

BOOK REVIEW

Emancipation: The Making of the Black Lawyer, 1844-1944. By Professor J. Clay Smith, Jr. Foreword by Justice Thurgood Marshall. Philadelphia: University of Pennsylvania Press. 1993. Pp. 703. \$—.

Reviewed by Cynthia R. Mabry*

I. INTRODUCTION

In *Emancipation: The Making of the Black Lawyer, 1844-1944* (“*Emancipation*”), Dr. J. Clay Smith, Jr.,¹ a law professor and a prolific writer,² pens a spellbinding factual narrative of the history of African American lawyers. Dr. Smith identifies hundreds of African American men and women who became lawyers between 1844 and 1944.

The social and legal history chronicled in *Emancipation* begins with the first African American lawyer, Macon Bolling Allen, who was licensed to practice in Maine in 1844. It ends with Rachel E. Pruden-Herndon, the first African American woman admitted to the Georgia bar in 1943. With meticulous detail, Dr. Smith recounts African American attorneys’ relentless efforts to gain admittance to the bar; to earn the respect of white judges, opposing counsel, and jurors who controlled their client’s fate; and to emancipate other African Americans. Notable lawyers, like Thurgood Marshall, as well as little-known lawyers, like Lutie Lytle—America’s first female law professor—are mentioned.

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1. A.B. 1964, Creighton University; J.D. 1967, Howard University School of Law; LL.M. 1970, George Washington University National Law Center; S.J.D. 1977, George Washington University National Law Center. Before Dr. Smith began his teaching career at Howard University School of Law in 1982, President Jimmy Carter appointed him United States Commissioner of the Equal Employment Opportunity Commission (EEOC) and he served as Acting Chairperson of the EEOC during the Reagan Administration.

2. Dr. Smith has published numerous articles on a variety of subjects. See, e.g., J. Clay Smith, *Bloody Crossroads: African Americans and the Bork Nomination—a Bibliographic Essay*, 10 HARV. BLACKLETTER J. 133-47 (1993); J. Clay Smith, *Thurgood Marshall: An Heir of Charles Hamilton Houston*, 20 HASTINGS CONST. L.Q. 503-19 (1993); J. Clay Smith, *Chronic Alcoholism—Lack of Mens Rea—A Defense to Public Intoxication*, 13 HOW. L.J. 202 (1967); J. Clay Smith, *Guidelines on Discrimination Because of Sex*, 10 CAP. U. L. REV. 471 (1981); J. Clay Smith, *In the Shadow of Plessy: A Portrait of McCants Stewart, Afro-American Legal Pioneer*, 73 MINN. L. REV. 495 (1988); J. Clay Smith, *Practicing Communications Law—the Tangents: The Federal Communications Commission and the Federal Trade Commission*, 32 ADMIN. L. REV. 457 (1980); J. Clay Smith, *Standards for Judicial Approval of Attorneys’ Fees in Class Actions and Complex Litigation*, 20 HOW. L.J. 20 (1977); J. Clay Smith, *Codification of the Rules of Evidence: An Unreadiness*, 33 FED. B.J. 44 (1974); J. Clay Smith, *Racism, Sexism, and Gender Orientation in the Law, The Legal Process, and the Legal Profession*, WASH. LAW., Jan./Feb. 1989, at 56.

II. *EMANCIPATION* IS A COMPREHENSIVE STUDY OF AFRICAN AMERICAN HISTORY

In the first chapter of *Emancipation*, Dr. Smith compares African American law students' experiences at predominately white law schools with their experiences at predominately African American law schools. Chapters two through nine are divided into eight regions of the United States: New England, Atlantic, Southeast, South, Southwest, Northeast, Northwest and Pacific.

Dr. Smith further subdivides each regional chapter by state. Thus, Dr. Smith introduces African American attorneys according to where they became licensed and where they practiced law. This organization makes *Emancipation* an easily accessible resource for anyone researching African American lawyers' bar membership and practice in a particular state. The last chapter of *Emancipation* reveals information about African American lawyers' attempts to become members of white bar associations and to establish their own bar groups. At the end of each chapter, Dr. Smith summarizes the contents of the chapter.

