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**The Following Article was Originally Published in the  
*Texas Ranger Dispatch Magazine***

The *Texas Ranger Dispatch* was published by the Texas Ranger Hall of Fame and Museum from 2000 to 2011. It has been superseded by this online archive of Texas Ranger history.

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Funded in part by grants from  
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The Rule of Law  
vs.  
Mr. Colt

by Bob Dabney

This article appeared in *The Houston Lawyer*, January-February 1999, Volume 36: Number 4 and is reproduced with their permission.

Our ancestors faced nineteenth-century Texas with a stoicism and courage that set an example for every Texas lawyer today. They stood behind the rule of law at a time when, as often as not, the six-shooter or rope was relied upon to enforce justice as well as mediate disputes.

Calling opposing counsel offensive names would have been very dangerous in that era. In fact, there was a time when lawyers might have responded with lead to some of the insulting antics that are commonplace today.

At the Constitutional Convention of 1875, one of the delegates, the Honorable George McCormick of Colorado County, moved to strike out the clause in Section I referring to dueling. He said he "would never vote to disfranchise a man for fighting a duel or carrying a challenge" for he felt there "were cases where a man's honor or that of his family necessitated fighting a duel or risk being branded a coward." [1]

Even though dueling was no longer a viable choice in settling disputes in the nineteenth century, Texas was so wild that the day of the six-shooter was far from over. In fact, it found added vigor in the day of the cowboy.

Brave lawyers and judges, however, sought to bring justice to the frontier, and the rule of law slowly prevailed over the six-shooter, i.e. Mr. Colt. What were these lawyers and judges like? The following is what one young man learned about some of Texas history's most colorful legal characters.

*It was one sunny, summer day in the early 1940s, and the mother of a twelve-year-old boy called her son into her bedroom. She often talked to him about her father, her family, and her life as a young girl growing up in Lockhart, Texas. Her great grandfather and great uncles had been Texas Rangers, and her father and grandfather had been lawyers. She had fond wishes that her young son would be a lawyer also.*

*The mother brought out a box that the boy had never seen. From it, she took out a big, gold, pocket watch and an old, black pistol. She told him that the*

*watch was known as a "Stagshead" watch [2], and it belonged to his grandfather. The pistol, a Colt .41-caliber, was given to her father by a friend. Her father had been district attorney of Caldwell County and had sent an accused man to the penitentiary. The brother of the accused threatened to kill her father and a friend had given him the pistol for protection. Her father refused to carry it. Sure enough, the brother took a shot at him. Fortunately, the bullet hit the "Stagshead" watch in his vest pocket. This was her father's favorite watch, and he had it repaired and wore it until the end of his life. The boy carefully picked up the watch as though it were a living thing. On opening it, he saw his grandfather's name engraved on the inside of the back cover. The young boy was mesmerized by both the watch and the pistol. It was almost ghostly holding the possessions of a man long since dead. The boy's mind formed many questions and began what would become a lifelong love of studying Texas' legal history and the lawyers and judges that shaped it. He started reading and reading and reading. These are some of the colorful, courageous people he learned about.*

### **Robert McAlpin Williamson (1806(?)-1859)**

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In the 1820s, Texas was still part of Mexico, which until 1821 had belonged to Spain. The land was a paradise of piney woods, hardwood forests, vast savannas, plains, rocky hills, mountains, and brush country, all intersected by numerous rivers and streams flowing to the Gulf of Mexico. The Spanish in the late sixteenth century had brought in cattle and horses. These animals roamed the land, propagated, and spread over the vast expanse of what was then Texas.

Both the Spanish and the settlers who came after had a fierce pride and code of honor. The people were of Scotch-Irish, German, Anglo-Saxon, and similar stock, and they were clannish and fast to protect their own. Dueling was not uncommon, and there was little enforcement of the rule of law, since there were few law officers and still fewer lawyers and judges.

The numerous Indian tribes were restless and rebellious over the settlers' usurpation of their lands, horses, and cattle. The Mexicans, who had only recently won independence from Spain, feared their big neighbor east of the Sabine and felt the settlers were too greedy and aggressive. The United States was casting a lustful eye at the country that would ultimately become the southwestern and western regions of the United States. The three cultures clashed, and the setting was ripe for the violent days ahead.

