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DEDICATION:

THESE DO WE HONOR

Dr. Martin Luther King, Jr.
Jan. 15, 1929—Apr. 4, 1968

Fannie Lou Hamer
Oct. 6, 1917—Mar. 14, 1977

Dr. William Henry Hastie
Nov. 14, 1904—Apr. 12, 1976

Hubert Horatio Humphrey
May 27, 1911—Jan. 13, 1978

When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all men would be guaranteed the inalienable rights of life, liberty, and the pursuit of happiness.

*Martin Luther King, Jr.**

Martin Luther King, Jr. accompanied his characterization of the Constitution and Declaration of Independence as a promissory note with a demand for payment to the order of Black Americans. At the same time, he recognized that the demand would be dishonored, and the note returned stamped "insufficient funds."¹ The promises which Dr. King wanted to enforce were those explicitly made by the Declaration of Independence, the Constitution, the Bill of Rights, and the fourteenth and fifteenth amendments, among others. Yet he was well aware that the Nation had defaulted on its promise to Black Americans, refusing to grant in practice the rights and privileges guaranteed in theory.

Not content to merely present a check for payment, Martin Luther King became the catalytic force around which others could mobilize. A forceful advocate for Black interests, King revitalized the concept of civil disobedience and articulated the spiritual and moral dimension of the struggle for basic human rights. So too were others engaged in the effort to extend constitutional guarantees to all citizens. Yet, it is impossible to name and recognize them all.

Thus, in addition to Dr. King, Mrs. Fannie Lou Hamer, Judge William H. Hastie and Senator Hubert H. Humphrey have been selected as representatives of this class. Each of these individuals contributed to the growth of the civil rights movement in different, but equally effective ways. Mrs. Hamer was an organizer who built an independent political party to promote and defend the voting rights of Blacks. Similarly, Senator Humphrey was an organizer, but his activities were carried on within the Democratic Party which he prodded into taking a stand on racism. Judge Hastie used

* Address by Rev. Martin Luther King, Jr., delivered in Washington, D.C. (Aug. 28, 1963), reprinted in *THE NEGRO IN THE CITY* 167-170 (G. Leinwand, ed. 1968).

1. *Id.*

the public platforms to which he had access to articulate the aspirations of Black Americans.

FANNIE LOU HAMER

Fannie Lou Hamer, founder of the Mississippi Freedom Democratic Party (M.F.D.P.) was born to sharecroppers John and Lou Ella Townsend on a Mississippi plantation, the youngest of twenty children. Mrs. Hamer said of her parents: "[They] loved us very much . . . but no matter how hard we worked it seemed like there was just never enough of anything."² Mrs. Hamer started picking cotton at age six, and obtained only six years of formal education. Nevertheless, she availed herself of every opportunity to read. She stated, "I worked around white people's houses even after I got grown, and if they had books, I would read. I always thought if I had the chance I could know just as much as anybody. Now I've got honorary degrees from five colleges."³

In 1962, at age forty-five, Mrs. Hamer attended a civil rights rally held to protest the disenfranchisement of Blacks in Mississippi at the Ruleville Baptist Church. She recounted vividly this moment in her life, stating: "They talked about how it was our rights as human beings to register and vote. . . . So if people don't act right, we could vote them out of office. At the time it seemed like the perfect solution to me, because I never knew we could vote before. Nobody ever told me."⁴

In December of that year Mrs. Hamer became a field worker for the Student Non-violent Coordinating Committee. As a result of her activities, she was forced to move out of the shack her family occupied on a white plantation. Mrs. Hamer viewed this event as a turning point in her life. She stated, "They kicked me off the plantation, they set me free. It's the best thing that could happen. Now I can work for my people."⁵ Two years later she founded and served as Vice-Chairman of the Mississippi Freedom Democratic Party.

