

FOREWARD

SELF-RELIANCE AND COALITION IN AN AGE OF REACTION

If DON'T TREAD ON ME¹ captured the mood of a defiant eighteenth-century revolutionary America, then DON'T TRICKLE ON ME² might well represent the resistance of racial minorities to the rising tide of reaction as the United States nears the end of the twentieth century. The continued vitality of the *Black Law Journal* suggests that the plight of racial minorities—all but forgotten by mainstream decision-makers—will continue to be perceptively addressed from a variety of intellectual perspectives. Indeed, it might be said that along with other third world publications, the *Black Law Journal* is an emanation of the “better angels”³ of America's psyche struggling to save the nation's soul. To paraphrase Reverend Jesse Jackson, minorities are not perfect peoples, but they are on a perfect mission, to make real the vision of a truly egalitarian America.⁴

By addressing minority concerns, the *Black Law Journal* continues its identification with the Rainbow Coalition's constituency of “the desparate, the damned, the disinherited, the disrespected, and the despised.”⁵ Cleansing the stain of American racism from the national fabric remains the passion of minority law students and lawyers, and the *Black Law Journal* staff, which so ably advances their points of view.

The *Journal* publishes in perilous times. Polarization of the races continues apace, and the Warren Commission's “two societies”⁶ is closer than ever. Christopher Jencks of Harvard has said that the 1980 elections “marked the end of American race relations.”⁷ Between 1964 and 1980, says Jencks, federal officials argued about the moral legitimacy and practical benefits of particular strategies for helping blacks catch up with whites economically, but “none had questioned the principle that government should actively promote this goal.”⁸ Jencks argues that the consensus about long term goals led to three kinds of federal action—money was spent on education and job training in such a way as to grant racial minorities a substantial fraction of the benefits, federal governmental power was used to get private employers to place blacks in jobs hitherto reserved for whites, and cash and

1. This phrase was used on the rattlesnake flags which were a product of revolutionary America. The rattler was viewed as an emblem of vigilance: although not the aggressor, once attacked it never surrenders. Thus, the motto DON'T TREAD ON ME was a warning to England that to tread on America was dangerous. W.H. WALDRON, *FLAGS OF AMERICA*, 4, 8 (1935).

2. “Trickle” is derived from “trickle-down,” the process by which the overflow from affluent America drizzles upon the less fortunate in the socioeconomic order. In housing, for example, it is the process by which new shelter is eventually “filtered” to the economic strata below. See, MONTGOMERY & MANDELKER, *HOUSING IN AMERICA: PROBLEMS AND PERSPECTIVES* 161 (2d ed. 1979).

3. Abraham Lincoln spoke of employing the “better angels of our nature” to preserve the Union in his First Inaugural address. The phrase is used by Justice Frankfurter in his concurrence to the Little Rock High School case, *Cooper v. Aaron*, 358 U.S. 5, 26 (1958).

4. See, *Excerpts From Jackson Appeal to Convention Delegates for Unity in Party*, N.Y. Times, July 18, 1984, at A18, col. 1.

5. *Id.*

6. REPORT OF THE NAT'L ADVISORY COMM'N ON CIVIL DISORDERS 1 (1968).

7. Jencks, *Discrimination and Thomas Sowell*, NEW YORK REVIEW, Mar. 3, 1983 at 33.

8. *Id.*

other benefits were allocated for families unable to take advantage of the new job opportunities. Observing that support for these "never very popular" programs has waned, Jencks says that the present administration has abandoned the notion that the federal government should try to make black incomes equal white incomes and has won congressional support for cutting back all the major programs designed to accomplish this goal. Spending on education and job training has been cut, along with many other government services. Since government has been a major source of new middle-class jobs for blacks over the past two decades, these cutbacks have reduced job opportunities for blacks more than whites.⁹

Federal pressure on private employers to hire blacks has sharply dropped, and eligibility for AFDC, food stamps, and Medicaid has been narrowed, making life difficult for families without breadwinners. Above all, suggests Jencks, "the goal of full employment, which has always been crucial for narrowing the distance between the 'haves' and 'have-nots' in America, has been assigned its lowest priority since 1932."¹⁰ Jencks concludes:

