

# Case of the Month: Christmas at the Courthouse in the 19th Century

Judge Mark Davidson



**Illustration from Charles Dickens' "A Christmas Carol" - Published in 1843**

We live in a time in which holiday decorations start going up in stores before Halloween and in which much of December is spent preparing for the holidays to come. It is customary for most employees to get two working days (exclusive of weekends) off of work for Christmas, and another day for New Year's Day. The last day or two before those days off are spent in office Christmas parties and general celebration. The Courthouses of our state are no exception to this trend. In Harris County, the last jury panel of the year is normally summoned on about the 15th of December. In Dallas County, the last jury panel is normally summoned a bit earlier. In Willacy County, county seat Raymondville, the last jury panel is brought in on November 2nd!

None of this is a bad thing. It would not be conducive to a fair trial for a jury to have to take a two week break, and the number of jurors who have planned vacations during the holidays would make it difficult to get a jury panel for a late December jury trial.

This was not always the case. In Nineteenth Century Houston, our court records show that cases were tried up until December 24th, and that little break in courtroom proceedings was customary for the period up to the New Year. There were a number of reasons for this schedule. First, until 1873, the judges that served the judicial system of Harris County also served at least five other counties, and spent two months in each of those counties every year. Most of the time, they would ride a circuit of spending one month in a county twice a year, although there were years in which a one month term was totally skipped. Hence, all of the judging that was going to get done in a county over a six month period had to be done in a month, and judges, attorneys, and jurors worked long hours.



## Case of the Month, CONT.

In the years in which Harris County was assigned the month of December, the Court stayed in session until the docket was complete. In 1842, for example, the Court's docket book reflects that on Saturday, December 24th, Judge Robert Morris started and finished a bench trial, a jury trial, took evidence on a default judgment, and heard a contested motion to dissolve an injunction. The record does not reflect what time court adjourned for the day, but the following Monday, December 26th, Judge Morris heard contested motions and conducted three nonjury trials. Following his work on that day, he adjourned the Harris County segment of his docket until April 10, 1843 (i). In 1852, Judge Constantine W. Buckley held court on Thursday, December 24th. The docket that day consisted of two citizenship applications, and the return of an indictment for larceny and three indictments for murder. No contested motions were heard that day, however. Buckley then adjourned court until December 30th, at which time one more citizen was sworn in, before he adjourned for the year. At the other end of the work ethic spectrum was the 1843 fall term of court. The minutes reflect that attorneys, jurors and witnesses were all ready on October 10th, but that Judge Patrick Jack did not appear. The Harris County Sheriff, Magnus Rodgers, called the court to order, and then recessed to the next day, and to the day after that, but the judge never showed up. Finally, on the 12th, the sheriff adjourned court until "further call", which was six months later (ii). Perhaps the most energetic judge of the Nineteenth Century was Judge Peter Gray (iii). In the 1854 Fall term of court, Gray held court on Saturday, the 23rd of December, and tried three jury trials in one day: Hunt v. Morris, Mather v. Mather, and Mosebeck v. Richards and Company. Between those cases, he tried eight non-jury trials. Being in a holiday mood, he also granted two trial continuances.

Dedication to the job during the holiday season continued into the Twentieth Century. On December 24th, 1921, attorneys for a nineteen year old man named Howard Robard Hughes, Jr. filed a motion to remove his disabilities of minority in the 61st District Court. The motion was heard and granted on December 26th, 1921, the day after Christmas. According to legend, Judge Walter Montieth (of the 61st), Mr. Hughes and his attorney played a round of golf on Christmas Day afternoon.

Whether you are spending December celebrating victories of the last year or preparing for victories yet to come, the Case of the Month project wishes all a Happy Holiday season and a historic New Year.

i It should be noted that in 1843, Judge Robert Morris lived in Galveston. Since construction on the Gulf Freeway had not yet started, the inability to finish the December docket in Houston on the 24th likely meant that he spent Christmas in a hotel in Houston, rather than at home with his family.

ii Notwithstanding his work ethic in 1843, Patrick Jack was a hero of the Texas Revolution, fighting along William Barrett Travis at the Battle of Anahuac.

iii Peter Gray was one of the leading lights of early Houston. He was a city alderman, the District Attorney, a member of the Texas Legislature, and District and Supreme Court Judge. During the War, he served in the Confederate Cabinet and was a successful military officer. After the war, he founded the firm of Gray, Botts and Baker.