ents to benefit the black community. In doing so, he works in his own interest as well. In assuming this responsibility, he does not bar white legal talent from the field but merely assumes that over-all leadership, control, and direction that should be assumed by blacks. Whatever the valid reason for the black bar's failure to assume this responsibility in the past, it has to stir itself and undertake that task today. If nothing else, the visibility of black lawyers all over the country, engaged in some form of litigation designed to lighten the racial burden, will lift the morale of the black community and add to its courage and inner strength.

THE ROLE OF THE BLACK ATTORNEY IN THE 1980's: A CHALLENGE TO BECOME SPECIALISTS, ASSOCIATES, AND RENOVATORS

Cardiss Collins*

Black Americans are beginning to realize that the problems which confront them in the 80's will be just as difficult, if not more difficult, than those encountered in the past. During the decade of the 80's, the civil rights accomplishments of the 50's, 60's and the 70's will be placed under a microscope for close scrutiny as a direct result of an ultra-conservative attitude among Americans. This has always been the cause of the barrier which blacks have faced throughout the history of America. Black attorneys have historically come to the aid of their people in the past, and it is highly probable that the black attorneys will come to the aid of black Americans once again. However, as the times have changed, so should the approach the black attorney pursues in combating these barriers.

During the decades of the 1950's, 1960's and 1970's, the black lawyer's role primarily consisted of securing equality for black Americans. During those decades, black lawyers were concerned with the removal of the barriers of segregation and racial discrimination. The great pioneer attorneys, the late Charles Hamilton Houston, Judge William Hastie and Justice Thurgood Marshall, along with the assistance of the Howard University Law School, took the burden upon themselves to surmount the obstacles of racial oppression. They used the United States Constitution and the Civil Rights Acts of the 60's as the primary weapons in their arsenal to combat inequality in the areas of education, employment and housing.

In 1954, the pioneers made a historical achievement in the field of education with the landmark decision of *Brown v. Board of Education*,[1] which

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1. 347 U.S. 483 (1956).

established the concept that "separate but equal is inherently inferior." This major decision was favorable to black attorneys as well as to black students seeking a quality education. The litigation of the *Brown* case required an in-depth study of the Constitution. As a result, the black attorney gained prominence as a specialist in the area of civil rights.

After establishing a foundation for civil rights in *Brown*, Congress followed the country's liberal attitude and passed the Civil Rights Acts of the 60's. The Civil Rights Acts were used to combat discrimination in both housing and employment. The Civil Rights Act of 1964[2] appeared to be the most powerful tool of the black attorney in the area of employment discrimination. The black attorney also used the Act to remove racial segregation by unions and employers who used arbitrary terms and race as conditions of employment.[3] Some black attorneys filed suit under the Act requiring contractors and subcontractors who contracted with the government to hire their workers on a nondiscriminatory basis.[4]

Black attorneys were also active in the area of housing which came within the framework of the 1968 Civil Rights Act.[5] Under this Act, the black attorneys were able to set aside evictions that were racially motivated.[6] Unfortunately, the most troublesome area of housing was the inability to control land use through the Act. The black attorney sought to control land use through the Act to no avail. Housing presented a unique problem because of the economic overtones surrounding the market. The wealthy were able to obtain adequate housing while poor blacks were basically priced out of the market. Finally, the government took a positive step by building low income housing for the poor which enabled blacks to obtain adequate housing facilities.

In viewing the past role of the black attorney, it is imperative that black attorneys perceive roles in their entirety. Many legal minds feel that civil rights litigation is tedious and the pay is extremely low; therefore, many law graduates in the 70's and 80's will not look toward civil rights litigation as a field of practice. These actions should be neither condoned nor condemned. As long as these individuals recognize their commitment to the black community, I am sure they will be responsive to the legally related needs of black Americans.

The 80's will be a decade in which black attorneys will be called upon once again to aid black America. In light of the severe economic crunch, coupled with the election of an ultra-conservative President and Senate, the accomplishments of blacks are under close scrutiny. A prime example is the action taken by the Senate which precludes the Justice Department from litigating cases which may require the Federal courts to order busing as a means to end segregation. This type of ideology makes it imperative for

2. Civil Rights Act of 1964, Pub. L. 33-352, July 2, 1964, 78 Stat. 241 (codified at 42 U.S.C. §§ 1971, 1975a-1975a, 2000a-200h-6 (1976)).

3. *See*, Lankford v. International Brotherhood of Electrical Workers 196 F. Supp. 661 (N.D. Ala. 1960); *aff'd* 293 F.2d 928 (1961); *cert. denied* 368 U.S. 1004 (1962).