Since 1823, a group that came to be called the "Rangers" had been protecting settlers from attacks by Indians, particularly the Karankawas. In this time of turmoil, a young Georgian emerged as one of Texas' most

outstanding lawmen. He was, in fact, one of the most remarkable men to emerge in Texas history, which was replete with formidable people. Robert McAlpin Williamson's extensive talents were sometimes overshadowed by the nickname with which this polished and brilliant man was burdened. When he was 15 years of age, he contracted an ailment that left him crippled for life. His right leg was bent backwards at the knee, and he wore a wooden peg leg. This earned him the moniker, "Three-Legged Willie." The bearer of this nickname was no man to laugh at, however, for he was courageous, an expert horseman, and an excellent marksman. In his prime, it was said that Williamson "danced, rode like a centaur, and brawled with the best of them. [3]

In the late 1820s, Williamson settled at San Felipe de Austin. In 1829, with a partner, he established the newspaper known as the *Cotton Plant* and later edited the *Texas Gazette* and the *Mexican Citizen*. Williamson appealed to the citizens of Texas to resist the tyranny of the Mexican government [4] and later was sent to the General Consultation of 1835 as a delegate from Mina (now Bastrop). On 29 November 1835, the provisional government there commissioned him as a major, ordering him to organize three companies of Rangers. This crusty frontiersman obviously was held in such high esteem by his fellow Texans that they placed him in charge. [5]

The Texans' faith in Williamson was vindicated. He participated in shepherding Texas families in the Runaway Scrape and then fought in the Battle of San Jacinto, for which he received 640 acres of land. [6] Williamson also became known as the "Patrick Henry of Texas" for his editorials and rousing oratory for Texas independence. The Mexican government honored him by putting a price on his head.

On 16 December 1835, Williamson was elected judge of the Third Judicial District by the First Congress of the Republic of Texas, which also made him a member of the first Texas Supreme Court. As there was no building then available in which to hold court, Williamson convened the first term of the district court of the republic under a large oak tree next to the land where the Colorado County Courthouse was built in 1837. [7] In 1840, Williamson was elected to represent Washington County and subsequently served in the Fifth, Sixth, and Seventh Congresses and in the house in the Ninth Congress. After Texas became a state, he also served in the senate in the first two legislatures. Williamson married Mary Jane Edwards of Austin County on 21 April 1837, and they had seven children. An ardent supporter of annexation, Williamson even named one of his sons Annexus.

At one time, Williamson was commissioned by the president of the Republic of Texas to go to a distant county to hold a term of court. As was so often the

case in nineteenth-century Texas, the county was divided into factions that spent most of the time cutting each other's throats. No courts had been held for years. The citizens had recently convened a meeting in which they adopted a resolution stating that no court should be held (afraid no doubt, of the numerous indictments for murder that would be forthcoming). When Judge Williamson took the bench, a lawyer rose up and read the resolution. When asked by the judge to cite authority for such a resolution, the lawyer pulled a Bowie knife, laid it on the table, and said, "This is the statute which governs in such cases."

Judge Williamson, quick as lightning, drew his long pistol and, in an unmistakable tone, replied, "And this is the constitution which overrides the statute." [8] The court was held without conflict between the "statute" and the "constitution." After 1849, Williamson was unsuccessful in political races. In 1857, an illness affected his mental brilliance. He died at the home of his father-in-law on 22 December 1859 and was buried in Wharton. His body was subsequently reinterred in the State Cemetery in Austin in 1930. [9] Even though handicapped, Williamson obviously rose above his disability. He was a fighter, but he chose the rule of law (tempered by Mr. Colt's extrajudicial influence) and set an example for all future Texas lawyers and judges.

