

## BOOK BRIEFS

**BLACKS IN THE LAW: PHILADELPHIA AND THE NATION.** By Geraldine R. Segal. Philadelphia, Pennsylvania: University of Pennsylvania Press. 1983. Pp. x, 313. \$25.00 (cloth).

The genesis and purpose of *Blacks in the Law* is explained by the author, Geraldine Segal: "The main purpose of this book is to examine the history and current status of blacks in the law in Philadelphia—law students, law teachers, practicing lawyers, and judges—and to place these findings in a national setting."<sup>1</sup> The author appropriately acknowledged her debt and gratitude to a veritable who's who of both the black bar and majority bar for the wealth of information, analysis and assistance provided to her in the preparation of this significant book.

*Blacks in the Law* begins with an insightful foreword by Judge A. Leon Higginbotham, Jr.. The book consists of an introduction and two separate parts. Part I contains eight chapters which deal with historical and background information surrounding blacks in the legal profession. Part II consists of chapter nine, which surveys various aspects of the practice of law by blacks in fifteen American cities, and chapter ten which focuses on blacks in the legal profession today.

The author notes that one of the greatest obstacles facing blacks seeking to become lawyers has been the difficulty of obtaining a legal education because of racial and economic barriers, especially from 1900 to 1930.<sup>2</sup> A second major impediment to a substantial increase in the number of black lawyers is that black candidates have failed bar examinations at a much greater rate than white candidates. This situation is true even where blacks have graduated from top ranking Ivy League law schools.<sup>3</sup> Poor performance on bar examinations by black law school graduates has been a perennial problem. This situation is accentuated by lower bar passage rates among all candidates throughout the country. The lower bar passage rates are undoubtedly attributable to cutbacks in federal programs and legal services programs by the Reagan Administration and an ailing national economy which has diminished the demand for lawyers. The laws of supply and demand are inexorable and lawyers are not an exempt group.

Some of the significant findings by the author concerning the study of blacks in the law in Philadelphia were that many practicing black lawyers were not born in Pennsylvania, came from very small families or were only children, were predominantly Baptist, and were the product of families with high literacy and relatively high occupational status.<sup>4</sup> The results of the study concurred with the findings of G. Franklin Edwards, who concluded that black lawyers were usually disciplined and stable.<sup>5</sup> Furthermore, black attorneys were more likely to have grandparents and parents who were

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1. G. SEGAL, *BLACKS IN THE LAW: PHILADELPHIA AND THE NATION* xix (1983).

2. *Id.* at 1.

3. *Id.* at 11.

4. *Id.* at 37-42.

5. *Id.* at 42.

white collar employees than other black professional groups.<sup>6</sup>

The study also disclosed that often a combination of motives directed the respondents toward a legal career. The primary motivations in descending order were: "interest" in the law, desire for justice for minorities, economic benefits and family encouragement.<sup>7</sup> Few were inspired by black lawyers to pursue a legal career (probably, like the reviewer, most had known few, if any, black lawyers), and much fewer were inspired by white lawyers. Furthermore, few thought they had an aptitude for law. On the other hand, more females than males felt they had an aptitude for law, were inspired by black lawyers and were encouraged by their families to become lawyers.<sup>8</sup> The family member most responsible for the encouragement was the father.

The study also found that the largest number of minority students attending the three law schools in Philadelphia were enrolled at Temple; fewer attended the University of Pennsylvania or Villanova. Temple had much lower tuition rates and maintained the only night law school in the area. Furthermore, Temple has a substantial black faculty including a black dean.<sup>9</sup> Many of the black lawyers practicing in Philadelphia attended Howard, Temple or the University of Pennsylvania.<sup>10</sup>