In the beginning of the book, Dr. Smith discusses African American students' enrollment at white law schools. This integration occurred decades before the United States Supreme Court ordered school desegregation in *Brown v. Board of Education of Topeka, Kansas*.³ As early as 1868, George Lewis Ruffin enrolled at Harvard University School of Law.⁴

In Dr. Smith's opinion, most white law students were cordial, tolerant, and supportive of their African American colleagues. To illustrate, Dr. Smith writes about Philip Werner Amram, a Jewish editor-in-chief of the *Pennsylvania Law Review*. Amram, whose father was a law professor, threatened to resign as editor. Amram was rebelling against the University of Pennsylvania Law School dean's refusal to allow a qualified African American student to become a law review member. The dean had vowed

3. 347 U.S. 483 (1954).

4. Dr. Smith reports that other African American law students graduated from Akron Law School, Boston College of Law, Columbia University, Cornell University Law School, George Washington University, Indiana University Law School, University of Iowa, Loyola Law School, University of Michigan, University of Minnesota Law School, New York Law School, New York University School of Law, Northwestern University, University of Pennsylvania, Rutgers University, University of South Carolina Law School, University of Southern California Law School, St. John's Law School, Syracuse University School of Law, Temple Law School, Washington University, and Yale University. (This list does not include every law school mentioned in *EMANCIPATION*.) See, e.g., J. CLAY SMITH, JR., *EMANCIPATION: THE MAKING OF THE BLACK LAWYER, 1844-1944*, at 72 & nn. 87, 132, 146, 151, 155, 235, 390, 397, 399 (1993) [hereinafter *EMANCIPATION*].

Dr. Smith concludes, however, that the majority of African American lawyers were trained at African American law schools like Howard University School of Law. Thus, he gives extensive history about the establishment of each African American law school, its mission, its professors, and its students. Howard University School of Law, the first African American law school in the nation, was established in 1869. *Id.* at 41. Howard professors educated Asian, Hispanic, and white students, too. *Id.* at 56. In fact, Emma Gillett was one white Howard graduate who later founded the Washington College of Law for Women and became the first female dean of a law school. *Id.* at 54, 84 & n.219. Surprisingly, though, under Gillett's tutelage, African Americans were barred from the Washington College of Law for Women. *Id.* at 84 & n.219.

that he would not "break precedent by permitting a black woman membership on the Board."⁵

On the other hand, some law students experienced overt racism from their colleagues. Shortly after he began law school in 1890, William Ashbie Hawkins was forced to leave the University of Maryland Law School when a majority of the students signed an anti-Black petition. Two years later, Hawkins graduated from Howard University School of Law and became a leading civil rights lawyer in Maryland. He was vindicated forty-six years later when Thurgood Marshall and Charles Hamilton Houston won a lawsuit that forced the University of Maryland to reopen its doors to African American law students.⁶

Throughout the book, Dr. Smith explains how African American men and women overcame tremendous obstacles and adversity while systematically dismantling racial barriers. Dr. Smith relates that among other misconceptions, there was a presumption of incompetence against African American lawyers. They were often criticized by white media, judges, and other lawyers.

Unfortunately, the courtroom was no haven from discriminatory degradation. Certain judges either refused to recognize African American lawyers in the courtroom or insisted that they present their cases from the gallery. Both judges and opposing counsel engaged in vile name-calling in the presence of the jury and the African American lawyer's client.⁷

Between 1844 and 1944, the United States Supreme Court was a doctrinal cornerstone for official racism.⁸ In 1871, the Court upheld a Kentucky law which barred "[N]egroes" and "Indians" from testifying for or against white people in any case.⁹ In 1896, the Court ruled that separate facilities for different racial groups were acceptable as long as the facilities, if they existed at all, were substantially equal.¹⁰

5. *Id.* at 39.

6. *Pearson v. Murray*, 182 A. 590, 594 (Md. 1936) (ordering University of Maryland to admit African American students to the only state law school). This was also a sweet victory for Thurgood Marshall. University of Maryland administrators also rejected Marshall's application solely because he was African American. Wendy Brown-Scott, *Justice Thurgood Marshall And the Integrative Ideal*, 26 ARIZ. ST. L.J. 535, n. 87 (Summer 1994); Vance Knapp & Bonnie Grover, *Can the Corporate Law Firm Achieve Diversity*, NBA MAG., March/April 1994, at 8. *See also Missouri ex. rel. Gaines v. Canada*, 305 U.S. 337 (1938) (forbidding alternative arrangements for African American students to attend out-of-state schools to avoid providing facilities for them in state schools); JUAN WILLIAMS, *EYES ON THE PRIZE* 11 (1987) (indicating the procedural history of the *Pearson* lawsuit) [hereinafter WILLIAMS]; EMANCIPATION, *supra* note 5, at 145.