Texas remembered its loyal son by naming Williamson County after Robert McAlpin Williamson and erecting a monument at his grave. His picture was displayed in the state capital, reminding future generations of the fearsome figure of San Jacinto who wore a coonskin cap with nine tails and of the polished judge and orator who was the watchdog of civil liberties and a scourge to vested interests in exas' congress and legislatures. [10] *After reading about Three-Legged Willie, the young boy continued his study of Texas history, reading about a judge who brought about the end of the most vicious feud in Texas and lived to tell about it.*

#### **Judge Henry Clay Pleasants (23 March 1828 – 7 November 1899)**

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The time following the Civil War is often referred to as the Reconstruction Period. For many citizens of the vanquished South, however, it was more an era for venting anger than a period of rebuilding. The "carpetbagger" government of Texas exacerbated the situation with the appointment of a State Police force, which was little better than the so-called outlaws it pursued. Fencing of land had not begun, and there were frequent disputes over the ownership of cattle and property. Many of Texas' most infamous outlaws thrived during this era. By 1873, there existed in Gonzales and DeWitt Counties a vigilante committee that made life very tenuous for citizens. Sheriff

Jack Helms, formerly a captain in the State Police, led the committee. [11] It was during all this turmoil that DeWitt County was host to one of the longest and most vicious feuds in Texas history. According to some historians, the Sutton-Taylor feud began in the Carolinas, continued during the 1840s in Georgia, and finally came to Texas. Both families unfortunately chose to settle near each other in DeWitt County. [12]

Aside from the Reconstruction troubles, there was a general depression among the people of DeWitt County, which was intensified by bad crops. It was said that there was a "noticeable decay of character and ideals," particularly among the younger citizens. [13] The age of cowboys and cattle drives was in full swing, and one author wrote, "So far as I can learn, there is not a boy of American parentage learning a trade or reading for a profession west of the Colorado." [14] The rustling business boomed, and cattle prices soared. In 1867 Gonzales, prices rose from \$70 to \$100 a head. [15] Creed Taylor, the patriarch of the Taylor clan, was a rough-and-ready, old frontiersman. He had been a Texas Ranger under Captain John Coffee Hays, who was probably the most formidable fighting man in Texas between 1836 and 1849. Creed's sons were chips off the block. Around them, they gathered a group of kindred souls.

William E. Sutton was not much different from his nemesis Taylor, nor were the men and women who sided with him. The Taylors had already gotten into trouble with the federal troops, while young Billy Sutton had become a deputy sheriff in Clinton.

Nobody seems to know exactly what started the feud again in Texas. There is a good indication that it arose when Billy Sutton and his posse of cattle rustlers killed Charles Taylor, supposedly a kinsman of the Dewitt County Taylors. Sutton then killed another Taylor, and the feud began to boil. To make matters worse, Sutton became a deputy for Captain Jack Helms of the nefarious State Police. The Sutton-Helms group took it upon themselves to pursue the Taylor clan, which proved to be a fatal mistake for Billy Sutton. Luckily for peaceful citizens, a lawyer named Henry Clay Pleasants was also living in the community. Born in Richmond County, Virginia, he was educated at the University of Virginia and admitted to the bar of that state in 1852. Pleasants practiced in the offices of Peachey R. Gratton, author of *Gratton's Reports*. Later, he was a partner of the Honorable John M. Guy, one of Virginia's foremost lawyers. Obviously, Henry Clay Pleasants was a highly educated and outstanding lawyer when he moved to DeWitt County in 1854. [16] He married Ann Eliza Atkinson in 1858 and they had four children, one of whom became a distinguished lawyer and jurist like his father. [17]

Pleasants practiced law in DeWitt County until he was elected district judge of the old 23rd District. While signing the Constitution of 1876 formally marked the end of the Reconstruction Era, trouble would continue through the end of the century. It was indeed fortunate for the citizens of DeWitt and surrounding counties that during the first part of that period, Henry Clay Pleasants was district judge.

No one really knows how many people were killed in the Sutton-Taylor feud, but estimates are between thirty and fifty. When a member of the Taylor clan was killed, the Sutttons retaliated by killing of a member of the Sutton-Helms group, generally by ambush. In 1873, the feud came to a head with the killing of Pitkin Taylor, another Taylor patriarch. The remaining Taylors swore to get Bill Sutton. John Wesley Hardin, Texas' most famous outlaw and a kinsman of the Taylors, now entered the picture. Along with Jim Taylor, he soon disposed of Jack Helms. [18] No one was safe. A person had to be on one side or the other, and the battle waged all over the county.

