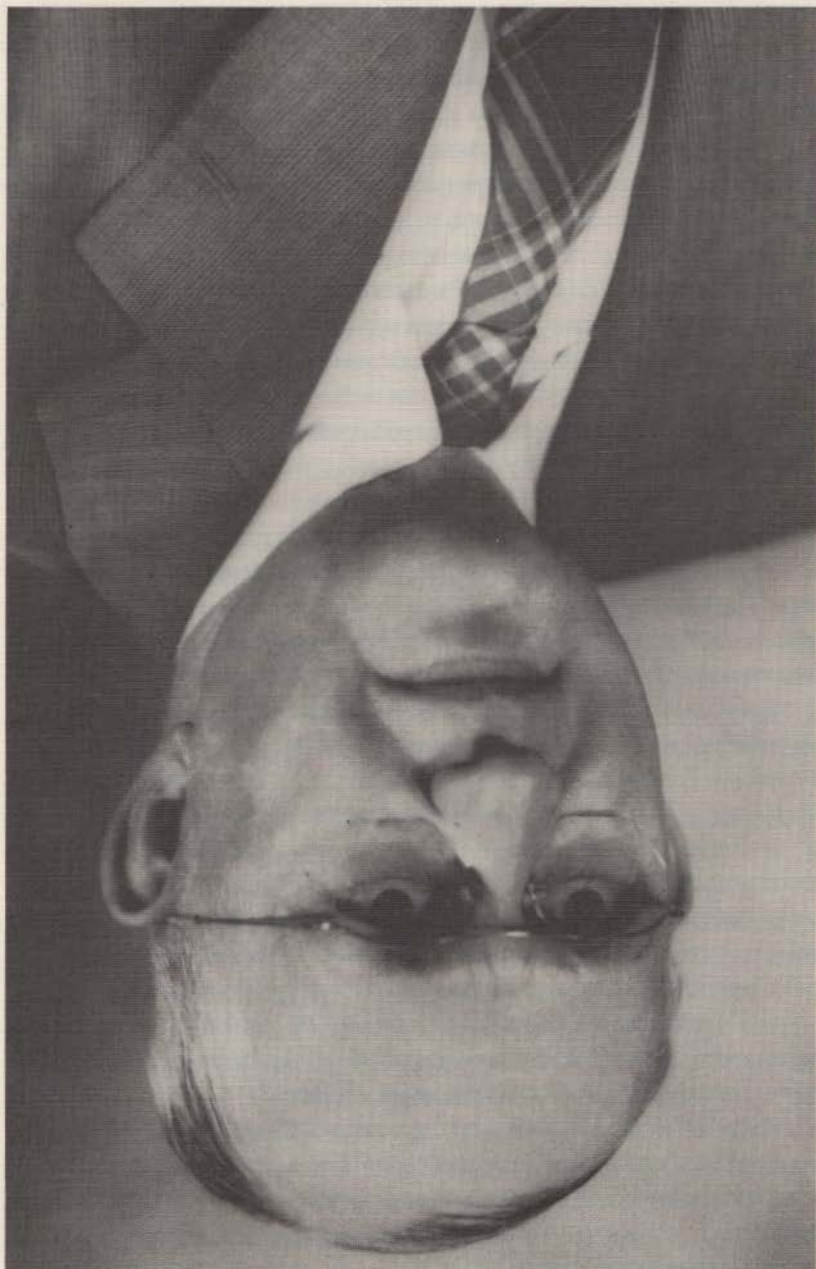
During his convalescence, Mr. Fryer reported cases for Judge J. M. Goggin's 41st District Court and also the National Irrigation Conference. When the year was up, he returned to New York, but the Southwest had its hooks into him. The New York winter was too cold, he said, and the water was tasteless. He longed for the El Paso brackish flavor. He returned to El Paso in 1905 to become secretary to the Chief of the Engineering Department of the El Paso Southwestern Railway.

