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Preface

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## PREFACE

A recurring theme throughout the issues of the *Black Law Journal* is a call for black professionals to contribute their varied expertise to the quest for legal and political equality and the economic and social development of black citizens. In the past, numerous authors and editors have urged black attorneys and other black professionals to organize and jointly define community-oriented objectives and strategies for achieving them. The need for such repatriation is as great now as it was then; indeed, it is a timely imperative. The tensions played out in the 1981-82 congressional debates over the extension of the Voting Rights Act and proposals to limit federal court jurisdiction in the areas of busing and abortion; the continuing backlash against affirmative action programs; and accusations of reverse discrimination all bear witness to the insecurity that still characterizes the civil rights gains achieved in the past three decades. These events also underscore the need for a powerful and thus united effort to protect those civil rights gains.

Recent American history provides an instructive guide in plotting our future course. That history teaches us that political complacency and the subordination of community interests to the pursuit of personal power works ultimately to undermine our struggle for equality, at once depriving us of a political voice and inviting retrenchment in the gains previously made. More importantly perhaps, that historical lesson teaches us that a racial cord binds our personal and group progress. Because this bond exists, any meaningful organization and reaffirmation of the equality and political integrity of black citizens in America requires black professionals to become introspective and to self-consciously imbue their definitions of personal integrity with a commitment to the development of the black community. The parallels between community civil rights activism among black professionals during this century and responsiveness from the legal, political, educational, and economic sectors of society indicate the time for such introspection has come.

During the first half of this century, the National Association for the Advancement of Colored People (NAACP) and, later its legal arm, the Legal Defense and Educational Fund, Inc., were formed in response to a perceived need to improve the dismal political and social lot of black people in a racially segregated American society, and ultimately to make good the promise of the Civil War Amendments by measures that included legal attacks on the institution of segregation itself. Organizational efforts reflecting the syntheses of personal and community goals continued during the second half of this century. The 1970's witnessed the birth of the National Conference of Black Lawyers. That organization was created by legal practitioners concerned with improving access to the legal system for working class and unemployed black Americans, while at the same time ensuring that the legal system incorporated their needs into its agenda. On law school campuses as well, Black American Law Students Associations emerged to help ensure that the unique needs and voices of black law students would be heeded in the predominantly white legal education system. The 1970's also signaled the birth of the *Black Law Journal*. The founding members created the

*Journal* to fill the void in the area of minority-oriented legal scholarship, to document the legal and political achievements of black and other civil rights organizations, and to disseminate information on relevant political, social, and economic issues. During this era of birth and deep commitment, black professionals recognized the needs implicit in the societal inequities characterizing the condition of black citizens and they defined their organizational goals and course in light of these needs. Then, somewhere along the way, the strength of our convictions waned and our focus became distorted.

While most black organizations continued to struggle for the betterment of black life in America, the exodus of many once dedicated workers depleted their strength. This departure had many causes including physical and emotional burnout from intense political and legal struggle, the loss of commanding leaders, internal rivalries that eroded the spirit of unity so vital to mass organization, and a conviction by many former activists that the outlawing of segregation, passage of the Civil Rights Act and the Voting Rights Act, and the erection of affirmative action programs signaled the achievement of their goals. But the decrease in the number of activists also stemmed largely from a change in the values embraced by many blacks and the emergence of a new breed of black professionals.

Whereas blacks during the 1960's rallied in support of an ideology and civil rights struggle that stressed cultural unity, pride, and development, many upwardly mobile blacks subordinated these objectives in the 1970's to the sole pursuit of personal success and prestige. For many of them, as for many of their white allies, the civil rights struggle became an issue of the past. As more blacks stressed individualism, the more black Americans as a political unit came to resemble a politically passive force. Then and now, the gains made in the areas of politics, law, and education, for example, appear to be subsiding in a way that cannot escape comparison to the reaction against the egalitarian promise embedded in the first civil rights legislation and the Civil War Amendments, that occurred during the post-Reconstruction period almost a century ago. Ethnic study courses and affirmative action programs have been discontinued in major universities. Political offices once held by blacks have been filled by white conservatives. The national media has publicized white voters in a recent Illinois mayoral race brazenly voicing their opposition on racial grounds to a black democratic primary winner in Chicago where the Democratic Party has historically held sway. The Reagan Administration has cut back social programs and retreated from anti-discrimination legal doctrines formulated during prior administrations for the benefit of disadvantaged Americans. These few events exemplify the broader roots from which emerge a strong feeling that the promise of equality for all engendered in the wake of the Civil War has yet to be fulfilled.

During this period of changing priorities, a few blacks have prospered, but many more blacks who relied on the political activism and influence of their professional counterparts have suffered. In order to reassert our equal status in the political, educational, and legal arenas, and to improve that status, professionals and future professionals whose privileged position affords us resources that other black citizens lack, must shed our political dol-drum and reassess our personal motivations and principles. For as long as

black professionals pursue personal power without also uniting in a struggle to vindicate the rights of all black citizens, the apparent successes of the few serves to perpetuate the myth that any inequalities that blacks experience result solely from our lack of effort, and thereby legitimize the real racial and class based inequalities we still face.

The *Black Law Journal* represents a supplementary aide to this process of introspection by providing continual analysis of the treatment accorded blacks and other minorities by the legal system; the progress and accomplishments of civil rights efforts; and legal doctrines of practical value to legal practitioners. To this end, the current issue presents *Witness to a Persecution: The Death Penalty and the Dawson Five* in which Professor Hugo Bedau recounts his personal experiences as an expert witness in the capital case of five black defendants, and evaluates the death penalty threat as an element of prosecutorial discretion. Also contained in this issue is *Without Justice*, a report prepared by the Leadership Conference on Civil Rights which examines the enforcement activities of the Civil Rights Division of the Department of Justice through February 1982. In *Civil Rights Enforcement Activity of the United States Department of Justice*, the *Journal* presents testimony given to the House of Representatives in March 1982 by Jack Greenberg, Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. *Reagan Civil Rights: The First Twenty Months* consists of excerpts from an evaluation of the Justice Department's activities in the area of civil rights that was completed by the Washington Council of Lawyers during the first quarter of 1983. In *Leis v. Flynt: Yet Another Perspective*, Professor Carlton Bailey undertakes an examination of the *pro hac vice* doctrine governing the limited practice of law by out-of-state practitioners. The *Black Law Journal* also continues to profile noted black attorneys and organizations. The casenote section focuses on Supreme Court cases and analyzes how the high Court's decisions will ultimately affect black and other minority communities. In the book review section, different authors critique timely books pertinent to professionals in general, black legal professionals in particular. Through this legal scholarship, the *Black Law Journal* will remain the voice of a concerned people.

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