Along with his wife and a man named Gabriel Slaughter of Virginia, Bill Sutton boarded the steamship *Clinton* at Indianola. Slaughter was a fine man and a relative of Judge Pleasants. John Wesley Hardin found out that Sutton was at Indianola and alerted his Taylor cousins, who immediately took action. Jim and Billy Taylor and other members of the clan caught Sutton just as he boarded the boat. In front of their wives, both Sutton and Slaughter were killed from gunshots to the head.

The feud continued, even though the inimitable Texas Ranger Captain Leander McNelly was called in by the governor. The Rangers helped to calm the storm to some extent, but in 1876, a terrible crime drew the attention and ire of the whole state. It was the murder of Dr. Philip Brassell and his son George. Dr. Brassell was a peace-loving man, but apparently George got involved with the wrong crowd.

A group of masked men came to Dr. Brassell's house after the family had gone to bed. They took the doctor, his son George, and two younger sons and led them down the road. They coldly executed the doctor and George, but the younger sons escaped in the darkness. Warrants were issued for five men, and they were brought to the courthouse at Clinton. But witnesses could not (or would not) identify the killers. Judge Pleasants, suspecting that something of the sort would occur, had asked the governor for another detachment of Texas Rangers. The Rangers encamped in Judge Pleasants' pasture under the command of Lieutenant Lee "Red" Hall, who would subsequently make a name for himself through his bravery in the case.

How Judge Pleasants was able to stay alive is anybody's guess, for he presided in many of the trials during this period. Undoubtedly, he must have been one of the most respected men in the county, and events would prove him to be a man of unquestionable courage. It would take a man or woman of steel backbone and determination to take a stand at a time when "bushwhacking" was a common retaliation for simply being friends with one of the feuding families.

On 18 December 1876, the criminal docket was to be called in Judge Pleasants' court. "Red" Hall, a Ranger, had three weeks to get ready for the anticipated fireworks. He reported that the sheriff couldn't be trusted to execute writs as he was on the side of the Sutton party, and they were the defendants in nearly all of the cases. To make matters worse, all of the witnesses in the Brassell case except three women had left the country, and even the women had been threatened that if they appeared before the grand jury. They were told that they would be killed and their homes burned. [19]

Judge Pleasants was as determined as Ranger Hall to put an end to the horrors that had been visited upon the county. He proved his courage one day to Hall's Texas Rangers. The judge was driving down the Victoria road when he saw a man hiding behind a live oak tree. He drove up to within fifty feet of the tree and, pointing his shotgun, called out in his slow Virginia drawl, "I see you, sir. Come out from behind that tree!" A sheepish Texas Ranger stepped out, explaining to his honor that he was waiting for somebody else and didn't want to be recognized. [20]

Hall decided to lay a trap to attempt to end the Sutton-Taylor feud. Joe Sitterlie of the Sutton group was getting married, and a party was in progress at a log house a few miles from Clinton. [21] Fiddle music, food, and liquid refreshments were there. It didn't seem to matter that seven of the guests had been indicted by the grand jury just two days before; everybody was having a good time.

Hall and his Rangers surrounded the house. Hall boldly stepped in the front door, alone and unarmed. He called out the names of the seven men under indictment. After many threats were made by the Sutton crowd, Hall ordered his men to come let the women and children out and then to sweep the porch and doors with shotgun fire, shooting to kill. This did the trick, and Hall soon had the guests disarmed.

There had been seventy men against one Ranger inside the cabin and sixteen or seventeen outside, yet through sheer bravado, Hall had disarmed them all. The bride made a request that the party continue, and the Ranger,

being a gentleman, obliged her. He changed guards outside every few hours and let his Rangers come in and take part in the celebration. The next day the seven indicted men were in the town jail.

Judge Pleasants presided over their trial. The accused were each under two indictments: one for the murder of Dr. Brassell and one for that of his son George. The courtroom was jammed with Texas Rangers and members of both parties of the feud. The judge had been threatened. In his pockets were letters telling him that he would be killed if he didn't set the defendants free. Hall had heard that a rescue attempt would be made. Rangers were bracketing the judge's bench, ready to mete out what might be termed "extra-judicial justice."