Even if the democrats regain control of the White House in 1984, they will not have a mandate to revive affirmative action, expand government services, or raise AFDC benefits high enough to lift recipients out of poverty. . . . The implicit social contract between blacks and whites that prevailed from 1964 to 1980 is therefore dead. The question today is whether anything will take its place.¹¹

Jencks' gloomy analysis has been reflected time and again by opinion polls. According to *Time* magazine, "when Gerald Ford was President, the Gallup poll found he was opposed by equal proportions of whites and non-whites, rich and poor. Toward Reagan, however, the antagonism runs starkly along racial and class lines."¹² The problem of *modus vivendi* between the races, as the existence of the *Black Law Journal* establishes, will be spoken to by minority Americans who intend to be heard and have their influence felt in the making of any new compact between the races, in charting new socio-economic directions for the nation. Minorities will not suffer a new order without helping to shape it; nor will they await America's residue to trickle down into their famished grasp.

If an America, indifferent to the plight of minorities, is wildly enthusiastic about policies which are in greater disfavor among blacks than any since the Great Depression, then Asians, Afro-Americans, Chicanos, Native Americans and other citizens of color must redouble their efforts to secure just redistribution and reallocation of this nation's resources. A market place historically blind to the realities of racism cannot be depended upon to create the opportunity that minority contributions to the national wealth demands.

But this policy of the fair share demands that two realities be con-

9. *Id.*

10. *Id.*

11. *Id.*

12. *The Magic and the Message*, TIME MAGAZINE, Aug. 27, 1984 at 14. A California poll by Mervin Field published in the San Francisco Chronical, Sept. 13, 1984, at 1, col. 5, found that blacks preferred Mondale to Reagan by almost 75%. Only 15% of blacks polled admitted to supporting Reagan for reelection while 11% were undecided. The Jewish total was similar with 71% favoring Mondale, 23% in favor of Reagan and 6% undecided. White support overall was 53% for Reagan to 37% for Mondale with 16% undecided.

fronted: racism is a persistent, virulent and intractable barrier to minority economic and political progress. However, white America by and large regards evidence of racial prejudice as a minority-contrived pretext to make undeserved demands for preferential treatment. In the DuBois phrase, the problem of the twentieth century remains the problem of the color line. These twin and awful realities compel blacks to reexamine liberal strategies of social change, but not necessarily reject them—nor the white Americans whose interests such policies might also serve. But the leadership of the “other America”¹³ cannot ignore issues such as equalization of facilities in public education, or the need in a capitalist economic order to share ownership of the means of production. Above all, it must recall Loren Miller’s admonition that:

The poor person who bears the burden of unpopular ethnic identification in our society is doubly put upon in all too many situations. He is poor and black in a world attuned to the needs and interests of the affluent and the white. His is not entirely an economic problem; nor is it entirely a racial issue. It is both and it must be dealt with simultaneously at both levels. The Negro’s classic civil rights problems may be safely left to the civil rights organizations. What needs attention, and badly, is that complex of problems which becomes one problem, arising out of the Negro’s economic status and classification as intertwined with and complicated by racial classification.¹⁴

Finally, it must not be overlooked that coalition remains as much an imperative today as it was for Dr. Martin Luther King, Jr. when he drew upon the soul force of tens of thousands of white Americans to complement the struggle of blacks to win the right to vote. Again Jesse Jackson is correct. The liberation of minorities and women is inextricably interwoven, even though white skin garners an access for women still not possible for minorities.

Perhaps, therefore, it is fitting that the *Black Law Journal*, now a decade and a half old, and born under law school administrators committed to the free interchange of ideas, flourishes with the continued support of a woman dean who was a student in the law school which gave the *Journal* life.

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13. In the 1960s Michael Harrington wrote about the “other America” which exemplified the notion that America’s poverty stricken are a racial mix — both white and black. But growing racial divisions makes blacks, and other racial minorities, a distinct “other America.” M. HARRINGTON, *THE OTHER AMERICA: POVERTY IN THE UNITED STATES* (1969).

14. L. MILLER, *Race, Poverty, and the Law*, in *THE LAW OF THE POOR* 79-80 (1966).