In 1964 Mrs. Hamer led a M.F.D.P. delegation of sixty-four Blacks and four whites to the Democratic National Convention in Atlantic City, New Jersey. The M.F.D.P. sought to unseat the official Mississippi delegation, composed entirely of whites. Although this attempt proved unsuccessful, Mrs. Hamer brought national attention to the plight of disenfranchised and oppressed Blacks in Mississippi, and promised to return to the 1968 convention. At that time some members of the Mississippi Freedom Democratic

2. The New York Post, Apr. 22, 1971. In 1945 Mrs. Hamer married Perry "Pap" Hamer. Despite speculations that she wore the pants in the family, Mrs. Hamer stated: "Without my husband . . . I couldn't be here right now. He's all man. Not henpecked at all. And he knows what I'm doing is important." L. Rocky, *No Compromise for Mrs. Hamer*, The Chicago Sun Times, Aug. 26, 1968, at 62, col. 2. The Hamers adopted two girls, Dorothy Jean and Virgie Ree. Tragically, Dorothy Jean died from a hemorrhage in 1968 while Mrs. Hamer was driving her to Memphis, Tennessee to find a decent hospital. Mrs. Hamer said of health care in the south for Blacks in 1968: "In Mississippi you better not get sick on Sunday or Tuesday because you can't get a doctor—they're out fishing. And the Negro hospitals don't have the things a hospital should have."

3. The New York Post, Apr. 22, 1971.

4. T.A. Johnson, *Fannie Lou Hamer Dies: Left Farm to Lead Struggle for Civil Rights*, N.Y. Times, Mar. 16, 1977, at 40, col. 2.

5. *Id.* at 40, col. 3.

Party were seated. Complete victory came four years later in 1972 when the regular Mississippi delegation was ousted from the Democratic National Convention.⁶

We pay Mrs. Hamer tribute in part because she served as a source of inspiration to many Black activists of the sixties who became the leaders of the seventies.⁷ Her influence was not limited to associates in the civil rights movement, but extended to all Black Americans who were heartened by her courage. That quality was shown by the fact that Mrs. Hamer endured severe beatings, insults, forced sterilization, repeated incarceration, and continual harassment.⁸ Yet, "[s]he had a kind of inner serenity and sureness about herself. She didn't scream and yell, but she stood up. . . . Some people get toughened by the battles and their spirit seems to get a little harsh, but not Fannie."⁹

Mrs. Hamer's life is a testimony to the necessity for continual action and struggle. It was her belief that Blacks could not advance too fast or ask for too much.¹⁰ Hopefully this quality will serve to inspire those still sensitive to injustice and who are determined to join the struggle in pursuit of a remedy.

DR. WILLIAM HENRY HASTIE

Judge William H. Hastie, the first Black to be appointed to a federal court of appeals, was born on November 17, 1904, in Knoxville, Tennessee to William Henry and Roberta Child Hastie. Hastie described his parents as the primary motivating force in his life.

A 1921 graduate of Dunbar High School in Washington, D.C., Judge Hastie received his undergraduate degree from Amherst College in 1925, where he was elected to Phi Beta Kappa. He was awarded Bachelor of Laws and Doctor of Juridical Science degrees from Harvard University School of Law in 1930 and 1933, respectively. In addition to his earned doctorate, Judge Hastie received numerous honorary degrees.

Judge Hastie was admitted to the District of Columbia bar in 1931 and began his practice there with the firm of Houston and Houston. From 1930 to 1937 Judge Hastie was on the faculty of Howard University School of Law and later served as its dean from 1939 to 1946. For two years, between 1937 and 1939, Hastie was a federal district judge for the Virgin Islands.

During World War II, Judge Hastie was a civilian aide to War Secre-

6. T.A. Johnson, *supra* note 4, at 40, col. 1.

7. Vernon E. Jordan, Jr., President of the National Urban League, attended a Mississippi Freedom Democratic Party convention in Jackson in 1963. Everyone was on edge because the bodies of three civil rights workers had been found in one of the surrounding counties. At the convention, Mrs. Hamer inspired the delegates by leading them in a chorus of "Ain't Gonna Let Nobody Turn Me 'Round." Mr. Jordan stated: "I remember driving that same day from Jackson to Memphis, Tennessee, alone, and under her influence. I wasn't scared, you know what I mean?" A. Scott, *The Legacy of Fannie Lou Hamer*, The Washington Post, Mar. 19, 1977, at A15, col. 3.

8. *Id.* at A15, col. 4.

9. *Id.* at A15, col. 4, (quoting Carl M. Holman, Executive Director, The National Urban Coalition).

10. L. Langway, *Fannie Hamer's Six Years of Blood, Anguish*. (On file at Johnson Publishing Co., Inc., 820 S. Michigan Ave., Chicago, Illinois 60605.) See also Johnson, *Fannie Lou Hamer: Mississippi Grassroots Organizer*, 2 BLACK L.J. 155 (1972).

tary Henry L. Stimson. When he accepted an appointment as Governor of the Virgin Islands in 1946 he became the first Black person to hold that position.