When Judge Pleasants was ready to render his decision, the quiet was deafening. In a clear and strong voice, he castigated the crowd for being lawless and for being "murderers, bushwhackers, and midnight assassins." He referred to his threatening letters and the circumstances leading up to the crimes, and then he denied the defendants' bails. Judge Pleasants' final words, "Lieutenant Hall, clear the courtroom," must have signaled to those present that Mr. Colt had lost and the rule of law would prevail. Subsequent generations of the feuding families became exemplary citizens, and Judge Pleasants went on to serve on the First Court of Appeals. "Red" Hall gained additional laurels as a member of Teddy Roosevelt's Rough Riders in the Spanish-American War in Cuba.

*The young man again wondered how many men or women would have had the courage of Judge Clay Pleasants. He began to realize that these lawyers and judges he had read about showed just as much bravado as the outlaws who were so famous. If the stories of Three-Legged Willie and Judge Clay Pleasants didn't convince him, then the next story he read put "writ refused N. R.E. " on the matter.*

### **W. C. Linden and the San Saba Mob**

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In 1879, although the Reconstruction Era was over, Texas was in part still ruled by Mr. Colt. The whole area around San Saba, Llano, Lampasas, Mills and adjoining Counties was rife with feuds and mobs. A group of powerful and efficient cattle rustlers had been raiding the big ranchers' stock. They had numerous witnesses who provided them with alibis whenever needed, so they were never convicted.

To retaliate, the ranchers organized a counter-mob. Before long, this group was overrun by unsavory characters who used it for their own gain. They

became known as the "San Saba Mob." Their trademark, according to historian C.L. Sonnichsen, was "an early morning ambush by three men who always put nine expertly placed shots into the head and body of each victim." [22]

Ambushings went on for years, but in 1889, the murder of a farmer named Turner in the Locker community drew the attention of the law-abiding citizens. By 1896, there had been so many people murdered that the editor of the *San Saba News* wrote, "This mob work is a disgrace to the county." [23] The only thing that apparently kept the editor alive was the presence of a detachment of Texas Rangers that had moved into the county under Sergeant W.J. L. Sullivan. In addition, people in the county were getting tired of the killings, as over fifty people had been murdered.

It took an election to end the San Saba Mob. W.C. Linden, a young lawyer from Llano, was running for the key office of district attorney. He was described as a bright and outstanding lawyer, and he was elected. Soon, Linden and Ranger Sergeant W.J.L. Sullivan were fast friends. This proved most fortunate, since the sheriff who was elected was controlled by the mob. Linden and the Rangers first concentrated on investigating the Turner murder of 1889 as well as identifying the members of the mob. They worked hard and, after interviewing many witnesses, the mob cases were called in 1896. The grand jury indicted two men for the murder of Turner, one of whom was Matt Ford, Mrs. Turner's cousin. Apparently, Ford was the real leader of the mob. Linden moved for a change of venue to Austin for obvious reasons, while the mob sympathizers did everything they could to get the cases dropped and the Rangers removed from the county. [24] The first trial resulted in a hung jury and a second one ended the same way.

Captain Bill McDonald, who would become famous in Texas for his "one Ranger, one riot" statement, took over from Sergeant Sullivan and was horrified at the conditions in the county. In December of 1897, he proceeded to get a number of indictments. It was during this session of court that the stalwart W.C. Linden made what was probably the most dangerous jury argument ever made by a lawyer. With mob violence threatening to break out at any minute and the courtroom filled with mob members, he not only utilized his extensive oratory abilities, but also showed that he was prepared to back his statements up with Mr. Colt's extra-judicial writ.

