

The delivery of legal services to black people must ultimately be defined and controlled by the black community. Accordingly, it is incumbent upon black lawyers in the 1980's also to create institutions designed to deliver legal services in a manner which would impart power to black people. By definition, lawyering of this nature cannot be delivered through the traditional vehicles of the solo practice or litigation-oriented law firm. New structures must be designed, utilizing and combining the expertise of legal and nonlegal personnel such as economists, architects and community organizers. In light of this, black law students should not limit their legal education to the study of law, but should also acquaint themselves with other related disciplines.

There is an unpleasant irony about recognizing the need to build at a time in our history when our existing resources are declining and our past gains are under attack. However, our struggle has never been easy and perhaps our current desperation will lend us the courage to question past assumptions and engage in more creative solutions. If it does we must develop not only a new collective direction towards building independent institutions, but there must also be new community minded and highly skilled black lawyers to help pave the way.

TWO-WAY VISION

Gilbert Ware

Look Back and Be Proud,
Look Ahead and Achieve
Poster
Enid Bas Library
St. Thomas, V.I.

When I think about history, I think about parenthood.

Often the acknowledgment of parenthood is an exercise in braggadocio rather than an acceptance of responsibility. One result is the constant human condition that stimulated Albert Camus' plea.

Camus says, "[p]erhaps we cannot prevent this from being a world in which children are tortured. But we can reduce the number of tortured children. And if you don't help us, who else in the world can help us do this?"¹

When I think about black judicial history, I substitute "people" for "children," restrict "we" and "you" to Afro-Americans who are or aspire to be lawyers, and pray that they respond favorably to the altered—but, I hope, unadulterated—plea from Albert Camus.

Judge William H. Hastie offers very sound logic with regard to black judicial history. Judge Hastie states, "[s]omeone has written that whom the gods would destroy they first deprive of a sense of history. I think this is true. For history informs us of past mistakes from which we can learn with-

1. R.F. KENNEDY, *Dedication, To SEEK A NEWER WORLD* (1967).

out repeating them. It also inspires us and gives us confidence and hope bred of victories already won."²

Victories won by black lawyers, especially but not exclusively in court, help to validate W. E. B. DuBois' assertion: "It was the black man that raised a vision of democracy in America such as neither Americans nor Europeans conceived in the eighteenth century and such as they have not even accepted in the twentieth century; and yet a conception which every clear-sighted man knows is true and inevitable."³

True, yes. Inevitable, no. Certainly not in the fulfillment of promises inherent in victories, in or out of court. That is why the Secretary of the Judicial Council of the National Bar Association, Judge W. Eugene Sharpe⁴ of New York and Judge Paul Dandridge⁵ of the Philadelphia Court of Common Pleas emphasize administrative law as a field of increasing importance. That is why Commissioner J. Clay Smith, Jr., of the Equal Employment Opportunity Commission, stresses outer space, oceans, energy, and telecommunications as critical combat zones.⁶ Marian Wright Edelman, founder and director of the Children's Defense Fund, says that blacks must know the functioning of bureaucracies.⁷ Ms. Edelman reminds us that ". . . we had a big march on Washington and got a new set of bills, [b]ut what happens to such bills once they get passed? Who administers them? What kind of money gets appropriated?"⁸

Who gets the money, and for what purposes? In short, who decides? Who functions in what Judge Harry Edwards, United States Court of Appeals for the District of Columbia, calls "those spheres of activity that are at the heart of the decision-making process, where the stakes are high and the impact ubiquitous (footnote omitted)?"⁹ Who makes the decisions in places such as the leading law schools, major law firms, banks, corporations, and government?

In some of those power pockets and in some others—media, colleges, hospitals, sports, foundations—some blacks do function to an extent. Progress is being made. But each "act of advancement," says Judge A. Leon Higginbotham, Jr., is offset by "the indelible message that the task is far from finished."¹⁰ "History," he says, "informs us that many black lawyers have been determined 'to crack open the door' of opportunity for future generations even though the then protestors would never personally gain."¹¹

2. Address by Judge William H. Hastie, National Bar Association, Atlanta, Georgia (August 5, 1971).

3. W. E. B. DuBois, *THE GIFT OF BLACK FOLK* 65 (1970).

4. Interview with Judge W. Eugene Sharpe, Chairman Judicial Council, National Bar Association (October 11, 1980).

5. Interview with Judge Paul Dandridge, Secretary Judicial Council, National Bar Association (October 11, 1980).

6. J.C. Smith, *The Broadcast Industry and Equal Employment Opportunity*, 30 *LABOR LAW JOURNAL* 659 (1979).

7. Y. Smith, *Marian Wright Edelman: Children's Crusader*, 11 *ESSENCE* 70 (1980).

8. *Id.*

9. Edwards, *A New Role for the Black Law Graduate - A Reality or an Illusion?* 69 *MICHIGAN LAW REVIEW* 1417 (1971) [footnote omitted].