In 1949, despite opposition by various southerners on the Senate Judiciary Committee, Hastie was appointed to the United States Court of Appeals for the Third Circuit, where he served for twenty-one years.¹¹ Hastie almost lost this appointment because of his prior affiliation with groups and causes then considered to be militant.¹² However, his credentials were unassailable. In fact, Mr. Justice Frankfurter described Hastie "as one of the three or four best Harvard students during his first twenty years on the faculty."¹³ On two separate occasions Judge Hastie was suggested as a candidate for the Supreme Court.¹⁴

With his exceptional credentials, Hastie might have disassociated himself from Blacks and civil rights issues. Instead, he sought to articulate the frustrations of an underprivileged, disenfranchised and socially ostracized people, and is considered one of "the legal architects of a revolution in civil rights law."¹⁵ In 1942 Judge Hastie and Mr. Justice Marshall, then counsel for the N.A.A.C.P., compiled a report detailing discriminatory practices, primarily in the south.¹⁶ The authors sought to prod the federal government into taking action to stop violence and injustice perpetrated against Blacks.

In a move that could have ended his career in public service, Judge Hastie resigned his post as Civilian Aid to War Secretary Stimson in February, 1943 protesting "[t]he reactionary policies and discriminatory practices"¹⁷ of the Army. Continuing to use his public platform to publicize the

11. During the course of his long career on the bench, Judge Hastie participated in a number of celebrated cases. Among them was *U.S. v. Kuzma*, 249 F.2d 619 (3rd Cir. 1957), in which Hastie wrote an opinion reversing the convictions of nine communist leaders under the Smith Act of 1940, 18 U.S.C. § 2385 (1940). According to Hastie, the fact that the defendants "subscribed to and approved teaching of revolutionary doctrine of 'Marxism—Leninism'" did not sustain a conspiracy conviction under the Act. The judge was the lone dissenter when the Taft-Hartley Act was invoked to stop a steel strike and force workers to go back to the plants during an 80-day cooling off period. See *U.S. v. United Steel Workers of America*, 271 F.2d 676, 690 (3d Cir. 1959); *cert. denied, sub nom. Ginsburg v. Gourley*, 362 U.S. 917 (1960), motion to vacate order denying cert. and for leave to amend denied, 363 U.S. 817, *rehearing denied* 364 U.S. 855. The judge's opinion in *U.S. v. Alker*, 255 F.2d 851 (3rd Cir. 1958), has been included in law school case books to illustrate an exception to the hearsay rule. Affirming a conviction for tax evasion, the court held that defendant executor's silence when confronted with assertions that funds were missing from the decedent's safe was an adoptive admission.

12. A. Morrison, *Top Judge . . . On the Way Up?* EBONY March, 1964, at 111.

13. J.S. AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA* 212 (1976).

14. In 1949 Hastie's name was listed among others to fill Justice Murphy's vacancy. 121 THE NEW REPUBLIC 5 (1949). After Justice Reed retired in 1956, Hastie was again among those recommended. According to White House sources, Hastie was never seriously considered because of his association with the Democratic Party. However, in 1956 Republican President Eisenhower appointed a Democrat, William J. Brennan, to the Supreme Court. U.P.I. Release, Feb. 14, 1957. On file at Johnson Publishing Co., Inc., 820 S. Michigan Ave., Chicago, Illinois 60605.

15. J.S. AUERBACH, *supra* note 13, at 215.

16. W.H. Hastie, T. Marshall, *Negro Discrimination and the Need for Federal Action*, 2 LAW. GUILD REV. 21 (1942); In 1944 Mr. Justice Marshall and Judge Hastie argued the plaintiff's case in *Smith v. Allwright*, 321 U.S. 649 (1944), *rehearing denied*, 322 U.S. 769 (1943), in which the Court held that exclusion of Blacks from voting in a Democratic primary was unconstitutional.