4. Weiner v. Cuyahoga Community College District, 19 Ohio St. 2d 35, 249 N.E.2d 907 (1969).

5. Civil Rights Act of 1963 Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73-92 (codified at 42 U.S.C. §§ 1973, 3533, 3533, 3601-3619, 363 (1976)).

6. Kastner v. Brackett, 326 F. Supp. 1151 (D. Nev. 1971).

black attorneys to unite the black community in order to overcome the challenges being placed upon civil rights accomplishments. This decade will test both the fabric of American democratic principles and the tenacity of black people. If one views the 50's and 60's as decades of civil rights litigation and the 70's as the period when protest moved from the streets into the halls of government, then the 80's surely should be the time for us to parlay our political toehold into greater economic advances—a time to push for economic equality. This progression from powerlessness to protest, to politics, to economic empowerment, has been cited by political scientists and others as the way minorities traditionally move into American mainstream.

Not only must black lawyers continue in the traditional roles of representing those whose constitutional rights have been infringed upon, but black lawyers must in ever-increasing proportions become more visible in the economic mainstream of society as blacks continue to increase their socio-economic status. Black attorneys must now become pioneers in the areas of the law which have an economic impact on the black community. In preparing to enter the business community, black attorneys must utilize the means of specialization, association, and renovation.

Specialization is crucial because as more blacks become affluent, the problems which emanate from affluence increase and the need for specialists escalates. For example, the tax problems which many of our black entertainers and athletes encounter create a demand for specialists in tax and other business related areas of law. It is imperative that aspiring attorneys make a special effort to specialize in business and commercial fields such as contracts, property, taxation, entertainment, labor and communications, because, for too long, these fields have taken a back seat to torts and criminal law. We must be able to answer to the call of progressive black entrepreneurs like George Johnson, who asks, "Where in the hell are all of those black guys who can put things together—the managers?"

Along with specialization comes association. It is important for the black lawyer to associate himself with large law firms for two reasons. First, it would provide a greater opportunity for increased status among black lawyers. Second, it would provide us with the experience to form our own law firms. One might ask what the advantages are of partnerships over solo practices, and how this affects the black lawyer's ability to effectively deal with the needs of businesses. The solo practitioner has little capital to start and, thus, usually remains restricted in his areas of practice, i.e. torts, criminal law and domestic relations. The lawyer in solo practice usually has a cash flow problem, therefore it is imperative that he end litigation as quickly as possible in order to sustain his practice. On the other hand, time is not as crucial in a partnership because its involvement in other litigation provides continued cash flow for the firm. In general, the partnership has an advantage in that one can gain higher fees, attract a greater number and variety of clients and have an exposure to cross-fertilization of legal ideas. The advantages of the partnership can be of great assistance to the black attorney in enabling him to predict to his clients the business trends of the 80's, as well as advise them where, when, and how to invest their money. Sound advice is important to the black business community because the greatest problem with black businesses is their inability to obtain professional advice.

After black lawyers effectively grasp the concepts of specialization and association, they must deal with the concept of renovation. They must renovate their entire perception of roles in the black community. For too many years, too many black lawyers have allowed themselves to become hired hands of the establishment, while leaving unaddressed issues which are crucial to the viability of blacks in the area of business. Black lawyers must strive to build confidence within the community. They must throw away the perception of Perry Mason and gain management techniques so they can emerge from the pits of pecuniary oppression and join the system before it breaks down.

BLACK LAWYERS CANNOT BE RELEGATED TO A PROFESSIONAL GHETTO*

Vernon E. Jordan, Jr.

There are few professions in America that have as great an impact on blacks and other minorities as the legal profession. At the most elementary level, the criminal justice system affects disproportionate numbers of blacks both as accused offenders and as victims.

The courts continue to be a major civil rights battlefront, as is seen in affirmative action cases, school desegregation suits and others. The process of defining and refining minority rights and protection continues.

The forest of federal, state and local laws and regulations—many of which profoundly affect minority interests directly—is framed and generally enforced by lawyers.

And as lawyers dominate policy making positions in government and corporations, their acts again heavily affect minorities.

Despite the important interactions between the profession and minority interests, the most vivid impression one gets is the gross underrepresentation of blacks and other minorities in the legal profession.

Barely two percent of all lawyers are black. These lawyers are overwhelmingly concentrated in the least lucrative and prestigious specialities, virtually absent from major law firms and corporate law departments. Future prospects for growth in the number of black lawyers is grim—only four percent of law students are black. The percentage of blacks entering classes at law schools has been at a steady five percent for the past several years. Their numbers have been frozen at about 2,000 for the past seven years and there were fewer black law school entrants last year than in either 1975 or 1976.

Thus it is clear that blacks have been largely excluded from a profession of tremendous importance and power in our society. Whether that exclusion

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