

## FOUR HORSEMEN OF THE REFORMATION

On the sunny Tuesday morning after Labor Day in 1975, a sea of black Floridians full of pride and hope filled the wooden pews, stood in the aisles and alcoves, lined the vanilla-colored walls, and flowed into the marble rotunda at the Supreme Court of Florida. They had come by the busload. Never before, as far as anyone could remember, had black Floridians been more than a scattered presence in this courtroom.<sup>1</sup>

The center of attention that September 2 was Joseph Woodrow Hatchett, who had grown up in a segregated black neighborhood of Clearwater and attended a segregated black public high school there. His father had died in 1949 while Joe was still in high school. Joe's mother would remember, as she sat in the courtroom that morning at the age of ninety-one, that Joe came to her then and said, "If you let me stay in school, I'll make you proud of me."<sup>2</sup>

He had indeed made her proud. Today he would put on the robe of a justice of the Supreme Court of Florida and become the first black justice of a state supreme court anywhere in the states of the old Confederacy.

Eighty of the spectators had come from Jacksonville on two buses chartered by the Bethel Baptist Church. Hatchett was part of the congregation there, along with his wife, Betty Lue, and their two daughters, fifteen-year-old Cheryl and twelve-year-old Brenda. Another bus had brought family and friends from Clearwater. No longer just the kid down the street, Joe Hatchett personified the dreams of black Floridians for equal opportunity in America.

For decades, the Florida Supreme Court had thwarted efforts to end segregation and discrimination. As he looked out over the crowd that morning from the chair next to the one Hatchett would occupy, Justice Arthur J. England Jr., who nine months earlier had become the court's first Jewish justice, wondered if a black person had ever felt welcome in this room before.

Sitting four chairs away from Hatchett's, at the right hand of Chief Justice

James C. Adkins Jr., was a man who had been defending the old way of life from the time he was appointed to the Florida Supreme Court in 1949: Justice B. K. Roberts. He had been part of the unanimous court that in 1950 upheld the conviction of the black “Groveland Boys” on doubtful evidence by an all-white jury in Lake County.<sup>3</sup> He had invoked a states’ rights theory from the old Confederacy in the court’s resistance to integration of the University of Florida Law School in the 1950s. He had orchestrated the closing of historically black Florida A&M Law School in Tallahassee in 1965 to be replaced by a new law school on the white side of the railroad tracks, at Florida State University. The Florida Legislature named the new law school’s main building after Roberts, which was a matter of continuing dismay for many students; his name disappeared during a refurbishing of exterior signage in 2013.<sup>4</sup>

Roberts was an extraordinary man of many accomplishments, including leading roles in creation of the state’s public defender system in the 1960s and in restructuring the court system in the 1970s. Late in his life he was recognized as a “Great Floridian,” and he would end his speeches with a homily to “the proposition that all men are created equal under the law.”<sup>5</sup> His dedication to that proposition had not been so clear when it mattered most. Florida’s U.S. senators of the 1950s, Spessard L. Holland and George A. Smathers, had argued (as Roberts did) to keep universities segregated. Roberts’s admirers would explain his resistance to racial integration as reflecting “a man of his time,” born in 1907.

Just below the imposing mahogany rostrum where the justices sat were the dignitaries taking part in this historic investiture. First among them was Governor Reubin O’Donovan Askew, a teetotaling, moralistic, straight arrow of a man from the conservative Florida Panhandle. Askew had stood against segregation almost as long as Roberts had been protecting it. Born in Muskogee, Oklahoma, in 1928, Askew came to Pensacola at the age of nine, so he was not immersed in the Southern segregationist culture. He was a generation younger than the old segregationists who held the top offices in Florida. As president of the Student Government Association at Florida State University in 1951, Askew had pushed the statewide student government association to support desegregation of universities, an effort that earned him an inquisition in the office of FSU President Doak S. Campbell.

In choosing Hatchett for this Supreme Court vacancy, Askew had passed over six politically prominent and well-connected white lawyers and judges. Decades later, after his hair had turned white and his walk had grown feeble, and as leaders in both parties called him one of Florida’s greatest governors, Askew would often say that his appointment of Joe Hatchett was the most satisfying decision of his administration.

Hatchett's investiture marked much more than a racial transformation, however. The Supreme Court by then was beginning to embrace the expansion of rights for women, minorities, and gays. Government was opened to public view. It was, as journalist Martin Dyckman labeled it, a "golden age" in state government as young, progressive, public-minded professionals from the cities moved into power in government, replacing populists and so-called good ol' boys who were beholden to utilities, agribusiness, and corporate interests and who secured their political standing with pork-barrel spending and appeals to racial prejudice.