Chapter five of the book deals with what the reviewer considers one of the most critical problems concerning blacks and the law in contemporary society. A number of black lawyers interviewed in the study charged that there was discrimination, racism and bias in bar examinations. "Several [of them] pointed out that [not] one black [was] admitted to the Pennsylvania bar in the ten year period between 1933 and 1943."<sup>11</sup> Some attributed this sad state of affairs to the racism of a veteran former secretary of the Board of Law Examiners, who was vocal concerning her feelings about blacks and especially her bias against those who came from Howard.<sup>12</sup> A female lawyer stated that when pressure was applied, the number of blacks who passed increased considerably, even though they came from the same law schools, the same socio-economic group and had the same credentials of those who had previously failed.<sup>13</sup> On June 23, 1970, the Philadelphia Bar Association appointed a Special Committee on Pennsylvania Bar Admission Procedure to investigate claims of possible discrimination against black students on the Pennsylvania bar examination.<sup>14</sup> The Special Committee concluded that certain practices, including a photograph of every candidate on file, raised the strongest presumption that blacks were discriminated against by the State Board of Law Examiners.<sup>15</sup> The subsequent adoption of the Multi-state Bar Examination (hereinafter referred to as the MBE) as the sole bar

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6. *Id.* at 40.

7. *Id.* at 51.

8. *Id.*

9. *Id.* at 55.

10. *Id.* at 57-8.

11. *Id.* at 64.

12. *Id.* at 64-5.

13. *Id.* at 65.

14. *Id.* at 67.

15. *Id.* at 69.

examination requirement resulted in a significant number of blacks passing the bar examination.

Finally, the Committee concluded that most black lawyers are employed as sole practitioners, in black law firms or work for the federal or local government.<sup>16</sup> Corporations and white firms have begun to hire black lawyers in larger numbers than they had previously.<sup>17</sup> Few black lawyers claim a specialty and most practice primarily in the areas of domestic relations, criminal law and personal injury, while the least number of black lawyers practice labor and tax law.<sup>18</sup>

The younger lawyers complained that they were restricted, as a practical matter, to certain areas of practice and that they were unable to attract major white business clients. Other problems were the difficult problems of fee collection and the high cost of operation. It was pointed out that black lawyers usually find too few affluent clients and too many poor ones.

Chapter eight disclosed that most of the black lawyers studied perceived themselves as a second class citizen; and that as a result they believed that they were given second class opportunities in an environment where justice is not color blind and where white lawyers have a decided edge over blacks in every conceivable area. Since black lawyers usually have lower incomes than white lawyers this often causes them to believe that they have inferior status. Black lawyers noted that they did not obtain nearly the percentage of black clients they should have, that appointments of black lawyers to decisionmaking bodies are below par and that they receive little recognition by the corporate community or other large retainer-type clients.<sup>19</sup> Most of the black lawyers thought the attitude of their clients was improving, but qualified their statements by saying that many black clients still think that white attorneys are more effective and still take their important cases to white lawyers.<sup>20</sup> Most of the respondents predicted a trend away from solo practice and believed that younger black lawyers would form law firms in the future.<sup>21</sup> Other perceptions were that younger black lawyers are less committed to civil rights than in the past, but that as more blacks pass the bar they will begin to reorganize to effect social change, and that as the number of black judges increases, so will the recognition of the black bar.<sup>22</sup> The general consensus was that while the situation in Philadelphia was far from ideal, it was improving.<sup>23</sup>

Chapter nine, consisting of data on black lawyers in fifteen cities examines the numerous "firsts" for blacks in those cities. Those pioneers include the first black to be appointed a judge, to become a local prosecuting attorney, to be elected to the state legislature and to the Congress of the United States. The experience of black lawyers in these cities indicated that Philadelphia was essentially a microcosm of the black experience in the urban

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16. *Id.* at 89.

17. *Id.*

18. *Id.*

19. *Id.* at 102.

20. *Id.* at 104.

21. *Id.* at 105.

22. *Id.* at 106-8.

23. *Id.* at 110.

legal sector of this country.<sup>24</sup>

Chapter five, dealing with bar examinations, and chapter ten, concerned with blacks in the legal profession today,<sup>25</sup> have a special interest for the reviewer.<sup>26</sup> The failure rates for black candidates on bar examinations regardless of the law school attended have reached epidemic proportions. It is imperative that black and white law professors, practicing attorneys, judges, law students and members of the public seek viable solutions to this pernicious and perennial problem. Furthermore, the reviewer feels that there is a critical need to substantially increase the number of competent and dedicated black law professors for teaching positions in the traditional black, as well as white, law schools. Black students need black professors, not only as role models, but also to provide them with a functional support system. Black and white students need black professors because they have an important and unique perspective arising from the black experience that is rarely found on today's law school faculties. All students and the society as a whole, is enriched by law professors with diverse views and from different backgrounds. It is imperative that the American people recognize that all genius does not come dressed in a white face or an Ivy League suit.