10. Address by Judge A. Leon Higginbotham, National Bar Association, New Orleans, Louisiana (August 5, 1977).

11. *Id.*

Howard University Law School has long been recognized as a training ground for many black trailblazers. Certainly not all of the trailblazers of the 1950's or 1960's taught or studied at Howard. Certainly not all persons who taught or studied there became pathfinders. Certainly not all those persons who studied at Howard in the 1930's or the 1940's became pathfinders. But just as certainly, on all three counts, many did. Hastie, Charles Hamilton Houston, Leon A. Ransom, Thurgood Marshall, and Spottswood W. Robinson, III, did; Pauli Murray and Ruth Harvey Charity did. The point, however, is that Howard was not so much a school; it was a state of mind.

Never will I forget what Vincent M. Townsend, Jr. told me about Howard's Law School. He shared thoughts that were ingrained into him by Houston, Hastie and Ransom.¹² " 'Always be prepared,' " they told students. " 'Your opponent will have the advantages of colorlessness, and you must confront him . . . and win. Knowledge of the law will be essential, but you must have something more: devotion to duty, the sacred obligation to safeguard blacks against whites and to protect whites against themselves.' "¹³

More so in the 1980's than in the 1930's—who knows about the 1990's and beyond—they would acknowledge the necessity of guarding blacks against themselves; and not just in regard to criminal actions, for no such boundary can be placed on what Ossie Davis calls "the unending war against white bigots and black fools."¹⁴

Before the bar, on the bench, in the areas not off limits to them, there are blacks—not the "street criminals" either—whose weird behavior toward other blacks we charitably attribute to their succumbing to what Judge Sharpe calls "the illusion of inclusion."¹⁵

It stands to reason that some of their ilk were at Howard University Law School during the era of Houston, Hastie, and Ransom. If so, they definitely were not on the faculty. Its members were more than professors; they were protagonists, they were prototypes. Townsend says that "[t]hey served the people down here on the ground. Not for money. His or her first year out of law school today, a graduate placed with a large firm earns more money than those warriors received in decades of splendid service. They had none, asked for none, received none." "But they had a cause," Townsend reminds us. "[a]nd when you get indoctrinated to a cause, sacrifice itself becomes a pleasure."¹⁶

Their ranks were thin. As Judge Robert L. Carter says, "[o]nly an infinitesimal percentage of the Negro bar actively participated in this effort [to secure Constitutional rights] or made any real contribution to the development of civil rights law. They were, of course, valid reasons for this. . . ."¹⁷

Today and tomorrow, the reasons may be valid, but they must *not* be accepted. Elsewhere I wrote, "[f]or understandable reasons but with unfortunate consequences, black jurists have been hard pressed collectively to

12. Interview with Vincent M. Townsend, Jr. (August 4, 1976).

13. *Id.*

14. *We Laughed with Godfrey (Cambridge), Laughing Till We Cried.* . . . WASHINGTON POST, December 5, 1976, § E at 5.

15. Sharpe, *supra*, note 4.

16. Townsend, *supra*, note 10.

17. Carter, *The Black Lawyer*, THE HUMANIST 12 (1969).

combat racism."¹⁸ The reasons must no longer be "understandable;" the consequences are and increasingly will not be "unfortunate" but disastrous for blacks and non-blacks.

As Atlanta Mayor Maynard Jackson told the National Bar Association:

We only have time now to take care of business. We don't have generations to go on. We only have *our* lifetimes to go, in my opinion, to win the struggle for an improved human condition. It is an obligation to ourselves *and* mankind to persevere and triumph. Our duties are so sacred that we shall find it necessary to make uncommon demands of ourselves. We must commit ourselves to insure that every day is an experiment in truth.¹⁹

Mayor Maynard Jackson's comments were timely . . . and timeless. Whoever they are, wherever they are, whatever they are doing ten or twenty or more years from today, all of us—non-blacks as well as blacks, lawyers as well as non-lawyers—will realize improved life chances largely to the extent that black lawyers grasp the significance of their vocational legacy, for the reasons articulated by Judge Hastie. If honored, the legacy will guide each who resolves with Alfred, Lord Tennyson:

The lights begin to twinkle from the rocks;
The long day wanes: the slow moon climbs: the deep
Moans round with many voices. Come, my friends,
'Tis not too late to seek a newer world.
Push off, and sitting well in order smite
The sounding furrows; for my purpose holds
To sail beyond the sunset, and the paths
Of all the western stars, until I die.²⁰

18. G. WARE, *Forward*, FROM THE BLACK BAR: VOICES FOR EQUAL JUSTICE (1976).

19. Jackson, *The Black American and the Legal Profession*, 20 JOURNAL OF PUBLIC LAW, 377, 380 (1971).

20. A. TENNYSON, TENNYSON POEMS AND PLAYS 90 (1971).