Always interested in law, young Fryer resigned his job and entered the University of Texas Law School in January, 1906. After his graduation in 1908, he worked in the office of Patrick Henry Clarke, who was reputed to be the best lawyer west of the Pecos. Then, determined to do an internship, he took on the job as court reporter for Judge Dan Jackson's 34th District Court, where he observed the area's finest lawyers at the time—all of them his friends who had encouraged him to go to law school: Judge T. A. Falvey, Captain T. J. Beall, W. H. Burges, Waters Davis, Tom Lea (Sr.), and R. E. Thomason.

In 1913 he married Mary Alice Kelleher in Austin. They had six children: four girls—Elecia Fryer (Krumb), Rosemary Fryer, Helen Fryer

John B. Luscombe, Jr., a past President of the El Paso Bar Association, was a member of the firm Fryer, Milstead & Luscombe. This article is based upon his memories and those of his wife, Hallett, as well as those of Art Leibson, the Honorable Morris A. Galatzan, and the daughters of William H. Fryer.

WILLIAM HENRY FRYER
1880-1963



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(Chatfield Weeks), and Margaret Fryer (Hart)—and two sons (each of whom predeceased him)—William Henry, Jr., in a tragic accident and Austin Edward in the Battle of the Bulge.

William Henry Fryer was a handsome, friendly man—quick to smile and easily met. His eyes, a clear blue, sparkled with an inner spirit of some impish elf bent upon happy mischief. He was a lawyer in its truest and best sense. He was a citizen to his community, a servant to his church, and a steward to his faith. He was a spinner of yarns, an actor, a wit. He was a democrat, a good and loving father, a devoted husband.

In 1916 he defeated Charles G. Vowell for County Attorney and began earnest persecutions to “clean up the town.” He closed clubs, saloons, sporting and gaming houses with such tenacity and vigor that these establishments rallied together to defeat him at the next election. But law enforcement was not to suffer, for in 1918, with the help of R. E. Thomason, Fryer was appointed Assistant United States Attorney by Woodrow Wilson.

When Warren G. Harding became president, Mr. Fryer resigned his post and entered into partnership with Judge Dan Jackson and Judge S. J. Isaacks. In that same year, when Judge Jackson left the firm to become Assistant Attorney General in Washington, Mr. Fryer also left; and in 1922 he and R. E. Cunningham formed the firm Fryer and Cunningham. What a combination of talents and personalities that was!

In 1921 the specter of the Ku Klux Klan raised its head in the guise of the Good Government League. Apparently organized to fight “The Ring,” which had held a stranglehold on El Paso politics from the early ‘teens by voting aliens and headstones in local elections, it soon developed that the Good Government League was controlled by Frontier Klan Number 100. Strongly professing Americanism, Klan Number 100 was primarily anti-Catholic, anti-semitic, anti-Mexican. They met in secret at the Odd Fellows Hall and Masonic Lodges, the membership consisting of many prominent El Pasoans and some Protestant clergy. They controlled the school board and also many offices in both city and county. They were opposed by W. H. Burges and others; and most active of all was W. H. Fryer. On one occasion Mr. Fryer took the stage at the Odd Fellows Hall, recalling later that his knees shook as he pointed his finger at the hooded audience and said: “I know who you are and one day you will be unmasked before the public.”

He did just that in the fall of 1922. He filed an injunction to remove the names of four candidates from the ballot, alleging that they had foresworn allegiance to the Constitution and the laws of the State of Texas

by taking an oath of loyalty to a foreign power—the Invisible Empire. The case was filed in the 65th District Court before Judge Ballard Coldwell, who refused to abate the case until all parties were before the Court. Mr. Fryer then proceeded to subpoena the Klan roster and every prominent El Paso Klansman with the stated purpose of inquiring of them whether they had observed any candidate taking the secret Klan oath. Subpoenas and records were made public. He entered the courtroom packed with Klansmen who greeted him with hisses and boos. Undaunted, he spoke out: "In the oath of the Klansman you will notice the Invisible Empire is placed first and America comes second. Duty to the Klan comes first. That is why I can face the hisses, the jeers, the cowardice of those who think they can frighten the court by the thought that cowards in masks might visit you at night."