This scholarly book is replete with valuable biographical information concerning outstanding black lawyers<sup>27</sup> such as Charles H. Houston, William H. Hastie, Thurgood Marshall, Earl B. Dickerson, Constance Baker Motley, Loren Miller, James M. Nabrit, Jr., Barbara Jordan, Robert L. Carter, Edward W. Brooke, William R. Ming, Spottswood W. Robinson III, Macon B. Allen, and Charles W. Quick, to name only a few. It is suggested that any revisions of this fine book include biographical data on prominent black Louisiana lawyers, such as the late Alexander Pierre Tureaud, Sr., Mayor Ernest N. Morial, federal district court judge Robert F. Collins, the late Aguinaldo A. Lenoir, the first dean at Southern University Law School (1947-1970), and President Jesse N. Stone of Southern University.

This scholarly, comprehensive and well written book is necessary reading for those who desire to gain a greater and deeper understanding of the myriad problems, substantial accomplishments, present status and future possibilities of blacks in the law. The reviewer concurs with the cogent conclusion by Judge A. Leon Higginbotham that: "Though her study of the black community is more narrowly focused than Dubois' study of the Philadelphia negro, I predict, that, like Dubois' earlier work, Dr. Segal's book will be for decades the standard by which future studies of minority lawyers, and indeed other professions, are measured."<sup>28</sup>

Dr. Segal deserves exceptionally high marks and a deep debt of gratitude from all of those who participated in, been affected by or merely have

24. *Id.* at 243.

25. This chapter examines the status of blacks in the legal profession today, including those working in private practice, corporations, government, the judiciary, and as law professors.

26. This is in large measure due to the fact that I have been deeply involved in this area as a result of having taught classes at several law schools.

27. For another recent scholarly book containing important biographical data on the lives of approximately 700 blacks, including about 50 famous black lawyers who made significant contributions to the black experience and American society in general, see LOGAN & WINSTON, *DICTIONARY OF AMERICAN NEGRO BIOGRAPHY* (1982).

28. Higginbotham, *Foreword* to G. SEGAL, *BLACKS IN THE LAW: PHILADELPHIA AND THE NATION* at xiii (1983).

an interest in the black legal experience. It is fervently hoped that this truly outstanding seminal work will not only lead to replicative studies in the large metropolitan areas of the country, but also in smaller cities and the southern states.

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**BLACKS AND WHITE TV: AFRO-AMERICANS IN TELEVISION SINCE 1948.** By J. Fred MacDonald. Chicago: Nelson-Hall Publishers. 1983. Pp. xvi, 288. \$25.95.

*Blacks and White TV* is an historical account and analysis of the relationship between white television in America and black Americans. This effort by J. Fred MacDonald has its problems, however, overall it is an excellent source of information. This is an exposé of the television industry which has been blackballed by the networks. For just that reason, as well as for the information that it contains, information that is seldom heard outside of the industry, this book is highly recommended for any reader—black or white—who is interested in the evolution of the world of television.

Television, in MacDonald's opinion, had a chance to reverse the centuries of ridicule, hostility, and misinformation about blacks, but the medium did not live up to those expectations. MacDonald compares the relationship between blacks and white television with the overall history of blacks in this country and concludes that they have the same end—separation into two nations, one black and one white. Furthermore, he concludes that white network television can never present blacks in a fair, accurate manner because to do so would condemn and destroy the sociopolitical system of which it is a vital part. It should also be noted that the author is white, and probably became privy to some information that would not have been revealed to a black writer.

MacDonald discusses the roles that black performers played in early television when producers were hungry for black singers and dancers to appear in their shows. This seemingly colorblind attitude brought the likes of Bill Robinson, Clarence Muse, and the Ink Spots to television. Furthermore, MacDonald says, television was coming to life in the shadow of World War II, when there was a push by the government and citizens to stamp out the kind of racism that surfaced in Nazi Germany. In this atmosphere, a new black self-awareness manifested itself in performers like Lena Horne, Paul Robeson, Katherine Dunham, and Canada Lee. Also during this time the radio series "Destination Freedom" was launched by Richard Durham in Chicago. MacDonald feels that Durham's contribution in this series was not matched in American television until Alex Haley's miniseries, *Roots*, in the 1970s.