7. *See, e.g.*, EMANCIPATION, *supra* note 5, at 271, 295, 334.

8. *Blyew v. United States*, 80 U.S. 581, 592 (1871). *See also* Donald E. Lively, *Reformist Myopia and the Imperative of Progress: Lessons for Post-Brown Era*, 46 VAND. L. REV. 865, 893, n.159 (1993) (describing litigation in the South as a "high peril to the personal safety of NAACP attorneys"); Diane E. Galanis, *Climbing the Mountain, Pioneer Black Lawyers Look Back*, 77 A.B.A. J. 60 (1991) (quoting Justice Marshall as saying "[Y]ou took your life into your hands when you went to court in those days. You could get hanged.").

But of course, times, views, and values change. In a 1989 speech, Justice Thurgood Marshall announced that "[f]or many years, no institution of American government has been as close a friend to civil rights as the United States Supreme Court." Annual Judicial Conference Second Judicial Circuit of the United States, 130 F.R.D. 161, 166 (1990). Justice Marshall conceded, however, that the Court's position with respect to civil rights issues had changed "markedly" over the years. *Id.* at 166.

9. *Blyew*, 80 U.S. 581 at 592.

10. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

Conversely, while some African American attorneys futilely endeavored to acquire clients and respect, Dr. Smith tells about others who excelled during the same century. They were politicians, businesspersons, judges, magistrates, government attorneys, professors, deans, and successful private practitioners.

Some African American barristers received praise for their litigation skills. They were so outstanding that white corporate officials and judges—who found themselves on the wrong side of the bench—sought their advice. However, this kind of response did not appear to be the normal reaction to African American lawyers. The typical response, as previously described, was negative.

According to Dr. Smith, African American attorneys' "central objective" was "the emancipation of their people."¹¹ His vivid portrayal reveals myriad victories that African American lawyers won for their African American clientele.

Dr. Smith's review of seminal cases provides insight regarding the extent of racial injustices African Americans suffered during the one-hundred-year period covered in *Emancipation*. These pioneers of social change challenged and won repeal or amendment of discriminatory laws and practices. They made it possible for African Americans to register and vote,¹² purchase property free of restrictive covenants,¹³ serve on grand juries,¹⁴ and gain access to railroad trains,¹⁵ streetcars,¹⁶ restaurants,¹⁷ and theaters.¹⁸ Moreover, as a consequence of African American lawyers' tenacity, New Jersey public schools,¹⁹ the Indiana state militia,²⁰ and New

11. EMANCIPATION, *supra* note 5, at 114.

12. *West v. Bliley*, 33 F.2d 177, 180 (E.D. Va. 1929), *aff'd*, 42 F.2d 101, 103 (4th Cir. 1930). *See also Lane v. Wilson*, 307 U.S. 268 (1939) (voiding Oklahoma's discriminatory voting registration law).

13. *See, e.g., Buchanan v. Warley*, 245 U.S. 60 (1917).

14. Whenever by any action of a State, whether through its legislature, through its courts, or through its executive or administrative officers, all persons of the African race are excluded, solely because of their race or color, from serving as grand jurors in the criminal prosecution of a person of the African race, the equal protection of the laws is denied to him, contrary to the Fourteenth Amendment of the Constitution of the United States. *Carter v. Texas*, 177 U.S. 442, 447 (1900). *Accord Gibson v. Mississippi*, 162 U.S. 565 (1896) (exclusion violated Fourteenth Amendment).

15. *See, e.g., Mitchell v. United States*, 229 I.C.C. 703 (1938), *rev'd*, 313 U.S. 80, 94 (1941). A few African American lawyers represented themselves in discrimination cases. In *Mitchell*, Arthur Wergs Mitchell, a lawyer and a member of the United States House of Representatives, represented himself in litigation against the Chicago, Rock Island & Pacific Railway Company. Mitchell was forced to sit in the "colored passenger[]" section of the railroad passenger car although there were empty seats in the compartment for which he had purchased a ticket. The conductor would not allow Mitchell to sit there because white passengers occupied some of the available seats. *Id.* at 88-90. The Court decided that denial of equal accommodation was "an invasion of a fundamental individual right . . . guaranteed . . . by the Fourteenth Amendment." *Id.* at 94.