His case was on shaky legal grounds. He dismissed it before the judge could rule, but he had done his job. He had exposed the Klan leadership to the public; and even though the Klan carried the elections in 1922, the exposure put it in decline, and it was on its way out in 1924.

Throughout all this conflict, W. H. Fryer was devoting himself to another worthy cause—the construction of a Community Center and the establishment of a Catholic school. The Center and the school were opened in 1923, the school under the supervision of the Sisters of Loretto. In 1925, when Loretto College and Academy was completed, the girls were moved to that building. Through the good offices of Mr Fryer, Brother Arsenius and Brother Joseph arrived that same year to take charge of the school for the Christian Brothers. So it was that Cathedral High School was established—with W. H. Fryer a member of its first board of directors and an honored member of its Hall of Fame.

Fryer & Cunningham tried many cases of all kinds and varieties: criminal, civil, probate, divorce; and sometimes they acted as special prosecutors. Coyne Milstead joined the firm in 1936. Mr. Cunningham formed his own firm with his nephew in 1939. I had the good fortune to join Fryer & Milstead in 1951.

Mr. Fryer was active in the Knights of Columbus and the Elks. He was President of the El Paso Chapter of the University of Texas Ex-Students Association and of the El Paso Bar Association. He was active in the Little Theatre in El Paso, appearing in several plays.

But it was in the law that Mr. Fryer starred. When he walked into a courtroom—nay, strode into a courtroom—there was no doubt in anyone's mind who was in charge, who was the real star. The judge, the prosecutors, the bailiffs were all the supporting cast; the jury was the audience. Any

case in which he was involved played to a packed house.

In 1951, Mr. Fryer played his usual starring role in the trial of one Pearl Johnson, accused of murdering her infant at an unattended birth. His defense of Mrs. Johnson was brilliant, and she received a light sentence—a five-year term in the penitentiary. The case itself was not significant, but an incident that developed from it provides a splendid insight into the character and personality of W. H. Fryer. A local legislator who was an enemy of both District Attorney William Clayton and District Judge Roy Jackson visited Mrs. Johnson at the penitentiary. He suggested that he might be able to get her a parole if she would give an affidavit to the effect that during the course of the trial, at noon recesses and in the evening hours, a Deputy Sheriff took her to the Hilton Hotel where Judge Jackson, District Attorney Clayton and Mr. Fryer enjoyed her favors. She gave the affidavit, and—to say the least—its publication rocked the town. A special committee of the Legislature and the Texas Rangers was appointed to investigate the charges. Hearings were held in the Court of Appeals Courtroom. Clayton and Jackson were interviewed first, and each left the hearings long-faced. Then, Mr. Fryer was called. At the end of five minutes there were great gales of laughter coming from within, and soon out strode a smiling Mr. Fryer, swinging his cane. When the press asked what had happened, he said, “The committee wanted to know whether I denied the allegations and charges in Pearl Johnson’s affidavit, and I told them, ‘No, absolutely not! They are all true!’ I was not about to deny that I was the only sexually certified septuagenarian in Texas, not just by a committee of the Texas Legislature, but by the Texas Rangers.” The committee folded files and returned to Austin.

With the untimely death of his partner, Coyne Milstead, in 1961, W. H. Fryer retired from the active practice of law in November, 1962. The firm was dissolved and he remained counsel to the firm of Peticolas, Luscombe & Stephens. After celebrating his fiftieth wedding anniversary, he died on November 13, 1963.

In his eulogy to William H. Fryer, Monsignor Gaynor quoted from that great patriot of lawyers, Sir Thomas More, who walking to the scaffold turned to his daughter and said, “Meg, do not weep for me, for we shall all meet in Heaven and have a jolly good time!” I am certain that Thomas More is correct, and I am also certain that Mr. Fryer did not leave his advocacy back here on earth. He loved it too much, and I believe that he is somewhere near Heaven’s Entry Gates, pleading the cause for poor souls who might otherwise be lost. ☆