In 1951, both the National Association of Radio and Television Broadcasters and the National Broadcasting Company (NBC) adopted policies against demeaning presentation of racial or ethnic groups. Ed Sullivan, then the host of the CBS show, *Toast of the Town*, proclaimed that television would bring the civil rights struggle straight into the hearts and homes of America. MacDonald concludes, however, that it soon became apparent that television would simply perpetuate the stereotypes of radio and motion pictures. In fact, many of the mammys, coons, and other stereotypical radio characters moved directly into television. Those characters included: Rochester, the butler from the *Jack Benny Show*, played by Eddie Anderson, and *Amos n' Andy*, portrayed on radio by Freeman Gosden and Charles Correll, two white men. Here, MacDonald relates the bizarre story of the casting of the television version of the show, and the nationwide search for black ac-

tors to fill the shoes of the white radio announcers who made the show famous. The show lasted for two seasons. Strangely enough, the televised version did not do as well as the radio series.

MacDonald attributes the perpetuation of these stereotypes to the fact that the same radio executives and producers were controlling the fledgling television networks. They felt that blacks in serious roles did not "sell," and they took those ideas with them into television.

The author briefly discusses the African documentaries and jungle films produced between the 1930s and 1960s and the bad effect that they had on white America's perceptions of blacks. The focus on tribal customs, such as scarring faces, ornamenting lips and earlobes, were conducted in a demeaning manner, he said. These films soon became sideshows, and even in dramatic shows, white actors were perceived as intelligent saviours of the native Africans, who were portrayed as being savage and ignorant. Television's treatment of the relationship between Africans and black Americans is so important that it probably warrants more attention and analysis than it is given in this book.

A good portion of MacDonald's book is devoted to the discussion of the "color line" in television and the successes of the few black performers who were able to cross that line. To this end, MacDonald touches on the careers of Sidney Poitier, Harry Belafonte, Bill Cosby, and Leontyne Price. He highlights Poitier's appearance as Tommy Tyler in the Philco Television Playhouse production of "A Man Is Ten Feet Tall," as the most poignant and artistic work in the mid-1950s. He also cited Bill Cosby's role of Alexander Scott on the *I Spy* series as probably the most significant, most daring and beneficial toward the ailing perception of blacks held by white America.

In some detail, MacDonald compared the careers of Nat King Cole and Paul Robeson. These two black performers would seem to be opposites at first glance, but they met similar defeats in their battles with white television, as MacDonald reveals. He presents Robeson as being defiant and proud; but that defiant attitude led the networks to ban Robeson from American television. Cole, on the other hand, got his own variety show in 1956; but it failed. MacDonald attributes this failure to the lack of support from the network and a sabotage of sorts by Madison Avenue advertising executives.

MacDonald's story recounting these two very different struggles is striking. The Robeson story suggests a martyr, fighting against the odds, while the story of Nat King Cole concludes with a wimper. MacDonald presents Cole as a man who went along with the establishment, but became a victim of his own success. Both men were in similar situations, but while Robeson blamed southern prejudice and cowardice for his demise, Cole refused to fault the public. He instead blamed the advertising industry for failing to sponsor his show.

MacDonald also analyzes the power that the South had over the look and nature of American television. Because of the desegregation of high schools, buses, restaurants, and public places throughout the South, networks were afraid to air shows like *Gray Ghost*, which was popular during its short run with southern whites. Network executives were afraid that these shows would offend southern blacks, thereby aggravating the racial

tension during that time. But at the same time, they knew that southern affiliates would not air shows which featured black actors in serious roles.

MacDonald theorizes that regardless of the wave of popular opinion, television programming is controlled by the powers that be—those in the White House, on Capitol Hill, in the Federal Communications Commission, and especially on Madison Avenue. MacDonald surmises that the advertising industry responds only to the voice of the national majority. Meanwhile, the networks are caught between the advertising business and the wishes of the current Administration. The preferences of the minority do not figure into this formula unless those demands happen to coincide with those of the Administration, according to MacDonald.