16. *See, e.g., State v. Patterson*, 39 So. 398 (Fla. 1905) (policy discriminating against nurses who needed to move between compartments to care for passengers).

17. EMANCIPATION, *supra* note 5, at 397-98.

18. *Baylies v. Curry*, 21 N.E. 595, 596 (Ill. 1889) (upholding statutory monetary penalty for African American woman who had been denied a seat in a theater).

19. *See, e.g., Hedgepeth v. Board of Educ.*, 35 A.2d 622, 622 (N.J. 1944) (nullifying discriminatory policy requiring all African American students to attend one junior high school).

20. Balika, *Henry J. Richardson, Jr. Dies: Rights Leader*, INDIANAPOLIS STAR, Dec. 6, 1983, at 16, col. 1.

Jersey swimming pools²¹ were desegregated. African American advocates also secured other remedies for African Americans: payment of damages for civil rights violations,²² equal salaries for teachers,²³ employment,²⁴ and acquittals for those charged with sundry crimes such as rape.²⁵

Nevertheless, it is important to note that these advocates' contributions benefitted society as a whole.²⁶ As Dr. Smith reports, African American attorneys also represented Caucasian, Asian, West Indian, Jewish, and Italian clients in a wide variety of lawsuits.²⁷

In *Emancipation*, Dr. Smith also identifies white politicians, judges, lawyers, and professors who mentored African American women and men. Dr. Smith unveils details of some supporters' civic-minded acts. Philanthropists sponsored African American apprentices in their law offices, financed their education, recommended them for admission to the bar, litigated cases with them, and assisted them to find employment.

Dr. Smith names several generous benefactors, including Samuel Clemens (popularly known as Mark Twain). Apparently, without these white philanthropists' support, many African Americans would not have become lawyers.

In the last chapter of *Emancipation*, Dr. Smith writes about African American lawyers' ostracism from bar associations. Several white bar members vehemently opposed such segregation and joined African American lawyers in a five-year battle for desegregation. Consequently, the American Bar Association was formally integrated in 1943, almost one hundred years after the first African American lawyer was licensed.

III. DISCUSSION

There is a dearth of publications about African American lawyers.²⁸ Generally, African American history is not an integral part of any child's

21. *Patterson v. Board of Educ.*, 11 N.J. 179, *aff'd*, 164 A. 892 (1933) (permitting African American and white high school students to take swimming lessons together in New Jersey).

22. In 1890, Attorney Thomas McCants Stewart represented a newspaper editor whom a saloon proprietor refused to serve and forcibly ejected the editor from the saloon. Twelve white jurors awarded the editor \$1,016. *EMANCIPATION*, *supra* note 5, at 395-96 & n.256.

23. *Alston v. School Bd.*, 112 F.2d 992, 996 (4th Cir. 1940); *Mills v. Board of Educ.*, 30 F. Supp. 245 (D. Md. 1939) (securing injunction against salary differentials in Maryland public schools).

24. For instance, five African American attorneys successfully represented another African American lawyer when the chief judge of a municipal court refused to recognize the lawyer's appointment for a judgeship. *People ex rel. Prescott v. Scheffler*, 45 N.E.2d 36, 38 (Ill. 1942).

25. *See, e.g., Legions v. Commonwealth*, 23 S.E.2d 764, 765 (Va. 1943) (Charles Hamilton Houston and Oliver Hill defending a young African American man accused of raping a white woman).

26. William L. Taylor, *In Memory of Thurgood Marshall*, 68 N.Y.U. L. REV. 211 (1993) ("All Americans are in Thurgood's debt, whether they know it or not."). "[I]t would be a mistake to remember Justice Marshall [solely for his work toward racial equality], for he was driven by a commitment to justice, equality, and opportunity for all of the powerless members of American society: racial minorities, the poor, criminal defendants, the aged, and immigrants . . . rock music fans, students, people with long hair . . ." *Thurgood Marshall and His Legacy: A Tribute*, 2 TEMP. POL. & CIV. RTS. L. REV. 163 (1993).

27. *See, e.g., EMANCIPATION*, *supra* note 5, at 155, 400, 511.

28. *See, e.g., RICHARD KLUGER, SIMPLE JUSTICE* (1975); WALTER LEONARD, *BLACK LAWYERS* (1977); GENNA R. MCNEIL, *GROUNDWORK* (1983); CARL T. ROWAN, *DREAM MAKERS, DREAM BREAKERS: THE WORLD OF JUSTICE THURGOOD MARSHALL* 58-219 (1993); FITZHUGH

or adult's education. Thus, Dr. Smith's book fills a vacuum of knowledge about African American social history.