The court itself was experiencing a renaissance after a dark age of scandal. Askew and others were succeeding in their years-long crusade to create a legal system as removed as possible from political pressures, with judges chosen for ability and integrity rather than political connections. Judges and justices often saw themselves as politicians. Until the 1970s, candidates for the Supreme Court would run for office as Republicans or Democrats. There was popular speculation that a lawyer's failure to make a campaign contribution to a judicial candidate might not be good for his clients in that judge's courtroom. When there were mid-term vacancies, the governor filled them for the rest of the term, usually by appointing a friend or political supporter.

Like other politicians, the justices of the Florida Supreme Court had traditionally welcomed visitors to their offices. Youngsters selling cookies, politicians and lobbyists dropping in for coffee, or campaign supporters with cases pending could walk through the silver front doors of the Supreme Court building and up the curved staircase to the justices' office suites on the top floor.

There were more courtly customs, too. Each morning until the early 1970s, a black butler in a white coat bearing a silver tray brought around coffee in china cups, then resumed his main duty of rolling file carts from office to office as justices shared the one file on each case in those days before efficient copiers. The justices would eat lunch together a couple of times a week at Morrison's cafeteria just up the hill. On Wednesdays they would ride together to lunch at the Capital City Country Club, once a city-owned segregated golf facility. After lunch, the justices would linger to watch Justice Richard W. Ervin tee off with a 150-yard shot almost identical to the one the week before and the week before that.

The rotten apple that spoiled the barrel in the early 1970s was Justice David L. McCain, who had lost an election bid for the court in 1968 but won a lame-duck appointment from Governor Claude R. Kirk Jr. in December 1970, less than a month before Kirk left office. Florida Bar President Burton Young had vehemently opposed the appointment. Other justices fell into McCain's ethos

of easy virtue. Vassar B. Carlton and James C. Adkins, both elected in 1968, came to the court with good reputations as circuit judges but were weakened by their separate addictions: Carlton's to gambling, and Adkins's to alcohol. Joseph A. Boyd Jr. and Hal P. Dekle thought of themselves as politicians, were intellectually unexceptional, and acquiesced in a little outside help on a difficult and politically sensitive case. The resulting scandals drove away Carlton, Dekle, and McCain. Ervin, known for his liberal dissents, reached mandatory retirement.

The newcomers of the Askew era—Ben F. Overton, Arthur J. England Jr., Alan C. Sundberg, and Joseph W. Hatchett—became the Four Horsemen of a judicial reformation. Only one of them remained on the court longer than eight years, and they often disagreed with each other on cases or policy; however, they shared a powerful commitment to personal and judicial integrity.

Joe Hatchett was born during the Depression. “We were poor but didn't know it,” Hatchett recalled.<sup>6</sup> His father, John Hatchett, was the first black field foreman for Bilgore Groves in Pinellas County, with a crew that picked oranges, grapefruit, and tangerines. In the evenings at home, he would compile the accounting of how much his crew had picked that day. For the nine months of the year when there was no fruit to pick, the family would move to a different house on property owned by a winter resident in the exclusive Harbor Oaks section on Clearwater's waterfront. John Hatchett worked as a caretaker.<sup>7</sup> Lula Hatchett, almost fifty when Joe was born in that house, worked as a maid there for twenty-four years. The woman she worked for would hire the Hatchett boys as chauffeurs and handymen during summer vacations.

John and Lula Hatchett had ten children in all, but only five survived—four boys and a girl over a span of more than fifteen years. Joe, born September 17, 1932, was the youngest. He was seven years behind Paul, the next-youngest, who would be Joe's high school shop teacher and, years later, a city commissioner and vice mayor of Clearwater. Their father enforced discipline in the household, even with a whipping from time to time. “And I'm glad he did,” Hatchett claimed many decades later.

Joe was nine years old when the United States entered World War II at the end of 1941. His father became a proud and patriotic neighborhood “warden,” enforcing nightly blackouts ordered by the government as a precaution against enemy air raids. Hatchett remembers “a lot of religion” in the family, and they were taught to “stand up for something, do the right thing.” But in those days, long before civil rights, they also learned that you didn't break the rules.

Joe attended Pinellas High School, the separate public school for Negroes,

which would graduate its last class in 1968. He played trombone in the school band, played piano for his Sunday school class at Mount Carmel Baptist Church, played basketball, and after school earned money doing yard work and running the elevator at the Coachman office building in Clearwater or washing towels and linens for a nearby Presbyterian church.