Little Jim Ford was on the witness stand. Through cross-examination, Linden pointed out that Ford was also under indictment and was only acting as a tradeoff witness for the actual accused man. He pointed out that the accused was to later reciprocate by testifying in Ford's case. He proceeded to chastise

the jury by telling them that they would not convict the suspect, and that he knew why. They were too cowardly to convict a man who was backed by the mob, particularly when the leaders of the group were sitting in the courtroom. Linden proceeded to point out the mob members, and then looked at the mob chaplain, who he said was "praying to God at this moment to strike me dead for what I am saying." [25]

The room was quiet and the defense attorneys were too astonished to object. The judge had known what Linden planned and had warned against it, fearing what would happen. Linden turned and his coat flew open to reveal Mr. Colt riding on his hip. The audience gasped. He said, "Yes, I carry a gun. I carry it for just such occasions as this, and you all know I can use it." [26] It was evening when Linden left the courthouse and started toward his hotel. Little Jim Ford met him outside and threatened him with a knife. Linden also noticed that Ford's friends and kinfolk were sitting on the steps and curbs, all wearing coats they had not been wearing in the courtroom. Little Jim accosted Linden with the knife, and Linden pulled his gun, asking, "Why don't you carry out your plot?"

One of Little Jim's relatives taunted Linden, telling him to explain just what he thought the "plot" was. Linden responded that they had put Little Jim up to starting an argument so they could kill him [Linden] in self-defense. He then proceeded to tell them why they couldn't carry out their plot: they were so used to murdering men from ambush they wouldn't dare kill a man who was facing them. "Besides," he said, "you don't know which one of you I'll kill while you're killing me." He continued, "I think I can get three of you before you get me. Now you turn around and walk away from here, and I'll shoot the first man that stops or turns around." [27]

Linden went on to his hotel. A little later, he got the news from a friend that the impossible had happened: the jury had brought in a verdict of guilty. Mob violence was ended again through the courage of one lawyer and the Texas Rangers. The rule of law had prevailed.

*Well, the young boy, who by now had become a grown man and a lawyer himself, had his questions answered. Those forebears of ours in the legal profession were tough and talented people. They didn't tread water for anybody and, in the end, espoused the rule of law. They paved the way for us to practice in a more civilized environment and set standards in speaking out for what we believe to be right. The little boy only hoped that he could live up to those standards. I ought to know, for I was that little boy.*

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### Endnotes

[1] McKay, S. S., *Debates in The Texas Constitutional Convention of 1875, 1930*, The University Press, Austin, p. 434.

[2] Actually, an old "Rockford" watch made in Rockford, Illinois, which was the forerunner of the Elgin Watch Company.

[3] Shuffler, R. Henderson, "Three-Legged Willie's Legacy," *Houston Chronicle, Texas Magazine*, Sunday, 12 July 1964.

[4] *The New Handbook of Texas in Six Volumes, Vol. 6*, The Texas State Historical Association, Austin, 1996, p. 992.

[5] *Proceedings of the General Council, November 28, 1935; Gammel Laws, Vol. 1*. p. 600-601.

[6] Robinson, Duncan W., *Judge Robert McAlpin Williamson*, (Austin: Texas State Historical Association, 1948); Texas House of Representatives, *Biographical Directory of the Texas Conventions and Congresses, 1832-1845* (Austin Book Exchange, 1941.).

[7] *The New Handbook of Texas*, p. 992.

[8] Brown, John Henry, *Indian Wars and Pioneers of Texas*, L. E. Daniell, Publisher, Austin, Texas 1854, p. 408.

[9] *The New Handbook of Texas*, p. 992.

[10] Shuffler, "Three-Legged Willie's Legacy."

[11] Hardin, John Wesley, *The Life of John Wesley Hardin*. University of Oklahoma Press, Norman, 1961, p. 80.

[12] Raymond, Dora Neill, *Captain Lee Hall of Texas*, University of Oklahoma Press, Norman, 1940.

[13] Sonnichsen, C. L., *I'll Die Before I'll Run*, Harper & Brothers Publishers•New York, 1951, p. 20.

[14] Id., p. 20.

[15] Id., p. 21.

[16] Johnson, Frank W., *A History of Texas and Texans*, The American Historical Society, Chicago and New York, 1914, p. 1181.

[17] Robert Atkinson Pleasants, who graduated from the first law class of the University of Texas in 1884 and later was chief justice of the court of appeals.

[18] Sonnichsen, p. 49.

[19] Id., p. 77-78.

[20] Id., p. 78.

[21] Id., p. 79.

[22] Id., p. 167.

[23] Id., p. 176.

[24] Id., p. 174-185.

[25] Id., p. 183.

[26] Id., p. 184.

[27] Id.