Dr. Smith utilizes voluminous materials to piece together sparsely recorded information and enlightens his readers about African American lawyers. He combed law review articles, journals, charts, photographs, books, letters, newspapers, magazines, and school bulletins for tidbits. In addition, he conducted personal interviews. To supplement all of the historical facts memorialized in the text, *Emancipation* contains hundreds of detailed footnotes, a bibliography, and a table of cases litigated by, or on behalf of, African Americans. Subsequently, Dr. Smith composed the most comprehensive study ever written about African American lawyers.²⁹ It is no wonder that it took twenty-five years for him to complete *Emancipation*.³⁰

Dr. Smith's descriptive narrative is uplifting. It tells how African American lawyers excelled during a period when many states prohibited African Americans from working in professional, and most unprofessional, positions.

During "Jim Crow" days, institutionalized segregation pervaded all critical aspects of African American life. Schools, transportation vehicles, and all public and private facilities were segregated.³¹ Poll taxes prevented African Americans from voting.³² Yet, Dr. Smith's inspirational book shows readers that this was a time when African American lawyers made substantial progress toward emancipating African American people.

On the other hand, many of these lawyers were struggling to make a living, too. Only a few white clients sought their counsel. To add insult to injury, some African Americans, such as those in the NAACP, who should have sought the representation of African American attorneys, did not. Moreover, African American lawyers were disadvantaged because they lacked adequate resources. They did not have legal reporters, access to rules of procedure, sample briefs, or adequate facilities to prepare oral arguments.³³

As an African American lawyer, it was unsettling for me to read some of the history in *Emancipation*. It was troubling because many of the difficulties African American law students and lawyers withstood over fifty-one years ago still exist today.

Racism still abounds.³⁴ "Credentialed black professionals who have achieved levels of success superior to many of their white counterparts

L. STYLES, *NEGROES AND THE LAW* (1937); GILBERT WARE & WILLIAM H. HASTIE: *GRACE UNDER PRESSURE* (1984).

29. Dr. Smith wrote that he intended for *EMANCIPATION* "to be the first definitive effort to identify and to portray collectively all that is available about black lawyers." *EMANCIPATION*, *supra* note 5, at xiv. He has expertly accomplished his goal.

30. Interview with Dr. J. Clay Smith, Jr., at Howard University School of Law (Mar. 18, 1994).

31. WILLIAMS, *supra* note 7, at 12-13; Benno C. Schmidt, Jr., *Principle & Prejudice: The Supreme Court and Race in the Progressive Era*, 82 COLUM. L. REV. 444, 461 (1982).

32. SARAH L. DELANEY AND A. ELIZABETH DELANEY, *HAVING OUR SAY* 91-9 (1993).

33. WILLIAMS, *supra* note 7, at 5 (quoting James Nabrit).

34. Joel Glenn Brenner, *Minority Lawyers Missed Out on Hiring Boom*, WASH. POST, Feb. 13, 1990, at A8 ("racism in the industry has not disappeared").

must in every new setting nevertheless continually rebut a presumption of incompetence."³⁵

Prejudice and stereotypes hinder African American lawyers' advancement as law school students, law professors, lawyers, and judges.³⁶ In the 1990s, only a very small number of African American lawyers are employed at large law firms.³⁷ The movement to eliminate such biases is still gaining ground. In August 1995, the American Bar Association's House of Delegates passed a resolution condemning the exercise of bias in professional activities and law firm operations.³⁸

Yet, there is still much ground to cover. In 1991, Justice Marshall painted a grim picture of African Americans' social status in the United States. He stated that "progress has slowed down . . . indeed, it might have stopped."³⁹

As in the period before 1944, current African American college and graduate students are financially unable to finance an expensive legal education. The scarce financial aid that is available may be revoked. Until last year, the University of Maryland provided a merit scholarship, set aside especially for African American students. The United States Court of Appeals for the Fourth Circuit enjoined consideration of a student's African American heritage as a qualification for that scholarship.⁴⁰

Likewise, state and federal policy changes are effecting a decrease in the number of African American students admitted to institutions of higher learning. This year, Governor Pete Wilson of California, along with the Regents of the University of California, recanted affirmative action policies that included consideration of race and sex for University of California admissions decisions.⁴¹

Those African American students who are admitted to college and law school may not have a positive social experience. Today, racial tension and polarization persists on predominately white college and graduate school

35. Derrick Bell, *In Memory of Thurgood Marshall*, 68 N.Y.U. L. REV. 212, 214 (1993). See also Mary C. Hickey, *VOICES: Washington's Black Lawyers Speak Out*, WASH. LAW., Nov./Dec. 1991, at 30 (six lawyers sharing their experiences in the 1980s and 1990s).