He graduated second in his small high school class of about thirty students. He went to Florida A&M on a scholarship, majored in political science, and played trombone in the Marching 100 band (“They were the Marching 99 until I arrived,” he liked to joke). Legendary band director William Foster “had a great ability to build pride in young people,” Hatchett recalled many years later. “When I came to FAMU, I had never been a part of anything really good, but that changed with the band. I remember how proud I was to be a part of something this good, this sharp.”<sup>8</sup>

Hatchett remembered that during his sophomore year at Florida A & M, political science professor Emmett Bashful, a future chancellor of Southern University of New Orleans, took the class over to the Florida Supreme Court to watch an oral argument. Virgil Hawkins, a middle-aged black man, had petitioned the court in 1949 to order him admitted to the segregated University of Florida Law School. The state hastily created a new “separate and equal” law school for blacks at Florida A&M, but Hawkins rejected that option. The Florida Supreme Court turned Hawkins down four times between 1950 and 1957, unanimously in the first two and 5–2 in the two after *Brown v. Board of Education*. Each time, Hawkins would appeal to the U.S. Supreme Court and win, only to see the Florida Supreme Court devise pretexts for stalling.<sup>9</sup>

Hatchett took ROTC in college to defer being drafted for the Korean War, so he had a two-year military obligation after graduation. Since the war had ended, he spent most of the time in West Germany as a lieutenant in anti-aircraft artillery. It was the first time in his life that he lived without segregation.

After his honorable discharge from the U.S. Army in 1956, Hatchett went to law school. He traced his desire to be a lawyer to an eighth-grade civics teacher, who told him the courts would change America. Avoiding the continuing controversy over integration of the UF law school, Hatchett enrolled at Howard University Law School in Washington, D.C., the nation’s preeminent black law school. He remembers that Thurgood Marshall, who had led the NAACP Legal Defense Fund for two decades and successfully argued *Brown v. Board of Education* in 1954, would walk the halls at Howard, his old law school (Class of 1933), and engage students in discussions about the ongoing civil rights litigation. Many of the faculty at the school had worked on the briefs for *Brown*.

Among Hatchett’s new friends at Howard was third-year student Leander J.

Shaw Jr. from Virginia, who graduated in 1957 and soon landed in Tallahassee as an assistant professor of law at Florida A&M, where Shaw's father had become dean of graduate studies. After graduating with honors in 1959, Hatchett returned to Florida. He and Shaw studied together for the bar exam in 1959 and rode together to Miami to take it.

This was five years after the *Brown* decision. But it was five years before President Lyndon B. Johnson pushed through Congress one of the most transformative laws in American history, the Civil Rights Act of 1964, which outlawed segregation in hotels, restaurants, and other commercial businesses. Denied a room at the segregated DuPont Plaza Hotel, where the exam was being administered, Hatchett and Shaw stayed at a hotel for Negroes down the street. They could not even eat lunch at the DuPont Plaza unless they ate by themselves on the mezzanine.

Florida had admitted just sixty-six black lawyers in the previous ninety years.<sup>10</sup> In all of America, there were only about 2,100 black lawyers, or less than 1 percent of the legal profession.<sup>11</sup>

Shaw went into law practice in Jacksonville. Twenty years later he would become the second African-American appointed to the Florida Supreme Court.

Hatchett started his law practice in Daytona Beach with a well-known black lawyer named Horace Hill, another Howard Law graduate (class of 1948), who had been arguing the Virgil Hawkins case that day years earlier when Hatchett and his classmates visited the Supreme Court. Soon Hatchett opened his own practice. Along with a typical small law practice he advised civil rights protesters on what they could and couldn't do and how to behave if they were arrested. Then he started filing lawsuits to desegregate public facilities like swimming pools and golf courses and restaurants. When racial protests in St. Augustine became national news with a visit from Martin Luther King Jr., donations poured in from across America to lawyers like Hill and Hatchett. One check Hatchett wishes he had kept instead of cashing was made out to him by perhaps the biggest black entertainer of the era: Sammy Davis Jr.

Much of Hatchett's civil rights practice was in the federal district court, and his work attracted notice in federal circles. In 1966 Hatchett was hired by U.S. Attorney Edward F. Boardman, whose Middle District of Florida sprawled along the Atlantic beaches from the Georgia line, down through Brevard County, and then across central Florida to the Gulf beaches, stretching from Citrus down to Charlotte counties. (Boardman later became a judge on Florida's Second District Court of Appeal.) The U.S. Justice Department had no black prosecutors anywhere in the South in 1966, Hatchett recalled. He commuted to Jacksonville from Daytona, where his wife was teaching. In