This was especially the case during the Kennedy and Johnson years when Kennedy appointee, Newton Minow, then Chairman of the Federal Communications Commission, leveled threats against station owners who did not operate in the "public interest." Television executives responded to those threats with, what MacDonald calls, the Golden Age.

During this Golden Age, black Americans were portrayed in a better way than ever before on American television. But even then, stations in the South continued to preempt programs like: *The Bill Cosby Show*, *I Spy*, *Julia*, and *The Outcasts*. In these shows, blacks were presented as aggressive, positive, self-sustaining, and independent characters. MacDonald qualifies the motivation for this positive programming, however, by saying that it was as much in reaction to the assassination of Dr. Martin Luther King, Jr. and the publication of the Kerner Commission's Report on black America as to pressure from the Administration.

At the heart of MacDonald's analysis is his conclusion that television is insensitive in its portrayal of blacks and other minorities because that is the way the general public wants it: "If the Uncle Toms, coons, mammies, and pickaninnies still abound, it is not because the general public still likes its blacks presented in a minstrel-show style?"<sup>1</sup> Even if the general public does not feel this way, as long as the advertising industry and network chiefs believe this, MacDonald says, these stereotypes and the erasure of blacks from serious roles on television will persist. MacDonald feels that television has abandoned its early aspirations to lead and teach the public and will instead, maintain the status quo until that becomes unprofitable.

According to MacDonald, as long as the advertising industry feels as it did during the late 1950s and early 1960s, that blacks in dramatic television do not "sell," and if there is no pressure from the government to show more blacks on television, blacks will continue to be absent from prime time television. This is the case regardless of FCC regulations like the Fairness Doctrine<sup>2</sup> and the overall duty of each broadcaster to operate in the public

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1. J. FRED MACDONALD, *BLACKS AND WHITE TV: AFRO-AMERICANS IN TELEVISION SINCE 1948* 236 (1983).

2. The Fairness Doctrine was formally recognized as such by the courts in the leading case of *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969). In that case, the Court held that broadcasters had a duty to devote air time to discussion of the most important controversial issues in their service areas. *Id.* at 380. This duty also requires broadcasters to afford reasonable opportunities for the presentation of opinions which conflict with those aired. *Id.* at 378. This rule often affords radio and television air time to minorities because the "controversial issues," such as zon-

interest.<sup>3</sup> The public interest duty of broadcasters requires that they provide fair and equal representation of racial minorities on television. However, to fulfill this requirement without offending viewers who do not want to see blacks on television, many broadcasters simply use black newscasters and talk show hosts, rather than using black actors in prime time where they would reach the largest viewing audience and make the greatest impact.

In television, everything is a business venture between the advertiser and the network. MacDonald hailed Alex Haley's *Roots* and *Roots: The Next Generation* as rays of hope during a period of white backlash. But he sees these as money ventures. Although the producer, David Wolper, may have been well-intentioned, MacDonald says, the network decided to air the miniseries *only* because of its financial potential in the wake of the success of the *Rich Man, Poor Man* miniseries.

The outlook is bleak for black actors who wish to perform in dramatic roles and for viewers who wish to see positive black role models on prime time network television—if the reader is to believe what MacDonald says. He does, however, seem to point to cable as an avenue through which black programs can reach the public. "Narrowcasting," as opposed to broadcasting, holds hope for the black and minority viewing public.

The few problems with the book lie in the writer's style and presentation of the topic. He sometimes seems unsure whether he wants to refer to blacks as Negroes, blacks, or Afro-Americans. But that may be a simple reflection of the change in the use of those labels through the years. There is also a lack of continuity at times. The book is not entirely chronological, and that can be confusing to the reader.

The author divides his book into three chapters entitled: "The Promise Denied, 1948-1957;" "Blacks in TV in the Age of the Civil Rights Movement, 1957-1970;" and "The Age of the New Minstrelsy, 1970-Present." The book is well footnoted and the notes section in the back can be valuable for further research. The illustrations are especially valuable for readers who might not remember the shows or performers mentioned in the book. This writer wholeheartedly recommends *Blacks and White TV*.

DONNA WADE ANDERSON

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ing, gerrymandering, health care, state aid and criminal justice, often have their greatest impact on minorities.

3. 47 U.S.C. § 303 (1976). See *Red Lion*, 395 U.S. at 380.