17. Chicago Sun Times, Apr. 15, 1976, at 14, col. 1.

concerns of Black Americans, Judge Hastie stated in an address before the N.A.A.C.P. in 1943:

Our friends like to pat us on the head and tell us how much progress we have made in less than a hundred years since chattel slavery. But they too often have missed the essential point that we are now in mind and spirit free men. We are unable to stop and look back with satisfaction that we have come half way along the road to the heritage of free men. We can only look forward and drive forward toward the day when we are outwardly accepted as we inwardly feel—accepted as full citizens in a society of free men.¹⁸

While Judge Hastie can not be called militant as that term is now understood, long before his death on April 12, 1976, he appreciated the urgency of demands for change by oppressed people. His concern was not only for Black Americans, but extended to those in similar circumstances. As Governor of the U.S. Virgin Islands, he shocked the power structure by publically advocating that the Islanders elect their own governor, "as is done in all democratic countries."¹⁹

The Judge had no time for fence straddlers, middle-of-the-roaders, gradualists, or marginal people. In a speech entitled "Racism and the Dilemma of the Gradualists,"²⁰ Judge Hastie expressed the view that one either had to be for or against human rights. That philosophy is especially relevant today to those who believe that a new Bill of Rights is needed. As Judge Hastie reminded us, "No society is improved or preserved by spectators."²¹

HUBERT HORATIO HUMPHREY

Hubert H. Humphrey was Vice President of the United States from 1965 to 1969, one of the leaders of the liberal faction within the Democratic Party, and United States Senator from Minnesota for sixteen years. Born in Wallace, South Dakota on May 27, 1911, to Hubert H. Humphrey, Sr. and Christene Sannes Humphrey, the Senator grew up in the depression era. Shortly before his death on January 13, 1978, Humphrey recounted these times stating:

My family lost a lot . . . during the depression. One of my saddest memories is of my mother crying and my dad with tears in his eyes because they had to sell our home to pay the bills. But in life it isn't what you've lost, it's what you got left that counts.²²

18. Address by Judge William H. Hastie, N.A.A.C.P. Emergency Conference in Detroit, Michigan (June 6, 1943). (On file at Johnson Publishing Co., Inc., 820 S. Michigan Ave., Chicago, Illinois 60605.)

19. New York Post, Nov. 12, 1948, at 2. While in the Virgin Islands Hastie met his wife, Beryl Lockhart, whose father was a wealthy merchant there. At the expiration of his term, Hastie returned to Washington, D.C., a bachelor. However, he and Miss Lockhart were later married in the District of Columbia while he was Dean of Howard University School of Law and she was an undergraduate student at the University. There are two Hastie children, Karen P. and William H. Hastie, Jr.

20. Address by Judge William H. Hastie, N.C.C.J. Annual Dinner (Dec. 9, 1963). (On file at Johnson Publishing Co., Inc., 820 S. Michigan Avenue, Chicago, Illinois 60605.)

21. Address by Judge William H. Hastie, Commencement Exercise of Morgan State College, Baltimore, Maryland (June 4, 1956). (On file at Johnson Publishing Co., Inc., 820 S. Michigan Ave., Chicago, Illinois 60605.) See generally *In Memoriam: William H. Hastie*, 125 U. PA. L. REV. 1 (1976).

22. H.H. Humphrey, *You Can't Quit*, READER'S DIGEST, Aug., 1977, at 5.

It was in this context that Hubert H. Humphrey developed into a champion in the war against poverty, racism, and all other conditions which serve to diminish man.

During the Depression Humphrey dropped out of college for six years to help support his family. Not in any way discouraged by this experience, he was able to graduate *magna cum laude* from the University of Minnesota and later obtained a Master's degree in political science from the University of Louisiana. He went on to teach at the University of Minnesota and at Macalaster College in St. Paul, Minnesota.

Senator Humphrey's long career in public service began in 1944, when he campaigned on behalf of Franklin Delano Roosevelt. From that point he developed into a professional politician. First elected Mayor of Minneapolis in 1945, he later was elected to the United States Senate in 1948. Humphrey made his first bid for the presidency in 1960, but dropped out of the race after being defeated by John F. Kennedy in the West Virginia Democratic Primary. After the assassination of President Kennedy in 1963, Humphrey was appointed to the Vice Presidency by Lyndon Johnson.

Humphrey's loyalty to Johnson during the VietNam War may have cost him the presidency. Vice President Mondale described his fellow Minnesotan as "torn because his heart was filled with love and a yearning for peace while at the same time he was meticulously loyal to a president who led our nation during an unpopular war."²³ Senator Humphrey was reminded of the consequences of loyalty in 1968 when he lost the presidential election to Richard Nixon by a small margin, and again in 1972 when he was unable to win even his own party's nomination.

