

David J. Garrow, "How Black Lawyers Crossed the Color Line," Washington Post Book World, Sunday September 9, 2012, Pg. B07

REPRESENTING THE RACE: The Creation of the Civil Rights Lawyer
By Kenneth W. Mack Harvard University Press 330 pp. \$35

For the past four decades, the story of Thurgood Marshall, the African American civil rights lawyer who successfully argued *Brown v. Board of Education* in the early 1950s and then became the Supreme Court's first black justice in 1967, has encapsulated our understanding of how racial segregation was vanquished from American life. Richard Kluger's "Simple Justice" (1976), one of the finest nonfiction books ever written, memorialized that saga with a factual sweep and emotional power that few works of history ever capture.

Now Kenneth W. Mack, a Harvard law professor, fundamentally supplants that heroic account of the segregation-to-integration struggle that Marshall and others "planted as the core narrative of American race relations" by means of "a collective biography" of the African American lawyers - Marshall included - whose "intersecting lives" encompassed the legal assault on racial discrimination from the late 19th century through the 1950s.

"The usual story of black civil rights lawyers in American history is that these lawyers represented the interests of a unified minority group that wanted to be integrated into the core fabric of the nation," Mack notes at the outset. But the far more complicated truth, he argues in this richly compelling and impressively astute volume, is that success in the courtroom required black lawyers to adopt "a studied racial ambiguity" whereby "the authentic representative of African Americans . . . seemed as much like his white colleagues as possible" and "as unlike the rest of his race as possible."

Mack begins his account with the life of John Mercer Langston, a contemporary of Frederick Douglass who became the first dean of Howard University's law school but whom history has largely forgotten. For Langston, and then for Philadelphia's Raymond Pace Alexander, black America's most successful lawyer of the 1930s and '40s, "to be an authentic representative of your race - in the eyes of blacks and whites alike - was often to be seen, as much as possible, as a white man." Alexander was an inspirational figure both for Marshall and for Marshall's mentor, Charles H. Houston, but Mack makes relatively little of how consistently those pre-1950s attorneys boasted far lighter complexions than most other African Americans. "Marshall's ability to perform like a white man in court" was an essential skill, but the fact that Langston, Alexander, Houston and Marshall could not be color-categorized as black certainly aided their acceptance by white legal professionals.

One of Mack's most original and insightful themes is his argument that African American lawyers saw themselves as "members of a fraternity that crossed the color line" and that "cross-racial professional norms" allowed "black men to cross over into the white world" inside courtrooms both North and South. He musters a surprising amount of first-hand,

contemporaneous evidence to support that argument, none more powerful than that from the 1933 capital murder trial of George Crawford in Loudoun County where Houston avoided a universally anticipated death sentence and won astonishing acceptance from white prosecutors and jurists.

Neither Houston nor Marshall was simply a saint-like "race man" - Mack unearths a 1935 letter in which Houston advises Marshall, "You can get all the publicity from the N.A.A.C.P. work but you have got to keep your eye out for cashing in" - yet "Representing the Race" doesn't shirk from addressing the fundamental issue of whether the lawyers' pride in their professional successes blinded them to appreciating the critical questions that non-attorneys began to pose about their roles. Houston certainly saved Crawford's life, but in so doing he declined to challenge the exclusion of black citizens from the jury pool and even shunned pursuing evidence that might have proven Crawford's complete innocence. Mack frankly admits that as the Crawford case proceeded, "Houston seemed more and more to represent the values of the local community of white southern lawyers" that increasingly embraced him.

For some African American non-lawyers, courtroom acceptance and symbolic victories "seemed like something far more ambiguous than the triumphs that the black lawyers believed them to be." But for the lawyers, the life of the law could bring about tangible improvements in the lives of ordinary black people, a belief that Mack explicates in two wonderfully rich and enthralling chapters. One revisits the life of little-remembered Los Angeles attorney Loren Miller, who spearheaded the attack on racial discrimination in homeownership; a second examines the remarkable story of Pauli Murray, a transgender woman whose defiance of racial and gender norms led her to pioneer the argument that discrimination on the basis of sex is just as offensive as racial subjugation. Murray's life has been discussed by several scholars, but Mack's analysis captures Murray's importance and verve better than any earlier one.

"Representing the Race" examines the pre-Brown world of black lawyers with a perceptive, critical thoughtfulness that sets Mack's work above all previous treatments. By eschewing celebratory homage in favor of tough-minded honesty, he addresses the hardest questions about representativeness and "racial authenticity" with an acuity and freshness that resonate forward to the present day. In 1962, when President John F. Kennedy considered naming William H. Hastie, the country's only black federal appellate judge, as the first black Supreme Court justice, Kennedy's advisers concluded that Hastie was insufficiently black to be embraced by African Americans. As Mack ruefully concludes, "lawyers who only a few years before had seemed like brave representatives of a repressed minority group now seemed inauthentic." "Representing the Race" will be a prize-winning book that profoundly alters and improves our understanding of civil rights history.

David J. Garrow is the author of "Bearing the Cross," a Pulitzer Prize-winning biography of Martin Luther King Jr.