36. Decades after *Pearson*, the decision had no apparent impact on several law schools' admission policies. Racial prejudice still prevented African Americans from enrolling at the law school of their choice. See, e.g., Benjamin J. Cardozo, *Racial Discrimination in Legal Education, 1950 to 1963*, 43 J. LEGAL EDUC. 79-84 (1993) (espousing the American Association of Law School's efforts in 1950 to establish a policy against racial discrimination at member law schools); Peter Applebome, *A Hot Summer of Bloodshed and Change*, N.Y. TIMES, Feb. 6, 1994, § L at 30 (noting that the University of Mississippi Law School denied Medgar Evers' application). See also CYNTHIA F. EPSTEIN, *WOMEN IN THE LAW* 15, 83 (1981) (citing "common cultural attitude[] that African Americans . . . were incapacit[ated] for professional work" as a reason for failing to recruit them for law school).

37. Brenner, *supra* note 35, at A8.

38. The ABA denounced racial bias "unless such words or conduct are otherwise permissible as legitimate advocacy." *ABA House Backs Affirmative Action*, A.B.A. J., October 1995, at 18.

39. *Bust of Justice Marshall Unveiled at Precedent-Setting Ceremony*, THE JURIST, Spr. 1991, at 6-7.

40. *Podbersky v. Kirwan*, 38 F.3d 147, 161 (4th Cir.), *reh'g denied*, 46 F.3d 5 (4th Cir. 1994).

41. B. Drummond Ayres, Jr., *On Affirmative Action, Wilson's Moderate Path Veered Quickly to the Right*, N.Y. TIMES, Aug. 8, 1995, at A1.

campuses. Reported racist incidents include overt use of racial epithets and circulation of racially derogatory materials.⁴²

African American students and law professors are still victims of physical and verbal racial attacks. In 1995, one hundred and five years after William Ashbie Hawkins was ejected from the University of Maryland, a student threw a chair from a fraternity house window. He aimed the chair at an African American law professor who was photographing the "Sambo" statue on the University of Arkansas fraternity house lawn.⁴³

Seventy years after students at the University of Maryland made William Ashbie Hawkins feel unwelcome, James Meredith needed federal marshals to escort him into the University of Mississippi.⁴⁴ Now, Louis Westerfield is the first African American dean of the University of Mississippi Law School. Dean Westerfield sadly admits that without his business suit he "become[s] just another Black man in Oxford, Mississippi To a certain extent, that changes [his] status. That's a shame, but that's a reality."⁴⁵ Some change has occurred since 1944, but there is so much more to be done.

III. CONCLUSION

Emancipation is a book that should be placed on a shelf in every library. It is recommended reading for lawyers and prospective lawyers of all races. It is also recommended for anyone who is interested in United States history. Perhaps Justice Thurgood Marshall, the author of the Foreword to *Emancipation*, described the book best: "One cannot read it without being inspired by the legal acumen, creativity, and resiliency these pioneering lawyers displayed It should be read by everyone interested in understanding the road African Americans have travelled and the challenges that lie ahead."⁴⁶

42. See, e.g., J. Clay Smith, Jr. and Lisa Wilson, *Brown on White College Campuses: Forty Years of Brown v. Board of Education*, 36 WM. & MARY L. REV. 733, 737-39 (1995); Michael deCourcy Hinds, *Blacks at Penn Drop a Charge of Harassment*, N.Y. TIMES, May 25, 1993, at A10; Steve France, *Hate Goes to College*, A.B.A. J., July 1990, at 44; Patrick Welsh, *A Darker Shade of 'Brown'*, WASH. POST, May 15, 1994, at C1 (documenting racial tensions at the University of Virginia).

43. *University of Arkansas Suspends White Frat That Had 'Sambo' Statue*, JET, Oct. 9, 1995, at 22.

44. *Black Law Dean Ushers in a New Day at Ole Miss*, EBONY, Aug. 1995, at 128.

45. *Id.*

46. EMANCIPATION, *supra* note 5, at xii.