The Minnesota Senator never disliked being called a politician. His sensibilities were never offended nor his spirit dampened by the indignities frequently suffered by public figures. During the span of his political career, Senator Humphrey was called "a draftdodger, a radical, a communist, a socialist, a fascist, a liar, a coward, a flannel-mouth, a demagog, and—worst of all—a nobody."²⁴ Yet, no one could legitimately call him a quitter. Though gravely ill in August, 1977, the Senator still was not ready to give up:

[T]here are days when I get discouraged. I look at myself in the mirror and say, "Humphrey, you look like a sad sack," Because of chemotherapy, I've lost a lot of hair, and got much thinner. My trousers don't fit; my shirt collar is the wrong size. When I start feeling sorry for myself, I tell myself: "The doctors told you this would happen. You can't do anything about it, so get on with living." Then I go and have my clothes altered.²⁵

Cancer was Humphrey's last battle and he was a brave warrior, having fought in so many battles before.

For example, in 1948 Hubert Humphrey led the fight to have the Democratic National Convention adopt a strong civil rights plank. Party leaders argued that such an issue would only serve to anger the South, divide the party, and perhaps enable the Republicans to capture the presidency. When told it was too early to raise the civil rights issue, the Senator replied, "Too

23. N.Y. Times, Jan. 16, 1978, at 142.

24. W. GRIFFITH, HUMPHREY: A CANDID BIOGRAPHY 85 (1965).

25. H.H. Humphrey, *supra* note 22, at 58.

early? It's 172 years too late."²⁶ He told the delegates in Philadelphia, "There are those who say 'The issue of civil rights is an infringement on states' rights.' The time has arrived for the Democratic party to get out of the states' rights and walk forthrightly into the bright sunshine of human rights."²⁷

Senator Humphrey's political leadership became important again in 1964 when he guided the Civil Rights Act of 1964 through the Senate, overcoming a marathon filibuster by southern legislators. Writing about this experience, Humphrey responded to those who sought to delay the civil rights movement, stating, "[T]he primary intent of [the civil rights laws] is to make real the rights of the Black man, not to alter the psychology of the white man."²⁸

Senator Humphrey realized that the task of extending rights to Black people would require several levels of effort. To him, the Civil Rights Act of 1964 represented "the first stage in the unfinished American revolution toward human dignity."²⁹ In addition, he noted that it is essential to "deal with the past effects of racial injustice—men must be helped to lift themselves out of the sad country of poverty to which generation after generation of racial discrimination has consigned them."³⁰

Senator Humphrey should be remembered for his willingness to confront new challenges and insistence that the political process respond to the demands of Black people for full participation in American society. Before his death on January 13, 1978, Senator Humphrey's concern for the oppressed transcended the promulgation of purely defensive measures. Additionally, he expressed support for the proposition that government is obligated to provide for basic human needs.³¹

Indeed, the lives of King, Hamer, Hastie and Humphrey were all characterized by an insistence—a demand—that rights and privileges accorded to other Americans be extended to Black citizens. By their words and deeds, all provide evidence of the truth of Frederick Douglass' observation that "power concedes nothing without a demand. It never has and it never will."³²

That message is an urgent one to which Black Americans ought pay special heed, for their hopes, aspirations, and dreams will only be fulfilled by continued insistence and insistent demands.³³

CHARLES M. CALDWELL

26. V.E. Jordan, Jr., *To Be Equal, Minneapolis Spokesman and Recorder*, Feb. 21, 1978.

27. W. GRIFFITH, *supra* note 24, at 158.

28. H.H. HUMPHREY, *BEYOND CIVIL RIGHTS: A NEW DAY OF EQUALITY* 16 (1968).

29. *Id.* at 189.

30. *Id.*

31. See H.H. HUMPHREY, *The Rights and Privileges of Americans, infra*, at —.

32. H. APTEKER, *A DOCUMENTARY HISTORY OF THE NEGRO PEOPLE IN THE UNITED STATES* 379-80 (1969).

33. The editors and staff are indebted to Ms. La Doris Foster and Ms. Pamela Cash, Vice President and Librarian, respectively, Johnson Publishing Company, for providing access to relevant materials, and to Ms. Marcella A. Caldwell for helpful suggestions.